

To:

Commissioner Potocnik
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By:

Post and email
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Complaint concerning Time Extension Notification to apply NO2 limit value in Belgium

Dear Commissioner Potocnik

We write in relation to the Belgian government's submission of a Time Extension Notification ('TEN') in respect of the annually mean NO2 limit value. We would like to point out that the Belgian authorities do not meet the legal criteria for obtaining a time extension under Article 22 of Directive 2008/50/EC (the 'Directive'). We focus on the two conditions contained in Article 22 of the Directive, for the Brussels region, one of the two regions that failed to meet the annual mean limit value for NO2 in 2010, the region we work on, and for the federal level.

National Federal Level

1. Condition one – measures to achieve compliance by the initial attainment date

The first condition is that the member state must have taken all appropriate measures at the national, regional and local level to achieve compliance with the limit value by 1 January 2005. We believe that the national federal level does not meet this criteria.

The national federal level has failed to act on two key competencies which greatly influence mobility and air quality policies.

Excise taxes: In Belgium excise taxes for fuels are historically and to an important extent lower for Diesel than for Petrol cars.

Company cars: Belgium offers the biggest tax subsidy for company cars in Europe, up to 4 billion euro a year. The result is that employees are encouraged to use individual car in stead of public transport. This greatly increases the annual mileage. According to the Promoco-study (Professional mobility and

company cars ownership, Castaigne et al., 2009) a company car leads to an increase of 9200 kilometers driven when the same profile of drivers is considered. Besides, 90% of company cars are diesel.

2. Condition two – measures to achieve compliance by the extended deadline

This situation remains the same today. The difference between diesel and petrol cars is still highly favourable for diesel. The new federal Government hasn't taken any measures to eliminate the positive discrimination of diesel.

As for company cars, the new Belgian federal government has recently announced an increase in taxes for an amount of 200 million Euro, to be split equally between companies and company car users. The details of this new measures are being passed through parliament and it is clear that the fringe benefits of company cars remain highly favourable. The increase of 200 million Euro represents only a 5% increase compared to the 4 billion Euro of tax exemptions that stimulate the use of company cars. The new tax increase will not influence the use of company cars for private matters nor for home-to-work-traffic, since it will only affect the acquisition of the car. Therefore we dare to say this new increase will not have any significant effect on traffic and therefore not on emissions or concentrations.

Brussels Region

1. Condition one – measures to achieve compliance by the initial attainment date

The first condition is that the member state must have taken all appropriate measures at the national, regional and local level to achieve compliance with the limit value by 1 January 2010.

The Brussels Region does not meet this criteria. The essence of the strategy to achieve compliance by the extended deadline, is the IRIS II mobility plan which has only been adopted in September 2010, and the EURO 6 standard will not be active before 2014. Moreover, the measures contained in the previous mobility plan Iris 1 which would have enabled a reduction of car traffic, have not been implemented. Therefore, the Brussels Capital Region has not taken measures to reduce concentrations by the initial attainment date.

2. Condition two – measures to achieve compliance by the extended deadline

We have evidence that the limit value will not be met by 2015.

2 a) In its letter the Brussels Regional authority claims that it will possibly meet the limit value by the extended deadline thanks to two developments, namely the IRIS II mobility plan and EURO 6 emission standard for cars. If these two developments take place, it will lead to a reduction of concentrations with respectively 2% and 9%, according to the document. Therefore, Brussels authorities claims the annual concentrations will be met in all of the measurement stations... except for one. Indeed, the document allows for a failure in the only street canyon measurement station in the Brussels region (being the station known as 41R002 Kroonlaan/Avenue Couronne) where the concentrations may vary between 38 et 48 ug/m³ even when IRIS II and EURO 6 are fully implemented.¹

