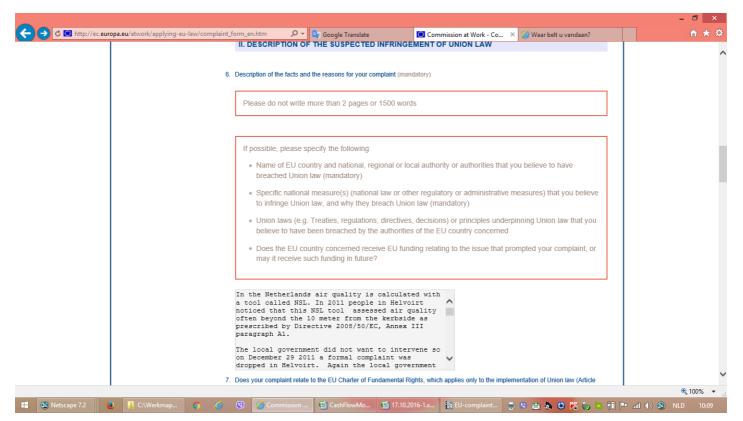
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	Complaint form		
Making a complaint	Alleged breach of Union	law by a member state	
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	I. IDENTITY AND CON	ITACT DETAILS	
	1. INDIVIDUALS		
	First name (mandatory):		
	Surname (mandatory): 2. BUSINESSES OR ORGAN	ISATIONS	
	Name (mandatory):	Comité N65OH ×	
	Sector / field of activity and		
	Air quality measur	res along the busy road	
			\checkmark
	3. ADDRESS OR REGISTER	ED OFFICE	
	Please inform the Eu	ropean Commission of any	changes to your address and any event likely to affect the
	handling of your com	nplaint.	
	Providing your email	address will make it easier f	for the Commission to contact you.
	Address (mandatory):	Achterstraat 84	
	Town/City (mandatory):	Helvoirt	
	County/State/Province (mandatory):	Brabant	
	Postcode (mandatory):	5268 EE	
	Country (mandatory):	Netherlands	
	Telephone (if possible):	0411-641699	
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In the Netherlands air quality is calculated with a tool called NSL. In 2011 people in Helvoirt noticed that this NSL tool assessed air quality often beyond the 10 meter from the kerbside as prescribed by Directive 2008/50/EC, Annex III paragraph A1.

The local government did not want to intervene so on December 29 2011 a formal complaint was dropped in Helvoirt. Again the local government refused to take action so lengthy legal administrative procedures were started in two instances. These procedures ended at the highest Dutch administrative court, the "Raad van State". In both instances the "Raad van State" did not enter into the merits of the case, declared them not-admissable or not founded and referred to the civil court. The same happened with comparable procedures in the larger towns Eindhoven and Helmond. So more then 6 administrative procedures all ended in a reference to the civil court. Details of these administrative procedures can be found at:

- http://www.n65.nl/RvS-Haaren/Procedure-Overschrijding-Luchtverontreinigingsnormen-N65.htm

- http://www.n65.nl/RvS-Helmond/Procedure-Overschrijding-Luchtverontreinigingsnormen-N270-Traverse.htm

- http://www.n65.nl/Eindhoven/Procedure-Overschrijding-Luchtverontreinigingsnormen-Kennedylaan.htm

A compliant on these decisions at the European Court of Human Rights also ended in non-admissable.

In the meantime the central government by way of the Ministry of Infrastructure and Environment, maintained in various letters that all measuring points should be located on more that 10 meter from the kerbside. An opinion of the EU DG Environment on July 29, 2015, clearly stated that this assessing method of the Ministry is incorrect.

So, on August 21 2015 a civil complaint was dropped. See details at http://www.n65.nl/Civiel/Civiele-Procedure.htm. Now the Ministry of Infrastructure and Environment took the position to accept the maximum 10 meter criterion but maintained that the criteria for Macroscale siting in the Directive 2008/50/EC Annex III, paragraph B are also applicable for Microscale siting in paragraph A1. As a result air quality is assessed on locations beyond the maximum allowed 10 meter from the kerbside. The NSL therefore does not signal that maximum levels are exceeded on many places.

The argument of the Dutch State is that when there is no relevant exposure, there is no need to asses. But we all know that at the end of 2007 a battle raged in the European Parliament about amendments, notably 4 and 23 in the latest numbering, whether or not to include in microscale siting this notion of relevant exposure as defined in section B for macroscale siting. Inclusion of that notion would imply a kind of exception on the obligation to assess at all locations and within 10 meter from the kerbside.

