

The Bulgarian state-owned coal power plant Maritsa East 2 gets a free pass to continue to pollute up to four times the legal limit, as the Bulgarian Supreme Administrative Court rules to send the case back to square one after four years of legal battle.

The national ruling follows a decision by the **Court of Justice of the EU (CJEU)** from March, which said that derogations to pollute above legal limits cannot be granted in areas that are already significantly polluted. The ruling said public authorities have a duty to consider the cumulative pollution that people are exposed to.

While the Supreme court ruling largely accepts these arguments, it falls short of taking a decisive decision and transfers that responsibility back to the regional court, while offering a critique of the stark failures of the first-instance ruling.

In 2018, Maritsa East 2, the biggest coal plant in the Balkans, received an exemption from the new stricter pollution limits set in EU law with a permit to spew nearly double the amount of sulphur dioxide (SO₂) and quadruple the volume of toxic mercury.

Both SO₂ and mercury have serious health and environment implications - from neurological damage to respiratory conditions.

The case, pursued by Greenpeace Bulgaria and Za Zemiata (Friends of the Earth Bulgaria), with support from non-profit environmental lawyers ClientEarth, had been referred upwards, setting a precedent for some 52 000 industrial facilities across the EU, which are governed by the same rules.

Maritsa East 2 is part of Bulgarian Energy Holding, which is under the direct supervision of the Ministry of Energy. This ministry is also the lead of the energy transition to clean energy in Bulgaria.

Meglana Antonova, office director at Greenpeace Bulgaria said: “Despite this court decision, the government and the state authorities still have a duty to act against inexcusable toxic pollution from coal power plants. People’s lives are at stake, while the national economy also suffers due to the significant health costs associated with preventable pollution impacts. Bulgaria needs forward-thinking policies that support clean, cheap, renewable energy.”

ClientEarth Emissions Reduction Lead Justine Schoenfeld-Quinn said: “This result shows there is still a long way to go to uphold people’s rights, and support national compliance with EU-wide pollution rules. The CJEU’s ruling was clear: national authorities cannot grant exceptions to industrial emissions law when doing so would expose people to illegal levels of pollution. Today’s ruling recognises the Bulgarian authorities’ duty to

Bulgarian supreme court allows coal super-polluter to operate despite recognition it breaches EU law

comply with EU laws to protect public health but passes the buck back to the lower court to enforce those obligations.”

“We urgently need stronger enforcement of industrial emissions law, and the right for individuals to be compensated when industry and authorities fail to respect those laws. Without these, peoples’ right to live in a healthy environment cannot be guaranteed.”

Source: Greenpeace