



Council of the European Union
General Secretariat

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

Brussels, 19 July 2023

WK 10074/2023 INIT

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 delegations

Following the call for comments on the above set out with WK 9695/2023, delegations will find attached comments from BE, CZ, DK, IT, CY, LU, NL, AT and FI.

WK 10074/2023 INIT

LIMITE

EN

BELGIUM

Text proposals with regards to steering notes wk08784 and wk09263

In response to the questions raised in the steering notes wk08784 and wk09263 and following discussions on that steering note at the WPE's on July 4th and 11th, we would like to share some text proposals. We do not address all questions from the steering notes in this document and refer to our interventions during the WPE for our position on those other questions.

Annex I – section 4

For section 4, we think that the proposed alert threshold for PM₁₀ will not lead to much actions being taken, certainly not when it is to be measured over three days. We suggest to lower the threshold for PM₁₀ to 70 µg/m³. We suggest to include information thresholds for PM as well and to align those with the daily limit values (45 µg/m³ for PM₁₀ and 25 µg/m³ for PM_{2,5}).

Annex I, section 1 + Article 18

Although we don't have a text proposal on these elements, we would like to repeat our position that the proposed values in table I of section I and in section II strike a good balance between reducing impact of air pollution on health and feasibility and if we effectively want to reduce the impact of air pollution it is important that we stick to this ambition level. We do understand that in some specific cases it is not possible to reach these values, but for these cases article 18 can be used. We don't think that these cases should lead to a general reduction of the ambition level (with the possible exception of the number of allowed exceedances for hourly limit values).

We are therefore of the opinion that both the proposed levels of the standards and the 2030 deadline have to be maintained if we really want to reduce the adverse impacts of air pollution.

We are open to discuss other reasons for allowing postponements, other pollutants and more time extensions, but it is important that the possibilities for extension don't provide an excuse for not taking measures for improving air quality. Reasons for extensions should therefore be focussed on elements that are not in the control of the individual member states.

Article 19(1)

We support the proposed changes in steering note wk09263 and we oppose stretching the proposed timing any further. In the current version, an update of the air quality plan is only needed when a standards is still exceeded five year after it was exceeded for the first time, which to us seems very reasonable.

Article 19(2)

Since art. 13.2 still refers to zones as the unit for evaluating the target values for ozone, we think it is more logical to keep that reference in art. 19.2 and reformulate the presidency's proposal as follows. As explained, we don't think an economic situation can be a reason for not drawing up a plan (it may be an argument for not taking measures, but this has to be explained in the plan) and on the other hand transboundary transport of ozone should be included as an argument.

2. Where in a in a given ~~territorial unit covering at least the~~ air quality zone, the levels of pollutants in ambient air exceed the ozone target value, laid down in Section 2 of Annex I, Member States shall establish air quality plans for ~~those a~~ territorial units ~~covering at least that zone~~ as soon as possible and no later than 2 years after the calendar year during which the exceedance of the ozone target value was recorded. Those air quality plans shall set out appropriate measures in order to achieve the ozone target value and to keep the exceedance period as short as possible. Where exceedances of the ozone target value persist during the fifth calendar year after the establishment of the air quality plan in the relevant ~~zone territorial unit~~, Member States shall update ~~the~~ air quality plan and the measures therein, and take additional and more effective measures, in the subsequent calendar year to keep the exceedance period as short as possible. Member States shall inform the Commission which territorial unit they are going to use to establish air quality plans for ozone.

Member States may refrain from establishing air quality plans for ozone for a given ~~zone territorial unit~~ when there is no significant potential, taking into account orographic ~~and~~, meteorological and ~~economic~~ conditions ~~and transboundary transport of air pollution~~, to address the exceedance.

If Member States do not establish an air quality plan in accordance with paragraph 1, the Member State shall notify the Commission with the necessary information justifying that there is no significant potential to address the exceedance and an action plan is not the appropriate measure to address this exceedance.

For ~~zones territorial units~~ where the ozone target value is exceeded, Member States shall ensure that the relevant national air pollution control programme prepared pursuant to Article 6 of Directive (EU) 2016/2284 includes measures addressing those exceedances.

Article 19(3)

As explained during the WPE, we are flexible towards implementing the AERO at a smaller geographical area than NUTS 1, but we don't agree with using a larger area, which would water down the obligation – with the AERO being the prime indicator for general exposure of the public and thus of health impact of air pollution. In order to have a consistent approach throughout the directive we suggest to following changes

Art. 13

3. Member States shall ensure that the average exposure reduction obligations for PM_{2.5} and NO₂ laid down in Section 5, Point B, of Annex I, are met throughout their territorial units at NUTS 1 level ~~or a part thereof~~, where they exceed the average exposure concentration objectives set out in Section 5, Point C, of Annex I.

Member States shall inform the Commission which territorial units they are going to use to evaluate the average exposure reduction obligation.

Art. 19

3. Where in a given territorial unit ~~covering at least NUTS2 level~~ as established in paragraph 3 of ~~article 13~~, the average exposure reduction obligation laid down in Section 5 of Annex I is exceeded, Member States shall establish air quality plans for those territorial units as soon as possible and no later than 2 years after the calendar year during which the exceedance of the average exposure reduction obligation was recorded. Those air quality plans shall set out appropriate measures to

achieve the average exposure reduction obligation and to keep the exceedance period as short as possible. Where exceedances of the average exposure reduction obligation persist during the fifth calendar year after the establishment of the air quality plan, Member States shall update the air quality plan and the measures therein, and take additional and more effective measures, in the subsequent calendar year to keep the exceedance period as short as possible.'

Consequently, definitions (28) and (29) need to be adapted as well. As we already indicated in our comments in February, we think these definitions should not refer to the territorial area because it renders them unnecessarily complex and this is explained in the relevant articles anyhow. In our view, the suggested changes have no impact on the meaning of the text.

(28) 'average exposure indicator' means an average level determined on the basis of measurements at urban background locations ~~throughout the territorial unit at NUTS-1 level as described in Regulation (EC) No 1059/2003~~, or, if there is no urban area located in ~~that the relevant~~ territorial unit, at rural background locations, and which reflects population exposure, ~~used to check whether the average exposure reduction obligation and the average exposure concentration objective for that territorial unit have been met;~~

(29) 'average exposure reduction obligation' means a percentage reduction of the average exposure of the population, expressed as average exposure indicator, ~~of a territorial unit at NUTS-1 level as described in Regulation (EC) No 1059/2003 of the European Parliament and of the Council set for the reference year to be attained over a given period~~ with the aim of reducing harmful effects on human health, ~~to be attained over a given period;~~

Article 22

We are still struggling with the added value of the requirement that all member states have to establish their own AQI. It is definitely useful to have one common EU-wide index, as the one developed by the EEA, by why not simply require that member states have to make this index available through their own channels? Member states willing to do so should of course have the freedom to develop their own index, as we have also done in Belgium. We have reformulated the 2nd paragraph in this regard.

2. Member States shall ~~establish~~ make available through a public source an air quality index ~~covering sulphur dioxide, nitrogen dioxide, particulate matter (PM10 and PM2.5) and ozone, and make it available through a public source provideing~~ an hourly update. Member states may choose to use ~~The air quality index shall consider the recommendations by the WHO and build on the air quality indices at European scale provided by the European Environmental Agency~~ or to develop their own index or to combine both. If they choose to develop their own index it will cover at least nitrogen dioxide, particulate matter (PM10 and PM2.5) and ozone.

CZECH REPUBLIC

Comments following-up the WPE meeting relating to the revision of the ambient air quality directive held on 15th of June and 4th of July 2023.

CZ would like to take this opportunity and wish to the Spanish colleagues all the best in the 2023 Presidency. In the first cluster of comments presented below, we would like to clarify in writing our position to the joint responsibility and to some other issues discussed on the 15th June.

Further below CZ provides written comments to the steering note discussed on the 4th of July.

Follow up to the 15th of June WPE meeting:

Joint responsibility clause:

Based on CZ opinion, joint responsibility should be understood as joint and inseparable obligation of multiple bodies to implement measures on individual basis aiming at achieving common goal which is reducing the air pollution and meeting the air quality standards. Unless all of the bodies implement necessary measures and therefore fulfil their part of the obligation, the common goal cannot and will not be achieved. This implies that individual body is not able to achieve the common goal on its own and cannot be solely responsible for the consequences of any infringements linked to the air quality standards, especially those linked to art. 27 a 28.

In our opinion, the concept of joint responsibility is very relevant in relation to the goals of the ambient air quality directive since the territory of individual MS could be influenced by the air pollution sources originating from other than its territory (other MS or third countries). This was highlighted by the Clean Air Outlooks and should be therefore considered as a fact proven by robust analysis.

Joint responsibility is also relevant given the fact that EU regulatory framework aiming at air pollution reduction is being adopted on the EU level. The importance of such Union framework in achieving air quality standards was highlighted in the impact assessment analysis that accompanied the proposal for the revision of the Ambient Air Quality Directive. Given the adoption procedure of the Union regulatory framework, individual MS cannot be held accountable for the outcomes and performance of such common framework.

For the reasons mentioned above CZ strongly supports inclusion of joint responsibility into the Ambient Air Quality Directive. While CZ expressed support multiple times to the AT proposal amending art. 5, CZ is of the opinion that art. 5 is not the only option to include joint responsibility within the AAQD. Joint responsibility could be included in the definition of air quality goals themselves as CZ has already proposed on previous WPE meeting. CZ suggested the following amendment of art. 4 including the definition of zero pollution objectives and air quality standards mentioned in art. 1.

(X) 'zero pollution objective' means a level of air quality suggested by scientific evidence for human health protection that the relevant Union institutions and the Member States strive to achieve as much as possible by 2050 using cost effective and technically feasible measures;

(Y) '(intermediate) air quality standards' mean limit values, target values, average exposure reduction obligations, average exposure concentration objectives, critical levels, information thresholds, alert thresholds and long-term objectives which are fixed on the basis of scientific evidence for human health protection, to be achieved by relevant Union institutions and the Member States in order to move closer towards zero pollution objective;

We also believe that joint responsibility could be reflected in art. 1 in the following manner:

2. *This Directive sets (intermediate) air quality standards that shall be implemented on the Union and Member state level aiming to move the air quality closer to the zero pollution objectives mentioned in this Article. Intermediate air quality standards include limit values, target values, average exposure reduction obligations, average exposure concentration objectives, critical levels, information thresholds, alert thresholds and long-term objectives ('air quality standards') to be met by the year 2030, and, (Intermediate) air quality standards will be regularly reviewed thereafter in accordance with Article 3.*

Article 12:

CZ would like additionally express strong support to the amendment of art. 12.4 included in the steering note WK 7665/2023 REV 1 as a first option. We support the idea to link art. 12 with zero pollution objectives established in art. 1.1. CZ noted in previous written comments that the art. 12 as proposed by the Commission establishes the “second” best air quality (the “first” best air quality is established in art. 1.1) which is very confusing and ought to be resolved.

Follow up to the 4th of July WPE meeting:

Annex I. Air Quality Standards. Proposed Level of air quality standards:

CZ agrees with the fact that it is important to maintain ambitious air quality standards as long as they are feasible to achieve. Regarding the numerical values of air quality standards, we could support the Commissions approach to select the most stringent WHO interim targets as the new limit values and to keep heavy metals and benzo(a)pyrene limit values more or less the same at the current target values. Although we consider the conclusions of the impact assessment analysis as too optimistic given the ongoing energy crisis and high inflation, we respect the main message of the impact assessment analysis that the newly proposed limit values are theoretically feasible within the EU territory.

However, CZ is of the opinion that the uncertainties of the impact assessment analysis must be counterbalanced with more realistic timeframe, added flexibility mechanisms and joint responsibility clause. Otherwise CZ could not fully support the revised directive.

Regarding the ozone target value, we support the intention not to include ozone under limit values given its unpredictable nature and high dependence on natural and transboundary sources.

Alert and information thresholds. alert thresholds values:

CZ could be flexible towards numerical values of information and alert thresholds and their averaging period as long as there is some evidence that short exposure of such information and alert threshold is linked to acute health impact. We are of the opinion that citizen should be informed without any delay about such exceedance so that they can take health precautions. For those reasons we question the added values of the 3-day delay for the PM alert thresholds and the added values of the 3-day old information about high exposure. In CZ we currently use 12hour running means to timely inform about PM alerts, the 12hour running mean also proved to be effective to avoid false alerts. We used to use 2-3 day means for PM₁₀ alerts however we usually announced the alert well after the pollution episode was already gone which was very confusing for the public.

