

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?

Please give examples.

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

Please provide references to the implementing legislation.

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

Please provide references to these proceedings and their outcomes.

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.)?

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)?

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:

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

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

- 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?

Please provide references to the implementing legislation.

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

Please provide references to these proceedings and their outcomes.

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

Please provide a concise overview of cases of particular interest.

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 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?

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

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

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

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

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.)

Please give examples.

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.

Please give examples.

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

Please provide a concise overview of cases of particular interest.

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

Please provide a concise overview of cases of particular interest.

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?

Please give examples.

IV. Domestic Law

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