

## GERMANY

### **Comments on the Air Quality Directive: Proposal for a Directive of the European Parliament and of the Council on ambient air quality and cleaner air for Europe (recast)**

**Following the meeting of the Working Party on the Environment on 27 March 2023, we would like to submit the following comments on Articles 12-18 of the above proposal for a directive:**

- Germany requests that the steering note be sent promptly.
- Germany maintains its scrutiny reserve.
- In the new air quality directive, it is essential that, as with the climate, the **EU institutions and the member states bear joint responsibility for compliance with future limit values**. The proposed air quality limit and target values cannot be reached without sufficient efforts in terms of extending ambitious and, at the same time, implementable emissions reduction requirements at EU level. In emissions legislation, we need to take into account both the health, social and economic impacts and the balance between costs and benefits.
- On a fundamental level, Germany notes that the values published by the WHO are guidance values, not limit values, and that the WHO uses only health as a basis for assessment, which means there is no other consideration.
- The **Commission's impact assessment** is based on input data that is, in Germany's view, not plausible in all points. Germany therefore requests clarification and an update from the Commission. This applies to the input data as well as the correction for bias applied with regard to the data's informative value for the future. Some analyses for Germany arrive at other results for specific areas. We would like to hold bilateral dialogue on this matter as it is foundational for Germany's position.
- Germany would also like to point out that effective policy for clean air requires an integrated approach to ensure coherence, which must be regularly evaluated, with other environmental policy measures and all other relevant policy areas including the EU legal provisions on limiting emissions.
- Compliance should be examined not only with targets for 2030 (reduction 2028-2030 relative to 2018-2020), but also with regard to **ongoing annual compliance** beyond this timeframe. Germany requests that the Commission include this in its impact assessment. (Average Exposure Reduction Obligation)
- The **restrictions during the coronavirus pandemic and the associated low emissions** (particularly in 2020 as a base year) make the mitigation target of the average exposure reduction obligation for 2030/2031 particularly drastic, even if the proposed 3-year average is used.

- Germany proposes allowing the option of a **larger and more flexible area of application so that member states** can tailor implementation to account for regional needs (e.g. city-states). (The proposal provisions use the NUTS 1 level.)

Commission proposal	Proposed change	Rationale
<p>Art. 4 Definitions, no. 26</p> <p>'limit value' means a level which is not to be exceeded and which is fixed on the basis of scientific knowledge, with the aim of avoiding, preventing or reducing harmful effects on human health or the environment</p>	<p>Art. 4 Definitions, no. 26</p> <p>'limit value' means a level which is not to be exceeded and which is fixed on the basis of scientific knowledge, with the aim of avoiding, preventing or reducing harmful effects on human health or the environment <b>to be guaranteed or attained within a given period and not to be exceeded once attained;</b></p>	<p>There is a deadline for all limit values, including the existing limit values in Annex I, Section 1, Table 2. Meeting these deadlines should also be mentioned in the definition. This is consistent with the definition of the AERO and the ozone target values.</p>
<p>Art. 4 Definitions (new)</p>	<p>Art. 4 Definitions (new):</p> <p><b>'region' means a territorial unit of a spatial scale, which Member States shall establish and consider appropriate for the purposes of assessing and managing the compliance with the average exposure reduction obligation and the ozone target values;</b></p>	<p>The NUTS 1 level in Germany is the federal states. Many of them, in particular the city-states, are much too small to be appropriately sized for AERO compliance. In Scandinavia, the situation may be the reverse. The member states should therefore be allowed to deviate from NUTS 1 and flexibly designate the territorial structure for managing AERO.</p> <p>The proposal uses the term "region" without referring to NUTS 1, making more substantial divergence possible.</p>
<p>Art. 4 Definitions, no. 28</p> <p>'average exposure indicator' means an average level determined on the basis of measurements at urban background locations <b>throughout the territorial unit at NUTS 1 level as described in Regulation (EC) No 1059/2003</b>, or, if there is no urban area located in that <b>territorial unit</b>, 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 <b>territorial unit</b> have been met;</p>	<p>Art. 4 Definitions, no. 28</p> <p>'average exposure indicator' means an average level determined on the basis of measurements at urban background locations <b>throughout a region territorial unit at NUTS 1 level as described in Regulation (EC) No 1059/2003</b> or, if there is no urban area located in that <b>region territorial unit</b> 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 <b>region territorial unit</b> have been met;</p>	<p>Replacing the specific NUTS 1 structure with the flexibly defined term "region".</p>

Commission proposal	Proposed change	Rationale
<p>Art. 4 Definitions, no. 29  ‘average exposure reduction obligation’ means a percentage reduction of the average exposure of the population, expressed as average exposure indicator, of a <b>territorial unit at NUTS 1 level as described in Regulation (EC) No 1059/2003 of the European Parliament and of the Council</b> set for the reference year with the aim of reducing harmful effects on human health, to be attained over a given period;</p>	<p>Art. 4 Definitions, no. 29  ‘average exposure reduction obligation’ means a percentage reduction of the average exposure of the population, expressed as average exposure indicator, of a <b>region territorial unit at NUTS 1 level as described in Regulation (EC) No 1059/2003 of the European Parliament and of the Council</b> set for the reference year with the aim of reducing harmful effects on human health, to be attained over a given period</p>	<p>Adding reference to the flexibly defined term “region” instead of the static NUTS 1 spatial structure.</p>
<p>Article 12(1):  In zones where the levels of sulphur dioxide, nitrogen dioxide, particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene, carbon monoxide, arsenic, cadmium, nickel and benzo(a)pyrene in ambient air are below the respective limit values specified in <u>Section 1 of Annex I</u>, Member States shall maintain the levels of those pollutants below the limit values.</p>	<p>Article 12(1):  In zones where the levels of sulphur dioxide, nitrogen dioxide, particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene, carbon monoxide, arsenic, cadmium, nickel and benzo(a)pyrene in ambient air are below the respective limit values specified in <u>Section 1 of Annex I</u>, Member States shall maintain the levels of those pollutants below the limit values. <b><u>As long as concentrations of those pollutants are above the assessment thresholds laid down in Annex II, Member States shall endeavour to further reduce the overall level of pollution.</u></b></p>	<p>The formulation as is allows increasing pollution up to the level of the limit values. This contradicts Article 2 no. 5, where the aim of the directive is maintaining air quality where it is good and improving it in other cases. “Good” in view of the objectives in Article 1(1) and the reference to the Green Deal in the recitals can only be at the level of the WHO guideline values.</p> <p>The additional text proposed here is so that member states overall make efforts to reduce the level of pollution when it is above the assessment thresholds or over the WHO guideline values.</p> <p>This addition is also consistent with Article 12(2), where additional mitigation below the target values to attain long-term objectives is required for ozone. A corresponding provision is currently absent for the limit values. In the case of</p>

Commission proposal	Proposed change	Rationale
		PM2.5 and NO2, this is guaranteed in practice thanks to the AERO, but not for other pollutants.
Article 13 paragraph 1: Member States shall ensure that, throughout their zones, levels of sulphur dioxide, nitrogen dioxide, particulate matter (PM10 and PM2.5), lead, benzene, carbon monoxide, arsenic, cadmium, nickel and benzo(a)pyrene in ambient air, do not exceed the limit values laid down in Section 1 of Annex I.	Article 13 paragraph 1: Member States shall ensure that, throughout their zones, levels of sulphur dioxide, nitrogen dioxide, particulate matter (PM10 and PM2.5), lead, benzene, carbon monoxide, arsenic, cadmium, nickel and benzo(a)pyrene in ambient air, do not exceed the limit values laid down in Section 1 of Annex I <u>as from the attainment deadlines specified therein.</u>	A necessary addition, since there is a compliance requirement, for example, for the new limit values in Annex I, Section 1, Table 1 starting from 2030.
Article 13 paragraph 3: Member States shall ensure that the average exposure reduction obligations for PM2.5 and NO2 laid down in Section 5, Point B, of Annex I, are met throughout their <b>territorial units at NUTS 1 level</b> , where they exceed the average exposure concentration objectives set out in Section 5, Point C, of Annex I.	Article 13 paragraph 3: Member States shall ensure that the average exposure reduction obligations for PM2.5 and NO2 laid down in Section 5, Point B, of Annex I, are met <b>as from 2030</b> throughout their <del>regions territorial units at NUTS 1 level</del> , where they exceed the average exposure concentration objectives set out in Section 5, Point C, of Annex I.	Useful clarification that the AERO must be achieved from 2030.  Also a reference to the flexibly defined term “region” instead of the static NUTS 1 spatial structure.
Art. 16 paragraph 1: Member States may, for a given year, identify: (a) zones where exceedances of limit values for a given pollutant are attributable to natural sources; and (b) <b>NUTS 1 territorial units</b> where exceedances of the level determined by the average exposure reduction obligations are attributable to natural sources.	Art. 16 paragraph 1: Member States may, for a given year, identify: (a) zones where exceedances of limit values for a given pollutant are attributable to natural sources; and (b) <del>regions territorial units at NUTS 1 level</del> where exceedances of the level determined by the average exposure reduction obligations are attributable to natural sources.	Reference to the flexibly defined term “region” instead of the static NUTS 1 spatial structure.
Art. 16 paragraph 2: Member States shall provide the Commission with lists of any such zones and <b>NUTS 1 territorial units</b> , as referred to in paragraph 1, together with information on concentrations and sources and the evidence demonstrating that the exceedances are attributable to natural sources.	Art. 16 paragraph 2: Member States shall provide the Commission with lists of any such zones and <del>regions territorial units at NUTS 1 level</del> , as referred to in paragraph 1, together with information on concentrations and sources and the evidence demonstrating that the exceedances are attributable to natural sources.	Reference to the flexibly defined term “region” instead of the static NUTS 1 spatial structure.

Commission proposal	Proposed change	Rationale
Art. 18 paragraph 1: Where, in a given zone, conformity with the limit values for particulate matter (PM <sub>10</sub> and PM <sub>2.5</sub> ) or nitrogen dioxide cannot be achieved by the deadline specified in Table 1 of Section 1 of Annex I, because of site-specific dispersion characteristics, orographic boundary conditions, adverse climatic conditions or transboundary contributions, a Member State may postpone that deadline once by a maximum of 5 years for that particular zone if the following conditions are met:	Art. 18 paragraph 1: Where, in a given zone, conformity with the limit values for particulate matter (PM <sub>10</sub> and PM <sub>2.5</sub> ) or nitrogen dioxide cannot be achieved by the deadline specified in Table 1 of Section 1 of Annex I, because of site-specific dispersion characteristics, <u>adverse urban planning conditions</u> , orographic boundary conditions, adverse climatic conditions or transboundary contributions, a Member State may postpone that deadline once by a maximum of 5 years for that particular zone if the following conditions are met:	This list of conditions under which postponing a deadline should be possible did not include adverse urban planning conditions that make it more difficult to comply with limit values, such as e.g. the presence of a major transregional motorway surrounded by residential buildings that must accommodate unavoidable transregional vehicle traffic.
Art. 18 paragraph 2: Member States shall notify the Commission where, in their view, paragraph 1 is applicable, and shall communicate the air quality plan referred to in paragraph 1 and all relevant information necessary for the Commission to assess whether the invoked reason for postponement and the conditions set out in that paragraph are satisfied. In its assessment, the Commission shall take into account estimated effects on ambient air quality in Member States, at present and in the future, of measures that have been taken by Member States as well as estimated effects on ambient air quality of Union measures.	Art. 18 paragraph 2: Member States shall notify the Commission where, in their view, paragraph 1 is applicable, and shall communicate the air quality plan referred to in paragraph 1 and all relevant information necessary for the Commission to assess whether the invoked reason for postponement and the conditions set out in that paragraph are satisfied. In its assessment, the Commission shall take into account estimated effects on ambient air quality in Member States, at present and in the future, of measures that have been taken by Member States as well as estimated effects on ambient air quality of Union measures <u>and planned Community measures to be proposed by the Commission.</u>	The reference to planned Union-wide measures contained in the current directive but deleted in the proposal still makes sense because the issue is, as made clear at the beginning of the sentence, the effects of measures “at present and in the future” and thereby the focus is on measures proposed by the Commission in future.
Annex I, Section 5, Point A. The Average Exposure Indicator expressed in µg/m <sup>3</sup> (AEI) shall be based upon measurements in urban background locations <b>in territorial units at NUTS 1 level</b> throughout the territory of a Member State. It shall be assessed as a 3-calendar-year running annual mean concentration averaged over all sampling points of the relevant pollutant established pursuant to Point B of Annex III in each NUTS 1 <b>territorial unit</b> . The AEI for a particular year	Annex I, Section 5, Point A.  The Average Exposure Indicator expressed in µg/m <sup>3</sup> (AEI) shall be based upon measurements in urban background locations in <del>regions territorial units at NUTS 1 level</del> throughout the territory of a Member State. It shall be assessed as a 3-calendar-year running annual mean concentration averaged over all sampling points of the relevant pollutant established pursuant to Point B of Annex III in each	Reference to the flexibly defined term “region” instead of the static NUTS 1 spatial structure.

Commission proposal	Proposed change	Rationale
shall be the mean concentration of that same year and the preceding 2 years.	<del>region</del> <del>territorial units at NUTS 1 level.</del> The AEI for a particular year shall be the mean concentration of that same year and the preceding 2 years.	

## **BELGIUM**

### **Belgian comments and questions regarding the COM proposal on the revision of the AQD**

In response to the presidency's request at the WPE on 27/3 to send in written comments, we hereby send our comments to the chapters III (partially discussed at WPE 27/3) and IV (to be discussed at the next WPE) and accompanying definitions and annexes. In this text we reiterate the comments we already included in the written comments we sent to the CZ presidency by 16/12/2022.

#### **By article**

##### **Art. 4**

*(copied from written comments sent in February 2023)*

- (27) what is the reasoning behind the inclusion of the part "to be complied with where possible over a given period" in the definition. This text is not in the definition of limit value either, so why add it here?
- (28): is the part starting from 'used to check whether' necessary? Moreover: is it necessary to specify the applicable territorial area (zone or NUTS 1) in the definition? This is made clear in the relevant article and the inclusion in the definition might lead to less flexibility. From the discussions in the WPE it is clear that for some member states it would be more practical if a smaller territorial area (such as NUTS 2) is used. We are open to an approach where member states that wish to do so, can use that smaller area (thus referring to "NUTS 1 level or a higher NUTS level where deemed appropriate by the member state"), but including that idea in the definition will render this definition very complex. The territorial area is not specified either in the definition of 'limit value' or 'target value'.
- (29): is the part starting from 'of a territorial unit' necessary?
- (37): delete the word 'emergency' since it does not add anything and might only lead to different interpretations.

