

EU AIR QUALITY LEGISLATION AND THE RIGHT TO CLEAN AIR – FOCUS ON ACCESS TO JUSTICE

Background Documentation (online)

1. EU Treaty

Treaty on European Union (consolidated version) 7 June 2016, OJ C202/01
Treaty on the Functioning of the European Union (consolidated version), 7 June 2016, OJ C202/01
Charter of Fundamental Rights of the European Union, (2016/C 202/02)
Explanations relating to the Charter of Fundamental Rights (OJ C 303, 14.12.2007, p. 17)

2. Air Quality Legislation

I. EU Legislation
Directive 2008/50/EC (consolidated version) of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (Air Quality Directive)
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 (National Emissions Ceilings (NEC))
Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)
Directive (EU) 2019/1161 of the European Parliament and of the Council of 20 June 2019 amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles

<p><u>Council Decision (EU) 2017/1757 of 17 July 2017 on the acceptance on behalf of the European Union of an Amendment to the 1999 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone</u></p>
<p><u>Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels</u></p>
<p><u>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</u></p>
<p><u>European Parliament and Council Directive 2009/126/EC (consolidated version) of 21 October 2009 on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations</u></p>
<p><u>Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air</u></p>
<p><u>Directive 2004/42/CE of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products and amending Directives 1999/13/EC</u></p>
<p><u>Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants</u></p>
<p><u>European Parliament and Council Directive 94/63/EC (consolidated version) of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations</u></p>
<p><u>Commission Implementing Decision (EU) 2015/2119 of 20 November 2015 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the production of wood-based panels (notified under document C(2015) 8062)</u></p>
<p><u>Commission Implementing Decision 2014/738/EU of 9 October 2014 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council on industrial</u></p>

emissions, for the refining of mineral oil and gas (notified under document C(2014) 7155)

Commission Implementing Decision 2014/687/EU of 26 September 2014 establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the production of pulp, paper and board (notified under document C(2014) 6750)

Commission Implementing Decision 2013/84/EU of 11 February 2013 establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for the tanning of hides and skins (notified under document C(2013) 618)

Commission Implementing Decision 2012/119/EU of 10 February 2012 laying down rules concerning guidance on the collection of data and on the drawing up of BAT reference documents and on their quality assurance referred to in Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (notified under document C(2012) 613)

Commission Implementing Decision 2012/135/EU of 28 February 2012 establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for iron and steel production (notified under document C(2012) 903)

COMMISSION IMPLEMENTING DECISION 2012/134/EU of 28 February 2012 establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for the manufacture of glass

Commission Implementing Decision 2012/795/EU of 12 December 2012 establishing the type, format and frequency of information to be made available by the Member States for the purposes of reporting on the implementation of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (notified under document C(2012) 9181)

II. EU Documents (Reports, Studies, Guidelines)

[Briefing – Europe's Air Quality Status 2021, 21 September 2021](#)

EEA Report No 05/2021 European Union emission inventory report 1990-2019 under the UNECE Convention on Long-range Transboundary Air Pollution (Air Convention), 26 August 2021
Monitoring of CO2 emissions from vans, 17 June 2021
CO2 emissions from new passenger cars, 23 June 2021
Air Quality - revision of EU Rules - Status: 10 May 2021
Inception Impact Assessment - Revision of the Ambient Air Quality Directives, 17 December 2020
Air pollution country fact sheets 2020, 03 December 2020
EEA Report No 09/2020 Air quality in Europe — 2020 report, 23 November 2020
Report from the Commission to the European Parliament and the Council on the progress made of the implementation of Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants, COM(2020) 266 final
European Environment Agency (EEA), National Emission Reduction Commitments Directive reporting status 2020, Briefing No 4/2020, June 2020
European Environment Agency (EEA), Assessing air quality through citizen science, Report No 19/2019, March 2020
Commission Staff Working Document, Fitness Check of the Ambient Air Quality Directives, Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air and Directive 2008/50 on ambient air quality and cleaner air for Europe, SWD(2019) 427 final, 28.11.2019
European Environment Agency (EEA), Air Quality in Europe – 2019 report, No 10/2019, October 2019
European Environment Agency (EEA), National Emission Ceilings (NEC) Directive reporting status 2019, No 2/2019, June 2019
European Environment Agency (EEA), Europe's urban air quality – re-assessing implementation challenges in cities, Report No 24/2018, March 2019
COM(2018) 446 final, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – The First Clean Air Outlook, 7 June 2018

