



Reports of Cases

Order of the President of the General Court of 10 June 2014 — Georgsmarienhütte v Commission

(Case T-176/14 R)

(Interim measures — State aid — National promotion of electricity production from a renewable source — Commission decision to open formal investigation procedure in respect of State aid — Application for suspension of operation of a measure — Urgency — Prima facie case)

1. *Application for interim measures — Suspension of operation of a measure — Conditions for granting — Urgency — Serious and irreparable damage — Burden of proof — Financial loss — Situation liable to endanger the existence of the applicant company — Assessment having regard to the situation of the group to which the undertaking and its shareholders belong — Public interest in implementation of decisions adopted by the EU institutions outweighing the individual interest of the group member companies — Group not legally incapable of providing financial assistance (Art. 278 TFEU) (see paras 18-21, 27-33)*
2. *Application for interim measures — Conditions for admissibility — Application — Formal requirements — Pleas establishing a prima facie case for the measures applied for — Lodging of a supplementary pleading for the purpose of putting right deficiencies — Incompatibility with proceedings for interim measures (Arts 278 TFEU and 279 TFEU; Rules of Procedure of the General Court, Arts 104(2), and 109) (see paras 22-24)*
3. *Application for interim measures — Suspension of operation of a measure — Conditions for granting — Prima facie case — Examination prima facie of the pleas in law put forward in support of the main action — Action against a decision of the Commission to open a formal investigation procedure in respect of a State measure accompanied by provisional classification as new aid — Infringement of the duty to state reasons — Prima facie absence (Arts 108(2) TFEU, 278 TFEU and 296(2) TFEU; Council Regulation No 659/1999, Art. 6(1)) (see paras 38, 39)*
4. *Application for interim measures — Suspension of operation of a measure — Conditions for granting — Prima facie case — Examination prima facie of the pleas in law put forward in support of the main action — Action against a decision of the Commission to open a formal investigation procedure in respect of a State measure accompanied by provisional classification as new aid — Serious doubts as to the absence of a State aid incompatible with the common market — Judicial review — Need for the applicant to demonstrate a manifest error of assessment (Arts 108(2) TFEU and 278 TFEU; Council Regulation No 659/1999, Arts 6 and 7) (see paras 44-50)*

5. *Application for interim measures — Suspension of operation of a measure — Conditions for granting — Prima facie case — Examination prima facie of the pleas in law put forward in support of the main action — Action against a decision of the Commission to open a formal investigation procedure in respect of a State measure accompanied by provisional classification as new aid — Measure permitting a ceiling, for large energy users, on a levy on the consumption of electricity — Provisional assessment as a selective measure — Manifest error of assessment by the Commission — Prima facie absence (Arts 107(1) TFEU, 108(2) TFEU and 278 TFEU) (see paras 56, 57)*
6. *Application for interim measures — Suspension of operation of a measure — Conditions for granting — Prima facie case — Examination prima facie of the pleas in law put forward in support of the main action — Action against a decision of the Commission to open a formal investigation procedure in respect of a State measure accompanied by provisional classification as new aid — Measure intended to compensate for structural disadvantages affecting undertakings established in a Member State — Provisional classification as a measure granting an advantage and likely to affect trade between Member States — Manifest error of assessment by the Commission — Prima facie absence (Arts 107(1) TFEU, 108(2) TFEU and 278 TFEU) (see paras 58-63)*
7. *Application for interim measures — Suspension of operation of a measure — Conditions for granting — Prima facie case — Examination prima facie of the pleas in law put forward in support of the main action — Action against a decision of the Commission to open a formal investigation procedure in respect of a State measure accompanied by provisional classification as new aid — Measure permitting a ceiling on a levy on the consumption of electricity — Recovery of the levy falling within the discretion of private electricity supply undertakings — Provisional classification as a measure granting an advantage attributable to the State — Manifest error of assessment by the Commission — Prima facie absence (Arts 107(1) TFEU, 108(2) TFEU and 278 TFEU) (see paras 69-77)*

Re:

APPLICATION for suspension of the legal effects of the decision by which the Commission opened a formal investigation procedure in respect of State aid concerning the German law on renewable energy.

Operative part

1. The application for interim measures is dismissed.
2. The judgment of 7 April 2014 in Case T-176/14 R *Georgsmarienhütte v Commission* is set aside.
3. Costs are reserved.