



main question in this procedure was on the guideline 2003/87/EG about a system for the trade with greenhouse emission certificates. The Supreme Administrative Court as final authority was obliged to present to the European Court of Justice

with conclusion of

EuGH principally acknowledges good faith

The European Court of Justice thoroughly studied the systematics of the guideline's 2003/87/EG article 16, containing two different sanction rules in sections 1 and 3. According to article 16 section 3 of guideline 2003/87/EG the sanction for emissions excess amounts to EUR 100.00 for every ton of exhausted carbon dioxide equivalent not being certificated by the plant operator. The European Court of Justice declined though the applicability of the article 16 section 3 rule which seemed being obvious at first sight. This rule was supposed to be applied

An operator may therefore rely on the verification of his report by an independent expert according to the procedure prescribed by law (see article 15 of the guideline). As a consequence he cannot rely on being exempted from sanctions if mistakes are found later in an emissions report. Article 16 obliges in section 1 all member countries to provide sanctions "which are supposed to be imposed in case of an offence of national rules being established in conformity with this guideline" and which are "effective, appropriate and deterrent". In this case behaviours should be sanctioned which do not touch the submission liability but injure the function of emissions trade. Such a sanction according to article 16 section 1 could be applied in case of reporting. It should be appropriate, however. The responsible national authorities are all specific real and legal circumstances of each case in order to find out if

Especially the operator's behaviour, his good faith and probably fraudulent intent may decide.

Impacts on the future sanction practice

What does this decision really mean for plant operators in Germany whose emissions report

showed mistakes afterwards? Already now there is one thing for sure: the across-board sanction according to paragraph 30 section 1 of the greenhouse gas emission Trading Act (former paragraph 18 section 1 TEHG a.F.) of EUR 100.00 for every emission allowance not being submitted is no longer permitted to be imposed for false statements.

Infobox

The account package minimizes legal risks

Possible legal sanctions can be greatly minimized proactively by several (at least 4) authorized representatives of the plant operator who have at least registered two different mobile numbers from different providers at DEHSt. In case if it is not feasible, because not only the training of agents, but also the necessary training would negatively affect the budget, it makes sense to hire an external account representative. This external account rep is the proposed or factual authorized representative of the company and thus can be active within a few minutes, thereby minimizing the risk of mistakes, late or absent transactions of the operator almost to zero.



CO₂ account package

The CO₂-account-package from Emissionshändler.com® frees the company largely of high risks, which can occur because of improper accounting or because of a technical or human error.

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Already on the occasion of preliminary decision making process the lawyers signified a sanction as because "while it might be easy to observe the submission deadline, mistakes in emission reports already verified are much harder to avoid". So it that the Court will confirm the preliminary authority. "Other" sanctions according to article 16 section 1 of the guideline might have to be considered



though. These are exclusively in the responsibility of the member countries. A reaction on the European Court of Justice's judgement dated 29th April 2015 was the explanation of the Emissions Trading Authority. They intended to check if a penalty of up to EUR 500,000.00 can be

emission Trading Act if a mistake in the report was found. This rule will be applied on reporting from the beginning of the third trading period. If other sanctions than those mentioned under § 30 section 1 of greenhouse gas emission Trading Act (former § 18 section 1 TEHG a.F.) foreseen reporting, they can be expected where reporting duties had been evaded with fraudulent intention or gross negligence. But certainly not where unavoidable and unintended mistakes occurred. In such cases a sanction would always be and a to the protection-worthy trust in the correctness of a verified emissions report. Also in these cases the obligation to submit the missing certificates according to § 30 section 3 greenhouse gas emission Trading Act later is supposed to be observed - which might have a considerable sanctioning effect on operators. It will be exciting to see how the Supreme Administrative Court will decide on the open questions.

State liability in case of sanctions due to mistakes in validated emission reports?

An interesting effect would finally be if the new standards of the Supreme Administrative Court would allow to leave room for sanctions in individual cases. If the operator has to bear such a sanction he might recourse if the expert verified culpably the incorrect emissions report. For such a case the Federal Supreme Court (Bundesgerichtshof) decided with a judgement of

that the expert will work as a servant loaned by the state for the verification of an emissions report which means that he executes

This means that the expert will not be held responsible by himself towards the operator but the who entrusted him with this special task. As the verification finally belongs to the tasks

be held responsible in conformity with civil liability law

principles - and not - if culpable mistakes (negligently or even intentionally) in an emissions report will not be complained. Of course the State has the possibility to blame the expert internally.

Conclusion

So the result is a little bit strange: sanctions will not generally be excluded from now on. But if the sanction bases on the fact that an expert failed to in an emissions report, might be held responsible towards the operator in conformity with the civil liability law principles for damages having occurred through sanctions which were at last imposed by the Federal Republic.

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3rd and last part "CO2 certificates serve as an investment fraud for individuals"

Report of a CO2 certificates frauds' victim (name is known by Emissionshaendler.com®)

When I lived in London in the years 2000 until 2008, so-called Penny Shares had been offered to me for the first time in 2007, nearly worthless shares which were supposed to increase in value explosively someday. This offer was submitted by **Montague Pitman Stockbrokers**, an affiliated company of **Falcon Securities**, both companies having been closed by the British Financial Supervisory Authority due to various irregularities and their behaviour towards their customers.

