

Commission Decision (EU) 2020/654 of 13 May 2020 concerning national provisions notified by Germany on small and medium combustion units (notified under document C(2020) 2986) (Only the German text is authentic)

COMMISSION DECISION (EU) 2020/654

of 13 May 2020

concerning national provisions notified by
Germany on small and medium combustion units

(notified under document C(2020) 2986)

(Only the German text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114(6) thereof,

Whereas:

I. FACTS AND PROCEDURE

(1) By letter of 29 November 2019, Germany notified the Commission pursuant to Article 114(4) of the Treaty on the Functioning of the European Union (TFEU) of its wish to maintain certain national provisions for solid fuel boilers, in accordance with the German Regulation on small and medium-sized combustion units [Verordnung über kleine und mittlere Feuerungsanlagen] of 26 January 2010⁽¹⁾ (the ‘1st BImSchV’). Germany considers it necessary to maintain those national provisions after the entry into force of Commission Regulation (EU) 2015/1189⁽²⁾ on grounds related to the protection of human health and the protection of the environment.

1. *UNION LEGISLATION*

1.1. ARTICLE 114(4) AND (6) TFEU

(2) Article 114(4) TFEU provides that ‘[i]f, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 36, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.’

(3) Under Article 114(6) TFEU, the Commission is to, within 6 months of a notification pursuant to Article 114(4), approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member

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States and whether or not they shall constitute an obstacle to the functioning of the internal market.

1.2. DIRECTIVE 2009/125/EC ON ECODESIGN REQUIREMENTS FOR ENERGY-RELATED PRODUCTS

(4) Directive 2009/125/EC of the European Parliament and of the Council⁽³⁾ provides for the setting of requirements which the energy-related products covered by implementing measures must fulfil in order to be placed on the market or put into service, or both. That Directive contributes to a sustainable development by increasing energy efficiency and the level of protection of the environment.

(5) Pursuant to Article 6(1) of Directive 2009/125/EC ‘Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service, within their territories, of a product that complies with all the relevant provisions of the applicable implementing measure and bears the CE marking in accordance with Article 5 on grounds of ecodesign requirements relating to those ecodesign parameters referred to in Annex I, Part 1 which are covered by the applicable implementing measure.’

(6) Pursuant to Article 6(2) of Directive 2009/125/EC ‘Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service, within their territories, of a product bearing the CE marking in accordance with Article 5 on grounds of ecodesign requirements relating to those ecodesign parameters referred to in Annex I, Part 1 for which the applicable implementing measure provides that no ecodesign requirement is necessary.’

(7) Under Directive 2009/125/EC, an ‘ecodesign requirement’ means any requirement in relation to a product, or the design of a product, intended to improve its environmental performance, or any requirement for the supply of information with regard to the environmental aspects of a product.

(8) Pursuant to Article 15 of Directive 2009/125/EC, implementing measures are to lay down ecodesign requirements in accordance with Annex I (‘method for setting generic ecodesign requirements’) and Annex II (‘method for setting specific ecodesign requirements’).

(9) Generic ecodesign requirements aim at improving the environmental performance of products, focusing on significant environmental aspects thereof without setting limit values. Specific ecodesign requirements aim at improving a selected environmental aspect of the product. They may take the form of requirements for reduced consumption of a given resource, such as a limit on the use of a resource in the various stages of a product’s life cycle, as appropriate.

