COMMISSION DECISION

of XXX

on the notification by the Republic of Latvia of a postponement of the deadline for attaining the annual limit value for NO$_2$ in one air quality zone

(Only the Latvian text is authentic)
COMMISSION DECISION

of XXX

on the notification by the Republic of Latvia of a postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} in one air quality zone

(Only the Latvian 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\textsuperscript{1}, and in particular Article 22(4) thereof,

Whereas:

(1) The air quality limit values for NO\textsubscript{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\textsuperscript{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\textsubscript{2} shall be achieved, if the Member State demonstrates that conformity with the limit values cannot be achieved by 1 January 2010 and an air quality plan is established that demonstrates that such compliance will be achieved before the expiry of the new deadline.

(3) Latvia submitted to the Commission by letter registered on 12 October 2011 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\textsubscript{2} in one air quality zone (LV0001 Riga).

(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\textsuperscript{3}, ("the Communication") and with the Commission Staff Working Paper concerning guidance on preparing a notification of a postponement of the deadline for attaining the limit values for NO\textsubscript{2} under Directive 2008/50/EC\textsuperscript{4}. The notification was submitted

\textsuperscript{2} OJ L 163, 29.6.1999, p.41.
\textsuperscript{3} COM(2008)403
\textsuperscript{4} SEC(2011)300
using the forms set out in the Staff Working Paper\(^5\) that accompanied the Communication.

(5) The Commission identified certain relevant information as missing from the original notification and requested the Latvian authorities by letter dated 16 November 2011 to complete the notification. Since the Latvian authorities submitted essential additional information by letter dated 6 December 2011 the period for the Commission's assessment of the notification starts from the day following the date of official receipt of that information, i.e. 14 December 2011.

(6) The Latvian authorities have provided in the notification 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\(_2\) annual limit value in zone LV0001 Riga. 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 Latvian notification was accompanied by an air quality plan that fulfils the requirements provided for in Section A of Annex XV to Directive 2008/50/EC.

(8) In order to assess whether the conditions for the NO\(_2\) 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 the Latvian authorities for the notified zone is complete for all scales. The Latvian authorities have identified traffic as the main source contributing to the high NO\(_2\) concentration levels at the local level. At the urban level, traffic and industry are indicated as significant contributors to the NO\(_2\) concentration levels in zone LV0001 Riga. The assessment of the Commission confirms that the identification and quantification of the contributions from the different sources provided by the Latvian authorities gives a relevant and reasonable basis for the assessment.

(10) Latvia has notified a postponement of the deadline for attaining the annual limit value for NO\(_2\) in zone LV0001 Riga until 1 January 2015.

(11) In order to assess if conformity with the annual limit value for NO\(_2\) 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 and whether relevant measures have been taken in relation to the identified sources.

(12) According to the information submitted by the Latvian authorities, an exceedance triggering an obligation to take abatement action with regard to NO\(_2\) concentrations was recorded for the first time in 2007. Non-compliance with the applicable annual limit value for NO\(_2\) was then also recorded in 2008 and 2010 while compliance was achieved in 2009.

\(^5\) SEC(2008)2132
(13) The Commission notes that the relevant sources have been addressed in zone LV0001 Riga. The first air quality plan was adopted in 2004 and led to the implementation in 2005 of measures addressing traffic as the main source of high NO₂ concentration levels. Latvian authorities have argued that the non-compliance, in zone LV0001 Riga, by the initial attainment deadline (2010), with the applicable NO₂ annual limit value was due to an increase in traffic. In view of this justification and considering that NO₂ concentration levels were exceptionally low in zone LV0001 Riga in 2009, the Commission finds that it was likely, despite the abatement actions taken by the Latvian authorities, that conformity with the annual limit value for NO₂ could not be achieved by 1 January 2010 in the relevant zone.

(14) 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.

(15) The Commission notes that the Latvian authorities have requested the maximum permitted postponement for compliance with the annual limit value for NO₂ in the zone, i.e. until 1 January 2015. 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.

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

(17) The 2011 air quality plan provided by the Latvian authorities projects compliance in 2015 in zone LV0001 Riga. This projection is based upon a baseline level of 42 μg/m³, which results from the NO₂ annual average measured in 2010 at the Rval-47 "Valderama iela" monitoring station and takes account, in particular, of an estimated increase in traffic emissions. The Commission is of the opinion that compliance could be reached before 2015 at that station in view of this small compliance gap. However, the Commission notes that the 2011 air quality plan for the zone LV0001 Riga refers also to the "Brīvības" monitoring station, which measured in 2010 an annual average concentration level of 47,7 μg/m³. The Commission therefore considers that the "Brīvības" monitoring station must be taken into consideration when assessing the level of air quality in that zone. The Commission is of the opinion that the compliance gap - 7,7 μg/m³ - to be addressed in zone LV0001 Riga is likely to be closed only by 1 January 2015. Accordingly, the Commission finds that it is reasonable to assume that compliance cannot be achieved before 1 January 2015 in the whole zone LV0001 Riga. In this respect, the Commission considers, in the light of the measures foreseen in the 2011 air quality plan, that Latvia has demonstrated that compliance with the NO₂ annual limit value can be achieved by 1 January 2015 in zone LV0001 Riga.

(18) As regards the implementation by the Latvian authorities of the legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that the Latvian authorities have provided the required information for the notified zone.

(19) The Commission is satisfied that the Latvian authorities have taken into consideration all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC.
(20) Against that background, the Commission finds that no objection should be raised against the postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} in zone LV0001 Riga.

(21) During the postponement period, the annual limit value for NO\textsubscript{2} continues to apply 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, Latvia should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the annual NO\textsubscript{2} limit value plus the maximum margin of tolerance in zone LV0001 Riga.

(22) In order to ensure that the Commission can check the implementation of the air quality plan and the relevant abatement action, Latvia should provide information to the Commission for zone LV0001 Riga 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 postponement period.

(23) The postponement should apply to the air quality zone LV0001 Riga as it was defined in the reference year 2010. In order to ensure that the postponement applies to the territory as defined in this Decision, any changes to the delimitation of this zone during the postponement period should be subject to prior approval by the Commission.

HAS ADOPTED THIS DECISION:

Article 1

No objections are raised against the notification by the Republic of Latvia of a postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC in zone LV0001 Riga.

Article 2

1. The Republic of Latvia shall, for the calendar years 2010 to 2014 inclusive, provide the Commission with data indicating that the concentration levels in zone LV0001 Riga are below the annual limit value for NO\textsubscript{2} plus the maximum margin of tolerance specified in Annex XI to Directive 2008/50/EC. That data may be provided through the annual submission of the questionnaire referred to in Article 1 of Commission Decision of 29 April 2004 laying down a questionnaire to be used for annual reporting on ambient air quality assessment under Council Directives 96/62/EC and 1999/30/EC and under Directives 2000/69/EC and 2002/3/EC of the European Parliament and of the Council\textsuperscript{6}.

2. The Republic of Latvia shall, by 30 September 2016 at the latest, provide the Commission with information confirming that compliance with the annual limit value

\textsuperscript{6} OJ L 156, 30.4.2004, p.84.
for NO₂ set out in Annex XI to Directive 2008/50/EC has been achieved in zone LV0001 Riga.

3. Changes to the delimitation of the air quality zone LV0001 Riga as compared to the delimitation that applied in the reference year 2010 during the postponement period that may affect the scope of the postponement shall be subject to prior approval of the Commission.

Article 3

This Decision is addressed to the Republic of Latvia.

Done at Brussels,

For the Commission
Janez Potočnik
Member of the Commission