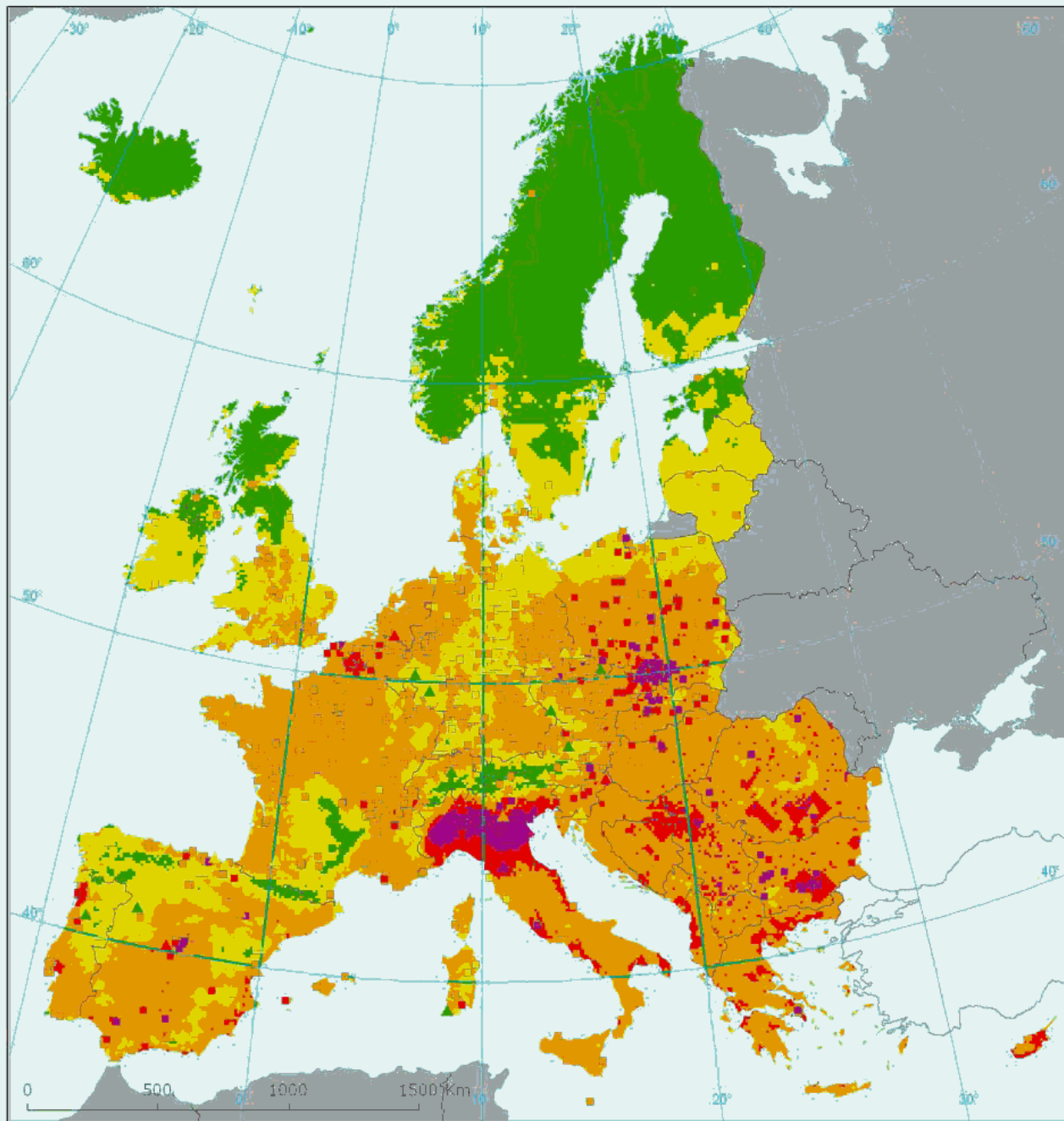




EU AIR PROTECTION EFFORT: SIGNIFICANCE OF AIR QUALITY PLANS in EU MS

