

ENVIRONMENT

Judicial review of decisions by Minister of Environment and Climate Change Canada (ECCC) pursuant to *Canadian Environmental Protection Act, 1999*, S.C. 1999, c. 33 (Act), s. 18 refusing to open investigations into allegations made by applicants relating to importation, sale in Canada of certain diesel vehicles — Allegations involving certain Volkswagen, Audi, Porsche vehicle models equipped with prohibited defeat devices intended to produce fraudulent results when vehicles undergoing emission tests — Environmental groups dissatisfied with time ECCC taking in conducting its investigation, lack of information concerning its progress — Applicants consequently initiating private complaints under Act — Minister responding, *inter alia*, that offences alleged in applications covered by ECCC investigation — Accepting to investigate one allegation — Applicants submitting, *inter alia*, Minister must open investigation under Act, s. 18 upon receiving s. 17 application requesting that investigation — Pointing, *inter alia*, to use of word “shall” in s. 18; to mandatory nature of reporting under Act, s. 19; to legal opinion of ECCC staff confirming Minister’s duty to conduct investigation — Whether Minister reasonably interpreting duty to investigate as discretionary; whether decision to refuse to investigate reasonable — Minister’s decision not to open new investigation on matters currently under investigation falling into range of possible, justifiable outcomes; thus, could not be upset — No evidence Minister relying on legal opinion to make decision — Interpretation in conflict with legal advice received not automatically unreasonable — Statutory interpretation cannot be founded on the wording of legislation alone, i.e. word “shall” in present case — Presumption existing that legislature not intending to produce absurd consequences when statutory language interpreted — Respondent’s interpretation placing emphasis on phrase “shall investigate all matters that the Minister considers necessary” in s. 18 specifically giving Minister discretion to determine if matter requiring investigation actually existing — Under that interpretation, Minister used discretion herein to determine there were no matters requiring investigation since ECCC already investigating allegations in question — While Minister’s interpretation of s. 18 not only possible interpretation, interpretation reasonable — Partial acceptance of applications illustrating that Minister considered the applications, each alleged violations — Duplicative, parallel investigations running contrary to purpose of s. 17 — Also, no merit to applicants’ arguments relying on sufficiency of certified tribunal record or currency of investigation since not included as grounds underlying present judicial review — Application dismissed.

GRAY V. CANADA (ATTORNEY GENERAL) (T-1252-17, 2019 FC 1553, Zinn J., reasons for judgment dated December 4, 2019, 17 p.)