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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Air Quality Directive: follow-up to the meeting on 23 January - comments by delegations

Following the call for comments (WK 1161/23), delegations will find attached the contributions received from the FR, HR, MT and PT delegations.

Malta's Comments on Articles 1 to 11 of the recent legislative Proposal by the European Commission to amend the Ambient Air Quality Directive (AAQD)

Following the Working Party on the Environment (WPE) of the 23rd of January, Member States were invited to provide written comments on the articles discussed during the said WPE (i.e. articles 1 to 6) and articles 7 to 11, which will be discussed in the next WPE to be held in early March (date still to be confirmed). The below technical comments are being presented as Malta's position on articles 1 to 11, which also take into consideration comments provided by other Member States during the last WPE, to which Malta is also in agreement.

Article 1:

Although Malta understands the reason behind the term *intermediate limit values* within article 1(2), Malta believes that the term *intermediate* should be removed as it features just once within the Directive. Reference is made solely to *limit values* throughout the text, therefore the term *limit values* should be used when referring to any limit values that would need to be attained by 2030.

Furthermore, although Malta appreciates the improvements carried out to the Directive, Malta has some reservations about the proposed new standards. Malta has concerns as to their attainability particularly given that improvement in air quality will depend on updates in transport policy, which might bring about disproportionate costs, potentially resulting in unequal impact and unequal exposure on low-income families.

Article 3:

Malta has concerns about the regular review to be carried out by the end of 2028. Malta believes that should the first review assessment conclude that air quality standards are no longer appropriate for achieving the objectives, it would be very difficult for Member States to make the necessary changes by 2030, which would go over and above the changes that MS are expected to make in order to comply with the proposed obligations.

Malta would also like to add that Member States should also be given the opportunity to provide input that is then taken into account in the reviews. However, the review should exclude the consideration of data presented by MS which does not meet the data quality objectives.

Article 4:

(8) Malta believes that **Lead** should be included in the list of elements and compounds in the PM₁₀ fraction.

(13) Concerning the definition of **Black Carbon (BC)**, Malta would like to propose that the definition is aligned with a definition which is featured in relevant established standards.

(14) Concerning the definition of **Ultra Fine Particles (UFP)**, MT would like to request further information on why there is no restriction on the upper limit size to ensure clarity. Furthermore, Malta believes that the definition for UFPs should be in line with definitions laid out in established standards similar to the definitions of PM₁₀ and PM_{2.5}.

(16) Concerning the definition of **agglomeration**, MT would like to point out that this is no longer needed given that the Directive is now only referring to zones.

(21) Concerning the definition of **objective estimation**, MT would like some clarifications. The definition refers to *expert judgement*; however, MT is unsure whether this eliminates the need to make use of data quality objectives for objective estimation.

(22) Concerning the definition of **spatial representativeness**, MT would like to ask who would be providing the pre-defined tolerance levels and whether there will be any guidance in this regard.

(28)/(29) Concerning the use of NUTS 1 level within the context of **average exposure indicator** and **average exposure reduction obligation**, MT would like to point out that the use of NUTS 1 level is acceptable. However, as per other MS suggestions; the use of NUTS 2 or NUTS 3 levels is also acceptable from our end, provided that using the latter levels is not made mandatory.

(29) Concerning the definition of **average exposure reduction obligation**, MT would like to request clarification as to the legal implications if these are not achieved, particularly if a Member State complies with the LV. Furthermore, MT would like to request clarifications on the applicability of the AERO and the Limit Values (LV). Will the LV cease to exist as of the 1st of January 2030 and be replaced by the AERO for PM_{2.5} and NO₂ on the same date?

Article 5:

Concerning indent (d), Malta would like to request clarifications as to what *ensuring the accuracy of modelling applications* would entail and whether criteria to ensure accuracy in this regard will be provided, potentially in the form of either an Annex or guidance document.

Article 6:

Malta would like to request clarification on the use of the phrase *at the level of agglomerations* and wonders whether the concept of *agglomerations* will still be integrated within the Directive or completely replaced by zones as seems to be the case.

Article 8:

Concerning Article 8(2), MT can accept the may provision linked with making use of modelling applications to assess air quality and provide information on the spatial distribution of air pollutants. However, MT is not in a position to support mandatory modelling over and above what the amendments are proposing. It is important to note that Malta at present implements very few modelling applications to assess air quality and making modelling mandatory over and above the proposed amendments will bring about additional administrative burdens.

