

Judgment of the General Court of 6 October 2021 — Tempus Energy Germany and T Energy Sweden v Commission

(Case T-167/19) ⁽¹⁾

(State aid — Polish electricity market — Capacity mechanism — Decision not to raise any objections — Aid scheme — Article 108(2) and (3) TFEU — Concept of doubts — Article 4(3) and (4) of Regulation (EU) 2015/1589 — Serious difficulties — Article 107(3)(c) TFEU — Guidelines on State aid for environmental protection and energy 2014–2020 — Failure to initiate the formal investigation procedure — Procedural rights of the interested parties — Obligation to state reasons)

(2021/C 471/55)

Language of the case: English

Parties

Applicants: Tempus Energy Germany GmbH (Berlin, Germany), T Energy Sweden AB (Gothenburg, Sweden) (represented by: D. Fouquet and J. Derenne, lawyers)

Defendant: European Commission (represented by: K. Herrmann and P. Němečková, acting as Agents)

Interveners in support of the defendant: Republic of Poland (represented by: B. Majczyna, acting as Agent), PGE Polska Grupa Energetyczna S.A (Warsaw, Poland) (represented by: A. Ryan and A. Klosok, Solicitors, and by T. Janssens and K. Bojarojć-Bartnicka, lawyers), Enel X Polska z o.o. (Warsaw) (represented by: V. Cannizzaro, S. Ventura and L. Caroli, lawyers), Enspirion sp. z o.o. (Gdańsk, Poland) (represented by: A. Czech, lawyer)

Re:

Application under Article 263 TFEU for annulment of Commission Decision C(2018) 601 final of 7 February 2018 not to raise objections to the aid scheme for the capacity mechanism in Poland, on the ground that that scheme is compatible with the internal market pursuant to Article 107(3)(c) TFEU (State aid SA.46100 (2017/N)).

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Tempus Energy Germany GmbH and T Energy Sweden AB to bear their own costs and to pay those incurred by the European Commission, PGE Polska Grupa Energetyczna S.A., Enel X Polska z o.o. and Enspirion sp. z o.o.;
3. Orders the Republic of Poland to bear its own costs.

⁽¹⁾ OJ C 155, 6.5.2019.

Judgment of the General Court of 6 October 2021 — AZ v Commission

(Case T-196/19) ⁽¹⁾

(State aid — Aid scheme implemented by Germany for some large electricity consumers — Exemption from network charges in respect of the 2012–2013 period — Decision declaring the aid scheme incompatible with the internal market and unlawful, and ordering the recovery of the aid paid — Action for annulment — Period allowed for commencing proceedings — Admissibility — Concept of aid — State resources — Selectivity — Equal treatment — Legitimate expectations)

(2021/C 471/56)

Language of the case: German

Parties

Applicant: AZ (represented by: F. Wagner, D. Fouquet, T. Hartmann and M. Kachel, lawyers)