



Reports of Cases

Judgment of the Court (Seventh Chamber) of 12 May 2022 – Commission v Bulgaria (Limit values – SO₂)

(Case C-730/19)¹

(Failure of a Member State to fulfil obligations – Environment – Directive 2008/50/EC – Ambient air quality – Article 13(1) and Annex XI – Systematically and persistently exceeding limit values for sulphur dioxide (SO₂) in zone BG 0006 (South-East), Bulgaria – Article 23(1) and 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. 3 and Annex I)

(see paragraph 60)

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 paragraph 61)

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 paragraphs 62-71, 76, operative part 1)

4. *Environment – Atmospheric pollution – Ambient air quality – Directive 2008/50 – Limit values for the protection of human health – Sulphur dioxide – Exceeded –*

¹ OJ C 399, 25.11.2019.

Evaluation criteria – Exceedance of a limit value measured at a single sampling point – Whether permissible

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

(see paragraph 72)

5. *Actions for failure to fulfil obligations – Objective nature – Reason for the failure to fulfil obligations – Irrelevant*

(Art. 258 TFEU)

(see paragraph 77)

6. *Environment – Atmospheric pollution – Ambient air quality – Directive 2008/50 – Limit values for the protection of human health – Sulphur dioxide – Exceeded – Consequences – Obligation on the Member State to draw up a plan to remedy the infringement – Failure to adopt within a reasonable time appropriate and effective measures guaranteeing 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 paragraphs 128-142, operative part 1)

7. *Environment – Atmospheric pollution – Ambient air quality – Directive 2008/50 – Exceedance of the air quality limit values – Obligation to draw up a plan to remedy the infringement – Time limit – Setting of an excessively long period – Not permissible – Failure to fulfil obligations*

(European Parliament and Council Directive 2008/50, Art. 23(1))

(see paragraphs 145-147)

Operative part

1. The Republic of Bulgaria,

by failing to ensure that, first, the hourly limit value for sulphur dioxide (SO₂) as from 2007 up to and including 2018, and, second, the daily fixed limit values for SO₂ as from 2007 up to and including 2018, with the exception of 2010 and 2012, were not systematically and persistently exceeded in zone BG 006 (South-East) has failed to fulfil its obligations in accordance with the combined provisions of Article 13(1) and Annex XI of Directive 2008/50/EC of the European Parliament and the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.

by failing to adopt, as from 11 June 2010, appropriate measures to ensure compliance with the fixed limit values for SO₂ in that zone and, in particular, by failing to ensure that the plans concerning air quality provide for appropriate measures to ensure that the period during which those limit values are exceeded is as short as possible, has failed to fulfil its obligations in accordance with the combined provisions of Article 23(1) and Annex XV section A of Directive 2008/50/CE.

2. The Republic of Bulgaria is ordered to pay the costs.