COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
C(2009) XXX final

Draft

COMMISSION DECISION

of [...] on the notifications by Spain of an exemption from the obligation to apply the limit values for PM10 in zones ES0901, ES0902 and ES0705

(Only the Spanish text is authentic)
COMMISSION DECISION

of […]

on the notifications by Spain of an exemption from the obligation to apply the limit values for PM$_{10}$ in zones ES0901, ES0902 and ES0705

(Only the Spanish text is authentic)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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) Spain notified the Commission by letters registered on 4 December 2008 and 19 February 2009 of an exemption from the obligation to apply the daily and annual limit value for PM$_{10}$ in all 3 air quality zones listed in the Annex to this Decision. The air quality limit values for PM$_{10}$ have been legally binding since 1 January 2005 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(2) of Directive 2008/50/EC a Member State may be exempt from obligations to apply the limit values for PM$_{10}$ if all abatement measures have been taken at national, regional and local level to achieve compliance by the deadlines in Directive 1999/30/EC, the principal cause of the exceedance can be attributed to site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions, and that an air quality plan is established demonstrating that conformity with the limit values will be achieved before the new deadline.

(3) The Commission identified certain relevant information as missing from the original notifications, and requested the Spanish authorities to complete the notification of zones ES0901 and ES0902 by letter dated 23 February, and the notification of zone ES0705 by letter of 6 April 2009. Since the Spanish authorities submitted the additional essential information by letter dated 3 June 2009, the period for the Commission’s assessment of those zones starts from the day following the date of official receipt of that information, i.e. 5 June 2009.

---

The notifications have 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"). The notifications were submitted using the forms set out in the Staff Working Paper\(^4\) that accompanied the Communication.

The Spanish authorities have provided data for the years 2005 and 2006 as specified in the Annex to be used as reference years and basis for the assessment. A comparison of the air quality data reported to the Commission by the Spanish authorities for the years 2005 to 2008 show that concentration levels were quite stable in those years. The Commission therefore finds that the 2006 reference year is representative of the air quality situation in 2005 and can be used as basis for the assessment.

The Spanish notifications were accompanied by air quality plans for all the zones concerned. The assessment shows that the requirements of Section A of Annex XV to Directive 2008/50/EC are fulfilled by the plan for zone 3, but the Commission finds that information about the planned effects of certain measures to improve the air quality situation (point 8 of Part A of Annex XV) has not been provided in the plans for zones 1 and 2.

In order to assess whether the conditions for the PM\(_{10}\) exemption 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.

The Spanish authorities have provided an analysis of the contributing sources by sector and origin for the three zones. The Commission notes that the information for zones 1 and 2 is based on the mean situation for the Iberian Peninsula and is not directly related to the exceedance situations identified in the two zones. As a consequence the source apportionments for those zones can only be considered as indicative. On the basis of the local component, which under the circumstances appears to provide the most relevant information, it seems as though traffic and industry are the major sources in the two zones, with strong contribution also from natural sources. The Commission finds that although that information is sufficient for assessing the major sources and the action taken in relation to those sources, the identification and quantification of the contributions from the different sources should be specific to the exceedance situations concerned in order to ensure a relevant and reasonable basis for planning and implementation of the necessary abatement action.

The source apportionments provided for zones 1 and 2 also present some inconsistencies in comparison with the data collected under the cooperative programme for monitoring and evaluation of the long-range transmission of air pollutants in Europe ("EMEP"). The EMEP data suggests that the contribution coming from within the Member State is larger than the one reported by Spanish authorities for those zones.

---
\(^3\) COM(2008)403
\(^4\) SEC(2008)2132
In zone 3 industrial activities are indicated as the main source contributing to high concentration levels at the local level. Natural sources contribute significantly to the concentration levels in the regional background. The Commission considers that the identification and quantification of the contributions from the different sources provided by the Spanish authorities with regard to zone 3 give a relevant and reasonable basis for the assessment.

The notifications provide that adverse climatic conditions are the chief causes for the high concentration levels in all zones, with the exception of zone 1 where site specific dispersion characteristics are claimed as well.

The Spanish authorities have used wind-speed criteria to demonstrate that adverse climatic conditions are present in zone 1 together with site specific dispersion characteristics. The data provided in the notification show however that the low wind-speed criteria indicated by the Commission in the Communication are not met in this zone as the correlation between low wind speed and a high concentration is not demonstrated. Where the notification attributes the high concentrations of PM$_{10}$ to site specific dispersion characteristics, no clear evidence has been provided that the exceedance is restricted to the street geometry. The Commission therefore considers that the exceedance situations in zone 1 cannot be chiefly attributed to either adverse climatic conditions or site specific dispersion characteristics.

