

COUNCIL DIRECTIVE
of 28 June 1984
on the combating of air pollution from industrial plants
(84/360/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the 1973 ⁽⁴⁾, 1977 ⁽⁵⁾ and 1983 ⁽⁶⁾ action programmes of the European Communities on the environment stress the importance of the prevention and reduction of air pollution;

Whereas the 1973 and 1977 action programmes in particular provide not only for the objective evaluation of the risks to human health and to the environment from air pollution but also for the formulation of quality objectives and the setting of quality standards, especially for a number of air pollutants regarded as the most hazardous;

Whereas the Council has already adopted several Directives under these programmes;

Whereas, moreover, under Decision 81/462/EEC ⁽⁷⁾ the Community is a party to the Convention on long-range transboundary air pollution;

Whereas the 1983 action programme, the general guidelines of which have been approved by the Council of the European Communities and by the representatives of the Member States meeting within the Council, envisages that the Commission will

continue its efforts to establish air quality standards and that where appropriate emission standards for certain types of source should be laid down;

Whereas all the Member States have laws, regulations and administrative provisions concerning the combating of air pollution from stationary industrial plants; whereas several Member States are in the process of amending the existing provisions;

Whereas the disparities between the provisions concerning the combating of air pollution from industrial installations currently in force, or in the process of amendment, in the different Member States are liable to create unequal conditions of competition and thus have a direct effect on the functioning of the common market; whereas, therefore, approximation of the law in this field is required, as provided for by Article 100 of the Treaty;

Whereas one of the essential tasks of the Community is to promote throughout the Community a harmonious development of economic activities and a continuous and balanced expansion, tasks which are inconceivable in the absence of a campaign to combat pollution and nuisances or of an improvement in the quality of life and in the protection of the environment;

Whereas the Community should and must help increase the effectiveness of action undertaken by the Member States to combat air pollution from stationary industrial plants;

Whereas in order to achieve this end certain principles aiming at the implementation of a series of measures and procedures designed to prevent and reduce air pollution from industrial plants within the Community should be introduced;

Whereas the Community's endeavours to introduce these principles can be only gradual, bearing in mind the complexity of the situations and the fundamental principles on which the various national policies are based;

⁽¹⁾ OJ No C 139, 27. 5. 1983, p. 5.

⁽²⁾ OJ No C 342, 19. 12. 1983, p. 160.

⁽³⁾ OJ No C 23, 30. 1. 1984, p. 27.

⁽⁴⁾ OJ No C 112, 20. 12. 1973, p. 1.

⁽⁵⁾ OJ No C 139, 13. 6. 1977, p. 1.

⁽⁶⁾ OJ No C 46, 17. 2. 1983, p. 1.

⁽⁷⁾ OJ No L 171, 27. 6. 1981, p. 11.

Whereas initially a general framework should be introduced to permit the Member States to adapt, where necessary, their existing rules to the principles adopted at Community level; whereas the Member States should therefore introduce a system of prior authorization for the operation and substantial alteration of stationary industrial plants which can cause air pollution;

Whereas, moreover, the competent national authorities cannot grant such authorization unless a number of conditions have been fulfilled, including the requirements that all appropriate preventive measures are taken, and that the operation of the plant does not result in a significant level of air pollution;

Whereas it should be possible to apply special provisions in particularly polluted areas and in areas in need of special protection;

Whereas the rules applicable to the authorization procedures and to the determination of emissions must satisfy certain requirements;

Whereas in certain situations the competent authorities must explore the need to impose further requirements, which, however, must not result in excessive costs for the undertaking concerned;

Whereas the provisions taken pursuant to this Directive are to be applied gradually to existing plants, taking due account of technical factors and the economic effects;

Whereas provision must be made for cooperation between the Member States themselves and with the Commission to facilitate implementation of the measures designed to prevent and to reduce air pollution and to develop preventive technology,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive is to provide for further measures and procedures designed to prevent or reduce air pollution from industrial plants within

the Community, particularly those belonging to the categories set out in Annex I.

Article 2

For the purposes of this Directive:

1. 'Air pollution' means the introduction by man, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment.
2. 'Plant' means any establishment or other stationary plant used for industrial or public utility purposes which is likely to cause air pollution.
3. 'Existing plant' means a plant in operation before 1 July 1987 or built or authorized before that date.
4. 'Air quality limit values' means the concentration of polluting substances in the air during a specified period which is not to be exceeded.
5. 'Emission limit values' means the concentration and/or mass of polluting substances in emissions from plants during a specified period which is not to be exceeded.

Article 3

1. Member States shall take the necessary measures to ensure that the operation of plants belonging to the categories listed in Annex I requires prior authorization by the competent authorities. The necessity to meet the requirements prescribed for such authorization must be taken into account at the plant's design stage.

2. Authorization is also required in the case of substantial alteration of all plants which belong to the categories listed in Annex I or which, as a result of the alteration, will fall within those categories.

3. Member States may require other categories of plants to be subject to authorization or, where national legislation so provides, prior notification.

Article 4

Without prejudice to the requirements laid down by national and Community provisions with a purpose other than that of this Directive, an authorization may be issued only when the competent authority is satisfied that:

1. all appropriate preventive measures against air pollution have been taken, including the application of the best available technology, provided that the application of such measures does not entail excessive costs;
2. the use of plant will not cause significant air pollution particularly from the emission of substances referred to in Annex II;
3. none of the emission limit values applicable will be exceeded;
4. all the air quality limit values applicable will be taken into account.

Article 5

Member States may:

- define particularly polluted areas for which emission limit values more stringent than those referred to in Article 4 may be fixed,
- define areas to be specially protected for which air quality limit values and emission limit values more stringent than those referred to in Article 4 may be fixed,
- decide that, within the abovementioned areas, specified categories of plants set out in Annex I may not be built or operated unless special conditions are complied with.

Article 6

Applications for authorization shall include a description of the plant containing the necessary information for the purposes of the decision whether to grant authorization in accordance with Articles 3 and 4.

Article 7

Subject to the provisions regarding commercial secrecy, Member States shall exchange information among themselves and with the Commission regarding their experience and knowledge of measures for prevention and reduction of air pollution, as well as technical processes and equipment and air quality and emission limit values.

Article 8

1. The Council, acting unanimously on a proposal from the Commission, shall if necessary fix emission limit values based on the best available technology not entailing excessive costs, and taking into account the nature, quantities and harmfulness of the emissions concerned.
2. The Council, acting unanimously on a proposal from the Commission, shall stipulate suitable measurement and assessment techniques and methods.

Article 9

1. Member States shall take the necessary measures to ensure that applications for authorization and the decisions of the competent authorities are made available to the public concerned in accordance with procedures provided for in the national law.

2. Paragraph 1 shall apply without prejudice to specific national or Community provisions concerning the assessment of the environmental effects of public and private projects and subject to observance of the provisions regarding commercial secrecy.

Article 10

The Member States shall make available to the other Member States concerned, as a basis for all necessary consultation within the framework of their bilateral relations, the same information as is furnished to their own nationals.

Article 11

Member States shall take the necessary measures to ensure that emissions from plants are determined for the purpose of monitoring compliance with the obligations referred to in Article 4. The determination methods must be approved by the competent authorities.

Article 12

The Member States shall follow developments as regards the best available technology and the environmental situation.

In the light of this examination they shall, if necessary, impose appropriate conditions on plants authorized in accordance with this Directive, on the basis both of those developments and of the desira-

bility of avoiding excessive costs for the plants in question, having regard in particular to the economic situation of the plants belonging to the category concerned.

Article 13

In the light of an examination of developments as regards the best available technology and the environmental situation, the Member States shall implement policies and strategies, including appropriate measures, for the gradual adaptation of existing plants belonging to the categories given in Annex I to the best available technology, taking into account in particular:

- the plant's technical characteristics,
- its rate of utilization and length of its remaining life,
- the nature and volume of polluting emissions from it,
- the desirability of not entailing excessive costs for the plant concerned, having regard in particular to the economic situation of undertakings belonging to the category in question.

Article 14

Member States may, in order to protect public

health and the environment, adopt provisions stricter than those provided for in this Directive.

Article 15

The Directive does not apply to industrial plants serving national defence purposes.

Article 16

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 30 June 1987.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 17

This Directive is addressed to the Member States.

Done at Luxembourg, 28 June 1984.

For the Council

The President

H. BOUCHARDEAU

ANNEX I**CATEGORIES OF PLANTS (1)
(covered by Article 3)**

- 1. Energy industry**
 - 1.1. Coke ovens
 - 1.2. Oil refineries (excluding undertakings manufacturing only lubricants from crude oil)
 - 1.3. Coal gasification and liquefaction plants
 - 1.4. Thermal power stations (excluding nuclear power stations) and other combustion installations with a nominal heat output of more than 50 MW.

- 2. Production and processing of metals**
 - 2.1. Roasting and sintering plants with a capacity of more than 1 000 tonnes of metal ore per year
 - 2.2. Integrated plants for the production of pig iron and crude steel
 - 2.3. Ferrous metal foundries having melting installations with a total capacity of over 5 tonnes
 - 2.4. Plants for the production and melting of non-ferrous metals having installations with a total capacity of over 1 tonne for heavy metals or 0,5 tonne for light metals.

- 3. Manufacture of non-metallic mineral products**
 - 3.1. Plants for the production of cement and rotary kiln lime production
 - 3.2. Plants for the production and processing of asbestos and manufacture of asbestos-based products
 - 3.3. Plants for the manufacture of glass fibre or mineral fibre
 - 3.4. Plants for the production of glass (ordinary and special) with a capacity of more than 5 000 tonnes per year
 - 3.5. Plants for the manufacture of coarse ceramics notably refractory bricks, stoneware pipes, facing and floor bricks and roof tiles.

- 4. Chemical industry**
 - 4.1. Chemical plants for the production of olefins, derivatives of olefins, monomers and polymers
 - 4.2. Chemical plants for the manufacture of other organic intermediate products
 - 4.3. Plants for the manufacture of basic inorganic chemicals.

- 5. Waste disposal**
 - 5.1. Plants for the disposal of toxic and dangerous waste by incineration
 - 5.2. Plants for the treatment by incineration of other solid and liquid waste.

- 6. Other industries**

Plants for the manufacture of paper pulp by chemical methods with a production capacity of 25 000 tonnes or more per year.

(1) The thresholds given in this Annex refer to production capacities.

ANNEX II

**LIST OF MOST IMPORTANT POLLUTING SUBSTANCES
(within the meaning of Article 4 (2))**

1. Sulphur dioxide and other sulphur compounds
 2. Oxides of nitrogen and other nitrogen compounds
 3. Carbon monoxide
 4. Organic compounds, in particular hydrocarbons (except methane)
 5. Heavy metals and their compounds
 6. Dust; asbestos (suspended particulates and fibres), glass and mineral fibres
 7. Chlorine and its compounds
 8. Fluorine and its compounds
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