

AIR PROTECTION

ILONA JANCAROVA

SUBSTANTIVE EUROPEAN ENVIRONMENTAL LAW

Environmental problems related to air :

- Air pollution (emissions of polluting substances)
- Ozone layer depletion
- Greenhouse effect (global climate change)

LEGISLATION ON AIR POLLUTION - INTERNATIONAL BACKGROUND

1979 Geneva Convention on Long-range transboundary air pollution

- Protocol EMEP (monitoring, evaluation)
- Protocol of Helsinki (SOx)
- Protocol of Sofia (Nox)
- Protocol of Aarhus (heavy metals)
- Protocol of Gothenburg (acidification, eutrophication, ground-level ozone)

EU LEGISLATION ON AIR POLLUTION

A/ Regulation of sources of pollution

B/ Air quality standards



EU LEGISLATION ON AIR POLLUTION- AMBIENT AIR QUALITY

1980s

- Directive 80/779 (SOx)
- Directive 82/884 (lead)
- Directive 85/203 (NOx)

1990s

- Directive 92/72
- Framework Directive 96/62 on ambient air quality assessment and management
- replaced by

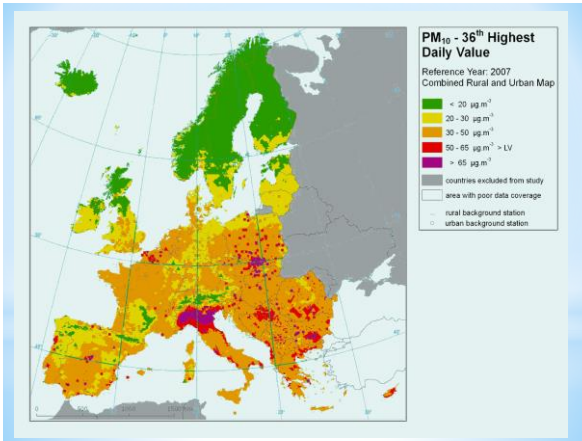


- **Directive 2008/50/EC on ambient air quality and cleaner air for Europe**

DIRECTIVE 2008/50/EC

Aim (Art. 1):

1. defining and **establishing objectives for ambient air quality** designed to avoid, prevent or reduce harmful effects on human health and the environment as a whole;
2. **assessing the ambient air quality** in Member States on the basis of **common methods** and criteria;
3. **obtaining information on ambient air quality** in order to help combat air pollution and nuisance and to monitor long-term trends and improvements resulting from national and Community measures;
4. ensuring that such **information** on ambient air quality is made **available to the public**;
5. **maintaining air quality where it is good and improving it in other cases**;
6. promoting increased **cooperation** between the Member States in reducing air pollution.



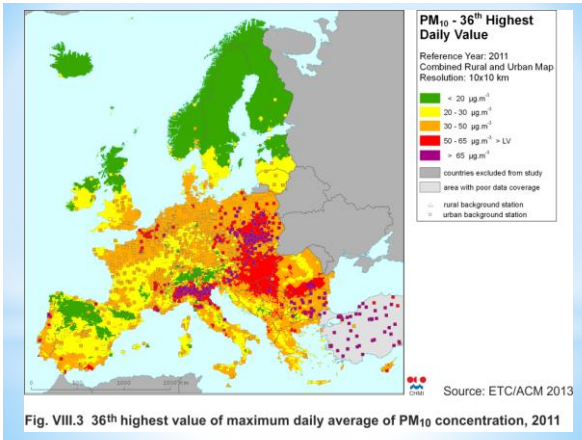
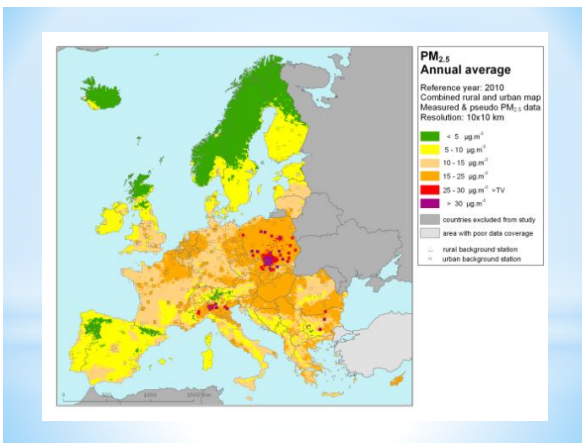


Fig. VIII.3 36th highest value of maximum daily average of PM₁₀ concentration, 2011