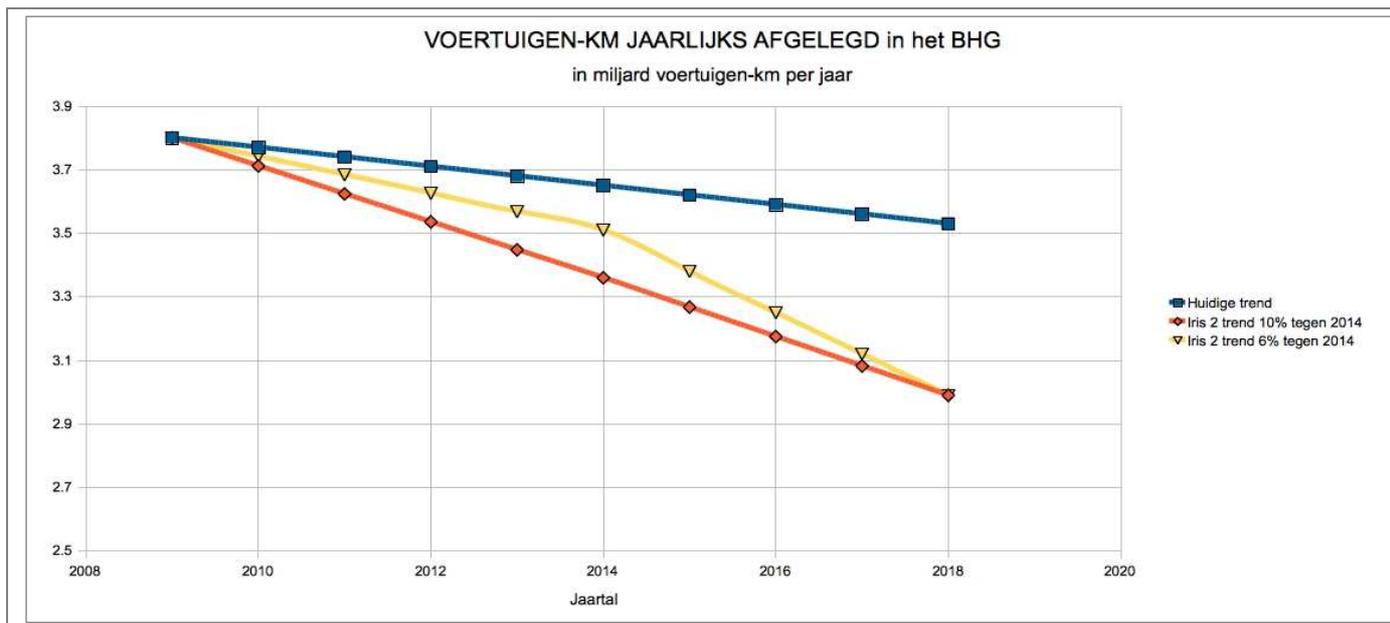
Therefore, we stress that the Brussels government itself admits in this document that further action is required to guarantee the limit value will be respected in all of the stations. By doing so, Brussels authorities admit they do not satisfy the legal criteria for obtaining a time extension under Article 22 of the Directive.

¹ Form 4B: Baseline level for extended deadline for compliance : “Cela aboutirait à des concentrations variant entre 38 et 48 ug/m³ pour une station de type "street canyon". Dans les autres stations, la norme NO₂ sera respectée.”

2b) The Brussels Regional government is counting heavily on the new EURO 6 standard for cars to reduce the local emissions.² We want to point that this is an overly optimistic stance which is not rooted in any realistic experiences. On the contrary, previous experiences have clearly shown that even if the renewal of the car fleet will go as smoothly as they predict, this does not lead to the hoped for reduction of emissions. It is well known that the former EURO levels (1 to 5) have one after the other failed to deliver the results for NOX that were expected because the official European driving cycle (NEDC) is totally unrealistic in comparison with the everyday driving conditions. The first echo's of specialists about EURO 6 vehicles in real life seem to be contradictory, both pessimistic and optimistic.

2c) The Brussels Regional Government claims that IRIS II³ mobility plan will lead to a further reduction of 2% of the NO2 concentrations. In order to achieve this reduction a 10% reduction of traffic is necessary, according to the Brussels Regional Government. Brussels Government claims the measures planned in IRIS II and listed in form 7 (BRU 1, 2, 3, 4 & 7) guarantee this 10% reduction until 2015. This is not a correct representation of the actual goal as stated in the IRIS II plan. The plan contains a goal for traffic reduction in ways of a fork from 6 to 10% until 2015. By using only the upper limit of this fork, the Brussels Regional Government misleads the Commission.