1.3. REGULATION (EU) 2015/1189 WITH REGARD TO ECODESIGN REQUIREMENTS FOR SOLID FUEL BOILERS

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- (10) Regulation (EU) 2015/1189 is adopted under the framework of Directive 2009/125/EC. In conformity with the procedure set out in Directive 2009/125/EC, the Commission has carried out a preparatory study to analyse the technical, environmental and economic aspects of the solid fuel boilers typically used in households and for commercial purposes. The study has been carried out with stakeholders and interested parties from the Union and third countries, and the results have been made publicly available.
- (11) The environmental aspects of solid fuel boilers that have been identified as significant for the purposes of Regulation (EU) 2015/1189 are energy consumption in the use phase and emissions of particulate matter (dust), organic gaseous compounds, carbon monoxide and nitrogen oxides in the use phase.
- (12) Accordingly, Annex II of Regulation (EU) 2015/1189 sets out specific ecodesign requirements applicable from 1 January 2020 for solid fuel boilers and, in particular, provides that seasonal space heating emissions of particulate matter shall not be higher than 40 mg/m³ for automatically stoked boilers and not be higher than 60 mg/m³ for manually stoked boilers. Those requirements are to be met for the preferred fuel and for any other suitable fuel for the solid fuel boiler.
- (13) Measurements and calculation methodology are set out in Annex III of Regulation (EU) 2015/1189.

2. NATIONAL PROVISIONS NOTIFIED

- (14) The national provisions notified by Germany are the following provisions of the 1st BImSchV:
 - (a) Section 5, point (1) which sets emission limit values and a measurement methodology for particulate matter (the ‘first provision’). Those differ from the values and measurement methodology applicable from 1 January 2020 pursuant to Regulation (EU) 2015/1189;
 - (b) Section 4, point (1), in conjunction with section 3, which provides an exhaustive list of fuels that may be used in firing installations (the ‘second provision’). Regulation (EU) 2015/1189 does not contain such an exhaustive list;
 - (c) Section 5, point (4) requires solid fuel boilers to be provided with hot water storage tanks (the ‘third provision’). Regulation (EU) 2015/1189 does not contain such a requirement;
 - (d) Section 14 and section 15 point (1) as regards the monitoring of new and significantly modified combustion units (the ‘fourth provision’). Regulation (EU) 2015/1189 sets out requirements at the time of placing solid fuel boilers on the market and does not contain provisions for further monitoring.

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3. *PROCEDURE*

- (15) By letter of 29 November 2019, Germany notified the Commission of its wish to maintain national provisions for solid fuel boilers under the 1st BImSchV.
- (16) By letter of 10 January 2020, the Commission confirmed that it had received the notification and that the 6-month period for its examination under Article 114(6) TFEU had begun on 30 November 2019, the day following the day on which the notification was received.
- (17) The Commission published a notice regarding the notification in the *Official Journal of the European Union*⁽⁴⁾ in order to inform other interested parties of Germany's national provisions, as well as the grounds invoked to support the request. By letter of 6 February 2020, the Commission informed the other Member States and the EEA States of the notification and gave them and relevant entities the opportunity to submit comments within 30 days. The Commission received comments from Cyprus, the Czech Republic and a joint letter from Deutsche Umwelthilfe e.V., ClientEarth, Air Pollution & Climate Secretariat, European Environmental Bureau, Green Transition Denmark and ECOS.
- (18) Cyprus does not oppose to the request of Germany for maintaining more stringent national provisions and considers that the reasons provided by Germany are concrete and completely documented. Cyprus also considers that rejecting the notification of Germany would eventually lead to a deterioration of air quality.
- (19) The Czech Republic perceives positively and supports the German notification to maintain their national provisions derogating from the ecodesign requirements for solid fuel boilers.
- (20) In their joint letter, the organisations referred to in recital 17 considered the request made by the German government to be necessary and proportionate in order to protect human health and the environment.
- (21) By letter of 18 February 2020, the Commission requested complementary information from Germany. The Commission received that information by letter dated 4 March 2020.

II. **ASSESSMENT**

1. *ADMISSIBILITY*

- (22) Under Article 114(4) and (6) TFEU a Member State may, after the adoption of a harmonisation measure, maintain its more stringent national provisions on grounds of major needs referred to in Article 36 TFEU, or relating to the protection of the environment or the working environment, provided that it notifies those national provisions to the Commission and the Commission approves those measures.