Concerning Article 8(3), MT would like to request some form of guidance on modelling to ensure fitness for purpose of models and harmonisation across the Union.

Regarding Article 8(7), MT would like to request clarification on the meaning of *where applicable* in the context of monitoring ultra-fine particles in addition to requirements already laid down in the Directive. Potentially adding another site where UFPs may be higher will bring about additional administrative and financial burdens on MS such as Malta, especially when considering the methods and equipment needed to monitor such pollutants.

Concerning Article 8(8), MT would like to request clarification as to whether the use of bio-indicators goes beyond the requirements laid down in Article 9 of Directive (EU) 2016/2284.

Article 9:

On the subject of Article 9(2), reference should be made to Tables 1 and 2 in Annex III rather than Tables 3 and 4. The latter tables would apply if the criteria in paragraph 9(3) were met.

Malta would like to request guidance on how the sufficiency of the methods indicated in Article 9(3)(b) should be assessed. In terms of indent (c) under Article 9(3), Malta would prefer to make use of data quality objectives for indicative measurements for minimum criteria set out in Annex V, particularly since different pollutants have different averaging periods.

Article 10:

Concerning Article 10(5), MT would like to point out that the measurement of the oxidative potential should not be mandatory. Furthermore, the definition and method of determination of the oxidative

potential of PM need to be specified. If this requires additional monitoring, then MT is not in a position to support this requirement.

With regards to Article 10(6)(b), Malta would like to request clarification on data coverage requirements for chemical speciation. Concerning Article 10(6)(c), MT believes that *Lead* should also be included in the list.

Malta would like clarifications on the number of sampling points for UFPs. As per Article 10(1), MT is of the understanding that two sites are needed one at an urban background and the other at a rural background. However, according to Annex VII – Section 3(A), it seems that another sampling point is needed where high concentrations of UFPs from transport occur. This would mean that three out of the five Maltese monitoring sites require UFP monitoring, which is rather burdensome, considering also the small size and low population.

Article 11:

Malta would like to point out that Point E of Annex VI relates to modelling which is not a measurement method. In this context, MT would like to propose that Point E is referred to in a separate point.

Paris, le 22 février 2022

NOTE DES AUTORITÉS FRANÇAISES

Objet : Révision de la directive 2008/50/CE concernant la qualité de l'air ambiant et un air pur en Europe : commentaires des autorités françaises en réponse à l'appel à commentaires écrits de la Présidence reçu le 26 janvier 2023

Les autorités françaises remercient la Présidence pour les travaux menés au cours du groupe « Environnement » le 23 janvier 2022.

Elles souhaitent apporter des commentaires en rappelant la réserve d'examen sur l'ensemble du projet de directive dont l'analyse détaillée par les autorités françaises se poursuit.

CHAPITRE I – DISPOSITIONS GENERALES

Article 1 - Objectif

Les autorités françaises remercient la Commission d'avoir souligné l'importance qu'il convient d'accorder à la cohérence ainsi qu'à l'ambition des différents textes législatifs actuellement en cours de discussion au sein du Conseil et du Parlement qui seront structurants pour l'atteinte des objectifs intermédiaires fixés à 2030 au sein de la proposition d'article 1 (à titre d'exemple : la révision des règlements sur l'écoconception des produits liés à l'énergie (notamment le chauffage à combustible solide) ou l'évolution de la réglementation IED).

Si les autorités françaises ne remettent pas en question la part de responsabilité revenant aux Etats membres pour remplir ces objectifs, elles soulignent à nouveau **qu'un pas important est à franchir et considèrent, notamment au regard du caractère transfrontalier de la pollution atmosphérique, que les actions adéquates doivent être prises à tous les échelons pertinents (Union et Etats membres)**. Ainsi, à l'instar de l'Autriche et de l'Allemagne, elles souhaitent rappeler l'importance d'étudier au sein de la proposition de directive **la mise en place d'une clause de responsabilité partagée adaptée à la surveillance ainsi qu'à la gestion de la qualité de l'air**.

