

JANUARY 2026

WELCOME TO THE JANUARY 2026 EDITION OF OUR LAW FIRM'S MONTHLY NEWSLETTER, A DEDICATED PUBLICATION ENCOMPASSING A WIDE SPECTRUM OF SIGNIFICANT DEVELOPMENTS IN THE CORE PRACTICE AREAS OF OUR FIRM NAMELY ENERGY, EU LAW, EU COMPETITION AND STATE AID LAW, TAX AND PUBLIC PROCUREMENT.

NEWSLETTER

METAXAS & ASSOCIATES LAW FIRM

FUELING EUROPE'S NET-ZERO AMBITIONS: INSIGHTS ON ENERGY STATE AID

- As the EU moves further into the second half of this decade, State Aid control is likely to remain a central instrument in the implementation of the European Green Deal, serving as a critical interface between climate ambition, industrial policy, and the integrity of the internal market.

EU Judicial Red Lines in 2025: State Aid, Procurement and Regulatory Discretion Under Scrutiny

- State Aid Approval Is No Safe Harbour from Procurement Law
- Yet Another DEI Ruling. Arbitration, Tariffs and State Aid: DEI v Commission (GC, 12 November 2025) in a Nutshell
- REACH Compliance Checks and Evidentiary Limits - Nouryon Functional Chemicals and Others v ECHA (GC, 19 November 2025)



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STATE AID IN THE ENERGY SECTOR

FUELING EUROPE'S NET-ZERO AMBITIONS: INSIGHTS ON ENERGY STATE AID

From Climate Law to Capital Flows: Why State Aid sits at the heart of the Green Deal?

As the European Union enters 2026, the European Commission continues to advance towards its ambitious, legally binding objective of achieving climate neutrality by 2050, as enshrined in the [European Climate Law](#). In this context, the implementation of the [European Green Deal](#), adopted in 2019, increasingly relies on the mobilisation of both public and private investments to support the green transition and strengthen the competitiveness of the EU economy.

Although the European Commission's recently published [2025 State Aid Scoreboard](#) reports a 17% decline in total State Aid expenditure, down to €168.23 billion in 2024 compared to €203.35 billion in 2023, Member States increasingly directed funding towards key EU priorities, notably environmental protection and energy.

Within the context of the accelerating transition to clean energy, these two sub-priorities, which have historically been the main focus of non-crisis State Aid objectives, accounted for 45% of all State Aid allocated to EU priorities, amounting to **€68.82 billion**.

The **progressive liberalisation of the energy sector** and its **exposure to market competition** have significantly altered the traditional economic landscape, necessitating the development of a robust legal framework to ensure compliance with EU competition rules. **State Aid control** has therefore emerged as a **key regulatory instrument**, enabling **Member States to support objectives of decarbonisation while safeguarding fair competition within the internal market**.

STATE AID IN THE ENERGY SECTOR

FUELING EUROPE'S NET-ZERO AMBITIONS: INSIGHTS ON ENERGY STATE AID

Exemptions, Guidelines and Compatibility: The Legal Structure of Green State Aid Control

Under [Article 107 TFEU](#), State Aid is in principle prohibited unless it is compatible with EU competition law or falls under an exemption. In this regard, the 2023 revision of the [General Block Exemption Regulation \(GBER\)](#) represents a further step towards facilitating and accelerating the green transition by expanding the scope of exempted aid categories and increasing notification thresholds for certain energy and climate-related measures, subject to strict conditions and safeguards.

In doing so, the Commission adheres to the **“big on big, small on small”** approach, subjecting only significant State Aid measures with potentially distortive effects on competition in the internal market to ex-ante scrutiny.

For aid exceeding block-exemption conditions, the [Climate, Energy and Environmental Aid Guidelines \(CEEAG\)](#), applicable as of January 2022, provide the compatibility criteria that Member States must meet for the Commission to authorise their schemes. These guidelines seek to balance the urgency of the green transition with competition and trade considerations, and they cover a wide range of categories, from renewable energy deployment and energy efficiency to support for renewable hydrogen and clean mobility.

Recent years have demonstrated that State Aid has become an essential lever for delivering the Union's climate and energy objectives, particularly in light of heightened geopolitical uncertainty, persistently high energy prices, and intensifying global competition for clean technology investment. In view of an accelerated transition to a net-zero emissions economy, the newly established [Clean Industrial Deal State Aid Framework \(CISAF\)](#), which replaces the **Temporary Crisis and Transition Framework (TCTF)** as of June 2025, promises, inter alia, to accelerate the rollout of clean energy and facilitate industrial decarbonisation while safeguarding competition in the single market. This legislative framework aims to support the production of designated clean technology equipment by revitalising EU industries to compete effectively on the international market.



STATE AID IN THE ENERGY SECTOR

FUELING EUROPE'S NET-ZERO AMBITIONS: INSIGHTS ON ENERGY STATE AID

Since 2025, the European Commission has approved several large-scale State Aid schemes aimed at accelerating decarbonisation, reinforcing energy-system resilience, and preserving the competitiveness of European industry. It is important to highlight the priority that the EU places on achieving the common goals of the Clean Industrial Deal, as well as other supporting measures such as the GBER and the CEEAG, by encouraging Member States to make full use of the existing possibilities, as envisaged in CISAF.

Cleantech manufacturing (Hungary): A €4.1 billion scheme, in the form of grants and tax advantages, approved in December 2025 to support manufacturing capacity for net-zero technologies listed in Annex II of the CISAF, including **solar technologies, onshore and offshore wind, battery and energy-storage technologies, and carbon capture and storage (CCS).**

Electricity Storage (Spain): A €699 million scheme authorised in 2025 to support the **deployment of approximately 1.8 GWh of new electricity-storage capacity,** enhancing grid stability and the integration of variable renewable energy sources. The aid is provided as a **direct grant** covering up to 85% of a project's capital expenditure

Cogenerated Electricity (Spain): A €3.1 billion, 10-year State aid scheme supporting electricity from **high-efficiency Combined Heat and Power plants,** promoting the productive use of otherwise wasted heat for heating or industrial purposes, in line with the Energy Efficiency Directive. Aid is provided as **investment and operating compensation** under the Energy Efficiency Directive.

Clean mobility infrastructure (Germany): A €1.6 billion scheme, approved in December 2025, to deploy publicly accessible fast-charging infrastructure for electric heavy-duty vehicles along motorways, covering around **1,410 charging points across more than 120 rest sites;** one of the largest individual energy-related State aid approvals in 2025–2026, signalling an expansion of State aid towards clean transport and energy infrastructure.

Offshore wind (France): An €11 billion program supporting the development of three offshore wind farms, including floating installations, with a combined capacity equivalent to the annual consumption of 450,000 French households. This project aims to expand **renewable generation capacity** and reinforce strategic supply chains, illustrating the Commission's acceptance of large-scale aid where it is proportionate and aligned with CISAF and climate objectives.



CASE LAW IN THE ENERGY SECTOR

EU JUDICIAL RED LINES IN 2025: STATE AID, PROCUREMENT AND REGULATORY DISCRETION UNDER SCRUTINY

State Aid Approval Is No Safe Harbour from Procurement Law – The CJEU redraws the map in *Austria v European Commission* (11 September 2025)

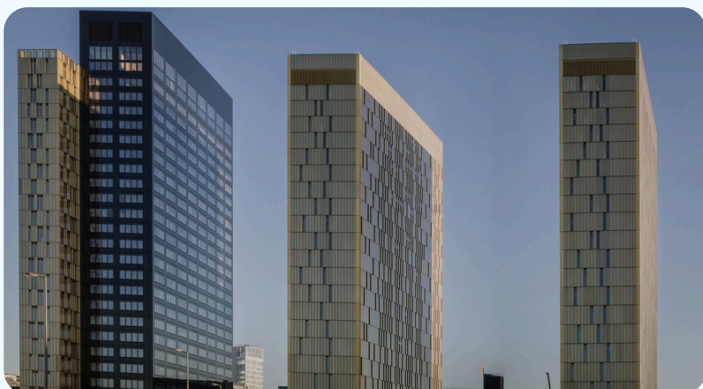
The Court of Justice of the EU has recently delivered a clear warning to Member States and beneficiaries alike: you cannot hide procurement breaches behind a State Aid approval.

In its landmark *Austria v Commission* judgment the Court of Justice of the European Union **annulled the Commission's decision approving aid granted by Hungary for the construction of two new nuclear reactors at the Paks II power station**. The reason was not the aid itself, but the way it was implemented.

The aid measure included the construction and free provision of the reactors, while the **construction contract had been directly awarded without a public tender**. The Commission limited its assessment to State Aid rules, arguing that procurement issues were examined separately. The Court rejected that approach outright.

The key principle is blunt: the Commission may not authorise State aid where the aid is inseparably linked to conduct that infringes other provisions of EU law. Where the award of a contract is an integral and indispensable element of the aid, **procurement compliance must be verified within the State Aid assessment itself**. There is no procedural firewall between the two regimes.

The Court further dismantled a common defence strategy: the closure of infringement proceedings by the Commission offers no legal comfort. Only the Court may conclusively rule on compliance with EU law, and the **Commission cannot pre-empt that assessment through administrative discretion**.



