

Complaints

- Making a complaint
- Multiple complaints

Complaint form

Alleged breach of Union law by a member state

I. IDENTITY AND CONTACT DETAILS

1. INDIVIDUALS

First name (mandatory):

Surname (mandatory):

2. BUSINESSES OR ORGANISATIONS

Name (mandatory):

Sector / field of activity and location(s) where active

3. ADDRESS OR REGISTERED OFFICE

Please inform the European Commission of any changes to your address and any event likely to affect the handling of your complaint.

Providing your email address will make it easier for the Commission to contact you.

Address (mandatory):

Town/City (mandatory):

County/State/Province (mandatory):

Postcode (mandatory):

Country (mandatory):

Telephone (if possible):

Mobile telephone (if possible):

Fax (if possible):

E-mail (if possible):

4. I am submitting this complaint on behalf of someone else (an individual or a business / organisation):

Yes

No

First name (mandatory):

Surname (mandatory):

Address (mandatory):

Town/City (mandatory):

County/State/Province (mandatory):

Postcode (mandatory):

Country (mandatory):

Telephone (if possible):

Mobile telephone (if possible):

Fax (if possible):

E-mail (if possible):

5. Correspondence from the Commission can be sent either to the complainant or to the complainant's representative.

Please click the appropriate box

Complainant

Representative

Air quality measures along the busy road N65

II. DESCRIPTION OF THE SUSPECTED INFRINGEMENT OF UNION LAW

6. Description of the facts and the reasons for your complaint (mandatory)

Please do not write more than 2 pages or 1500 words

If possible, please specify the following:

- Name of EU country and national, regional or local authority or authorities that you believe to have breached Union law (mandatory)
- Specific national measure(s) (national law or other regulatory or administrative measures) that you believe to infringe Union law, and why they breach Union law (mandatory)
- Union laws (e.g. Treaties, regulations, directives, decisions) or principles underpinning Union law that you believe to have been breached by the authorities of the EU country concerned
- Does the EU country concerned receive EU funding relating to the issue that prompted your complaint, or may it receive such funding in future?

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

7. Does your complaint relate to the EU Charter of Fundamental Rights, which applies only to the implementation of Union law (Article

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-admissible or not founded and referred to the civil court. The same happened with comparable procedures in the larger towns Eindhoven and Helmond. So more than 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-Traversal.htm>
- <http://www.n65.nl/Eindhoven/Procedure-Overschrijding-Luchtverontreinigingsnormen-Kennedylaan.htm>

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

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 than 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 assess. 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.

dropped in Helvoirt. Again the local government

7. Does your complaint relate to the EU Charter of Fundamental Rights, which applies only to the implementation of Union law (Article 51)?

The EU Charter of Fundamental Rights applies only to the implementation of Union law by EU governments. This means a complaint is valid only if it relates to a breach of fundamental rights that occurs when an EU government is implementing Union law.

If the national government is acting on the basis of national law only, the Commission cannot investigate the case or start the formal infringement procedure on the basis of the EU Charter.

Yes. Please explain how Union law is involved and which fundamental right has been breached.

Right to life, property rights, effective remedy before a national authority.

See <http://www.n65.nl/Straatsburg/Procedure-Klacht-Straatsburg.htm>.

Also declared not admissible as is the case with 98% of all other complaints

No

8. If possible, please provide a list of documents or evidence in support of your complaint (including the national measures concerned) that you can send to the Commission if so requests:

Please do not send any copies of documents at this stage. The Commission will ask you for additional information or copies of documents later, if necessary.

See:
- <http://www.n65.nl/RvS-Haaren/Procedure-Overschrijding-Luchtverontreinigingsnormen-N65.htm>
- <http://www.n65.nl/RvS-Helmond/Procedure-Overschrijding-Luchtverontreinigingsnormen-N270-Transpose.htm>
- <http://www.n65.nl/Eindhoven/Procedure-Overschrijding-Luchtverontreinigingsnormen-Kennedylaan.htm>
<http://www.n65.nl/Civiel/Civiele-Procedure.htm>.

See:
- <http://www.n65.nl/RvS-Haaren/Procedure-Overschrijding-Luchtverontreinigingsnormen-N65.htm>
- <http://www.n65.nl/RvS-Helmond/Procedure-Overschrijding-Luchtverontreinigingsnormen-N270-Transpose.htm>
- <http://www.n65.nl/Eindhoven/Procedure-Overschrijding-Luchtverontreinigingsnormen-Kennedylaan.htm>
<http://www.n65.nl/Civiel/Civiele-Procedure.htm>.

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):

http://ec.europa.eu/atwork/applying-eu-law/complaint_form_en.htm

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).

If applicable, please state what type of decision(s) resulted from the administrative procedure.
Where applicable, please provide a list of your correspondence/contact(s) with public authorities. Include a short summary (maximum 500 words).

Not admissible in all administrative and civil procedures. See as before:
- <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>

Legal action (recourse to courts):

Please state whether your action has been settled by a court or is pending before a court. If the case is pending, when can a decision be expected?

Only the last civil case is still open for appeal. All administrative and civil procedures were deemed not admissible.

100%

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http://ec.europa.eu/atwork/applying-eu-law/complaint_form_en.htm

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:

[European Parliament – Petitions](#)

[European Ombudsman](#)

Other (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 the outcome?

Please give the reference assigned to your complaint, file, correspondence, etc. by the institution or body concerned.

100%

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14. If, after examining your case, the Commission considers that SOLVIT is better placed to deal with it, do you agree to your complaint being transferred to SOLVIT? (mandatory)

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 Commission can transfer my complaint to SOLVIT. (Please read [privacy statements](#) applicable to SOLVIT).
- No, I do not agree to the Commission's transferring my complaint to SOLVIT.

If your complaint is transferred to SOLVIT, the Commission will close it and inform you in writing to that effect.

IV. CONFIDENTIALITY – DATA PROTECTION

(mandatory)

Please note that disclosing your identity may make it easier for the Commission to deal with your complaint in some cases.

- I authorise the Commission to disclose my identity in its contacts with the authorities of the EU country against which I am lodging a complaint.
- 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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