



15/12/2023

NOTICE TO MEMBERS

Subject: Petition No 0951/2020 by Maria Teresa Fortini (Italian) on behalf of Movimento 5 Stelle, on nitrogen oxide pollution in Bolzano Province in Italy

1. Summary of petition

The petitioner deplores the fact that Bolzano Province suffers from serious air pollution, which frequently, persistently and systematically exceeds the legal limits for air quality. According to the petitioner, air quality assessment figures from 2010 to 2017, published on 11 May 2018 by the Provincial Environment Agency of the Autonomous Province of Bolzano, revealed that in some parts of Bolzano Province limit values for nitrogen oxide were exceeded or nearly exceeded. The petitioner concludes, therefore, that the public authorities' management of air quality in Bolzano Province is exposing the public to a high risk to their health that is both foreseeable and avoidable, and which could result in a significant number of premature deaths.

2. Admissibility

Declared admissible on 4 December 2020. Information requested from Commission under Rule 227 (6).

3. Commission reply, received on 23 March 2021

The Commission's observations

The EU limit values for nitrogen dioxide (hereinafter: NO₂) have been laid down by Directive 2008/50/EC on ambient air quality and cleaner air for Europe¹ and adhere to the recommendations by the World Health Organization (WHO). The annual limit value is

¹ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe, OJ L 152, 11.6.2008, p. 1–44.

40 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), and is binding since 1 January 2010.

Concentrations of NO_2 in ambient air are assessed by a combination of fixed measurements, indicative measurement and modelling. The annual mean NO_2 concentration levels reported by the Italian authorities for air quality zone IT 0445 (South Tyrol) which includes the province of Bolzano, were, from 2011 to 2014 the following: 46, 44, 43, 41 $\mu\text{g}/\text{m}^3$.

In 2015, the Commission addressed a letter of formal notice to Italy for a number of air quality zones where the annual limit value of 40 $\mu\text{g}/\text{m}^3$ was exceeded (based on data reported for the period 2010 to 2014). The letter of formal notice was followed by a reasoned opinion and application to the Court of Justice of the European Union in 2017². The case is currently pending before the Court of Justice of the European Union.

When the case was launched, based on the latest available data reported by the Italian authorities, Bolzano could not be included, as it did not fulfill the conditions of being in a serious and persistent breach. This is because of a steadily decreasing trend, and a relatively small compliance gap at the time (i.e. 1 $\mu\text{g}/\text{m}^3$ in 2014) seemed to indicate that this zone was on a path to foreseeable compliance.

Since 2015, a new sampling point has been located in an area with higher nitrogen oxides (NO_x) emissions, and which appears to be more representative of an area where the highest concentrations occur due to road traffic. NO_2 concentration levels registered in that sampling point exceed 50 $\mu\text{g}/\text{m}^3$.

According to the Directive, limit values must be complied with in all sampling points and shall be sited in a way as “to provide data on the areas within zones or agglomerations where the highest concentrations occur to which the population is likely to be directly or indirectly exposed for a period which is significant in relation to the averaging period of the limit value”³. The air quality plan of the Bolzano province indicates that full compliance throughout its territory will be reached in year 2023.

Conclusion

The Commission is currently in the process of reviewing its assessment concerning the NO_2 compliance issue in air quality zone IT 0445 (South Tyrol), which includes the province of Bolzano. This will be taken into account in the exchanges with the Italian authorities, depending on the outcome of the case currently before the Court of Justice of the European Union.

4. Commission reply (REV), received on 15 December 2023

The Commission's observations

The annual limit value set out under Directive 2008/50/EC on ambient air quality and cleaner air for Europe⁴ for nitrogen dioxide (hereafter NO_2) is 40 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Concentrations of NO_2 in ambient air are assessed by a combination of fixed measurements,

² https://ec.europa.eu/commission/presscorner/detail/en/IP_17_238

³ Annex III, Section B.1.

⁴ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe, OJ L 152, 11.6.2008, p. 1–44.

indicative measurement and modelling. The annual mean NO₂ concentration levels reported by the Italian authorities from 2015 to 2021 for air quality zone IT 0445, which includes Bolzano, were the following: 64, 62, 63, 58, 54, 44, 45 µg/m³. The reported data indicate that air quality zone IT 0445 reached compliance in 2022, with an annual mean NO₂ concentration of 39 µg/m³.

On 12 May 2022, the Court of Justice of the EU delivered its judgment in Case C-573/19, *Commission v Italy*⁵. Thereby, the Court of Justice of the EU found that Italy had failed to comply with Article 13(1) of, in conjunction with Annex XI to, Directive 2008/50/EC on ambient air quality and cleaner air for Europe (hereafter ‘the Directive’) by failing to ensure that the annual limit value for NO₂ was not systematically and persistently exceeded in several zones and agglomerations, and that Italy had failed to meet its obligations under Article 23(1) of that Directive, on its own and in conjunction with Section A of Annex XV to the Directive, by failing to adopt, as from 11 June 2010, appropriate measures to ensure compliance with the annual limit value set for NO₂ and, in particular, by failing to ensure that the air quality plans provide for appropriate measures to ensure that the period of exceedance of that limit value is kept as short as possible.

The Commission is in contact with the Italian authorities and closely follows the measures put in place by Italy or required to bring the exceedances of NO₂ to an end, in line with the judgment. This requires systemic action that should have broader positive effects also on the zones that are not included in these infringements such as zone IT 0445.

Given that three infringement procedures concerning air pollution have started against Italy, the Commission has not opened any additional infringement procedure to date. The Commission expects that the measures taken by the Italian authorities to solve the pending infringements will extend beyond the scope of those procedures and ensure the full and effective implementation of the Ambient Air Quality Directives across Italy.

Conclusion

The Court has recognised Italy’s non-compliance with the Ambient Air Quality Directives identified by the Commission. The data reported by the Italian authorities indicate that air quality zone IT 0445 reached compliance in 2022. The Commission is currently assessing Italy’s compliance with the judgment in Case C-573/19 and closely follows the adoption of measures to bring the exceedances of NO₂ to an end.

⁵ The Court’s judgment of 12 May 2022 in Case C-573/19, *Commission v Italy* is available at: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=259201&pageIndex=0&doclang=it&mode=lst&dir=&occ=first&part=1&cid=1652882>