2d) Currently the Brussels Regional government is far off track to even meet the 6% traffic reduction goal for 2015. If the current trend (see the blue line in the graph below) continues, only a 5.6% reduction of traffic volume will be reached by 2018.



Graphic 1: projection of vehicle kilometres in the Brussels Capital Region up to 2018, based on the trend 2008 tot 2010. (Blue: BAU evolution; orange: scenario IRIS II 10% reduction in 2014; yellow: scenario IRIS II 6% reduction in 2014)

² Form 4B : « Si le cycle de conduite utilisé pour les normes EURO est plus représentatif d'un cycle de conduite en ville que le NEDC, les concentrations estimées ci-dessus peuvent être revues à la baisse de 9% . On suppose pour cela qu'en un an 24% du parc automobile sera renouvelé et passera aux normes EURO6 (50% du parc étant composé de voitures de société dont la durée de vie n'est que de 3 ans, donc en un an environ 17% des voitures passeront aux normes EURO 6 et les 50% restants sont des voitures de particuliers d'une durée de vie de 7 ans, donc en un an, 7% seront aux normes EURO6). »

³ Form 4B : «L'application du plan IRIS 2 (-10% de trafic en 2015 avec les mesures dans la form 7; BRU_1, BRU_2, BRU_3, BRU_4, BRU_7 (4)) permettra de réduire de 2% supplémentaires les concentrations de NO2. »

Le graphe ci-dessous montre l'évolution des véhicules x km en Région de Bruxelles-Capitale.

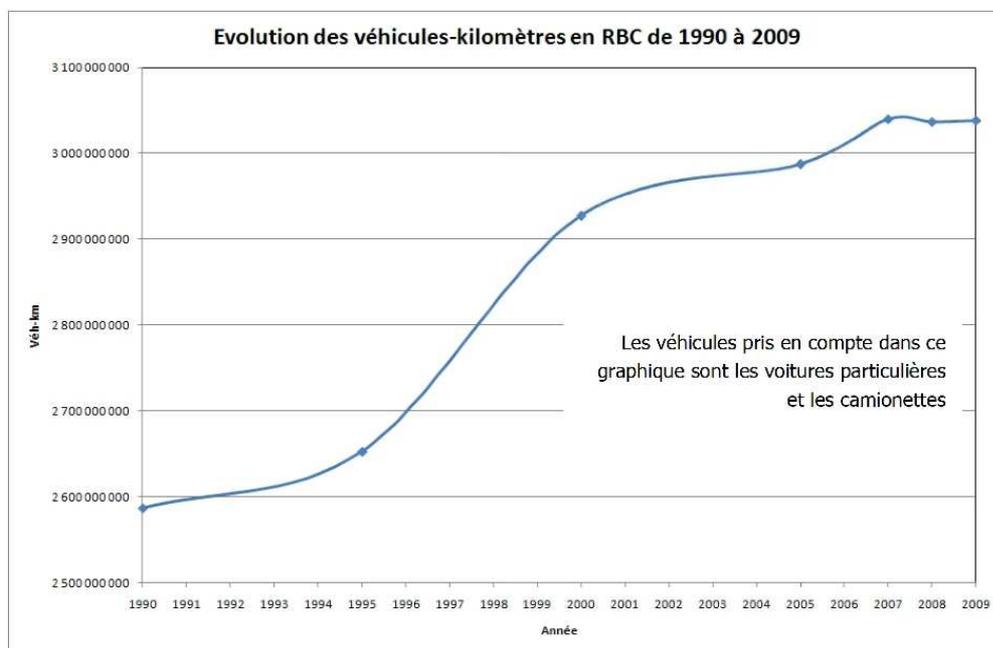


Figure 62 : Evolution des véhicules-kilomètres en Région de Bruxelles-Capitale entre 1990 et 2009

Sources : Service public fédéral Mobilité et Transports

Entre 2001 et 2010, la tendance est à toujours à la hausse mais beaucoup moins forte que la décennie précédente grâce aux mesures mises en œuvre. En 2008 et 2009, l'effet de la crise s'est fait sentir avec une stabilisation des déplacements.

