



Diesel exhaust fumes: The Environmental Action Germany (DUH) has launched the largest flood of lawsuits for “Clean Air in Germany“ so far

The end is near for diesel stinkers: the DUH has been achieving driving bans for diesel vehicles in legal actions in eleven major cities - special focus is placed on developing “clean” public transport - polluting public transport diesel busses must be replaced or retrofitted right away - the DUH has initiated compulsory enforcement proceedings in Munich, Darmstadt and Wiesbaden

Berlin, 19 November 2015: The EU limit values for nitrogen dioxide are still exceeded in many German cities. The Environmental Action Germany (DUH), supported by British NGO ClientEarth has therefore filed a lawsuit today (19 November 2015) against several German Federal States who need to do more in the area of clean air planning. The affected cities are Cologne, Bonn, Aachen, Dusseldorf, Essen, Gelsenkirchen, Frankfurt/Main and Stuttgart. With this measure, the DUH intends to commit the Federal States in question to change their clean air plans. The aim is to include all appropriate measures in the plans so that the limit values, which have been valid for many years, are complied with as soon as possible.

The DUH has also applied for compulsory enforcement measures to be taken against the Bavarian and the Hessian Ministries of the Environment due to limit exceedances in Munich, Darmstadt and Wiesbaden. Final judgements have already been issued there, but they have not been complied with. The DUH is now requesting that penalty payments be paid by the two competent federal state ministries for failing to implement the judgements. The law provides for a maximum penalty of 10,000 euros; this penalty can be repeated and also fixed on a per day basis.

Air pollution in Europe is still negatively affecting the health of citizens, the environment and the climate. Limit values for concentrations of nitrogen dioxide (NO₂) and particulate matters (PM₁₀) established for the whole of Europe have also been exceeded in many German cities and conurbations for many years. The World Health Organisation (WHO) classifies this as “carcinogenic for human beings“. The German Research Center for Environmental Health (GSF) found out in an investigation on behalf of the Federal Environment Agency that there are around 10,000 to 19,000 “premature“ deaths in Germany alone caused by particulate matter and nitrogen oxide emissions from diesel vehicles.

“We will use judicial means to achieve clean air. Extensive driving bans on diesel cars, diesel taxis and polluting public transport busses are an appropriate measure to quickly comply with limit values, even in cities like Stuttgart. After the Federal Government failed to impose the compliance with valid exhaust limit values for diesel cars on automobile groups, these diesel vehicles gambled away their right to be on the road”, criticised Jürgen Resch, Managing Director of DUH.

Resch emphasises that it is urgent that Low Emission Zones (LEZ) be developed further. In this context, the DUH demands the introduction of a blue plaque to label vehicles with low exhaust values in real operation. For its implementation, the Federal Ministry for the Environment must submit plans to further develop the plaque regulation. In addition, all public transport busses must be fitted with particle and NO_x reduction systems which function in real operation. There are many thousands of modern busses that do not have either a particle filter on board or effective nitrogen exhaust gas cleaning under normal

conditions. Last but not least, the DUH demands that the polluting diesel taxis mainly in use at present be replaced with clean natural gas, LPG or gasoline hybrid taxis, and that it become binding to use particle filters in construction machines.

Another important aspect is to integrate local transport into mobility concepts. Citizens' tickets accompanied by an extension of public transport can increase the utilisation of local transport means by more than 30 percent. Reduced parking possibilities in city centres, smart traffic lights and speed limits might also reduce air pollution by vehicles considerably. Moreover, the reduced fuel tax rate for diesel vehicles sends out the wrong signals. The EU Commission explicitly referred to this fact in its warning letter dated 18 June 2015 written because of the breach of contract resulting from a continuous exceedance of NO₂ limit values in Germany.

“Everyone has the right to breathe clean air but hundreds of thousands of people across Europe die early every year because of air pollution. These cases are the latest in a growing Europe-wide movement where people are going to court to demand action for clean air. ClientEarth will be bringing all of our expertise from our victory against the UK government to bear to help DUH uphold the right to clean air in Germany”, said Alan Andrews, a lawyer at British NGO Client Earth.

In the year 2011, Client Earth sued the United Kingdom because the limit values for NO₂ had been exceeded in 16 British counties. The proceedings went through all instances up to the European Court of Justice (ECJ) before returning to the UK Supreme Court in April this year, which ordered the UK government to take “immediate action” to bring air pollution within legal limits as soon as possible.

The situation in Germany is just as bad, criticises Remo Klinger, lawyer from the law office Geulen & Klinger (Berlin), who have been representing the DUH in proceedings for clean air for ten years. *“Although the legal situation has been clear in Germany for years, the competent authorities try to simply wait things out”,* says Klinger. *“This is despite the fact that air pollution has not just been a problem since the diesel scandal became public. EU limit values have been exceeded for years, without the authorities taking any effective counter measures.”*

Links:

You can find a background paper under <http://l.duh.de/t1s9t> providing information about all legal actions, the affected cities and their air quality. Please see <http://l.duh.de/76fr3> for the legally binding judgements with respect to Munich, Darmstadt and Wiesbaden.

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