

GENERAL COURT

Action brought on 8 July 2011 — Poland v Commission

(Case T-370/11)

(2011/C 290/12)

Language of the case: Polish

Parties

Applicant: Republic of Poland (represented by: M. Szpunar, Undersecretary of State)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul in its entirety Commission Decision 2011/278/EU of 27 April 2011 (notified under document C(2011) 2772) 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);
- order the European Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on the following pleas in law.

1. First plea in law
 - Infringement of the second subparagraph of Article 194(2) TFEU, in conjunction with Article 192(2)(c) TFEU, by failing to take account of the particular characteristics of individual Member States concerning fuel and by calculating benchmarks on the basis of the reference efficiency of natural gas and taking that fuel as the reference fuel.
2. Second plea in law
 - Infringement of the principle of equal treatment and of Article 191(2) TFEU in conjunction with Article 191(3) TFEU by failing to take account, when drawing up the contested decision, of the diversity of the situations in individual regions of the European Union.
3. Third plea in law
 - Infringement of Article 5(4) TEU (principle of proportionality) by setting the benchmarks in the contested decision at a more restrictive level than attainment of the objectives of Directive 2003/87/EC requires.
4. Fourth plea in law
 - Infringement of Article 10a, in conjunction with Article 1, of Directive 2003/87/EC and lack of competence for the European Commission to adopt the contested measure.

Action brought on 22 July 2011 — Iran Transfo v Council

(Case T-392/11)

(2011/C 290/13)

Language of the case: German

Parties

Applicant: Iran Transfo (Teheran, Iran) (represented by: K. Kleinschmidt, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Council Decision 2011/299/CFSP of 23 May 2011 amending Decision 2010/413/CFSP concerning restrictive measures against Iran, in so far as it concerns the applicant;
- adopt a measure of organisation of procedure under Article 64 of the Rules of Procedure of the General Court, requiring the defendant to submit all documents in connection with the contested decision, in so far as they concern the applicant;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on the following pleas in law.

1. First plea in law, alleging infringement of rights guaranteed by the Charter of Fundamental Rights of the European Union

The applicant's rights guaranteed by the Charter of Fundamental Rights of the European Union ('the Charter') have been infringed. Article 16 of the Charter guarantees the freedom to conduct a business in the European Union and Article 17 guarantees the right to use and, in particular, to dispose of lawfully acquired possessions in the European Union. Articles 20 and 21 of the Charter guarantee the applicant the right to equal treatment and the right not to be discriminated against.

The applicant is excluded from participation in trade in the European Union by the contested decision. The economic survival of the applicant is thereby threatened. The applicant is dependent on deliveries from the economic territory of the European Union.