



C/2024/2605

22.4.2024

Judgment of the General Court of 28 February 2024 – Denmark v Commission

(Case T-364/20) ⁽¹⁾

(State aid – Public financing of Fehmarn Belt fixed rail-road link – Aid granted by Denmark to Femern – Decision declaring the aid compatible with the internal market – Action for annulment – Whether separable – Admissibility – Concept of ‘undertaking’ – Concept of ‘economic activity’ – Activities involving the construction and operation of a fixed rail-road link – Effect on trade between Member States and distortion of competition)

(C/2024/2605)

Language of the case: Danish

Parties

Applicant: Kingdom of Denmark (represented by: C. Maertens and M. Søndahl Wolff, acting as Agents, and by R. Holdgaard and J. Pinborg, lawyers)

Defendant: European Commission (represented by: S. Noë, acting as Agent)

Interveners in support of the applicant: Kingdom of Belgium (represented by: L. Van den Broeck, acting as Agent, and by J. Vanden Eynde, lawyer), Federal Republic of Germany (represented by: J. Möller and R. Kanitz, acting as Agents), Grand Duchy of Luxembourg (represented by: A. Germeaux and T. Schell, acting as Agents)

Re:

By its action under Article 263 TFEU, the Kingdom of Denmark seeks the annulment of Commission Decision C(2020) 1683 final of 20 March 2020 on the State aid SA.39078 – 2019/C (ex 2014/N) which Denmark implemented for Femern A/S (OJ 2020 L 339, p. 1), in so far as, in the first sentence of Article 2 of that decision, it classified as State aid, within the meaning of Article 107(1) TFEU, the measures consisting of capital injections and a combination of State loans and State guarantees in favour of Femern A/S.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the Kingdom of Denmark to bear its own costs and to pay those incurred by the European Commission;
3. Orders the Kingdom of Belgium, the Federal Republic of Germany and the Grand Duchy of Luxembourg to bear their own costs.

⁽¹⁾ OJ C 287, 31.8.2020.