

Questionnaire on Air Pollution Law

I. Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe¹ and Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air²

1. Have there been problems to fulfil the obligations, set out in these directives, *in practise*? Are there effective systems in place to ensure detection of possible non-compliance and relevant follow-up, including prosecution and adjudication?

Air quality was a problem in Denmark back In the 1990'ies, but is less of a problem today. The problems today is mainly due to influx from other countries, traffic, woodburning stoves used in private homes and cruiseships. There are problems from time to time with a few heavily congested roads in a few bigger cities with NO2. There is a widespread measuring system and warning system in place. Warnings are very rare.

2. Are those directives properly implemented in your Member State? Have stricter or complementary air quality standards been introduced?

The directives are implemented by statutory order 1472/2017. They are properly implemented. No stricter rules.

3. Have EU infringement proceedings in relation to these directives been brought against your Member State?

Infringement proceding 2016/2080 started in 2016 and closed by the Commission in 2019.

4. Is there national case law in which these directives are relied upon and what are the most relevant subject areas (e.g. concerning adoption and content of air quality plans, access to relevant environmental information and public participation, etc.)?

No knowledge of such cases

a) Are there specific difficulties to enforce judgements in these cases? If yes, please explain in more detail.

b) Who are the claimants in the different categories of cases (e.g. local authorities, non-governmental organisations, private persons)?

¹ <http://data.europa.eu/eli/dir/2008/50/2015-09-18>

² <http://data.europa.eu/eli/dir/2004/107/2015-09-18>

c) Is there case law, in which claimants demand the withdrawal of measures aimed at improving the air quality (e.g. annulment of ban of certain cars)?

Please provide a concise overview of cases of particular interest.

d) With a view to the penalty clauses of Article 30 Directive 2008/50/EC and Article 9 of Directive 2004/107/EC:

- What type of penalties are applicable in your country to breaches of obligations deriving from these two directives? More specifically:

- Are the sanctions specifically stipulated in the transposing national legislation or are there sanctions of a general kind established in other legislation and applicable more widely?

- Are the sanctions directed explicitly or implicitly against competent authorities? Are the sanctions addressed to private natural and legal persons and/or economic operators?

- Are the sanctions of administrative or criminal nature or both? What is their range?

- Are the sanctions established as a function of obligations stemming from sources legislation? If so, how is that articulated in national law?

- Are there any case law statistics available? Or statistics on the application of penalties outside of court proceedings?

If possible, please provide an overview of cases of particular interest.

II. Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants³

1. Is this directive properly implemented in your Member State? Have stricter emission reduction commitments been introduced? Has national legislation been adapted to meet the emission reduction commitments?

The directive is implemented by statutory orders: 1467/2018, 1021/2018, 491/2018 and 138/2017. It is properly implemented, not stricter.

2. Have EU infringement proceedings in relation to this directive been brought against your Member State?

No knowledge of such a case

3. Is there national case law in which this directive is relied upon?

No knowledge of such a case

III. Directive 2007/46/EC establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles⁴ and Regulation (EC) No 715/2007 of the European Parliament and of the Council

³ <http://data.europa.eu/eli/dir/2016/2284/oj>

⁴ <http://data.europa.eu/eli/dir/2007/46/2019-09-01>

of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information⁵

1. How has your Member State implemented these EU vehicle type approval rules?

By law 959/2012 with later changes and a number of statutory orders.

The implementation of the new Regulation no. 858/2018 of 30. May 2018, which will change regulation 715/2007 and cancel directive 2007/46/EF is ongoing.

2. Treatment of diesel vehicles when using illegal shutdown devices:

a) Are there national regulations or jurisprudence according to which an issued EC type approval (Directive 2007/46/EC) loses its legal effect if an (impermissible) shutdown (defeat) device is discovered, which was already installed, when approval was granted? (A shutdown device - usually a cheat software - manipulates gas measurements.)

No knowledge of such regulation or cases

b) What legal measures have been taken in your Member State (if any) against car manufacturers, which have failed to comply with vehicle type approval rules? These legal measures might include court cases, including between car buyers and manufacturers.

No knowledge.

c) Which requirements will be imposed on the request to retrofit a vehicle in your Member State?

No knowledge.

d) How does the authority get information about the lack of implementation of any software updates in your Member State?

No knowledge.

e) Are there less onerous measures under the law of the Member State than imposing a driving ban on a vehicle? Have such less burdensome measures possibly been developed by case law?

No knowledge.

IV. Domestic Law

⁵ <http://data.europa.eu/eli/reg/2007/715/2012-06-04>

Please provide information, including case law, on additional domestic air protection law that could be interesting for other Member States.

Law on the protection of the environment 1218/2019 article 15a-e regarding environmental zones in four bigger cities for lorries, busses and trucks.