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- (23) The Commission takes the view that Article 114(4) and (6) TFEU may only be applied where national provisions diverge from specific provisions of a harmonisation measure. Therefore, where provisions notified under Article 114(4) do not relate to requirements covered by a harmonisation measure, their notification is to be declared inadmissible.
- (24) On that basis, the admissibility of the application for each of the four German provisions is detailed below.
- 1.1. FIRST PROVISION: PARTICULATE MATTER EMISSIONS THRESHOLD
- (25) Regulation (EU) 2015/1189 sets out specific ecodesign requirements for various parameters of solid fuel boilers, including emissions of particulate matter.
- (26) The German provisions concerning particulate matter emissions which have been notified to the Commission are requirements in relation to the product and are intended to improve its environmental performance, quantified and measurable. Therefore, they constitute specific ecodesign requirements within the meaning of Directive 2009/125/EC.
- (27) Whereas under the 1st BImSchV particulate matter emissions are measured for solid fuel boilers within four weeks of installation, conformity assessment under Regulation (EU) 2015/1189 is to be made using the design control procedure set out in Annex IV to Directive 2009/125/EC or the management system set out in Annex V to that Directive. On that basis, under comparable but not strictly equivalent circumstances, at 10 % oxygen content, Section 5 of the 1st BImSchV sets a limit value for emissions of 27,5 mg/m³, whereas Regulation (EU) 2015/1189 sets limit values of 40 mg/m³ and 60 mg/m³ for, respectively, automatically stoked and manually stoked solid fuel boilers.
- (28) The German provisions concerning particulate matter emissions therefore diverge from the provisions of Regulation (EU) 2015/1189 in that they are more stringent.
- (29) In accordance with Article 114(4) TFEU, the German notification is supplemented by a description of the grounds related to human health, which constitutes a major need referred to in Article 36 TFEU, and related to the protection of the environment. It is also supplemented by an assessment of the impact on trade.
- (30) Therefore, the Commission considers that the application by Germany with a view to obtaining authorisation to maintain its national provisions on particulate matter emissions is admissible under Article 114(4) TFEU.
- 1.2. SECOND PROVISION: USABLE FUELS

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- (31) Section 3 of the 1st BImSchV sets out a restrictive list of fuels that can be used in firing installations.
- (32) As that provision relates to the consumption of energy and of other resources during the use phase of solid fuel boilers and anticipated emissions to air, water or soil, the German provisions related to usable fuels constitute ecodesign requirements within the meaning of Directive 2009/125/EC.
- (33) Pursuant to Article 6(2) of Directive 2009/125/EC, ‘Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service, within their territories, of a product bearing the CE marking in accordance with Article 5 on grounds of ecodesign requirements relating to those ecodesign parameters referred to in Annex I, Part 1 for which the applicable implementing measure provides that no ecodesign requirement is necessary’.
- (34) Regulation (EU) 2015/1189 does not set out ecodesign requirements related to usable fuels for solid fuel boilers. While the preparatory study conducted to inform the adoption of the implementing measure concluded that ‘no further requirements regarding ecodesign parameters for products referred to in Part 1 of Annex I to Directive 2009/125/EC are necessary in the case of solid fuel boilers’⁽⁵⁾, Regulation (EU) 2015/1189 does not provide that no ecodesign requirement relating to usable fuels are necessary⁽⁶⁾.
- (35) Usable fuels are thus not a harmonised ecodesign requirement under Regulation (EU) 2015/1189.
- (36) Therefore, the Commission considers that the application by Germany with a view to obtaining authorisation to maintain its national provisions regarding usable fuels is not admissible under Article 114(4) TFEU.

1.3. THIRD PROVISION: HOT WATER TANKS

- (37) Obligations related to the installation of hot water tanks alongside solid fuel boilers set out under section 5 point 4 of the 1st BImSchV are not related to product design, a requirement to supply information or a requirement for the manufacturer. Therefore, they do not constitute ecodesign requirements within the meaning of Directive 2009/125/EC.
- (38) Therefore, the Commission considers that the application by Germany with a view to obtaining authorisation to maintain its national provisions on hot water tanks is not admissible under Article 114(4) TFEU with reference to Directive 2009/125/EC.

