

Air quality in Germany – evidence hearing on the health impacts of air pollution

Briefing

Important information

Where: Higher Administrative Court of Münster, Germany

What: A first-of-its-kind hearing where the court will hear evidence from science and health experts in order to clear up the ongoing debate about air quality rules, science and diesel restrictions in Germany.

Who: A panel of science experts and health professionals.

Day 1: Dr.-Ing. Christian Schneider (AVISO GmbH, Aachen), Dr.-Ing. Andreas Brandt (LANUV NRW), Dr. Klaus Vogt (LANUV NRW), Mr. Dipl.-Ing. Jochen Richard (Planning Office Richter-Rochard, Aachen).

Day 2: Mrs. Prof. dr. med. Barbara Hoffman (University of Düsseldorf), Mrs. Prof. dr. Annette Peters (Director of the Institution of Epidemiology at Helmholtz Zentrum München), Mrs. Marion Wichmann-Fiebig (Head of Department at the Federal Environment Agency), Prof. Dr. med. Dr. rer. Nat. Alexander S. Kekulé (Martin Luther University Halle-Wittenberg), Prof. Dr. med. Dieter Köhler.

When: The hearing will take place over two days from 9-10 May 2019, starting at 10:00 on both days. The first day will focus on the science behind monitoring networks and technical solutions to reduce pollution from car traffic. The second day will examine the evidence surrounding the impact of air pollution on human health.

Background

The air pollution issue in Germany has been brought to a head – and to front pages internationally – by a combination of the Dieselgate scandal, clean air court cases and the growing body of scientific evidence showing a link between air pollution and its many health issues.

ClientEarth is supporting [Deutsche Umwelthilfe \(DUH\)](#) to enforce air quality rules across all main German cities. Court actions are ongoing in 35 German cities. These actions have resulted in Germany's highest national court ruling that [German cities are obliged to introduce diesel restrictions](#) to protect people's health in areas where air pollution exceeds legal limits. This judgment triggered a domino effect with successes for clean air already achieved in 14 cities.

Rather than complying with the court orders, German authorities are trying to divert their legal responsibilities by filing appeals.

Recently, the issue has [come under fire](#), as Professor Dieter Köhler published a letter, signed by [107 German lung specialists](#), questioning the science linked to the health impacts of air pollution, in particular from the pollutant nitrogen dioxide (NO₂). Germany's transport minister Andreas Scheuer quickly seized the opportunity to [send a letter](#) to the European Commission calling for a review and relaxation of the EU's NO₂ limits.

However, the vast majority of lung doctors and health researchers in [Germany](#) and [abroad](#) have rejected Köhler's claims, as being contrary to the overwhelming scientific consensus and to countless peer-reviewed scientific papers.

Similarly, European Commissioner for environment, maritime affairs and fisheries, Karmenu Vella, reacted firmly, confirming that EU air quality laws are based on sound science and that, when the evidence was presented "[it showed that facts and science ultimately still carry the day](#)". He emphasised that if the limits were changed, they would [only be made stronger](#).

Scheuer's hopes of weakening diesel emission limits were also [quickly rejected](#) by Germany's environment minister Svenja Schulze, who said that the "limits are based on solid scientific work and are regularly reviewed" and that "divisionary tactics don't contribute to a solution of the problem."

In April 2019, in an attempt to gain clarity on the debate, Chancellor Merkel commissioned [a report](#) on national air quality from the Leopoldina, Germany's National Academy of Sciences. The authors confirmed the significant health risks posed by pollutants such as NO₂ and particulate matter, pushing for a tighter limit on the latter to align with the guidelines of the World Health Organisation (WHO).

Meanwhile, Chancellor Angela Merkel [passed legislation](#) to amend Germany's emission control act, in an attempt to limit diesel restrictions to only around 15 urban areas where pollution exceeds 50µg/m³.

The EU legal limit, which must be respected throughout the EU, is an annual average of 40µg/m³.

However, a recent decision in Reutlingen has [made this law change almost irrelevant](#), as the court ruled that, even below 50µg/m³, diesel restrictions must be introduced, if other policies and measures are not enough to ensure clean air. Not implementing necessary restrictions on diesel vehicles would be a breach of EU law.

What is the 'science hearing'?

Restrictions on diesel vehicles have been ordered by first instance courts in [Aachen](#), [Bonn](#) and [Cologne](#). The North Rhine-Westphalia government appealed the orders before the Higher Administrative Court of Münster. Hearings on the merit of these cases are scheduled later this summer on 31 July (Aachen), 1 August (Bonn) and 12 September (Cologne).

In anticipation of these hearings, the Higher Administrative Court has ordered an unprecedented 'science hearing', where scientists and health experts will present evidence to court on the health impacts of air pollution.

[The hearing](#) will provide scientific evidence to adjudicate these appeals and other legal actions pending before the Higher Administrative Court of Münster concerning air pollution in a total of 14 cities in North Rhine-Westphalia.

Most importantly, the scientific hearing offers an opportunity to finally end the debate sparked by Köhler and Scheuer and move the discussion onto the adoption of measures needed to protect people from the harmful effects of air pollution.

About ClientEarth and DUH

ClientEarth's collaboration with DUH goes back to 2015, when the two organisations launched a wave of 10 legal cases over air pollution in Germany. DUH is an environmental and consumer protection organisation, which has worked on air quality in Germany for over a decade. In total, 35 clean air cases are currently pending in Germany.

ClientEarth and DUH are calling for authorities to implement all adequate measures to clean up the air in German cities as soon as possible, including, when necessary, restrictions on polluting diesel vehicles. We are also calling for car manufacturers to take responsibility in solving the air pollution problems that they have helped create, by implementing hardware retrofits through mandatory recalls without charging consumers for the related costs.

Dirty air is a problem not just in Germany, but all across Europe. ClientEarth has launched legal actions in 10 countries, including Belgium, Bulgaria, Italy, Poland and the UK. So far, successes for clean air have been achieved in the UK, in the Lombardy Region in Italy, in France, in the Czech Republic, and in Bratislava in Slovakia, with national judges ordering the adoption of better air quality plans and more effective measures. ClientEarth's court action on air pollution in Brussels has been [referred to the Court of Justice of the European Union](#) for a preliminary question to clarify if citizens can take authorities to court to make sure that air quality monitoring stations are located appropriately.