

Training module under project “Co-operation with national judges in the field of environmental law under the European Commission Framework Contract ENV.A.I/FRA/2012/0018” on

HOW TO HANDLE COURT PROCEEDINGS INVOKING NON-COMPLIANCE WITH EU WASTE LAW

30 November – 02 December 2016, Thessaloniki (Greece)

Case: "Classic Car"

Carl has always been a fan of Japanese cars. More than 20 years ago he bought a Toyota Corolla SR5 Sport Coupe.



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The mileage of the car was about 400.000 kilometers when Carl took off the license plates and parked his beloved Corolla in a quiet corner of his private yard. This happened in October 2013. Time went on and the windows of the car were broken by an unknown person. Carl made the best of it and used the interior of the car to store different car parts as you see it in the picture.

In January 2014 the Local Authority imposed a fine of 200 Euro on Carl for not complying with EU and national waste legislation for so called end-of life vehicles (ELV).

Carl appealed to the competent Criminal Court and argued:

the Local Authority was not empowered to act. There is no waste at all. On the contrary, in the meantime the Corolla SR5 has become a "classic car" with a remarkable value. He has been planning to fix his car but has not yet found the time to do it. Perhaps next month. And

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there are even other options: a sales man from West Africa is interested in buying the car as it is for 50 Euro in order ship it to Accra/Ghana. Furthermore the car is still used to store automobile parts (rims etc.) and should not just be thrown away. Last but not least this case is about a serious violation of property rights which are protected under the rule of law.

The criminal judge raised his/her eyebrows, sighed and quashed the fine saying that Carl should be given the benefit of the doubt or in other words "in dubio pro reo".

In September 2016 the Local Authority took a new attempt and issued an administrative decision in the field of public waste law which reads:

- "1. Hereby Carl is obliged to stop storing an end-of-vehicle (here: Toyota Corolla SR5) in his yard and to dispose it of in a lawful manner within no longer than a week.
2. The decision is immediately effective. An appeal to the Administrative Court has no suspensive effect."

Carl appealed to the competent Administrative Court and additionally filed an application for interim relief ("speedy case"). He refers to his argumentation at the Criminal Court.

From us he would like to know whether he will win his second case as well.

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Will Carl be successful at the Administrative Court?

1. Should Carl be granted interim relief?
2. Is the lawsuit admissible?
3. Is the lawsuit well-founded?
4. Empowerment of the Local Authority?
5. Problems of administrative procedure?
6. Problems of substantive law?
7. Definition of waste?
8. Carl's objections?
9. Discretion of the Local Authority?

Please feel free to give an input on your respective domestic laws and jurisprudence as well.

I am looking forward to our discussion!