Par ailleurs, les autorités françaises soulignent que l'annexe I du projet de directive comporte un second tableau portant sur des valeurs limites à atteindre d'ici la date limite de transposition du projet de directive non fixée à ce stade. **Ces valeurs semblent constituer des valeurs intermédiaires à celles indiquées dans le premier tableau de l'annexe I qui sont à atteindre en 2030**, sans qu'une indication à leur propos soit clairement formulée au sein de l'article 1. **Les autorités françaises estiment qu'il**

convient de préciser ces valeurs au sein des dispositions de l'article 1. Par ailleurs, dans un souci de clarté, elles considèrent que l'échéance de 2030 indiquée à l'article 1 est à reporter au sein de l'annexe I pour l'ensemble des objectifs concernés par cette échéance incluant notamment les objectifs de long terme pour l'ozone.

Article 2 - Objet

Les autorités françaises sont favorables au remplacement du terme « mesures » par le terme « provisions » au sein de la première phrase de l'article 2 ainsi qu'au début des paragraphes 1 à 6 de ce même article.

Les autorités françaises notent que le paragraphe 6 de l'article 2 mentionne une coopération accrue (« increased ») entre les Etats membres en vue de réduire la pollution atmosphérique sans que les modalités pour la mise en œuvre des accords entre les Etats membres n'aient été discutées au sein du Conseil, en particulier en ce qui concerne les dispositions de l'article 21. **Cette formulation sera à étudier une fois ces échanges engagés.**

Article 3 - Réexamen régulier

Les autorités françaises indiquent à nouveau que la revue des données scientifiques proposée au sein de l'article 3 du projet de directive constitue **un outil approprié pour maintenir la politique européenne en faveur de la qualité de l'air sur la bonne voie.** Cependant, au regard de la fréquence maximale fixée à 5 ans pour la possible révision des seuils (voire moins en fonction des dernières données scientifiques disponibles), elles réitérent leur commentaire émis lors du groupe « Environnement » du 23 janvier, concernant **la difficile articulation de ce réexamen régulier avec la mise en œuvre de certaines dispositions de la directive, en particulier celles relatives aux plans qualité de l'air.** Ainsi, afin de garantir la cohérence et l'efficacité des actions menées par les Etats membres au niveau national sans remettre en question l'objectif de cohérence sur le long terme avec les lignes directrices fixées par l'OMS, **elles considèrent que la date de la première revue proposée au sein du paragraphe 1 de l'article 3 est à envisager à partir de 2030 et non au plus tard le 31 décembre 2028.** Elles considèrent également que la fréquence maximale fixée à 5 ans **peut conduire, en cas de révision des seuils, à une charge administrative très conséquente au détriment de la mise en œuvre des actions** par les Etats membres et réitérent leur demande que soit étudiée au sein du Conseil **la possibilité d'introduire, en ce qui concerne la révision des seuils de la directive, une fréquence minimale (et non maximale) supérieure à 5 ans.**

Par ailleurs, si les autorités françaises notent qu'une étude d'impact accompagnerait la proposition éventuelle de révision des seuils, **elles demandent que la nature et les impacts socio-économiques des actions complémentaires à mettre en œuvre pour atteindre de nouveaux objectifs soient clairement explicités** en tant que donnée d'entrée au paragraphe 2 point c de l'article 3 de la proposition de directive, à l'instar des impacts sur la santé humaine et l'environnement explicitement cités, et proposent la formulation suivante : *« air quality situation and associated impacts including those on human health and the environment as well as the nature and socio-economic impacts of complementary actions to be implemented to achieve new objectives in Member States ».*

Article 4 – Définitions

Les autorités françaises transmettent des premiers commentaires concernant les définitions de l'article 4 et communiqueront des commentaires complémentaires au fur et à mesure des échanges au sein du Conseil :

- Définition n°4 relative au dépôt total : **le terme « bulk » (global) indiqué au sein de la directive actuellement en vigueur est à conserver**, ce dernier étant usuel dans les normes (à titre d'exemple au sein de la norme EN 15841 pour les métaux) ;

