

Letter from the European Ombudsman to the European Commission on how the steel pipe sector was assessed in the context of the European Commission's revision of the 'State Aid Guidelines' for the EU's Emissions Trading Scheme

Correspondence - 17/12/2021

Case 971/2021/SF - **Opened on** 21/07/2021 - **Decision on** 15/07/2022 - **Institution concerned** European Commission (Dealt with by a Court) |

Ms Ursula von der Leyen

President

European Commission

Dear President,

On 21 July 2021, I informed you that I had decided to open inquiries into three complaints concerning the lack of transparency and public participation in the European Commission's revision of the Emissions Trading Scheme State aid guidelines ('ETS Guidelines').

On 25 August 2021, your services informed my Office that there were two actions for annulment pending before the General Court in relation to Annex I of the Communication from the Commission - Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021, which seemed to overlap with the three complaints. [1]

As it is my practice to discontinue an inquiry if other bodies better placed to look into the matter are doing so, my preliminary view was to proceed to discontinue the inquiries, taking into consideration Article 228 TFEU and Articles 1(5) and 2(9) of the Ombudsman's Statute. I asked the complainants for their views on this.

It has, in the meantime, been brought to my attention that the General Court has dismissed these two actions for annulment as inadmissible.



I have therefore decided to continue with the inquiries and that it would be useful to receive the Commission's written reply to this complaint.

These inquiries do not concern the Commission's policy choices but primarily the transparency of the revision process itself and the steps the Commission took to allow for meaningful participation of the public and the stakeholder concerned. The inquiry will examine, in particular, how the Commission considered the sector specific data provided by the complainant.

Please note that I am likely to send your reply and related enclosures to the complainant for comments [2] . I may also decide to publish the non-confidential parts of your reply. The responsible inquiries officer is Ms Silvia Fuller.

I would be grateful to receive the Commission's reply by 31 March 2022.

Yours sincerely,

Emily O'Reilly European Ombudsman

Strasbourg, 17/12/2021

[1] Cases T-726/20 *Grupa Axoty and Others v Commission* and T-741/20 *Advansa Manufacturing and*

Others v Commission.

[2] If you wish to submit documents or information that you consider to be confidential, and which should not be disclosed to the complainant, please mark them 'Confidential'. Encrypted emails can be sent to our dedicated mailbox. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended.