

Action brought on 29 January 2021 — EnergieVerbund Dresden v Commission**(Case T-61/21)**

(2021/C 138/53)

*Language of the case: German***Parties**

Applicant: EnergieVerbund Dresden GmbH (Dresden, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the defendant's decision of 17 September 2019 declaring the E.ON/innogy concentration to be compatible with the internal market (Case M.8870) (OJ 2020 C 379, p. 16);
- order the defendant to produce the M.8870 and M.8871 files concerning (i) the discussions between the defendant and the merging parties before and during the merger proceedings, (ii) the separate notification of the individual parts of the transaction, and (iii) its change of opinion during the proceedings;
- order the defendant to pay the costs of the proceedings, including the applicant's lawyers' and travel costs incurred as a result of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are, in essence, identical or similar to those raised in Case T-53/21, *EVH v Commission*.

Action brought on 29 January 2021 — GGEW v Commission**(Case T-62/21)**

(2021/C 138/54)

*Language of the case: German***Parties**

Applicant: GGEW, Gruppen-Gas- und Elektrizitätswerk Bergstraße AG (Bensheim, Germany) (represented by: I. Zenke and T. Heymann, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the defendant's decision of 17 September 2019 declaring the E.ON/innogy concentration to be compatible with the internal market (Case M.8870) (OJ 2020 C 379, p. 16);
- order the defendant to produce the M.8870 and M.8871 files concerning (i) the discussions between the defendant and the merging parties before and during the merger proceedings, (ii) the separate notification of the individual parts of the transaction, and (iii) its change of opinion during the proceedings;

- order the defendant to pay the costs of the proceedings, including the applicant's lawyers' and travel costs incurred as a result of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are, in essence, identical or similar to those raised in Case T-53/21, *EVH v Commission*.

Action brought on 29 January 2021 — Stadtwerke Frankfurt am Main v Commission

(Case T-63/21)

(2021/C 138/55)

Language of the case: German

Parties

Applicant: Stadtwerke Frankfurt am Main Holding GmbH (Frankfurt am Main, Germany) (represented by: C. Schalast, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the defendant's decision of 17 September 2019 (Case M.8870);
- join the proceedings within the meaning of Article 68(5) of the Rules of Procedure of the General Court with the actions concerning the same decision M.8870, which, on account of the substantive connection between them, are cumulative and form a single decision closing the proceedings;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of its action against the Commission's decision of 17 September 2019 declaring the E.ON/innogy concentration to be compatible with the internal market, (Case M.8870) (OJ 2020 C 379, p. 16), the applicant, in essence, relies on one plea in law, namely infringement of the provisions of Council Regulation (EC) No 139/2004 .⁽¹⁾ In doing so, it relies on the following arguments:

1. Dividing the proposed concentration into three transactions.

- By artificially dividing the proposed concentration, the defendant infringed the Treaties of the European Union and the provisions of the Merger Regulation. In particular, it disregarded procedural rules relating to mergers and thereby failed to take account, or failed correctly to take account, of circumstances relevant to the decision. These included, in particular, the failure to take into account the legal, economic and factual link between the entire merger project, the incorrect characterisation of the transaction as an asset swap, the failure to take into account the competitive effects of the consideration of RWE AG's 16,67 % share in E.ON SE and the incorrect assessment of the effects of the transaction under competition law.