- Définition n°5 relative aux PM₁₀ : la formulation suivante est proposée : « PM₁₀ means particulate matter which passes through a size-selective inlet as defined in the reference method for the sampling and measurement of PM₁₀, EN 12341 **(the latest edition of the referenced standards (including any amendments) applies)**, with a 50% efficiency cut-off at 10 µm aerodynamic diameter » ;
- Définition n°6 relative aux PM_{2,5} : la norme EN 12341 est à indiquer en lieu et place de la norme EN 14907. La formulation suivante est ainsi proposée : « PM_{2,5} means particulate matter which passes through a size-selective inlet as defined in the reference method for the sampling and measurement of PM_{2,5}, EN 12341 **(the latest edition of the referenced standards (including any amendments) applies)**, with a 50% efficiency cut-off at 2,5 µm aerodynamic diameter » ;
- Définition n°13 relative au noir de carbone : il est proposé de modifier la définition de la manière suivante : « **carbonaceous part of fine particulate that strongly absorb sunlight, produced both naturally and by human activities as a result of the incomplete combustion of fossil fuels, biofuels, and biomass** » ;
- Définition n°19 relative aux mesures fixes : la formulation suivante est proposée : « fixed measurements means measurements taken at sampling points either continuously or by random sampling, at constant locations **(with permanent geographical coordinates)** for at least 1 calendar year to determine the levels in accordance with the relevant data quality objectives » ;
- Définition n° 27 relative à la valeur cible pour l'ozone : il est proposé de conserver le terme « attained » au lieu de « complied with ». La formulation suivante est ainsi proposée : « ozone target value means a level fixed on the basis of scientific knowledge, with the aim of avoiding, preventing or reducing harmful effects from ozone on human health or the environment, to be ~~complied with~~ **attained** where possible over a given period ».

Les autorités françaises rappellent que **certaines définitions amèneront à fixer des critères qui ne seront pas nécessairement harmonisés entre les Etats membres** (à titre d'exemple, la notion de "low population density" pour l'emplacement rural de fond ainsi que la durée des mesures (long-term data) pour les supersites). **Elles soulignent qu'il convient de veiller à encadrer ces notions qui seront revues au fur et à mesure des groupes de travail afin d'assurer une compréhension commune.**

Les autorités françaises **s'interrogent sur la définition propre aux plans qualité de l'air** (définition n°36) qui précise explicitement que ces derniers fixent des mesures permettant d'assurer la conformité aux valeurs limites ainsi qu'à la valeur cible pour l'ozone, sans tenir compte de la spécificité propre à la valeur cible indiquée au sein de la définition n°27 consistant à respecter cette dernière : « where possible over a given period ». Ainsi, les autorités françaises proposent que la définition pour les plans qualité de l'air soit ainsi modifiée : « air quality plans means plans that set out measures in order to comply with limit values or **average exposure reduction obligations, and where possible contribute to the achievement of the ozone target value over a given period** ~~or average exposure reduction obligations~~ ». Par ailleurs, les autorités françaises soulignent à **nouveau la difficulté à élaborer des mesures efficaces pour diminuer les concentrations d'ozone à l'échelle NUTS 1** proposée dans le projet de directive, sachant que les concentrations de ce polluant dépendent notamment d'émissions transfrontalières de ses précurseurs incluant entre autres le méthane. Les autorités françaises considèrent donc que la **gestion à l'échelle européenne de la pollution liée à l'ozone**

apparaît davantage appropriée pour garantir un traitement efficace de cette dernière. Cette approche coordonnée au sein de l'Union n'exclut pas que chaque Etat membre concerné doit conduire au niveau national les mesures estimées nécessaires. Les autorités françaises indiquent également que **la définition d'indicateurs propres au suivi de la concentration dans l'air des précurseurs de l'ozone** (complémentaire au suivi de leurs émissions) permettrait un suivi de l'efficacité des mesures prises pour lutter contre cette pollution.

Article 5 – Responsabilités

Les autorités françaises notent suite au groupe « Environnement » du 23 janvier que la mission indiquée au point d de l'article 5 vise à garantir **l'exactitude de la modélisation, tel que ce qui est pratiqué pour les mesures**, et indiquent à nouveau que **des incertitudes persistent à ce sujet. Des commentaires relatifs à la mission indiquée à l'article 5 point c seront transmis par les autorités françaises une fois ces dernières clarifiées au sein du Conseil.**

Article 6 – Etablissement des zones

A l'issue du groupe « Environnement » du 23 janvier, les autorités françaises notent que les zones sont établies aux fins de l'évaluation de la qualité de l'air et que les plans qualité de l'air sont à réaliser pour traiter des situations de dépassement de valeurs limites qui peuvent concerner plusieurs zones ou une partie de zone (niveau agglomération) si cela s'avère nécessaire. Elles proposent ainsi **que la formulation de l'article 6 permettant de définir une zone à l'échelle de l'agglomération soit ainsi revue pour clarifier cette dissociation possible entre l'évaluation et la gestion de la qualité de l'air** : « Member States shall establish zones throughout their territory, including, where appropriate for the purpose of air quality assessment **on the one hand**, and **air quality** management **on the other hand**, at the level of agglomerations. ».

This is a courtesy translation and in the event there are any differences between the French and English texts, the French text governs

Subject : Révision of Directive 2008/50/EC on ambient air quality and cleaner air for Europe : comments from the French authorities in response to the Presidency's request for written comments on the Commission proposal received on 26 January 2023

The French authorities thank the Presidency for the work carried out during the « Environnement » group meeting on 23 January 2023.

They wish to comment by recalling the scrutiny reservation on the whole proposal, the detailed analysis of this one by the French authorities is still ongoing.

CHAPTER I – GENERAL PROVISIONS

Article 1 – Objectives

French authorities thank the Commission for underlining the importance that should be given to the coherence as well as to the ambition of the different legislative texts currently under discussion within Council and Parliament which will be structuring for the achievement of the intermediate objectives set to 2030 within the proposed Article 1 (as an example: the revision of the regulations on the ecodesign of energy related products (in particular solid fuel heating) or the evolution of the IED regulation).

While French authorities does not question the Member states share of responsibility to fill these objectives, they emphasize once again that **an important step needs to be taken and consider, in particular with regard to the transboundary nature of air pollution, that appropriate actions must be taken at all relevant levels (Union and Member States)**. Thus, following the example of Germany and Austria, they wish to recall the importance of studying within the directive proposal the **implementation of a shared responsibility clause adapted to the monitoring and management of air quality**.

Furthermore, French authorities point out that annex I of the directive proposal includes a second table with limit values to be achieved by the deadline for transposition of the directive which is not set at this stage. **These values seem to be intermediate values to those indicated in the first table of annex I which are to be reached in 2030**, without any clear indication about them in article 1. **French authorities consider that these values should be specified in the provisions of article 1**. Furthermore, for the sake of clarity, they consider that the 2030 deadline indicated in article 1 should be carried over to annex I for all the objectives concerned by this deadline, including the long-term objectives for ozone.

Article 2 – Subject matter

French authorities are in favour of replacing the word "measures" by the word "provisions" in the first sentence of article 2 and at the beginning of paragraphs 1 to 6 of this article.

French authorities note that paragraph 6 of article 2 refers to "increased" cooperation between Member states to reduce air pollution without start of the discussion within the Council concerning the modalities for the implementation of the agreements between Member states, in particular with regard to the provisions of article 21. This wording will have to be studied once these exchanges have started.

Article 3 – Regular review

French authorities reiterate that the review of scientific data proposed in article 3 of the directive proposal is **an appropriate tool to keep the European air quality politics on track**. However, in view of the maximum frequency set at 5 years for the possible revision of the thresholds (or even less according to the latest scientific data available), they reiterate their comment made during the "Environment" group of 23 January concerning **the difficult articulation of this regular review with the implementation of certain provisions of the directive, in particular those relating to the air quality plans**. Thus, in order to guarantee the coherence and effectiveness of the actions carried out by the Member states at national level without questioning the objective of long-term coherence with the guidelines set by the WHO, **they consider that the date of the first review proposed in paragraph 1 of article 3 should be considered from 2030 onwards and not at the latest on 31 December 2028. They also consider that the maximum frequency set at 5 years may lead, in the event of a revision of the thresholds, to a very substantial administrative burden to the detriment of the implementation of actions by the Member states**. Thus French authorities reiterate their request concerning the **possibility of introducing a minimum (and not maximum) frequency of more than 5 years for the possible revision of the directive thresholds**.

