



## **Hungary has infringed the rules of EU law on ambient air quality**

*It failed to fulfil its obligations to ensure throughout its territory, first, that the daily limit value for particulate matter PM<sub>10</sub> was complied with and, second, that the period of exceedance of that value was kept as short as possible*

Taking the view that Hungary failed to fulfil several of its obligations deriving from the Directive on air quality,<sup>1</sup> the Commission brought an action for failure to fulfil obligations against that Member State before the Court of Justice. Specifically, the Commission criticises Hungary for systematically and persistently exceeding the daily limit value for particulate matter PM<sub>10</sub>,<sup>2</sup> first, from 1 January 2005 in the Budapest region and in the Sajó valley, and second, from 11 June 2011 (with the exception of 2014) in the Pécs region, doing so up to and including 2017 in the three zones concerned. In addition, the Commission asks the Court to find that there was a failure to fulfil obligations from 11 June 2010, in so far as Hungary failed to comply with its obligation to ensure that the period of exceedance of the limit value in question was kept as short as possible.

By its judgment delivered today, the Court recalls, first of all, that exceeding the limit values for particulate matter PM<sub>10</sub> in ambient air is in itself sufficient for a finding to be made that there has been a failure to fulfil obligations in that regard. It is clear that between 2005 and 2017 inclusive, while a partial downward trend highlighted by the data collected could be established, **the daily limit value for particulate matter PM<sub>10</sub> was very regularly exceeded in the zones in question** and that, consequently, those exceedances must be considered to be systematic and persistent.

As regards Hungary's argument alleging that cross-border pollution has a considerable impact on the air quality in the zones concerned, the Court states that the EU legislature has set the applicable limit values while taking full account of that fact. In any event, the topographical and climatic features which are particularly unfavourable to the dispersion of possible pollutants in the zones in question are not such as to exempt Hungary from responsibility for exceeding the limit values for particulate matter PM<sub>10</sub>. On the contrary, those features are factors which must be taken into account in the air quality plans that that Member State must, pursuant to the directive, draw up for those zones in order to achieve the limit value as soon as possible, in the event of its exceedance.

The Court recalls, next, that, while a Member State exceeding the limit values for particulate matter PM<sub>10</sub> is not in itself sufficient to consider that that Member State has failed to fulfil its obligations, pursuant to the directive, to draw up air quality plans setting out appropriate measures and to include in those plans a minimum amount of information, **that Member State must nevertheless ensure that the exceedance period is kept as short as possible.**

In that context, the Court finds that Hungary did in fact adopt air quality plans and various measures aimed at improving air quality. Nevertheless, those plans do not provide precise indications concerning the improvement of air quality planned and the expected time required to

<sup>1</sup> 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).

<sup>2</sup> Particulate matter PM<sub>10</sub> is particulate matter which passes through a size-selective inlet as defined in the reference method for the sampling and measurement of PM<sub>10</sub>, EN 12 341, with a 50% efficiency cut-off at 10 µm aerodynamic diameter.

attain the objectives pursued. Moreover, the measures in question do not mention the date by which compliance with the daily limit value for particulate matter PM<sub>10</sub> would be achieved in the zones concerned, and sometimes specify an implementation period that could extend over several years following the entry into force of the limit values for particulate matter PM<sub>10</sub>.

Consequently, the Court states that **Hungary manifestly failed to adopt in good time appropriate measures to ensure that the period of exceedance of the limit values for particulate matter PM<sub>10</sub> was kept as short as possible in the zones concerned.** Thus, the exceedance of the daily limit value for **particulate matter PM<sub>10</sub>** in those zones remained systematic and persistent for six and eight years, respectively.

In those circumstances, the Court **finds that Hungary failed to fulfil its obligations as regards both the exceedance of the daily limit value for particulate matter PM<sub>10</sub> in the zones concerned and the breach of its obligation to ensure that the exceedance period was kept as short as possible.**

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**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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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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