

# \* EU AIR PROTECTION EFFORT: SIGNIFICANCE OF AIR QUALITY PLANS in EU MS

Ilona Jancarova

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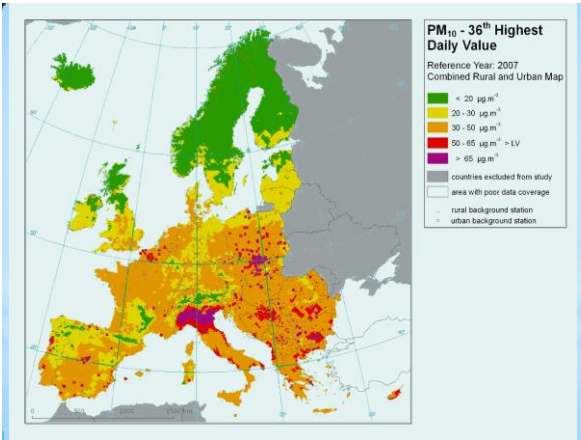
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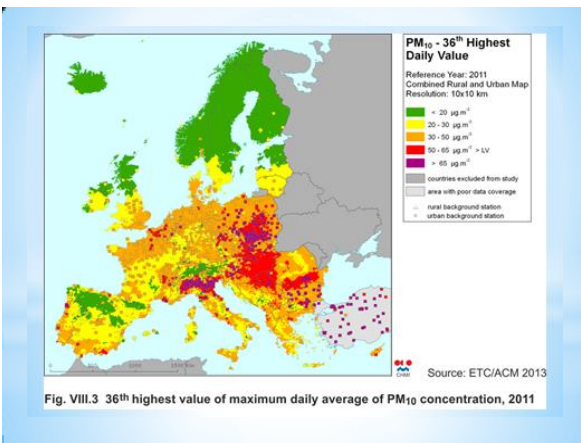


Fig. VIII.3 36<sup>th</sup> highest value of maximum daily average of PM<sub>10</sub> concentration, 2011

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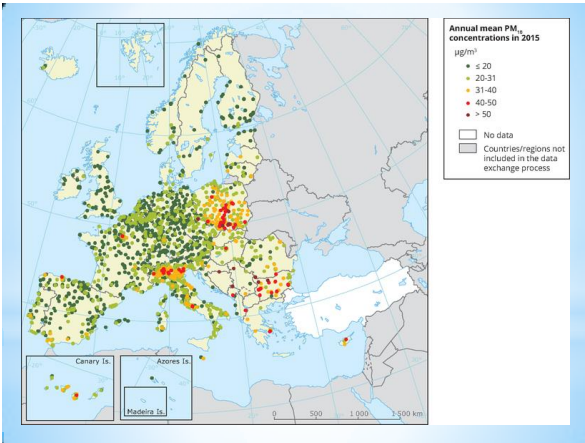
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A/ Regulation of sources of pollution → ELV, NEC  
 B/ Regulation of air quality → AQLV

**\* EU LEGISLATIVE APPROACH TO AIR POLLUTION**

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**A/ Regulation of sources of pollution**

- \* Directive 2016/2284/EU on the reduction of national emissions of certain atmospheric pollutants
- \* Directive 2001/81/EC, on National Emission Ceilings (NECD) repealed
- \* Directive 2010/75 on emissions from industrial installations (IED)

**\* National emission ceilings  
 National emission reduction commitments  
 National air pollution control programmes**

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**The objective:**

\* to limit emissions of acidifying and eutrophying pollutants and ozone precursors in order to improve the protection of the environment and human health in the EU

Directive sets national reduction commitments for five pollutants:

- \* SO<sub>2</sub>
- \* NO<sub>x</sub>
- \* VOC
- \* NH<sub>3</sub> (ammonia)
- \* PM<sub>2,5</sub>



**\* DIRECTIVE 2016/2284**  
**on the reduction of national emissions**  
**of certain atmospheric pollutants**

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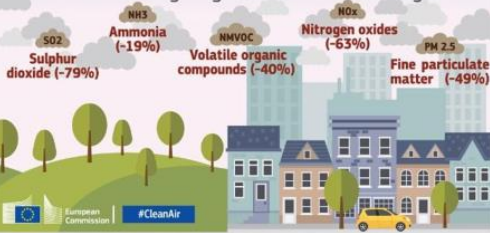
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**Pollutants covered by EU National Emission Ceilings legislation and 2030 targets**