Furthermore, while French authorities note that an impact assessment would support any proposal to revise the thresholds, **they asked for a clear mention of the nature and socio-economic impacts of the additional actions to be implemented to achieve new objectives within paragraph 2(c) of article 3**, in the same way as the impacts on human health and the environment are explicitly mentioned, and proposed the following wording : « air quality situation and associated impacts including those on human health and the environnement **as well as the nature and socio-economic impacts of complementary actions to be implemented to achieve new objectives** in Member States ».

Article 4 – Définitions

French authorities provide initial comments on the definitions of article 4 and will provide further comments during the Council exchanges :

- Definition 4 related to total deposition : « bulk » indicated in the current directive should be retained, as it is common in standards (e.g. in the EN 15841 standard for metals) ;
- Définition 5 related to PM₁₀ : the following wording is proposed : « PM₁₀ means particulate matter which passes through a size-selective inlet as defined in the reference method for the sampling and measurement of PM₁₀, EN 12341 **(the latest edition of the referenced standards (including any amendments) applies)**, with a 50% efficiency cut-off at 10 µm aerodynamic diameter" ;
- Definition 6 related to PM_{2,5} : EN 12341 is to be used instead of EN 14907. The following wording is proposed : « PM_{2,5} means particulate matter which passes through a size-selective inlet as defined in the reference method for the sampling and measurement of PM_{2,5}, EN 12341 **(the latest edition of the referenced standards (including any amendments) applies)**, with a 50% efficiency cut-off at 2,5 µm aerodynamic diameter" ;
- Definiton 13 related to black carbon : it is proposed to modify the definition as follows : « **carbonaceous part of fine particulate that strongly absorb sunlight, produced both naturally and by human activities as a result of the incomplete combustion of fossil fuels, biofuels, and biomass** » ;

- Definition 19 related to fixed measurements : the following wording is proposed : « fixed measurements means measurements taken at sampling points either continuously or by random sampling, at constant locations **(with permanent geographical coordinates)** for at least 1 calendar year to determine the levels in accordance with the relevant data quality objectives » ;
- Definition 27 related to ozone target value : It is proposed to keep the term "attained" instead of "complied with". The following wording is proposed : « : « ozone target value means a level fixed on the basis of scientific knowledge, with the aim of avoiding, preventing or reducing harmful effects from ozone on human health or the environment, to be ~~complied with~~ **attained** where possible over a given period ».

French authorities reminded that certain definitions **would lead to the establishment of criteria that would not necessarily be harmonised between the Member states** (for example, the notion of "low population density" for the rural background location and the duration of measurements (long-term data) for supersites). **They emphasize that care should be taken to frame these concepts which would be reviewed during the working groups in order to ensure a common understanding.**

French authorities **question the definition specific to air quality plans** (definition 36) which explicitly states that these plans set out measures to ensure compliance with the limit values and the target value for ozone, **without taking into account the specificity of the target value indicated in definition 27 : "to be complied with where possible over a given period"**. Thus, the French authorities propose that the definition for air quality plans be amended as follows: "air quality plans means plans that set out measures in order to comply with limit values **or average exposure reduction obligations, and where possible contribute to the achievement of the ozone target value over a given period** ~~or average exposure reduction obligations~~". Furthermore, the French authorities once again emphasize **the difficulty to develop effective measures in order to reduce ozone concentrations on the NUTS 1 scale proposed in the proposal, given that concentrations of this pollutant depend in particular on transboundary emissions of its precursors including among others methane. French authorities therefore consider that the management of ozone pollution on a European scale is more appropriate to ensure its effective treatment.** This coordinated approach within the Union does not exclude each Member State concerned from taking the measures deemed necessary at national level. The French authorities also indicate that **the definition of indicators monitoring the ozone precursors concentration (complementary to the monitoring of their emissions) would permit to follow the effectiveness of the implemented measures.**

Article 5 - Responsibilities

Following the Environment Group of 23 January, French authorities note that the mission indicated in point d of Article 5 is intended **to guarantee the accuracy of the modelling**, in the same way as measurements, and again indicated that there are still **uncertainties on this subject. Comments on this specific task will be transmitted by the French authorities once these have been clarified within the Council.**

Article 6 – Establishment of zones

Following the "Environment" group of 23 January, French authorities noted that the zones are established for the purpose of assessing air quality, while air quality plans are established to deal with situations where limit values are exceeded, which may concern several zones or part of a zone (agglomeration) if necessary. **French authorities therefore propose that the wording of Article 6, which allows a zone to be defined at the agglomeration level, be reviewed in order to clarify this possible dissociation between the assessment and management of air quality :** « Member States shall establish zones throughout their territory, including, where appropriate for the purpose of air quality

assessment **on the one hand**, and **air quality** management **on the other hand**, at the level of agglomerations ».