The Spanish authorities have demonstrated that concentration levels above the daily limit value in zones 2 and 3 occur to a large extent on days when the low wind-speed criteria indicated by the Commission in the Communication are met. In addition the notifications show that dispersion is affected by the particular topography of zone 2 which is surrounded by high mountains, and the frequent temperature inversions in zone 3 which is situated in a pass between two sets of mountains. The Commission therefore considers that the correlation between the high concentrations of PM$_{10}$ and the criteria for adverse climatic conditions in the Communication have been established for zones 2 and 3.

In order to assess if all appropriate measures were taken before the 2005 attainment date, it is necessary to consider when an exceedance triggering abatement action pursuant to Directive 1999/30/EC first occurred in the zone, the relevance of the measures taken in relation to the identified sources and the impact of the external factors, such as adverse climatic conditions.

In zones 1 and 2, the first recorded exceedances triggering an obligation to take abatement action occurred in 2001. However, according to the notifications no abatement measures were implemented by the Spanish authorities in those zones prior to the 2005 attainment date, nor were any air quality plans adopted before that date. Against that background, the Commission considers that appropriate measures to achieve compliance with the limit values for PM$_{10}$ by the 2005 deadline have not been taken in zones 1 and 2.

In zone 3, the first exceedances triggering an obligation to take abatement action were recorded in 2001. The Spanish authorities have demonstrated that measures were implemented in this zone prior to 2005 to address emissions from the major industrial emitters as the main contributors to the high PM$_{10}$ concentration levels. The notification does not include an indication that a plan was adopted in the relevant
period. However, as emissions are concentrated to the local industrial installations and relevant measures were taken addressing those sources and in view, also of the adverse climatic conditions, the Commission considers that on balance the abatement action taken in zone 3 prior to the 2005 deadline was appropriate.

(17) In order to assess if compliance with the limit values for PM$_{10}$ can be achieved at the expiry of the exemption period, it is necessary to consider the concentration levels estimated at that date by the Member State, and the estimated impact of the additional measures proposed to ensure compliance in the air quality plans accompanying the notifications.

(18) With regard to both the daily and annual limit values in zones 1 and 2 the Spanish authorities have estimated in their notifications that compliance will be achieved in 2011. The notifications for those zones however do not contain sufficiently detailed information on the estimated impact on air quality of the planned abatement measures and considering the data provided by the Spanish authorities indicating that the level of pollution was stable from 2005 to 2007 in zone 2 and that it has even increased in zone 1 it seems unlikely that the annual and daily limit values will be met in 2011. Therefore in the absence of specific information on the envisaged impact of the measures and of a clear source apportionment, the Commission cannot fully assess if compliance with the daily and annual limit values in zones 1 and 2 can be achieved at the expiry of the exemption period.

(19) As regards zone 3, it appears from the annual air quality reports submitted to the Commission that compliance with the annual limit value was achieved in 2008. As the notification does not indicate that the concentration levels in that year were significantly lower as a result of favourable atmospheric conditions in that zone, the Commission finds that it is likely that the concentration levels in this zone can be maintained below the annual limit value in accordance with Article 12 of Directive 2008/50/EC. The Commission finds that in view of the compliance achieved and considering that the annual mean concentration levels must be maintained substantially below the annual limit value to ensure that the daily limit value can be achieved, the annual limit value laid down in Annex XI to Directive 2008/50/EC should continue to apply in zone 3 without a margin of tolerance. The projected annual concentration levels indicated by the Spanish authorities show that the daily exceedances will be just below the permitted number of 35 days. However, the air quality plan does not appear to take into account the impact of reductions in local emissions from cleaner vehicles and the improvement in the regional background from the entry into service of cleaner cars, vans and trucks. Against that background and considering the very significant non-anthropogenic component, the Commission finds that it is likely that compliance with the daily limit value will be achieved but notes that a significant effort is needed. The competent authorities should therefore ensure that the measures foreseen in the air quality plan as well as in the short term action plan are implemented strictly and on time to deliver the necessary effects at the expiry of the exemption period.

(20) As regards the status of implementation of the Community legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that Spain expects the national emission ceiling set for nitrogen oxides and volatile organic compounds 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\(^5\) to be exceeded in 2010. 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 PM\(_{10}\), can be met both in Spain and neighbouring Member States. The Commission therefore expects that the necessary effort is made to achieve the national emissions ceilings by the attainment date in 2010.