##### **Art. 12 – 13 – 19**

- In art. 12 and 13, ozone target values are to be evaluated at the zone level and in art. 19, air quality plans for ozone need to be established at the NUTS 1 level. We suggest to align these provisions.
- Moreover, on the ozone issue: at the WPE several delegations questioned the usefulness of establishing air quality plans for ozone, given the global scale of the problem, the large impact of transboundary pollution and the complex chemistry. The reasoning is that the main tool for reducing O<sub>3</sub>-concentrations in Europe is the NAPCP to be established under the NEC-directive and there is no use in drafting additional air quality plans within the AQD. Although we understand the arguments used, we think that it is important to keep the target values as a means to draw attention to the ozone-problem in the EU. On the other hand, we want to avoid including obligations that cause administrative burden without added value.



At this time, we have no suggestion how to deal with this, but we think that this issue needs further discussions.

**Art. 15**

- As stated in the introduction, Belgium has always pleaded for the introduction of alert and information thresholds for PM. We thus welcome the new alert thresholds.
- We suggest to lower the alert threshold for PM<sub>10</sub> to maximum 70 µg/m<sup>3</sup>.
- We suggest to introduce information thresholds for PM<sub>10</sub> and PM<sub>2,5</sub> and to align those with the daily limit values (45 µg/m<sup>3</sup> for PM<sub>10</sub> and 25 µg/m<sup>3</sup> for PM<sub>2,5</sub>).
- The evaluation of the alert thresholds for PM should be based on measurements over three consecutive days. This implies that only when the threshold has been exceeded for at least three days, short term measures need to be taken. This long delay strongly reduces the possible effect of any short term measure. It would be more efficient if the alert thresholds is evaluated based on short term forecast-modelling and thus induce any measures taken.
- §4: member states using forecast modelling need to inform the public of any predicted exceedance, but there is no obligation for forecast modelling, which means that this article introduces some inequality.

**Art. 17**

- In the explanation, it is stated that this article is extended to include PM<sub>2,5</sub>, but this seems incorrect.

**Art. 18**

- What is to be understood by 'site-specific dispersion characteristics'? Does this f.e. include monitoring stations in a street canyon?

**Art. 19**

- In the explanation on the proposal it says on p 16: "The plans will also be mandatory when it is anticipated that these standards will be exceeded." Does this reference to §4 where already before 2030 plans will need to be drafted when future AQ standards are exceeded? If not, what part of the text is referenced to?
- §2: why is there a reference to the NAPCP for ozone and not for the other pollutants? Issues that need to be addressed in the NAPCP, need to be specified in the NEC-directive and not in this directive. We therefore suggest to delete the last paragraph.
- §3: for Belgium, the NUTS 1 level is the best suited level for the evaluation of the AERO, but from the discussions at the WPE, we understand that some member states plea for a lower administrative level (f.e. NUTS 2). We suggest to use "NUTS 1 level or a higher NUTS level where deemed appropriate by the member state"
- §4: although we understand and support the rationale behind this paragraph, it seems very strict to impose an air quality plan if a future standards is exceeded by only a small margin. The use of small and decreasing tolerance margins should be considered here in order not to create a too high administrative burden.
- In §4 there is a word missing ('of the was recorded').
- Any exceedance of a limit value leads to the drafting of an air quality plan. How has to be dealt with temporary activities (construction works, social events, temporary traffic deviations,...) leading to an exceedance? If for such a situation a plan needs to be established, this leads to a high administrative burden without added value.

## Art. 20

- §1: when is there a risk that the alert thresholds will be exceeded? How does this needs to be evaluated?

## Annex I & II

For most pollutants, the WHO guideline value (for the yearly average) has been proposed as the assessment threshold. However, for As, Ni, B(a)P and C<sub>6</sub>H<sub>6</sub>, there is no guideline value, there are only values associated with a certain number of additional cancer cases, whereby the concentration corresponding to a 1/100.000-cancerrisk is often referred to as the WHO guideline.

For both B(a)P and C<sub>6</sub>H<sub>6</sub> the concentration corresponding with a 1/100.000 cancer risk is proposed as the assessment threshold, but for As and Ni, lower values are proposed (less than half, see table below, where we include the associated risk). This leads to a situation in which a concentration associated with a (f.e.) 1/105.000-risk triggers no action at all for one pollutant (B(a)P and C<sub>6</sub>H<sub>6</sub>), but implies an exceedance of the limit value for another one (As).

	1/100.000 risk	Limit value	Assessment threshold
As (ng/m <sup>3</sup> )	6,6	6,0 (1/110.000)	3,0 (1/220.000)
Ni (ng/m <sup>3</sup> )	25	20 (1/125.000)	10 (1/250.000)
B(a)P (ng/m <sup>3</sup> )	0,12	1,0 (1/12.000)	0,12 (1/100.000)
C <sub>6</sub> H <sub>6</sub> (µg/m <sup>3</sup> )	1,7	3,4 (1/50.000)	1,7 (1/100.000)

We understand that limit values are a compromise between science and feasibility, but a more consequent approach for the assessment threshold should be considered.

As for the limit values, what is the argument for not proposing a lower value for B(a)P and C<sub>6</sub>H<sub>6</sub> (in 2021, the 1,7 µg/m<sup>3</sup> has been met already in well over 80% of the monitoring stations)? It could be considered as a target value in addition to a less stringent limit value.

## Annex VIII

- A, 4, (b): is this the quantity of the emissions in the zone in exceedance? The total for the region? The national total?
- A, 4, (c): what is meant by 'assessment of the level of emissions'? Please clarify.
- A, 4, (d): is the reference to the NAPCP related to the sectors (meaning that sectors as considered in the NAPCP need to be evaluated here) or to the exceedance ("to the exceedance in the NAPCP")? In the latter case, clarification of what is meant is needed.
- A, 5: "to reach compliance within 3 years after adoption of the plan": according to art. 19, compliance needs to be reached within 3 years after reporting of the exceedance. We suggest to simply delete the "to reach compliance within 3 years after adoption of the plan" in order not to create any confusion.
- A, 5 and 6: it is neither possible nor useful to estimate the concentration reduction for every measure included in the plan. Not possible, because this is a difficult and time consuming exercise and not useful, because the impact of multiple measures cannot simple be added. We therefore suggest to include this only for the total package of selected measures.
- B, 1: where in the directive is this point being referred to? What is the goal of this point?



14 April 2023

**Follow-up on WPE - 27 March: Articles 12 -15 and 16-23**

**Comments**

**Article 12**

We indicate the need to reconsider the feasibility of achieving compliance with the stricter limit values by 2030, given the fact that the significant number of Member States still have problems with reaching compliance with the current standards, especially for the particulate matters (PM<sub>10</sub> and PM<sub>2.5</sub>). We suggest to reconsider and take into account the lessons learned from the implementation period of the current directives in order to avoid repeating of a certain percentage of achieving negative results in terms of compliance.

The Proposal defines ambitious goals through stricter air quality limit values by 2030, and it is assumed that significant resources will be required for the implementation of policies and measures to achieve these limit values. For Croatia the cost of compliance with the proposed air quality standards is estimated to be almost 0.3% of GDP, which is significantly higher than the average for the EU, which is below 0.1%. For this reason, we propose a clear link with relevant financial funds and sources dedicated and accessible for financing of adequate and efficient measures that will enable and facilitate the achievement of the proposed goals.

**Article 12 and 13 and applicable to Article 19**

General comment on the proposed use of the territorial unit at NUTS 1 level - We would emphasize 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.

We envisage significant administrative burdens since currently competency for adopting of air quality plans is assigned to local authorities – city level, while statistical region of NUTS 3 level consists of 21 administrative units (20 counties and City of Zagreb).

### **Article 15 and Section 4, Point B, of Annex I**

Article 15 introduces the alert thresholds for PM<sub>10</sub> and PM<sub>2.5</sub> in addition to the thresholds already established for SO<sub>2</sub>, NO<sub>2</sub> and O<sub>3</sub>. The threshold for PMs is considered exceeded when concentrations are higher than 90 µg/m<sup>3</sup> for PM<sub>10</sub> and 50 µg/m<sup>3</sup> for PM<sub>2.5</sub>, respectively, over three consecutive days.

We would like to point out that the alert threshold exceedance is announced to the public based on near-real-time (non-validated data) which means that, in practice, the following situation might occur:

- The alert threshold was announced but later it was found that data were not valid, or, in case the concentrations are close to the threshold, after validation they became lower than the alert threshold. In that case, the public was unnecessarily alarmed.
- Real-time data were close below the alert threshold and the alert was not announced. However, after data validation it was found that the exceedance had occurred, but the public was not informed.

It should be regulated in more detail (and be uniform at the EU level) how to act in the mentioned cases.

For PM<sub>10</sub> and PM<sub>2.5</sub>, real-time measurements are carried out by non-reference methods and data should be not only validated but also corrected with correction coefficients based on equivalence studies. It is well known that some PM automatic devices systematically over-estimate or under-estimate concentrations obtained by reference, gravimetric method. It should be clearly stated, which data (uncorrected or corrected near-real-time data) will be used for the alert threshold evaluation. As the alert threshold for PM is based on measurements over three consecutive days, there is enough time to apply protocols and check the validity of data and, if applicable, make corrections.

### **Articles 16 and 17, contribution from natural sources, winter salting/sanding**

Clear and unambiguous guidelines should be given for assessment of contribution from natural sources and winter salting/sanding. Methodology for demonstration of evidence that the exceedances are attributable to natural sources should be the same for all MS. In preparing guidelines, it has to be taken into account that such evaluations will cause additional costs (caused by, for example, additional employment, chemical analysis) as well as that such evaluations might

require additional input data (meteorology, emission data, consumption of salt/sand, salting/sanding frequency etc.) which are relatively demanding and not always immediately available for all MS.

Furthermore, by applying such evaluations, some exceedances could be artificially exempted from the air quality assessment, but still remains the fact that people living in that area are in reality exposed to measured PM concentrations. Whether the particles from some natural sources are less harmful than those from anthropogenic sources is still the subject of scientific research, because health effects depend not only on PM mass concentrations but on their content as well. For that reason, measurements of effects such as oxidative potential can give valuable information. However, these measurements are by now, carried out only as a part of scientific work, with different approaches and methodologies. For that reason, in the absence of a standard method, measurements of oxidative potential should not be mandatory, but only specified as voluntary/recommended.

#### **Article 19**

We indicate the need to provide further clarification in the Proposal on the correlation between the deadlines for adoption of air quality plans and the deadlines for implementation of the air quality plans and the expected date for achieving compliance. Furthermore, from a legal point of view, please provide clarification of the approach to be taken in relation to ongoing infringement cases.

#### **Article 20**

We express concerns regarding the successful implementation of the short-term action plans, especially in relation to their timely adoption and implementation. The proposed provisions imply the urgent involvement of all stakeholders as well as prompt assessment of air quality, updated emissions data and potential sources of emissions.

#### **Article 21**

We would emphasize potential problems that may arise in some Member States including Croatia, taking into account the fact that Croatia has specific geographical position on the border of the EU next to non-EU countries that are not obliged to comply with the EU legislation.

## Article 23

In the Proposal, the deadline for reporting on air quality to the Commission is shortened from (9) nine to (4) four months. The proposed new deadline (30 April) is too short from the perspective of national reference laboratories.

It should be taken into account that PM samples for the previous year are still being collected from the sampling sites in January, and that the chemical analysis of the collected samples are complex and time-consuming processes.

The laboratories in charge for PM analyses have to follow specific procedures which usually last for more than a few days. All those data should be then validated and reported to the national body responsible for reporting, which has to summarize and process all available data. For that reason, the deadline for reporting should be longer, at least no later than (6) six months after the end of each calendar year.

### **General comment on the Proposal:**

This Proposal, as well as previous Air Quality Directives do not cover the issue of **unpleasant odours**. It is well known that annoying odours are responsible for more than 70% of complaints addressed from citizens or civil societies to the bodies responsible for air quality at different levels. The problem is recognized by the World Health Organization, which states that annoying odours affects the quality of life as well as human health, causing stress. However, the issue of odours is not harmonized within EU and different approaches exists in Member States. In Croatia, there are limit values set for H<sub>2</sub>S, NH<sub>3</sub> and mercaptans in the national legislation, which are based on odour thresholds and are set due to the protection of the “quality of life” (not due to the protection of human health, because odour threshold is much lower than the levels at which harmful health effect could occur). These pollutants are often present in vicinity of farms, water purifying systems, waste processing but are not appropriate for a lot of other sources of annoying odours.

The regulation of the annoying odours should be uniform within MS and should be taken in consideration in preparing future Directives. If the odours will not be part of this Directive, that topic should be addressed in other EU directives relating to quality of life.



Council of the European Union  
General Secretariat

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

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**Brussels, 17 April 2023**

**WK 4951/2023 INIT**

**LIMITE**

**ENV**

**ENER**

**IND**

**TRANS**

**ENT**

**SAN**

**AGRI**

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## **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 meeting on 27 March- comments by delegations

Following the call for comments (WK 4276/23), delegations will find attached the contributions received from the BE, BG, CZ, DK, DE, ES, FR (with courtesy translation ), HR, PL and FI delegations.

