



Council of the  
European Union

Brussels, 13 September 2023  
(OR. en)

12912/23

LIMITE

JUR 522  
ENV 985  
CLIMA 396  
ENER 490

#### INFORMATION NOTE

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From: Legal Service

To: Permanent Representatives Committee (Part 1)

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Subject: Case brought before the Court of Justice

- Case C-505/23 Poland / Parliament and Council
- Action for annulment of the Directive (EU) 2023/959 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system

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#### **DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (28.09.2023)**

1. By an application notified to the Council on 21 August 2023, the Republic of Poland has brought an action, pursuant to Article 263 TFEU, for the annulment of Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system.

2. In support of its application, the applicant submits seven pleas:
- Incorrect legal basis, as the Directive should have been based on Article 192(2), c) TFEU;
  - Incorrect legal basis, as the Directive should have been based on Article 192(2), a) TFEU;
  - Breach of the principle of energy solidarity;
  - Breach of the principle of subsidiarity;
  - Breach of the principle of proportionality;
  - Breach of the principle of non-discrimination;
  - Breach of the principle of sincere cooperation.
3. As one of the defendants, the Council is required, under Article 124(1) of the Rules of Procedure of the Court of Justice, to lodge a defence within two months of the notification of the application.
4. The Director-General of the Legal Service has appointed **DELETED**, **DELETED**, **DELETED** and **DELETED**, legal advisers in the Council Legal Service, as the Council's agents in this case.
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