The right to clean air in Europe

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SOIREE INFO: “Bruxelles prend-elle suffisamment de mesures pour améliorer la qualité de l’air?
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Introduction to ClientEarth

- ClientEarth is a non-profit environmental law organisation
- We use law, science and policy to tackle key environmental challenges
- We work on climate change, energy, environmental justice, biodiversity, forests and human health

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The Air Quality Directive

- Sets limits on levels of air pollution
- Deadlines:
  - 2005 (PM_{10})
  - 2010 (NO_2)
- Member states must monitor air quality
- Must draw up “air quality plans”

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Air Quality Plans

- Who → competent national authority
- Why → exceedance of limit values
- When → after deadline
- Where → zones in breach
- What → achieve compliance as soon as possible

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Dieter Janecek v Bavarian State

- Breaches of PM_{10} limit value in Munich
- Janecek demanded a short-term action plan under Directive 1996/62/EC

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The European Court of Justice, Luxembourg

"Where there is a risk that limit values may be exceeded, persons directly concerned can require the competent authorities to draw up an action plan."

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Implications of the Janecek case

- Creation of a network of low emission zones in Germany
- Implications in other member states and for Directive 2008/50/EC

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ClientEarth v United Kingdom

- Breaches of NO_2 limit value in 40 out of 43 zones
- 16 air quality plans would not achieve compliance until after 2015
- ClientEarth demanded new plans which would achieve limit values by 2015

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The High Court

- Government in breach of “primary obligation”

BUT

- Serious political and economic questions
- Enforcement for European Commission

Mr Justice Mitting

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The Supreme Court of the United Kingdom, Westminster
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The European Court of Justice, Luxembourg

It is for the national court to take any necessary measure to ensure that the national authority complies with the AQD

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The Supreme Court

- Regardless of action taken by the Commission, enforcement is the responsibility of the national courts
- Mandatory order to produce new plans by the end of 2015
- Supervision of the court

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The UK clean air case - media

BBC NEWS

"The next Government is now legally bound to take urgent action on this public health crisis."

FT FINANCIAL TIMES

"...some lawyers said Wednesday's court judgment could trigger air quality legal challenges across Europe."

"The order could see dramatic expansion of congestion charging and low emissions zones."

theguardian

"The outcome of today's case could force the government to take bolder action on anti-pollution measures."

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Enforcement by the EU Commission

2005	Deadline for PM_{10} compliance
Nov 2012	Commission sends letter of formal notice for breach of PM_{10}
Feb 2014	Commission sends reasoned opinion
Jun 2015	Belgium referred to ECJ
2017	Judgment by ECJ
2020	Financial penalties

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The right to clean air – a summary

- Right to breathe air that meets EU limit values
- Right to demand that the authorities prepare an air quality plan
- Plan must contain measures to achieve the limits in the shortest time possible
- The national court must review the content of the plan

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Thank you

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