**MS must produce National Air Pollution Control Programme by March 2019**

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Member State	NH <sub>3</sub> reduction compared with 2005		PM <sub>2,5</sub> reduction compared with 2005	
	For any year from 2020 to 2029	For any year from 2030	For any year from 2020 to 2029	For any year from 2030
Belgium	2 %	13 %	20 %	39 %
Bulgaria	3 %	12 %	20 %	41 %
Czech Republic	7 %	22 %	17 %	60 %
Denmark	24 %	24 %	33 %	55 %
Germany	5 %	29 %	26 %	43 %
Estonia	1 %	1 %	15 %	41 %
Greece	7 %	10 %	35 %	50 %
Spain	3 %	16 %	15 %	50 %
France	4 %	13 %	27 %	57 %
Croatia	1 %	25 %	18 %	55 %
Ireland	1 %	5 %	18 %	41 %
Italy	5 %	16 %	10 %	40 %
Cyprus	10 %	20 %	46 %	70 %
Latvia	1 %	1 %	16 %	43 %
Lithuania	10 %	10 %	20 %	36 %

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The national emission ceilings/commitments are to be attained through reductions of the emissions of various sources:

- \* industrial plants (e.g. energy generation, waste incineration) - Directive 2001/80(large combustion p.)
  - Directive 2000/76 (waste incineration)
  - Directive 2008/1 (IPPC)

↓

- Directive 2010/75 on industrial emissions (IED)

- \* medium sized combustion plants (Directive 2015/2193)
- \* mobile sources (cars, boats, aircrafts)
- \* agricultural sources

**\* Emission limit values**  
**Best available technology**

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**Emission limit values for new medium combustion plants**  
*Table 1*  
Emission limit values (mg/Nm) for new medium combustion plants other than engines and gas turbines

Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	200 <sup>(19)</sup>	400	—	350 <sup>(20)</sup>	—	35 <sup>(21)</sup> <sup>(22)</sup>
NO <sub>x</sub>	300 <sup>(23)</sup>	300 <sup>(23)</sup>	200	300 <sup>(24)</sup>	100	200
Dust	20 <sup>(25)</sup>	20 <sup>(25)</sup>	—	20 <sup>(26)</sup>	—	—

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- \* Directive 2016/2284/EU on the reduction of national emissions of certain atmospheric pollutants
- \* Directive 2010/75 on Emissions from industrial installations (IED) and others



- \* Directive 2008/50/EC on ambient air quality and cleaner air for Europe
- \* Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air

**\* Air quality plans**  
**Air Quality limit values**  
**Short term action plans**

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Member States are obligated:

- \* to establish zones and agglomerations in their territory
- \* to ensure a **good quality of the ambient air** (e.g. not to exceed limit values) throughout all zones and agglomerations
- \* to establish **air quality plans** for zones and agglomerations where the levels of pollutants in ambient air exceed the limit value plus relevant margin of tolerance (AQPs)



## \* Art. 13 and 23.1 Directive 2008/50

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- \* Air quality plans are regarded to SO<sub>2</sub>, NO<sub>2</sub>, benzene, carbon monoxide, lead, PM<sub>10</sub>, (limit values) and PM<sub>2,5</sub> (target value).
- \* Consistency with other plans must be ensured.
- \* Information to be included in AQPs are delimited in section A of the **Annex XV** of the Directive.
- \* Air quality plans must set out **appropriate measures, so that the exceedance period can be kept as short as possible.** (Art. 23.1)

## \* Requirements on content of AQP

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- \* How to implement the Art. 23.1?
- \* What measures are „appropriate“ ?
- \* What time period is “as short as possible”?
- \* What are the criteria to assess planned measures?
- \* What is the relation of AQPs to other regulatory instruments?
- \* What is the relation of Art. 23.1 to Art. 13.1?



