



C/2024/2386

8.4.2024

Judgment of the Court (Fourth Chamber) of 22 February 2024 — Mytilinaios AE — Omilos Epicheiriseon v Dimosia Epicheirisi Ilektrismou AE (DEI), European Commission

(Joined Cases C-701/21 P and C-739/21 P) ⁽¹⁾

(Appeal — State aid — Article 107 TFEU — Concept of ‘aid’ — Advantage — Private investor test — Arbitration award setting reduced electricity tariffs — Whether the arbitration award can be imputed to the State — Regulation (EU) 2015/1589 — Article 4(2) — Decision that the measure does not constitute aid)

(C/2024/2386)

Language of the case: Greek

Parties

Appellants: Mytilinaios AE — Omilos Epicheiriseon (represented by: V. Christianos, D. Diakopoulos, G. Karydis, A. Politis, P. Selekos and Ch. Vlachou, dikigoroi) (C-701/21 P), European Commission (represented by: A. Bouchagiar, I. Georgiopoulos and P.-J. Loewenthal, acting as Agents) (C-739/21 P)

Other parties to the proceedings: Dimosia Epicheirisi Ilektrismou AE (DEI) (represented initially by: E. Bourtzalas, A. Oikonomou, E. Salaka, C. Synodinos and H. Tagaras, dikigoroi, and D. Waelbroeck, avocat, and subsequently by E. Bourtzalas, E. Salaka, C. Synodinos and H. Tagaras, dikigoroi) (C-701/21 P and C-739/21 P), European Commission (represented by: A. Bouchagiar, I. Georgiopoulos and P.-J. Loewenthal, acting as Agents) (C-701/21 P); Mytilinaios AE — Omilos Epicheiriseon (represented by: D. Diakopoulos, N. Keramidas and N. Korogiannakis, dikigoroi) (C-739/21 P)

Intervener in support of the European Commission: Federal Republic of Germany, (represented initially by: J. Möller and D. Klebs, and subsequently by J. Möller, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 22 September 2021, DEI v Commission (T-639/14 RENV, T-352/15 and T-740/17, EU:T:2021:604);
2. Refers Cases T-639/14 RENV, T-352/15 and T-740/17 back to the General Court of the European Union for it to adjudicate on the pleas in law and arguments raised before it on which the Court of Justice of the European Union has not given a ruling;
3. Reserves the costs.

⁽¹⁾ OJ C 37, 24.1.2022.