



National courts have jurisdiction to review the choice of location of air quality measuring stations and to take all necessary measures against the national authority concerned

In assessing whether limit values have been complied with, the pollution level at each sampling point must be taken into account individually

A number of residents of the Brussels-Capital Region (Belgium) and the environmental protection organisation ClientEarth are in dispute with the Brussels-Capital Region and the Brussels Institute for Environmental Management before the *Nederlandstalige rechtbank van eerste aanleg Brussel* (Dutch-speaking Court of First Instance, Brussels), as to whether the air quality plan drawn up for the Brussels zone is adequate.

Against that background, the Dutch-speaking Court of First Instance, Brussels, has therefore asked the Court of Justice to interpret the relevant EU law provisions, in particular the directive on ambient air quality and cleaner air for Europe.¹ It seeks to ascertain, first, the extent to which national courts may review the siting of sampling points (measuring stations) and, second, whether an average may be taken of the results from different measuring stations in order to assess whether limit values have been complied with.

In today's judgment, the Court notes first of all **that the directive lays down detailed rules concerning the use and location of sampling points to measure air quality** in zones and agglomerations comprising the territory of each Member State.

According to the Court, some of those rules impose **a clear, precise and unconditional obligation, which means that they can be invoked by individuals against the State**. This is the case, in particular, with regard to the obligation to establish sampling points in such a way that they provide information on the most polluted locations, and the obligation to establish at least a minimum number of sampling points. It is for the national courts to verify whether those obligations have been complied with.

While accepting that the competent national authorities have discretion to determine the actual location of the sampling points, the Court emphasises that that discretion is in no way exempt from judicial review.

In this context, the Court observes that the location of sampling points is central to the air quality assessment and improvement system, in particular where the pollution level exceeds a certain threshold. It follows that the very purpose of the directive would be compromised if sampling points located in a particular zone or agglomeration were not established in accordance with the criteria laid down in the directive.

Thus, it is the responsibility of the competent national authorities to choose the location of sampling points in such a way as to minimise the risk that incidents in which limit values are exceeded may go unnoticed. In that context, those authorities are required to base their decisions on sound

¹ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ 2008 L 152, p. 1), as amended by Commission Directive (EU) 2015/1480 of 28 August 2015 (OJ 2015, L 226, p. 4).

scientific data and to prepare comprehensive documentation that includes evidence supporting the choice of the location of all monitoring sites. That documentation must be updated regularly to ensure that the selection criteria remain valid.

Moreover, since individuals are entitled to have a court verify whether national legislation and its application have remained within the limits of the margin of discretion allowed in the directive when choosing the location of sampling points, **that court also has jurisdiction to take all necessary measures in respect of the national authority concerned, such as an order, to ensure that such points are sited in accordance with the criteria laid down in that directive.**

As regards whether it is possible to establish an average value, based on the results of different measuring stations, to assess whether limit values have been complied with, the Court states that the determination of the average of the values measured at all sampling points in a zone or agglomeration does not provide a valid indication as to the population's exposure to pollutants. In particular, such an average does not make it possible to determine the level of exposure of the population in general. That level must be measured at specific sampling points the location of which has been determined on the basis of that objective.

Consequently, the Court finds that, for the purposes of the assessment, by Member States, of whether limit values have been complied with, the pollution level measured at each individual sampling point is decisive. **In order to establish whether a limit value with an averaging period of one calendar year has been exceeded, it is therefore sufficient that a pollution level higher than that value be measured at a single sampling point.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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