1.4. FOURTH PROVISION: MONITORING

- (39) The verification of proper operation of firing installations by chimney sweeps set out in sections 14 and 15 of the 1st BImSchV is not an ecodesign parameter, a requirement to supply information or a requirement for the manufacturer.

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Therefore, it does not constitute an ecodesign requirement within the meaning of Directive 2009/125/EC.

- (40) Therefore, the Commission considers that the application by Germany with a view to obtaining authorisation to maintain its national provisions on the verification of proper operation by the chimney sweep of firing installations is not admissible under Article 114(4) TFEU with reference to Directive 2009/125/EC.

2. ASSESSMENT OF MERITS

- (41) Article 114(4) TFEU provides that if, after the adoption of a harmonisation measure a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 36, or relating to the protection of the environment or the working environment, it shall notify the Commission of those provisions as well as the grounds for maintaining them.
- (42) In this respect, the Court of Justice of the European Union has ruled that ‘[a] Member State may base an application to maintain its already existing national provisions on an assessment of the risk to public health different from that accepted by the Community legislature when it adopted the harmonisation measure from which the national provisions derogate. To that end, it falls to the applicant Member State to prove that those national provisions ensure a level of health protection which is higher than the Community harmonisation measure and that they do not go beyond what is necessary to attain that objective’⁽⁷⁾.
- (43) In addition, pursuant to the first paragraph of Article 114(6) TFEU ‘[t]he Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market’.
- (44) Therefore, the Commission has to assess whether or not the national provisions are justified by the major needs referred to in Article 36 TFEU or relating to the protection of the environment or the working environment and do not exceed what is necessary to attain the legitimate objective pursued.
- (45) It has to be noted that, in the light of the time frame established by Article 114(6) TFEU, the Commission, when examining whether the national measures notified under Article 114(4) TFEU are justified, has to take as a basis the justification put forward by the notifying Member State. The burden of proof lies with the requesting Member State that seeks to maintain its national measures.

2.1. THE POSITION OF GERMANY

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- (46) Germany considers that existing national provisions are more stringent than those of Regulation (EU) 2015/1189 and that maintaining them is justified both by major needs within the meaning of Article 36 TFEU, in particular the protection of human health, and by the need to protect the environment.
- (47) Germany points out that a reduction of the level of ambition set out by the 1st BImSchV would threaten air quality in Germany and thus contradict the objective of Regulation (EU) 2015/1189 of improving the environmental performance of solid fuel boilers.
- (48) Germany states that the deterioration of air quality would be contrary to the obligation stemming from Article 12 of Directive 2008/50/EC of the European Parliament and of the Council⁽⁸⁾ to maintain levels of particulate matter below the limit values and to endeavour to preserve the best ambient air quality, compatible with sustainable development. Germany also states that the deterioration of air quality would be contrary to the obligation stemming from Article 13 of that Directive not to exceed limit values for the protection of human health.
- (49) Germany also emphasises that applying the limits set in Regulation (EU) 2015/1189 in relation to the emission of particulate matter would jeopardise its ability to fulfil its obligations under Directive (EU) 2016/2284 of the European Parliament and of the Council⁽⁹⁾.
- (50) Germany considers that the existing level of protection of health and life of humans within the meaning of Article 36 TFEU and of the environment (Article 114(4) TFEU) could not be maintained in Germany if it applied the requirements of Regulation (EU) 2015/1189.

2.2. EVALUATION OF THE GERMAN POSITION

2.2.1. ***Justification on grounds of major needs referred to in Article 36 TFEU or the protection of the environment***

- (51) The evaluation of health and environmental risks linked to particulate matter emissions does not differ between Germany and the Commission.
- (52) A working group of the World Health Organisation (WHO) International Agency for Research on Cancer unanimously classified outdoor air pollution and particulate matter from outdoor air pollution as carcinogenic to humans, based on sufficient evidence of carcinogenicity in humans and experimental animals and strong mechanistic evidence⁽¹⁰⁾.
- (53) In its report, Air quality in Europe 2019⁽¹¹⁾, the European Environment Agency (EEA) notes that in 2016, 374 000 premature deaths could be attributable to fine particulate matter (PM_{2,5}) in the EU-28. The EEA estimates that in Germany alone 59 600 premature deaths were attributable to PM_{2,5} for the same reference year.