The proposed 3 consecutive hours would also be acceptable for CZ if it can be assumed that such exceedance of alert or information threshold has acute health risk that ought to be communicated to the public.

Position on the proposed date of attainment of the revised air quality standards.

CZ is very sceptical to the date of attainment, 2030 seems too unrealistic given the time needed to amend national legislative framework, prepare air quality plans, mobilise funds and implement measures. We would like to point out that there is no new technological breakthrough, we still need to rely on traditional abatement measures such as thermal insulation of houses, boiler replacements, low emitting vehicles, promotion of public transport and retrofitting of industrial facilities. These measures take long time to implement.

Also, we would like to point out that the current situation in the EU is very different compared to the situation in the reference year of the impact assessment analysis that was not impacted by the energy crisis that we face today. We are of the opinion that the deadline for the new limit values should be moved beyond 2035 and the directive should also introduce more flexibilities, especially into art. 18 and 19, as we have already proposed in writing.

Flexibilities are very important to tackle challenges that we will without a doubt face once we move to the implementation phase of the proposed directive. CZ also points out that flexibilities are necessary to counterbalance the fact that the starting positions of the air quality level in some MS are significantly worse compared to other MS, therefore some of us are expected to put significantly more effort into achieving the new limit values.

Postponement of attainment deadline and exemption from the obligation to apply certain limit values. Reasons for allowing postponements.

First of all, CZ would like to reiterate that art. 18 should enable postponement for all limit values and exposure reduction targets, given the fact that site specific conditions, climate conditions or transboundary contribution are affecting the levels of all pollutants. This approach would be the most reasonable also with respect to the fact that pollutants are interconnected with each other and they share air pollution sources. For example, unless we do not solve the pollution from household heating in some MS, we are not able to further decrease the pollution

level of PM_{2,5} and benzo(a)pyrene. Therefore, postponement of PM_{2,5} and benzo(a)pyrene attainment deadline must go hand in hand.

Regarding the reasons for postponement we have suggested to add socio-economic conditions and unforeseeable events which might be for example changes on global energy market or underperformance of adopted measures.

CZ suggested the following amendment of art. 18.1:

1. Where, in a given zone, conformity with the limit and/or target values and/or exposure reduction obligation for particulate matter (PM₁₀ and PM_{2,5}) or nitrogen dioxide cannot be achieved by the deadline specified in Table 1 of Section 1 of Annex I, Section 2 point B of Annex 1 and/or Section 5 of Annex I, because of local-specific conditions such as site-specific dispersion characteristics, orographic boundary conditions, adverse climatic conditions, ~~or~~ transboundary contributions or due to socio-economic conditions or unforeseeable events (such as delayed adoption of measures taken on the Union level or their underperformance), a Member State may postpone that deadline at once by a maximum of 5 years for that particular zone if the following conditions are met:

(...)

Postponement of attainment deadline and exemption from the obligation to apply certain limit values. Allowing postponement more than once:

CZ agrees with the need to allow more than one postponement since climate conditions and other specific conditions are out of influence of MS therefore there is a risk that these factors might continue the negatively influence the air quality despite the measures taken in air quality plans. We even question the fact whether site-specific dispersion characteristics or orographic boundary conditions can be changed by MS at all, therefore we think that one-time postponement is not justified.

We have already suggested to modify the last part of art. 18.1 as follows: "... Member State may postpone that deadline "at" once by a maximum of 5 years ..." (as can be seen also above).

Transboundary pollution:

CZ is of the opinion that MS cannot enforce any action on other MS without its consent or will to act (neither joint implementation of measures nor the creation of joint air quality plans). This presumption arises from the reality of function of sovereign states in the system of international law which does not recognize one's authority over the other but on the contrary is built on mutual cooperation of partners on the same level. That is why another approach is needed in case of transboundary pollution. A body on which the MS as sovereign states transferred parts of their competences should in these situations take the initiative or be obliged to take for a purpose of achieving the stipulated air quality standards. This concept is still missing from the proposed directive. Yet, with all the facts stated above, MS are expected to bear full responsibility for transboundary air pollution (according to the proposal the MS would also be expected to compensate damage to human health caused by transboundary air pollution as proposed by art. 28). CZ is not in the position to agree to such approach. The fact that

transboundary air pollution cannot be influenced and regulated by the MS receiving such pollution must be incorporated in the definition of the transboundary air pollution. CZ already noted that the definition of transboundary air pollution is missing in the revised directive. CZ suggested the following definition:

(Z) 'transboundary air pollution' means emissions of pollutants caused by natural or anthropogenic sources located outside the territory of a given Member State which cannot be directly influenced by measures taken by this Member State

Regarding art. 21 and with respect to the above mentioned, CZ is of the opinion that this art. should be amended to effectively reflect the inability of individual MS to enforce measures outside their territory and to utilise the authority of the Commission in reducing the transboundary air pollution. CZ also suggests to further link the necessary reduction of the transboundary air pollution with air quality plan defined in art. 19. CZ further points out that art. 21 omits air pollution from third countries which proved to be very important for air pollution level in EU according to the Third Clean Air Outlook, third countries should therefore also be included under the scope of art. 21.

CZ suggests the following amendment of art. 21 (updated amendment compared to the previous suggestion submitted by CZ in April 2023).

1. Where transboundary transport of air pollution from one or more Member State contributes significantly to the exceedance of any limit value, ozone target value, average exposure reduction obligation or alert threshold in another Member State, the latter shall notify the Commission and the Member States from which the air pollution originated ~~and the Commission thereof~~.