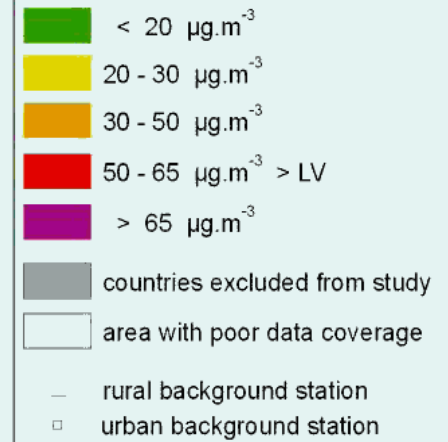
Ilona Jancarova



PM₁₀ - 36th Highest Daily Value

Reference Year: 2007

Combined Rural and Urban Map



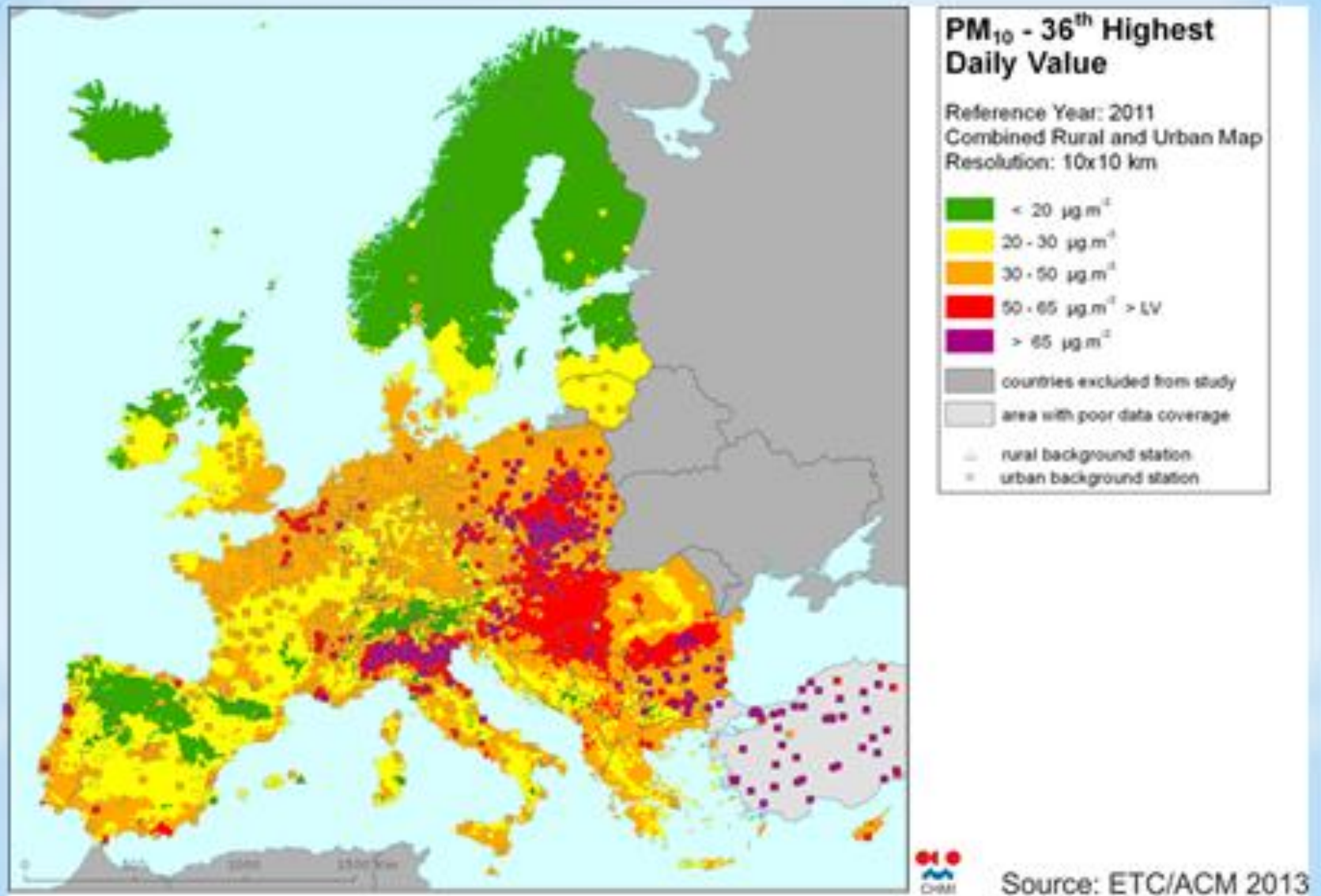
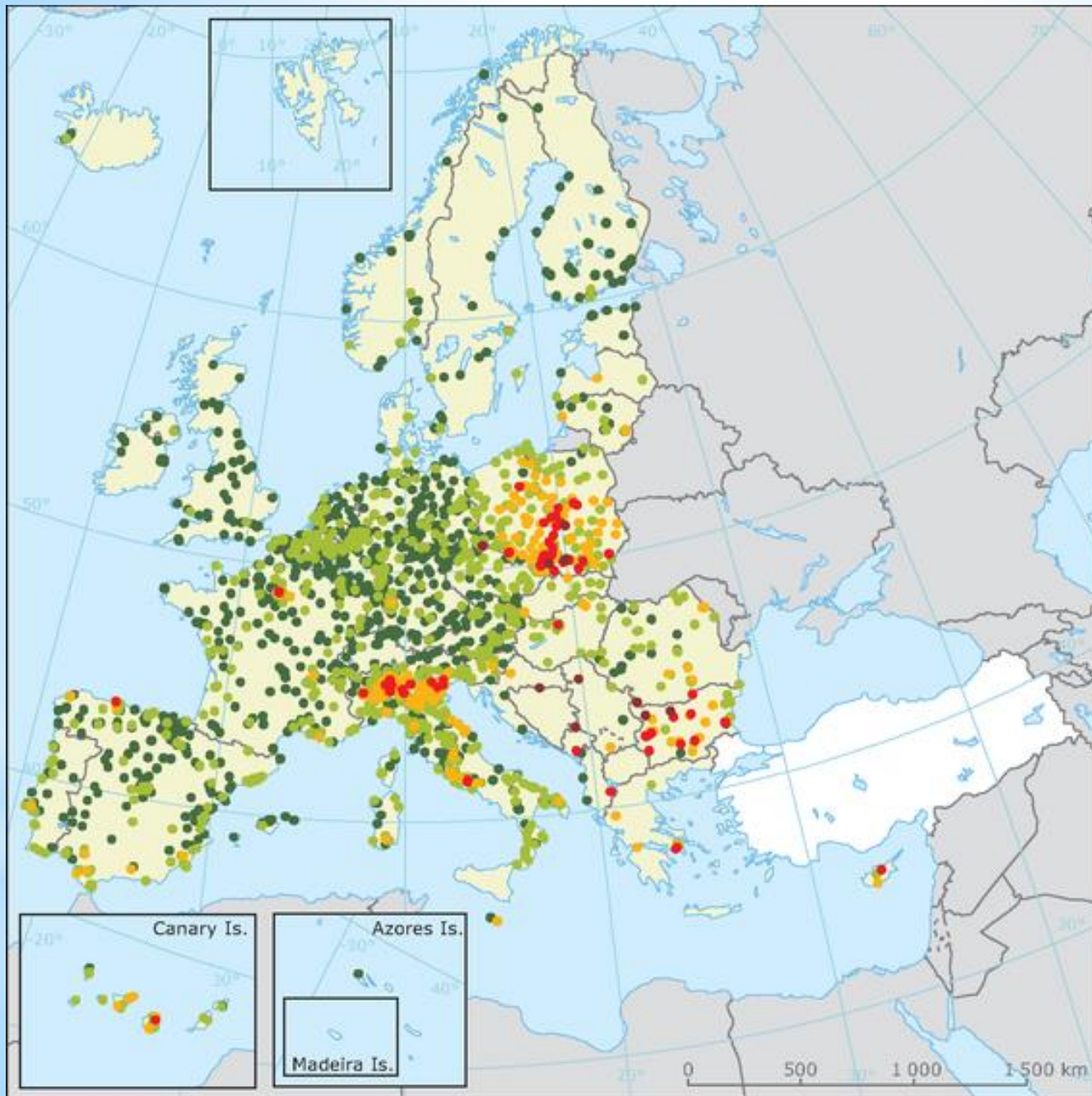