(21) Moreover, according to the information provided by Spanish authorities, several industrial installations falling under Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control\(^6\) are operating without permits that comply with that Directive. The industrial component contributes to the exceedance situations in zones 1 and 2 and is the major contributor in zone 3. The Commission therefore expects that the necessary effort is made to implement Directive 2008/1/EC without further delay.

(22) As regards measures to be considered in accordance with Part 3 of Section B in Annex XV to Directive 2008/50/EC, the Commission finds that the Spanish authorities have demonstrated that due account has been taken of these abatement measures in all the zones.

(23) Against that background, the Commission considers that objections should be raised against the notifications by Spain of an exemption from the daily and annual limit values for PM\(_{10}\) in zones 1 and 2, on the grounds that it has neither been demonstrated that the appropriate measures have been taken prior to the initial attainment date nor that compliance with the daily and annual limit values will be achieved at the expiry of the exemption period in 2011. In respect of zone 1, the Commission also finds that it has not been demonstrated that conformity with the limit values could not be achieved because of adverse climatic conditions or site specific dispersion characteristics.

(24) As regards zone 3, the Commission finds that no objections should be raised against the application of the exemption from the obligation to apply the daily limit value. However, an objection should be raised against the application of the exemption from the annual limit value for PM\(_{10}\) on the grounds that compliance with that limit value has been achieved in 2008.

(25) During the exemption period the daily limit value continues to apply in zone 3 together with a maximum margin of tolerance in accordance with Article 22(3) of Directive 2008/50/EC. In order to provide the Commission with the means for verifying compliance with that provision, Spain should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the daily limit values plus the maximum margin of tolerance in this zone.

(26) In order to ensure that the Commission can check the implementation of the air quality plans and the relevant abatement action, Spain should provide information to the Commission for the zone covered by the exemption on the assessment of air quality as regards the area in exceedance, the length of road in exceedance and the population exposed in the calendar year following the date of expiry of the exemption period, i.e. in 2012.

(27) The exemption should apply to the air quality zone as it was defined in the reference year 2006 as indicated in the notification and in the Annex to this Decision. In order to ensure that the exemption applies to the territory as defined in this decision, any changes to the delimitation of this zone during the exemption period should be subject to prior approval by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

1. No objections are raised against the notification by Spain of an exemption from the obligation to apply the daily limit value for PM$_{10}$ set out in Annex XI to Directive 2008/50/EC in zone 3.

2. Objections are raised against the notifications by Spain of an exemption from the obligation to apply the daily and annual limit values for PM$_{10}$ set out in Annex XI to Directive 2008/50/EC in air quality zones 1 and 2 and of an exemption from the obligation to apply the annual limit value for PM$_{10}$ in air quality zone 3 as specified in the Annex to this Decision.

Article 2

Reporting

1. Spain shall for the period 11 June to 31 December 2008, the calendar years 2009, and 2010, and for the period 1 January to 10 June 2011 provide the Commission with data indicating that the concentration levels in the zone referred to in Article 1(1) are below the daily limit value plus the maximum margin of tolerance specified in Annex XI to Directive 2008/50/EC.

The data shall be provided at the latest by 30 September of the following year.

2. Spain shall by 30 September 2012 provide the Commission with information confirming that compliance with the daily limit value for PM$_{10}$ set out in Annex XI to Directive 2008/50/EC has been achieved in zone 3.

3. Changes to the delimitations of the air quality zone as compared to the delimitations that applied in the reference year 2006 during the exemption period that may affect the scope of the exemption shall be subject to prior approval of the Commission.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, […]

For the Commission
Stavros DIMAS
Member of the Commission
ANNEX

Zones and agglomerations covered by the notifications in accordance with the delimitations applicable in the annual air quality report for the calendar years 2005 and 2006 as specified in the table.

<table>
<thead>
<tr>
<th>Zone Number</th>
<th>Reference year</th>
<th>Zones and agglomerations</th>
<th>Zone name</th>
<th>Regions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>2005</td>
<td>ES0901</td>
<td>ÀREA DE BARCELONA</td>
<td>Cataluña</td>
</tr>
<tr>
<td>2.</td>
<td>2005</td>
<td>ES0902</td>
<td>VALLÈS-BAIX LLOBREGAT</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>2006</td>
<td>ES0705</td>
<td>PUERTOLLANO</td>
<td>Castilla La Mancha</td>
</tr>
</tbody>
</table>