

13 July 2017

## European Commission will have to open its files for industrial firms in the future: France-based Saint-Gobain group prevails before ECJ with Luther

**Düsseldorf – The European Commission will have to increase the transparency of its work in the field of environmental policy in the future, and is no longer permitted to keep files secret. Industrial firms are permitted to invoke the right of free access to environmental information to this end. The Court of Justice of the European Union decided this today.**

**The case was based on a complaint filed by Saint-Gobain Glass Deutschland GmbH, a subsidiary of the French construction materials group Compagnie de Saint-Gobain. The industrial firm had requested the disclosure of the files kept by the European Commission on the emissions trading system, the EU's most important climate protection tool, back in 2012. The ECJ has now held the request to be legitimate (ECJ, judgment of 13 July 2017, Case C-60/15 P, Saint-Gobain Glass Deutschland GmbH). Luther Rechtsanwaltsgesellschaft represented Saint-Gobain throughout the proceedings.**

“Brussels had taken a definitive stance against opening the files, invoking the particular protection of the confidentiality of the administrative actions of the EU's bodies as grounds,” says Dr. Stefan Altenschmidt, an attorney and partner at Luther, explaining the background behind the decision handed down in Luxembourg. “In the first instance, the Court upheld this position taken by the Commission,

but with today's appellate judgment, the ECJ has ordered the European Commission to practice greater transparency and disclose the files. The judgment also reverses the decision rendered in the first instance. Brussels can now no longer claim that its procedures are subject to special confidentiality protections."

Altenschmidt adds that today's judgment will have important effects far beyond this specific case:

"The ECJ based its decision on the international Aarhus Convention. According to the convention, the signatories – which include the EU – are required to grant the public broad, unimpeded access to every possible kind of environmental information. Brussels had claimed special confidentiality protections in this area until now. Effective immediately, citizens, environmental associations, and businesses have a legal claim to greater transparency and to disclosure of EU documents and administrative papers in the broad field of environmental policy. This is an important contribution to strengthening the transparency of the work done by European bodies, which also supports the principle of integration."

#### **Legal representation at the ECJ:**

For Saint-Gobain:

Luther Rechtsanwaltsgesellschaft/Environment and Planning Law,  
Regulatory: Dr. Stefan Altenschmidt (Partner), Philipp-Alexander Schütter (Senior Associate, both Düsseldorf)

In-house: In-house Counsel Rainer Surberg, Legal Department,  
Compagnie de Saint-Gobain, Germany branch, Aachen

Additional parties:

European Commission: Dr. Hannes Krämer, Florence Clotuche-Duvieusart and Polyana Mihaylova, all of the Legal Service of the European Commission

Advocate General: Maciej Szpunar

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Luther is a leading German commercial law firm that offers comprehensive legal and tax services. The full-service law firm employs more than 350 lawyers and tax advisors and is represented at 10 German economic centres and at important investment locations and financial centres in Europe and Asia with international offices in Brussels, London, Luxembourg, Shanghai, Singapore and Yangon. Our clients are medium-sized enterprises and large corporations, as well as the public sector.

Luther works closely with other commercial law firms in all the prevailing jurisdictions worldwide. On the Continent, Luther is part of a group of independent leading law firms who have worked together for many years on joint cross-border projects.

Luther Rechtsanwalts-gesellschaft mbH is a law firm with a business approach: our innovative awareness aspires us to provide our clients with customised legal advice that addresses individual needs and delivers the greatest possible economic benefit.

Our lawyers and tax advisors have a solid understanding of interdisciplinary matters and a wealth of experience in collaborating on complex tasks. Further information is available at: [www.luther-lawfirm.com](http://www.luther-lawfirm.com)

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