

4. The order of the General Court infringed the appellant's right to an effective remedy and to a fair trial, laid down in Article 47(1) and (2) of the Charter of Fundamental Rights of the European Union, because by the order the General Court unlawfully and wrongly dismissed the action on the basis of Article 126 of its Rules of Procedure as manifestly inadmissible on the ground that it was allegedly out of time and did not examine the application, and the arguments and claims set out therein, as to the substance.
5. By the order, the General Court wrongly decided that the appellant had to bear his own costs before the General Court (Article 133 and Article 134(1) of the Rules of Procedure of the General Court):

by the order, the General Court wrongly dismissed the action on the basis of Article 126 of its Rules of Procedure, and therefore it also wrongly decided that the appellant had to bear his own costs before the General Court. After the order of the General Court has been set aside and the case has been referred back to the first-instance court for fresh examination, the question of the allocation of costs must be determined anew by the final decision of the General Court, and, if the action were upheld, the defendant, the European Parliament, would have to be ordered to pay the appellant all the costs incurred by him (Article 133 and Article 134(1) of the Rules of Procedure of the General Court).

Action brought on 15 June 2016 — European Commission v Republic of Poland

(Case C-336/16)

(2016/C 343/39)

Language of the case: Polish

Parties

Applicant: European Commission (Agents: K. Hermann and E. Manhaeve)

Defendant: Republic of Poland

Form of order sought

The applicant claims that the Court should:

- declare that the Republic of Poland has failed to comply with its obligations under Article 13(1), in conjunction with Annex XI, Article 23(1), second subparagraph, and Article 22(3), in conjunction with Annex XI, of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe ⁽¹⁾ by reason of the facts that:
 - since 2007 and up to at least 2013, the daily limit values for particulate matter PM₁₀ were exceeded in 35 ambient air quality zones and the annual limit values for particulate matter PM₁₀ were exceeded in 9 ambient air quality zones, and no information has been provided to indicate that this situation has improved;
 - no appropriate measures have been incorporated in the ambient air quality programmes in order to minimise the period in which the limit values for particulate matter PM₁₀ in the air are exceeded;
 - the daily limit values, increased by the tolerance margin, were exceeded from 1 January 2010 to 10 June 2011 in zone 14.17 — City of Radom —, in zone 14.18 — Pruszków-Żyrardów —, and in zone 16.15 — Kędzierzyn-Koźle — as well as from 1 January 2011 to 10 June 2011 in zone 30.3 — Ostrów-Kępno — and;
 - Article 23(1), second subparagraph, of Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe was not correctly implemented;
- order the Republic of Poland to pay the costs.

Pleas in law and main arguments

Since 2007 the daily and annual limit values for particulate matter PM₁₀ have been exceeded in, respectively, 35 and 9 zones. Notwithstanding this infringement of Article 13(1) of, in conjunction with Annex XI to, Directive 2008/50/EC, the Republic of Poland has, contrary to the second subparagraph of Article 23(1) of Directive 2008/50/EC, failed to include any appropriate measures in the air quality plans in order to ensure that the periods in which limits are exceeded can be kept as short as possible.

The lack of effectiveness of the measures concerned results, inter alia, from the period during which limit values are exceeded and from the absence of legal provisions laying down emission values for fuels used in the area of individual heat generation and emission values for individual heating installations.

⁽¹⁾ OJ 2008 L 152, p. 1.

**Request for a preliminary ruling from the Tribunale di Milano (Italy) lodged on 22 June 2016 —
Sacko Moussa v Commissione Territoriale per il riconoscimento della Protezione internazionale di
Milano**

(Case C-348/16)

(2016/C 343/40)

Language of the case: Italian

Referring court

Tribunale di Milano

Parties to the main proceedings

Applicant: Sacko Moussa

Defendant: Commissione Territoriale per il riconoscimento della Protezione internazionale di Milano

Question referred

Must Directive 2013/32/EU ⁽¹⁾ (in particular Articles 12, 14, 31 and 46) be interpreted as permitting a procedure, such as the Italian procedure (under Article 19(9) of Legislative Decree No 150 of 2011), whereby a judicial authority seized by an asylum-seeker — whose application has been rejected by the administrative authority responsible for considering applications for asylum after it has conducted a full examination, including an interview — may, in cases where the application for judicial review is manifestly unfounded and the administrative authority's rejection of the application is thus incontrovertible, dismiss the application for judicial review without preparatory inquiries and without being required to afford the applicant a further opportunity to be heard?

⁽¹⁾ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60).

**Appeal brought on 24 June 2016 by Salvatore Aniello Pappalardo, Pescatori La Tonnara Soc. coop.,
Fedemar Srl, Testa Giuseppe & C. s.n.c, Pescatori San Pietro Apostolo Srl, Camplone Arnaldo &
C. Snc di Camplone Arnaldo & C., and Valentino Pesca s.a.s. di Camplone Arnaldo & C. against the
judgment of the General Court (Third Chamber) delivered on 27 April 2016 in Case T-316/13
Pappalardo and Others v Commission**

(Case C-350/16 P)

(2016/C 343/41)

Language of the case: Italian

Parties

Appellants: Salvatore Aniello Pappalardo, Pescatori La Tonnara Soc. coop., Fedemar Srl, Testa Giuseppe & C. s.n.c, Pescatori San Pietro Apostolo Srl, Camplone Arnaldo & C. Snc di Camplone Arnaldo & C., and Valentino Pesca s.a.s. di Camplone Arnaldo & C. (represented by: V. Cannizzaro and L. Caroli, avvocati)