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## POSITION PAPER

of

**environmental, health, childrens', women's organisations and citizens' groups  
in response to the public consultation ending 16.12.2021 on the revision of the  
Ambient Air Quality Directives (2008/50/EC - "the Directive" and 2004/107/EC)**

We the undersigned 15 organisations and citizens' groups from Bulgaria submit the following position paper in response to the public consultation on the revision of the Ambient Air Quality Directives (AAQDs) and in support of the efforts of the environmental umbrella NGOs in Brussels.

Air pollution is not only the number one environmental health risk in the 41 European countries with an estimated 440 000 premature deaths in 2019, but one of the leading environmental and health problems

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in Bulgaria as well. With around 12 000 premature deaths relative to its smaller population Bulgaria is among the countries in the European Union suffering the most from air pollution. Air pollution causes both chronic and serious diseases such as asthma, cardiovascular problems and lung cancer.

Bulgaria is behind in meeting the current EU air quality standards and is still breaching the limit values for certain pollutants such as PM10, PM2.5, SO2 and NO2. As a result there has been a ruling from 2017 of the Court of Justice of the European Union on breaching PM10 limits and several pending infringements, including one on insufficient enforcement of the 2017 CJEU decision. Clearly Bulgaria has problems in implementing the clean air legislation since many of these limits had to be respected a decade ago.

Some of these problems could be attributed to the legal framework at EU level and these were identified by the European Commission in its Fitness Check of the Ambient Air Quality Directives (SWD(2019) 427 final) under which Bulgaria was one of the countries specifically reviewed.

It is our understanding that strong and clear European legislation is a prerequisite for proper transposition, implementation and enforcement at national level. The current revision of the AAQD comes at an important moment when WHO published its new guidelines based on a thorough scientific review process. The revision must help align the EU legislation to the WHO recommendations and to the latest scientific advances and requirements for the protection of human health.

<sup>1</sup> Air quality in Europe 2021 (EEA.2021),

<https://www.eea.europa.eu/publications/air-quality-in-europe-2021/air-quality-status-briefing-2021>

In this paper we provide our joint view on what a revised AAQD should address. Below we provide our key

messages following the structure of the public consultation questionnaire:

## **Policy area 1: Closer alignment of the EU air quality standards with scientific knowledge including the latest recommendations of the World Health Organization (WHO).**

1. The current EU air standards, agreed back in 2008, are the result of an outdated political compromise to the detriment of the health of people living in the EU. They did not and do not reflect the latest science embodied in the WHO Air Quality Guidelines. On 22 September 2021 the World Health Organization published their updated recommendations for air quality, based on a thorough scientific review process. **Thus, the EU legally binding limits for air pollutants must be fully aligned with the WHO's regularly updated guidelines.** A process for automatic adjustment of AQ standards considering technical progress and new scientific evidence should be part of the revised AAQD.

2. The revised **AAQDs must include full alignment with the LRTAP Convention's** scientifically based critical levels for protection of vegetation.

3. **Binding limit values have been and will continue to be a key driver for reducing air pollution concentrations. Other forms of standards should only be complements to binding limit values.** There is an urgency to reduce health and environmental damage due to air pollution meaning that the revision must set a very ambitious timeline for achieving the new air quality standards for 2030. The AAQD should also commit to zero pollution ambition (i.e. no health risks) by 2040, going beyond WHO recommendation.

4. The AAQD should also **broaden the scope of AQ and to include other air pollutants harmful to health when scientific evidence is available. Currently this includes mercury, black carbon, ultrafine particles and ammonia.** For those pollutants, air quality standards and monitoring requirements should be introduced. Limits for pollutants currently covered by the AAQD, but not included in the WHO's revised guidelines, need to be updated as well in line with the latest available science.

5. **A regulatory action should be put forward to address the highly fragmented area of indoor air quality and the growing problem of aeroallergens, such as pollen.** Ambient air pollution is at the same time a major contributor to indoor air pollution where it's combined with pollutants originating for indoor (such as chemicals, damp and mould, indoor combustion) therefore an integrated framework should be put forward for clean air both indoors and outdoors.

## **Policy area 2: Improving the current air quality legislative framework (including aspects such as penalties and public information).**

1. **The revised AAQDs should include provisions ensuring access to justice at the national level when the matter is related to air quality.** Despite the consistent case-law of the CJEU on the matter, Bulgaria is one of the few Member States of the EU that continues to bar access to justice on air quality matters. The courts of Bulgaria continue to disapply the case-law of the CJEU and deny access to court to citizens and environmental NGOs as regards air quality plans. Despite the infringement procedure against Bulgaria, in October 2021, the Administrative Court of Sofia City denied legal standing to citizens of Sofia and NGO to challenge the Air Quality Plan for Sofia for the period 2021-2026. Including provisions

in the AAQD on the access to justice on air quality matters will be a swift solution to such situations.

**2. The Directive shall include public participation provisions for the procedures of adopting air quality plans.** The lack of such provisions in the current version of the Directive cause inconsistency in the application in the Member States. In Bulgaria, for example, there are no comprehensive legal requirements ensuring early and effective opportunities for public participation in the drafting of air quality plans. Last but not least, the drafting of air quality plans is a long process, which shall include both technical and expert input and the position of the public. The public participation requirement shall be relevant to the specifics of the process.

**3. The Directive shall include more detailed provisions on penalties and provisions to harmonise rules on compensation for damages.** This development is needed to improve compliance with the limit values and to improve the citizens' involvement and awareness of air pollution. Given the wide discrepancy in the national systems for penalties which results in a lack of effective remediation in several countries, there is the need to revise provisions on penalties and introduce a more detailed provision than the current Article 30 of the Directive.