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WK 4951/2023 INIT

**LIMITE**

**EN**

## FRANCE

### 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 du 28 mars 2023**

Les autorités françaises remercient la Présidence pour les travaux menés au cours du groupe « Environnement » le 27 mars 2023. 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 III – GESTION DE LA QUALITE DE L'AIR AMBIANT

##### Article 12 et article 13

Les autorités françaises rappellent que l'ozone est un **polluant qui peut voyager sur de très longues distances**. Les mesures de gestion prises au sein d'un Etat membre, telles que proposées par la Commission, **peuvent donc s'avérer insuffisantes ou inopérantes localement si ces actions restent isolées géographiquement sans concerner le ou les Etat membre(s) émetteur(s) des précurseurs formant l'ozone**. Ainsi, pour tenir compte du caractère transfrontalier de l'ozone ainsi que des différences de conditions météorologiques entre les Etats membres favorisant plus ou moins localement la formation d'ozone, **les autorités françaises considèrent que la gestion à l'échelle européenne de la pollution liée à l'ozone apparait davantage appropriée pour garantir un traitement efficace et proportionné de cette dernière**. Cette approche coordonnée au sein de l'Union n'exclut pas que chaque Etat membre à l'origine de la pollution doit conduire au niveau national les mesures estimées nécessaires. Par ailleurs, **les autorités françaises rappellent qu'il est nécessaire de focaliser ces mesures sur la réduction des sources d'émissions des précurseurs à l'origine de la pollution par l'ozone**. Ainsi les autorités françaises **proposent les nouvelles formulations suivantes** :

- Ajout du considérant suivant : « **In order to reduce ground-level ozone concentration throughout the Union, the European Commission and Member States shall endeavour to address the emissions of ozone precursors, especially methane, at all appropriate levels, including international** »
- Ajout d'un nouveau paragraphe à l'article 5 : « Member States shall designate at the appropriate levels the competent authorities and bodies responsible for the following : (...) »



**European ambient air quality group, which include representative of all member states and the Commission, coordinate at the Union level the transboundary air pollutions which may contribute to the exceedance of air quality standards referenced to Annexe I, especially target value for ozone, regarding article 21 provisions. »**

- Modification du paragraphe 2 de l'article 12 : « In zones in which ozone levels are below the ozone target value, Members States shall ~~take~~ **endeavour, with the support of the European ambient air quality group referenced to Article 5 and article 21 if required,** to take necessary measures regarding ozone precursor emissions sources reduction in order to maintain those levels below the ozone target value and endeavour to attain the long-term objectives specified in Section 2 of Annex I, in so far as factors including the transboundary nature of ozone pollution and meteorological conditions so permit, and provided that any necessary measures do not entail a disproportionate cost. »
- Modification du paragraphe 2 de l'article 13 : « For ozone, ~~Member States shall ensure~~ **the European ambient air quality expert group referred to Article 5 and Article 21 shall support Member States to endeavour to ensure,** by taking all necessary measures not entailing disproportionate costs, **and so far as factors including the transboundary nature of ozone pollution and meteorological conditions so permit,** that throughout the zone levels do not exceed the ozone target values, as laid down in Section 2, Point B, of Annex I. **When the exceedance is due to imports of ozone or ozone precursors from other Member States, the European air ambient expert group referenced to article 5 and article 21 shall support coordination between Member States in order to reduce emissions of ozone precursors. »**
- Ajout d'un paragraphe à l'article 21 : « **1. Non-public European group specialized in ambient air quality, including representatives of all Member states and the Commission, is in charge of transboundary pollution management coordination at the Union level and shall support Member states potentially affected.** »

#### **Article 16 et article 17**

**Les autorités françaises demandent le maintien des références concernant la méthode à utiliser pour prouver et déduire les dépassements imputables à des sources naturelles d'une part et celle permettant de déterminer les contributions provenant de la remise en suspension de particules provoquée par le sablage ou le salage hivernal des routes d'autre part. Elles indiquent qu'une mise à jour de ces méthodologies serait pertinente dans la continuité de la révision de la présente directive.**

#### **Article 18 – Annexe VIII point A et B**

**Les autorités françaises s'interrogent quant aux choix des motifs indiqués au paragraphe 1 de l'article 18 à respecter pour effectuer une demande de report, notamment sur le fait que ces derniers excluent toute difficulté d'ordre conjoncturel (économique ou autre). Les autorités françaises demandent l'ajout de ce type de motifs et proposent la formulation suivante pour le paragraphe 1 de l'article 18 : « Where, in a given zone, the conformity with the limit values for particulate matter (PM<sub>10</sub> and PM<sub>2,5</sub>) or nitrogen dioxide cannot be achieved by the deadline specified in Table 1 of Section 1 of Annex I because of site-specific dispersion characteristics, orographic boundary conditions, adverse climatic conditions, ~~or~~ transboundary contributions **or other cyclical reasons including economics, politics or social aspects** ».**

**Ce même paragraphe 1 précise qu'un plan qualité de l'air répondant à des conditions précises doit être effectué par les Etats membres demandant un report. Les autorités françaises s'interrogent sur plusieurs de ces conditions :**

- Le point b indique que ce plan doit démontrer comment il est fait en sorte que la période de dépassement d'une valeur limite soit aussi brève que possible et non plus comment la valeur limite sera respectée avant la nouvelle échéance. **Les autorités françaises demandent pourquoi la période de temps accordée aux actions au sein du plan qualité de l'air se voit ainsi réduite alors que la durée initialement prévue dans le cadre des dispositions de l'article 18 est de 5 années. Les autorités françaises demandent ainsi que cette durée « la plus courte possible » soit clarifiée et comment celle-ci sera évaluée par la Commission dans le cadre de la demande de report.**
- Le point c indique que le plan qualité de l'air décrit la manière dont le public, notamment les populations sensibles et les groupes vulnérables, sera informé des conséquences du report sur la santé humaine et l'environnement. **Les autorités françaises demandent de clarifier ce qui est entendu par « conséquences du report sur la santé humaine et l'environnement » ainsi que les moyens de communication, notamment ceux pour informer les populations sensibles et les groupes vulnérables, à employer et les types d'information qui doivent être diffusées. Elles indiquent que le plan qualité de l'air établissant la demande de report sera soumis à consultation du public, et suggèrent que l'information des personnes sensibles et vulnérables (mais aussi de l'ensemble de la population concernée), soit réalisée par ce canal.**
- Le point d indique comment un financement supplémentaire, à l'échelle nationale et de l'Union si pertinent, sera mobilisé pour accélérer l'amélioration de la qualité dans la zone pour laquelle le report s'applique. **Les autorités françaises demandent si l'identification de financements possibles suffit pour effectuer une demande de report ou s'il est attendu dans le cadre de la demande de report que des engagements budgétaires soient pris. Par ailleurs les autorités françaises s'interrogent sur le sens à accorder au fait que ces financements doivent améliorer la qualité de l'air dans la zone concernée par le report : cela signifie-t'il que les financements doivent à eux seuls permettre de ne plus avoir de dépassement de valeur limite sur la zone concernée ou seulement contribuer à cet objectif.**

Concernant le point A de l'annexe VIII sur les informations devant figurer dans les plans relatifs à la qualité de l'air destinés à améliorer la qualité de l'air ambiant, les autorités françaises demandent des précisions quant au cadre relatif à l'évaluation du niveau d'émission (point 4 c) et soulignent que l'évaluation de la part de la pollution transfrontière, telle que proposée, apparaît difficile. Par ailleurs, les autorités françaises s'interrogent sur le point 4 d proposant que, dans le cas d'une situation de dépassement d'une valeur limite en émission issue de la directive 2016/2284, l'identification des sources contribuant à ce dépassement soit réalisée au sein des plans qualité de l'air. **Les autorités françaises considèrent que la rédaction de la directive pourrait être améliorée pour préciser que l'identification des sources doit porter sur l'ensemble de la valeur en émission dépassant une valeur limite (et non seulement sur le dépassement en lui-même).**

Concernant le point B de l'annexe VIII, les autorités françaises s'interrogent quant à l'information relative à l'état d'avancement de la mise en œuvre des directives visées à l'article 14, paragraphe 3, point b), de la directive (UE) 2016/2284 si ces dernières font l'objet d'un rapportage par ailleurs. **Elles demandent ainsi que les redondances en matière de remontées d'information soient évitées.** Par ailleurs, les autorités françaises indiquent que l'information sur toutes les mesures de lutte contre la pollution atmosphérique dont la mise en œuvre a été envisagée aux niveaux local, régional ou national pour atteindre les objectifs de qualité de l'air ne peut être réunie facilement et qu'il apparaît préférable de se focaliser sur les mesures retenues plutôt que sur les mesures envisagées tel que demandé au point 5 de l'annexe VIII.

*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 28 march 2023**

The French authorities thank the Presidency for the work carried out during the « Environnement » group meeting on 27 march 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 III – AMBIANT AIR QUALITY MANAGEMENT

#### **Article 12 and article 13**

French authorities recall that **ozone is a pollutant that can travel very long distances**. Management measures taken within a Member state, as proposed by the Commission, **may therefore be insufficient or ineffective locally if these actions remain geographically isolated without addressing the Member state(s) emitter(s) of precursors of ozone**. Thus, in order to take account of the transboundary nature of ozone as well as the differences in meteorological conditions between Members states, which favour the formation of ozone to a greater or lesser extent locally, **French authorities consider that European-wide management of ozone pollution is more appropriate to ensure effective and proportionate treatment of this pollutant. This coordinated approach within the Union does not exclude that each Member state at the origin of the pollution must carry out at national level the measures deemed necessary**. In addition, French authorities recall that it is necessary to focus these measures on reducing the sources of emissions of precursors causing ozone pollution. Thus, they propose the following new formulations :

- Add the following recital : « **In order to reduce ground-level ozone concentration throughout the Union, the European Commission and Member States shall endeavour to address the emissions of ozone precursors, especially methane, at all appropriate levels, including international** »
- Addition of a new paragraph to Article 5 : « Member States shall designate at the appropriate levels the competent authorities and bodies responsible for the following : (...) **European ambient air quality group, which include representative of all member states and the Commission, coordinate at the Union level the transboundary air pollutions which may contribute to the exceedance of air quality standards referenced to Annexe I, especially target value for ozone, regarding article 21 provisions** »
- Amendment to Article 12 (2) : « « In zones in which ozone levels are below the ozone target value, Members States shall ~~take~~ **endeavour, with the support of the European ambient air quality group referenced to Article 5 and article 21 if required**, to take necessary measures regarding ozone precursor emissions sources reduction in order to maintain those levels below the ozone target value and endeavour to attain the long-term objectives specified in Section 2 of Annex I, in so far as factors including the transboundary nature of ozone pollution and meteorological conditions so permit, and provided that any necessary measures do not entail a disproportionate cost »
- Amendment to Article 13 (2) : « For ozone, ~~Member States shall ensure~~ **the European ambient air quality expert group referred to Article 5 and Article 21 shall support Member States**

**to endeavour to ensure, by taking all necessary measures not entailing disproportionate costs, and so far as factors including the transboundary nature of ozone pollution and meteorological conditions so permit, that throughout the zone levels do not exceed the ozone target values, as laid down in Section 2, Point B, of Annex I. When the exceedance is due to imports of ozone or ozone precursors from other Member States, the European air ambient expert group referenced to article 5 and article 21 shall support coordination between Member States in order to reduce emissions of ozone precursors »**

- Addition of a new paragraph to article 21 : « **1. Non-public European group specialized in ambient air quality, including representatives of all Member states and the Commission, is in charge of transboundary pollution management coordination at the Union level and shall support Member states potentially affected »**

#### **Article 16 and article 17**

**French authorities ask for maintenance of references to the methodology for demonstrating and deducting exceedances due to natural sources on the one hand and the methodology for determining contributions from the re-suspension of particulate matter due to winter sanding or salting of roads on the other. They indicate that an update of these methodologies would be relevant regarding the revision of this Directive.**

#### **Article 18 – Annexe VIII point A et B**

**French authorities questioned the choice of reasons indicated in paragraph 1 of Article 18 for requesting a postponement, in particular the fact that these reasons exclude any difficulties of a cyclical nature (economic or otherwise). French authorities asked for the addition of such grounds and proposed the following wording for paragraph 1 of Article 18 : « Where, in a given zone, the conformity with the limit values for particulate matter (PM<sub>10</sub> and PM<sub>2,5</sub>) or nitrogen dioxide cannot be achieved by the deadline specified in Table 1 of Section 1 of Annex I because of site-specific dispersion characteristics, orographic boundary conditions, adverse climatic conditions, or transboundary contributions or other cyclical reasons including economics, politics or social aspects ».**

The same paragraph 1 specifies that an air quality plan meeting specific conditions must be carried out by Member states requesting a postponement. **They question several of these conditions :**

- Point b states that plans must demonstrate how the period of exceedance of a limit value will be kept as short as possible, rather than how the limit value will be met by the new deadline. **French authorities ask why the period of time allowed for actions within the air quality plan is reduced when the original duration under the provisions of Article 18 is 5 years. They asked for clarification related to this "shortest possible" period and ask how it will be assessed by the Commission in the context of the request for a postponement.**
- Point c states that the air quality plans describe how the public, including sensitive populations and vulnerable groups, will be informed of the consequences of the postponement on human health and the environment. **French authorities ask for clarification of what is meant by "consequences of postponement on human health and the environment" as well as the means of communication, including those to inform sensitive populations and vulnerable groups, to be used and the types of information to be disseminated. They indicate that the air quality plan establishing the request for postponement will be submitted for public consultation, and suggest that information for sensitive and vulnerable people (but also for the whole population concerned) should be provided through this channel.**
- Point d indicates how additional funding, at national and EU level if relevant, will be mobilised to accelerate quality improvement in the area for which the postponement applies. **French authorities ask whether the identification of possible funding is sufficient to make a request or whether**

it is expected that budgetary commitments will be made as part of the request. Furthermore, they wonder about the meaning to be given to the fact that this funding must improve air quality in the zone concerned by the postponement : does this mean that the funding alone must conduct to remove the limit value exceedance in the zone concerned or only contribute to this objective.

Concerning point A of Annex VIII, French authorities ask for clarification of the framework for the assessment of the emission level (point 4 c) and stressed that the assessment of the share of transboundary pollution, as proposed, appeared difficult. Furthermore, they question point 4 d proposing that, in the event of an emission limit value being exceeded under directive 2016/2284, the sources contributing to this exceedance should be identified in the air quality plans. **French authorities consider that the wording of the directive could be improved to specify that the identification of sources must relate to the whole of the emission value exceeding a limit value (and not only to the exceedance itself).**

With regard to point B of Annex VIII, the French authorities question the information on the state of implementation of the directives referred to in Article 14(3)(b) of Directive (EU) 2016/2284 if they are reported on elsewhere. **They therefore ask that duplication of reporting be avoided.** Furthermore, the French authorities indicate that **information on all the measures to combat air pollution whose implementation has been envisaged at local, regional or national level to achieve the air quality objectives cannot be easily gathered** and it would seem preferable to **focus on the measures adopted rather than on the measures envisaged as requested in point 5 of Annex VIII.**

## DENMARK

### **Danish comments and suggestions for revision of the Air Quality Directives**

#### **Submission for april 14th dealline**

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

We have a few suggestions for clarifications as listed below. Further we would like to reiterate our wish for more a more flexible approach to the assessment of air quality. Modelling are likely to play a larger role in the future as both models and input data will continue to improve. We have included our previous suggestion to delete art. 9.3(c), but would welcome other suggestions that would allow for modelling to play a bigger role in the future without maintaining a full set of monitoring sites. The extended use of modelling for this would be on a voluntary basis.