Some of the brokers having been employed there formerly founded own companies, for example Jonathan Cocks who founded **MH Carbon** or Luke Ryan who was provided with severe restrictions by the Financial Supervisory Authority because of his former "activities". Despite the restrictions he felt encouraged to distribute nearly worthless CO2 certificates. His sales activities had been filmed by the British [BBC](#). In any case more and more enterprises were founded in London beginning 2010, their main activity was the sale and specialization of certificates of such kind.

The whole thing started when the **MH Carbon** company contacted me beginning of November 2010 and told me that the worldwide market of VER (Verified Emission Reduction) certificates raised to 144 billion dollars so far and would



continue to increase. I was convinced and bought all in all 1.250 VER Carbon Credits in two transactions. They had been offered to me at a sales price of GBP 6.187,5 in total which conforms to an average price of 4,95 GBP/piece. I was supposed to keep these certificates having been bought on Nov 11, 2010 and on January 17, 2011 and having been registered in the APX's VCS register for approx. 12-18 months. After this period I could leave this business at a high profit.

At that time I was not only amazed by the short contract which consisted of 10 lines of text but also by the fact that not **MH Carbon** was the contract partner but a company called **Carbonex SARL** in Luxembourg. That is where also my 1.250 certificates had been "stored" as I was told. The money I had to pay, however, was supposed to be transmitted to a lawyer's office **Colemans-ctts** in London where obviously the funds of Carbonex were held. All in all a little strange and non-transparent.

Just in time after approx. 18 months in July 2012 I received a phone call by my MH Carbon broker that my certificates had been "exploded" and achieved a high winning level. My wish to sell them after a short time of reflection was just logic.

I addressed myself several times to MH Carbon by phone and by mail, informing them about my intention to sell but never received any feedback. Someday somebody called back and apologized that my portfolio suffered such a neglect and what he could do for me. I repeated my sales request but again received no feedback.

As I did not want to lose more time, I addressed myself directly per mail to Carbon-ex in Luxembourg and pointed out that the announced period of 12-18 months for the promised increase in value had expired and that I wanted to sell but could not reach anybody at MH Carbon. Couldn't I sell my certificates directly through Carbon-ex? The prompt answer of a person in charge named Olga Gille was that the responsibility for such transactions was lying in the hands of MH Carbon exclusively.

In the meantime I reached MH Carbon in London by phone. My interlocutor admitted that some changes in the management had taken place, also the brokers changed again and again. After this information my calls and e-mails remained without an answer.

I slowly realized that Further phone calls with MH Carbon promised that a so-called "Big Sale" would take place in such and such months when all Carbon Credits would finally be sold with a big profit.

Suddenly in November 2012 a member of **Clark Carbon Capital** in Switzerland answered. Oddly enough to learn that they knew

They were willing to sell them for me until February 2013 but only if I would buy again 1.750 certificates before at a price of 2,21 GBP. Then my portfolio would include roundabout 3,000 pieces all in all. This offer would be a major exception as only owners of more than 5,000 certificates were entitled to participate in such a big sales action in February 2013.

First of all I was happy having found someone who would help me to sell my old Carbon Credits, even if I was obliged to buy new ones before. I agreed with the broker's proposal and we came upon by phone. He confirmed our agreement the same day by mail. This mail dated 21st November 2012 included the request to pay a deposit of approx. 2000 Pounds which was intended to be transmitted to a London account.

Afterwards I studied the website www.clarkcarboncapital.com (you can buy this site nowadays) thoroughly and asked myself some self-critical questions. Then I addressed myself to the Financial Markets Authority of Switzerland (FINMA) for information about Clark Carbon Capital. The Authority informed me the same day that Clark Carbon Capital had no license in Switzerland to make such financial transactions, nor is it registered in any

I thereupon informed Clark Carbon Capital that I was not intending to buy Carbon Credits, neither would I transfer any money as I never received a purchase contract and never signed any other document that would confirm a purchase contract. They threatened to undertake legal steps and to order an in-house attorney if I would not transfer the money to the London account. On my side I started threatening against them a little by reminding them of their non-existing license. I never heard anything from Clark Carbon Capital ever since.



When the thing with Clark Carbon Capital and MH Carbon in London about it. They confirmed that several of their customers had been contacted by Clark Carbon Capital. MH Carbon assumed that former employees in order to establish their own Carbon Investment Company and earn easy money. In my opinion this must be true because my experience was that my MH Carbon brokers changed every few months. In the meantime I have the fourth or fifth MH Carbon broker who looks

On 21st January 2013 something happened. Pete Barnett from Carbon-ex in Luxembourg wrote me an e-mail and informed me under the subject "Exit Strategy" that the expectations in Carbon Credits did "not fulfil". In the future it would be more and more difficult to sell the VER. Wouldn't I be ready to modify them in g-CER? (he certainly meant gold standard VER). The amount of 6,100 Pounds I invested so far and for which I hold 1,250 VER in my portfolio was supposed to be stocked up by the same amount of g-VER for only 2.50 Pounds/piece (instead of the usual price of 4.95 Pounds/piece) plus a handling fee of 125 Pounds. This meant that I was invited to invest 3,250 Pounds again in order to sell all at a price of 10.80 Pounds/piece until the end of 2013. Conveniently, the contract was directly attached to the mail. All this sounded much too good, I did not sign the contract!

