



PRESS RELEASE No 111/26

Luxembourg, 16 July 2026

Advocate General's Opinion in Case C-524/24 | Italy v Austria (Brenner and Inn Valley motorways)

Advocate General Campos Sánchez-Bordona: the night, winter and sectoral traffic bans imposed by Austria on the Inn Valley (A 12) and Brenner (A 13) motorways are contrary to EU law

By contrast, the system of 'dosing' access to the Inn Valley motorway is not contrary to EU law

Italy has brought an action for failure to fulfil obligations against Austria.¹ It claims that Austria has infringed EU law² by adopting certain measures to limit heavy goods vehicle traffic on the Inn Valley (A 12) and Brenner (A 13) motorways.³ The road axis resulting from the junction of those motorways is a **key artery in the trans-European transport network**: it provides a road link between Italy and Germany and, via Germany, with the other countries of northern Europe.

The sectoral traffic bans that restricted heavy vehicle traffic on that road axis, imposed by Austria in order to reduce pollutant emissions in the Brenner corridor and the surrounding area, were found to be incompatible with EU law by the Court of Justice in two judgments, of 2005 and 2011 (the *Brenner I* and *Brenner II* judgments respectively).⁴

In 2016, the Commission was on the point of bringing Austria before the Court of Justice because the Tyrol area systematically exceeded the NO₂ limits established by the air quality Directive.⁵ Those limits have been complied with since 2020. To that end, Austria tightened the existing bans and introduced others.

Italy is challenging four of those measures before the Court of Justice (**bans on night, winter and sectoral traffic and a system of 'dosing' access to the A 12 motorway**). Austria accepts that some of the aforementioned measures have a restrictive effect on the free movement of goods but submits that they are justified by overriding reasons of general interest: the protection of the environment, human health and road safety.

Advocate General Manuel Campos Sánchez-Bordona proposes that the Court of Justice should uphold the action for failure to fulfil obligations in relation to the three bans and should dismiss it in relation to the fourth measure.

The night traffic ban prevents heavy vehicles (with a maximum authorised mass of over 7.5 tonnes, subject to a number of exceptions) from being driven at night along an 84-kilometre stretch of the A 12 motorway. The ban applies throughout the year, but varies depending on the time of year and whether the day is a working day or a public holiday. According to Austria, the aim of the ban is **to move NO₂ emissions from the night to the daytime**, when atmospheric conditions are more favourable for the dispersion of emissions, with the effect that the levels of NO₂ in the air are lower.

The Advocate General is of the view that **the night ban does not reflect a concern to achieve the objective pursued in a consistent and systematic manner**. Its aim is not to divert traffic to alternative routes, but simply to defer it until the daytime in order to take advantage of more favourable atmospheric dispersion conditions. Accordingly, to invoke, as justification for an exemption for local and regional traffic, the lack of alternative routes by which to reach certain zones is inconsistent with the overall objective of the night ban.

The Advocate General adds that **Austria should have reviewed the proportionality of the measure** on the basis of the

risks to human health in the light of the most recent data available and should have studied whether alternative measures were possible before deciding to apply the night ban throughout the year.

The sectoral traffic ban prevents heavy vehicles from using an approximately 65-kilometre stretch of the A 12 motorway to transport **certain goods deemed suitable for rail transport**. The Advocate General considers that the exceptions to the ban do not render it inconsistent, and that the measure could be appropriate for achieving the environmental protection objective pursued. However, in 2021, when the limit values established in the air quality Directive were beginning to be complied with on all the relevant stretches of the A 12 and A 13 motorways, Austria **should have examined whether that ban could be relaxed** or whether it was appropriate to remove or ease other restrictive measures included in the same set of regulations.

In 2023, **the winter traffic ban**, with a small number of exceptions, prevented **heavy vehicles bound for Italy, Germany or other countries accessible via those States** from travelling on the A 12 and A 13 motorways **for eight consecutive hours every Saturday for a period of two months** (from January to early March, between 07.00 and 15.00). The ban was applied again on Saturdays in winter in 2024. Austria claims that it was necessary in order to ensure road safety and the proper operation of the motorways during periods of significant congestion.

The Advocate General is of the view that **the winter traffic ban is discriminatory**, since it is not appropriate to define its scope solely on the basis of the vehicle's final destination, limiting it to journeys to destinations abroad, **and that it lacks proper justification**. Combined with the other bans, it made it almost impossible in practice to transport goods internationally using heavy vehicles at weekends. Over the week as a whole, heavy vehicles were only able to travel without restriction for approximately 46% of the total time. In reality, the need to improve road safety and prevent congestion for eight hours on Saturdays during the winter was to a great extent due to the effects of the other traffic measures adopted by Austria.

According to Italy, the **traffic dosing** measure, introduced from March 2018, limits the number of heavy vehicles travelling south on the A 12 motorway from Germany ⁶ to a maximum of 300 vehicles per hour. The measure applies on specific days, which are determined in advance by the Austrian authorities and are announced periodically and publicly. According to Austria, the dosing system does not actually hinder goods traffic; is only applied when absolutely necessary and for a few hours (usually in the morning); and does not prescribe a pre-determined number of vehicles permitted, as the reduction in the number of incoming vehicles is achieved by setting an additional speed limit.

In the view of the Advocate General, the **dosing is not open to criticism if**, as Austria submits, **it takes the form merely of a speed limit imposed, on an exceptional basis, on certain sections of the motorway in rare circumstances, in response to valid forecasts of traffic congestion**. He notes that Italy has not succeeded in demonstrating that its impact gives rise to a quantitative restriction on imports or to a measure having equivalent effect.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under EU 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.

Unofficial document for media use, not binding on the Court of Justice.

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

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

Images of the delivery of the Opinion are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

Stay Connected!



¹ The Member States may bring an action for failure to fulfil obligations against another Member State (Article 259 TFEU). In order to do so, they must previously bring the matter before the Commission. The States concerned then submit their observations and the Commission issues a reasoned opinion, which is not, however, a requirement for being able to bring an action before the Court of Justice.

² Specifically, Articles 34 and 35 TFEU, under which quantitative restrictions on imports and exports and any measure having equivalent effect are prohibited between Member States. Measures that constitute an obstacle to international transport to or from the territory of a Member State or merely transiting through that country must be regarded as measures having an effect equivalent to a quantitative restriction on both imports or exports.

³ The Austrian Inn Valley motorway runs through Tyrol, from Kufstein on the northern border with Germany to Zams in the west of the country. Near Innsbruck, it joins the Brenner motorway, which runs southwards to the Italian border.

⁴ Judgments of 15 November 2005, *Commission v Austria* ([C-320/03](#), 'Brenner I judgment'); see also press release [no 97/05](#), and of 21 December 2011, *Commission v Austria* ([C-28/09](#), 'Brenner II judgment'); see also press release [no 138/11](#).

⁵ [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.

⁶ Towards Innsbruck on the A 12, from the Kufstein border crossing.