COMMISSION DECISION

of XXX

on the notification by the Grand-Duchy of Luxembourg of a postponement of the deadline for attaining the limit value for NO₂ in the air quality zone LCPU (Luxembourg)

(Only the French text is authentic)
COMMISSION DECISION


on the notification by the Grand-Duchy of Luxembourg of a postponement of the deadline for attaining the limit value for NO$_2$ in the air quality zone LCPU (Luxembourg)

(Only the French text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe$^1$, and in particular Article 22(4) thereof,

Whereas:

(1) The air quality limit values for NO$_2$ have been legally binding since 1 January 2010 in accordance with Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air$^2$.

(2) In accordance with Article 22(1) of Directive 2008/50/EC, a Member State may postpone the deadline until 2015 at the latest, by which conformity with the limit values for NO$_2$ shall be achieved, if the Member State demonstrates that conformity with the limit values cannot be achieved by 1 January 2010 and that an air quality plan demonstrating that such compliance will be achieved before the expiry of the new deadline is established.

(3) Luxembourg submitted to the Commission by letter registered on 13 January 2012 a notification of a postponement under Article 22(1) of Directive 2008/50/EC of the deadline for attaining the annual limit value for NO$_2$ in the air quality zone LCPU (Luxembourg).

(4) The notification has been assessed in accordance with the guidance set out in the Commission Communication on notifications of postponements of attainment deadlines and exemptions from the obligation to apply certain limit values pursuant to Article 22 of Directive 2008/50/EC on ambient air quality and cleaner air for Europe$^3$ ("the Communication") and with the Commission Staff Working Paper concerning guidance on preparing a notification of a postponement of the deadline for attaining

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$^3$ COM(2008)403
the limit values for NO\textsubscript{2} under Directive 2008/50/EC\textsuperscript{4}. The notification was submitted using the forms set out in the Staff Working Paper\textsuperscript{5} that accompanied the Communication.

(5) The Commission identified certain relevant information as missing from the original notification and requested the Luxembourgish authorities by letter dated 29 February 2012 to complete the notification. Since Luxembourg submitted essential additional information by letter registered on 10 April 2012, the period for the Commission’s assessment of the notification starts from the day following the date of official receipt of that information.

(6) In the notification Luxembourg has provided data for the year 2010 to be used as reference year and as basis for the assessment of the postponement of the attainment deadline for the NO\textsubscript{2} annual limit value in the zone LCPU (Luxembourg). The Commission finds that since the notification was submitted after the initial deadline for attainment the year 2010 is an appropriate basis for the assessment.

(7) The notification was accompanied by an air quality plan for the zone LCPU (Luxembourg), adopted in 2011. The air quality plan describes effective measures and projections. However, it does not fulfil all the requirements provided for in Section A of Annex XV to Directive 2008/50/EC. The importance of the missing information can however be considered minor as information on past and future abatement measures is included in the plans.

(8) In order to assess whether the conditions for the NO\textsubscript{2} postponement are satisfied, it is necessary to identify the main sources of pollution contributing to the observed concentrations. That source apportionment should be precise enough to allow an understanding of which measures should be taken to address the main sources of pollution.

(9) The Commission finds that the source apportionment provided by Luxembourg for the zone LCPU (Luxembourg) is complete for all scales. Luxembourg has identified road traffic emissions as the main local source contributing to the high NO\textsubscript{2} concentration levels in the zone LCPU (Luxembourg). At urban level also commercial and residential sources were identified as significant contributors in addition to traffic. The assessment confirms that the identification and quantification of the contributions from the different sources provided by Luxembourg gives a relevant and reasonable basis for the assessment.

(10) Luxembourg has notified a postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} until 1 January 2015 for the zone LCPU (Luxembourg).

(11) In order to assess if conformity with the limit values for NO\textsubscript{2} could not have been achieved by 1 January 2010, it is necessary to consider when an exceedance triggering abatement action pursuant to Directive 1999/30/EC first occurred in the zone LCPU (Luxembourg) and whether relevant measures have been taken in relation to the identified sources.

\textsuperscript{4} SEC(2011)300
\textsuperscript{5} SEC(2008)2132
It is to be noted that the relevant sources have been addressed in the zone LCPU (Luxembourg). According to the information submitted by Luxembourg, exceedances triggering an obligation to take abatement action with regard to NO₂ concentrations were recorded for the first time in 2003 in the zone LCPU (Luxembourg). The first air quality plan was adopted only in 2010, however a number of measures addressing traffic as the main source of NO₂ concentration levels were taken before that date. Luxembourg states in its notification that due to higher real world diesel vehicle emissions of NOx the abatement measures did not deliver as predicted by projection scenarios. Taking into account that the compliance gap was large the Commission considers that it was likely that despite the abatement actions taken, conformity with the annual limit value for NO₂ could not have been achieved by 1 January 2010 in the zone LCPU (Luxembourg).

In order to assess if compliance with the annual limit value for NO₂ can be achieved by the new deadline, it is necessary to consider the concentration levels estimated at that date by the Member State, and the estimated impact of additional measures proposed to ensure compliance in the air quality plan accompanying the notification.

Luxembourg has requested the maximum permitted postponement for compliance with the annual limit value for NO₂ in the zone LCPU (Luxembourg). Given the impacts on public health, the duration of any postponement must be restricted to what is absolutely necessary. An assessment should therefore be made of whether compliance can be achieved earlier than the deadline proposed in the notification.

In order to assess whether the projected compliance by the new deadline is realistic, precise and detailed evidence on the scale and impact of the abatement action planned is required including a clear implementation timetable for that action.

According to the information provided by Luxembourg the compliance gap in 2010 was 19.5 µg/m³. Luxembourg stated in the notification that compliance is not expected in 2015. Major measures foreseen in the air quality plan (such as modernisation of the bus fleet, implementation of the tramway and improvement of rail infrastructure) are planned for the period 2012 - 2020. Given that the measures take effect only after a period of time, it does not seem reasonable that compliance can be reached by 2015 in the zone LCPU (Luxembourg). In view of the large compliance gap, the projections provided and the measures taken or planned, Luxembourg has therefore not demonstrated that compliance with the NO₂ annual limit value can be achieved by 2015.

As regards the implementation by Luxembourg of the Union legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC it is to be noted that Luxembourg has exceeded the 2010 national emission ceiling set for nitrogen oxides pursuant to Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants. Compliance with the obligations under that Directive is important in order to ensure that the limit values under Directive 2008/50/EC, and in particular the limit values for NO₂, can be met both in Luxembourg and neighbouring Member States. The Commission therefore expects that the necessary effort is taken to achieve the national emissions ceilings.

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(18) The Commission notes that some important abatement measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC have not been taken into consideration by Luxembourg and no detailed justification for this has been provided for most of them.

(19) Against that background, the Commission finds that objections should be raised against the postponement of the deadline for attaining the annual limit value for NO$_2$ in the zone LCPU (Luxembourg) on the grounds that Luxembourg has not demonstrated that compliance with that limit value can be achieved by 1 January 2015 at the latest,

HAS ADOPTED THIS DECISION:

Article 1

Objections are raised against the notification by Luxembourg of a postponement of the deadline for attaining the annual limit value for NO$_2$ set out in Annex XI to Directive 2008/50/EC in the zone LCPU (Luxembourg).

Article 2

This Decision is addressed to the Grand-Duchy of Luxembourg.

Done at Brussels,

For the Commission
Janez Potočnik
Member of the Commission