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Answer given by Executive Vice-President Šefčovič
on behalf of the European Commission
(17.10.2024)

Crematoria do not qualify as medium combustion plants, as incinerators, or co-incinerators under EU law¹.

These projects are not expressly listed in the Annexes of the Environmental Impact Assessment (EIA) Directive² and are therefore not subject to a mandatory environmental impact assessment. If they qualify as an urban development project³, Member States have to decide if an assessment is needed because of their likely significant effects on the environment, taking into account the criteria set out in Annex III to the Directive.

The EIA Directive provides for specific review procedures at domestic level that allow the public concerned to challenge the substantive or procedural legality of decisions, acts or omissions subject to its provisions on public participation. The Commission considers that the use of those means of redress available would be the most effective way to address individual cases of possible non-compliance, which is furthermore consistent with the Commission's strategic approach on enforcement action, focused on cases of systemic non-compliance⁴.

Finally, EU rules on air quality⁵ do not apply to individual sources of pollution. Such rules require that the registered concentrations of certain pollutants in ambient air do not exceed the limit values set therein. In this respect, following an infringement procedure launched by the Commission, the Court of Justice of the EU found⁶ that Spain had failed to comply with its obligations under the Air Quality Directive as regards nitrogen dioxide (NO₂) concentrations in several air quality zones including Madrid. The Commission notes that, according to the latest official data on air quality⁷, compliance with the limit values for NO₂ in Madrid was achieved in 2022.

¹ Including under Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants, OJ L 313, 28.11.2015, p. 1–19, and Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (recast), OJ L 334, 17.12.2010, p. 17–119.

² Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (EIA Directive), OJ L 26, 28.1.2012, p. 1–21, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014, OJ L 124, 25.4.2014, p. 1–18.

³ Project category listed in Annex II 10(b) of the EIA Directive.

⁴ As set out in the Communication of 19 January 2017 (EU law: Better results through better application - C/2016/8600, OJ C 18, 19.1.2017, p. 10–20) and in the Communication of 13 October 2022 COM(2022) 518 final - Enforcing EU law for a Europe that delivers.

⁵ In particular, 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.

⁶ Judgment of 22 December 2022 in Case C-125/20, Commission v Spain - EU:C:2022:1025.

⁷ Made available by the European Environment Agency in September 2023.