

Complaint about alleged breach of EU law by Czechia

Complaint form received

Reference	81749
Received on	15/01/2025
Language of communication	English
Correspondence should be sent to	Me
Disclosure of personal information	Yes

Personal information

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Alternative contact point (e.g. a representative)

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Surname	
Organisation	
Email	
Street and number	
Town	
Postcode	
Country	

Which EU country is your complaint about?

The EU country my complaint is about is	Czechia
The national authority my complaint is about is	Central administration

What is your complaint about?

What did the Member State and its administration do wrong? Systematically applied EU law incorrectly in a certain sector.
Incorrectly applied EU law in a particular situation.

Pieces of evidence / supporting documents

Describe the problem by outlining the facts and the reasons for your complaint.

I. Facts / Problem:

The Elektrárna Počerady installation, the largest emitter of toxic mercury and greenhouse gases in Czechia, operates without any emission limit values for Mercury (Hg), breaching Directive 2010/75/EU (IED) and Commission Implementing Decision (EU) 2021/2326 (BAT Conclusions). The installation's activity falls under point 1.1 of Annex I of the IED (Combustion of fuels in installations with a total rated thermal input of 50 MW or more).

In September 2021, the Regional Authority of Ústecký kraj together with the Ministry of Environment granted a derogation under Article 15(5) IED, allowing the installation to emit 28 µg/m³ instead of the required 7 µg/m³ maximum set by BAT Conclusions (BAT 23). In August 2024, the Regional Court in Ústí nad Labem struck down these administrative decisions for non-compliance with Article 15(5) IED. Consequently, the installation's permit now contains no Hg emission limits.

The Regional Authority has since failed to ensure permit compliance with BAT Conclusions and explicitly stated it does not intend to correct this failure, allowing uncontrolled toxic mercury emissions. The Ministry has not acted to end this unlawful omission. This is particularly severe since mercury's characteristics cause it to persist in the environment for thousands of years.

This situation breaches multiple EU law provisions:

Article 11 IED - Member States must ensure BAT application and prevent significant pollution. Currently, the installation operates without any mercury emission controls, contrary to this fundamental requirement.

Article 15(2,3) IED - Emission limits must be based on BAT, and authorities must set the strictest achievable limits ensuring emissions don't exceed BAT-AELs. The complete absence of limits violates these requirements and allows unlimited pollution.

Article 21(1,5) IED - Authorities must periodically reconsider permit conditions and update them to ensure IED compliance, especially when pollution significance requires revision of existing limits or inclusion of new ones. The authority's refusal to act directly contradicts this obligation.

The Regional Authority justifies its inaction by citing ongoing proceedings regarding the struck-down derogation and a new request to extend derogation until 2027. However, this reasoning is legally unfounded as:

- There is no "right to a derogation" and its granting is highly uncertain
- Administrative proceedings will take months or longer due to slow-acting authorities and appeals with suspensive effect
- Meanwhile, the operator can emit unlimited mercury with no active derogation
- It is fundamentally contrary to EU law for the largest polluter in Czechia to operate without BAT-compliant limits more than three years after their entry into force

This creates a dangerous precedent where operators can avoid BAT-AELs compliance by simply requesting derogations. Operators could effectively "extend" their derogations by submitting new requests, knowing they won't be bound by BAT-AELs during consideration. This is particularly concerning as many existing derogations are expiring, and operators plan to request extensions.

The situation manifests a systemic problem in Czechia, demonstrated by similar cases. In the Chvaletice power plant case, authorities refused to comply with administrative court judgments, allowing the operator to emit Hg and NO_x without restrictions for over 16 months without an active derogation.

II. Contacts with National Authorities:

The Complainant has exhausted available remedies:

- Twice notified the Regional Authority (August and October 2024) to reconsider permit conditions per Article 21 IED - both rejected with reference to ongoing derogation proceedings
- Twice requested Ministry intervention (August and November 2024) against Regional Authority's unlawful inaction - both rejected, with Ministry fully supporting Regional Authority's position
- Obtained favorable Regional Court judgment (August 2024) striking down original derogation

Currently ongoing:

- Administrative proceedings regarding new derogation request until 2027
- No effective legal remedies available domestically (administrative inaction lawsuit impossible as no proceedings have commenced; interference lawsuit highly uncertain due to standing issues)

III. Other:

Key supporting evidence demonstrates the chronological development:

Regional Authority decision on derogation (9 April 2021, no. KUUK/040076/2021/ZPZ)

Ministry decision on derogation (3 September 2021, no. MZP/2021/530/1232)

Regional Court judgment (7 August 2024, no. 16 A 82/2021-341)

Comprehensive correspondence with authorities:

All our requests and notifications

Regional Authority replies (16 August and 22 October 2024)

Ministry replies (6 September and 4 December 2024)

This case demonstrates systematic failure to implement EU environmental protection standards, with authorities actively refusing to remedy the situation even after court intervention.

Your complaint will be assessed on the information that you provide in this form. You should be as concise and as specific as possible.

You must make an entry in all the data fields that have an (*) and fill in as many of the other fields as possible.

Before submitting your complaint, you should read about [how the Commission handles complaints](#) about EU countries' breaches of EU law.

Complaints that are insulting or fanciful and that do not require a substantive response will not be answered.

If the correspondence becomes repetitive (for example, successive letters on the same topic that does not introduce new information) or that is abusive, pointless and/or improper, we reserve the right to discontinue the correspondence.

All complaints must be submitted in one of the EU's official languages: Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish or Swedish. Complaints submitted in any other language will not be answered.

Do not include in your complaint any personal data belonging to third parties or personal data that is sensitive, unless it is strictly necessary for the handling of your complaint. By submitting any special categories of personal data in the meaning of Article 10(1) of Regulation 2018/1725, you provide your explicit consent to the processing of such personal data.

Privacy statement

I have read and understood all the above.