



## EUROPEAN COMMISSION

*Brussels, 3.6.2014  
C(2014) 3613 final*

*Ms Ewa KOPACZ  
Marshal of the Sejm  
Ul. Wiejska 4/6  
PL – 00-902 WARSAW*

*Dear President,*

*The Commission would like to thank the Sejm for its Opinion on the proposal for a Directive of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants {COM(2013) 919 final} and on the proposal for a Directive of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants and amending Directive 2003/35/EC {COM(2013) 920 final}.*

*The Commission recognises the Sejm's concern on the control of emissions from small combustion sources, which are highly relevant for ensuring compliance with current air quality legislation.*

*The Sejm suggests a number of items which in its view should have been included in the proposal, many of which relate to the choice of measures to meet the reduction commitments of the proposed Directive on reduction of national emissions (the "NEC proposal"). Before turning to those in detail the Commission wishes to assure the Sejm that the balance between action at EU level and at Member State level is carefully considered when developing all Commission proposals.*

*In the specific case of the NEC proposal, while the proposal sets the overall reductions of polluting emissions for each Member State, the Commission recognises that legislation on source controls is important. In this context the proposal on medium combustion plants (the "MCP proposal") will help to achieve the revised reduction commitments proposed under the NEC proposal. At the same time the Commission will also continue to work on emissions from industrial sectors regulated by the Industrial Emissions Directive<sup>1</sup>, non-road mobile machinery to be regulated by the forthcoming revision of Directive 97/68/EC<sup>2</sup> and small combustion installations to be regulated by the*

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<sup>1</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), OJ L 344, 17.12.2010, p. 17-119.

<sup>2</sup> Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery, OJ L 59, 27.2.1998, p. 1–86.

*Ecodesign Directive<sup>3</sup>. For measures beyond these, however, it was considered that under the principle of subsidiarity, each Member State should determine both the appropriate measures to achieve the reductions and the administrative level for their implementation.*

*With regard to the specific issues raised under point 2 of the Sejm's Opinion, the Commission would make the following comments<sup>4</sup>:*

- minimum quality requirements for solid fuels (point 2.1): Member States have the power to regulate the use of solid fuels according to quality. The Ambient Air Quality Directive<sup>5</sup> requires in its Annex XV.3(f) that Member States consider the need to ensure that low emission fuels are used in stationary sources (of all sizes) and in transport;*
- making fuel taxation dependent on fuel quality type and end-user type (2.2): the Commission proposal for the taxation of energy products and electricity<sup>6</sup> proposes substantial harmonisation, including fair tax treatment for fuels by obliging Member States to set the national tax rates with regard to the greenhouse gas emissions and the energy content of energy products thus taking into account the differences in fuel quality. The proposal sets minimum levels of taxation which depend on the use of the fuel: propellant, heating fuel or motor fuel use. Optional tax exemptions and reductions would be allowed for certain end users falling within the scope of the Directive;*
- defining emission standards/technical requirements for boilers below 1MW power output (2.4 and 2.5): work is ongoing to control emissions from solid fuel boilers and solid fuel local room heaters through implementing measures to be adopted by the Commission under the Ecodesign Directive<sup>3</sup>. A meeting between the Commission and Member States on 10-11 March 2014 made substantial progress towards an agreement which will be proposed for vote later this year. Furthermore, other implementing measures have already been adopted under this Directive for heaters and water heaters using other types of fuel, which include limit values for the emissions of nitrogen oxides<sup>7,8</sup>;*

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<sup>3</sup> Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products, OJ L 285, 31.10.2009, p. 10-35.

<sup>4</sup> As points 2.3, 2.13, 2.15 and 2.17 would appear to relate to national administrative provisions or matters of Polish law, the Commission has refrained from commenting on those.

<sup>5</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 L 152, 11.6.2008, p.1-44.

<sup>6</sup> Proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity, (COM(2011)169 final of 13 April 2011).

<sup>7</sup> Commission Regulation (EU) No 813/2013 of 2 August 2013 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for space heaters and combination heaters, OJ L 239, 6.9.2013, p. 136.

<sup>8</sup> Commission Regulation (EU) No 814/2013 of 2 August 2013 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for water heaters and hot water storage tanks, OJ L 239, 6.9.2013, p. 162.

- *inclusion of provisions on air quality plans and air protection programmes in local land development plans and zoning decisions (2.6 and 2.8): the Commission agrees on the need for better coordination between these activities, on the one hand, and programmes to reduce national emission reductions on the other. The NEC proposal now requires in its Article 6 that the emission reduction activities would be closely coordinated not only with measures on ambient air quality but with the range of other plans and programmes dealing with the same drivers and impacts;*
- *inclusion of an obligation to include information on acceptable heating technologies to be used in buildings in (a) local land development plans and (b) in the construction design and completion notifications (2.7 and 2.9): the Commission considers that this could indeed be a useful measure in certain locations where domestic combustion contributes strongly to air quality concerns, but considers that the national level is appropriate for determining the need;*
- *inclusion of requirements on the design of local energy plans, the measures to be contained in them, the provisions for ensuring compliance and the financial assistance possibilities for their implementation (2.10 and 2.12-2.16): the Commission strongly supports the development of energy plans so as to minimise air pollution and climate impacts, among other concerns. The requirements of Article 6 of the NEC proposal, referred to above, would ensure that the national air pollution control programmes are developed consistently with such plans;*
- *enabling the implementation of limited traffic emission zones (2.11): The Ambient Air Quality Directive<sup>5</sup> also requires in its Annex XV.3(d) that Member States examine the need to implement such measures. Sustainable urban transport management is further reinforced by the Commission Communication 'Together towards competitive and resource-efficient urban mobility'<sup>9</sup> which specifically called on Member States to provide "a framework that allows local transport authorities to design, implement, and evaluate access regulation schemes, including urban road user charging";*
- *introducing the requirement to draw up inventories of combustion units (2.14): the Directive on Large Combustion Plants<sup>10</sup> provides already for the obligation for Member States to establish annual inventories of large combustion plants while the current National Emission Ceilings Directive<sup>11</sup> and the NEC proposal require Member States to draw up and communicate annual and biannual national inventories on air pollutant emissions, including by source category;*
- *reinforcing provisions on carbon offsetting (2.18-2.20): the Commission's proposals mainly focus on air pollution emissions and while pollutants which affect both air and climate are considered (the so-called Short Lived Climate Pollutants), emissions of CO<sub>2</sub> are not directly addressed. It is certainly true, however, that measures taken to reduce carbon emissions are also often beneficial for air quality.*

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<sup>9</sup> COM(2013)913 final of 17.12.2013.

<sup>10</sup> Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants, OJ L 309, 27.11.2001, p. 1-21.

<sup>11</sup> Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants, OJ L 309, 27.11.2001, p. 22-30.

*The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council at which your government is represented.*

*The Commission hopes that the above clarifications address the comments and concerns raised by the Sejm and looks forward to continuing our constructive political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*