

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

Training module

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

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Organised by Academy of European Law

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Case: „Classic Car“



Copyright: "iscrapapp.com/blog/how-to-get-scrap-metal-or-car-picked-up"

Structure of the Case Study

- Interim relief (“speedy case”)
- Admissibility
- Is the lawsuit well-founded?

Interim relief (“speedy case”)

Is a provisional ruling by the Court justified?

General Requirements drawn from the EU legal order:

- An **application** for judicial interim relief must be filed.
- **Urgency**: Will a (positive) judgment come too late?
(periculum in mora)
- The main case must be - prima facie - **well-founded**
(fumus boni juris)

What do you decide if the well-foundedness of the main case seems to be unclear?

Germany: Weighing up of the respective consequences (potential oil spill)!

Admissibility:

Reviewable administrative act?

Wide spread definition of an individual administrative act:

- Any measure
- of individual scope
- taken by a public authority
- and having legally binding
- and external effects.

Admissibility:

Standing (locus standi)

Carl is the addressee of the contested administrative act.

He is directly affected (aggrieved)

in his (fundamental) rights

and/or legitimate interests.

Is the lawsuit well-founded?

Legal Empowerment

Did the Local Authority act
within the limits of its domestic legal empowerment ?

The case does not say very much. So, let's assume there is a domestic legal basis for the Local Authority to enforce waste law by individual orders.

Administrative Procedure

Was the procedure fair? Carl was not heard in advance!

However, the facts were clear. Any consequence of not being heard?
“Healing” within the Court Procedure?

What about the classification of the Toyota Corolla as an end-of life vehicle (ELV)?

End of Life Vehicles Directive (ELV-Directive 2000/53/EC)
can give guidance with its definitions:

„Vehicle“? Article 2 (1): category M1 (passenger car) (Yes)

„end-of life vehicle“ Article 2 (1): **means a vehicle which is waste**

Please note, it says:

“which is waste within the meaning of Article 1(a) of Directive 75/442/EEC”.

This reference is now to be understood as a reference to the definition in Article 3 (1) WFD which is the successive legislation.

Red Toyota Corolla a classic car (vintage)?

“Any car can be a collector car, if you collect it.”

(Comedian and car collector Jay Leno)

**The ELV-Directive lacks a sense of humour
and states in its recital (10):**



“Vintage vehicles, meaning historic vehicles or vehicles of value to collectors or intended for museums, **kept in a proper and environmental sound manner, either ready for use or stripped into parts**, are not covered by the definition of waste laid down by [the definition of Waste in the general Directive] and do not fall within the scope of this Directive.

**Seems very easy,
however it is only a recital and not a even a provision ...**

Waste or Non-Waste (=ELV or Used car)

Is the car an object which the holder Carl

- has discarded
- or intends to discard
- or is required to discard ?

No secret anymore: Yes, it is a waste!

Good reasoning relies on taking into account the circumstances of the case:

History:

The age/mileage of the car:

more than 20 years / 400.000 km

Characteristics:

no identification number / not ready for road

not even ready for any use (rims inside)

not suitable for minor repair

broken windows and no repair by the holder

Future:

Classic Car? No indication for that. This plea looks like an attempt

to cover one's behaviour (disposing of the car in the yard).

Market value:

Not relevant. Apart: "50 €" could be the price for car parts.

Dangerous liquids:

Typically, a car contains dangerous liquids (petrol, motor oil, liquid from A/C).

Such dangers can constitute the object as a waste by themselves (!).

ELVs have to be discarded without endangering the environment (= collection system)

- So, the Local Authority acted in accordance with waste law.
- However,
is the use of **administrative discretion** really flawless?
- What about setting a deadline of **only one week**?
- Seems possible to fulfill the order within one week;
at least Carl does not contend otherwise.

Thank you

for your kind attention!