Suggested changes to directive is marked with ~~strike-out~~ and underscore.

## ANNEX I

### **AIR QUALITY STANDARDS**

#### SECTION 2 - OZONE TARGET VALUES AND ZONE LONG-TERM OBJECTIVES

...

#### **B. Ozone target values**

Objective	Averaging period	Target value	
Protection of human health	Maximum daily 8-hour mean <sup>(1)</sup>	120 µg/m <sup>3</sup>	not to be exceeded on more than 18 days per calendar year averaged over 3 years <sup>(2)</sup>
Protection of <del>the environment</del> <u>vegetation</u>	May to July	AOT40 (calculated from 1-hour values)	18 000 µg/m <sup>3</sup> × h averaged over 5 years <sup>(2)</sup>

#### **Rationale:**

Annex 1, Section 2, B, refers to 'Protection of the environment' whereas section 2. C refers to 'Protection of vegetation' (see text below). Furthermore, the text of the current directive refers to 'Protection of vegetation'. We suggest to change the wording in section 2, B to 'Protection of vegetation', to align with the current directive and point C.

### C. Long-term objectives for ozone (O3)

Objective	Averaging period	Long-term objective
Protection of human health	Maximum daily 8-hour mean within a calendar year	100 µg/m <sup>3</sup> <sup>(1)</sup>
Protection of vegetation	May to July	AOT40 (calculated from 1 h values) 6 000 µg/m <sup>3</sup> × h

..

## SECTION 5 - AVERAGE EXPOSURE REDUCTION OBLIGATION FOR PM<sub>2.5</sub> AND NO<sub>2</sub>

### A. Average exposure indicator

The Average Exposure Indicator expressed in µg/m<sup>3</sup> (AEI) shall be based upon measurements in urban background locations in territorial units at NUTS 1 [or 2] level throughout the territory of a Member State. It shall be assessed as a 3-calendar-year running ~~annual mean concentration~~ averaged over the annual mean concentration for all available sampling points of the relevant pollutant established pursuant to Point B of Annex III in each NUTS 1 territorial unit. The AEI for a particular year shall be the mean concentration of that same year and the preceding 2 years.

Where Member States identify exceedances attributable to natural sources, contributions from natural sources shall be deducted before calculating the AEI.

The AEI is used for the examination of whether the average exposure reduction obligation is met.

### Rationale:

The current wording could imply that you take the average of all the individual measurements. It is, however, our impression that the most common approach is to calculate the yearly average for each site and then calculate the overall average. Further we suggest to add the word 'available' in order to imply that it's not a static set of stations that are referred to, but rather all available sites - if that indeed is the intention.

## *Article 9*

### **Sampling points**

3. For zones 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, the minimum number of sampling points may be reduced by up to 50 %, in accordance with Points A and C of Annex III provided that the following conditions are met:

(a) 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 alert thresholds, as well as adequate information for the public, in addition to the one provided by the fixed sampling points;

(b) the number of sampling points to be installed and the spatial resolution of indicative measurements and modelling techniques are sufficient for the concentration of the relevant pollutant to be established in accordance with the data quality objectives specified in Points A and B of Annex V and enable assessment results to meet the requirements specified in Point D of Annex V;

~~–(c) the number of indicative measurements is the same as the number of fixed measurements that are being replaced and the indicative measurements have a minimum duration of 2 months per calendar year;~~

#### **Rationale:**

We suggest deleting condition (c). This condition removes the incentive to do modelling as a supplement to measurements as the overall cost of modelling and indicative measurements would match the cost of just measuring with any reduction in the number of stations. Indicative measurements would either have very low information value (e.g. low cost sensors) or they would be almost as costly as doing a full measurement programme. Also indicative measurements is not available for all pollutants. In most cases the requirement would simply mean that instruments would have to be circled around producing results of relative low quality.



## SPAIN

### Proposal for a Directive of the European Parliament and of the Council on ambient air quality and cleaner air for Europe (recast) - Comments from Spain to articles 19 to 23

#### CHAPTER IV: PLANS

##### **Article 19. Air quality plans**

Annex VIII, together with article 19, gathers the requirements for air quality plans that address exceedance of limit values, ozone target value and average exposure reduction obligations. As a general comment, we consider that these requirements will foster synergies between the management of different air pollutants and the achievement of different air quality standards. Annex VIII also requires that air quality plans contain a more precise analysis of the expected effects of air quality measures, and this will help make air quality plans more effective.

However, the lower levels proposed for compliance, both in their new limit values and in the number of times they can be exceeded in accordance with Annex I, will involve a great effort in the drafting of new plans. **For NO<sub>2</sub> and SO<sub>2</sub>, hourly limit value can be exceeded just 1 hour according to the current AAQ Directive proposal**, and this would imply a risk that a single exceedance is not representative and does not respond to any pattern of the air quality situation at a measurement point. For these cases **we request that the Commission indicates to what extent this is proportionate.**

**Article 19.1**, first paragraph, states that air quality plans must be drawn up not later than two years after the exceedance of the limit value, and that the plan must lay down measures to ensure that the exceedance period is not exceeded after three years from the end of the calendar year in which the first exceedance was notified. However, it should be noted that the preparation of plans and programmes must be subject to participatory processes that include a prior public consultation, a process of strategic assessment of plans and programmes and public information of the proposal once drafted, in accordance with the current regulations and the philosophy of this Directive.

For this reason, this period of three-years maximum for AQ plans setting, and limit values compliance after the exceedance, is considered insufficient and might be broader. Furthermore, the current wording of this first paragraph does not appear to be consistent with the second paragraph of Article 19.1, which indicates the need to update the plan if exceedances of limit values persist during the third calendar year following the establishment of the plan. Similarly, Annex VIII.A.5 refers to the inclusion in the air quality plans of information on the expected impact of measures to reach compliance within three-year period to the adoption of the quality plan. **This 3 years-period from the approval of the plan is considered more realistic with the processing of the air quality plans and with the time necessary to obtain the results of the measures planned.** Always taken into consideration that the AQ plan should be in place the latest 2 years after the calendar year during which that exceedance of any limit value was recorded.

For this reason, we propose the following amendment to Article 19(1):

1. Where, in given zones ~~or agglomerations~~, the levels of pollutants in ambient air exceed any limit value ⇒, laid down in Section 1 of Annex I, ~~or target value, plus any relevant margin of tolerance in each case~~, Member States shall ☒ establish ~~ensure that~~ air quality plans ~~are established~~ for those zones ~~and agglomerations~~ ⇒ as soon as possible and no later than 2 years after the calendar year during which that exceedance of any limit value was recorded. Those air quality plans shall set out

appropriate measures ~~in order~~ to achieve the ~~concerned~~ ~~related~~ limit value ~~or target value specified in Annexes XI and XIV~~ and to keep the exceedance period as short as possible, and in any case no longer than 3 years from ~~end of the calendar year in which the first exceedance was reported~~ **the approval of the plan, which shall be established no later than 2 years after the calendar year during which that exceedance of any limit value was recorded**.

**Article 19.2** refers to NUTS1 territorial units when establishing AQ plans for ozone target value. We have already stated in our previous comments, that NUTS1 level will entail a very high administrative burden, as domestic competences for air quality assessment and management do not lie on NUTS1 regions. Furthermore, ozone studies in Spain show that planning regional ozone dynamics do not rely on regional NUTS1 level but depend on a great variety of factors such as atmosphere dynamics, methodology and land relieve.

For this reason, we make the following proposal:

2. Where in a given NUTS 1 territorial unit, **or NUTS 2, to be determined by each Member State according to its administrative structure**, 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 NUTS ~~1~~ territorial units, **or other more appropriated territorial units for ozone management to be determined by each Member State**, 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 ~~NUTS 1~~ territorial unit, Member States shall update 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.

For **such** NUTS ~~1~~ 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 19.2** refers to NUTS1 territorial units when establishing AQ plans for the average exposure concentration objectives. As said before, NUTS1 level will entail a very high administrative burden, as domestic competences for air quality assessment and management lie on NUTS2 regions (Autonomous Communities). The second level statistical territorial units (NUTS 2) would be is the suitable base that would contribute to facilitating pollution management and to simplify the processing and management of air quality plans. For this reason, we make the following proposal:

3. Where in a given NUTS 1 territorial unit, **or NUTS 2, to be determined by each Member State according to its administrative structure**, the average exposure reduction obligation laid down in Section 5 of Annex I is exceeded, Member States shall establish air quality plans for those NUTS ~~1~~ 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.

**Article 19.4** provides that in a zone or NUTS 1 territorial units where levels are above limit values until 31/12/2029, air quality plans shall also be drawn up. This article is not entirely clear. According to article 12.1 and 13.1, limit values are assessed in zones, and according to article 19.1 plans should also be drafted for zones. Nevertheless, article 19.4 refers to NUTS territorial units for plan drafting. Thus, it is not clear whether plans in this case are expected to be drafted for NUTS units or zones (alternatively, in case of limit value exceedances) or if it refers to plan drafting for ozone target value. From the wording of article 19.4, it seems that it should apply to limit values, because it also mentions article 19.1 and annex I Section 1, so the reference to NUTS 1 units and related pollutants should be deleted.

On the other hand, when drawing up air quality plans, account should be taken on the significant administrative burden involved and the administrative procedure and timing for plan drafting, already mentioned in our comment to article 19.1. We believe that anticipation of compliance with limit values until 31/12/2029 could be adequate, but it should not be necessarily linked to the administrative figure of air quality plans, and other more flexible tools may be more appropriate to this purpose.

**As long as we have no answer from the Commission on how legislation on emission sources (e.g. Euro 7) is a useful tool to comply with the new AQ limit values of the Directive we cannot support this article 19.4** and therefore we consider that **Article 19.4 should be referred to the establishment of measures instead of plans**, thus leaving MS enough flexibility to determine the tool in which such measures are determined. In addition, given that compliance with the limit values must be ensured from 2030 onwards, and to be coherent with this deadline for accomplishment, we find the current wording in article 19.4 very rigid, and that preparatory action until 31/12/2029 for limit values accomplishment should be more flexible.

Additionally, as the second paragraph refers to several points in article 19, we consider that this would be clearer as an independent point in article 19.

For the reasons above, we suggest this proposal:

4. Where from [insert year 2 years after entry into force of this Directive], until 31 December 2029 in a zone ~~or NUTS 1 territorial unit~~, the levels of pollutants are above any limit value to be attained by 1 January 2030 as laid down in Table 1 of Section 1 of Annex I, Member States ~~shall may~~ establish ~~an air quality plan measures~~ for the concerned pollutant as soon as possible and no later than 2 years after the calendar year during which the exceedance of the was recorded to attain the respective limit values ~~or ozone target value~~ by the expiration of the attainment deadline.

**(suggested new separate point)** Where, for the same pollutant, Member States ~~are required to~~ **shall** establish ~~an air quality plan measures~~ in accordance Article 19(4) as well as an air quality plan in accordance with Article 19(1), they may establish a combined air quality plan in accordance with Article 19(5), (6) and (7) and provide information on the expected impact of measures to reach compliance for each limit value it addresses, as required by in Annex VIII, points 5 and 6. Any such combined air quality plan shall set out appropriate measures to achieve all related limit values and to keep all exceedance periods as short as possible.

**Article 19.5**, third paragraph includes, when preparing air quality plans, to assess the risk of exceeding related alert thresholds and that analysis shall be used for establishing short-term action plans where applicable. In our view, this paragraph is not clear, and we believe that it should be clarified how the risk of exceeding alert thresholds should be assessed, the aspects and the specific parameters to be considered in this analysis. A specific point could be added to this end in Annex VIII.

As for Article 19.7 we very much appreciate the orientation of this point. It is advisable that population participates in air quality plans designing. The involvement of all stakeholders during the process of drawing up the plans (individuals, associations, NGOs, social and economic entities, etc.) is essential to achieve their acceptance, as well as the future implementation of air quality plans.

## **Annex VIII. Information to be included in air quality plans for improvement in ambient air quality A. Information to be provided under Article 19(5)**

**Point 2.a)** According to our previous comments on NUTS territorial units, changes to include other more appropriate territorial units are proposed.

2. General information

- a) type of zone (urban, industrial or rural area) or characteristics of ~~NUTS-1~~ territorial unit (including urban, industrial or rural areas);

**Point 2.b)** For the determination of the population exposed, we consider that **it is necessary to prepare guidelines by the European Commission that help MS how to determine the population exposed**, thus also ensuring harmonization between MS.

**Point 4.d)** We believe that this paragraph is not clear. We ask for clarification on what is being requested. Maybe it might be referred to include source contribution studies in AQ plans and that these sources should consider the relevant sectors cited in Directive (EU) 2016/2284. Nevertheless, we do not understand whether the reference to Directive (EU) 2016/2284, and the information of the national air pollution control programme, is intended to require that the emission inventory data of that NEC Directive would be used in air quality modelling. While inventories under Directive (EU) 2016/2284 may be suitable for monitoring compliance with the emission ceilings, they may not be suitable for air quality modelling and for assessing the expected impact of air quality measures at local and regional level. We therefore do not understand the link in this point (d) to the fulfilment of the objectives of the emission ceilings directive and to the national air pollution control programme.

**Point 6.** Include details of measures to reduce air pollution under point 5. In this point, we would like to highlight the difficulties on determining effective measures regarding to ozone.

**Point 7.** Details further background information to be include when applicable. We consider that it should be detailed in which cases this information should be provided. On the other hand, population (ideally including socio-economic data) may be relevant to include as well as further background information, for a more consistent view of the potential impact of plans and measures, including environmental equity issues and the protection of sensitive groups. We suggest including a new point (e) to this purpose.

