



Reports of Cases

Judgment of the Court (Tenth Chamber) of 28 April 2022 – *Commission v France (Limit values – PM10)*

(Case C-286/21)¹

(Failure of a Member State to fulfil obligations – Environment – Directive 2008/50/EC – Ambient air quality – Article 13(1) and Annex XI – Systematic and persistent exceedance of the limit values for micro particles (PM10) in certain zones in France – Article 23(1) – Annex XV – Exceedance period to be ‘as short as possible’ – Appropriate measures)

1. *Actions for failure to fulfil obligations – Subject matter of the dispute – Determination during the pre-litigation procedure – Adjustment because of a change in EU law – Whether permissible – Conditions*

(Art. 258 TFEU; European Parliament and Council Directive 2008/50, Art. 13(1) and Annex XI; Council Directive 1999/30, Art. 5 and Annex III)

(see para. 38)

2. *Actions for failure to fulfil obligations – Subject matter of the dispute – Determination during the pre-litigation procedure – Consideration of events which took place after the delivery of the reasoned opinion – Conditions – Facts of the same kind and constituting the same conduct as those referred to originally*

(Art. 258 TFEU)

(see para. 39)

3. *Environment – Atmospheric pollution – Ambient air quality – Directive 2008/50 – Limit values for the protection of human health – Systematic and persistent exceedance – Failure to fulfil obligations*

(European Parliament and Council Directive 2008/50, Art. 13(1) and Annex XI)

(see paras 41-48, operative part 1)

4. *Environment – Atmospheric pollution – Ambient air quality – Directive 2008/50 – Limit values for the protection of human health – Particulate matter (PM10) – Exceeded –*

¹ OJ C 252, 28.6.2021.

Consequences – Obligation on the Member State to draw up a plan to remedy the infringement – Time limit – Failure to adopt appropriate and effective measures ensuring that the exceedance period is as short as possible – Failure to fulfil obligations

(European Parliament and Council Directive 2008/50, Arts 13(1) and 23(1) and Annexes XI and XV)

(see paras 62-78, operative part 1)

Operative part

The Court:

1. Declares that the French Republic, by not having ensured that the daily limit value applicable to concentrations of microparticles (PM10) was not systematically and persistently exceeded, from 1 January 2005 to 2019 inclusive, in the Paris agglomeration and quality zone (FR04A01/FR11ZAG01) and, from 1 January 2005 to 2016 inclusive, with the exception of 2008, in the Martinique/Fort-de-France agglomeration and quality zone (FR39N10/FR02ZAR01), failed to fulfil its obligations under Article 13(1) of 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, read in conjunction with Annex XI of that directive, and
 - by not having ensured that the air quality plans set out appropriate measures, so that the exceedance period of that limit value could be kept as short as possible in those two zones, from 11 June 2010, failed to fulfil its obligations under the second paragraph of Article 23(1) of Directive 2008/50, read in conjunction with Annex XV of that directive;
2. Orders the French Republic to pay the costs.