DIRECTIVE 2008/50/EC

- **Ambient air** – outdoor air in the troposphere, excluding workplaces
- **Pollutant**– any substance present in the ambient air or the deposition thereof on surfaces in a given time
- **Limit value** - a level of concentration of a pollutant in ambient air fixed on the basis of scientific knowledge, with the aim of avoiding, preventing or reducing harmful effects on human health and/or the environment as a whole, to be attained within a given period and not to be exceeded once attained
- **Margin of tolerance** - the percentage of the limit value by which that value may be exceeded

DIRECTIVE 2008/50/EC

- **"limit value"** - a level fixed on the basis of scientific knowledge, with the aim of avoiding, **preventing or reducing harmful effects on human health and/or the environment as a whole**, to be attained within a given period and not to be exceeded once attained;
- **"alert threshold"** - 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 the Member States;
- **"information threshold"** - a level beyond which there is a risk to human health from brief exposure for particularly sensitive sections of the population and for which immediate and appropriate information is necessary;
- **"critical level"** - a level fixed on the basis of scientific knowledge, above which direct **adverse effects may occur** on some receptors, such as trees, other plants or natural ecosystems but **not on humans**;

DIRECTIVE 2008/50/EC

Limit values for the protection of human health that are not to be exceeded:

- Sulphur dioxide
- Nitrogen dioxide
- Particulate matter (PM10)
- Lead
- Benzen
- Carbon monoxide

(Art. 13 in connection with Annex XI)

Averaging period: 1 hour, 8 hours, 24 hours, calendar year



Duties for MS to ensure that, levels of these pollutants in ambient air do not exceed the limit values laid down in Annex XI.(Art.13)

DIRECTIVE 2008/50/EC

Alert thresholds for the protection of human health (Art. 13, Annex XII)

- sulphur dioxide
- nitrogen dioxide

Information thresholds (Annex XII)



MS - duty to inform the public
- duty to inform Commission (Art. 19)

DIRECTIVE 2008/50/EC

Critical levels for the protection of vegetation (Art. 14, Annex XIII)

- sulphur dioxide
- nitrogen dioxide



MS ensure compliance with critical levels

DIRECTIVE 2008/50/EC

- **"target value"** - a level fixed with the aim of avoiding, preventing or reducing harmful effects on human health and/or the environment as a whole, to be attained where possible over a given period;
- **"long-term objective"** - a level to be attained in the long term, save where not achievable through proportionate measures, with the aim of providing effective protection of human health and the environment;

- PM_{2,5}
- Ground level ozone



MS duties
(Art. 16-18)

DIRECTIVE 2008/50/EC

- **Air quality plans** - for zones or agglomerations, where the levels of pollutants in ambient air exceed any limit value or target value, plus any relevant margin of tolerance

- must be communicated to the

Commission



appropriate measures to achieve the limit/s as soon as possible

appropriate measures, so that the exceedance period can be kept as short as possible

DIRECTIVE 2008/50/EC

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

DIRECTIVE 2008/50/EC

Information and reporting

A/ Info for the public on:

- ambient air quality
- any exemptions and/or postponement decisions
- air quality plans and programmes
- annual reports for all pollutants covered by the Directive

B/ Info reported to the Commission:

- info on ambient air quality
- the changes made in that year to the list and delimitation of zones and agglomerations established under Article 4;
- the list of zones and agglomerations 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

CASE C-237/07

DIETER JANECEK V FREISTAAT BAYERN

- 1. Article 7(3) of Council Directive 96/62/EC, as amended, must be interpreted as meaning that, where there is a risk that the limit values or alert thresholds may be exceeded, persons directly concerned must be in a position to require the competent national authorities **to draw up an action plan**, even though, under national law, those persons may have other courses of action available to them for requiring those authorities to take measures to combat atmospheric pollution.
- 2. The Member States are obliged, subject to judicial review by the national courts, only to take such measures – in the context of an action plan and in the short term – **as are capable of reducing to a minimum the risk that the limit values or alert thresholds may be exceeded and of ensuring a gradual return to a level below those values or thresholds**, taking into account the factual circumstances and all opposing interests.

CLIENTEARTH V THE SECRETARY OF STATE FOR THE ENVIRONMENT, FOOD AND RURAL AFFAIRS.