7. Annex 2: Further background information

- a. climatic data;
- b. data on topography;
- c. information on the type of targets requiring protection in the zone, (if applicable);
- d. listing and description of all additional measures, that unfold their full impact on ambient air pollutant concentrations in 3 years or more.
- e. socio-economic information on the related area, in order to promote environmental equity issues and the protection of sensitive groups.**

## Article 20. Short term action plans

This article establishes that when there is a risk that the levels of pollutants will exceed one or more of the alert thresholds specified for SO<sub>2</sub>, NO<sub>2</sub>, O<sub>3</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>, Member States shall draw up short term action plans indicating the emergency measures to be taken as soon as possible. The objective of such measures is to reduce the risk or duration of the exceedance.

In the case of ozone, when there is a risk of alert threshold exceedance, Member States are not obliged to draw up short-term action plans when, once national geographical, meteorological, and economic conditions are considered, there is no significant potential to reduce the risk, duration or severity of such an exceedance.

Taking into account the singularity of certain zones in Spain (in particular, The Canary Islands) that are affected by the continuous and very important impact of African dust, it is difficult to define a short-term plan that defines effective measures in order to reduce the risk or duration of the exceedance of the alert thresholds of PM from non-anthropogenic sources.

We have incorporated as an annex a Report on Saharan dust intrusions in the Canary Islands (INFORME RELATIVO A LAS INTRUSIONES DE POLVO DE ORIGEN SAHARIANO EN CANARIAS), which shows that the number of days on which these intrusions of Saharan air masses have occurred in the Canary Islands over the last few years has ranged between 33% and 47% of the days of the year. As an example regarding the source contribution, the report shows the episode of 26/04/2008 where a 78% contribution is from natural sources (mineral dust + marine aerosol) with a total concentration of PM over 300 µg/m<sup>3</sup>.

We propose that in these zones, Member States may refrain from drawing up such short-term action plans when there is no significant mitigation potential, taking into account national geographical, meteorological and economic conditions, to reduce the risk, duration or severity of such an exceedance.

In accordance with this, we propose the following wording for paragraph 2 of article 20.1:

However, where there is a risk that the alert threshold for ozone or the alert threshold **for PM<sub>10</sub> and PM<sub>2.5</sub> due to contribution from natural sources** will exceed, 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.

## Article 21. Transboundary air pollution

We express our support for arrangements for cooperation between Member States to tackle breaches of air quality standards due to transboundary air pollution, calling for rapid exchange of information between Member States and with the Commission.

We support the creation of communication channels and collaboration with other European regions with similar air quality problems, that shall be particularly relevant in the case of ozone in southern countries.

In this regard, we propose the inclusion of a reference in the article to the NAPCP information of section 2.4.3 *Current transboundary impact of national emission sources* of the COMMISSION IMPLEMENTING DECISION (EU) 2018/1522 of 11 October 2018 laying down a common format for national air pollution control programmes under Directive (EU) 2016/2284 of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants, as a useful base information.

We therefore, propose the following change on the text of article 23.1:

1. Where  $\Rightarrow$  transboundary transport of air pollution from one or more Member State contributes significantly to the exceedance of  $\Leftarrow$  any ~~alert threshold~~, limit value, ~~or~~  $\boxtimes$  ozone  $\boxtimes$  target value, ~~plus any relevant margin of tolerance~~  $\Rightarrow$  average exposure reduction obligation or  $\Leftarrow$   $\boxtimes$  alert threshold  $\boxtimes$  ~~or long term objective is exceeded due to significant transboundary transport of air pollutants or their precursors~~,  $\Rightarrow$  in another Member State, the latter shall notify the Member States from which the air pollution originated and the Commission thereof.  $\Leftarrow$

~~The Member States concerned shall cooperate  $\Rightarrow$  to identify the sources of air pollution and the measures to be taken to address those sources,  $\Leftarrow$  and, where appropriate, draw up joint activities, such as the preparation of joint or coordinated air quality plans pursuant to Article 1922, in order to remove such exceedances through the application of appropriate but proportionate measures.~~ **Where appropriate, information on transboundary impact of national emission sources of the Commission Implementing Decision (EU) 2018/1522 laying down a common format for national air pollution control programmes under Directive (EU) 2016/2284 shall be taken into consideration.**

## **CHAPTER V. INFORMATION AND REPORTING**

### **Article 22. Public information**

Regarding **Article 22. Point1. a)** we would like to insist on the need of using automatic equipment for PM measurements to comply with the obligation of providing UTD data, nonetheless the AQ Directive proposal just include the gravimetric method as a reference method in Annex VI. It has been already suggested in our comments to Annex VI: Reference methods for assessment of concentrations in ambient air and deposition rates the **need to include the EN 16450:2017-Ambient air - Automated measuring systems for the measurement of the concentration of particulate matter (PM10; PM2,5) as an alternative to the EN12341:2014 ‘Ambient Air — Standard gravimetric measurement method** for the determination of the PM10 or PM2.5 mass concentration of suspended particulate matter’

We would like to highlight that Point 1.d of this article, short-term action plans as provided for article 20, is the only place where "forests" are mentioned. So, we suggest the possibility of changing this term to one that refers to ecosystems or places of special interest, such as Natura 2000 areas.

We also suggest assessing if this evaluation of the effects on the forest environment on Natura 2000 sites is not reiterative with the monitoring of the effects of air pollution on ecosystems already carried out in the framework of the National Emission Ceiling Directive.



Moreover, we would like to highlight that this paragraph establishes the **obligation to inform the public on the effects of exceedances. However, it is not specified what kind of effects must be assessed**: on health, on vegetation? Clarification is therefore requested on this aspect and also specific guidance on how the assessment on the effects of the exceedances should be done.

In addition, we think that the writing of the last sentence of this point (d) may not be accurate. This sentence establishes that the summary assessment should include information on the pollutants of Art. 10 (supersites) and Annex VII (precursors, UFP, PM<sub>2.5</sub> composition), but it is not clear what kind of information is required. Then, we suggest deleting this phrase.

- (e) ~~2. Member States shall make available to the public annual reports for all pollutants covered by this Directive. Those reports shall summarise the levels exceeding limit values, target values, long term objectives, information thresholds and alert thresholds, for the relevant averaging periods. That information shall be combined with a summary assessment of the effects of those exceedances~~ ⇒ of limit values, ozone target values, average exposure reduction obligations, information thresholds and alert thresholds in a summary assessment ⇐ ~~∴ The~~ ⇒ the summary assessment ⇐ ~~reports~~ ⇒ shall ⇐ ~~may~~ include, where appropriate, further information and assessments on forest protection **as well as information on other pollutants ⇒ covered by Article 10 and Annex VII.** ⇐ ~~for which monitoring provisions are specified in this Directive, such as, *inter alia*, selected non regulated ozone precursor substances as listed in Section B, of Annex X.~~

Finally, we think that a revision of the phrase “⇒ of limit values, ozone target values, average exposure reduction obligations, information thresholds and alert thresholds in a summary assessment ⇐ ” is needed because it seems to be cut off after summary assessment.

Regarding **Article 22.2.**, we support the modification of the Air Quality Index (AQI) as soon as possible as now they are providing contradictory information to the population as bands do not correspond to the 2021 WHO guidelines. It is necessary the alignment of the ranges for both the WHO guidelines and the new proposed AQ objectives of the AAQ Directive proposal.

Furthermore, we would like to suggest the possibility to include hourly values for both PM<sub>2.5</sub> and PM<sub>10</sub> in the AQI, as a 24-hours mean implies some problems, as delaying information when the episode starts and maintaining the alert (thus alarming the population unnecessarily) after the episode finishes.

## **Annex IX: Public Information.**

**Point 1.a** of Annex IX requires the provision of hourly data on particulate matter. This fact implies using automatic equipment and not gravimetric equipment (current reference method). As this is an obligation, we insist on the **need of modifying annex VI to include automatic equipment for PM** as already commented on Article 22. Point 1. a)

**Point 1.c.ii.** This point requires information on the start time and duration of the observed exceedance (s) of any limit value, ozone target value and average exposure reduction obligation.

A clarification is needed to know if this requirement affects only to hourly limit values or if also affects to other limit values. We think it only should be referred to the hourly limit value, and should not be applicable to the rest of the limit values.

**Point 1.d.** provides for the obligation to facilitate information on health and vegetation including health impacts and even description of likely symptoms and recommendations. We would like a

clarification from the Commission to know if current information provided in AQI would be enough to comply with this obligation.

Last sentence of **Point 2.a.** establishes the obligation to facilitate the following information on observed exceedance(s): “highest one hour concentration and in addition highest eight hour mean concentration in the case of ozone”. Since the thresholds are based on hourly data, we would request an **explanation on the requirement of the maximum 8-hour value.**

**Point 2.b.** Regarding the forecast for the following afternoon/day(s), we consider that it would be essential to have a common guideline by the Commission that help MS to determine the forecast requirements in a similar way.

**Point 3.** We think that “when exceedance occur or...” is reiterative with the points 1 and 2, so we suggest the following change on the text:

3. ~~When an exceedance occur or w~~ When there is a risk of exceedance of any limit value, ozone target value, average exposure reduction obligation, alert thresholds or information thresholds, Member States shall ensure that the information referred to in this Annex is additionally promoted to the public.

## **Article 23. Transmission of information and reporting**

**Article 23.1** indicates that: 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.

We believe that it is essential that at least the measurement uncertainties are met irrespective of the data coverage. Therefore, we propose that at least annex V section A is always met (uncertainty of measurements and modelling for ambient air quality assessment). Therefore, we propose the following change on the text of article 23.1 to exclude just the annex V B (data coverage of measurements for ambient air quality assessment):

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 coverage** laid down in Annex V **B** ~~as determined by the implementing measures referred to in Article 28(2).~~

**Article 23.2** establishes a reduction, from 9 to 4 months, of the period available for notification to the Commission of the annual evaluation of air quality. In this regard, **we consider it is necessary to have a minimum of 6 months, after the end of each calendar year**, to ensure the availability of all the information required for this purpose. When setting this deadline, has the Commission considered the limitations of the Member States with regard to the new analytical obligations and the air quality models, which have to be based on the most up to date editions of the emission inventories?

Also, as already mentioned we would like to include the possibility of using the second level statistical territorial units (NUTS 2) as a base (autonomous community level) to facilitate pollution management and to simplify the processing and management of air quality improvement plans.

We therefore propose the following changes on the text of article 23.2:



2. ~~In any event, for~~ For the specific purpose of assessing compliance with the limit values, ⇨ ozone target values, average exposure reduction obligations ⇨ and critical levels ~~and the attainment of target values, such~~ ⇨ the ⇨ information ⇨ referred to in paragraph 1 ⇨ shall be made available to the Commission no later than ~~4 6 nine~~ months after the end of each calendar year and shall include:

- (a) the changes made in that year to the list and delimitation of zones ~~and agglomerations~~ established under Article ~~64~~ ⇨ or any NUTS ~~1~~ territorial unit ⇨ ;
- (b) the list of zones ~~and agglomerations~~ ⇨ and NUTS ~~1~~ territorial units and the levels of pollutants assessed. For zones ⇨ in which the levels of one or more pollutants are higher than the limit values ~~plus the margin of tolerance where applicable or higher than target values~~ or critical levels ⇨ , as well as for NUTS ~~1~~ territorial units where the levels of one or more pollutants are higher than the target values or average exposure reduction obligations: ⇨ ; ~~and for these zones and agglomerations:~~

## BULGARIA

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

Follow-up of the discussions in the WPE on 27.03.2023

Document: WK 4276/2023 INIT

#### Chapter III Air quality management

Article 12 Requirements where levels are lower than the limit values, ozone target value and average exposure concentration objectives, but above the assessment thresholds

##### *Article 12(1) and (4)*

The provisions consolidate existing requirements to keep air pollutant levels below limit values and introduce new requirements for average exposure concentrations.

Bulgaria adheres to the position already expressed on the proposed new air quality standards (Annex I, Table 1), which are significantly more stringent than the standards in the current legislation. This raises as a major issue their achievability within a realistic timeframe.

Bulgaria would like to request information from the Commission regarding the annual limit value for the protection of human health for the pollutant sulphur dioxide, which is set in the directive. The proposed limit value of 20 µg/m<sup>3</sup> is **not based on a recommendation from the 2021 WHO Guidelines**. There is also **no recommendation for an hourly limit value** for sulphur dioxide in these guidelines.

##### *Article 12(3)*

We stick to our position expressed earlier about the inclusion of the new requirement to assess average exposure indicator for PM<sub>2,5</sub> and NO<sub>2</sub> at NUTS 1 territorial unit level. As we have pointed out in previous written comments, this is another level of air quality assessment and management that does not currently exist, it is not well founded in our opinion and brings up corresponding problems of a different nature.

##### Article 13

Limit values, ozone target values and average exposure reduction obligation for the protection of human health

##### *Article 13(1)(Annex I, Section 1 and 5)*

We note once again, on the basis of our experience to date, that the attainment of air quality standards for certain pollutants is a function of many factors, including meteorological and geographical conditions and, in particular, the social and economic development of a given country (obvious from the actual map of PM levels on the website of the EEA, for example). We consider the introduction of realistic and achievable targets and timeframes as a guarantee for sustainable changes. In the last few years we have witnessed crises whose development can hardly be predicted and it can now be foreseen that their overcoming will require additional efforts. For example, the Third Clean Air Action Review<sup>1</sup> notes that “*The development of energy markets also merits close observation from a clean air perspective, as increasing prices can lead consumers to switch to cheaper but more polluting fuels*”. This statement is reasonable and implies that planning and implementing measures in the residential sector will be uncertain and difficult. It should be remembered that the key

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2022%3A673%3AFIN&qid=1670510444610>

assumptions for achieving the new air quality standards in 2030 are based on the proposed comprehensive legislative transformation by the European Commission. The implementation and outcome of these policies is yet to be seen and **if any of them are not fully implemented** for different reasons, achieving the 2030 targets will prove problematic. In this regard, we would like to remind that a large number of Member States are facing serious problems in fully achieving the current air quality standards.

#### *Article 13(3)*

A new provision is introduced requiring a reduction in the average exposure of the population to fine particulate matter (PM<sub>2.5</sub>) and nitrogen dioxide (NO<sub>2</sub>) at regional level (NUTS 1 territorial units) to the levels recommended by the WHO. This is in addition to the obligation to comply with limit values and target values applicable in air quality zones. In this respect, **we request information on how the 25% reduction obligation for the average exposure indicator was set**. In order to correctly understand the text and the method of calculation, we would like written feedback **with an example of how this provision should be applied** by the Member States.

#### Article 15 – Exceedances of alert or information thresholds

The proposed provisions introduce alert thresholds for short-term measures on peak pollution from PM<sub>10</sub> and PM<sub>2.5</sub> in addition to the existing thresholds. To provide this information (Annex IX, point 2) on particulate matter, it is necessary to use automatic equipment to measure particulate matter. Despite this requirement, EN12341:2014 is referred to as the reference method in the proposed Directive. In this respect, we note that the requirements to provide information would be fulfilled in the case of monitoring with automatic PM equipment that transmits data in real time. The same will not be applicable in the case of measurements of PM by reference sampling and subsequent analysis systems as required by EN 12341:2014.

An explanation is needed on how to understand and apply the requirement to provide "timely information" when the PM alert threshold is exceeded, in cases where monitoring for fine particulate matter is carried out using reference sampling and subsequent analysis systems as required by EN 12341:2014. Analysis of filters requires process time, which will delay notification in cases where an alert threshold is exceeded. There are cities within the air quality zones with only one monitoring station, where the PM is measured manually. What is expected to be done in these cases, in order to ensure compliance with the alert threshold requirements for providing information – these monitoring stations must also be equipped with automatic analyzers for PM<sub>10</sub> and PM<sub>2.5</sub>? We consider this would represent a significant additional requirement and burden on the monitoring system, requiring time and additional funding, including demonstration of identity between the different measurement methods.

The text of Article 15(4) concerns cases where any alert or information threshold is exceeded and refers to Annex IX(2) and (3). The text of point 3 of Annex IX concerns cases of exceedances of the alert and information thresholds, but also includes information on exceedances of limit values, ozone target values and the average exposure reduction obligation. Clarification is needed on how to understand the text of point 3 and its application. For example, the obligation to reduce the average exposure indicator is calculated after the end of the calendar year.

Article 16 Contributions from natural sources

The provisions extend the rules on deducting natural source contributions to the exceedances of air quality standards in order to cover exceedances of average exposure reduction obligations. Bulgaria supports this approach in the proposed directive.

Article 17 Exceedances attributable to winter – sanding or winter - salting of roads

We support keeping in the text the possibility for deduction of exceedances of the PM<sub>10</sub> limit values due to winter gritting and salting of roads.

At the same time, we would like to draw attention to the fact that **point 5 Detailed explanation of the specific provisions of the proposal** of the **Explanatory Memorandum** states: "Article 17 on deduction of winter-sanding and winter-salting is extended to include fine particulate matter (PM<sub>2.5</sub>)", whereas PM<sub>2.5</sub> does not appear in the text of Article 17. We assume that this is a technical error and this pollutant should be added in the appropriate places in the text of Article 17.

Article 18 Postponement of attainment deadline and exemption from the obligation to apply certain limit values

We support the texts that allow for the possibility, in zones where the limit values for PM and nitrogen dioxide cannot be achieved according to Table 1, section 1 of Annex I, to have a possibility of postponement of up to 5 years. However, we would like a **clarification on the criteria on the basis of which these pollutants were selected**.

## FINLAND

### Air quality Directive: FI written comments after the WPE meeting on 27 March

14.4.2023

#### CHAPTER III (AMBIENT AIR QUALITY MANAGEMENT)

#### **Article 12: Requirements where levels are lower than the limit values, ozone target value and average exposure concentration objectives, but above the assessment thresholds and (Section 1 of Annex I)**

- In Table we support the tightening of the limit values with the WHO guidelines. However, we note that WHO guidelines do not include 1 hour limit value for Sulphur dioxide (SO<sub>2</sub>) and according to the current directive 1 hour limit value for SO<sub>2</sub> allows 24 exceedances per calendar year. According to proposal the number of exceedances would be significantly reduced – from 24 to 1. The reason for this needs to be clarified. Could the number of exceedances be relaxed to allow some hourly exceedances, to follow closer the principal of WHO guidelines that allow 3-4 exceedances of the guideline values?
- The Table 2 should be clarified. What is the deadline? If this Table is meant for limit values before 2030, perhaps the proposed limit values for metals and benzo(a)pyrene should be deleted and maintained as target values until 2030? In any case the deadline should be decided very carefully and the relevant transitional provisions need to be clear.
- We welcome the deletion of the requirement *“to preserve the best ambient air quality, compatible with sustainable development”* in para 1 and 4. One can't define such ambient air quality in practice.
- The special nature of ozone has been taken into account in this Article (and in article 12). It should also be taken in to account in other requirements, such as in article 19 (air quality plans): it should not always be mandatory to establish an air quality plan in cases where the levels of pollutants in ambient air exceed (or when there is a risk of exceedance) the ozone target value under Article 19. We think that the directive should not include requirements that in practice cannot affect ozone concentrations. See also our comments on Articles 19 and 20.
- We also think that the relationship between the Articles 12 (and 13) and 19 is not clear enough with regard to ozone: article 12 (and 13) refers to zones and article 19 refers to NUTS 1 territorial units, but both of them requires “measures”. This relationship between Articles 12, 13 and 19 should be clarified.
- Since this Article (and Article 13) has a link to the average exposure reduction indicator, objectives and obligations, we would like to have some clarification concerning the minimum number of sampling points required under the Annex III point B. Is 1.9 million inhabitants one sampling point or two points? This is important because of the interpretation concerning the minimum number of supersites we heard at the last meeting.
  - ANNEX III point B: .”Minimum number of sampling points for fixed measurement to assess compliance with the PM<sub>2.5</sub> and NO<sub>2</sub> average exposure reduction obligations for the protection of human health For PM<sub>2.5</sub> and NO<sub>2</sub> each, one sampling point per NUTS 1 region as described in Regulation (EC) No 1059/2003, and at least 1 sampling point per million inhabitants calculated over urban areas in excess of 100 000 inhabitants shall be operated for this purpose. Those sampling points may coincide with sampling points under Point A.”
- Para 1. Editorial comment: It might be more logical to list the pollutants in the order of gases, PM, and PM chemical composition, rather than mixed.

**Article 13: Limit values, ozone target values and average exposure reduction obligation for the protection of human health (and Sections 1, 2 and 5, of Annex I)**

- Have any time limits been considered for the long-term objectives of ozone? ( Section 2, point B, of Annex I)
- See also comments on Article 12 concerning both Articles 12 and 13.
- Para 1. Editorial comment: It might be more logical to list the pollutants in the order of gases, PM, and PM chemical composition, rather than mixed.

**Article 14: Critical levels for the protection of vegetation and natural ecosystems (and Section 3 of Annex I, Section A of Annex IV)**

- Para 1. Editorial comment: Should there also be a reference to Point B.3 (Protection of vegetation and natural ecosystems) of Annex IV, to ensure representative sampling points for these measurements?

**Article 15: Exceedances of alert or information thresholds (and Section 4 of Annex I; Sections 2 and 3 of annex IX)**

- We welcome the new alert thresholds for PM 10 and PM 2.5.

**Article 16: Contributions from natural sources**

- We note that the Commission's authority to issue guidelines is deleted from this Article. Is it intended to be replaced by a Commission implementing act or a Commission delegated act? This needs to be clarified. There is a need to make sure that the Commission's authority to adopt implementing acts or delegated acts is accurate enough in this matter.

**Article 17: Exceedances attributable to winter-sanding or winter salting of roads**

- Is PM 2.5 missing? In the part 5 (detailed explanation of the specific provisions of the proposal) of the explanatory memorandum it is stated that this article is extended to include PM2.5. However, PM 2.5 is not included in the Article.
- We note that the Commission's authority to issue guidelines is deleted from this Article. Is it intended to be replaced by a Commission implementing act or a Commission delegated act? This needs to be clarified. There is a need to make sure that the Commission's authority to adopt implementing acts or delegated acts is accurate enough in this matter .

**Article 18: Postponement of attainment deadline and exemption from the obligation to apply certain limit values (and point B of Annex VIII)**

- We think that benzo(a)pyrene should be included in the scope of this article and we suggest that the criteria under this article is modified accordingly, for example by adding " adverse weather conditons" to the list concerning the criteria for the postponement. This would be justified from our perspective, as the majority of benzo (a)pyrene emissions in Finland originate from small-scale burning of wood in old fireplaces during the cold winters we have. Reducing these emissions through rapid measures is challenging, among other things because of the slowness of the renewal rate of the old fireplaces.

## **CHAPTER IV: PLANS**

### **Article 19: Air quality plans (Annex VII)**

- In the part 5 (detailed explanation of the specific provisions of the proposal) of the explanatory memorandum concerning Article 19 it is stated that *“The plans will also be mandatory when it is anticipated that these standards will be exceeded.”* However, there is no such term as “anticipated” or “risk” in the Article. This should be clarified.
- As we have already stated, we primarily think that it should not always be mandatory to establish an air quality plan in cases where the levels of pollutants in ambient air exceed (or when there is a risk of exceedance) the ozone target value under Article 19. An obligation to establish an air quality plan should only be linked to the limit values and average exposure reduction obligations, not to any air quality objectives. However, if such requirement is not to be deleted, we think that the wording of Article 20 could be used as a model also in Article 19 in order to make it clear, that it should not always be mandatory to establish an air quality plan when the levels of pollutants in ambient air exceed the ozone target value. This would make sense, as in many Member States the concentrations of ozone are strongly affected by transboundary pollution and therefore the reduction of ozone concentrations cannot be accomplished through national or regional measures. Instead, unified emission reduction measures covering the entire EU area and globally, are needed. We think that the directive should not include requirements that in practice cannot affect ozone concentrations.

### **Article 20: Short-term action plans**

- We want to point out that this Article takes into account the special nature of ozone: if there is a risk that the alert threshold for ozone is exceeded, a short-term action plan shall be drawn up only if, in view of the national geographical, meteorological and economic conditions, there is significant potential to reduce the risk, duration or severity of such an exceedance. As we have already stated, we primarily think that it should not always be mandatory to establish an air quality plan in cases where the levels of pollutants in ambient air exceed (or when there is a risk of exceedance) the ozone target value under Article 19. An obligation to establish an air quality plan should only be linked to the limit values and average exposure reduction obligations, not to any air quality objectives. However, if such requirement is not to be deleted, we think that the wording of Article 20 could be used as a model also in Article 19 in order to make it clear, that it should not always be mandatory to establish an air quality plan when the levels of pollutants in ambient air exceed the ozone target value. This would make sense, as in many Member States the concentrations of ozone are strongly affected by transboundary pollution and therefore the reduction of ozone concentrations cannot be accomplished through national or regional measures. Instead, unified emission reduction measures covering the entire EU area and globally, are needed. We think that the directive should not include requirements that in practice cannot affect ozone concentrations.

### **Article 21: Transboundary air pollution**

- Could the Commission provide some concrete examples of measures that Member states could agree on in order to achieve the target values for ozone and the limit values for air pollutants, taking into account that these measures should not in practice become internal market barriers? Would the measures actually mean that Member states should agree on stricter emission restrictions than what is required according to the EU- legislation? Does the Commission know

some good practices with regard to the cooperation between Member States as required under this Article?

## **CHAPTER V: INFORMATION AND REPORTING**

### **Article 22: Public information (and Annex IX)**

- We want to point out that in FI we already use an air quality index based on hourly data that is more up-to-date than the European Environment Agency's index. We would like to continue using this index, unless the European Environment Agency develops a new hourly-based index. Would this be ok and are there any plans for European Environment Agency to develop a new hourly-based index in the near future? The Finnish index also includes the nationally important TRS compounds and black carbon, which we want to continue to include.
- In Annex IX Point 1 f) it is required that the public information shall also include *"information on measuring campaigns or similar activities and their results where performed"*. What measurement campaigns are meant here? Does this refer to some extra measurements compared to the measurements that are mandatory according to the directive? This should be clarified.
- In annex IX Point 3 it is stated that *"When an exceedance occur or when there is a risk of exceedance of any limit value, ozone target value, average exposure reduction obligation, alert thresholds or information thresholds, Member States shall ensure that the information referred to in this Annex is additionally promoted to the public"*. It is not clear to us what this requirement would mean in practice and is this requirement meant to be totally extra compared to points 1 and 2? These questions should be clarified ?

### **Article 23: Transmission of information and reporting**

- Para 1: We think that the following requirement should be clarified: *"...and irrespective of compliance with data quality objectives laid down in Annex V..."*. It may give the impression that the information on ambient air quality provided to the Commission does not need to be of high quality and reliable. Perhaps the requirement in question should only refer to data quality objectives concerning time coverage ?
- Para 2: Why is timescale for reporting the information on ambient air quality to the Commission, shortened from 9 months to 4 months? We do not support this change, as the proposed new, significantly shorter timescale would not allow the reliability of the air quality data to be verified and the quality of the data to be reported would be reduced compared to the current situation, especially as regards air pollutants requiring laboratory measurements.



## **POLAND**

### **Commentary of the Republic of Poland to the article 12-18 Proposal for a Directive of the European Parliament and of the Council on ambient air quality and cleaner air (recast)**

**Detailed comments and questions on Article 12 (with Annex I and the relevant definitions referred to in Article 4)**

#### **Paragraph 1 and Annex I, Section 1**

PL opposes of this provision. Article 12 should refer to the existing limit values in Table 2 of Section 1 in Annex I, but for arsenic, cadmium, nickel and benzo(a)pyrene in particulate matter PM<sub>10</sub> the target values should remain and not the limit values as proposed. Also, the provision does not specify whether the limit values in question are those indicated in Table 1 (applicable from 1 January 2030) or Table 2 (applicable from the date of transposition of the Directive).

#### **Paragraph 2 and Annex I, Section 2**

PL calls for the target and long-term objectives for ozone to remain unchanged.