The Member States concerned shall cooperate with the Commission to identify the sources of air pollution and the measures to be taken to address those sources. The Commission shall decide whether the identified measures are sufficient to reduce the transboundary air pollution and whether these measures shall be incorporated in the air quality plan laid down in art. 19 and implemented by Member State from which the air pollution originated, such decision initiates the update of the air quality plan pursuant to the second sub paragraph of paragraph 1 of art. 19. ~~and draw up joint activities, such as the preparation of joint or coordinated air quality plans pursuant to Article 19 in order to remove such exceedances.~~

~~Member States shall respond to each other in a timely manner, and no later than 3 months after being notified by another Member State in accordance with the first subparagraph.~~

Where the pollution originates outside any of the Member State's territory, the Commission shall endeavour to pursue cooperation with third countries aiming at mitigating such pollution.

2. ~~The Commission shall be informed of, and invited to be present and to assist in any cooperation referred to in paragraph 1 of this Article.~~ Where appropriate, the Commission shall, considering information under paragraph 1 and the reports established pursuant to Article 11 of Directive (EU) 2016/2284, consider whether further action shall be taken at Union level in order to reduce precursor emissions responsible for transboundary pollution.

3. ~~Member States shall, if appropriate pursuant to Article 20, prepare and implement joint short term action plans covering neighbouring zones in other Member States. Member States~~

~~shall ensure that neighbouring zones in other Member States receive all appropriate information regarding these short term action plans without undue delay.~~

4. ~~Where the information threshold or alert thresholds are exceeded in zones close to national borders, information on these exceedances shall be provided as soon as possible to the competent authorities in the neighbouring Member States concerned. That information shall also be made available to the public.~~

5. ~~In drawing up plans as provided for in paragraphs 1 and 3 and in informing the public as referred to in paragraph 4, Member States shall, where appropriate, endeavour to pursue cooperation with third countries, and in particular with candidate countries.~~

Article 24 Scope of the Delegated acts.

CZ supports the first and the second option proposed by the PRES. Given the fact that Annex II is closely linked with limit values it should be considered as an essential element. The same could apply to Annex VIII since any changes in this Annex could prolong the time needed to prepare air quality plans and therefore could jeopardise the achievement of limit values in time.

Art 25(2) Exercise of the delegation.

CZ prefers to keep the number of delegated acts to a minimum number in order to keep the legal certainty during the implementation phase. We are, however, flexible towards how this will be achieved in art. 25.

Article 26 Committee procedure

CZ would welcome explanation of practical implication of the proposed text.

Art 20. Short-term action plans

CZ is of the opinion that integrating action plans into air quality plans should not be mandatory since both plans are focusing on different timeframes. For these reasons we do not support the mandatory assessment of the risk of exceedances of alert thresholds in air quality plans as required by art. 19.5. We are however flexible towards optional integration or combination of both plans if MS choose to do so.

Regarding consultation of action plans, we take note of the PRES explanation. CZ has already established mechanisms enabling the public to participate in the preparation process of any binding air quality strategy

Article 20(2) regarding measures to be considered in short-term action plans.

CZ views art. 20.2 as a demonstrative list of measures. The final adopted measures should, however, respect the “share of the main pollution sources” as it is stated in art. 20.2 which indicates that the adopted measures should be tailor made and based on pollution sources in individual MS. For those reasons we do not see the need to include any other additional measure for any other additional sector. Furthermore, CZ suggest to clarify the text of art. 20.1 as shown below to highlight the fact that measures must target the main pollution sources. The text

proposed by the Commission might imply that for example transport measures shall be considered in any case which go against the expression “*Depending on the share of the main pollution sources*” in art. 20.2.

We would like to stress that given the fact that the main pollution sources might be impossible to tackle in the short term, for example household heating or transboundary air pollution, there should be a possibility to refrain from drawing action plan not only for ozone but for all pollutants with established alert thresholds.

CZ suggest therefore the following amendment of art. 20 para 1 and 2.

1. Where, in a given zone, there is a risk that the levels of pollutants will exceed one or more of the alert thresholds specified in Section 4 of Annex I, Member States shall draw up short-term action plans indicating the emergency measures to be taken in the short term in order to reduce the risk or duration of such an exceedance.

However, ~~where there is a risk that the alert threshold for ozone~~ Member States may refrain from drawing up such short-term action plans when there is no significant potential, taking into account national geographical, meteorological and economic conditions, to reduce the risk, duration or severity of such an exceedance.

2. When drawing up the short-term action plans referred to in paragraph 1 Member States may, depending on the individual case, provide for effective measures to control and, where necessary, temporarily suspend activities which contribute to the risk of the respective limit values or target values or alert threshold being exceeded. Depending on the share of the main pollution sources to the exceedances to be addressed, those short-term action plans shall consider, if appropriate, including measures in relation to transport, construction works, industrial installations and the use of products and domestic heating. Specific actions aiming at the protection of sensitive population and vulnerable groups, including children, shall also be considered in the framework of those plans.

Article 20.5 Communication to the Commission of adopted short-term plans.

CZ is in favour of reducing administrative burden of the reporting, however, given the complexity of air quality plan reporting obligation we see only limited possibility to include action plans into this reporting obligation. Action plans could be probably included in the same envelope in the repository system (CDR), but other than that we do not see the possibility to significantly decrease the administrative burden by simply communicating these two plans together. However, CZ is open towards any suggestions.

DENMARK

Comments and suggestions for revision of the Air Quality Directives

Submission for July 18th deadline

Denmark would like to reiterate our support for the proposal in general. As a minimum the current level of ambition should be maintained.

We would like to submit our proposed text for Art. 22(2). Suggested changes to directive is marked with ~~strike out~~ and underscore.

2. Member States shall ~~establish~~ make available ~~an~~ public air quality index covering hourly updates on at least sulphur dioxide, nitrogen dioxide, particulate matter (PM10 and PM2.5) and ozone, ~~and make it available through a public source providing an hourly update~~. The air quality index may be the index provided by the European Environmental Agency or a national index ~~shall~~ considering the recommendations by the WHO and building on the air quality indices at European scale provided by the European Environmental Agency.

Article 19(3)

As a follow-up on the discussions on the geographic scope for air quality plans covering the AERO we would like to support those asking for more clarity in the proposal from PRES. We believe it would be best to use NUTS1 or NUTS2. The NUTS2 areas could be combined as MS see fit and this level should leave sufficient flexibility for MS in our view. Regarding the comments from several MS that NUTS1 is too restrictive we would like to point to the possibility to make plans covering several NUTS1 units. Such plans would then need to address the effect for each NUTS1/2 area as a minimum. DK made plans for NO₂ covering several zones including local projections for each zone while dealing with the regional pollution in a combined approach.

