



Council of the European Union
General Secretariat

**Interinstitutional files:
2022/0347 (COD)**

Brussels, 24 July 2023

WK 10074/2023 ADD 1

LIMITE

ENV

ENER

IND

TRANS

ENT

SAN

AGRI

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	ST 14217/22 + ADD 1
Subject:	Air Quality Directive: Follow-up to the WPE on 11 July 2023 - comments from a delegation

Following the call for comments on the above set out with WK 9695/2023, delegations will find attached comments from BG.

BULGARIA

Proposal for a Directive of the European Parliament and of the Council on ambient air quality and cleaner air for Europe

Follow-up of the discussions in the WPE on 11.07.2023

Document: WK 9695/2023

Bulgaria would like to thank the Presidency for the note prepared steering note for the meeting of the Working Party on the Environment on 11 July 2023.

INTERVENTION ROUND 1. Article 19: Air quality plans

A. Timeframe for establishing and implementing air quality plans (Article 19(1))

Bulgaria maintains a scrutiny reservation and supports the start of the 4-year period after the adoption of the plan.

B. Air Quality Plans for ozone (Article 19(2))

We maintain the position expressed so far that the main instrument for reducing ozone concentrations in Europe is the Air Pollution Control Programme, pursuant to Directive (EU) 2016/2284, and we believe that measures to address this pollutant should be provided in these programmes to avoid the inclusion of obligations that lead to administrative burdens without added value. We have already expressed a preference for an option that provides for a text similar to the current Directive 2008/50/EC.

„3. Introduce similar language to that used in the current Ambient Air Quality Directive (2008/50/EC). e.g. “Member States shall, if appropriate, establish air quality plans in order to attain the ozone target values, save where not achievable through measures not entailing disproportionate costs.”

C. Territorial units most appropriate for AERO AQ plans (Article 19(3))

Bulgaria maintains a negative scrutiny reservation. As we have expressed so far, the NUTS 1 territorial unit is another level of air quality management, which does not exist at the moment. This is also true for NUTS 2 territorial unit. Apart from the fact that this NUTS (1, 2) level of governance does not exist in the country, our concerns relate to the content and the subject of the programme and the measures to be implemented. These pollutants (nitrogen dioxide and PM_{2.5}) are also addressed in the Air Pollution Control Programme pursuant to Directive (EU) 2016/2284 and will also be covered in the air quality programmes to be developed under Article 19 of the proposed Directive if an exceedance is recorded.

INTERVENTION ROUND 2 CHAPTER V: INFORMATION AND REPORTING

A. Article 22: Public information

We maintain a scrutiny reservation.

B. Annex IX: Information to citizens

Bulgaria expresses a preference for the proposed option 3.

Annex IX (2)(c). Information of possible health effects and recommended behaviour.

Bulgaria expresses a preference for the proposed option 1.

INTERVENTION ROUND 3 CHAPTER VII: ACCESS TO JUSTICE, COMPENSATION AND PENALTIES

A. Article 27: Access to justice

Scrutiny reservation. We note the need of a harmonized approach at EU level on access to justice, as to achieve high level of legal certainty. In our view, the reference to the Aarhus Convention is a step in the right direction. We support the view expressed during the WPE on 22.05.2023 and on 11.07.2023 by the Council Legal Service that the access to justice requirements in the text are practically unnecessary. We believe that this opinion addresses the main concerns of the Member States.

In this regard our preliminary preference is for Option 2, but we support further drafting of these texts to reflect what has been agreed under the general approach of the draft IED. We believe that it is sufficient to keep the general wording of the text without over-detailing the provisions.

B. Article 28: Compensation for damage to human health

- 1. Scope of the right to compensation (paragraphs 1, 2 and 3): who is entitled to compensation, who is responsible for the damage and for which violations of the Directive (including possible collective action);**
- 2. Causal link and associated burden of proof (paragraph 4);**
- 3. Other rules and procedural elements (paragraphs 5 and 6): guarantee of effectiveness and limitation periods for bringing action.**

Bulgaria insist on the deletion of Article 28 as the texts are not applicable in the field of air quality and share the positions expressed by other member states and the Council Legal Service at WPE on 11th of July. We are of the opinion that the optimal solution would be to leave the issues of penalties and compensation to the Member States. In this way, national circumstances, including the substantive and procedural rules in force and the existing liability regimes, can be best taken into account.

C. Article 29: Penalties.

Bulgaria supports Option 2, namely the drafting of the texts in line with Article 79 according to the general approach of the draft IED.

INTERVENTION ROUND 4

A. Annex III.A.2 and Annex IV.B. 2(f) references to Best Available Techniques (BAT)

Bulgaria supports option 3.

B. Annex I, section 4. Representativeness of stations for alert threshold exceedances for PM10 and PM2.5

Bulgaria supports option 3.

C. Article 15(4) Prediction of the risk of exceeding thresholds:

We maintain a scrutiny reservation.

INTERVENTION ROUND 5. Article 31(1) and Article 32. Transposition and dates for entry into force

We thank the Presidency for the clarifications. We consider that the issues related to the assessment regime and monitoring (Article 7, Annex II and III) and the period for their implementation should be further discussed when reviewing the texts.