

Third, the judgment under appeal misinterpreted the findings of the WTO Panel report entitled 'China — Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States', adopted on 2 August 2013 (WT/DS 427/R), and other relevant WTO and EU case law.

Fourth, the judgment under appeal misinterpreted Article 8(1) of the basic regulation in finding that an undercutting calculation that disregards 45 % of Union industry sales complies with the legal requirement of an analysis based on an objective examination and positive evidence.

Fifth, the judgment under appeal distorted the evidence by concluding that the subsidies under the Oil Palm Plantation Fund scheme were not granted by reference to the quantities manufactured, produced, exported or transported.

Sixth, the judgment under appeal misconstrued the argument by the appellants and incorrectly interpreted Article 7(2) of the basic regulation.

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<sup>(1)</sup> OJ 2019 L 317, p. 42.

<sup>(2)</sup> OJ 2016 L 176, p. 55.

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**Appeal brought on 28 February 2023 by Swissgrid AG against the order of the General Court (Third Chamber) delivered on 21 December 2022 in Case T-127/21, Swissgrid v Commission**

**(Case C-121/23 P)**

(2023/C 127/35)

*Language of the case: English*

**Parties**

*Appellant:* Swissgrid AG (represented by: P. De Baere, P. L'Ecluse, K. T'Syen and V. Lefever, avocats)

*Other party to the proceedings:* European Commission

**Form of order sought**

The appellant claim that the Court should:

- set aside the order under appeal;
- dismiss the Commission's plea of inadmissibility and declare the action for annulment admissible, and refer the case back to the General Court for judgment on the merits of the action;
- reserve judgment as to the costs.

**Pleas in law and main arguments**

In support of the appeal, the appellant relies on three pleas in law.

First plea: the General Court erred in law by applying an incorrect legal test for deciding whether the decision contained in a letter of 17 December 2020 signed by the Director of the Commission's Directorate-General for Energy ('the contested decision') constitutes a challengeable act under Article 263 TFEU.

Second plea: the General Court erred in in law by asserting that Articles 1(6) and 1(7) of Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing <sup>(1)</sup> do not confer rights upon the appellant, which are capable of being affected by the contested decision.

Third plea: the order under appeal lacks an adequate statement of reasons to support the determinative finding that Article 1(7) of Commission Regulation (EU) 2017/2195 does not confer any rights on the appellant.

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<sup>(1)</sup> OJ 2017 L 312, p. 6.