Fig. VIII.3 36th highest value of maximum daily average of PM₁₀ concentration, 2011



Annual mean PM₁₀ concentrations in 2015

$\mu\text{g}/\text{m}^3$

- ≤ 20
- 20-31
- 31-40
- 40-50
- > 50

- No data
- Countries/regions not included in the data exchange process

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



* EU LEGISLATIVE APPROACH
TO AIR POLLUTION

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- * *Directive 2001/81/EC, on National Emission Ceilings (NECD) repealed*



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

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

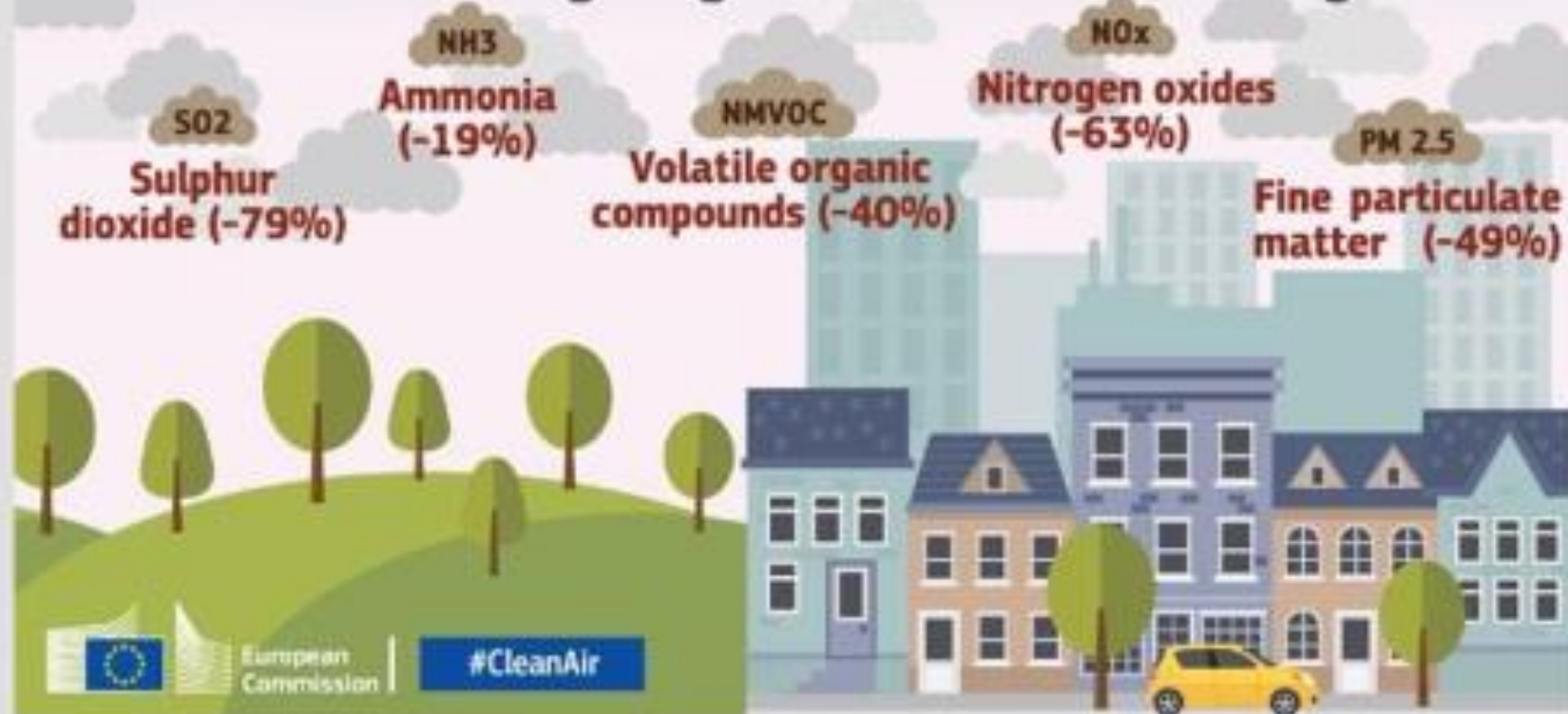
Directive sets national reduction commitments for five pollutants:

- * SO₂
- * NO_x
- * VOC
- * NH₃ (ammonia)
- * PM_{2,5}



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

Pollutants covered by EU National Emission Ceilings legislation and 2030 targets



MS must produce National Air Pollution Control Programme by March 2019

Member State	NH ₃ reduction compared with 2005		PM _{2,5} 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 %

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 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

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 ₂	200 ⁽¹⁹⁾	400	—	350 ⁽²⁰⁾	—	35 ⁽²¹⁾ ⁽²²⁾
NO _x	300 ⁽²³⁾	300 ⁽²³⁾	200	300 ⁽²⁴⁾	100	200
Dust	20 ⁽²⁵⁾	20 ⁽²⁵⁾	—	20 ⁽²⁶⁾	—	—

Large sources of pollution → IPPC permits (IEDirective)

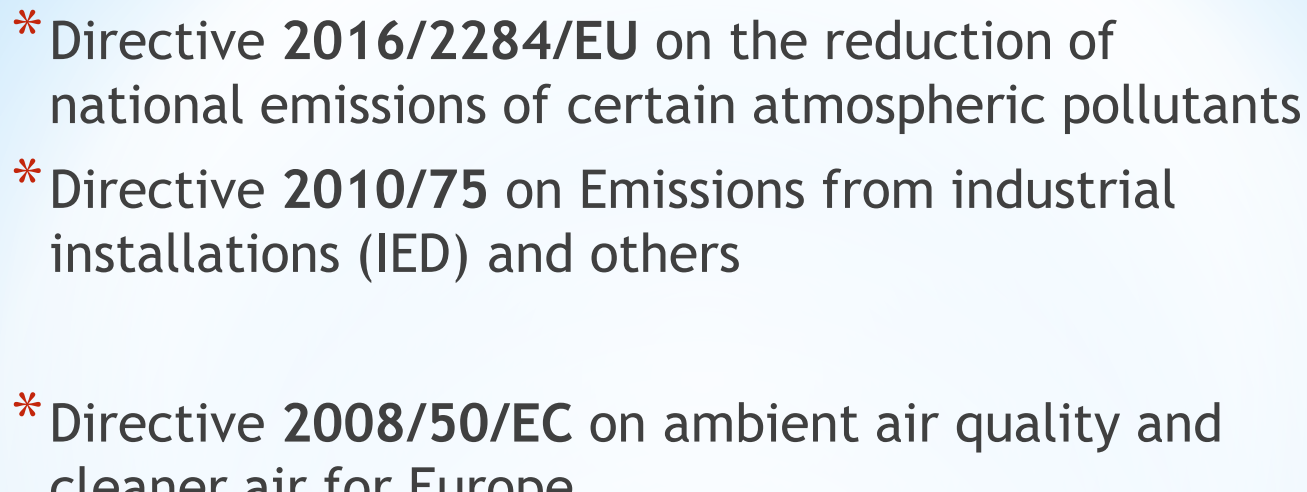
Medium combustion plants → Directive 2015/2193:

- * Flexibility for MSs to permit and register or only register
- * New MCP: to be permitted or registered before operation
- * Existing MCP: to be permitted or registered
 - > 5 MW: by 1 January 2024
 - ≤ 5 MW: by 1 January 2029
- * Authorities in Member States shall hold a register with information on each MCP (publicly available)

* Permits and
registration

- * Periodic measurements (by operator) of emissions of polluting substance.
- * Continuous measurements may be required.
- * Alternatives allowed in some cases.