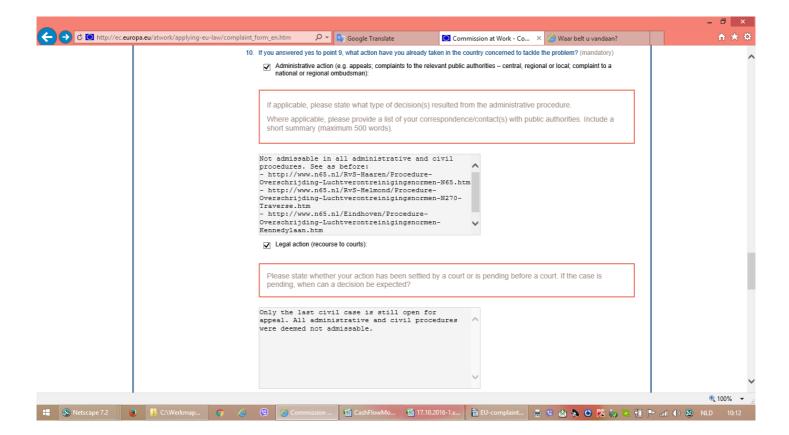
This battle was strongly supported by the Dutch government. But in the final text these proposed changes were not accepted. Even if they were accepted, there is sufficient evidence that near busy roads in agglomerations the highest concentrations occur and thus relevant exposure exists.

On October 12 2016 the Dutch court in the Hague did not judge on the merits of the case, deemed the complaint not admissible and referred back to the Administrative court. Appeal on this decision is very expensive and time consuming, caught in a legal nightmare between civil and administrative courts that do not want to judge on the merit of the case.

Therefore we address ourselves to you for help as you are supposed to do as "Guardian of the Treaties" according to article 17 of the EU Treaty.

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	only to the implementation of Union law by EU governments. o a breach of fundamental rights that occurs when an EU		This			
	of national law only, the Commission cannot investigate the on the basis of the EU Charter.	nal government is acting on the basis rt the formal infringement procedure				
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	n support of your complaint (including the national measures concerned)	se provide a list of documents or evidence i d to the Commission if it so requests:	8. If possit that you			
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	III. APPEALS/LEGAL ACTIONS/ OTHER ACTIONS	
	 9. Have you already taken action in the EU country concerned to attempt to solve this problem, or are you aware of any action in the country concerned covering the issue you raise in this complaint? (mandatory) Yes No 	
	Only national courts can annul a national decision. The only way in which you can assert your rights directly and personally is to use the means of redress available in the country concerned. This is especially relevant if you are seeking compensation for losses. Only national courts have the power, where appropriate, to order national authorities to provide compensation for losses suffered by individuals as a result of a breach of Union law.	
	The formal infringement procedure initiated by the Commission does not assert your rights directly and do not result in compensation. To seek compensation, you must initiate a court action within the time limit prescribed by national law. The act of submitting a complaint to the Commission does not suspend such time limits.	
	10. If you answered yes to point 9, what action have you already taken in the country concerned to tackle the problem? (mandatory)	
	Administrative action (e.g. appeals; complaints to the relevant public authorities – central, regional or local; complaint to a national or regional ombudsman);	



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11. If you answered no to point 9, please consider taking action in the EU country concerned to tackle your problem. You will be able to assert your rights directly and personally by using national means of redress If you have decided not to take action to tackle your problem in the country concerned, why not?	
No remedy available for the problem	
The remedy exists, but it is too costly	
Time limit for action has expired	
No legal standing (indicate why you are not eligible for this particular remedy)	
No legal aid/no lawyer	
I do not know what remedies are available for the problem	
Other (please specify)	
12. Please indicate whether you have already contacted other EU institutions and bodies to request help in solving your problem:	
12. Please indicate whether you have already contacted other EO institutions and bodies to request help in solving your problem.	
☐ <u>Categoria</u> (please specify)	
Please give the reference assigned to your complaint, file, correspondence, etc by the institution or body	
concerned.	
13. Have you already contacted any of the institutions or bodies dealing with problems of this nature? If yes, which one(s), and what was	
15. Have you already contacted any of the institutions of bodies dealing with problems of this nature? If yes, which one(s), and what was the outcome?	
Please give the reference assigned to your complaint, file, correspondence, etc. by the institution or body concerned.	
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	 If, after examining your case being transferred to <u>SOLVIT</u> 	, the Commission considers that <u>SOLVIT</u> is be ? (mandatory)	tter placed to deal with	it, do you agree to your complaint	^		
	SOLVIT is a service provided by the national administration which handles problems that involve more than one EU country, arising from the misapplication of Union law by national public administrations in the single market. There is a SOLVIT centre in the 28 EU countries, plus Norway, Iceland and Liechtenstein.						
	○ Yes, I agree that the C	Commission can transfer my complaint to SOLV	/IT. (Please read <u>priva</u>	cy statements applicable to SOLVIT).			
	No, I do not agree to t	he Commission's transferring my complaint to	Solvit.				
	If your complaint is tra	ansferred to SOLVIT, the Commission w	vill close it and infor	m you in writing to that effect.			
	IV. CONFIDENTIALIT	Y - DATA PROTECTION					
	(mandatory)						
	Please note that disc some cases.	osing your identity may make it easier f	or the Commission	to deal with your complaint in			
	 I authorise the Commi lodging a complaint. 	ssion to disclose my identity in its contacts with	n the authorities of the	EU country against which I am			
	I do not authorise the Commission to disclose my identity in its contacts with the authorities of the EU country against which I am lodging a complaint.						
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