

In addition to the action for annulment, the applicants have also introduced an action for compensation on the basis of Articles 235 and 288(2) EC in order to repair the damage allegedly suffered by them as a result of the contested restrictions.

<sup>(1)</sup> Commission Directive 2006/133/EC amending Council Directive 91/414/EEC to include flusilazole as active substance; OJ L 349, 2006, p. 27.

<sup>(2)</sup> Council Directive 91/414/EEC, of 15 July 1991, concerning the placing of plant protection products on the market; OJ L 230, 1991, p. 1.

**Action brought on 7 February 2007 — Slovakia v Commission**

(Case T-32/07)

(2007/C 69/58)

*Language of the case: Slovak*

**Parties**

*Applicant:* Slovak Republic (represented by: J. Čorba, Agent)

*Defendant:* Commission of the European Communities

**Form of order sought**

- annul the contested decision;
- in the event that the Court of First Instance does not agree with the opinion set out at paragraph 95 of the application, preserve, in accordance with Article 231(2) EC, those effects of the contested decision on the basis of which the applicant decides the total quantity of allowances and their allocation to individual businessmen on their territory;
- order the defendant to pay the costs.

**Pleas in law and main arguments**

The applicant contests the Commission's Decision of 29 November 2006, which concerns the national allocation plan for the allocation of emissions allowances for greenhouse gases notified by the Slovak Republic in accordance with Directive 2003/87/EC of the European Parliament and of the Council <sup>(1)</sup>. According to the contested decision, certain aspects of the Slovak national allocation plan are incompatible with Annex III to Directive No 2003/87/EC.

The applicant submits in support of its action that the Commission infringed Article 9(3) in conjunction with Article 9(1) and Article 11(2) of Directive No 2003/87/EC and the principle of legitimate expectations in that, irrespective of the national allocation plan, in the contested decision it applied its own method of setting the maximum total annual average amount of emissions allocations, appropriating to itself without authority the task which the directive entrusted to the Member States.

Furthermore, the applicant submits that, even if the defendant was entitled to apply its own method of setting the total quantity of emissions allowances, by failing to consult the applicant about the use of that method before the publication of the contested decision, it breached the principle of loyal cooperation of the institutions of the Community with the authorities of the Member States.

Moreover, the defendant infringed Article 9(3) in conjunction with Article 1 and Article 9(1) and criteria 1 to 4 of Annex III to Directive 2003/87/EC and the general legal principle of proportionality, in that the method of setting the total amount of emissions allocations which it applied fails to take into account the need to increase electricity production on the applicant's territory from carbon intensive sources as a result of the obligation to close two power-plant units of the nuclear power station at Jaslovské Bohunice.

Finally, the applicant asserts that there has been a breach of the essential procedural requirement to state adequate reasons.

<sup>(1)</sup> 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 L 275, 25.10.2003, p. 32).

**Order of the Court of First Instance of 22 January 2007 — Verband der Internationalen Caterer in Deutschland v Commission**

(Case T-5/05) <sup>(1)</sup>

(2007/C 69/59)

*Language of the case: German*

The President First Chamber has ordered that the case be removed from the register.

<sup>(1)</sup> OJ C 82, 2.4.2005.