CASE LAW IN THE ENERGY SECTOR

EU JUDICIAL RED LINES IN 2025: STATE AID, PROCUREMENT AND REGULATORY DISCRETION UNDER SCRUTINY

THE AD HOC STATE AID RISK NOW FULLY EXPOSED

This judgment hits ad hoc State Aid particularly hard. By design, ad hoc aid is bespoke, project-specific and frequently tied to negotiated or direct contractual arrangements. After *Austria v Commission*, that model carries heightened legal risk.

If a single-beneficiary aid measure depends on a direct award of works, services or concessions, any procurement flaw can now invalidate the entire aid decision, even years later. Compatibility under Article 107 TFEU is no longer enough if the aid's mechanics collide with procurement law.

BOTTOM LINE

State Aid and public procurement are no longer parallel tracks; they are legally fused where the project structure demands it. For large infrastructure, energy and strategic industrial projects, procurement compliance must be treated as a core State Aid condition, not an afterthought. Otherwise, approved aid may turn out to be legally radioactive.

Please see the entire judgment of the Court here:
<https://infocuria.curia.europa.eu/tabs/document?source=document&text=&docid=304240&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=557910>

For an interesting analysis see also
<https://www.lexxion.eu/stateaidpost/state-aid-measures-may-not-infringe-non-state-aid-law/>



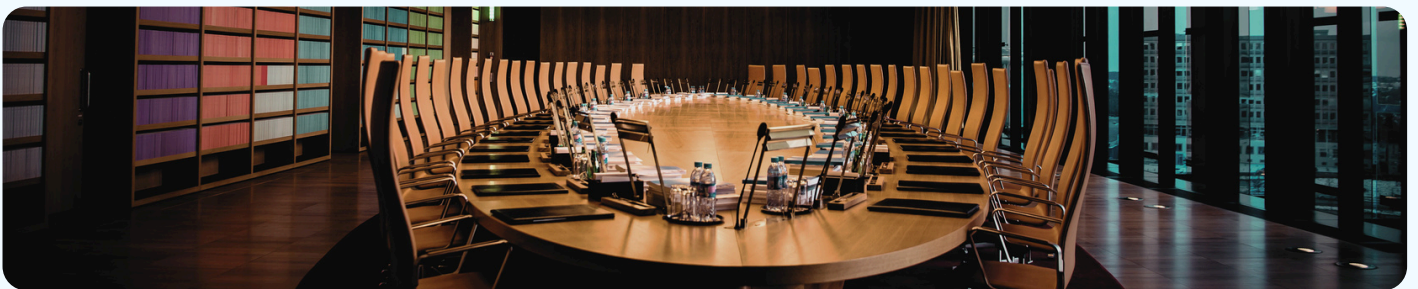
CASE LAW IN THE ENERGY SECTOR

EU JUDICIAL RED LINES IN 2025: STATE AID, PROCUREMENT AND REGULATORY DISCRETION UNDER SCRUTINY

Yet Another DEI Ruling. Arbitration, Tariffs and State Aid: DEI v Commission (GC, 12 November 2025) in a Nutshell

In its judgment of 12 November 2025 in DEI v Commission (T-639/14 RENV II, T-352/15 RENV and T-740/17 RENV), the General Court, sitting in extended composition, upheld the European Commission's finding that the **decision of a State-owned undertaking to submit a commercial dispute to arbitration did not constitute State Aid within the meaning of Article 107(1) TFEU**.

The case arose from a long-running dispute between Dimosia Epicheirisi Ilektrismou (DEI), Greece's partly State-controlled electricity producer and supplier, and its major industrial customer Metlen Energy & Metals, concerning the electricity supply tariff applicable to Metlen. Faced with sustained disagreement over pricing, the parties voluntarily concluded an **arbitration agreement in 2011**, entrusting the resolution of their dispute to the permanent arbitration body of the national Regulatory Authority for Energy, Waste and Water (RAAEY).



The arbitration tribunal was tasked with **setting a tariff reflecting Metlen's specific characteristics** and **covering at least DEI's costs**, while taking into account the applicable regulatory framework. In 2013, **the tribunal issued an arbitration award fixing the tariff retroactively**. DEI subsequently lodged complaints with the European Commission, alleging that the tariff constituted unlawful State Aid.

The Commission rejected those complaints, concluding that **no economic advantage had been conferred on Metlen, since DEI's decision to refer the dispute to arbitration complied with the market economy operator principle (MEOP) and test**. Following extensive procedural back-and-forth – including annulments by the General Court and the Court of Justice of the European Union – the case ultimately returned to the General Court.



