

**Action brought on 26 February 2021 — Swissgrid v Commission****(Case T-127/21)**

(2021/C 189/20)

*Language of the case: English***Parties**

*Applicant:* Swissgrid AG (Aarau, Switzerland) (represented by: P. De Baere, P. L'Ecluse, K. T'Syen and V. Lefever, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order the defendant to bear the costs of the proceedings.

**Pleas in law and main arguments**

By its action, the applicant seeks the annulment of the decision of the Commission, contained in its letter of 17 December 2020, by which it informs the transmission system operators (TSOs) that the applicant is not qualified to participate in European platforms for the exchange of standard product for balancing energy, including the Trans European Replacement Reserves Exchange (TERRE), and orders the TERRE TSOs to exclude the applicant from the TERRE platform by 1 March 2020 at the latest. In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the contested decision incorrectly applies Article 1(6) of Commission Regulation (EU) 2017/2195 of 23 November 2017<sup>(1)</sup>.
  - The contested decision violates Article 1(6) of Regulation 2017/2195 in that it holds that, for the applicant to be able to participate in the European platforms for the exchange of standard products for balancing energy, the applicant's participation should be 'necessary' to remedy a system security problem resulting from unscheduled physical power flows, while the relevant criterion is whether the exclusion of Switzerland 'may lead to unscheduled physical power flows via Switzerland endangering the system security of the region'.
  - The contested decision violates Article 1(6) of Regulation (EU) 2017/2195 because it reads the alternative conditions of Article 1(6) of Regulation (EU) 2017/2195 as cumulative conditions.
2. Second plea in law, alleging that the contested decision incorrectly applies Article 1(7) of Regulation (EU) 2017/2195
  - The contested decision violates Article 1(7) of Regulation (EU) 2017/2195 because it reads the second sentence of Article 1(7) of Regulation (EU) 2017/2195 as requiring the conclusion of an intergovernmental agreement on electricity cooperation with the EU within the meaning of the first alternative condition under Article 1(6) of Regulation (EU) 2017/2195;
  - The contested decision breaches Article 1(7) of Regulation (EU) 2017/2195 because it is not properly based on the opinions given by ACER and by all transmission system operators (TSOs).
3. Third plea in law, alleging that the contested decision breaches Article 41(2)(a) of the Charter of Fundamental Rights of the European Union and the applicant's rights of defence, because the European Commission failed to consider and respond to the arguments put forward by the applicant in its letters to the European Commission of 29 September 2020 and 8 December 2020.

4. Fourth plea in law, alleging that the contested decision breaches Article 41(2) (c) of the Charter of Fundamental Rights of the European Union and Article 296 TFEU, because it (i) fails to give appropriate reasons for the European Commission decision to disregard the (a) arguments put forward by the applicant in its letters to the European Commission of 29 September 2020 and 8 December 2020, (b) all TSOs' opinion and (c) ACER opinion; and (ii) contains contradictory and inadequate reasoning.

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(<sup>1</sup>) Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (Text with EEA relevance) (OJ 2017 L 312, p. 6-53)

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**Action brought on 19 March 2021 — Saure v Commission**

**(Case T-151/21)**

(2021/C 189/21)

*Language of the case: German*

**Parties**

*Applicant:* Hans-Wilhelm Saure (Berlin, Germany) (represented by: C. Partsch, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

— annul the Commission decision of 27 January 2021 refusing to grant the applicant's requested access to Commission documents through the issuing of copies of all Commission communications

a) with the company BioNTech SE,

b) with the Federal Chancellery, Germany, regarding the company BioNTech SE and its products,

c) with the German Federal Minister for Health regarding the purchasing of vaccines to combat the coronavirus pandemic,

from 1 April 2020 and in particular as regards the quantity of vaccines offered by BioNTech and their delivery times;

— order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

In support of the action, the applicant relies on three pleas in law.

1. First plea in law: The applicant claims that he is entitled to access the European Commission documents at issue in accordance with Article 2(1) of Regulation (EC) No 1049/2001.<sup>(1)</sup>
2. Second plea in law: The applicant submits that Article 4(2), point 1, of Regulation (EC) No 1049/2001 does not preclude the right of access to the information at issue. Disclosure of the information would not undermine the commercial interests of a natural or legal person. According to the applicant, the requested information does not contain any trade secrets within the meaning of Directive (EU) 2016/943.<sup>(2)</sup>