REPUBLIC OF CROATIA
MINISTRY OF ECONOMY AND
SUSTAINABLE DEVELOPMENT

WPE - 23 January : Chapter I - General Provisions", articles 1-6

Comments

16 February 2023

Art 1.

- Meaning of “*intermediate*” ? - linked to the regular review in accordance with Art. 3. and to the ambition set up in the WHO guidelines?
- rewording needed – not all standards mentioned are to be met by 2023

Art. 2.

3. “Union and national measures” – Examples of Union measures?

Art. 4.

HR comments already submitted in December 2022:

- Regarding Article 4.(6) we propose that reference method EN 14907 should be replaced with the new reference method for measuring PM_{2.5} - EN 12341.
- Regarding Art.4.(8) - '*arsenic*', '*cadmium*', '*nickel*' and '*benzo(a)pyrene*' mean the total content of these elements and compounds in the PM₁₀ fraction; we suggest adding the text "*expressed as mass concentration in ambient air*" at the end of para.(8) to make it clear that it is not a percentage contribution (share) in PM₁₀

Art 4. - additional comments:

- “**sampling point**”- definitions is missing in Art 4. ? “Sampling point” is mentioned significantly often in the Proposal.

(8) lead is missing ?

(19) **constant location** – used only once in the Proposal. Please clarify “constant location” vs “fixed sampling point” ?

(21) “**objective estimation**” – need to be harmonised in relation to IPR.

Definition in the IPR : (6) ‘objective estimation data’ means information on the concentration or deposition level of a specific pollutant obtained through expert analysis and may include use of statistical tools;

Objective estimation is also used to make a link to measurements obtained by a reference method or in case a modelling data that do not meet data quality objectives are used?

Definitions of sensors? Sensors = objective estimation?

(28) comment on the territorial unit at **NUTS 1 level** - We would emphasise the importance of taking into account specific geographical, climatological and meteorological circumstances of each MS. In the case of Croatia, NUTS 1 territorial unit means national level – MS level.

Significant administrative burdens envisaged – currently, competency is assigned to the self - local government units – city level – less than NUTS 3 (counties). Further comments will be provided under Art 12, 13, 19.

Art. 5.

- (h) and (i) - same comment as Art 4. (28)

Additional general comment:

We would draw attention to the potential discrepancy in the data on the cause-and-effect relationship between air quality and mortality due to air pollution for Croatia. In the Study to support the impact assessment for a revision of the EU Ambient Air Quality Directives, it is stated that Croatia is at the top among countries with the impact of air pollution on the population health and the number of deaths per capita. Considering the data on air quality (Appendix of the same report), we consider as necessary to verify the correctness of the claims about the number of deaths and illnesses due to air pollution. We would appreciate bilateral consultations with the EC on that issue.

We welcome the proposed “**joint responsibility clause**” and looking forward to further discussion and potential written proposals.

**Comments by Portugal on articles 1 to 11 on the context of the follow-up of WPE on 23
January 2023**

**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on ambient
air quality and cleaner air for Europe (recast)**

Portugal welcomes the proposal for this Directive and is aligned with the ambition of achieving ambient air quality levels that do not pose any harmful effects on human health and ecosystems.

The analysis of the proposal is being undertaken by the national authorities and therefore we have an overall scrutiny reservation at this stage.

Nevertheless, we have some preliminary comments and suggestions to present, regarding the following recital and articles.

Recital (9)

In recital (9) the phrase "...The use of such supplementary techniques of assessment should also allow for reduction of the required minimum number of fixed sampling points in zones where assessment thresholds are not exceeded..." creates some ambiguity with the text of the articles as it is not coherent with articles 8 (ner 4) and 9 (ner 3). Where it reads "assessment thresholds" shouldn't it be read "limit values"?