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- (54) Furthermore, it is recognised by the European legislator that ‘there is as yet no identifiable threshold below which PM_{2,5} would not pose a risk. As such, this pollutant should not be regulated in the same way as other air pollutants. The approach should aim at a general reduction of concentrations in the urban background to ensure that large sections of the population benefit from improved air quality’⁽¹²⁾.
- (55) The risks of particulate matter emissions for the health and life of humans are thus significant.
- (56) The German measure is directly linked to the objective of reducing particulate matter emissions, as it sets emissions limit values for particulate matter applicable to solid fuel boilers.
- (57) On that basis, the Commission is to, pursuant to Article 114(6) TFEU, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction of trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.
- 2.2.2. ***Absence of arbitrary discrimination, any disguised restriction of trade between Member States or any obstacle to the function of the internal market***
- 2.2.2.1. **Absence of arbitrary discrimination**
- (58) Article 114(6) TFEU obliges the Commission to verify that the envisaged measures are not a means of arbitrary discrimination. According to the jurisprudence of the Court of Justice⁽¹³⁾, in order for there to be no discrimination, similar situations must not be treated in different ways and different situations must not be treated in the same way.
- (59) The German national rules apply to both domestic products and products made in other Member States. In the absence of any evidence to the contrary, the Commission is to conclude that the national provisions are not a means of arbitrary discrimination.
- 2.2.2.2. **Absence of disguised restriction on trade**
- (60) National measures which restrict the use of products which comply with a Union harmonisation measure constitute a barrier to trade, in so far as products that are legally placed on the market and used in the rest of the Union cannot in practice, as a result of the national requirements, be placed on the market in the Member State concerned. The pre-conditions laid down in Article 114(6) TFEU are intended to prevent restrictions based on the criteria set out in paragraphs (4) and (5) thereof from being applied for inappropriate reasons, and constituting in effect economic measures to impede the importation of

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products from other Member States, that is to say, a means of indirectly protecting national production.

- (61) Given that the German rules impose stricter emission limit values requirements on particulate matter than those of Regulation (EU) 2015/1189 also on operators based in other Member States in an otherwise harmonised area, they are liable to constitute a disguised restriction of trade or an obstacle to the functioning of the internal market. The Commission considers⁽¹⁴⁾ that Article 114(6) TFEU must be read in the sense that only national measures constituting a disproportionate obstacle to the internal market may not be approved.
- (62) In this connection, Germany has submitted figures which indicate that imports of solid fuel boilers from other Member States have been taking place despite its existing legislation. The data provided is derived from the installation of solid fuel boilers that are subsidised by a renewable energy incentive scheme of the German government. Between 2014 and 2018, the data shows that biomass solid fuel boilers from German manufacturers consistently represented between 26 % and 28 % of subsidised boilers, against 70 % to 72 % from other Union manufacturers.
- (63) In the absence of any evidence suggesting that the national provisions constitute in effect a measure intended to protect national production, the Commission can conclude that they are not a disguised restriction to trade between Member States.

2.2.2.3. **Absence of obstacles to the functioning of the internal market**

- (64) This condition cannot be interpreted in such a way that it precludes the approval of any national measure likely to affect the establishment of the internal market. Indeed, any national measure derogating from a harmonisation measure aiming at the establishment and operation of the internal market constitutes in substance a measure likely to affect the internal market. Therefore, in order to preserve the object and purpose of the procedure laid down in Article 114 TFEU, the Commission considers that the concept of obstacle to the functioning of the internal market has, in the context of Article 114(6) TFEU, to be understood as a disproportionate effect in relation to the pursued objective. That means, it should not go beyond what is necessary to achieve the said objective.
- (65) As a national measure derogating from a harmonisation measure, maintaining the first notified provision is likely to affect the internal market.
- (66) Applying Regulation (EU) 2015/1189 would open the German market to new models of solid fuel boilers, with higher particulate matter emissions, increase competition on this market and therefore potentially reduce the average cost of installations. However, according to data provided by Germany, this average

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cost has not significantly increased on the German market after the national measure entered into force in 2015.

