



The first ten years of the EU Ambient Air Quality Directive – an essential tool for protecting our health

Ten recommendations for the future of the EU's air quality laws from ClientEarth, EEB, AirClim, HEAL and Transport & Environment

The cornerstone of the EU's air quality laws, Directive 2008/50/EC, has been in place for 10 years. The European Commission has launched a 'Fitness Check' to assess its relevance, effectiveness, efficacy, coherence and EU added value. Below is a summary of the recommendations from five European NGOs working for cleaner air in Europe.

The Ambient Air Quality (AAQ) Directives¹ have proven to be an essential tool in driving action from Member States to tackle air pollution. In particular, Directive 2008/50/EC is fit for purpose to protect human health and the environment from the harmful effects of air pollution. It sets clear and binding objectives (limit values) and defines specific responsibilities for EU Member States to monitor, report on and manage air quality.

The AAQ Directives are essential to reduce levels of pollutants in the air. The weakening of any element of the Directives would affect their effectiveness and hinder the achievement of the EU's air quality objectives.

Failure to deliver specific expected outcomes of the AAQ Directives has mostly been due to Member States' inability to properly implement and apply the Directives, rather than flaws in the Directives themselves. It is clear that national legislation would not have achieved the same results as the AAQ Directives in reducing air pollution. EU law was and still is essential to achieve good air quality across the EU.

¹ Directive 2008/50/EC on ambient air quality and cleaner air for Europe and Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (Fourth Daughter Directive).

Authorities in Member States tend to focus on the costs of mitigation measures and overlook their benefits. This is because the benefits accumulate over time and apply to society as a whole making them difficult to monetise.

However, implementation of the AAQ Directives shows that the reduction of air pollution and the related health benefits outweigh the costs of mitigation measures.

Moreover, the implementation of the AAQ Directives supports EU competitiveness in the global market, opening business opportunities for investment in innovative and cleaner technologies and services.

To further reduce levels of air pollutants, the European Commission and the EU's Member States will need to combine shorter and longer-term efforts.

In the short-term, the focus should be on achieving full and correct implementation of the AAQ Directives. National, regional and local authorities need to scale-up their efforts to achieve compliance with current air quality targets in the shortest time possible.

Additional steps should also be taken at EU level to accelerate compliance in the short-term. The Commission should pursue infringement procedures promptly to tackle failures of Member States to comply with the AAQ Directives.

The Commission should use its powers to clarify the requirements for air quality plans and air quality monitoring and assessment. The Commission should immediately adopt such implementing legislation (rather than waiting for the next update of the AAQ Directives), as this can have an immediate positive impact on achieving existing air quality targets.

The EU and its Member States should also develop, adopt and implement ambitious policies to tackle relevant air pollutant sources for all sectors, to help achieve air quality standards.

In the longer-term, a review and revision of the air quality standards is required to ensure that EU legal limits are in line with the most recent scientific evidence. When updating the Directives, particular consideration should be given to the fact that binding limit values and the right to clean air have been the main drivers for action against air pollution through court enforcement. Any future review of the AAQ Directives should, therefore, follow the non-regression principle and not weaken standards that have already been adopted and which protect the public's rights.

Ten recommendations for the future of the EU's air quality laws

Air quality standards and level of protection

The AAQ Directives are a fundamental part of EU law and address one of the key health and environmental hazards for EU citizens. They address the needs of citizens across the entire EU and have a key role to play in driving action to reduce concentrations of pollutants in the air. It is essential to have EU legislation that sets binding legal standards for concentrations of pollutants in ambient air.

However, in most cases, the current targets set out in the AAQ Directives do not reflect the latest scientific evidence about the harmful effects air pollution has on human health and the

environment. There is also growing evidence about the harmful effects of other pollutants currently not regulated (such as black carbon and ultrafine particles).

Recommendation 1 – Achieve compliance with existing standards as soon as possible

The short-term priority of EU and national authorities, at all levels, should be to achieve full compliance with the AAQ Directives. Authorities at all levels must rigorously implement and apply the AAQ Directives to achieve compliance with the current air quality standards in the shortest time possible.

