

**Action brought on 26 June 2007 — Republic of Hungary v  
Commission of the European Communities**

(Case T-221/07)

(2007/C 199/77)

*Language of the case: Hungarian*

**Parties**

*Applicant:* Republic of Hungary (represented by: J. Fazekas, Agent)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul the Commission Decision of 16 April 2007 on the national plan for the allocation of greenhouse gas emission allowances notified by Hungary in accordance with Directive 2003/87/EC of the European Parliament and of the Council (C 2007 1689 final)
- Order the Commission to pay the costs.

**Pleas in law and main arguments**

The applicant contests the validity of Commission Decision of 16 April 2007 on the national plan for the allocation of greenhouse gas emission allowances notified by Hungary in accordance with Directive 2003/87/EC of the European Parliament and of the Council <sup>(1)</sup>. According to the contested decision, the national allocation plan of Hungary does not meet certain criteria laid down in Annex III to Directive 2003/87.

The legal basis of the action brought by the applicant is that Directive 2003/87, and in particular Article 9(3), does not grant to the Commission itself the power to determine, without taking any account of either the allocation plans developed and notified by the Member States under Article 9(1) and Article 11(2) of the directive or the total quantity of emission allowances to be allocated as established by the Member States in those plans, the total quantity of emission allowances which the Member States may allocate

In the event that the Court holds that the Directive 2003/87 does grant that power to the Commission, the applicant submits that the Commission made a manifest error of assessment in evaluating the total quantity of emission allowances to be allocated in accordance with the national allocation plan. Hungary states that the Commission, in its assessment, first, did not take into account the data and calculations presented in the allocation plan, and thus infringed the principle of proportionality, and secondly, made use of manifestly incorrect data and inappropriate calculations which led necessarily to an incorrect determination of the total quantity.

The applicant also claims that in the course of the procedure, the Commission infringed the principle of fair cooperation, in that, first, the Commission determined the method of calculation and the data to be used to establish the total quantity of emission allowances without consulting the Member States (including Hungary) on the subject, and secondly, the Commis-

sion did not take into account the additional information which was supplied by the applicant and which the Commission itself had requested during the procedure.

Lastly, the applicant states that the Commission did not adequately comply with its obligation to state reasons, given that, first, the Commission did not properly set out the reasons why it did not take into consideration the allocation plan notified by Hungary and the data and calculations presented in that plan; secondly, the Commission did not properly set out the reasons for the suitability of the data and calculations which it did use; and thirdly, the Commission did not state any reason why it did not take into account the additional information supplied by Hungary and which the Commission itself had requested in the course of the procedure.

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<sup>(1)</sup> 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 (O) 2003 L 275, p. 32).

**Appeal brought on 25 June 2007 by Petrus Kerstens  
against the order of the Civil Service Tribunal made on  
25 April 2007 in Case F-59/06, Kerstens v Commission**

(Case T-222/07 P)

(2007/C 199/78)

*Language of the case: French*

**Parties**

*Appellant:* Petrus J. F. Kerstens (Overijse, Belgium) (represented by C. Mourato, lawyer)

*Other party to the proceedings:* Commission of the European Communities

**Form of order sought by the appellant**

- annul the contested order;
- refer the case back to the Civil Service Tribunal before another chamber;
- award costs as of right.

**Pleas in law and main arguments**

In his appeal, the applicant seeks the annulment of the order of the Civil Service Tribunal dismissing as clearly inadmissible the action whereby he sought the annulment of, first, his career development report for 2004 and, second, the decision of the appointing authority rejecting his complaint against that career development report.