Regarding art. 27-29 we will have to come back in August due to holiday issues.

Proposal for a Directive on ambient air quality and cleaner air for Europe (recast)**WPE 11 July 2023 Follow up – Presidency steering note WK 9263/2023 INIT****Comments by Italy****1. Article 19: Air quality plans****A. Timeframe for establishing and implementing air quality plans (Article 19(1))**

We appreciate the explanations given several times by the Commission to clarify the approach used to define the content of the article and the work done by the Presidency to try to increase the internal coherence of the text. On the other hand, in our opinion there is still a problem related to the timing defined in the article: it must be taken into account that, after the adoption and implementation of the reduction measures selected in the air quality plan, some time must elapse before the effects of the measures on the concentrations of air pollutants are visible. We therefore believe that the timeframe indicated is still unrealistic and suggest replacing the 4 years indicated in the text with 6 years. In order to ensure the consistency of the text, it will also be necessary to replace "the third calendar year" with "the fifth calendar year" in the last sentence of the paragraph.

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

Concerning the first Presidency proposal, we agree that introducing the reference to a territorial unit covering as a minimum the air quality zone is an appropriate solution, leaving member states the possibility to choose the territorial unit that best represents their national situation.

However, we suggest a modification of the text to improve its clarity:

"2. Where in a given ~~zone territorial unit covering at least the air quality zone~~, the levels of ~~ozone pollutants~~ in ambient air exceed the ozone target value, laid down in Section 2 of Annex I, Member States shall establish air quality plans for ~~these a~~ territorial units **covering at least that air quality zone** as soon as possible ..."

We also agree with the provision concerning the communication to the Commission of the choice made on the territorial unit to be used for the definition of ozone plans.

On the other hand, we still have a scrutiny reservation on the next two proposals, indicated in bold in the text of the Presidency and related to the possibility of ***"refrain from establishing air quality plans for ozone for a given territorial unit when there is no significant potential, taking into account orographic, meteorological and economic conditions, to address the exceedance"***.

Finally, concerning the last proposal of the Presidency, we believe that the reference to NUTS1 should not be replaced with "territorial units", but with "zones" consistent with the above changes.

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

We prefer option 2, i.e. the proposed amendment to the text as indicated in the Presidency note.

2. Chapter V – Information and reporting

A. Article 22: Public information

We believe it is more useful to use a single European Air Quality Index, to be applied in all member states. The updating of the methodology for its calculation should involve the countries, so as to find a solution that takes into account the most widely shared positions.

B. Annex IX: Information to citizens

We prefer option 3 but are flexible on option 2 as well.

Concerning the messages to be provided to citizens on health effects, we prefer option 2. We believe, in fact, that using a single index and consistent messages can improve the overall level of information provided, reducing the risk of conveying confusing messages.

3. Chapter VII access to justice, compensation and penalties

A. Article 27: Access to justice

We agree with the second option, which clarifies the scope of application of the provision better.

With respect to paragraph 3a, we ask for explanations from the Presidency as the addition, unless we interpret the text incorrectly, appears redundant. Is it meant that it is left to the member states to define the stages of the procedures for challenging acts, decisions and omissions? In this case, we think that the provision is not necessary since it is already clear that there is this responsibility.

B. Article 28: Compensation for damage to human health

We confirm our request for the repeal of paragraph 4 already expressed in past documents.

We still maintain a scrutiny reservation on the other paragraphs of the article.

C. Article 29: Penalties

Solution 2 is fine, but we request deletion of paragraph 3a. Most of the sanctions are already provided for in national law and the transposition of the directive will merely recall them. It seems very complex to produce a summary document of this sanction system to be notified 'without delay'.

4. Stations

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

Scrutiny reservation on this issue; clarifications are needed on option 2 included in the Presidency note, which refers to the provision of Directive 2010/75 regarding the inclusion of industrial air quality monitoring stations. No requirement for the installation of air quality monitoring stations under the IED is established. If the purpose of the amendment is to regulate the provision of air quality monitoring stations in permits granted under the IED, in order to avoid stations that are not fully included in the monitoring network established under Directive 2008/50, we agree, but the text needs to be reworded.

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

Scrutiny reservation.

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

We support the Presidency proposal.

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

No observations on this point.



CYPRUS

Concerns on the revision of the AQD

Cyprus is concerned about the provisions of the Directive relating to Particulate matters (PM_{2.5}), ozone (O₃), supersites and article 28.

O₃:

In Cyprus, during summer months, in areas where there is no pollution from human activities (see forests), ozone concentrations exceed the target value almost every day. Cyprus has an average of 70 exceedances per year. When a new target value is applied (in 2030 it will be 100 µg/m³ instead of the current 120 µg/m³), the number of exceedances will increase. What is the rationale for the use of an air quality assessment model when the whole island is known to have exceedances, when the whole Mediterranean is inundated with high ozone concentrations in summer?

What would be the obligation of Cyprus and the other Mediterranean countries? Will there be a requirement for an annual report to demonstrate that these exceedances are due to meteorological conditions and/or transboundary pollution?

Will the Commission issue guidelines or a methodology for the demonstration that high ozone concentrations are due to meteorological conditions and/or transboundary pollution, as is the case for PM₁₀?

PM_{2.5}:

During dust episodes, concentrations of particulate matter (PM₁₀ & PM_{2.5}) exceed the daily limit values.

Will the Commission provide Member States with a common methodology to demonstrate that PM_{2.5} exceedances during dust episodes are due to natural sources, as is the case for PM₁₀?

If a dust episode lasts for more than three consecutive days, what would be the obligations of Member States other than informing their citizens of the level of concentrations? Do Member States have to draw up action plans if these exceedances are due to natural events?

Supersites:

Cyprus considers that the requirement to establish 2 supersites is excessive. Apart from the cost of purchasing and maintaining the equipment, there will be increased administrative costs due to the calibration time and in particular the transport to the JRC (Ispra, Italy) for participation in inter-laboratory comparisons. We consider this requirement to be excessive.

