

Request for a preliminary ruling from the Verwaltungsgericht Berlin — Germany lodged on 16 November 2016 — Trinseo Deutschland Anlagengesellschaft mbH v Bundesrepublik Deutschland

(Case C-577/16)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Trinseo Deutschland Anlagengesellschaft mbH

Defendant: Bundesrepublik Deutschland

Questions referred

Must Article 1 of Directive 2003/87/EC ¹ of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community, in conjunction with Annex I thereto, be interpreted as meaning that the production of polymers and of the polymer polycarbonate in particular in installations with a production capacity exceeding 100 tonnes per day falls within the activity defined therein as production of bulk organic chemicals by cracking, reforming, partial or full oxidation or by similar processes?

If Question (1) is answered in the affirmative, does the operator of such an installation have a claim to free allocation of emissions allowances arising from a direct application of the rules of Directive 2003/87/EC and Commission Decision 2011/278/EU, ² if there can be no free allocation of emissions allowances under national law solely because the Member State in question did not include installations for the production of polymers in the scope of the national law implementing Directive 2003/87/EC and such installations do not take part in emissions trading for that reason alone?

¹ 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).

² 2011/278/EU: Commission Decision of 27 April 2011 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).