#### **Paragraph 3 and Annex I, Section 5**

PL opposes of this provision. The provision states that where PM<sub>2,5</sub> and NO<sub>2</sub> concentrations are below the average exposure concentration objectives (AECO) for PM<sub>2,5</sub> and NO<sub>2</sub>, they should remain so. It should be stressed that the AECOs are set at the WHO recommended annual average levels for PM<sub>2,5</sub> and NO<sub>2</sub>. These are very restrictive requirements which, de facto, will be impossible for PL and other selected Member States to achieve.

#### **Annex I, Section 5**

PL proposes a significant simplification of the average exposure indicators (AEIs) and a softening of their values, as indicated in Annex 1, Section 5.

In addition, PL proposes to delete the AECOs, thus leaving only the requirement for average exposure reduction obligations (AEROs) with absolute values (not as indicated in the draft - values resulting from calculations, already dependent on existing PM<sub>2,5</sub> concentration reductions). Obviously, the AEROs created in this way should be adjusted accordingly so that the Member States will be able to meet them after a set period of time, e.g., for PM<sub>2,5</sub> could be proposed.

The definitions of AERO and AECO are a separate issue. It should be clarified that AERO indicates definitively that it is a 'standard' of the type of limit level (we deliberately do not use the term 'air quality standard', as this is an unspecified concept in the Directive). AECO, on the other hand, is incomprehensible, as no date of attainment is indicated, additionally it has the wording 'to be attained', but with no indication of the time of such attainment (from

the context it appears - Article 1(1), that it is probably a requirement to be fulfilled by 2050). It is not clear to what extent AECO is a binding criterion.

#### **Paragraph 4**

PL is asking what was the purpose of deleting the phrase “through proportionate measures” in the provision and adding new parts that explicitly state that concentrations of pollutants are to be at WHO recommended levels?

The Directive should set out the EU's requirements for quality standards and not directly transpose the WHO's recommendations. Therefore, PL's position is that this provision should be reworded.

#### **Article 4 Definitions**

##### **Item 27 ('target value')**

PL takes a negative view of the new wording of this definition in connection with the proposal to retain the 'target value' for ozone only.

Target values should also be set for benzo(a)pyrene, arsenic, cadmium and nickel.

##### **Items 29 and 30 ('average exposure reduction obligation', 'average exposure concentration objective')**

PL, in line with previous comments, asks for clarification of these definitions.

##### **Item 31 ('critical level')**

PL, in line with previous comments, asks for clarification as to why the phrase '*fixed on the basis of scientific knowledge*' has been deleted from the definition.

#### **Detailed comments and questions on Article 13**

##### **Title of Article 13**

PL points out that the title of Article 13 regarding the average exposure reduction obligation (AERO) does not correspond to the content of this provision, which refers only to the average exposure concentration objective (AECO).

##### **General remark**

PL requests to clarify in the draft Directive which of those used in Annexes I and II are air quality standards.

#### **Paragraph 1**

PL takes a negative view of this provision. Article 13, like Article 12, should refer to the existing limit values in Table 2 of Section 1 in Annex I, but the target values for arsenic, cadmium, nickel and benzo(a)pyrene in particulate matter PM<sub>10</sub> should remain, and not the limit values as proposed. Also, the provision does not specify whether the limit values in question are those indicated in Table 1 or Table 2.

## **Annex I**

PL opposes of Annex I.

Specifically, PL requests to reinstate the target values for As, Cd, Ni and B(a)P in Section 1 (limit values have been proposed), and to convert the proposals for new limit values set out in Table 1 into long-term objective levels or at least target values.

PL also believes that Section 4 proposes overly restrictive alert thresholds for PM<sub>2,5</sub> and PM<sub>10</sub>, and Section 5 overly restrictive requirements for AEI, AECO and AERO.

### **Paragraph 2 and Annex I, Section 2(B)**

PL calls for the ozone target values to remain unchanged.

### **Paragraph 3 and Annex I, Section 5(C)**

Comment as in Article 12(3). PL takes a negative view of the wording of this provision, which introduces a binding AERO 'standard'. This is because it states that Member States shall ensure that the AERO for PM<sub>2,5</sub> and NO<sub>2</sub> will be achieved throughout the NUTS 1 territorial units where they exceed the AECO.

On the other hand, if the proposed values will be exceeded, in accordance with Article 19(3), additional measures will have to be taken as part of new air protection programmes in the area of such a unit to ensure their achievement. This task will be very difficult, not only because of the area that will have to be covered by such a programme, but also because of the identification of the body responsible for its preparation, enactment and monitoring of its implementation, as well as the imposition of the obligation to take corrective measures resulting from it and to guarantee their financing.

### **Paragraph 6**

In view of the proposals in Section 1 of Annex I to tighten up the limit values and to abandon the target values for As, Cd, Ni and B(a)P, PL calls for a reduction in the information required, as set out in Item B of Annex VIII, which should be included in the air protection programmes for the purposes of submitting derogation applications, and for introducing the possibility of postponing the attainment of the standards for, e.g., benzo(a)pyrene.

In the introduction to the Directive, it is mentioned that Article 13 brings the air quality standards more into line with the 2021 WHO recommendations. Both in the introduction to the Directive and in the Directive itself, various parameters are covered by this term, e.g., in the introduction to the draft Directive - concerning Annex III, the air quality standards are listed in brackets: limit values, ozone target value, average exposure reduction obligations, alert thresholds and critical levels. While Annex I of the draft Directive still lists long-term objectives for ozone and information thresholds, average exposure concentration objectives (the same as in Article 1(2)), and Annex e.g., IX (C, iii) excludes AERO (average exposure reduction obligation) from the air quality standards.

It is therefore necessary to define which terms in Annexes I and II are air quality standards. This concept is used widely, also outside this Directive (e.g.,

[https://www.eea.europa.eu/themes/air/air-quality-concentrations/air-quality-standards:](https://www.eea.europa.eu/themes/air/air-quality-concentrations/air-quality-standards)  
[https://environment.ec.europa.eu/topics/air/air-quality/eu-air-quality-standards\\_en](https://environment.ec.europa.eu/topics/air/air-quality/eu-air-quality-standards_en)).

It would make sense to introduce a definition of 'air quality standard' and use it throughout the draft Directive, or to abandon this concept and give, for example, the title of Annex I as '*limit values, target values, long-term objectives, critical levels, alert and information thresholds, average exposure indicator, average exposure reduction obligations and average exposure concentration objectives*'.

## **Detailed comments and questions on Article 15**

### **Paragraph 1**

PL opposes the introduction of alert thresholds for PM<sub>10</sub> and PM<sub>2,5</sub> that were not established in Directive 2008/50/EC.

The introduction of alert thresholds for PM<sub>10</sub> and PM<sub>2,5</sub> will make it necessary to expand the public information system.

### **Paragraph 3**

The wording of this provision indicates that it will be necessary to use automatic information to inform the public of exceedances of the information or alert threshold, in particular for PM<sub>10</sub> and PM<sub>2,5</sub> (information up to a few hours after the exceedance has occurred, e.g., at 3 a.m.).

PL proposes to delete this provision or modify it so that the occurrence of an exceedance of an information or alert threshold can be verified by an expert (to avoid, for example, confusion due to equipment failure) at a later time, e.g., by 10 a.m. the following day, and to prepare the information for the public at all within a reasonable time.

At the same time, it should be pointed out that it will be very difficult to program the automatic release of data to the public to the extent indicated in Annex I.

### **Annex IX, item 3**

Until now, Directive 2008/50/EC referred only to information on the risk of exceeding the limit or target value, or information or alert thresholds.

At present it is proposed to report: an exceedance having occurred or where there is a risk of an exceedance of any limit level (as defined in Annex I Section Table 1 and 2), ozone target value, AERO, alert threshold or information threshold.

PL proposes to delete the requirement to report the risk of exceeding the AERO (as not understandable for the average citizen) and to delete the requirement to report exceedances of limit values without specifying which limit values are meant (in item 3 it should be specified that they are those that will be in force at a given time) and to add target values (in addition to ozone) so that the target values for As, Cd, Ni and B(a)P will be included).

### **Detailed comments and questions on Article 16**

PL requests to introduce in Article 16 the possibility of subtracting the contribution of forest fires from natural sources, as well as the possibility of subtracting the contribution of natural and anthropogenic sources from third (non-EU) countries, due to the fact that EU Member States have no control over such sources (e.g., forest fires).

It makes sense to specify in the Directive, the contributions from which sources (now the sources are only named in the EC guidelines and not in the current Directive) can be deducted.

### **Detailed comments and questions on Article 18**

#### **Paragraph 1**

PL requests the reinstatement of the possibility of applying for so-called deferrals and exemptions for zones where exceedances of the limit value for benzene have been found.

In connection with the proposal to tighten limit values (and replace target values with limit values), the PL also proposes to extend the list of pollutants in case of which, if the standards will be exceeded, they may be subject to derogations (e.g., benzo(a)pyrene, arsenic).

#### **Letter a**

PL requests to delete the phrase '*and meeting the requirements listed in Article 19(5) to (7)*'.

#### **Letter b and Annex VIII Letter B**

PL requests a simplification of the scope of the additional information set out in Annex VIII(B) to be included in air quality programmes for the purpose of application by Member States for deferrals and exemptions.

## CZECH REPUBLIC

### **CZ comments to the art. 12 – 23, and related annexes of the proposed revision of the ambient air quality directive.**

CZ thanks the SE Presidency for the opportunity to send written comments to the proposed revision of the ambient air quality directive. CZ still has a scrutiny reservation therefore the below mentioned comments are preliminary.

#### **Art. 12 para 1:**

CZ points out that factors such as transboundary air pollution and meteorological conditions are contributing to level of all pollutants, not just to ozone air pollution level therefore these factors should be mentioned also in para 1. CZ suggests the following:

*1. In zones where the levels of sulphur dioxide, nitrogen dioxide, particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene, carbon monoxide, arsenic, cadmium, nickel and benzo(a)pyrene in ambient air are below the respective limit values specified in Section 1 of Annex I, Member States shall maintain the levels of those pollutants below the limit values, in so far as factors including the transboundary nature of pollution of these pollutants and meteorological conditions so permit.*

#### **Art. 12 para 3:**

CZ considers the wording of para 3 as misleading. It can be read as though levels below exposure indicators should be maintained at all monitoring stations in territorial units at NUTS 1 level. This would mean that exposure indicators would basically replace limit values that are less stringent compared to exposure indicators. CZ suggests to make the following clarification.

*3. At sampling points established in accordance with Section B Annex III representing the ~~the~~ territorial units at NUTS 1 level as described in Regulation (EC) No 1059/2003 where the average exposure indicators for PM<sub>2.5</sub> and NO<sub>2</sub> are below the respective value of the average exposure concentration objectives for those pollutants as laid down in Section 5 of Annex I, Member States shall maintain the levels of those pollutants below the average exposure concentration objectives.*

#### **Art. 12 para 4:**

CZ notes that Art. 12 para 4 collides with Art. 1 para 1 that already states what is the “best ambient air quality”. CZ points out that Art. 12 para 4 sets the “second best air quality” which is misleading. It is not clear what is the connection between Art. 12 and Art 1. CZ proposes however the following:

*4. Member States shall endeavour to achieve and preserve the best ambient air quality and a high level of environmental and human health protection, in order to move closer to a zero*

*~~pollution objective as defined in Article 1 paragraph 1 in line with the air quality guidelines published by the WHO and below the assessment thresholds laid down in Annex II.~~*

#### **Art. 13 para 1:**

CZ considers the phrase “not entailing disproportionate costs” to be applicable not only to Art. 13 para 2 but also to para 1 since all pollutants are affected by transboundary air pollution and natural air pollution as it is stated in recital 34. It is unjustified to give special treatment just to ozone, even more so with respect to all the evidence gathered about the transboundary air pollution by the European Commission (for example Clean Air Outlooks). CZ therefore suggests the following:

*1. Member States shall ensure by taking all necessary measures not entailing disproportionate costs that, throughout their zones, levels of sulphur dioxide, nitrogen dioxide, particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene, carbon monoxide, arsenic, cadmium, nickel and benzo(a) in ambient air do not exceed the limit values laid down in Section 1 of Annex I.*

CZ also suggests to amend in a similar way Art. 13 para 3.

#### **Art. 13 para 5:**

CZ suggests to refer also to section B of Annex III to clarify which monitoring stations are used for assessing the average exposure indicator.

#### **Art. 14:**

CZ notes that Art. 14 is referring to Point A of Annex IV that seems to be more focused on protecting human health. CZ suggests to refer to Annex IV Section B.3 that is focused on protection of vegetation and natural ecosystems. CZ points out that critical levels are often mistaken for limit values by the public therefore the Directive should make it clear that critical levels are assessed on remote rural monitoring stations.

#### **Art. 15 para 3:**

CZ notes that para 3 requires MS to inform the public “within a few hours” about exceedances of PMs, however Section 4 of Annex I considers PMs alert thresholds to be exceeded when the thresholds are exceeded for at least “3 consecutive days”. CZ is of the opinion that para 3 is therefore in collision with Section 4 of Annex I.

#### **Section 4 of Annex I:**

CZ suggests to consider for PMs 12hour running mean concentration in order to detect exceedances of these alert thresholds. CZ would support also other averaging periods for PMs instead of 3 consecutive days that are unfit for timely detection of exceedance of PM alert thresholds.

### **Art. 16:**

CZ points out that air pollution from natural sources and transboundary air pollution are both out of reach of individual MS and both cannot be targeted by measures adopted by individual MS. MS should not be therefore held accountable for natural or for transboundary air pollution. CZ is therefore of the opinion that it should be possible to deduct transboundary air pollution in a similar manner as natural air pollution. CZ proposes to include transboundary air pollution into Art. 16 as suggested below.

#### *Article 16*

##### *Contributions from natural and transboundary sources*

1. *Member States may, for a given year, identify:*

*... (c) zones and NUTS 1 territorial units where exceedances of limit values, target values and/or exceedances of the level determined by the average exposure reduction obligations are attributable to transboundary sources*

*2. Member States shall provide the Commission with lists of any such zones and NUTS 1 territorial units, as referred to in paragraph 1, together with information on concentrations and sources and the evidence demonstrating that the exceedances are attributable to natural and/or transboundary sources.*

*(...)*

### **Art. 16 para 1 a):**

CZ notes that para 1 a) excludes target values for no apparent reasons. CZ therefore suggests to include target values as show below:

*(a) zones where exceedances of limit and/or target values for a given pollutant are attributable to natural sources; and*

### **Art. 16 para 3:**

CZ would welcome clarification whether the European Commission will not give any feedback to the information and evidence send by MS according to Art. 16 para 2. CZ notes that Art. 16 para 3 suggest that any information provided to the COM by MS will be automatically deemed as satisfactory.

CZ also proposes the following amendment of para 3 in accordance with proposals mentioned above:

*3. Where the Commission has been informed of an exceedance attributable to natural or transboundary sources in accordance with paragraph 2, that exceedance shall not be considered as an exceedance for the purposes of this Directive.*



### **Art 18 para 1:**

CZ points out that the conditions that could justify postponement of limit values mentioned in para 1 should be defined by the Commission in greater detail since they are not self-explanatory. For example, adverse climatic conditions could be understood as conditions leading to intensive household heating in winter and high PM and PAH emissions.

CZ also notes that the conditions listed in Art. 18 para 1 seem to be in general out of influence of MS therefore it is questionable whether these conditions could be targeted by air quality plans or even if MS will be able to deal with them in 5 years.

It is also not clear why does Art. 18 focuses just on some selected pollutants when it is perfectly reasonable to assume that conditions mentioned in para 1 could affect other pollutants as well.

CZ also notes that it is rather confusing that the deadlines could be postponed only once given the nature of the conditions mentioned in para 1. CZ suggests therefore to postponed deadlines repeatedly if the conditions are still present after the 5 years.

Furthermore, CZ points out that there are also other reasons relevant for postponement of the deadlines that are of similar nature (meaning difficult to be influenced by the Member States) as those mentioned in para 1 of Article 18:

- 1) Socioeconomic aspects – for example, benzo[a]pyren is mostly produced by solid fuel boilers and heaters. These boilers and heaters are mainly owned by low-income households, which means that they also have only limited options for switching to more ecological and often more expensive sources of heating.
- 2) Delayed or overestimated effects of measures taken on the Union level – achieving limit values will be heavily dependent on measures taken on the Union level as shown in the Study to support the impact assessment for a revision of the EU Ambient Air Quality Directives. Therefore, delayed or overestimated effects of these measures should be considered as a valid reason for postponement of the deadlines.

CZ therefore suggests to redraft Art. 18 para 1:

*1. Where, in a given zone, conformity with the limit and/or target values and/or exposure reduction obligation for particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) 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 due to 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:*

(...)

### **Art 18 para 2:**

CZ is of the opinion that the assessment process whether all conditions necessary for postponement are met should be more transparent in order to determine in advance whether MS are eligible to pass this exercise and successfully postpone the deadlines. CZ points out that MS are expected to prepare air quality plans aiming at achieving the postponed limit values along with other justification for the Commission. In case the COM raises objections MS might be asked to modify the air quality plan or to issue new air quality plan. Based on the experience under the current directive it can also be expected that the COM might refuse the postponement of limit values within MS territory all together.

The preparation of air quality plan and other justification for the postponement is a very time consuming process with high administrative cost. It should be therefore possible to predict in advance whether MS are able to meet conditions in the revised art. 18. Otherwise MS might end up wasting time trying to comply with Art. 18 at the expense of Art. 19.

CZ also suggests to include necessary cooperating between MS and the Commission in order to satisfy all the requirement made by the Commission. CZ therefore suggests to add at the end of para 2 the following sentence: ... *“Commission shall provide to Member States necessary assistance in order to meet all the requirements mentioned under this article.”*.

### **Annex VIII section B:**

CZ notes that the wording “indicative list” included in the name of Section B suggests that such list is not mandatory. Therefore, it is confusing to name Annex VIII as “Information to be included in air quality plans...” since this suggests mandatory inclusion of measures under Section B which doesn’t seem to be the intention here.

CZ would also welcome information how should the measures under Section B be considered in the air quality plan. CZ notes that measures ought to be designed based on air pollution analysis therefore any indicative list of measures included in the directive is redundant. If the indicative list is meant as a best practice list CZ suggest to include such measures in a guidance document rather than in the Directive.

Moreover, CZ points out that for example retrofitting small combustion sources with emission control equipment (as suggested in Section B point a) goes beyond eco-design requirements. CZ generally views the suggested measures under Section B to be not very cost effective and to be problematically enforceable. CZ therefore sees no reason to consider most of the measures mentioned in Section B in the air quality plans.

### **Art. 19: general comment**

CZ is of the opinion that the EU territory is very heterogeneous with different density of air pollution sources in each region and various levels of air pollution. It is therefore clear that the time and effort needed to deal with exceedances will be different throughout the EU territory. The time needed to deal with persisting exceedances should be ideally defined using robust

assessment within the AQP. It is unclear why the Directive predicts that 3 or 5 years in case of ozone and exposure targets will be sufficient to tackle exceedances.

CZ points out that it is not uncommon for some measures to take 10+ years to bring measurable results (shift from solid fuel boilers or optimising urban mobility network), yet this relatively long implementation phase does not mean that such measures are ineffective and should be abandoned. Furthermore, CZ notes that the 3/5year deadline to tackle exceedance as suggested in art. 19 does not consider the time needed for legislative changes necessary for measures to be implemented and time needed for mobilising necessary financial resources.

However, it should be noted that Art. 19 as a whole is very confusing, especially the timelines that are difficult to grasp since art. 19 calculate deadlines using several different metrics. For example, art. 19 contains the following: 2 after the calendar years the limit value was recorded, 3 years from the end of the calendar year the exceedance was reported, the third/fifth calendar year after the establishment of air quality plan, the subsequent calendar year. CZ suggest to unify these time periods in some sense. The text proposed by the Commission is ambiguous and hard to interpret. CZ notes that it usually takes some time to identify the exceedance therefore it would make sense to link air quality plans to the end of calendar year after the exceedance was “reported” rather than recorded which is a confusing term.

CZ also considers the requirement to issue separate AQP for ozone and exposure reduction obligations as an excessive administrative burden. Measures for these air quality standards could be easily incorporated in “regular” AQPs or in National Air Pollution Control Programme.

CZ therefore suggests to clarify and simplify Art. 19 as follows:

1. *Where, in given zones or NUTS I territorial unit the levels of pollutants in ambient air exceed any limit value, laid down in Section 1 of Annex I, or target values laid down in Section 2 of Annex I or exposure reduction obligation laid down in Section 5 of Annex I Member States shall establish air quality plans for those zones as soon as possible and no later than 2 years after the calendar year during which that the exceedance of any limit value was reported recorded. Those air quality plans shall set out appropriate measures to achieve the concerned limit value, target values or exposure reduction obligation and to keep the exceedance period as short as possible as defined by comprehensive analysis foreseen by Section A point 5, 6 and 7 of Annex VIII, and in any case no longer than 3 years from the end of the calendar year in which the first exceedance was reported. Measures aiming at achieving the concerned target values or exposure reduction obligation within NUTS I territorial units can be incorporated, together with other information required by Section A of Annex VIII, within air quality plans issued for achieving concerned limit values or within the national air pollution control programme prepared pursuant to Article 6 of Directive (EU) 2016/2284, whichever is more suitable with respect to necessary administrative powers to implement the established measures and ensure compliance with target values or exposure reduction obligation.*

*Where exceedances mentioned in the first subparagraph of any limit values persist during the third calendar year after the period defined in establishment of the air quality plan as short as possible, Member States shall update the air quality plan and the measures therein, and take additional and more effective measures. The deadlines mentioned in subparagraph 1 are*

*~~applicable in proportionate manner also for the updated air quality plan, in the subsequent calendar year to keep the exceedance period as short as possible.~~*

~~2. Where in a given NUTS 1 territorial unit, 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 NUTS 1 territorial units 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 NUTS 1 territorial unit, Member States shall update 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.~~

~~For NUTS 1 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.~~

~~3. Where in a given NUTS 1 territorial unit, the average exposure reduction obligation laid down in Section 5 of Annex I is exceeded, Member States shall establish air quality plans for those NUTS 1 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.~~

~~42. Where from [insert year 2 years after entry into force of this Directive], until 31 December 2029 in a zone or NUTS 1 territorial unit, the levels of pollutants are above any limit value to be attained by 1 January 2030 as laid down in Table 1 of Section 1 of Annex I, or exposure reduction obligation laid down in Section 5 of Annex I Member States shall establish an preparatory air quality plan for the concerned pollutant as soon as possible and no later than 2 years after the calendar year ~~during which~~ the exceedance ~~of the~~ was reported ~~recorded~~ to attain the respective limit values or ~~ozone target value~~ or exposure reduction obligation by the expiration of the attainment deadline.~~

(...)

~~Where air quality plans shall be established in respect of several pollutants or air quality standards, Member States shall, where appropriate, establish integrated air quality plans covering all pollutants and air quality standards concerned.~~

(...)

**Art. 19 para 5 subparagraph 3:**

CZ points out that it is unclear how should MS assess the risk mentioned in para 5 therefore CZ suggest to make this assessment voluntary. Ad absurdum there is always some risk of extreme pollution episodes therefore the added value of this risk assessment is unclear.

*Regarding the pollutants concerned, when preparing air quality plans, Member States shall consider to assess the risk of exceeding the respective alert thresholds. That analysis may shall be used for establishing short-term action plans where applicable.*

**Art. 19 para 7:**

CZ suggests to replace the phrase “2 months after their adoption” with “2 months after their establishment” in line with art. 19 para 1 that contains deadline for establishing air quality plans, not their adoption.

CZ also suggests to include in para 7 mandatory feedback from the Commission to the air quality plans in order to prevent future infringement procedures and to proactively monitor quality of the established air quality plans, especially given the fact that there is no common air quality plan guidance which methods should be used to prepare them.

*7. Air quality plans shall be communicated to the Commission within 2 months after their adoption. Commission shall review such air quality plans in a timely manner to verify that they meet all the necessary requirement mentioned under this article.*

**Section A point 6 v) of Annex VIII:**

CZ suggests to calculate the concentration reduction as a cumulative number for all the proposed measures since the effect of individual measure will be most probably neglectable. The added value for concentration reduction of individual measure is questionable. CZ also notes that such analysis would undermine the synergistic effect of series of measures. CZ therefore suggests to assess the concentration reduction for all of the proposed measures together.

Moreover, CZ suggests to delete point 7 (dd) since it is not clear what are these additional measures, CZ is of the opinion that AQP should include all relevant measures, therefore “additional” measures are irrelevant.

~~*7 (dd) listing and description of all additional measures, that unfold their full impact on ambient air pollutant concentrations in 3 years or more.*~~

#### **Art. 20 para 1, subparagraph 2:**

CZ points out that every alert threshold could be affected by the fact that due to national geographical, meteorological and economic conditions it might not be possible to reduce the risk or duration of such an exceedance, therefore there is no justification not to include all alert thresholds to subparagraph 2 of para 1.

CZ suggests to amend the second subparagraph as follows:

*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.*

CZ reiterates that it is necessary to clarify in the directive that in case of exceedance of alert threshold measures should be taken only if appropriate, similarly like it is drafted in the text of recital 23. CZ points out that the Copernicus Atmosphere Monitoring Service annual reports clearly showed that pollution episodes are often caused by abnormal meteorological conditions together with pollution sources located in several MS. The ability of MS to reverse such pollution episodes are therefore very limited, if not impossible.

CZ has therefore already proposed the following wording for para 33 and 37 of art. 4:

*(33) ‘alert threshold’ means a level beyond which there is a risk to human health from brief exposure for the population as a whole and at which immediate steps are to be taken by Member States, if appropriate;*

*(37) ‘short-term action plans’ means plans that set out emergency measures to be taken in the short term, if appropriate, to reduce the immediate risk or the duration of the exceedance of the alert thresholds;*

#### **Art. 20 para 5:**

CZ notes that para 1 requires to “draw up” short term action plan, such wording is not in line with para 5 that requires to submit short term action plan after their “adoption”.

#### **Art. 21 para 1:**

CZ stresses the fact that Art. 21 does not require from MS to actually implement joint activities or coordinated air quality plans. Moreover, CZ points out that MS are not able to force other MS on their own to adopt joint activities or air quality plans, therefore art. 21 is ineffective. This also affects the transboundary air pollution originating from non-EU states. CZ points out that MS cannot influence transboundary air pollution nor they can enforce implementation of measures outside their territory. For these reasons CZ suggested to deduct transboundary air pollution in a similar manner as natural air pollution (see art. 16). CZ also suggests to amend art. 21 in order to shift the responsibility for transboundary measures to the Union level that



seems to be more appropriate to deal with transboundary air pollution. CZ suggests therefore the following:

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 ~~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.~~*

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.~~*

CZ also notes that art. 4 is missing a definition of “transboundary air pollution” used in art. 21. CZ has already suggested to add new definition of “transboundary air pollution” in art. 4 for clarity.

*(X1) ‘transboundary air pollution’ means natural or anthropogenic air pollution originating from sources located outside the territory of a given Member State which cannot be directly influenced by measures taken by this Member State*

### **Art. 23 para 1:**

As has CZ already pointed out, CZ does not support the mandatory assessment of compliance with air quality standards using data that do not meet the minimum data quality objectives laid down in Annex V. This defeats the purpose of the data quality objective and quality assurance. Para 1 should therefore be amended as follows:

*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~~ excluding data not being in of compliance*

CZ also reiterates that similar changes must be reflected in Annex V section C:

*C. Methods for assessing compliance and estimating statistical parameters to account for low data coverage or significant data losses*

*An assessment of compliance with the relevant limit and ozone target value ~~shall~~ may be carried out regardless of whether the data quality objectives are achieved, provided the available data, including modelled concentrations, allows for a conclusive assessment. ~~In cases relating to the short-term limit and ozone target values, measurements that only cover a fraction of the calendar year, and that have not delivered sufficient valid data as required by Point B, may still constitute non-compliance. Where this is the case, and there are no clear grounds to doubt the quality of the valid data acquired, this shall be considered an exceedance of the limit or target value and be reported as such.~~*

### **Art. 23 para 2:**

CZ does not consider the proposed shorter deadline for the reporting obligations as adequate. CZ sees the newly proposed deadline as unrealistic with respect to the time needed for validation of air quality data and with respect to the quality check and blocker implemented within the EEA Data repository system that are constantly changing.