

LEGAL UPDATE

Milieudefensie loses appeal over air quality

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Milieudefensie (Friends of the Earth Netherlands) has once again lost the action it had brought against the State on air quality. The Court of Appeal in The Hague also dismissed the claims on appeal on [7 May](#).

Milieudefensie believes that the government is not doing enough to improve air quality. The organisation states that the air quality should not be tested against the (European) statutory standards but against the stricter requirements of the WHO guidelines for particulate matter and nitrogen dioxide. Milieudefensie wants the government to comply with these stricter requirements within six months.

In [2017](#), Milieudefensie did win an interim relief case against the Dutch State. At the time, the State was ordered to quickly come up with additional policy against air pollution and to comply with European standards as soon as possible. However, in the [proceedings on the merits](#) that followed at the end of 2017, the claims of Milieudefensie were rejected. The Court is of the opinion that Milieudefensie has not sufficiently demonstrated that the State has infringed its obligations. The Court has considered that the State is already successfully taking measures to improve air quality, that the WHO target values have been taken into account in determining the limits of the (European) statutory standards and that the State is working towards those standards.

Milieudefensie appealed against this judgment in vain. The Court of Appeal agrees with the Court, noting that the State has since amended the existing air quality plan in order to resolve pressure points. Milieudefensie has not criticised this and the Court of Appeal sees no added value in a court order in that regard. As the amended plan was only drawn up on appeal, the Court of Appeal does see reason to share the costs of the proceedings in the first instance and on appeal between Milieudefensie and the State.

This is a Legal Update from Mathilde van Velzen-de Boer.

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