- \* C- 28/09 Commission v. Austria
- \* C- 488/15 Commission v. Bulgaria
- \* C- 336/16 Commission v. Poland

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## \*Development Projects in Prague

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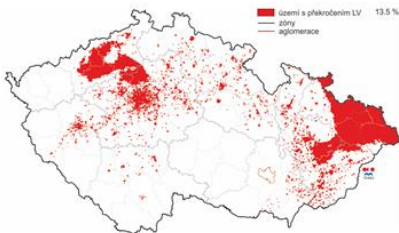
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### OBLASTI SE ZHORŠENOU KVALITOU OVZDUŠÍ 2014



Obr. VII.1 Vyznačení oblastí s překročenými limisními limity pro ochranu zdraví bez zahrnutí přízemního ozonu, 2014  
Zdroj: MŽP

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### \* AIR QUALITY PLAN (Prague Agglomeration)



\*Measures to reduce the impact of the traffic on the air quality → discrepancy with projected activity

\*Is it possible to permit a new building with a large parking lot?

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- \* Air Protection Authorities (APAs) **are bound** by the limit values for the concentration of main pollutants (SO<sub>2</sub>, NO<sub>x</sub>, CO, benzene, PM<sub>10</sub>, PM<sub>2,5</sub> and lead) in the ambient air in their decision-making.
- \* APAs are entitled to depart from this rule only if adequate **compensatory measures** are proposed in the project.
- \* APAs must not permit the operation of the source of pollution prior to realization of projected compensatory measures.

## \* DECIDING ON THE PROJECT IN CZECHIA

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- \* Regional emission ceilings must be incorporated into the AQPs; APAs have to **respect emission ceilings** set for the given region/agglomeration in their decision-making.
- \* APAs are entitled to set **conditions** in the permit to carry out the activity.
- \* Air Protection Authorities (APAs) are obligated to **come out of Air Quality Plans (AQPs) and of concentrations of polluting substances in ambient air**

## \* DECIDING ON THE PROJECT IN CZECHIA

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- \* APAs are bound by the AQ limit values
  - \* To „come out of AQP“  AQP measures are binding
  - \* The building with the parking lot may be permitted on condition that compensatory measures will be carried out to minimize the pollution.
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- \* no increments to existing pollution,
  - \* reduction of pollution - gradual (AQP are taken into account) - consideration of other interests.

## \* DECIDING ON THE PROJECT IN CZECHIA

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\*In exercising discretion the Member States should, in addition to the aim of minimizing the exceedance, also take into account the **balance which must be maintained between that objective and the various opposing public and private interests** (C-237/07 (46))

\*The air quality plans under Article 23(1) of Directive 2008/50 can also be adopted only on the basis of a **balance of interests**. (Commission v. Bulgaria, Juliane Kokott, 2016)

### \* AIR QUALITY PLANS REQUIREMENTS

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The Municipal Court in Prague, Case 11A 84/2016:

\* 2 NGOs and Mr. B. took the MOE of the CR to the Court  
\* AQP for Ostrava-Karviná agglomeration does not include air pollution reduction measures capable to achieve EU AQLV so that the exceedance period can be kept as short as possible.



\* declared that AQP is a conception document which was subject to SEA,  
\* denied to review expert findings,  
\* dismissed the case.

### \* Challenging the quality of AQP by the public

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\* The AQP must demonstrate **how** conformity with the limit values will be achieved.

\* **The duty not to exceed limit values is based on Art. 13.1.**

\* To verify the effectiveness of AQPs, Commission **relies on air monitoring data**

\* **AQPs are part of the whole system of legal tools; their significance should not be exaggerated!**

\* The interpretation of Art. 23.1 is difficult.

### \* CONCLUSION and aftermath

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- \*The latest Amendment to the Air Protection Act granted APAs the right to enter private homes to check small stationary sources of pollution.
- \*This was considered as **the breach of constitutional right** ensuring „untouchable inhabitation“ by many.
- \*Constitutional Court denied the proposal for derogation of that part of the Air Protection Act in July 2017

## \*Aftermath ....

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- \*Short term action plans - for zones or agglomerations, where is a risk that the levels of pollutants will exceed one or more of the **alert thresholds specified in Annex XII**:
- \*measures to be taken in the short term in order to reduce the risk or duration of such an exceedance
- \*action plans provide for effective measures to control and, where necessary, suspend activities which contribute to the risk of the respective limit values or target values or alert threshold being exceeded
- \* must be made public

## \*Short term action plans

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\* *Thank you for your attention*

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