

Defendant: European Commission (represented by: E. White, C. Hermes and K. Herrmann, Agents)

Re:

Application to annul Article 1(1) of Commission Decision 2013/448/EU of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2013 L 240, p. 27), in so far as it rejects the inscription of the installation with identification code DE000000000000563 on the list of installations provided for in Article 11(1) of 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 2003 L 275, p. 32), and the preliminary total annual amounts of emission allowances allocated free of charge to that installation.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Arctic Paper Mochenwangen GmbH to pay the costs.*

(¹) OJ C 31, 1.2.2014.

Action brought on 26 June 2014 — Green Source Poland v Commission

(Case T-512/14)

(2014/C 395/63)

Language of the case: English

Parties

Applicant: Green Source Poland sp. z o.o. (Warsaw, Poland) (represented by: M. Merola and L. Armati, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision;
- order the Commission to pay the applicant's costs.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment of Commission Decision C(2014) 2289 final of 7 April 2014 whereby the Commission refuse to grant a financial contribution from the European Regional Development Fund to the proposed major project 'Purchase and implementation of innovative manufacturing technology of biocomponents to produce biofuels', forming part of the operational programme 'Innovative Economy' for structural assistance under the convergence objective in Poland.

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

1. First plea in law, alleging that the Commission exceeded its power under Article 41 of Regulation No 1083/2006 (¹) and breached the principles of legal certainty and proportionality in attributing de facto binding effect to a directive proposal not yet approved, i.e. the ILUC Directive proposal (²). The applicant submits that the refusal is in reality based not on the fact that the project lacked a high degree of innovativeness as a first generation production facility for production of biofuels from food-crops, but on the fact that the project was inconsistent with the ILUC Directive proposal, which promote second generation biofuels produced from crops other than food-crops. The Commission thus relied on future legislation to deny a contribution from the European Regional Development Fund.

2. Second plea in law, alleging breach of the duty to state reasons and manifest error of assessment in considering that the ILUC Directive proposal undermines the viability of the proposed plant. The applicant submits that the Commission erred in finding that the long-term economic viability of the plant would be questionable as from 2020 based on speculations that after 2020 only biofuels produced from crops other than food-crops will receive financial support.
3. Third plea in law, alleging abuse of procedure and breach of the principle of proportionality due to the inconsistent and artificial grounds successively invoked by the Commission to deny the contribution from the European Regional Development Fund.
4. Fourth plea in law, alleging infringement of Article 41 of the Regulation No 1083/2006 as the Commission, in its assessment, went beyond the criteria set out in the relevant operational programme thereby concluding that only 'state of the art solutions' and 'the most innovative and newest solutions' should be supported. However the operational programme only refers to new and modern solutions, which should be interpreted in light of the current degree of industrial and commercial development in Poland and of the overall objective to foster development of the region concerned.
5. Fifth plea in law, alleging infringement of Article 41 of Regulation No 1083/2006 and breach of the principle of sound administration and due diligence and of the duty to state reasons.
6. Sixth plea in law, alleging abuse of procedure and breach of the principles of reasonable delay and good administration, as well as infringement of Article 41(2) of Regulation No 1083/2006 laying down a three month time-limit for the adoption of decisions on major projects. The applicant contends that the Commission continuously invited Poland to withdraw its request and repeated the same questions or added new and unrelated questions dragging the proceedings on for over one year and a half, thereby lowering the chances of the proposed project to be implemented.

(¹) Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ 2006 L 210, p. 25).

(²) Proposal COM(2012) 595 final for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources.

Action brought on 30 July 2014 — EEB v Commission

(Case T-565/14)

(2014/C 395/64)

Language of the case: English

Parties

Applicant: European Environmental Bureau (EEB) (Brussels, Belgium) (represented by: S. Podskalská, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the contested Commission decision of 12 June 2014 (Ares (2014)1915757);
- annul the second contested Commission Decision 2014/804/EU of 17 February 2014;
- order the Commission to pay the costs of the proceeding.

Pleas in law and main arguments

By its present action, the applicant seeks the annulment of the Commission's decision of 12 June 2014 (Ares (2014) 1915757) dismissing as inadmissible the applicant's request for internal review regarding Commission Decision C(2014) 804 final of 17 February 2014 on the notification by the Republic of Poland of a transitional national plan referred to in Article 32 of Directive 2010/75/EU (¹) of the European Parliament and of the Council on industrial emissions. The applicant further seeks the annulment of Commission Decision C(2014) 804 final of 17 February 2014.