Recommendation 2 – Update air quality standards in line with latest scientific evidence

In parallel with working towards full compliance with the existing limits, the Commission should start to review and update the AAQ Directives, to improve them and better meet the needs of EU citizens. The update should reflect the experience gathered during the last ten years and the most recent scientific evidence about the health impacts of air pollution.

The pollutants regulated under the AAQ Directives are all still relevant and EU law should continue to monitor and regulate their concentrations. It will be essential to preserve the structure of the AAQ Directives, while revising the air quality standards in line with the stricter World Health Organisation (WHO) guidelines. The new proposal should be based on the air quality guidelines that the WHO is currently revising, rather than on its guidelines from 2005.

The Commission should also immediately obtain advice on the most recent scientific evidence about all the relevant pollutants identified, including new emerging pollutants (e.g. ultrafine particles and black carbon).

The proposal for new AAQ Directives should include a mechanism to adapt air quality standards swiftly in light of new scientific evidence. Rather than having to adapt air quality standards through legislative procedures, the AAQ Directives should allow air quality standards to be automatically updated in light of new WHO guidelines and/or other similarly reliable scientific evidence.

The WHO has also issued recommendations for indoor air pollution. The Commission should consider including indoor air pollution in future revisions of the AAQ Directives.

Structure of the AAQ Directives and system of protection of health from air pollution

Air quality standards and air quality plans

The Directives have been essential in driving action against air pollution and have enshrined in EU law the right to clean air. The AAQ Directives have given possibility for individuals, NGOs and the Commission to pursue effective legal actions. Litigation has been a key driver to force competent authorities to act to improve air quality. Without the Directives, air pollution in the EU today would be much worse than it currently is.

A key element in Directive 2008/50/EC is the setting of binding limit values together with the obligation to adopt air quality plans containing adequate measures to achieve compliance in the shortest time possible. The ability to rely on these obligations have allowed people to take authorities to court and hold them accountable for their failures to protect the right to clean air.

As a result of these obligations and their enforcement in courts, air quality has clearly improved in the EU during the last ten years. The remaining significant exceedances of air quality

standards are related to inadequate implementation by Member States, rather than to inadequacies in the AAQ Directives' provisions.

Recommendation 3 – Maintain the system of limit values as the cornerstone of the AAQ Directives

Limit values have been an essential tool to drive reductions of pollutants in air. It would therefore be a mistake to amend the existing limit values to weaker, non-binding air quality standards. Instead, the Commission should consider setting more effective air quality standards for the pollutants currently regulated as target values.

Recommendation 4 – Update and clarify the requirements for air quality plans

The obligation to adopt air quality plans setting out “*appropriate measures, so that the exceedance period can be kept as short as possible*”, constitutes an essential element of the AAQ Directives. This obligation has been key to improve the EU's air quality and to hold competent authorities accountable to their duties to comply with air quality standards.

As such, any potential revision of the AAQ Directives should still be built on air quality plans as the main tool to manage air quality and tackle pollution.

Even before starting to work on a proposal for new AAQ Directives, the Commission should immediately adopt implementing legislation to issue guidance on the information to be included in air quality plans, so that national authorities produce plans that effectively protect people from air pollution.

Air quality monitoring and assessment

The AAQ Directives have been effective in harmonising and improving the monitoring and assessment of air quality across the EU. However, some discrepancies remain. The Commission should, therefore, oversee the implementation of the AAQ Directives more closely and adopt implementing legislation to clarify the current requirements for number and location of sampling points.

Recommendation 5 – 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. It would be a mistake to reduce the minimum number of sampling points in future revisions of the AAQ Directives.

The Commission should immediately adopt implementing legislation to provide clearer guidance to national authorities on the location and number of sampling points.

Moreover, the Commission should monitor Member States' compliance with the legal requirements for location of sampling points. When appropriate, the Commission should start infringement proceedings.

Recommendation 6 – Support citizen science and air quality measurement campaigns

Citizens have a growing role to play in assessing air quality in their cities. The Commission should help develop guidance for air quality measurement campaigns conducted by the public. The guidance should describe the uncertainties when using different sensors and describe best practices for performing measurements and validating results.

The Commission should also review new air quality assessment technologies (such as satellite data) and consider what role they can play for competent authorities and citizens in Europe.