<p><u>COM(2018) 330 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Europe that protects: Clean Air for all, 17 May 2018</u></p>
<p><u>COM(2018) 188 final, Report from the Commission to the European Parliament and the Council on implementation and compliance with the sulphur standards for marine fuels set out in Directive (EU) 2016/802 relating to a reduction in the sulphur content of certain liquid fuels, Brussels, 16 April 2019</u></p>
<p><u>COM(2013) 918 final, Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, A Clean Air Programme for Europe, 18 December 2013</u></p>
<p>III. EU Case Law</p>
<p><u>Case C-752/18, Judgment of the Court (Grand Chamber) of 19 December 2019 Deutsche Umwelthilfe eV v Freistaat Bayern</u></p>
<p><u>Case C-636/18, Judgement of the Court (Seventh Chamber) of 24 October 2019 European Commission v French Republic (not available in English)</u></p>
<p><u>Case C-638/18, Judgment of the Court of 30 April 2020, Commission v Romania (Dépassement des valeurs limites pour les PM10)</u></p>
<p><u>Case C-723/17, Judgment of the Court (First Chamber) of 26 June 2019, Lies Craeynest and Others v Brussels Hoofdstedelijk Gewest and Brussels Instituut voor Milieubeheer</u></p>
<p><u>Case C-336/16, Judgment of the Court (Third Chamber) of 22 February 2018, European Commission v Republic of Poland</u></p>
<p><u>Case C-129/16, Judgment of the Court (Second Chamber) of 13 July 2017, Túrkevei Tejtermelő Kft. v Országos Környezetvédelmi és Természetvédelmi Főfelügyelőség</u></p>
<p><u>Case C-488/15, Judgment of the Court (Third Chamber) of 5 April 2017, European Commission v Republic of Bulgaria</u></p>
<p><u>Case C-304/15, Judgment of the Court (Seventh Chamber) of 21 September 2016, European Commission v United Kingdom of Great Britain and Northern Ireland</u></p>

<u>Case C-137/14, Judgment of the Court (Second Chamber) of 15 October 2015, European Commission v Federal Republic of Germany</u>
<u>Case C-404/13, Judgment of the Court (Second Chamber) of 19 November 2014, The Queen, on the application of ClientEarth v Secretary of State for the Environment, Food and Rural Affairs.</u>
<u>Case C-68/11, Judgment of the Court (First Chamber) of 19 December 2012, European Commission v Italian Republic</u>
<u>Case C-34/11, Judgment of the Court (First Chamber) of 15 November 2012. European Commission v Portuguese Republic</u>
<u>Case C-120/10, Judgment of the Court (First Chamber) of 8 September 2011, European Air Transport SA v Collège d'Environnement de la Région de Bruxelles-Capitale and Région de Bruxelles-Capitale, Reference for a preliminary ruling: Conseil d'État - Belgium</u>
<u>Joined cases C-165/09 to C-167/09, Judgment of the Court (First Chamber) of 26 May 2011, Stichting Natuur en Milieu and Others v College van Gedeputeerde Staten van Groningen (C-165/09) and College van Gedeputeerde Staten van Zuid-Holland (C-166/09 and C-167/09)</u>
<u>Case C-479/10, Judgment of the Court (Fifth Chamber) of 10 May 2011, European Commission v Kingdom of Sweden</u>
<u>Case C-365/10, Judgment of the Court (Third Chamber) of 24 March 2011, European Commission v Republic of Slovenia,</u>
<u>Case C-28/09, Judgment of the Court (Grand Chamber) of 21 December 2011, European Commission v Republic of Austria</u>
<u>Case C-237/07, Judgment of the Court (Second Chamber) of 25 July 2008, Dieter Janecek v Freistaat Bayern.</u>
<u>Case C-320/03, Judgment of the Court (Grand Chamber) of 15 November 2005, Commission of the European Communities v Republic of Austria</u>
<u>Case C-361/88, Judgment of the Court of 30 May 1991, Commission of the European Communities v Federal Republic of Germany</u>
<u>Case C- 6/64, Judgment of the Court of 15 July 1964. Flaminio Costa v E.N.E.L.</u>
<u>Case C-25/62, Judgment of the Court of 15 July 1963, Plaumann & Co. v Commission of the European Economic Community</u>

