



Press and Information

Court of Justice of the European Union

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Judgment in Case C-302/17

PPC Power a.s. v Finančné riaditeľstvo Slovenskej republiky and
Daňový úrad pre vybrané daňové subjekty

EU law precludes a Slovak tax on the value of sold or unused greenhouse gas emission allowances at a rate of 80%

Such a tax does not comply with the principle of the allocation free of charge of almost all the allowances for the period 2008-2012

During the years 2011 and 2012, Slovakia levied a tax at a rate of 80% on greenhouse gas emission allowances sold or unused by the undertakings participating in the greenhouse gas emission allowance trading scheme.¹ Those allowances had been allocated free of charge to economic operators in accordance with the directive on the allowance trading scheme.²

The company PPC Power disputes before the Slovak courts the compatibility of that tax with the directive. Seised of the action, the Krajský súd v Bratislave (Regional Court, Bratislava, Slovakia), asks the Court of Justice whether the directive precludes such a tax.

By today's judgment, the Court recalls first of all that the objective of the directive is to offer undertakings subject to the allowance trading scheme the possibility of reducing their greenhouse gas emissions without losing their competitiveness. In that context, the directive provides that, for the period 2008-2012, Member States are to allocate at least 90% of the allowances free of charge.

Next, the Court makes it clear that, although, in principle, the Member States are free to adopt taxation measures in connection with the use of those allowances, those measures may not undermine the objectives pursued by the directive.

In that regard, the Court points out that the economic value of allowances is the corner-stone of the greenhouse gas emission allowance trading scheme, since the prospect of the sale of unused allowances encourages companies to invest in measures to reduce their emissions. It is therefore necessary for the proper functioning of that scheme that a levy taken by a Member State does not remove that economic value.

The disputed tax deprives the undertakings concerned of almost all of the economic value of the allowances, so that those undertakings lose all incentive to promote the reduction of their greenhouse gas emissions.

In those circumstances, the Court finds that **the disputed tax does not comply with the principle of the allocation free of charge of the greenhouse gas emission allowances and undermines the objectives pursued by that directive. Consequently, that tax is not compatible with the directive.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the

¹ That tax was abolished on 30 June 2012.

² 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 2003 L 275, p. 32).

dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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