

**Request for a preliminary ruling from the Krajský súd v Bratislave (Slovak Republic) lodged on 24 May 2017 — PPC Power a.s. v Finančné riaditeľstvo Slovenskej republiky, Daňový úrad pre vybrané daňové subjekty**

(Case C-302/17)

(2017/C 269/07)

*Language of the case: Slovak*

**Referring court**

Krajský súd v Bratislave

**Parties to the main proceedings**

*Applicant:* PPC Power a.s.

*Defendants:* Finančné riaditeľstvo Slovenskej republiky, Daňový úrad pre vybrané daňové subjekty

**Question referred**

Are the aims of, and the principles underlying Directive 2003/87/EC <sup>(1)</sup> establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Directive 96/61/EC <sup>(2)</sup> ('the Directive') — and more specifically (i) the objective of reducing emissions by means of technological developments (Article 1 and recitals 2 and 20 of the Directive), (ii) the objectives of maintaining economic development, preserving the integrity of the internal market and maintaining competition (recitals 5 and 7), (iii) the objective of ensuring financially and economically advantageous conditions for reducing emissions (Article 1), the principle of legal certainty for operators within the meaning of Article 3 (f), inasmuch as operators are entitled, in accordance with Article 9, to rely on the fact that national allocation plans are to remain unchanged during the 18 months before the beginning of the relevant period (that is to say, for the period 2008 to 2012, from 30 June 2006 at the latest), (iv) the requirement that emission allowances must be allocated free of charge (Article 10), (v) the right of the persons referred to in the second subparagraph of Article 13(3) to be issued with replacement allowances for those with which they have been issued and which the Member States have ... cancelled in accordance with the first subparagraph of Article 13(3) — to be interpreted as precluding the national legislation of a Member State which imposes on operators, within the meaning of Article 3(f) of the Directive, that are subject to tax in the territory of the Member State concerned, an obligation to pay a special tax (i) the legal basis of which is that the issue of emission allowances (in the case of non-use or sale) is taxed regardless of whether or not the operator derives a profit, (ii) where the emission allowances were allocated to the operator on the basis of the national allocation plan submitted by the Member State to the European Commission for the period 2008 to 2012 in accordance with Article 9 of the Directive (that is to say, notified to the Commission and the Member States under Article 9(1) of the Directive and not rejected by the Commission in accordance with Article 9(3) of the Directive) and which, in accordance with Article 10 of the Directive, provides that, for the five-year period beginning on 1 January 2008, 100 % of the emission allowances are to be allocated free of charge, (iii) where the rate of this tax is 80 % of the emission allowance tax base, which is determined as being the sum of the multiplication of the emission allowances transferred (sold) in each calendar month and the average market price of allowances in the calendar month preceding the month in which the transfer takes place and of the multiplication of unused allowances and the average market price of allowances for the calendar year concerned and (v) where the average market prices are calculated as the simple arithmetic mean of the prices of the last trade on a stock exchange (that is to say, where the tax is not based on the price at which the emission allowances were actually sold)?

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

<sup>(2)</sup> OJ 1996 L 257, p. 26.