

4. Are Commission Decision 2013/448/EU and, where appropriate, Decision 2011/278/EU, which it implements, contrary to Article 10a(12) of the Directive, because they extend the cross-sectoral correction factor to sectors defined in Commission Decision 2010/2/EU⁽⁶⁾ (now Decision 2014/746/EU)⁽⁷⁾ as they are deemed to be exposed to a significant risk of carbon leakage, with the consequent reduction in free emission allowances allocated?
5. Does Decision 2013/448/EU infringe Article 10a(5) of Directive 2003/87/EEC in so far as the European Commission, in order to determine the verified emissions carried out in the period 2005-2007 to which Article 10a(5)(a) and (b) refers:
 - a) did not take into consideration emissions which were not included in the Community independent transaction log, even though, in the period under consideration, it was not obligatory to register such emissions.
 - b) extrapolated, to the extent possible, the relevant emission figures from verified emissions in later years by applying the factor of 1,74 % in reverse direction.
 - c) excluded all emissions from installations closed before 30 June 2011.

⁽¹⁾ 2013/448/EU: Commission Decision 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).

⁽²⁾ OJ 2000 C 364, p. 1.

⁽³⁾ 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).

⁽⁴⁾ 2011/278/EU: Commission Decision 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 (OJ 2011 L 130, p. 1).

⁽⁵⁾ 1999/468/EC: Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ 1999 L 184, p. 23).

⁽⁶⁾ 2010/2/EU: Commission Decision of 24 December 2009 determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage (OJ 2010 L 1, p. 10).

⁽⁷⁾ OJ 2014 L 308, p. 114.

Action brought on 17 July 2015 — European Commission v Council of the European Union

(Case C-389/15)

(2015/C 311/45)

Language of the case: English

Parties

Applicant: European Commission (represented by: F. Castillo de la Torre, J. Guillem Carrau, B. Hartmann, Agents)

Defendant: Council of the European Union

The applicant claims that the Court should:

- annul the decision of the Council of 7 May 2015 authorising the opening of negotiations on a revised Lisbon Agreement on Appellations of Origin and Geographical Indications as regards matters falling within the competence of the European Union;
- maintain the effects of the contested decision, where appropriate, until the entry into force, within a reasonable period from the delivery of the present judgment, of a new decision that is to be adopted by the Council of the European Union pursuant to Article 218(3), (4) and (8) TFEU;
- order the Council of the European Union to bear the costs.

Pleas in law and main arguments

First plea: The contested Decision acknowledges the existence of competence of the Member States, in breach of Article 3 TFEU, since the negotiation concerns an agreement which falls within the exclusive competence of the Union

Second plea: Infringement of Articles 207(3) and 218(3), (4) and (8) TFEU because the Council has appointed Member States as 'negotiators', in a matter of EU competence, and has not adopted the contested Decision in accordance with the applicable majority

Appeal brought on 21 July 2015 by John Dalli against the judgment of the General Court (Third Chamber, Extended Composition) delivered on 12 May 2015 in Case T-562/12: John Dalli v European Commission

(Case C-394/15 P)

(2015/C 311/46)

Language of the case: English

Parties

Appellant: John Dalli (represented by: L. Levi and S. Rodrigues, lawyers)

Other party to the proceedings: European Commission

Form of order sought

The Appellant claims that the Court should:

- declare his appeal admissible;
- annul the contested judgment;
- annul the contested decision;
- order compensation for damage of 1 symbolic euro for non-material damage and, on a provisional basis, of EUR 1 913 396 for material damage;
- order the Commission to pay the costs.

Pleas in law and main arguments

In support of his appeal, the Appellant raises:

- a first plea in law, alleging that the General Court ruled *ultra petita* by changing the subject-matter of the dispute;
 - a second plea in law, alleging a failure to provide reasons;
 - a third plea in law, alleging a breach of procedure which adversely affects the interests of the Appellant, including his rights of defence;
 - a fourth plea in law, raising several distortions of facts and evidence; and
 - a fifth plea in law, challenging the interpretation or application of European Union law by the General Court.
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