Graphic: vehicle miles in the Brussels Region from 1990 to 2009.

Data accessible through:

http://www.mobilite.fgov.be/data/mobil/TabB2_GcLRn.pdf

http://www.mobilite.fgov.be/data/mobil/TabB3_pkmN.pdf

Moreover, the current decline in traffic is probably solely due to the economic crisis and a decline in cargo traffic. If the economy takes up again, so will annual mileage.

Currently there are no measures decided which will break the current trend. Indeed hardly any of the measures BRU 1, 2, 3, 4 and 7 are decided policies, most of the measures being actually subject to studies or political discussions. And those measures that are decided and taken, will not have any influence on concentrations;

We analyse the measures the Brussels Government puts forward.

Analyses of measures presented by the Brussels Regional Government

BRU 1:

1) Reform of the circulation tax and the tax 'mise en circulation' (registration tax): discussions between the regional authorities are going on, just as are the discussions within the Brussels Regional Government on the priorities of this new fiscal system. It is therefore too early to claim any positive impact of this reform. Concerns exist that a difference in the Flemish registration tax and the Brussels one, as they are being studied, might lead to an increase of second hand vehicles in Brussels and therefore will double cross the reduction of NO2 emissions.

2) taxation system for vehicle use: currently, a study is going on about a intelligent tax on lorry use. Nothing is certain yet. The Brussels Government states that it might implement a congestion charge as an alternative, if this intelligent tax does not enter into force by 2013. However, so far there still is no consensus what so ever within Brussels Regional Government about such a congestion charge on a Brussels level alone and it is highly unlikely that such a new charge will be functioning before 2015.

3) Reform of the fiscal system on the federal level: see supra,

BRU 2

1) IRIS 2 mobility plan: the regional Government claims it will put public transport, cyclists and pedestrians in the centre of its « concerns » in ways of transport and presents a series of measures to facilitate and increase modal shift;^{4 5}

This is off course highly worthy but is still an intention. For the time being there is not enough policy to guarantee a significant modal shift in favour of bike use. Increase of bicycle is being a policy goal since years. The Regional Development Plan of 2000 aimed at 10% share for bicycle by 2010; today the share is only 4%.

Moreover, we should emphasise that an increase in the use of public transport, cycling and walking does not automatically lead to a decrease of car traffic, not without any additional measures penalising car use. This is also confirmed by the experience of the past decade in Brussels, where a spectacular increase of passengers on public transport went alongside a continuous rise in car traffic in absence of any measures to penalise car use. The graph below shows the increase of passengers on public transport in the Brussels Region. Put next to the graph above of the increased vehicle miles in the Brussels region over the same time period illustrates that increased public transport is needed in order to enable a modal shift in transport modes, but in itself does not lead to a decrease of car

⁴ Amélioration des infrastructures pour les modes de transport actifs (Ref_BRU07_PLAN) ; Promotion de la marche via un plan piéton (Ref_BRU07_PLAN) ; Iris 2 a également prévu la création d'un Plan Piéton, pour contribuer à faire de Bruxelles une capitale durable, avec une meilleure qualité de vie. ; Aménagement des voiries de telle sorte d'avoir 100% des voiries cyclables (Ref_BRU07_PLAN) ; Développement d'un système de bus nocturne "noctis" ; Développement du stationnement vélo (Ref_BRU07_PLAN) ; Faciliter l'intermodalité (Ref_BRU07_PLAN) ; Mise en place d'un système de location de vélo "Villo" en rue depuis mai 2009 (Ref_BRU08_PLAN, Ref_BRU07_PLAN)

⁵ « le Gouvernement de la Région de Bruxelles-Capitale a décidé de réduire la charge de trafic de 20% en 2018 par rapport au niveau de 2001, en maîtrisant et rationalisant la demande de mobilité. Tel que décrit dans le Plan Iris 2, il s'agit notamment de placer les transports publics, piétons et cyclistes au centre des préoccupations de déplacement, suivi par le transport individuel motorisé.»

traffic.