3. Access to justice in environmental matters

I. EU and International Legislation
<u>REGULATION (EC) No 1367/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies</u>
<u>DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC</u>
<u>DIRECTIVE 2003/35/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC</u>
<u>REGULATION (EC) No 1049/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2001 regarding public access to European Parliament, Council and Commission documents</u>
<u>Recommendation 2001/331/EC of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States</u>
<u>Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), 25 June 1998</u>
II. EU and International Documents (Reports, Studies, Guidelines)
<u>European Commission, Citizen's Guide to Access to Justice in Environmental Matters, 28 September 2018</u>
<u>COM(2018) 10 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "EU actions to improve environmental compliance and governance", 18 January 2018</u>

<u>Briefing, European Parliament, Implementing the Aarhus Convention – Access to justice in environmental matters, October 2017</u>
<u>C(2017) 2616 final, Communication from the Commission of 28 April 2017 - Commission Notice on Access to Justice in Environmental Matters</u>
<u>Aarhus Convention: An implementation guide, United Nations Economic Commission for Europe, 2014</u>
<u>Peters, R.L., Snethlage, M., Van Gossum, H., Vancauwenberghe, G., Vandenbroucke, Veronika Mikos, Amor Torre-Marín, D., Vertriest, L., & Lammerant, J., "Active dissemination of environmental information in relation to the Birds and Habitats Directive: Final Report", September 2014</u>
<u>Standing up for your right(s) in Europe, A Comparative study on Legal Standing (Locus Standi) before the EU and Member States' Courts, Study of the Policy Department C, 2012</u>
3. EU Case Law
<u>T-359/19, ARRÊT DU TRIBUNAL (deuxième chambre élargie) 15 septembre 2021, Daimler AG contre Commission européenne</u>
<u>OPINION OF ADVOCATE GENERAL BOBEK delivered on 10 June 2021(1) Joined Cases C-177/19 P, C-178/19 P and C-179/19 P</u>
<u>C-635/18, ARRÊT DE LA COUR (septième chambre) 3 juin 2021, Commission européenne contre République fédérale d'Allemagne</u>
<u>Case C-664/18, JUDGMENT OF THE COURT (Seventh Chamber) 4 March 2021, European Commission, v United Kingdom of Great Britain and Northern Ireland</u>
<u>C-693/18, ARRÊT DE LA COUR (deuxième chambre) 17 décembre 2020</u>
<u>Case C-644/18, JUDGMENT OF THE COURT (Grand Chamber) 10 November 2020, European Commission v Italian Republic</u>
<u>Case C-535/18, Judgment of the Court (First Chamber) of 28 May 2020, IL and Others v Land Nordrhein-Westfalen</u>
<u>Judgement of 15 March 2018, C-470/16 North East Pylon Pressure Campaign Limited and Maura Sheehy v An Bord Pleanála and Others</u>

<u>Case C-664/15, Judgment of the Court (Second Chamber) of 20 December 2017, Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation v Bezirkshauptmannschaft Gmünd</u>
<u>Judgement of 19 October 2017, C-281/16 - Vereniging Hoekschewaards Landschap</u>
<u>Judgement of 26 July 2017, C-196/16 and C-197/2016, Commune di Corridonia, ECLI:EU:C:2017:589</u>
<u>Case C-60/15, Judgment of the Court (Fifth Chamber) of 13 July 2017, Saint-Gobain Glass Deutschland GmbH v European Commission</u>
<u>Case C-529/15 Judgment of the Court (First Chamber) of 1 June 2017 Gert Folk</u>
<u>Case C-673/13 P, Judgment of the Court (Fifth Chamber), European Commission v Stichting Greenpeace Nederland and Pesticide Action Network Europe (PAN Europe)</u>
<u>Case C-243/15, Judgment of the Court (Grand Chamber) of 8 November 2016, Lesoochránárske zoskupenie VLK v Obvodný úrad Trenčín</u>
<u>C-137/14 Opinion of Advocate General Wathelet of 21 May 2015. Commission v Germany. (FR)</u>
<u>C-570/13 Judgment of the Court (Fifth Chamber) of 16 April 2015. Gruber.</u>
<u>C-71/14 Opinion of Advocate General Sharpston of 16 April 2015. East Sussex County Council v Information Commissioner.</u>
<u>C-329/13 Order of the Court (Ninth Chamber) of 8 May 2014. Ferdinand Stefan v Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft.</u>
<u>C-206/13 Judgment of the Court (Tenth Chamber) of 6 March 2014. Siragusa v Regione Sicilia – Soprintendenza Beni Culturali e Ambientali di Palermo.</u>
<u>C-530/11 Judgment of the Court (Second Chamber) of 13 February 2014. Commission v United Kingdom.</u>
<u>C-279/12 Judgment of the Court (Grand Chamber) of 19 December 2013. Fish Legal, Emily Shirley v The Information Commissioner, United Utilities, Yorkshire Water and Southern Water.</u>

