

The Chair  
Committee on Petitions

Brussels,  
*IS/npe[IPOL-COM-PETI D (2017)49113]*

Mr Ian Blore  
35 Bellot Street  
SE100AQ London  
ROYAUME-UNI

D 319434 14.12.2017

**Subject:** Petition No. 0198/2017

Dear Mr Blore,

Further to my letter of 24 July 2017, I would like to inform you that the Committee on Petitions continued its examination of your petition at its meeting of 28 November 2017 taking due account of the written information provided by the European Commission.

I am enclosing a copy of the Commission's considered opinion for your information, in the form of a notice to members.

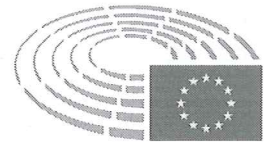
On the basis of this opinion, with which it is in broad agreement, the Committee on Petitions decided to conclude its consideration of your petition, and thus close the file.

Yours sincerely,



Cecilia Wikström  
Chair  
Committee on Petitions

*Annex: Reply from the Commission (CM1135320EN - PE610.857v01-00)*



22.9.2017

## NOTICE TO MEMBERS

**Subject:** Petition No 0198/2017 by Ian Blore (British) on alleged breach of the EU environmental legislation as a consequence of the permission to construct a cruise liner terminal in London

### 1. Summary of petition

The petitioner is concerned about alleged breach of the EU environmental legislation as a consequence of the decision of the competent authorities to grant permission to construct a cruise liner terminal in London. The petitioner explains that such decision was taken without proper environmental impact assessment. The proposed development is within Air Quality Management Area which covers the whole of the London boroughs of Greenwich and Tower Hamlets. Both boroughs suffer from increased air pollution levels which exceed permissible limits on main roads.

In the view of the petitioner the UK is infringing both the Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment and Air Quality Directive 2008/50/EC. The cruise ports should consider mitigation measures recommended by Article 4 (5) of Directive 2014/94/EU on the deployment of alternative fuels infrastructure. The petitioner claims that there will be a continuing infringement of permitted air quality limits should the permitted development take place without adequate mitigation.

### 2. Admissibility

Declared admissible on 30 June 2017. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 22 September 2017

The European air quality legislation (Directives 2004/107/EC and Directives 2008/50/EC) are obligations of results rather than means. That means that they set limit values for the concentrations of pollutants in the ambient air, but it is up to Member States to decide which

measures to take to meet these limit values. This includes the management of air quality management areas (AQMA) in the United Kingdom.

If the Member State grants permission to a project that would increase pollution beyond the limit values for ambient air quality, it would logically have to take compensating measures to ensure compliance with the limit values. In any case, in accordance with the principle of subsidiarity, the Commission enforces the compliance with the limit values, but does not interfere with a Member State's choice of measures to achieve compliance.

Since NO<sub>2</sub> exceedances still occur in many British cities, the Commission has moved along its infringement procedure against the United Kingdom addressing this issue. In February 2017, it followed up its letter of formal notice of February 2014 with a reasoned opinion. The Greater London, including Royal Borough of Greenwich, is one of the 16 air quality zones that are subject to this reasoned opinion. A reasoned opinion is the last step of an infringement procedure<sup>1</sup> before a potential referral to the European Court of Justice, if the air quality situation does not improve sufficiently.

From the information provided by the petitioner, it seems that the project referred to in the petition falls under Annex II of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (EIA Directive)<sup>2</sup>. For Annex II projects, Member States have to determine, either through a case by case examination or according to thresholds or criteria, whether the project is to be made subject to an assessment because of its likely significant effects on the environment taking into account the relevant selection criteria set out in Annex III of the Directive. In the case where the Member State decides that the project will have significant effects on the environment, an environmental impact assessment has to be carried out.

The petitioner claims that no assessment of the cumulative environmental effects of air pollution has been carried out for the project mentioned in the petition and all relevant polluting sources. In this respect, it should be noted that an overall environmental impact assessment on distinct projects is not a requirement under the EIA Directive.

From the information provided by the petitioner, it can be concluded that members of the public concerned had access to a review procedure before a court at the national level to challenge the decision to grant a planning permission for the project in accordance with Art. 11 of the EIA Directive.

### Conclusion

Directive 2008/50/EC is an obligation of results rather than means, so it is up to the United Kingdom how it is going to comply with the NO<sub>2</sub> limit values. The infringement procedure against the United Kingdom regarding NO<sub>2</sub> exceedances is moving along steadily, because the limit value for the annual mean NO<sub>2</sub> concentration established by Directive 2008/50/EC continued to be exceeded in many British cities, including London, in 2015.

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<sup>1</sup> [https://ec.europa.eu/info/law/law-making-process/overview-law-making-process/applying-eu-law/monitoring-implementation-eu-directives/infringement-procedure\\_en](https://ec.europa.eu/info/law/law-making-process/overview-law-making-process/applying-eu-law/monitoring-implementation-eu-directives/infringement-procedure_en)

<sup>2</sup> OJ L 26, 28.1.2012.

With regard to the EIA Directive, there is no indication that the relevant environmental *acquis* requirements have been breached.