

First Vice-President Frans Timmermans  
European Commission  
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To: First Vice President Timmermans  
Cc: Commissioners Vella, Bieńkowska, Cañete, Jourová., MEP Tajani, MEP Weber

7<sup>th</sup> December 2018

### **RE: Protecting civil society in Germany**

One of the EU's greatest historic achievements has been the peaceful spread of democracy and the rule of law across much of the continent. Civil society organisations, together with a free press and an independent judiciary, play a vital role in scrutinising government action and holding those in power accountable. The participation of civil society in decision-making should be strengthened all over Europe, not least in its largest member state, Germany.

Dieselgate is a prime example of the importance of organised civil society in upholding the rule of law. NGOs have helped to expose the fact that millions of cars were equipped with defeat devices. Thanks to their efforts, independent prosecutors and judges are now able to take action to protect public health and punish those involved in illegal activities. The work of NGOs has also allowed the Commission to identify weaknesses in the regulatory framework, leading to the adoption of better rules.

One German NGO that has campaigned vigorously for cleaner air is Deutsche Umwelthilfe (DUH). It has exposed numerous diesel vehicles that do not respect the legal limits; it has campaigned for mandatory hardware fixes of diesel vehicles to protect citizens' health; and it has taken local authorities to court over their persistent inability to enforce the local air quality standards.

This has led to a backlash in parts of the German government where one of the governing parties is considering a proposal that calls for a restriction on the operations of DUH. In particular it proposes that DUH should lose its status as a charitable organisation, making it harder for it to receive gifts and donations and limiting its access to funding. In addition it proposes that the NGO should lose its status as an organisation that can challenge government action in court.

Although the decision about the charitable status of an organisation lies entirely with the responsible fiscal authorities following an objective set of existing criteria, if a governing party from a country widely seen and respected as a champion of democracy and the rule of law promoted such a measure, this would be a gift to those around the world seeking to limit democracy.<sup>1</sup>

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<sup>1</sup> <https://www.handelsblatt.com/politik/deutschland/diesel-debatte-cdu-nimmt-finanzierung-der-deutschen-umwelthilfe-ins-visier/23649656.html?ticket=ST-971619-JB6hP9bMx0dj5ZVLy6kg-ap1>

As some of the EU's largest environmental networks, we are concerned. At stake is not whether politicians of different colours and convictions should always agree with NGOs, their messages or their style; at stake is whether NGOs retain the ability to criticise and challenge corporate and government actions without facing reprisals.

The European Commission has spoken out on many occasions in defence of democracy, civil society and the rule of law. You have over the years taken decisive action in a number of high profile cases. It would be clearly inappropriate for any EU governments to attempt to restrict NGOs' access to courts and their access to funding in this way. Furthermore, in this case it would put Germany in clear violation of the Aarhus Convention.<sup>2</sup>

We therefore ask you to monitor the situation in Germany closely and to convey the message that proceeding in the proposed direction would be incompatible with the EU's values as well as international legal obligations. We remain at your disposal to provide you with any additional information you might require.

Kind regards,

Genon K. Jensen

Executive Director of Health and Environment Alliance (HEAL)

Also on behalf of the following Green 10 Directors:

Angelo Caserta, Birdlife Europe

Mark Fodor, CEE Bankwatch Network

Wendel Trio, Climate Action Network (CAN) Europe

Jeremy Wates, European Environmental Bureau (EEB)

Jagoda Munic, Friends of the Earth Europe

Jorgo Riss, Greenpeace European Unit

Andrea Lichtenecker, Naturefriends International

William Todts, Transport and Environment

Ester Asin, WWF European Policy Office

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<sup>2</sup> Article 3, paragraph 8, of the Aarhus Convention states that "Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. ..."

# Green 10

A group of leading environmental NGOs active at EU level

