



PRESS RELEASE No 197/23

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Judgments of the General Court in Cases T-53/21 | EVH, T-55/21 | Stadtwerke Leipzig, T-56/21 | TEAG, T-58/21 | Stadtwerke Hameln Weserbergland, T-59/21 | eins energie in sachsen, T-60/21 | Naturstrom, T-61/21 | EnergieVerbund Dresden, T-62/21 | GGEW, T-63/21 | Stadtwerke Frankfurt am Main, T-64/21 | Mainova and T-65/21 | enercity v Commission

The actions of 11 German municipal authorities against the Commission's approval of the acquisition of the distribution and retail energy business as well as some generation assets of Innogy by E.ON are dismissed

The Commission did not make any manifest errors in its assessment of the compatibility of that concentration, which is part of a complex asset swap between RWE and E.ON, with EU competition law

In March 2018, the companies RWE AG and E.ON SE, both governed by German law, announced that they wanted to engage in a complex asset swap by means of three concentration operations.

By the first concentration operation, RWE, which is active across the whole supply chain of energy provision in several European countries, wished to acquire sole or joint control over certain generation assets of E.ON, an electricity provider which operates in several European countries. The second concentration operation consisted in the acquisition by E.ON of the sole control over the distribution and retail energy business, as well as some generation assets of Innogy SE, a subsidiary of RWE. As for the third concentration operation, it concerned the acquisition of 16.67% of E.ON's shares by RWE.

The first and second concentration operations were reviewed by the European Commission ¹, who approved them, while the third concentration operation was reviewed by the Federal Competition Authority, Germany.

Eleven German municipal authorities challenged the Commission's approval decisions before the General Court of the European Union.

On 17 May 2023, the General Court dismissed the actions challenging the approval of the first operation (acquisition of generation assets of E.ON by RWE), some on the substance and others on grounds of inadmissibility. The General Court observed that an asset swap between independent undertakings does not constitute a 'single concentration'. It also held that the Commission did not make any manifest errors in its assessment of the compatibility of that first concentration with EU competition law ².

By its judgments of today, the General Court dismisses the actions of the municipal authorities challenging the approval of the second operation (acquisition of the distribution and retail energy business as well as some generation assets of Innogy by E.ON). The General Court confirms that an asset swap between independent undertakings does not constitute a 'single concentration'. Nor did the Commission make any manifest errors in its assessment of the compatibility of that second concentration with EU competition law.

NOTE : An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE : An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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The full text of the judgments and, where applicable, the summary of the judgments ([T-53/21](#), [T-55/21](#), [T-56/21](#), [T-58/21](#), [T-59/21](#), [T-60/21](#), [T-61/21](#), [T-62/21](#), [T-63/21](#), [T-64/21](#) and [T-65/21](#)) are published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

Pictures of the delivery of the judgments are available from '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ See Commission press releases [IP/19/1432](#) and [IP/19/5582](#).

² See press releases No's [81/23](#) and [82/23](#). Nine of municipal authorities lodged appeals against the judgments of 17 May 2023 concerning them, namely EVH ([C-464/23 P](#)), Stadtwerke Leipzig ([C-465/23 P](#)), Stadtwerke Hameln Weserbergland ([C-466/23 P](#)), TEAG ([C-467/23 P](#)), EnergieVerbund Dresden ([C-468/23 P](#)), eins energie in sachsen ([C-469/23 P](#)), GGEW ([C-470/23 P](#)), Mainova ([C-484/23 P](#)) and enercity ([C-485/23 P](#)). Those appeals are pending before the Court of Justice. For an overview of all of the cases, see the table below.

Applicant municipal authority	Action before the General Court concerning the first concentration operation	Appeal before the Court of Justice against the judgments of the General Court relating to the first concentration operation	Action before the General Court concerning the second concentration operation
EVH	T-312/20	C-464/23 P	T-53/21
Stadtwerke Leipzig	T-313/20	C-465/23 P	T-55/21
Stadtwerke Hameln	T-314/20	C-466/23 P	T-58/21
TEAG	T-315/20	C-467/23 P	T-56/21
Naturstrom	T-316/20	--	T-60/21
EnergieVerbund Dresden	T-317/20	C-468/23 P	T-61/21
eins energie in sachsen	T-318/20	C-469/23 P	T-59/21
GGEW	T-319/20	C-470/23 P	T-62/21
Mainova	T-320/20	C-484/23 P	T-64/21
enercity	T-321/20	C-485/23 P	T-65/21

Stadtwerke Frankfurt am Main	T-322/20	--	T-63/21
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