- (67) According to Germany's analysis, applying Regulation (EU) 2015/1189 particulate matter emission thresholds rather than maintaining the thresholds of the current legislation would lead to an overall yearly increase of particulate matter emissions of 1,3 kilotonnes in Germany. Although there is a limit to the degree of certainty that can be obtained from projections, any increase in the share of higher particulate matter emissions solid fuel boilers would lead to an increase in overall particulate matter emissions and in air pollution.
- (68) The current German legislation has been an incentive for investment of manufacturers in less emitting solid fuel boilers over the last years, providing a market for their best performing products. In that regard, lowering the requirements regarding emissions by means of the entry into application of Regulation (EU) 2015/1189 could dis-incentivise investment from manufacturer in better performing products.
- (69) Given the health benefits in relation to the reduction of particulate matter emissions, the limited identifiable trade impact on the basis of the data provided by Germany, the fact that there does not exist an identifiable threshold below which PM_{2,5} would not pose a risk and the direct link between the measure and the objective, maintaining the national provisions should not be considered disproportionate in relation to the objective pursued. Therefore, they do not constitute an obstacle to the functioning of the internal market in the meaning of Article 114(6) TFEU.
- (70) In the light of the foregoing analysis, the Commission considers that the condition relating to the absence of obstacles to the functioning of the internal market is complied with as regards this notification by Germany.

III. CONCLUSION

- (71) In the light of the above considerations, and taking into account of comments received from Germany and other relevant stakeholders, the Commission is of the opinion that:
- the notifications related to the provision on usable fuels, hot water tanks and monitoring of firing installations are not admissible under Article 114(4) TFEU;
 - the notification related to particulate matter emissions thresholds shall be approved,

HAS ADOPTED THIS DECISION:

Article 1

The national provisions related to particulate matter emissions thresholds applicable to solid fuel boilers covered by Regulation (EU) 2015/1189 and contained in section 5 point (1) of the 1st BImSchV are approved.

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Article 2

The notifications related to usable fuels, hot water tanks and verification of proper operation by the chimney sweep handicraft of firing installations are rejected as inadmissible.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 13 May 2020.

For the Commission

Kadri SIMSON

Member of the Commission

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- (1) https://www.gesetze-im-internet.de/bimschv_1_2010/BJNR003800010.html
- (2) Commission Regulation (EU) 2015/1189 of 28 April 2015 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for solid fuel boilers (OJ L 193, 21.7.2015, p. 100).
- (3) Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10).
- (4) OJ C 42, 7.2.2020, p. 2.
- (5) Recital 5 of Regulation (EU) 2015/1189.
- (6) Contrary to, for example, Commission Regulation (EU) No 547/2012 of 25 June 2012 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for water pumps (OJ L 165, 26.6.2012, p. 28), which provides in Article 3 that ‘No ecodesign requirement is necessary regarding any other ecodesign parameter referred to in Annex I, Part 1, of Directive 2009/125/EC’.
- (7) Case C-3/00, Kingdom of Denmark v Commission of the European Communities, EU:C:2003:167, paragraph 64.
- (8) 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 (OJ L 152, 11.6.2008, p. 1).
- (9) Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).
- (10) IARC monographs on the evaluation of carcinogenic risks to humans. Volume 109. Outdoor air pollution. Lyon: International Agency for Research on Cancer.
- (11) <https://www.eea.europa.eu/publications/air-quality-in-europe-2019>
- (12) 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 (OJ L 152, 11.6.2008, p. 1), recital 11.
- (13) Case C-477/14, Pillbox 38 (UK) Ltd/Secretary of State for Health, EU:C:2016:324, paragraph 35.
- (14) See for example of Commission Decision (EU) 2018/702 of 8 May 2018 concerning national provisions notified by Denmark on the addition of nitrite to certain meat products (OJ L 118, 14.5.2018, p. 7).

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