

2. Incorrect assessment of the proposed concentration and its effects on the European internal market.

- The defendant also failed properly to define the market. In addition, the defendant had based its assessment of the effects of the transaction on an incorrect scope of assessment and had incorrectly assessed the effects on competition. In so doing, it also relied on materially incorrect facts. In that respect, the defendant came to the incorrect conclusion that the merger could be examined separately and that it had no adverse effects on Community-wide competition.

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(<sup>1</sup>) Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ 2004 L 24, p. 1).

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**Action brought on 29 January 2021 — Mainova v Commission**

**(Case T-64/21)**

(2021/C 138/56)

*Language of the case: German*

**Parties**

*Applicant:* Mainova AG (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**

The 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), relies on a single plea in law which is, in essence, identical or similar to that raised in Case T-63/21, *Stadtwerke Frankfurt am Main v Commission*.

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**Action brought on 29 January 2021 — enercity v Commission**

**(Case T-65/21)**

(2021/C 138/57)

*Language of the case: German*

**Parties**

*Applicant:* enercity AG (Hannover, 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**

The 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), relies on a single plea in law which is, in essence, identical or similar to that raised in Case T-63/21, *Stadtwerke Frankfurt am Main v Commission*.

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### **Action brought on 28 January 2021 — QA v Commission**

**(Case T-68/21)**

(2021/C 138/58)

*Language of the case: French*

### **Parties**

*Applicant:* QA (represented by: C. Roth, lawyer)

*Defendant:* European Commission

### **Form of order sought**

The applicant claims that the Court should:

- order the European Commission to pay a sum of EUR 397 038,30 [to QA] on account of the material damage she suffered as a result of the infringement by the Commission of the principles of proportionality, good administration and the rights of the defence, as derived from European Union law;
- order the European Commission to pay a sum of EUR 100 000 [to QA] on account of the non-material damage she suffered as a result of the infringement of the principle of proportionality, as derived from European Union law;
- order the European Commission to pay the costs, including non-recoverable expenses.

### **Pleas in law and main arguments**

In support of the action, the applicant relies on four pleas in law, the first three of which concern the material damage which she has allegedly suffered due to a shortfall in her present and future remuneration, and the fourth concerns the non-material damage which she allegedly suffered due to injury to her reputation.

1. First plea in law, alleging infringement of the principle of proportionality by the European Commission, which thus constitutes an unlawful act for which the Commission is responsible and which caused damage to the applicant.
  2. Second plea in law, alleging non-observance of the rights of the defence by the European Commission, which thus constitutes an unlawful act for which the Commission is responsible and which caused damage to the applicant.
  3. Third plea in law, alleging infringement of the principle of good administration by the European Commission, which thus constitutes an unlawful act for which the Commission is responsible and which caused damage to the applicant.
  4. Fourth plea in law, alleging infringement of the principle of proportionality by the European Commission, which thus constitutes an unlawful act for which the Commission is responsible and which caused damage to the applicant.
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