



## PRESS RELEASE No 77/25

Luxembourg, 26 June 2025

Judgments of the Court in Joined Cases C-464/23 P, C-465/23 P, C-467/23 P, C-468/23 P and C-470/23 P | EVH and Others v Commission and in Cases C-466/23 P | Stadtwerke Hameln Weserbergland, C-469/23 P | eins energie in sachsen, C-484/23 P | Mainova and C-485/23 P | enercity v Commission

### **The Court of Justice confirms, as previously done so by the General Court, the Commission's approval of the acquisition of certain E.ON generation assets by RWE**

In March 2018, the German energy companies RWE and E.ON, which are active in several European countries, announced that they wanted to engage in a complex asset swap by means of three concentration operations.

By the first concentration operation, RWE wished to acquire sole or joint control over certain generation assets of E.ON. 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 certain generation assets of Innogy, 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 and authorised by the European Commission, <sup>1</sup> while the third concentration operation was reviewed and authorised by the Federal Competition Authority, Germany.

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

By judgments of 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. <sup>2</sup> The General Court observed that an asset swap between independent undertakings did not constitute a 'single concentration.' It also held that the Commission had not made any manifest errors in its assessment of the compatibility of that first concentration with EU competition law.

Next, by judgments of 20 December 2023, the General Court dismissed the actions of the municipal authorities challenging the approval of the second concentration operation (acquisition of the distribution and retail energy business as well as certain generation assets of Innogy by E.ON). <sup>3</sup> The General Court again confirmed that an asset swap between independent undertakings did not constitute a 'single concentration.' Nor had the Commission made any manifest errors in its assessment of the compatibility of that second concentration with EU competition law.

Nine of the 11 municipal authorities brought appeals before the Court of Justice against the judgments of the General Court of 17 May <sup>4</sup> and 20 December 2023. <sup>5</sup>

**By its judgment in *EVH and Others*, the Court of Justice dismisses five of the nine appeals brought against the judgments of the General Court of 17 May 2023, delivered on the substance, and thus confirms, as did the General Court, the Commission's approval of the first concentration operation (acquisition of generation assets of E.ON by RWE).** The Court of Justice confirms, in particular, that an asset swap between independent undertakings does not constitute a 'single concentration.'

By contrast, by its four other judgments delivered today, the Court of Justice sets aside four judgments of the General Court of 17 May 2023 by which the General Court had dismissed the respective actions as inadmissible on the ground that the municipal authorities in question were not individually concerned by the Commission's approval of the first operation (acquisition of generation assets of E.ON by RWE). The Court of Justice notes that those municipal authorities had put forward certain arguments relating to the allegedly substantial effect on their market position following that operation. However, according to the Court of Justice, the General Court failed to fulfil its obligation to state reasons by not providing any statement of reasons, not even a brief one, to make it possible to understand whether those arguments were examined and, if so, why they were considered to be incapable of establishing such an effect.

**However, giving final judgment itself in the four disputes in question, the Court of Justice** finds, after examining those arguments, that the four municipal authorities have not established that their market position was substantially affected by the operation concerned. Consequently, they have not established that they are individually concerned by the relevant Commission decision. The Court of Justice therefore **dismisses, as the General Court did, the four actions as inadmissible.**

The appeals brought against the judgments of the General Court of 20 December 2023 concerning the Commission's approval of the second concentration operation (the acquisition of the distribution and retail energy business as well as certain generation assets of Innogy by E.ON) are pending before the Court of Justice.

| Municipal authority             | Actions before the General Court concerning the first concentration operation | Appeals before the Court of Justice against the judgments of the General Court relating to the first concentration operation | Actions before the General Court concerning the second concentration operation | Appeals before the Court of Justice against the judgments of the General Court relating to the second concentration operation |
|---------------------------------|---|--|--|---|
| EVH                             | T-312/20  | C-464/23 P   | T-53/21  | C-171/24 P  |
| Stadtwerke Leipzig              | T-313/20  | C-465/23 P   | T-55/21  | C-172/24 P  |
| Stadtwerke Hameln Weserbergland | T-314/20  | C-466/23 P   | T-58/21  | C-174/24 P  |
| TEAG                            | T-315/20  | C-467/23 P   | T-56/21  | C-173/24 P  |
| Naturstrom                      | T-316/20  | --   | T-60/21  | --  |
| EnergieVerbund Dresden          | T-317/20  | C-468/23 P   | T-61/21  | C-176/24 P  |
| eins energie in sachsen         | T-318/20  | C-469/23 P   | T-59/21  | C-175/24 P  |
| GGEW                            | T-319/20  | C-470/23 P   | T-62/21  | C-177/24 P  |

|                                 |          |            |         |            |
|---------------------------------|----------|------------|---------|------------|
| Mainova                         | T-320/20 | C-484/23 P | T-64/21 | C-178/24 P |
| enercity                        | T-321/20 | C-485/23 P | T-65/21 | C-179/24 P |
| Stadtwerke<br>Frankfurt am Main | T-322/20 | --         | T-63/21 | --         |

**NOTE:** An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

Unofficial document for media use, not binding on the Court of Justice.

The full text and, as the case may be, an abstract of the judgments ([C-464/23 P](#), [C-466/23 P](#), [C-469/23 P](#), [C-484/23 P](#) and [C-485/23 P](#)) is published on the CURIA website on the day of delivery.

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

## Stay Connected!



<sup>1</sup> Decision C(2019) 1711 final of 26 February 2019 declaring a concentration compatible with the internal market and the EEA Agreement (Case M.8871 – *RWE/E.ON Assets*) and Decision C(2019) 6530 final of 17 September 2019 declaring a concentration to be compatible with the internal market and the EEA Agreement (Case M.8870 – *E.ON/Innogy*); see also Commission press releases [IP/19/1432](#) and [IP/19/5582](#).

<sup>2</sup> Judgments of 17 May 2023, *EVH v Commission*, [T-312/20](#), *Stadtwerke Leipzig v Commission*, [T-313/20](#), *Stadtwerke Hameln Weserbergland v Commission*, [T-314/20](#), *TEAG v Commission*, [T-315/20](#), *Naturstrom v Commission*, [T-316/20](#), *EnergieVerbund Dresden v Commission*, [T-317/20](#), *eins energie in sachsen v Commission*, [T-318/20](#), *GGEW v Commission*, [T-319/20](#), *Mainova v Commission*, [T-320/20](#), *enercity v Commission*, [T-321/20](#) and *Stadtwerke Frankfurt am Main v Commission*, [T-322/20](#); see also press releases Nos [81/23](#) and [82/23](#).

<sup>3</sup> Judgments of 20 December 2023 *EVH v Commission*, [T-53/21](#), *Stadtwerke Leipzig v Commission*, [T-55/21](#), *TEAG v Commission*, [T-56/21](#), *Stadtwerke Hameln Weserbergland v Commission*, [T-58/21](#), *eins energie in sachsen v Commission*, [T-59/21](#), *Naturstrom v Commission*, [T-60/21](#), *EnergieVerbund Dresden v Commission*, [T-61/21](#), *GGEW v Commission*, [T-62/21](#), *Stadtwerke Frankfurt am Main v Commission*, [T-63/21](#), *Mainova v Commission*, [T-64/21](#), and *enercity v Commission*, [T-65/21](#); see also press release [No 197/23](#).

<sup>4</sup> See the municipal authorities listed at the beginning of the press release. For an overview of the cases, see the table above.

<sup>5</sup> See the table above.