

**Parties to the main proceedings**

Applicant: BASF SE

Defendant: Bundesrepublik Deutschland

**Operative part of the order**

1. Examination of the first and second questions has not revealed any factor capable of affecting the validity of Article 15(3) of Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council inasmuch as that provision excludes the taking into account of the emissions of electricity generators for the purpose of determining the maximum annual amount of allowances.
2. Article 4 of, and Annex II to, 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 are invalid.
3. The effects of the declaration of invalidity of Article 4 of, and Annex II to, Decision 2013/448 shall be limited in time in such a way, first, that that declaration shall take effect only at the end of a period of ten months from the date of delivery of the judgment of 28 April 2016, *Borealis Polyolefine and Others* (C-191/14, C-192/14, C-295/14, C-389/14 and C-391/14 to C-393/14, EU:C:2016:311), in order to allow the European Commission to proceed with the adoption of the necessary measures and, secondly, that the measures adopted up to that point on the basis of the provisions declared invalid cannot be brought into question.

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<sup>(1)</sup> OJ C 389, 23.11.2015

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**Order of the Court (Sixth Chamber) of 7 July 2016 — *Fapricela — Indústria de Trefilaria, SA v European Commission***

(Case C-510/15 P) <sup>(1)</sup>

**(Appeal — Article 181 of the Rules of Procedure of the Court — Competition — Agreements, decisions and concerted practices — European prestressing steel market — Burden of proof — Presumption of innocence — Fines — 2006 Guidelines on the method of setting fines — Unlimited jurisdiction — Determining the gravity of the infringement and the additional amount in respect of deterrence — Justification — Principles of proportionality and equal treatment)**

(2016/C 343/21)

Language of the case: Portuguese

**Parties**

Appellant: *Fapricela — Indústria de Trefilaria, SA* (represented by: T. Caiado Guerreiro and R. Rodrigues Lopes, Agents)

Other party to the proceedings: European Commission (represented by: V. Bottka and J. Szczodrowski, Agents, and by M. Marques Mendes and A. Dias Henriques, avocats)

**Operative part of the order**

1. The appeal is dismissed.
2. *Fapricela — Indústria de Trefilaria SA* shall pay the costs.

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<sup>(1)</sup> OJ C 381, 16.11.2015.