In the meantime when I reached nobody neither at MH Carbon in London nor at Carbon-ex in Luxembourg, I addressed myself to the Luxembourg Financial Supervision Authority and asked them

It turned out that Carbon-ex seemed having changed the address and was no longer traceable. Moreover, Carbon-ex had no registration in Luxembourg and consequently no permission to deal with financial products.

I thereupon contacted the British financial police Action Fraud and told them that MH Carbon was pursuing unapproved transactions. But I seemed to be one of many who made such a statement.

In the mid of May 2013 it was known that MH Carbon went into bankruptcy. It was found out that MH Carbon was a 100% affiliated company of an enterprise called **PCS Niminee Limited** being registered on the Isle of Man. So my money was

lost. Beginning of March 2013 I received a phone call from Berlin from Edgebrook Carbon Invest who were interested in buying my certificates. They signalled that this was a good deal and that they would soon call back for a contract proposal. Edgebrook Carbon Invest had its headquarter in Berlin at Kurfürstendamm 96, exactly as Carbon-ex before (just a few house numbers further) before they moved to Luxembourg. So I thought that there must exist a correlation and listened to their proposal.

Infobox

Rapid increase in prices of EUA

In the last week from 10.08.-08.14.2015, many market participants were surprised by a spurt in EUA prices. Since in the previous week on Friday 07/08/2015 a low of 7.77 Euro / t was recorded for the DEC15 contract, the EEA increased by the end of last week until close of trading on Friday to 8.33 euros / t. Thus, a new high for the last few years has been achieved.

Reason may be that not only the relatively safe perspective of market stability reserve MSR provides an incentive for buyers (including surely some speculators) but also that on Monday the 03.08.2015 the period of reduced volume in the primary auctions has begun. Until the end of August consequently only half of the planned amounts will come on the market. Actually, this is an instrument in the low demand summer time, not to let the price collapse.

Now, it seems, however, that the demand is so high that it drives up the price excessively upward. Not a good sign for operators who have put on constant or falling prices for August / September. Maybe also an indicator to tell that the market will continue to rotate and seems that the mark of 9 euros / t will no longer be a distant future.

Some days later, on 13th March, the contract was sent to me. It was amazing to see that they offered 8.70 Pounds/piece which was nearly the double of its alleged value. The only condition was to pay an administration fee of 895 GBP before and to fill up an identity verification form.

As it appeared strange to me to see that the Edgebrook Carbon Invest office was situated in Berlin while the head office was in Zürich and the money had to be transferred to London, I started a request to the German Financial Supervision Authority about Edgebrook Carbon Invest. I am Of course I did not pay and Edgebrook Carbon Invest does not exist anymore - of course.

The sale of emissions certificates dried out a little which means that phone calls even from strange



brokers decreased. Obviously the insiders found out that this kind of business offered a way to fraud. However, this was not true because now the so-called "recovery scams" arose. These were new founded enterprises that approached to their victims under a new name and with the intention to "help" them.

Various possibilities were created. Some of them claimed a payment in advance (Edgebrook Carbon Invest), others offered to "convert" VER certificates to CER certificates because these were more liquid. To get qualified for the sale, the customer was obliged to

For example Clark Carbon Capital required this method.

Again I received lots and lots of phone calls. My personal data and those of other discredited customers seemed to be stored on a data base because many enterprises with a huge variety of products came up to me. They offered special investments in fine wine, pink diamonds, rare earths, agricultural land in the Ukraine, Jatropa Plantations in Indonesia, land in Brazil, warehouses in Germany and investments in movies which were completely unknown by the potential main actors.

The offers became that the police in London and other towns put a stop to the originators' plans.

Recommendations to eliminate the biggest risks for potential companies and individuals in offsetting market

What should be noted in the voluntary market to not become a victim? More than 25% of potential customers every year are new to this market. Companies who want to compensate for their CO2 footprint or want to invest their money as well as the huge potential of private money investors and customers are potential victims in focus of the criminal brokers and trading houses. Some final notes to minimize the potential damage can be:

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The present issue is only partial readable, as it remains free of charge.

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- Ideally, the buyer receives a selection of different types of projects and seeks out a project that fits regions or sectors in its sustainability communication.
- The emission reductions are
- The certificates sold are
- The seller's fees

Even if the above recommendations are strictly followed, a loss of image and / or financial losses will not be prevented in this growing market of offsetting environmental crime, according to Emissionshändler.com®. However, these losses can be avoided by common sense and by the recognition of unrealistic offers and minimizing the profit increases of up to 100%.

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Our offer

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Kind emission regards



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