

Question referred

May Article 10 of Directive 2003/87/EC⁽¹⁾ of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC be interpreted as not preventing application of national legislative measures of the kind under review in these proceedings, the purpose and effect of which are to reduce remuneration for the activity of electricity production by an amount equivalent to the value of the greenhouse gas emission allowances allocated free of charge during the relevant period?

⁽¹⁾ OJ 2003 L 275, p. 32.

Appeal brought on 15 November 2011 by ClientEarth against the order of the General Court (Sixth Chamber) delivered on 6 September 2011 in Case T-452/10: ClientEarth, supported by Kingdom of Denmark, Republic of Finland and Kingdom of Sweden, v Council of the European Union

(Case C-573/11 P)

(2012/C 39/15)

Language of the case: English

Parties

Appellant: ClientEarth (represented by: P. Kirch, avocat)

Other parties to the proceedings: Kingdom of Denmark, Republic of Finland, Kingdom of Sweden, Council of the European Union

Form of order sought

The applicant claims that the Court should:

- set aside the General Court's order of 6 September 2011 in Case T-452/10
- order the Council of the European Union to pay all costs.

Pleas in law and main arguments

The appellant submits that the General Court erred in law in its interpretation of the concepts of 'independence' and 'third party' in the context of the application of the first, third and fourth paragraphs of Article 19 of the Statute of the Court of Justice and Article 43(1) of the Rules of Procedure.

Action brought on 18 November 2011 — European Commission v Grand Duchy of Luxembourg

(Case C-576/11)

(2012/C 39/16)

Language of the case: French

Parties

Applicant: European Commission (represented by: O. Beynet and B. Simon, acting as Agents)

Defendant: Grand Duchy of Luxembourg

Form of order sought

- Declare that, by not taking all necessary measures to comply with the judgment delivered by the Court of Justice on 23 November 2006 in Case C-425/05, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 260(1) of the Treaty on the Functioning of the European Union;
- Order the Grand Duchy of Luxemburg to pay to the Commission the proposed penalty payment of EUR 11 340 for each day of delay in compliance with the judgment of 23 November 2006 in Case C-452/05, running from the date of delivery of the judgment in the present case until the date upon which the judgment in Case C-452/05 has been complied with;
- Order the Grand Duchy of Luxembourg to pay the Commission a daily lump sum of EUR 1 248, running from the date of delivery of the judgment of 23 November 2006 in Case C-452/05 until the date of delivery of the judgment in the present case, or until the date upon which the judgment in Case C-452/05 has been complied with, if it is implemented earlier;
- Order the Grand Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

In support of its action, the Commission argues that, as is clear from examining the information communicated by the Luxembourg authorities, Luxembourg has not, to date, fully complied with the judgment of the Court almost five years after that judgment was delivered. Luxembourg has not complied with the provisions of either Article 5(4) or Article 5(2). Six waste water treatment plants serving agglomerations with a population equivalent of over 10 000 are still not compliant with the requirements laid down by Directive 97/221/EEC⁽¹⁾.

⁽¹⁾ Council Directive of 21 May 1991 concerning urban waste-water treatment (OJ 1991 L 135, p. 40)