

- Declare that the Defendants are bound to make good the damage that the Applicant has suffered, and may yet suffer, as a result of the adoption of Articles 4, 12(3) and 6(2e), 9, 16 (2), (3) and (4), in conjunction with Article 2, Annex I and Annex III, No. 1, of Directive 2003/87/EC;
- Order the Defendants to bear the costs.

Action brought on 13 January 2004 by Le Front National and seven others against Council of the European Union and European Parliament

(Case T-17/04)

(2004/C 71/65)

Pleas in law and main arguments

(Language of the case: French)

The applicant is a steel producing company with installations for the production of pig iron and steel in France, Spain, Germany and Belgium. Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 ⁽¹⁾ establishes a scheme for greenhouse gas emission allowance trading within the Community. This Directive institutes a licensing system for certain activities leading to the emission of greenhouse gas, among them the production of pig iron or steel, and makes provision for emission allowances to be allocated to relevant installations. Emissions of greenhouse gases by an installation in excess of its allowance for the relevant trading period is subject to monetary penalties.

An action was brought before the Court of First Instance of the European Communities on 13 January 2004 against the Council of the Union and the European Parliament by Le Front National, established in St-Cloud, France, Marie-France Stirbois, residing in Villeneuve-Loubey, France, Bruno Gollnisch, residing in Limonest, France, Carl Lang, residing in Boulogne-Billancourt, France, Jean-Claude Martinez, residing in Montpellier, France, Philip Claeys, residing in Overijse, Belgium, Koen Dillen, residing in Antwerp, Belgium, and Mario Borghezio, residing in Turin, Italy, represented by a Maître Wallerand de St-Just, lawyer.

In support of its application the applicant submits that the contested provisions infringe its fundamental rights to property and the pursuit of an economic activity, by requiring it to operate its plants under economic conditions that are unsustainable. The applicant further claims that there is very little technological potential for steel producers to reduce their greenhouse gas emissions beyond the 18 % reduction already achieved since 1990 and that, therefore it is an infringement of the principle of proportionality to subject such installations to the Directive in question. The applicant also invokes a breach of the principle of equality, alleging that other sectors in direct competition with the applicant and with comparable or even higher emissions of greenhouse gases, such as producers of non-ferrous metals and chemicals, are not subject to the Directive. In the same context the applicant further alleges that steel producers find themselves in a unique lock-in situation preventing them from passing on to their clients any monetary fines imposed for excessive emissions. The applicant also submits that the contested provisions infringe the freedom of establishment within the European Union by affecting its right to transfer production freely from a less efficient plant in one Member State to a more efficient plant in another Member State. Finally, the applicant also invokes a breach of the principle of legal certainty, claiming that the Directive imposes obligations whose financial implications are unforeseeable.

The applicants claim that the Court of First Instance should:

- Annul Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding;
- Order the European Parliament and the council to pay the costs and lawyers' fees amounting to EUR 10 000.

Pleas in law and main arguments

In support of their application, the applicants rely on the same pleas as those put forward by the applicant in Case T-13/04 ⁽¹⁾. They also claim that the contested regulation infringes French Law No 95-65 of 19 January 1995 on the financing of political parties. The latter law prohibits financing by legal persons, whereas the contested regulation contains no such prohibition and could result in evasion of the French prohibition.

⁽¹⁾ Directive 2003/87/EC 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. OJ L 275 of 25.10.2003, p. 32-46.

⁽¹⁾ Case T-13/04 *Bonde and Others v Parliament and Council*.