

Form of order sought

The applicant claims that the General Court should:

- declare that the applicant is under no obligation to repay as unduly paid the sum which the Commission paid to it in respect of the POCEMON project;
- declare that the applicant is under no obligation to pay to the Commission liquidated damages in respect of the POCEMON project;
- declare that the Commission is not entitled to offset the amount which it is obliged to pay to ANKO, and
- order the Commission to pay the applicant's costs.

Pleas in law and main arguments

This action relates to the liability of the Commission under grant agreement No 216088 for the carrying out of the project 'Point Of CarE MONitoring and Diagnostics for Auto-immune Diseases' (POCEMON), pursuant to Article 272 TFEU. In particular, the applicant maintains that although it performed its contractual obligations the Commission, contrary to the terms of the abovementioned agreement, the principle of good faith, the prohibition of abuse of rights and proportionality, sought the repayment of sums paid to ANKO. Further, the Commission carried out an offsetting of claims which were not certain, of a fixed amount and due.

- For those reasons, the applicant maintains: first, that it is under no obligation to repay as unduly paid the whole of the sum which the Commission paid to it in respect of the POCEMON project; secondly, it is under no obligation to pay to the Commission liquidated damages in respect of the POCEMON project, and thirdly that the Commission is not entitled to offset against sums which it is obliged to pay to the applicant sums which are not certain, of a fixed amount and due.

Action brought on 11 January 2013 — Ekologický právní servis v Commission

(Case T-19/13)

(2013/C 79/44)

Language of the case: English

Parties

Applicant: Ekologický právní servis (Brno, Czech Republic) (represented by: P. Černý, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the European Commission C(2012) 8382, of 12 November 2012, by which a request for internal review of the applicant of the Commission decision C(2012) 4576, of 6 July 2012, concerning the application pursuant to Article 10(c) (5) of Directive 2003/87/EC of the European Parliament and of the Council⁽¹⁾ to give transitional free allocation for the modernisation of electricity generation notified by the Czech Republic has been declared inadmissible;
- Annul the Commission decision C(2012) 4576, of 6 July 2012, concerning the application pursuant to Article 10(c) (5) of Directive 2003/87/EC of the European Parliament and of the Council to give transitional free allocation for the modernisation of electricity generation notified by the Czech Republic; and
- Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that the Decision of the European Commission C(2012) 8382, of 12 November 2012, is unlawful, as it is contrary to Article 17 of the Treaty on European Union; Article 263 of the Treaty on the functioning of the European Union; and Article 2(1)(g) and Article 10 of Regulation (EC) No. 1367/2006⁽²⁾.
2. Second plea in law, alleging that the Commission decision C(2012) 4576, of 6 July 2012, is unlawful, as it is contrary to Article 263 TFEU; Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community as amended by Directive 2009/29/EC⁽³⁾; Communication from the Commission — Guidance document on the optional application of Article 10 (c) of Directive 2003/87/EC (2011/C 99/03); and Directive 2001/42/EC⁽⁴⁾ on the assessment of the effects of certain plans and programmes on the environment.

⁽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

⁽²⁾ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies

⁽³⁾ Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community

⁽⁴⁾ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment