

Poland takes the view that the provisions of the contested regulation are at odds with the principle of proportionality because, first, they are not suitable for attaining the objectives of Article 191(2) TFEU and, second, the disadvantages resulting from those provisions, including costs, are manifestly excessive in relation to the objectives pursued. In Poland's view, the costs of aligning the economies and societies in the Union with the strengthened CO₂ emissions reduction standards set out in the contested regulation significantly exceed the benefits resulting therefrom. The contested regulation imposes excessive burdens connected with the transition towards zero-emission mobility on European citizens, especially those who are less well off, as well as on the European automotive companies sector. The contested regulation risks giving rise to serious negative consequences for the European automotive industry, social exclusion, transport exclusion of poorer persons, and increased disparity between citizens as regards the standard of living. In addition, the contested regulation does not take sufficient account of the diversity of situations in the various regions of the Union, which constitutes an infringement of Article 191(2) TFEU.

4. Plea alleging failure to fulfil the obligation to carry out a proper analysis of the effect of the contested regulation, as well as infringement of Article 191(3) TFEU

In Poland's view, the defendant institutions have failed to fulfil the obligation to provide an adequate impact assessment, since the impact assessment accompanying the proposed regulation contains fundamental shortcomings as regards the effect on individual Member States of the commitments and targets set out in that regulation. At the same time, insufficient account has been taken of the available scientific and technical data, the potential benefits and costs connected with action or lack of action, and the economic and social development of the Union as a whole and the balanced development of its regions. This constitutes an infringement of Article 191(3) TFEU.

(¹) OJ 2023 L 110, p. 5.

Action brought on 17 July 2023 — Republic of Poland v European Parliament and Council of the European Union

(Case C-445/23)

(2023/C 304/19)

Language of the case: Polish

Parties

Applicant: Republic of Poland (represented by: B. Majczyna, acting as Agent)

Defendants: European Parliament and Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul, in its entirety, Decision (EU) 2023/852 of the European Parliament and of the Council of 19 April 2023 amending Decision (EU) 2015/1814 as regards the number of allowances to be placed in the market stability reserve for the Union greenhouse gas emission trading system until 2030; (¹)
- order the European Parliament and the Council of the European Union to pay the costs.

Pleas in law and main arguments

1. Plea alleging infringement of Article 192(2)(c) TFEU

In Poland's view, the defendant institutions have infringed Article 192(2)(c) TFEU by failing to adopt the contested decision on the basis of that Treaty provision, which requires unanimity in the Council, despite the fact that the contested decision significantly affects a Member State's choice between different energy sources and the general structure of its energy supply.

2. Plea alleging breach of the principle of energy solidarity laid down in Article 194(1)(b) TFEU

In Poland's view, the defendant institutions have infringed Article 194(1)(b) TFEU by maintaining, for the years 2024-2030, the values indicated in Article 1(5) of Decision 2015/1814 — an act which threatens Poland's energy security — without taking into account the interests of individual Member States that are liable to be affected and without weighing their interests against the interests of the Union.

3. Plea alleging infringement of Article 3(1) and (3) TEU through the adoption of Decision 2023/852, which decreases the well-being of the peoples of the European Union and social cohesion among Member States

In Poland's view, the defendant institutions have infringed Article 3(1) and (3) TEU by adopting Decision 2023/852, which may lead to a decrease in mining employment and a rise in unemployment and, as a result, to greater social inequality between Member States and increased social exclusion.

4. Plea alleging infringement of Article 13(2) TEU, read in conjunction with Article 3 of Decision 2015/1814, through an inadequate impact assessment, as well as breach of the principle of proportionality (Article 5(4) TEU)

In Poland's view, the defendant institutions have infringed Article 13(2) TEU, read in conjunction with Article 3 of Decision 2015/1814, by adopting Decision 2023/852 on the basis of an incomplete, out-of-date and incorrectly carried out impact assessment which was prepared using data which did not take account of Russia's armed attack on Ukraine and the energy crisis resulting therefrom. The defendant institutions have also acted in breach of the principle of proportionality (Article 5(4) TEU) by maintaining, for the years 2024-2030, the values indicated in Article 1(5) of Decision 2015/1814, without conducting reliable analyses justifying such a decision.

(¹) OJ 2023 L 110, p. 21.

Action brought on 17 July 2023 — European Commission v Republic of Poland

(Case C-448/23)

(2023/C 304/20)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: C. Ladenburger, P.J.O. Van Nuffel and K. Herrmann, acting as Agents)

Defendant: Republic of Poland

Form of order sought

The applicant claims that the Court should:

- declare that, in the light of the interpretation of the Constitution of the Republic of Poland made by the Trybunał Konstytucyjny (Constitutional Court, Poland) in its judgments of 14 July (Case P 7/20) and of 7 October 2021 (Case K 3/21), the Republic of Poland has failed to fulfil its obligations under the second subparagraph of Article 19(1) of the Treaty on European Union;
- declare that, in the light of the interpretation of the Constitution of the Republic of Poland made by the Trybunał Konstytucyjny (Constitutional Court) in its judgments of 14 July (Case P 7/20) and of 7 October 2021 (Case K 3/21), the Republic of Poland has failed to fulfil its obligations under the general principles of autonomy, primacy, effectiveness and uniform application of EU law and the principle of the binding effect of judgments of the Court of Justice;