2) Parking policy. The Regional Government is currently launching a Regional Parking Agency in order to manage car parking in the whole of the Region.^{6 7} This is one of the rare measures that consist of decisions that are already taken. However, the constitution of an Agency is only the starting point of the Parking Plan and the latest uproar of the Brussels Municipal authorities prove that the Parking Plan is not yet reality. It is important to point out that out of 19 communities, only 3 communities joined the regional parking agency. On the 2d of November the Brussels Conference of Mayors went as far as threatening to change the Parking Ordonnance (since almost all of them are also members of parliament) if the Government will not change the Parking Plan. Among other elements, mayors fight the proposals to increase parking rates.

3) Company mobility plans⁸. This is one of the rare measures that are decided and taken and will even have an influence on traffic. However we

⁶ Gestion du stationnement : le 28 janvier 2011, les statuts de l'Agence pour le stationnement de la Région de Bruxelles-Capitale ont été constitués. Cette agence a pour but de gérer de manière rationnelle le stationnement à Bruxelles.

⁷ Réduction du nombre de places de stationnement en voirie au bénéfice des cyclistes, marcheurs et des transports publics : une réduction de 16% du stationnement en voirie est prévu en 2018 (Ref_BRU07_PLAN)

⁸ Plans de déplacement d'entreprises, pour les écoles et les grands événements (Ref_BRU07_PLAN) : La Région a récemment modifié la législation relative aux plans de déplacement, et adopté le 14/05/2009 une ordonnance dont l'une des principales innovations porte sur l'extension de l'obligation d'établir un plan de déplacement aux entreprises qui occupent 100 travailleurs (au lieu de 200 précédemment). Ce sont donc 50.000 travailleurs supplémentaires qui pourront bénéficier de cet instrument. L'arrêté « plan de déplacements d'entreprise » a été adopté par le Gouvernement en exécution de cette ordonnance le 7 avril 2011 (publication au moniteur belge le 09 mai 2011). Cet arrêté permet de rendre obligatoire l'établissement d'un PDE à partir de 100 personnes occupées sur un site et d'imposer la mise en œuvre de certaines actions en faveur de la mobilité douce (disposer d'un plan d'accès multimodal, installer un parking vélos couvert et sécurisé, etc.) ; Soutien aux taxis via le système collecto depuis 2008 (Ref_BRU07_PLAN) ;

should not be too optimistic about the impact of this measure as it affects only a small part of mileage. The recent change in the ordonnance affects 50.000 additional workers. This is to be compared to the 600.000 jobs in the Brussels Capital Region.

Moreover company plans have no stronger impact then stimulate the modal split by relatively small measures on company or neighbourhood level, such as bicycle parking or information on the company website.

4) Carsharing : this is an interesting policy but already in place since many years. The further development of Cambio might encourage more people to do without a car but there is not enough knowledge as to what extent users of Cambio would by a car without the service of Cambio.⁹

5) Urban distribution centre¹⁰ : this is once more a measure that is not yet concrete and is very uncertain.

6) Speed reduction (Ref_BRU9_PLAN) : see infra .

BRU 3

1) ¹¹The metro extensions will certainly not be in practice before 2018 and will therefore not have any results on the concentrations in 2015.

2) ¹²The RER is a long lasting promise since years, being a bit like waiting for Godot, and is advancing very slowly, facing several complaints and court cases for building permits ad not being considered as a political priority. It is for instance still not clear which RER-stations the Brussels Regional Government demands.

BRU 4

1) incentives for cleaner public car fleets: this measure is based on the "ecoscore" instrument which still encourages diesel.

2) development of ecoscore: idem

3) company mobility plans : see supra.

4) Particle filter on busses : this measure does not decrease emissions of NO2 ; on the contrary, it increases them.

⁹ Développement du co-voiturage (Cambio) (Ref_BRU08_PLAN, Ref_BRU07_PLAN).

