



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
ENVIRONMENT  
Quality of Life  
Industrial Emissions & Safety

Brussels, 11 February 2021

**NOTE FOR THE ATTENTION OF MEMBERS AND OBSERVERS OF THE INDUSTRIAL  
EMISSIONS DIRECTIVE ARTICLE 75 COMMITTEE**

**Subject: Judgement in Case T-699/17 Poland v. European Commission**

I am writing to inform you that in Case T-699/17 Poland v. European Commission, the General Court of the CJEU, by judgement of 27 January 2021<sup>1</sup>, annulled Commission Implementing Decision (EU) 2017/1442 establishing best available techniques (BAT) conclusions for large combustion plants (the LCP BAT Conclusions)<sup>2</sup>.

The General Court ruled that the decision had been adopted using incorrect qualified-majority rules<sup>3</sup>.

However, the General Court ordered that; mindful of the objectives of ensuring a high level of environmental protection and the improvement of environmental quality; the effects of the decision annulled be maintained until the entry into force within a reasonable period which cannot exceed twelve months from the judgment date, of a new act intended to replace it and adopted in accordance with the qualified-majority rules laid down in Article 3(3) of Protocol N° 36 on transitional provisions. Therefore, the LCP BAT Conclusions remain applicable until the entry into force of a new Commission implementing decision, which must take place within 12 months from the date of the judgement, i.e. by 27 January 2022 at the latest.

The Commission is currently analysing the implications of this judgement. We will inform you in due time on further steps in the procedure.

(e-signed)

Aneta Willems  
Head of Unit

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<sup>1</sup> <http://curia.europa.eu/juris/document/document.jsf?text=&docid=237048&pageIndex=0&doclang=FR&mode=req&dir=&occ=first&part=1&cid=1668206>

<sup>2</sup> OJ L 212, 17.8.2017., p.1

<sup>3</sup> The Court ruled that the new act intended to replace the annulled Decision must be adopted in accordance with the qualified-majority rules laid down in Article 3(3) of Protocol (No 36) on transitional provisions, which correspond to those of the Treaty of Nice