

Second plea in law, alleging infringement of Article 296(2) TFEU, Article 41(1) and 41(2)(c) of the Charter and the duty to state reasons, because, the General Court failed to provide a sufficiently detailed and reasoned statement of reasons, whereas, in conformity with its duty to state reasons the General Court should disclose its reasoning in such a way as to enable the Appellant to ascertain the reasons for the decision taken.

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(<sup>1</sup>) Commission Implementing Decision (EU) 2018/1960 of 10 December 2018 on a safeguard measure taken by Sweden pursuant to Directive 2006/42/EC of the European Parliament and of the Council, to prohibit the placing on the market a type of pinsetter machine and a supplementary kit to be used together with that type of pinsetter machine, manufactured by Brunswick Bowling & Billiards, and to withdraw those machines already placed on the market (OJ 2018, L 315, p. 29).

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**Appeal brought on 19 November 2021 by Mytilinaios AE — Omilos Epicheiriseon against the judgment delivered on 22 September 2021 by the General Court (Third Chamber, Extended Composition) in Joined Cases T-639/14 RENV, T-352/15 and T-740/17, Dimosia Epicheirisi Ilektrismou AE v European Commission supported by Mytilinaios AE — Omilos Epicheiriseon**

**(Case C-701/21 P)**

(2022/C 37/28)

*Language of the case: Greek*

**Parties**

*Appellant:* Mytilinaios AE — Omilos Epicheiriseon (represented by: Vassilios-Spyridon Christianos and Georgios Karydis, δικηγόροι)

*Other parties to the proceedings:* Dimosia Epicheirisi Ilektrismou AE (DEI), European Commission

**Form of order sought**

The appellant claims that the Court of Justice should:

- set aside the judgment of the General Court in Joined Cases T-639/14 RENV, T-352/15 and T-740/17;
- if necessary, refer the matter back to the General Court;
- order DEI AE to pay the costs in their entirety.

**Grounds of appeal and main arguments**

The purpose of the judgment under appeal was to determine whether the Commission should have had doubts or serious difficulties, pursuant to Article 4(3) and (4) of Regulation 2015/1589, (<sup>1</sup>) as to the existence of State aid concerning the electricity supply tariff charged by DEI to the appellant following an arbitration decision, on the basis of which a formal investigation procedure should have been initiated.

The appellant puts forward three grounds of appeal and submits that, in the judgment under appeal:

- **First**, the General Court failed to examine the general principles of law *nemo auditur (...)* and *venire contra factum proprium* in so far as concerns DEI AE's interest in bringing an action for annulment.
- **Second**, the General Court erred in law, first, as regards the private-operator test referred to in Article 107(1) TFEU and, second, as regards the status of the arbitration tribunal as a State body.
- **Third**, the General Court erred in law in its interpretation of Article 4 of Regulation 2015/1589 as regards first, the condition of doubts or serious difficulties as to the existence of State aid at the stage of the preliminary examination of complaints, and, second, the reversal of the burden of proof.

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(<sup>1</sup>) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).