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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
C(2009)xxx final

Draft

COMMISSION DECISION

of [...]

**on the notification by the Slovak Republic of an exemption from the obligation to apply
the limit values for PM₁₀**

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COMMISSION DECISION

of [...]

on the notification by the Slovak Republic of an exemption from the obligation to apply the limit values for PM₁₀

(Only the Slovak 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 Europe¹, and in particular Article 22(4) thereof,

Whereas:

- (1) The Slovak Republic notified the Commission by letter registered on 12 November 2008 of an exemption under Article 22(2) of Directive 2008/50/EC from the obligation to apply the daily limit value for PM₁₀ in the nine air quality zones listed in the Annex to this Decision as well as the annual limit value in air quality zones 1, 2, 3, 5, 7, 8 and 9. The air quality limit values for PM₁₀ have been legally binding since 1 January 2005 in accordance with Directive 1999/30/EC of the European Parliament and of the Council of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air².
- (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 PM₁₀ if all appropriate 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 exceedence can be attributed to site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions, and that an air quality plan is established demonstrating conformity with the limit values will be achieved before the new deadline.
- (3) 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 Europe³

¹ OJ L 152, 11.6.2008, p. 1.

² OJ L 163, 29.6.1999, p.41.

³ COM(2008)403

(hereinafter "the Communication). The notification was submitted using the forms set out in the Staff Working Paper⁴ that accompanied the Communication.

- (4) The Commission identified certain relevant information as missing from the original notification, and requested the Slovak authorities by letter dated 23 January 2009 to complete the notification. The Slovak authorities submitted additional information by letter dated 12 February 2009.
- (5) The Slovak authorities have provided data for the year 2005 to be used as reference year and basis for the assessment. The Commission notes that 2005 is appropriate for the purpose of assessing whether the conditions are fulfilled.
- (6) The notification is accompanied by 18 air quality plans established for all identified exceedance situations in the nine air quality zones listed in the Annex to this Decision. The Commission finds however that those plans do not include all information required pursuant to points 5 and 6 of Part A of Annex XV to Directive 2008/50/EC.
- (7) In order to assess whether the conditions for the PM₁₀ exemption are satisfied, it is necessary to identify the main sources of pollution contributing to the observed concentration levels. That source apportionment should be precise enough to allow an understanding of which measures should be taken to address the main sources of pollution.
- (8) The source apportionments provided by the Slovak authorities in relation to the different exceedance situations do not provide the required detail in respect of the different sources contributing to the exceedances, as only the total regional background, the total urban background and the total local PM₁₀ component in each exceedance situation is indicated. Although the assessment by the Commission confirms that the total numbers given are reasonable, except for zone 1 where the urban background contribution appears to be significantly underestimated, information is insufficient to identify the contributing sources by sector, and as a consequence the Commission cannot assess whether the abatement measures foreseen are relevant for reducing the concentration levels.
- (9) The Slovak authorities have not specified in the notification whether they consider that the exceedances can be attributed to site specific dispersion characteristics, adverse climatic conditions or transboundary contributions. The Commission asked for a clarification in the request for additional information, however, the Slovak authorities have not provided any further information on this issue. The air quality plans accompanying the notification all contain a chapter with information on transboundary contributions to the air pollution in Slovakia. However, the chapter, which is the same in all air quality plans, gives only general data for the whole territory of Slovakia. There is no detailed information on the presence and the impact of transboundary contributions in each air quality zone covered by the notification. The data given in the plans can therefore not be used by the Commission to make an assessment on whether the exceedance situations in each air quality zone can be chiefly attributed to transboundary contributions.