*** Emission monitoring
and reporting (E-PRTR)**

- 
- * 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

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

- * Air quality plans are regarded to SO₂, NO₂, benzene, carbon monoxide, lead, PM₁₀, (limit values) and PM_{2,5} (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

- * 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?

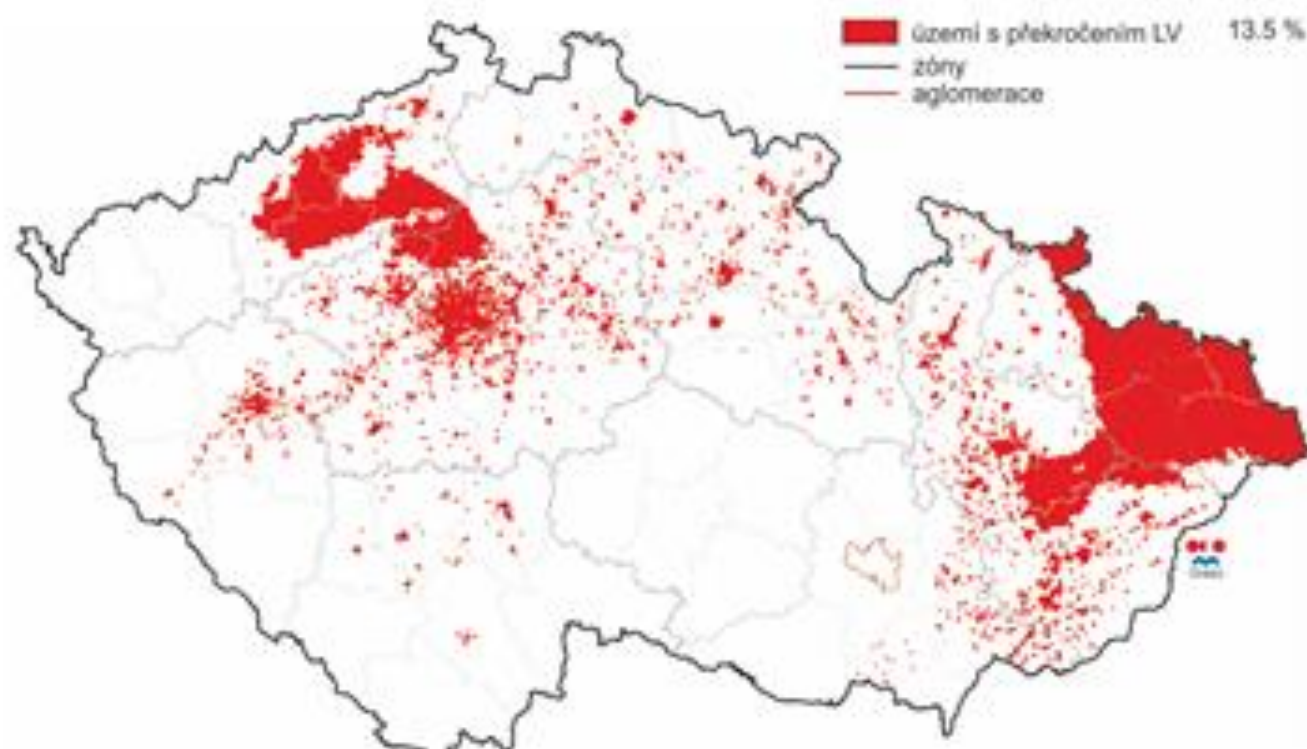


- * C- 28/09 Commission v. Austria
- * C- 488/15 Commission v. Bulgaria
- * C- 336/16 Commission v. Poland



* Development Projects in Prague

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

* 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?**

- * Air Protection Authorities (APAs) **are bound** by the **limit values** for the concentration of main pollutants (SO₂, NO_x, CO, benzene, PM₁₀, PM_{2,5} 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

- * 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

- * APAs are bound by the AQ limit values
- * To „*come out of AQP*“ \neq 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.



- * no increments to existing pollution,
- * reduction of pollution - gradual (AQP are taken into account) - consideration of other interests.

* **DECIDING ON THE
PROJECT IN CZECHIA**

- * 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

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**

- *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**

- *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**

- * 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

* *Thank you for your attention*

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