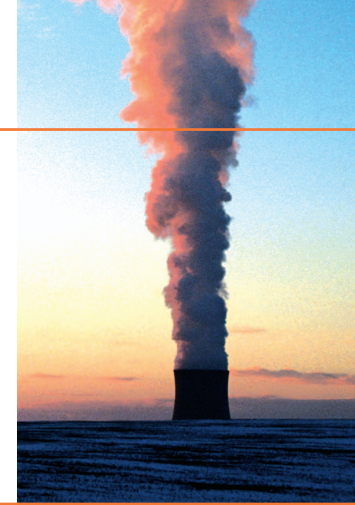


# Air Pollution:

## COMMISSION TAKES FURTHER LEGAL ACTION AGAINST 9 MEMBER STATES



AIR Monitoring

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The European Commission is taking wide-ranging legal action to ensure that Member States comply with EU legislation aimed at improving air quality in the European Union. Its action is aimed at Belgium, Italy, Greece, Portugal, the Netherlands, Germany, Luxembourg, Austria and Spain. Cases relate to 7 separate EU laws on air quality, each of which is aimed at preventing or reducing the harmful effects of air pollution on public health and the environment. Primarily, the proceedings relate to the failure of Member States to adopt, by the agreed deadlines, national measures implementing these EU laws. The legislation that has not been implemented in time concerns the incineration of waste, air quality limit values for benzene and carbon monoxide, national emission ceilings for sulphur dioxide, nitrogen oxides, volatile organic compounds and ammonia and large combustion plants. The Commission has also taken legal action to ensure compliance with the reporting requirements imposed by EU air pollution legislation as well as by the Regulation which aims to protect the ozone layer.

Commenting on the decisions, Environment Commissioner Margot Wallström said: "I urge Member States to speed up their implementation of EU laws on air pollution. Delays put people at greater risk of suffering health problems associated with poor air quality."

### Incineration of Waste

The Directive on the incineration of waste<sup>1</sup> aims to prevent or limit the negative effects that the incineration and co-incineration of waste have on the environment and to limit the resulting risks to human health. It imposes stringent operational and technical requirements and sets emission limit values for waste incineration and co-incineration plants within the EU. The deadline for transposing this Directive into national law was 28 December 2002. As Belgium, Italy, Greece and Portugal have still not complied, the Commission has decided to refer them to the Court of Justice. It has also sent the Netherlands a final written warning, as the Dutch legislation is still incomplete.

### Air Quality Limits for Benzene and Carbon Monoxide

In 2000, the EU adopted a Directive that (among other things) sets air quality limits for benzene and carbon monoxide so as to avoid, prevent or reduce harmful effects on the environment and human health<sup>2</sup>. The deadline for transposing this Directive into national law was 13 December 2002. The Netherlands and Greece are yet to comply. The Commission has decided to refer both Member States to the Court of Justice.

### Framework Directive for Assessing and Managing Air Quality

In 1996, the EU adopted a Framework Directive for assessing and managing ambient air quality<sup>3</sup>. It provides for subsequent rules on detailed emission limits for specific air pollutants. In 1999 Member States fixed limit values for the pollutants sulphur dioxide, nitrogen dioxide, nitrogen oxides, particulates and lead<sup>4</sup>. As regards these pollutants, Member States are required to send to the Commission specific information and reports by specified deadlines. In particular, the information must include data about pollution levels that exceed the agreed limit values and accepted margins of tolerance, the dates or periods when these levels were observed and why they occurred. Member States must also give the Commission an annual list of zones and agglomerations affected by air pollution. This information must come in a standardised format. For the year 2001, the deadline for communicating it was 30 September 2002. Italy has communicated this information only for some regions and not for its whole territory. The Commission has, therefore, decided to refer Italy to the Court of Justice.

### National Emission Limits for Sulphur Dioxide, Nitrogen Oxides, Volatile Organic Compounds and Ammonia

In 2001, the EU adopted a Directive<sup>5</sup> which aims to reduce air pollution by setting national emission ceilings for certain atmospheric pollutants that must be met by the Member States by 2010. The deadline for transposing this Directive into national law was 27 November 2002. The Netherlands, Germany, Italy and Greece have still not complied. The Commission has decided to refer all of these Member States to the Court of Justice.

