

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The costs are reserved.*

Action brought on 14 March 2018 — Abaco Energy and Others v Commission**(Case T-186/18)**

(2018/C 221/35)

*Language of the case: English***Parties**

Applicants: Abaco Energy, SA (Madrid, Spain), and 1 660 others (represented by: P. Holtrop, P. Kuypers and M. de Wit, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul European Commission decision C(2017) 7384 final of 10 November 2017 in case SA.40348 (2015/NN) concerning the support for electricity generation from renewable energy sources, cogeneration and waste; ⁽¹⁾
- order the Commission to issue separate assessments of the previous scheme and the current scheme, in accordance with EU law;
- order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on six pleas in law.

1. First plea in law, alleging breach of the Commission's duty of care.
 - The Commission is under a duty to competently discharge its duties under the Treaties. The Commission had the opportunity, the information and the resources necessary to assess the previous scheme as part of its assessment in issuing the decision and as required under law. The Commission, in breach of the standards expected of it under the Treaties, failed to discharge this duty by failing to conduct an independent assessment of the previous scheme.
2. Second plea in law, alleging a manifest error of fact.
 - The Commission has committed a manifest error of fact in finding that the previous scheme was absorbed by the current scheme. It is manifestly apparent that no absorption took place and that instead at all material times there were two entirely separate schemes, each of which required its own assessment to determine compliance with State aid rules.
3. Third plea in law, alleging manifest error of law.
 - The Commission failed to correctly apply the appropriate binding Commission Guidelines, thereby acting in breach of EU law. Additionally, the Commission held that because in its view there was absorption of the previous scheme by the current scheme, there was no need to assess the previous scheme. The applicants argue that the Commission, by holding this, acted in breach of EU law.

4. Fourth plea in law, alleging insufficient reasoning.

- The Commission has not provided sufficient reasons such as to enable the applicants to understand the basis on which the Commission issued the decision. It is not clear from the decision (i) the grounds on which the Commission has held that the previous scheme was absorbed by the current scheme, and (ii) the basis on which the absorption of one scheme by another precludes the need for an assessment of the first scheme for compliance with State aid rules. Both were key findings that led to the Commission's adoption of the decision. Accordingly, the applicants have been deprived of their fundamental right to receive a decision that allows them to understand how and why the Commission has come to the conclusions expressed in the decision.

5. Fifth plea in law, alleging abuse of power and breach of the EU Charter of Fundamental Rights.

- The Commission is under an obligation pursuant to article 41(1) of the Charter of Fundamental Rights of the European Union to handle the applicants' interests pursuant to the decision in an impartial and fair manner. The Commission breached this obligation by improperly placing the interests of the Commission and of Spain above those of the applicants.

6. Sixth plea in law, alleging breach of the principle of proportionality

- The Commission disregarded the interests of the applicants by not providing an independent assessment of the previous scheme, thereby breaching the principle of proportionality.

⁽¹⁾ OJ 2017 C 442, p. 1

Action brought on 11 April 2018 — PV v Commission

(Case T-224/18)

(2018/C 221/36)

Language of the case: French

Parties

Applicant: PV (represented by: M. Casado García-Hirschfeld, lawyer)

Defendant: European Commission

Form of order sought

- Declare this application admissible and well-founded;

in consequence, order:

- the joinder of the present application to the pending case T-786/16 in accordance with the principle of connexity and with Article 68 of the consolidated Rules of Procedure of the General Court of the EU of 4 March 2015;
- a finding that the psychological harassment is established and a confirmation of the use of 'false certifications', which mean that such irregularities cannot be tolerated in the EU legal order;
- the annulment of the CMS 17/025 procedure in all those aspects and of the decision which forms the basis of claim R/8/18;