¹⁰ Amélioration de la logistique et de la distribution des marchandises et Développement d'un centre de distribution urbain afin de diminuer le transport de marchandises au sein de la Région (Ref_BRU07_PLAN)(Ref_BRU07_PLAN)

¹¹ Augmentation de l'offre en transport en commun STIB (en nombre de places) d'environ 36% en 2011 (Ref_BRU08_PLAN, Ref_BRU9_PLAN, Ref_BRU07_PLAN). La première priorité va à la réalisation, pour 2018 de la prolongation du Pré-Métro et du Métro à Schaerbeek, avec dépôt à Haren, moyennant intervention du fédéral. Des mesures de rationalisation de la circulation en surface seront prises simultanément sur la liaison Nord. Par ailleurs, seront étudiés la prolongation sur Uccle et sur le tracé de la moyenne ceinture, moyennant intervention du Fédéral. (Ref_BRU07_PLAN) ; En outre, diverses extensions des lignes de tram et de bus ainsi que d'aménagements de sites propres ont été décidés.

¹² Mise en service du RER : le RER est en cours de construction et sera opérationnel à 100% en 2018. Le RER fera aussi l'objet d'une extension afin d'aboutir à un véritable chemin de fer urbain. (Ref_BRU07_PLAN)

1) PLAN IRIS 2 : see supra.

2) Low Emission Zones : a study is currently going on about the possible impact of different scenarios of LEZ's in Brussels Capital Region. It is once more way too early to claim any effect of LEZ's on concentrations since at this moment nobody knows whether any LEZ will be installed and if it will, when, where or how.

3) Zone 30 in the citycentre (pentagon): this zone 30 is indeed implemented. However, so far there aren't any physical devices installed to slow down traffic speed, except for a couple of streets around the Grand Place where nadar barriers are placed in the streets in order to make it carfree, nor has any mobility plan or investment program been presented to do so in the near future. Since municipal elections are due to take place in October 2012, it will be the responsibility of the new College of Mayor and Secretaries (College de Bourgmestre & Echevins/College van Burgemeester & Schepenen) to decide whether such measures will be implemented or not. Therefore this measure is far from certain.

It is most probable the actual conception of the Zone 30, without these devices, has no influence what so ever on emissions. At least local press claims that car drivers don't respect the speed limit.

4) ¹³Urgency plan for pollution peaks : this plan has been adopted and is active since 2009. However, the impact of this urgency measures on emissions and therefore on concentrations will probably be very low. The actual measures in phase 1 of the plan consist in information, extra speed control and a reduction of speed limit. Since Brussels Capital Region includes almost no kilometres of highways this speed limit applies mostly on secondary urban roads where the limit is reduced from 70 to 50 km/h. Because these are mostly inner city and therefore urban roads, one has to discount the hours with traffic congestion (when speed is automatically less than 50 km/h) which leaves only few hours for an actual possible decrease of speed.

Phase 2 consists of tougher measures, notably alternated driving. According to Ircel/Celine (the Interregional Cell for the Environment) this would have an immediate effect on concentrations of 21%¹⁴. However the government has adopted such a high threshold for implementation of this measure (200 microgram NO₂/m³), that this measure has not once been taken yet.

¹³ Plan d'urgence en cas de pic de pollution : Un plan d'urgence en cas de pic de pollution aux PM₁₀ et aux NO₂ est opérationnel depuis 2009 : en cas d'atteinte des seuils de niveau 2 et 3, les poids lourds n'auront pas accès à la ville pendant les heures de pointes, les transport en commun seront gratuits et renforcés. Les contrôles de vitesse seront également renforcés.

¹⁴ Impact van verkeersmaatregelen tijdens SMOG episodes, Ircel/celine, Oktober 2010

Conclusion

For all these reasons we conclude that it is highly unlikely that the limit value for NO₂ will be met. Improving the urban environment depends upon a strong European ambition and a clear enforcement of European legislation by the European Commission. Thus we depend upon it the European Commission will not grant the time extension for Belgium for NO₂.

Please acknowledge receipt of this letter, and do contact us if you wish to discuss any of these issues.

Yours sincerely

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