<u>C-72/12, Judgment of the Court (Second Chamber) of 7 November 2013, Gemeinde Altrip and Others v Land Rheinland-Pfalz</u>
<u>C-420/11 Judgment of the Court (Fourth Chamber) of 14 March 2013. Leth v Republik Österreich and Land Niederösterreich.</u>
<u>C-416/10, Judgment of the Court (Grand Chamber) of 15 January 2013, Jozef Križan and Others v Slovenská inšpekcia životného prostredia.</u>
<u>T-62/12 Order of the General Court (Sixth Chamber) of 8 October 2012, ClientEarth v Council of the European Union.</u>
<u>T-111/11 ClientEarth v Commission.</u>
<u>C-135/11 P Judgment of the Court (Third Chamber) of 21 June 2012, IFAW Internationaler Tierschutz-Fonds gGmbH v European Commission.</u>
<u>C-204/09 Judgment of the Court (Grand Chamber) of 14 February 2012, Flachglas Torgau GmbH v Bundesrepublik Deutschland.</u>
<u>C-71/10 Judgment of the Court (Third Chamber) of 28 July 2011. Office of Communications v Information Commissioner.</u>
<u>T-233/09 Judgment of the General Court (Third Chamber) of 22 March 2011, Access Info Europe v Council of the European Union.</u>
<u>C-240/09 Judgment of the Court (Grand Chamber) of 8 March 2011, Lesoochránárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky.</u>
<u>C-115/09, Judgment of the Court (Fourth Chamber) of 12 May 2011, Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV v Bezirksregierung Arnsberg.</u>
<u>T-362/08 Judgment of the General Court (Eighth Chamber) of 13 January 2011, IFAW Internationaler Tierschutz-Fonds gGmbH v European Commission</u>
<u>C-524/09 Judgment of the Court (Fourth Chamber) of 22 December 2010, Ville de Lyon v Caisse des dépôts et consignations.</u>
<u>C-266/09 Judgment of the Court (Fourth Chamber) of 16 December 2010, Stichting Natuur en Milieu and Others v College voor de toelating van gewasbeschermingsmiddelen en biociden.</u>

<u>C-28/08 P Judgment of the Court (Grand Chamber) of 29 June 2010, European Commission v The Bavarian Lager Co. Ltd.</u>
<u>C-263/08 Judgment of the Court (Second Chamber) of 15 October 2009. Djurgården-Lilla Värtans Miljöskyddsförening v Stockholms kommun genom dess marknämnd.</u>
<u>C-427/07 Judgment of the Court (Second Chamber) of 16 July 2009. Commission v Ireland.</u>
<u>T-121/05 Judgment of the Court of First Instance (Seventh Chamber) of 11 March 2009, Borax Europe Ltd v Commission of the European Communities.</u>
<u>T-166/05 Judgment of the Court of First Instance (Seventh Chamber) of 11 March 2009, Borax Europe Ltd v Commission of the European Communities.</u>
<u>C-552/07 Judgment of the Court (Fourth Chamber) of 17 February 2009, Commune de Sausheim v Pierre Azelvandre.</u>
<u>C-39/05 P Judgment of the Court (Grand Chamber) of 1 July 2008, Kingdom of Sweden and Maurizio Turco v Council of the European Union</u>
<u>C-344/04 Judgment of the Court (Grand Chamber) of 10 January 2006, The Queen, on the application of International Air Transport Association and European Low Fares Airline Association v Department for Transport.</u>
<u>C-321/96 Judgment of the Court (Sixth Chamber) of 17 June 1998, Wilhelm Mecklenburg v Kreis Pinneberg - Der Landrat.</u>
<u>C-321/95 P Judgment of the Court of 2 April 1998, Stichting Greenpeace Council (Greenpeace International) and Others v Commission of the European Communities</u>
<u>T-219/95 Order of the President of the Court of First Instance of 22 December 1995, Marie-Thérèse Danielsson, Pierre Largeteau and Edwin Haoa v Commission of the European Communities.</u>
<u>T-585/93 Order of the Court of First Instance (First Chamber) of 9 August 1995, Stichting Greenpeace Council (Greenpeace International) and others v Commission of the European Communities.</u>
<u>C-25/62 Judgment of the Court of 15 July 1963, Plaumann & Co. v Commission of the European Economic Community.</u>