Regarding the articles 1 to 6 we have some preliminary comments:

Article 1 – Objectives

Is the intention of this requirement to set that the long term objectives are to be met by 2030?

Article 2 - Subject matter

No comments at this stage.

Article 3 - Regular review

The use of the sentence "By 31 December 2028, and every 5 years thereafter" needs further clarification on the underlying rational. We understand the need to assess the validity of the scientific findings and to begin this task at an early stage. However, we question the rational for the first revision be initiated by the end of 2028 and before the entry into force of the objectives of the present directive.

Article 4 – Definitions

Concerning the definition "(21) 'objective estimation' means an assessment method to obtain quantitative or qualitative information on the concentration or deposition level of a pollutant through expert judgement, which may include use of statistical tools, remote sensing, and in-situ sensors": the inclusion of this definition represents an evolution to the previous directive; however, we believe that the concept of expert judgment can lead to different approaches.

Other definitions are still under analyses.

Article 5 - Responsibilities

Regarding the new point (d) “ensuring the accuracy of modelling applications”

We understand the need to strengthen the use of robust modelling but foresee an increased administrative burden and costs.

To guarantee the possibility of competent authorities to designate bodies with technical capacity to develop some of the tasks inherent to their respective competences, we suggest to maintain the paragraph below with the respective adaptation in the end of the article:

“Where relevant, the competent authorities and bodies shall comply with Section E and F of Annex V.”

Regarding articles 7 to 11 we have some preliminary comments and suggestions to present:

Article 8 (Assessment criteria) and Article 9 (Sampling Points)

The proposal advocates a broader and greater use of air quality modelling applications, however, there is no reference to methods for harmonizing rules or guidelines for applying modelling for the purpose of verifying legal compliance.

As Article 8 establishes, in all zones where the level of pollutants exceeds a limit value or target value for ozone, a combination of fixed measurements and modeling applications shall be used to in addition to fixed measurements to assess ambient air quality.

This requirement raises questions related to the harmonization of modelling data between Member States, quality control, as well as the greater uncertainty of the results of these types of tools. We believe that there is a need for further clarification and guidance for the treatment of the data, namely on its use for purposes of compliance check.

We would like to highlight the need for clarification, regarding article 8, number 5, regarding the obligation of carrying out fixed measurements over a period of a year, because some time is needed to implement fixed measurements.

Under this scope the following numbers of article 9:

“...3 - For zones and agglomerations where the level of pollutants exceeds the relevant assessment threshold specified in Annex II, but not the respective limit values specified in Table 1 of Section 1 of Annex I, ozone target values specified in Section 2 of Annex I or critical levels specified in Section 3 of Annex I within which information from fixed measurement sampling points is supplemented by information from modelling and/or indicative measurement, the total minimum number of sampling points specified in Section A of Annex V may be reduced by up to 50 %, in accordance with Points A and C of Annex III provided that the following conditions are met:

the supplementary methods indicative measurements and modelling provide sufficient information for the assessment of air quality with regard to limit values, ozone target values, critical levels, information thresholds and or alert thresholds, as well as adequate information for the public, in addition to the one provided by the fixed sampling points...;”

and

“...6 - The results of modelling applications and/or indicative measurements shall be taken into account for the assessment of air quality with respect to the limit values and ozone target values...”

require some further clarification in order to provide clear application criteria on the use of modelling applications.

Article 9 (Sampling Points)

To be clearer, an amendment to point 1 is suggested with the wording of a single paragraph that also includes the pollutant ozone, changing to the following wording:

“1. The location of sampling points for the measurement of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter (PM10 and PM2.5), lead, benzene, carbon monoxide, ozone, arsenic, cadmium, nickel, benzo(a)pyrene in ambient air shall be determined in accordance with using Annex IV.”

6. We suggest revising this number with the wording of the proposal to article 8 after its number 5, where it seems to be better placed.

Article 11 (Reference measurement methods and data quality objectives)

Art.11, ner 2 *“Air quality data shall meet the data quality objectives laid down in annex V.”*

and

Art. 23, ner 1 *“Member States shall ensure that information on ambient air quality is made available to the Commission within the required timescale in accordance with the implementing acts referred to in paragraph 5, and irrespective of compliance with data quality objectives laid down in Annex V”*

These are two statements that merit being further clarified, in order to explain how the compliance check is applied.