The measurements of size distribution of ultrafine particles and oxidizing potential of particles, for Cyprus seems too academic and this will increase both operational and administrative costs. We do not see the need for these measurements (Article 10(5)).

Article 28:

Cyprus does not support this article. Member States are sometimes unfairly taken to court for failing to take satisfactory measures to reduce transboundary pollution. Article 19(2) refers to exceedances of the target value for ozone. This is not acceptable to Cyprus, which considers that these exceedances are due to transboundary pollution and that there are no adequate measures to take in order to achieve the target value.

Cyprus fully agrees with the proposal of the Spanish Presidency to delete this article. Cyprus will be taken to court for each health problem attributed to air pollution. The Member State will have to prove to the Court that the measures taken were satisfactory and that it is not responsible for the fact that the citizen's health has been affected by the failure to take satisfactory measures. It is better to give the public the right or the burden of designing measures than to be taken to court afterwards because the measures were not satisfactory.

In the case that this Article will not be deleted, it should be made clear that member States will not be taken to the court for exceedances due to natural sources (particulate matter) and for ozone due to transboundary pollution.

LUXEMBOURG

Air Quality Directive

Follow-up to the WPE on 11 July 2023 (WK 9695/2023 INIT) - LU comments

LU suggests the following amendments for article 10 and Annex III

Article 10 Monitoring supersites

4a. Measurements at all monitoring supersites at urban background locations and rural background locations shall include the pollutants listed in Tables 1 and 2 of Section -1 of Annex VII, provided that EN standards are available and listed as reference methods in Annex VI, and may also include the pollutants listed in Table 3 of Section -1 of Annex VII.

Annex III

D. Minimum number of sampling points for fixed measurements of ultrafine particles where high concentrations

Ultrafine particles shall be monitored at selected locations in addition to other air pollutants. Sampling points to monitor ultrafine particles shall coincide, where appropriate, with sampling points for particulate matter or nitrogen dioxide referred to in Point A, and be sited in accordance with Section 3 of Annex VII. For this purpose, at least 1 sampling point per 5 million inhabitants shall be established at a location where high UFP concentrations are likely to occur. ~~Member States that have fewer than 5 million inhabitants shall establish at least 1 sampling point for fixed measurements at a location where high UFP concentrations are likely to occur.~~

For Member States that have fewer than 5 million inhabitants, Monitoring supersites at urban background ~~or rural background~~ locations established in accordance with Article 10 may ~~shall not~~ be included for the purpose of meeting the requirements on the minimum number of sampling points for UFP set here.

THE NETHERLANDS

Comments on the Presidency steering note on the Ambient Air Quality Directive

A. Article 27: Access to justice

The Netherlands prefers option 2., to amend the wording of the Commission proposal consistently with text agreed within the Council on other proposals, most notably the Industrial Emissions Directive. However, to ensure full consistency with the IED, we propose to strike the paragraph under 27.1(b) on access to justice for non-governmental organisations, as this is not consistent with the IED general approach. The Netherlands opposes this addition because in the Netherlands there is strict jurisprudence about admissibility and requirements for interest groups to litigate.

*"1. Member States shall ensure that, in accordance ~~with their~~ **the relevant** national legal system, members of the public concerned have access to a review procedure before a court of law, or another independent and impartial body established by law, to challenge the substantive or procedural legality of all decisions, acts or omissions concerning air quality plans referred to in Article 19, and short term action plans referred to in Article 20, of the Member State, provided that any of the following conditions is met:*

*(a) ~~the members of the public understood as one or more natural or legal persons and, in accordance with national law or practice, their associations, organisations or groups,~~ **They** have a sufficient interest;*

*(b) ~~where the applicable law of the Member State requires this as a precondition, the members of the public maintain the impairment of a right.~~ **They maintain the impairment of a right, where administrative procedural law of a Member State requires this as a precondition.***

Member States shall determine what constitutes a sufficient interest and impairment of a right consistently with the objective of giving the public concerned wide access to justice.

~~The interest of any non-governmental organisation which is a member of the public concerned shall be deemed sufficient for the purposes of the first paragraph, point (a). To this end, the interest of any non-governmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed sufficient for the purpose of the first subparagraph, point (a). Such organisations shall also be deemed to have rights capable of being impaired for the purposes of the first subparagraph, point (b).~~

B. Article 28: Compensation for damage to human health

The Netherlands proposes to adhere to the text of the general approach on the IED proposal.

C. Article 29: Penalties.

The Netherlands accepts the Presidency's drafting proposal, as it is consistent with the IED general approach.

The Hague, 17 July 2023

AUSTRIA

COMMENTS: Air Quality Directive (WK 9695/2023)

Following the request by the Presidency after the WPE meeting on 11 July, AT submits the following comments on the EC's proposal for the recast of the Air Quality Directives:

Article 19 – Air quality plans

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

AT supports the proposed wording, which merely serves the purpose of consistent wording. Since the proposal does not change the timeline per se, we reiterate that **in many cases air quality measures do not take immediate effect**. Hence, the proposed timeline should be adjusted in order to ensure practical feasibility for MS' authorities responsible for developing plans and setting air quality measures. Therefore, we have already proposed several times to **extent the scope of the new update mechanism** insofar as to enable a regular evaluation and update of plans and measures as appropriate:

"1. [...]

Where exceedances of any limit values persist during the third calendar year after the establishment of the air quality plan, Member States shall update the air quality plan and the measures therein every [two] years, and take additional and more effective measures, starting from ~~in the subsequent calendar year to keep the exceedance period as short as possible.~~"

We also suggest similar language for other paragraphs of Art. 19 regarding updates of plans and measures.

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

Although AT considers the Presidency's proposal as a minor improvement compared to the EC's proposal, we strongly plead for **retaining the system of the current Directive** (i.e. Art. 17 of Directive 2008/50/EC). We question the effectiveness of air quality plans for exceedances of ozone target values due to the transboundary nature of ozone. Exceedances of ozone target values are mainly due to large-scale ozone pollution and can only be reduced by joint measures at European (and hemispheric) level. NUTS 1 units are, therefore, in most cases not appropriate, and this applies even less to air quality zones. We are of the opinion that **only national air quality programmes (NAPCP)**, which are established in accordance with Art. 6 of the NEC Directive 2016/2284/EU, **together with cooperated measures at hemispheric level are suitable for combating ozone exceedances** throughout the EU.