**4. The Impact Assessment of the AAQD should fully consider that socio-economic benefits from reducing air pollution are much higher than related costs.** It should define an air quality information system to present up-to-date data to the public and introduce harmonised information and alert thresholds for all air pollutants covered by the AAQD.

**5. Standardise the air quality regular information systems to always include information on health threats.** Gaps in air quality information exist, especially for vulnerable groups. Alert thresholds are an essential tool to protect people, especially vulnerable groups, during high pollution events. As such, there is a need for alert thresholds and effective short-term action plans for all main pollutants.

**6. The information should also be tailored to specific vulnerable groups of the population,** such as patients living with chronic respiratory, cardiovascular diseases and diabetes. In addition, there are currently many different systems in place for providing regular and up-to-date information on air quality on a daily and annual basis. Most of these include a colour-coding scheme, but they do not link the concentrations to health threats, especially for vulnerable groups (as for example the Canadian Air Quality Health Index does ). There should be a harmonised approach for the provision of air quality information across the EU. Furthermore, the European Commission should, in collaboration with the scientific community and the civil society, establish a real-time pollen information system to ensure the timely dissemination of and access to information to citizens with pollen allergies.

### **Policy area 3: Strengthening of air quality monitoring, modelling and plans.**

1. We need **consistent and reliable air quality information across the EU.** Legal requirements for monitoring networks are essential to make sure that everyone in the EU has access to timely and reliable information about air quality. Fixed sampling points for measuring pollutants are a key tool to ensure monitoring is done adequately and consistently across the EU and their number should increase. The number of fixed stations in Bulgaria is barely legal - covering the minimum legal requirements, but not giving a comprehensive and adequate picture of air pollution. **The European Commission should provide clearer guidance to national authorities on the location and number of sampling points, set requirements for the proportion between different types of monitoring stations and introduce definitions of different types of monitoring stations.**

2. Moreover, the European Commission should monitor Member States compliance with the legal requirements for location of sampling points (ie check compliance on the basis of the stations meta data submitted to the EEA or check national procedures). **The Commission should put in place a system to assess the functioning of the stations.** When appropriate, the European Commission should start infringement proceedings. The guidance should describe the uncertainties when using different sensors and describe best practices for performing measurements and validating results. Within the EU PreAccession process, such guidance should also be given to the public authorities of the countries concerned, including at the local level, in the course of their process of aligning national air quality standards with the EU framework.

3. **There is a need to increase the minimum number of PM2.5 stations.** There are 10 stations altogether in Bulgaria to measure PM2.5. In 2020 40% of these stations did not have the minimum data required to calculate the annual mean. Sofia, the capital of Bulgaria, a city with more than 1.3 mln. people, has only one PM2.5 station within the city limits. For 3 years - 2018, 2019 and 2020 - due to technical issues there were not enough measurements to define the annual mean value.

4. Additionally, **EC should require monitoring stations for ultra-fine particles, black carbon, and ammonia** and to ensure continuity of measurements for all pollutants. The Directive shall require a more regular use of models and indicative measurements to support information from fixed sampling points.

5. Citizens also have a growing role to play in assessing air quality in their cities, with various citizen science projects such as developing alternative measuring networks. Hence, citizen science provides much better spatial resolution and wider coverage than the official network. Clearer guides for such networks could be part of the Directive along with methodological support from JRC. **Member states should be encouraged to complement official networks with citizens' not dismissing them as non reference.**

6. **The Directive shall strengthen and clarify the requirements in Annex XV regarding minimum content of air quality plans.** More details on the procedure of selecting "*appropriate measures, so that the exceedance period can be kept as short as possible*" (Art 23 par. 2). Our experience shows that there is general misunderstanding and that authorities face difficulties applying this requirement. While the judgements of the CJEU provide useful guidance in this regard, they are difficult to be applied directly. We propose that the Directive sets out the milestones of the process of selecting measures, which is then developed into more detail into a guidance on the application of the Directive. Supporting authorities in applying the Directive will facilitate its enforcement as well as control over the enforcement.

7. **Set out clearer requirements for air quality plans**, incl. air pollution emission inventories, impacts of measures, timeframes, public participation, and information on technical assessment and forecasts.

8. **The Directive shall provide a comprehensive and up-to-date checklist of air pollution reduction measures to be considered during the preparation of air quality plans.**

9. **The European Commission should take steps to standardise the system for air pollution alerts across the EU**, especially for particulate matter (PM).

10. **The Commission shall consider promoting the use of short-term action plans.** Although short term action plans can be a very efficient tool to prevent dangerous concentrations of pollution, they are not used at all in countries like Bulgaria. The trials of local authorities to introduce such plans have been unsuccessful and show general misunderstanding of their mechanism. Such plans should be enforceable and not circumvented by IED permits of individual plants whose contributions lead to breaches of AAQD

limit values.

We hope that our input will be taken into consideration.

Contact:

Ivaylo Hlebarov,

Clean Air Team Leader

Za Zemiata

e-mail: [i.hlebarov@zazemiata.org](mailto:i.hlebarov@zazemiata.org)

**Signatories (alphabetical):**

1. Air For Health
2. Air For The Children
3. Bike Evolution Association
4. Blagoevgrad disha - Civil Movement
5. Blue Link Foundation
6. Bulgarian Environmental Partnership Foundation
7. Bulgarian Fund for Women
8. Bulgaria za Transko
9. Association Dishay Devnia
10. Association Dishay Dobrudja - Dobrich
11. Dishay, Plovdiv (Breathe Plovdiv) - Civil Movement
12. Dishay Pernik
13. Environmental Association Za Zemiata
14. For clean air and water in Ruse - Civil Movement
15. Spasi Sofia (Spasi Bulgaria Foundation)