

**Order of the President of the Court of First Instance of 12 May 2006 — Gollnisch v Parliament**

(Case T-42/06 R)

**(Application for Interim measures — Act of the Parliament — Defence of immunity of a Member of Parliament — Application for suspension of operation — Admissible)**

(2006/C 165/53)

*Language of the case: French*

**Parties**

*Applicant:* Bruno Gollnisch (Limonest, France) (represented: by W. de Saint Just, lawyer)

*Defendant:* European Parliament (represented by: H. Krück, C. Karamarcos and A. Padowska, Agents)

**Re:**

Application for suspension of the operation of the European Parliament's Decision of 13 December 2005 not to defend the immunity and privileges of Mr. Gollnisch.

**Operative part of the order**

1. *The application for interim relief is rejected.*
2. *The costs are reserved.*

**Action brought on 3 May 2006 — Drax Power and others v Commission**

(Case T-130/06)

(2006/C 165/54)

*Language of the case: English*

**Parties**

*Applicants:* Drax Power Ltd (Selby, United Kingdom), Great Yarmouth Power Ltd (Swindon, United Kingdom), International Power Plc (London, United Kingdom), Npower Copgen Ltd (Swindon, United Kingdom), RWE Npower Plc (Swindon, United Kingdom), ScottishPower Generation Ltd (Glasgow, United Kingdom), Scottish and Southern Energy Plc (Perth, United Kingdom) (represented by: I. Glick, QC, and M. Cook, Barrister)

*Defendant:* Commission of the European Communities

**Form of order sought**

— Annul Commission Decision C (2006) 426 final of 22 February 2006 concerning the proposed amendment to the national allocation plan for the allocation of greenhouse gas emission allowances notified by the United Kingdom of Great Britain and Northern Ireland;

— order the Commission to bear the applicants' costs of these proceedings.

**Pleas in law and main arguments**

On 10 November 2004, the United Kingdom notified its intention to amend its provisional national allocation plan for the allocation of greenhouse gas emission allowances to the Commission. The Commission decision finding the proposed amendment inadmissible was challenged by the United Kingdom following which the decision was annulled by the Court of First Instance in its judgment in Case T-178/05 <sup>(1)</sup>.

Following this annulment, the Commission adopted a new decision concluding that the proposed amendment was inadmissible. This decision is now being challenged by the applicants.

The applicants own, directly or through their subsidiaries, electricity generating facilities covered by 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 <sup>(2)</sup>. The proposed amendment to the national allocation plan would result in them receiving significantly more allowances than those currently allocated.

In support of their application, the applicants submit that the contested decision is in contradiction with the judgment of the Court of First Instance in Case T-178/05 and that the issues raised in the contested decision form *res judicata*.

According to the applicants, the Commission wrongly concludes that the date of 30 September 2004 specified in Article 11(1) of the Directive is a cut-off deadline, and that Member States are not permitted to propose any amendments to their national allocation plans after that deadline, other than those required by a Commission decision.

The applicants furthermore claim that the concerns expressed about the functioning of the emissions trading scheme are overstated and could not justify the rejection of the proposed amendment.

<sup>(1)</sup> Case T-178/05 *United Kingdom v Commission* [2005] ECR II-0000

<sup>(2)</sup> OJ 2003 L 275, p.32.