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

AT supports the proposal delivered by DE in Doc. WK 5892/2023 ADD 5, which suggests referring to "**regions**" (as defined by MS similar to AQ zones) instead of NUTS 1 units. We are of the opinion that this wording would best address the concerns that we have flagged regarding the principle of subsidiarity in relation to specific predefined areas (i.e. NUTS units) and the lack of granting MS any degree of flexibility (refer to AT comments in Doc. WK 8640/2023).

Chapter V – Information and reporting

Article 22: Public information

AT supports a harmonisation with the AQI provided by the EEA and a harmonisation in all MS to the extent possible. Hence, we reiterate our proposal that the **EEA should allow MS to integrate the EEA AQI into their national website via a common interface**. This would allow for using all the functions of the EEA AQI, having a harmonised user interface and avoiding duplication of work. Thus, we propose to amend Article 22(2) in this direction:

“2. Member States shall establish an air quality index covering sulphur dioxide, nitrogen dioxide, particulate matter (PM10 and PM2.5) and ozone considering the recommendations by the WHO, based on the air quality index provided by the European Environmental Agency. The air quality index shall be made and make it available through a public source providing an hourly update. ~~The air quality index shall consider the recommendations by the WHO and build on the air quality indices at European scale provided by the European Environmental Agency.~~

Alternatively, Member States may also use the air quality index provided by the European Environmental Agency to fulfil the requirements of this provision.”

Annex IX: Information to citizens

AT supports **option 3**.

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

AT supports **option 2**.

Chapter VII – Access to Justice, Compensation and Penalties

Article 27: Access to justice

In principle, AT welcomes a harmonised approach regarding the provisions within this chapter vis-a-vis other legislative proposals that are currently under negotiation. **However, we point out again that in particular on the aspect of access to justice the IED and the Air Quality Directive require different approaches, since different provisions (i.e. Art. 9 para. 2 for the IED and Art 9 para. 3 for the AQD) of the Aarhus Convention are to be implemented and, therefore, the respective requirements in the legal acts are also not identical.** If this Directive is to pursue a horizontal approach, the proposed provision should be closely examined in light of what is indeed required according to Art. 9 para. 3 of the Aarhus Convention, taking into account the relevant case law developed by the ECJ (i.e. *Janecek*, C-237/07, and *Client Earth*, C-404/13). We do not see a need to go beyond the requirements of the Aarhus Convention.

In this regard, we note in particular that Art. 9 para. 3 of the Aarhus Convention is less restrictive regarding the requirements that are foreseen in Art. 27 para. 2. Hence, **we propose to delete Art. 27 para. 2** since it is not required that the right to participate in the review procedure be granted irrespective of the role played by the member of the public concerned during a participation phase of the decision-making procedures related to Art. 19 or 20 (cf case law *Protect*, C-664/15). Furthermore, we would like to point out again that recital no. 39 is based on case law that has been developed in relation to Art. 9 para. 2 of the Aarhus Convention, whereas undoubtedly **only Art. 9 para 3 of the Aarhus Convention is relevant for air quality plans**.

AT also thanks the CLS for its opinion that was provided during the WPE and wishes to express its disappointment that providing the legal assessment in writing seems to be not feasible.

Article 28: Compensation for damage to human health

AT pleads for the deletion of the Article, since we are of the opinion that the proposal is not in line with the principle of procedural autonomy of the MS and raises a number of issues in implementation (refer to AT comments in Doc. WK 7134/2023). Furthermore, we question in principle that Art 192 TFEU may function as legal basis for a provision of such substance. Nonetheless, we thank the CLS for its opinion that has been provided during the WPE and welcome any further examination based on information provided by the EC.

We point out again that – according to our examination – **the provision in this Directive (unlike Art. 27 and 29) is of a completely different nature than, for example, the provision contained in the proposal for the revision of the IED.** The AQD deals with pollutant concentrations in ambient air, hence, with the liability of the MS and not of individual (legal) persons who do not comply with e.g. BAT. In this regard, in particular the criterion of shifting the burden of proof is alien to EU law and national public liability (tort) law, respectively. We do not agree with the opinion of the EC that precedents in the field of equal treatment, employment and work suffice as justification for the implementation of the concept in other fields, since, as a result, MS would be exposed to unpredictable and potentially infinite financial consequences. **We reiterate that we do not see a need to go beyond the requirements for state liability that have been developed by the ECJ from the EU treaties and which we deem sufficient for compensation claims in respective cases.**

Article 29: Penalties

AT supports in principle the Presidency's text proposal, which is based on the wording of the IED. We point out again, that enforcement authorities usually lack knowledge of the information required to assess certain circumstances (i.e. of lit. c) or that the information can only be determined with disproportionate effort. Therefore, we consider the circumstances laid down in lit. c of the original proposal not feasible, but we note that the Presidency's text proposal aims at easing our concerns. Hence, we are still scrutinizing the content.

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

AT supports the proposed amendments of **option 2**, although the phrase "[...] and, when possible, may also be sited in a way that the application of BAT (Best Available Techniques) as defined by Directive 2010/75/EU can be monitored." still raises the question how this could be handled in practice. Therefore, we propose the following text amendment to the Presidency's proposal:

*"[...] and, when possible, may also be sited in a way that **the impact of emission reductions on concentration levels in ambient air due to** the application of BAT (Best Available Techniques) as defined by Directive 2010/75/EU can be monitored."*

Alternatively, we can also support **option 3** (i.e. removing the obligation).

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

AT supports **option 3** in order to simplify the text and thus grant MS some more flexibility especially with regard to introducing short-term action plans.

Article 15(4) Prediction of the risk of exceeding thresholds

AT supports the text proposal.

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

AT thanks the Presidency for the clarification provided, which we deem sufficient.

FINLAND

AQD / comments on WPE meeting 11.7.2023

ROUND 1. Article 19: Air quality plans

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

- Regarding Article 19.1, FI can support the Pres proposal where the term “recorded” would be used in the whole para 1. However, we reiterate our comment, that more time is needed for measures included in the air quality plan, to take effect. Two years is not enough with some pollutants, especially for pollutants that the authorities have limited possibilities for sudden constraints (e.g. benzo(a)pyrene). With regard to this we also reiterate our comment that perhaps it would be more realistic to start the calculation of the four years timeperiod from the approval of the air quality plan.