⁴ SEC(2008)2132

- (10) The Commission therefore finds that the Slovak authorities have not fully demonstrated that the exceedances can be attributed to site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions.
- (11) 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 site-specific dispersion characteristics or transboundary contributions.
- (12) Exceedances of the daily limit value were recorded in all the notified zones in 2004 according to the annual air quality report submitted by the Slovak authorities as part of their obligations pursuant to Directive 1999/30/EC. In six of those zones the annual limit value was also exceeded. The Slovak authorities established 18 air quality plans addressing all those exceedance situations between the years 2004 and 2007. The plans include a description of the abatement measures undertaken for various industrial installations prior to the entry into force of the limit value in 2005, together with the data on emission reductions for those sources, for traffic and for commercial and residential sources.
- (13) The Commission finds that due to the absence of source apportionments it cannot be fully assessed if the abatement action taken in zones 1 to 9 were relevant for addressing the chief sources in those zones. However, by implementing measures that were addressing sources that doubtlessly can be included among the main sources contributing to the high concentration levels and by establishing air quality plans for all the exceedance situations, the Slovak authorities have demonstrated an early awareness of the air quality problems and some of the potential remedies in the different zones.
- (14) In order to assess if compliance with the limit values for PM₁₀ 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 plan accompanying the notification.
- (15) The 18 air quality plans submitted by the Slovak authorities list the measures to be implemented with a view to achieving compliance with the limit values for PM₁₀ by 10 June 2011. However, due to the absence of source apportionments as well as projections for the concentration levels in 2011, it is not possible for the Commission to assess whether the measures set out in the air quality plans will be sufficient for achieving compliance in 2011.
- (16) The assessment of the Commission shows that, according to the model projections under the cooperative programme for monitoring and evaluation of the long-range transmission of air pollutants in Europe ("EMEP"), a reduction of the regional background concentrations in 2011 due to reduced transboundary contributions will not be enough to ensure that PM₁₀ concentrations will meet the limit values for most of the exceedance situations. Therefore additional local measures will be necessary.
- (17) According to the information provided by Slovakia, all major industrial installations falling under Directive 2008/1/EC of the European Parliament and of the Council

concerning integrated pollution prevention and control⁵ and Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants⁶ have permits based on best available technique ("BAT"). Provided that the permit conditions are respected, significant reductions of emissions from industry should therefore already have been achieved and it is to be expected that any further reductions will be rather limited. The transport measures foreseen by the air quality plans could improve the flow of road traffic, but at the same time increase the volume of traffic and consequently result in higher emissions and concentrations in ambient air. Although most of the measures related to the landscape planning included in the air quality plans will have a positive impact on the environment, their potential to reduce PM₁₀ concentrations is quite low.

- (18) It is also apparent from the notification that many important abatement measures listed in Part 3 of Section B of Annex XV to Directive 2008/50/EC have not been considered by the Slovak authorities for any air quality zone.
- (19) The Commission cannot on the basis of the available information fully assess if compliance with the limit values for PM₁₀ will be achieved by 10 June 2011.
- (20) The Commission is satisfied that the implementation by the Slovak Republic of the Community legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC does not give rise to concerns that could have a negative impact on the assessment of whether compliance can be achieved by the new attainment deadline.
- (21) The Commission considers that objections should be raised against the notification by the Slovak Republic of an exemption from the obligation to apply the daily limit value for PM₁₀ in all nine air quality zones listed in the Annex, and the annual limit value in zones 1, 2, 3, 5, 7, 8 and 9, on the grounds that it cannot be fully assessed if all appropriate measures have been taken at national, regional and local level to meet the deadlines, that the limit values cannot be achieved because of site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions, and that compliance will be achieved at the expiry of the exemption period,

HAS ADOPTED THIS DECISION:

Article 1

Objections are raised against the notification by the Slovak Republic of an exemption from the obligation to apply the daily limit value for PM₁₀ set out in Annex XI to Directive 2008/50/EC in all nine air quality zones as specified in the Annex to this Decision, and the obligation to apply the annual limit value for PM₁₀ set out in Annex XI to Directive 2008/50/EC in zones 1, 2, 3, 5, 7, 8 and 9 as specified in the Annex to this Decision.

Article 2

This Decision is addressed to the Slovak Republic.

⁵ OJ L 24, 29.1.2008, p. 8.

⁶ OJ L 319, 23.11.2002, p. 30.

Done at Brussels, [...]

For the Commission
Stavros DIMAS
Member of the Commission

ANNEX

Zones and agglomerations covered by the notification in accordance with the delimitations applicable in the annual air quality report for the calendar year 2005.

Zone Number	Zones and agglomerations	
1.	SKBA01	Bratislava
2.	SKBB01	Banská Bystrica Žiar nad Hronom, Ladomerská Vieska Jelšava, Lubeník, Chyžné, Magnezitovce, Mokrá Lúka, Revúcka Lehota Hnúšťa, Brádno, Hačava, Likier, Polom, Rimavské Brezovo, Tisovec, Rimavská Píla
3.	SKKO01	Košice, Bočiar, Haniska, Sokolany, Veľká Ida
4.	SKKO02	Krompachy Strážske
5.	SKNI01	Nitra
6.	SKPR01	Prešov, Eubotice Vranov nad Topľou, Hencovce
7.	SKTN01	Senica Trnava
8.	SKTR01	Územie okresu Prievidza Trenčín
9.	SKZI01	Martin Ružomberok Žilina