This Directive also requires that Member States report to the Commission the measures that they have taken to meet the Directive's requirements. In particular, by 31 December 2002, they were to inform the Commission of their plans for meeting the emission ceilings, which should have been drawn up by 1 October 2002. Emission inventories and emission projections for the period up to 2010 must also be reported to the Commission annually. Belgium (only Flanders and Wallonia) and Luxembourg have failed to comply with these reporting requirements. As a result, the Commission is unable to monitor and evaluate to what extent the ceilings have been complied with. The Commission has, therefore, decided to send to each of these countries a final written warning.

### Large Combustion Plants

The Large Combustion Plants Directive<sup>6</sup> aims to reduce air pollution from larger power plants by setting strict limits on sulphur dioxide and nitrogen dioxide emissions. The deadline for transposing this Directive into national law was 27 November 2002. Belgium (for the Flanders region), the Netherlands, Austria, Italy, Greece and Spain have so far failed to comply, so the Commission has decided to refer them all to the Court of Justice. It has also sent Germany a final written warning.

### Sulphur Content of Fuels

A 1999 Directive<sup>7</sup> aims to reduce the sulphur content of certain liquid fuels and so help reduce the acidification caused by sulphur dioxide emissions in the EU. By June of each year, Member States are required to report on the sulphur content of fuels used during the previous calendar year. Austria has yet to provide the necessary information for 2001. The Commission has, therefore, decided to refer it to the Court of Justice.

### Protecting the Ozone Layer

The Regulation on Substances that Deplete the Ozone Layer<sup>8</sup> aims to curb and eventually eliminate the use of chemicals that destroy the ozone layer, which is the shield that protects the earth from harmful solar rays. The Regulation requires Member States to supply information on measures taken to promote the recovery, recycling, reclamation and destruction of controlled substances such as CFCs, HCFCs, halons and methyl bromide. Member States must also provide data on what has been done to make organisations and users responsible for carrying out these activities. They must show what steps have been taken to prevent the leakage of controlled substances, and to minimise the leakage of methyl bromide in soil treatments and post-harvest operations.

In addition, the Regulation obliges Member States to respect other reporting requirements, including information on annual leak monitoring (for equipment containing more than 3 kg of ozone depleting substances). They must also submit information on minimum qualifications required by all personnel involved in these operations and communicate details on the quantities of controlled substances that have been recovered, recycled, reclaimed or destroyed. Spain, Greece and Portugal have failed to fully implement these measures and, therefore, have not been able to report as required. The Commission has, therefore, sent these Member States a final written warning. It has also decided to refer Italy to the Court of Justice for allowing the use of HCFCs in fire-fighting installations at levels that exceed the limits or fail to respect the conditions set down in the Regulation.

### Legal Process

Article 226 of the Treaty gives the Commission powers to take legal action against a Member State that is not respecting its obligations.

If the Commission considers that there may be an infringement of EU law that warrants the opening of an infringement procedure, it addresses a "Letter of Formal Notice" (first written warning) to the Member State concerned, requesting it to submit its observations by a specified date, usually two months.

In the light of the reply or absence of a reply from the Member State concerned, the Commission may decide to address a "Reasoned Opinion" (final written warning) to the Member State. This clearly and definitively sets out the reasons why it considers there to have been an infringement of EU law and calls upon the Member State to comply within a specified period, normally two months.

If the Member State fails to comply with the Reasoned Opinion, the Commission may decide to bring the case before the European Court of Justice.

Article 228 of the Treaty gives the Commission power to act against a Member State that does not comply with a previous judgement of the European Court of Justice. The article also allows the Commission to ask the Court to impose a financial penalty on the Member State concerned.

For current statistics on infringements in general, please visit the following web-site: [http://europa.eu.int/comm/secretariat\\_general/sgb/droit\\_com/index\\_en.htm#infractions](http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm#infractions)

<sup>1</sup> Directive 2000/76/EC of 4 December 2000 on the incineration of waste

<sup>2</sup> Directive 2000/69 of 16 November 2000 relating to limit values for benzene and carbon monoxide in ambient air

<sup>3</sup> Directive 96/62 of 27 September 1996 on ambient air quality and management

<sup>4</sup> Directive 1999/30 of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air

<sup>5</sup> Directive 2001/81 of 23 October 2001 on national emissions ceilings for certain atmospheric pollutants

<sup>6</sup> Directive 2001/80 of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants

<sup>7</sup> Directive 1999/32 of 26 April relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC

<sup>8</sup> Regulation 2037/2000 on substances that deplete the ozone layer