Alert thresholds, public information and short-term plans

Better implementation and, eventually, a revision of the AAQ Directives are necessary to establish alert thresholds and short-term action plans. Gaps in the existing legal framework has led to differing practices across the EU and, ultimately, inefficient actions to protect human health during high pollution events.

Recommendation 7 – Improve the AAQ Directives to better protect people from high pollution events

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.

In a possible revision of the AAQ Directives, the Commission should take steps to standardise the system for air pollution alerts across the EU, especially for particulate matter (PM). It should introduce the obligation to adopt short-term action plans to tackle high PM pollution events.

Particular consideration should also be given to the need to reach sensitive population groups and provide them with information about health impacts.

To identify effective alert systems, the Commission should review the different systems adopted by cities and prepare guidance on best practices. These best practices and short-term emergency measures should be included in an upcoming revision of the AAQ Directives.

Coherence with other EU policies

Overall, the AAQ Directives provide an effective and coherent regulatory system for improving air quality. Monitoring is an essential first element to assess the current air quality situation, identify the main sources of pollution and select effective measures to reduce them. Providing information to the public at all stages is essential to help individuals make informed decisions, reduce exposure during high pollution events and ensure that authorities are held accountable.

As such, it is essential that the overall structure of the AAQ Directive and its key provisions are upheld in any potential revision of the framework.

However, experience during the last 10 years has shown that several external factors have hindered the EU from achieving good air quality. They include:

- (a) failure to reduce nitrogen oxide (NO_x) emissions on the road using Euro Standards for vehicles;
- (b) complexity of governance structures within Member States and;
- (c) a lack of EU law on access to justice for individuals and NGOs to enforce environmental laws, including the AAQ Directives.

Recommendation 8 – Effective action to address the ‘Dieselgate’ scandal

Member States and, particularly, national authorities that grant technical approval for vehicles to go to market (Type Approval Authorities) should strictly enforce the Euro Standards regulation and investigate illegal defeat devices used by car manufacturers.

Member States should remove non-compliant cars from the market and circulation as soon as possible, by requiring mandatory recalls and, where necessary, withdrawing the relevant type approval certificates.

The Commission should closely monitor the correct application of the vehicles approval and emission regulations by Member States and, when necessary, start infringement proceedings.

Recommendation 9 – Address external factors hampering progress towards better air quality

EU and national governments should:

- adopt coherent policies to tackle relevant sources of pollutants and support the achievement of air quality standards;
- ensure that rules on access to information, public participation and access to justice are properly implemented;
- consider environmental benefits and compliance with air quality standards when using public funds (such as the EU Cohesion Fund) and;
- pursue timely enforcement action at EU level.

Furthermore, all relevant private sectors should contribute to the achievement of air quality standards.

EU Added Value

Without the AAQ Directives and their binding air quality standards, air pollution would be much higher, as would health impacts and costs. This is exemplified in particular by the Western Balkan countries, where legal air quality standards are higher (weaker) than the EU ones, poorly enforced and where there is a great lack of access to monitoring data.

Recommendation 10 – EU law will be essential to improve air quality

The AAQ Directives are a fundamental tool to protect human health and the environment in the EU and have had a clear added value during the last 10 years.

To achieve further progress, national authorities at all levels should combine and scale-up their efforts. In particular, they should:

- adopt and implement air quality plans with effective measures (such as low emission zones to restrict access in cities of diesel vehicles that do not comply with the latest Euro 6 standard in real driving conditions);
- establish coherent tax systems and remove subsidies for polluting activities;
- elaborate consistent national plans and implement measures to reduce pollutant emissions as required by relevant EU legislation (such as the National Emission Ceilings Directive);

The first ten years of the EU Ambient Air Quality Directive

ClientEarth, EEB, AirClim, HEAL and T&E

- enforce relevant source regulations (such as the Industrial Emissions Directive and the Euro standards Regulation); and
- promote increased public participation and awareness raising about the harmful impacts of air pollution.

Steps should also be taken at EU level to improve air quality in the short-term. The Commission should pursue timely infringement procedures to tackle Member States' failures to comply with the AAQ Directives.

Any future review of the AAQ Directives should ensure that amendments to the Directives do not hamper their proven relevance, effectiveness, efficiency and coherence and their benefits in tackling air pollution within the EU. There should be no backwards steps in the level of protection from air pollution provided to people across the EU.