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

- Regarding Article 19.2, FI supports the Pres proposal for rewording. However, we want to reiterate our comment, that the NEC-directive does not include emission reduction commitments for ozone. Therefore, we think that the reference to NEC-directive and to the national air pollution control programme prepared pursuant to it is confusing and needs to be clarified. We understand, that especially emission reduction commitments for nitrogen oxides (NO_x) and non-methane volatile organic compounds (NMVOC) indirectly affect the ozone levels, but now it seems that the proposal goes beyond NEC-directive with regard to measures addressing the ozone levels. We also question the point in including measures addressing the ozone levels in two programmes: programme pursuant to AQD and programme pursuant NECD. Perhaps the clearest solution would be to delete the reference to NECD from Article 19.2.
- With regard to territorial units we are flexible – both Pres proposal and COM proposal are ok for us.

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

- Regarding Article 19.3, it is important for FI to be able to use NUTS 1 territorial units. We can be flexible with introducing also another territorial units in addition to NUTS 1 territorial units. However, we think that option 2 might cause different interpretations, e.g., would NUTS 1 territorial units be allowed to use.

ROUND 2 CHAPTER V: INFORMATION AND REPORTING

A. Article 22: Public information

- As we have previously stated, we think that hourly values for PM2.5 and PM10 should be possible to use in the air quality index, as we are also using in our current national index to acknowledge the sudden changes in PM concentration due to, e.g., rain events. The Finnish index also includes the nationally important Total Reduce Sulphur (TRS) compounds and we have piloted the use of black carbon in the index, and we wish to continue to use these as they provide necessary information for the public. We understand that generally a harmonized system is important, but wish to also stress that the use of "tighter" index should be allowed as the main purpose for the index is to provide relevant, up-to-date and easy-to-understand information to the public.
- We also wish to point out, that not all sites measure all the pollutants mentioned in the article. When e.g. SO2 is not measured at a site due to concentrations below assessment threshold (that might well be the case at many, e.g., traffic locations). We want to avoid a situation where new measurements at low concentration sites should be started only because of the index.
- As a conclusion, we think that there is a need for more flexibility here. This is our concrete proposal on Article 22.2:

*2. Member States shall establish an air quality index covering sulphur dioxide, nitrogen dioxide, particulate matter (PM10 and PM2.5) and ozone, and make it available through a public source providing an hourly update, **if the level of pollutants exceeds the assessment threshold established for those pollutants. The index may include additional pollutants, when considered relevant.** The air quality index shall consider the recommendations by the WHO and build, **on the minimum,** on the air quality indices at European scale provided by the European Environmental Agency.*

- We would need a confirmation, if EEA has plans to update its index for hourly data?

B. Annex IX: Information to citizens

- Regarding Annex IX point 1 a), we only use automatic measurements for PM2.5 and PM10, so we support the option 1 which is to maintain the COM proposal.
- Regarding Annex IX Point 2c) (Information of possible health effects and recommended behaviour), we support the option 1 which is to maintain the COM proposal but can be flexible.

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

A. Article 27: Access to justice

- Regarding Article 27 on access to justice we support the option 2, which is to align the text with the IED general approach.

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)

- Question 1 concerning the Article 28 on compensation, we reiterate our comment, that we do not support the possibility to bring collective action under this Article (para 2). Therefore we think that para 2 should be deleted to be in line with the IED general approach. As we have already pointed out, it is not possible to bring collective action for compensation concerning environmental damage according to our national legislation. It was considered in 2007, but the outcome in Finland was, that collective action would not be suitable for environmental damage (which also covers damage to human health). The reason for this was, that when it comes to damage to human health, the claims for compensation basically require medical examinations at the individual level and the acquisition of research evidence at the individual level.

2. Causal link and associated burden of proof (paragraph 4)

- Question 2 concerning the Article 28 on compensation, we reiterate our comment that it is extremely difficult in practice to provide causal link between certain air pollutants or emissions to damage to human health of natural persons, or to provide causal link to the violation by competent authority. Therefore, the Article may seem good in theory, but it does not necessarily guarantee the legal certainty in practice.

3. Other rules and procedural elements (paragraphs 5 and 6): guarantee of effectiveness and limitation periods for bringing action.

- Question 3 concerning the Article 28 on compensation, we reiterate our comment that limitation periods in para 6 should be left to Member States procedural autonomy. In other words, more flexibility should be left to member states. This requirement is met, if the wording of the para 6 is aligned with the one in the IED general approach:

6. Member States ~~shall ensure that the~~ may establish limitation periods for bringing actions for compensation as referred to in paragraph 1 ~~are not less than 5 years~~. Such periods shall not begin to run before the violation has ceased and the person claiming the compensation knows, or can reasonably be expected to know, that he or she suffered damage from a violation as referred to in paragraph 1.

C. Article 29: Penalties.

- Regarding Article 29 on penalties we support the option 2 where the article on penalties would be more aligned with the IED general approach. However, we think that the point c should be even more aligned with the IED approach by deleting the reference to the sensitive population and vulnerable groups, as follows:

(c) the population, ~~including sensitive population and vulnerable groups~~, or the environment affected by the ~~violation~~ **infringement bearing in mind the impact of the infringement on the objective of achieving a high level of protection of human health and the environment;**

ROUND 4

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

- Regarding Annex III.A.2, FI does not support the COM proposal to extend the scope of the existing provision in the Directive 2004/107/EC to cover new pollutants. We also question the usability of the existing provision in the Directive 2004/107/EC, especially considering the different responsible parties in the AQD and IED. Therefore we can also support the option 3 (to remove the last sentence in Annex III.A.2), which was preferred by majority of Member States at the WPE meeting.

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

- Regarding Annex I, section 4.A, FI supports the option 1, which is to maintain the COM proposal.

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

- Regarding Article 15(4), FI can support the Pres proposal (concerning predicted exceedances), but the COM proposal is also ok for us.

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

- FI thanks for the explanation and all the clarifications received at the WPE meeting concerning transposition and dates for entry into force. FI considers this explanation to be sufficient.
-