

Brussels,
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16. 01. 2009

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Dear Mrs Lucas,
Dear Mr Bowis,
Dear Baroness Ludford

I appreciate your continuous interest in the implementation of the new Directive 2008/50/EC on ambient air and cleaner air for Europe, and in particular its application in relation to the spatial development at Heathrow.

Article 4 of Directive 1999/30/EC sets a limit value of 40 micrograms/m³ for NO₂ and requires this limit to be achieved by 1 January 2010. This limit value and its attainment date have been reconfirmed in the new air quality Directive 2008/50/EC which will replace Directive 1999/30/EC. The requirement to comply with this limit value is not conditional on economic cost (as is the case for some other pollutants such as ozone).

However, Article 22(1) of Directive 2008/50/EC provides for the possibility to postpone attainment of the NO₂ limit value by a maximum period of five years where certain specific conditions are satisfied. Member States wishing to do so must notify the Commission and bear the burden of proof to demonstrate that the conditions for the postponement are met. If the Commission considers that the conditions for a postponement or an exemption have not been met, it may raise objections within nine months of receipt of the notification.

Notifications must be accompanied by an air quality plan for the zone or agglomeration concerned. Article 22(1) provides that the deadlines for attainment of the limit values for nitrogen dioxide may be postponed where conformity with the limit values cannot be achieved by the attainment date, i.e. 1 January 2010. As explained in paragraph 21 of Commission Communication COM(2008) 403, a notification for a postponement must indicate the measures taken before 2010 in accordance with Article 4(1) of Directive 1999/30/EC, and explain the reasons why those measures have not brought about compliance. It is only if Member States can show that efforts have been made to achieve compliance, that they can claim that conformity with the limit values cannot be achieved by the deadline.

Mrs Caroline LUCAS, MEP
Mr John BOWIS, MEP
Baroness Sarah LUDFORD, MEP
European Parliament
Rue Wiertz
B - 1047 Brussels

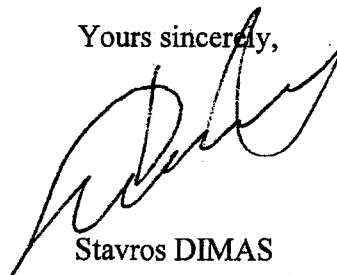
The maximum period by which the achievement of the limit value can be postponed is 5 years. A postponement pursuant to that Article is an exception to the general obligation to comply with the limit values and should be interpreted strictly. The objective of the air quality plan supporting the notification on time extension and the measures introduced should therefore be that the exceedance of the limit value is kept as short as possible. Notifications should include information that allows the assessment of the time needed to achieve compliance. Even where the attainment of the limit value is postponed, Member States must ensure that the limit value is not exceeded by more than the margin of tolerance specified in Annex XI to the Directive i.e. 60 micrograms/m³ for the annual NO₂ limit value.

While postponement decisions will apply to individual zones or agglomerations, the assessment will take into account all exceedance situations within such a zone or agglomeration. This is to ensure that abatement measures comprehensively address all different reasons for exceedance and ensure compliance throughout the zone or agglomeration by the extended deadline. The scope of the assessment can thus be established only on the basis of the information provided in the notification. Based on the publicly available information such as Mayor's Air Quality Strategy for London, the current expectation of the Commission services is that area around Heathrow while being part of the Greater London agglomeration should be in the notification treated as a specific exceedance situation that requires targeted analysis and measures.

A notification regarding Greater London Area is to be submitted by the UK competent authority, and the assessment will be carried out on the basis of the supporting documentation provided with the notification by that authority.

I am grateful for the offer to support the assessment of a potential UK notification through contacts with local Councils and will consider it, as appropriate, once the notification is received by the Commission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stavros DIMAS', written in a cursive style.

Stavros DIMAS