- Where it is apparent that conformity with the limit values for nitrogen dioxide established in Annex XI to Directive 2008/50 cannot be achieved in a given zone or agglomeration of a Member State by 1 January 2010, the date specified in that annex, and that Member State has not applied for postponement of that deadline under Article 22(1) of Directive 2008/50, **the fact that an air quality plan which complies with the second subparagraph of Article 23(1) of the directive has been drawn up, does not, in itself, permit the view to be taken that that Member State has nevertheless met its obligations under Article 13 of the directive.**
- Where a Member State has failed to comply with the requirements of the second subparagraph of Article 13(1) of Directive 2008/50 and has not applied for a postponement of the deadline as provided for by Article 22 of the directive, it is for the **national court** having jurisdiction, should a case be brought before it, **to take**, with regard to the national authority, any **necessary measure, such as an order in the appropriate terms, so that the authority establishes the plan required by the directive in accordance with the conditions laid down by the latter.**

EU LEGISLATION ON AIR POLLUTION - REGULATION OF SOURCES OF POLLUTION

- **Directive 2001/81 on national emission ceilings for certain atmospheric pollutants** ➡ **2016/2284**
- Directive 2001/81/EC is repealed with effect from 1 July 2018.



covers all emissions resulting from human activity from the territory of MS and their exclusive economic zones irrespective of the source

EU LEGISLATION ON AIR POLLUTION - REGULATION OF SOURCES OF POLLUTION

The national emission ceilings 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)

- **mobile sources** (cars, boats, aircrafts)

DIRECTIVE 2001/81 ON NATIONAL EMISSION CEILINGS

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 EU

Pollutants covered

- | | |
|-------------------|--------------------|
| 2001/81: | 2016/2284: |
| • SO ₂ | + PM 2,5 |
| • NO _x | + other pollutants |
| • VOC | referred to I. |
| • NH ₃ | in Annex |



DIRECTIVE 2001/81 ON NATIONAL EMISSION CEILINGS

- EU emission ceilings for SO₂, NO_x and VOC (temporary)



- Annex II

- National emission ceilings for SO₂, NO_x, VOC, NH₃



- Annex I
- to be attained by 2010

DIRECTIVE 2001/81
ON NATIONAL EMISSION CEILINGS

- **National emission ceiling** means the maximum amount of a substance expressed in kilotonnes, which may be emitted from a Member State in a calendar year;
- **Critical level** means the concentration of pollutants in the atmosphere above which direct adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur, according to present knowledge
- **Critical load** means a quantitative estimate of an exposure to one or more pollutants below which significant adverse effects on specified sensitive elements of the environment do not occur, according to present knowledge;

DIRECTIVE 2001/81
ON NATIONAL EMISSION CEILINGS

Duties of MS:

- to **limit their annual national emissions of the pollutants** to amounts not greater than the emission ceilings set in Annex I by 2010
- not to exceed emission ceilings in any year after 2010
- to draw up **national emission reduction programmes** (Art. 6)
- to make an **inventory of emissions** taking place on their territory (Art. 7)
- to **report** those programmes and inventories to the Commission and to the European Environment Agency

DIRECTIVE 2010/75
ON INDUSTRIAL EMISSIONS

Repealing :

- Directive 2000/76/EC
- Directive 2008/1/EC
with effect from 7 January 2014,
- Directive 2001/80/EC
with effect from 1 January 2016



Directive 2010/75 on Emissions from industrial installations (IED)

DIRECTIVE 2010/75
ON INDUSTRIAL EMISSIONS

- IED integrates 7 directives (78/176/EEC, 82/883/EEC, 92/112/EEC, 1999/13/EC, 2000/76/EC and 2008/1/EC, 2001/80/EC)

• **Scope of IED:**

- industrial activities giving rise to pollution referred to in Chapters II to VI (Annex I.)
- directive shall not apply to research activities, development activities or the testing of new products and processes.

DIRECTIVE 2010/75
ON INDUSTRIAL EMISSIONS

IED requirements:

- permit for all installations covered by the directive
- emission limit values
- application of BAT
- exchange of information in BAT between MS, industries and NGOs
- special provisions for large combustion plants and for waste incineration and co-incineration plants
- special provisions for installations using solvents
- participation of the public
- rules on incidents and accidents
- environmental quality standards

REGULATION OF POLLUTION CAUSED
BY MOBILE SOURCES OF POLLUTION

Directive 70/220 on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles

- no MS may refuse type-approval to vehicles whose emissions meet the standards laid down in the annexes to the directive
- replaced by

Regulation 715/2007 on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (**Euro 5 and Euro 6**)

- rules for the harmonized introduction of the Euro 5 and Euro 6 emissions standards

REGULATION OF SUBSTANCES

Directive 2009/30/EC

- rules on the specifications various fuels have to meet so that they can be marketed throughout the European Union (sulphur content etc.)

Paints directive 2004/42

- intends to limit emissions of VOC from paints and varnishes (contains limit values for VOCs)
- MS must ensure that only paints that meet the limit values are placed on the market (Art. 3)
- exemption for restoration purposes