CASE LAW IN THE ENERGY SECTOR

EU JUDICIAL RED LINES IN 2025: STATE AID, PROCUREMENT AND REGULATORY DISCRETION UNDER SCRUTINY

Yet Another DEI Ruling. Arbitration, Tariffs and State Aid: DEI v Commission (GC, 12 November 2025) in a Nutshell

In its final 2025 judgment, the **General Court** aligned itself with the guidance of the Court of Justice and confirmed two key points. First, **the arbitration award itself was not a State measure capable of constituting State Aid**. Second, DEI's decision to submit the dispute to arbitration was **a commercially rational choice** that a prudent private operator could have made under normal market conditions.

Takeaway

DEI confirms that commercially rational dispute-resolution choices by State-owned undertakings do not amount to State Aid where the private investor test is satisfied. Unlike cases where State Aid is structurally linked to unlawful conduct — such as *Austria v Commission* — **DEI delineates a clear safe zone for market-consistent behaviour by public undertakings**.



Please see the entire judgment of the Court here:

<https://infocuria.curia.europa.eu/tabs/redirect/juris/document/document.jsf?text=&docid=306096&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=12171081>

For an interesting analysis see also <https://www.lexxion.eu/stateaidpost/state-aid-measures-may-not-infringe-non-state-aid-law/>

CASE LAW IN CHEMICALS

EU JUDICIAL RED LINES IN 2025: STATE AID, PROCUREMENT AND REGULATORY DISCRETION UNDER SCRUTINY

REACH Compliance Checks and Evidentiary Limits Nouryon Functional Chemicals and Others v ECHA (GC, 19 November 2025)

In its judgment of 19 November 2025 in *Nouryon Functional Chemicals and Others v ECHA* (T-1122/23), the **General Court partially upheld an action for annulment against a decision of the Board of Appeal of the European Chemicals Agency (ECHA)** concerning additional toxicity testing requirements under the REACH Regulation. The case clarifies the scope of judicial review where an action is brought against a Board of Appeal decision that confirms the reasoning of an initial ECHA decision, and delineates the limits of ECHA's discretion in compliance checks.

Background

The applicants are registrants under the REACH Regulation of the substance di-tert-butyl 1,1,4,4-tetramethyltetramethylene diperoxide, registered for volumes between 100 and 1,000 tonnes per year.

Following a compliance check under Article 41 of Regulation (EC) No 1907/2006 (REACH), **ECHA required the registrants to submit an extended one-generation reproductive toxicity study (EOGRTS)**. The applicants challenged that requirement before ECHA's Board of Appeal, which largely upheld the obligation and set a new deadline. They then brought an action before the General Court.



Key findings of the Court

The Court clarified, for the first time, that while Board of Appeal decisions replace the initial ECHA decisions, arguments directed against the reasoning of the initial decision remain admissible before the Court where the Board of Appeal explicitly or implicitly confirms that reasoning. This ensures full judicial review of the contested measure.

No need to prove adverse effects where "other concerns" exist

The Court rejected the applicants' argument that ECHA must prove actual adverse effects on reproductive organs before requesting an EOGRTS. Under Annex IX, Section 8.7.3 of REACH, "indications of adverse effects" and "other concerns regarding reproductive toxicity" are alternative triggers. Requiring proof of adverse effects would deprive the provision of its effectiveness and go against the precautionary principle.



CASE LAW IN CHEMICALS

EU JUDICIAL RED LINES IN 2025: STATE AID, PROCUREMENT AND REGULATORY DISCRETION UNDER SCRUTINY

REACH Compliance Checks and Evidentiary Limits

Nouryon Functional Chemicals and Others v ECHA (GC, 19 November 2025)

Mandatory testing once legal conditions are met

Where repeated-dose toxicity studies reveal other concerns regarding reproductive toxicity, ECHA is obliged – not merely entitled – to require an EOGRTS for substances manufactured or imported in quantities of 100 tonnes or more, unless an applicable adaptation exists. In the absence of such adaptations, ECHA has no discretion as to the consequences prescribed by the Regulation, and the requirement does not breach the principle of proportionality.

No breach of the “last resort” principle for animal testing

The Court dismissed arguments based on Article 25 REACH, reiterating that while animal testing must be minimised, it cannot be excluded in all cases. Where the regulatory conditions are met, ECHA cannot be criticised for requiring testing even if it entails the use of vertebrate animals.

Partial annulment due to manifest factual error

However, **the Court upheld the applicants’ plea that the contested decision was vitiated by a serious factual error.** The Board of Appeal incorrectly assessed the incidence of effects in the control group, confusing findings in one animal with findings in eight out of twenty animals. This was not a mere clerical error but a material error of fact, which undermined ECHA’s conclusion that the observed thyroid effects were more prevalent in treated groups. On that basis, the Court partially annulled the decision.

Takeaway

The judgment strikes a careful balance. It confirms **ECHA’s limited discretion and strong regulatory mandate once REACH thresholds are met**, while also signalling that scientific precision and factual accuracy are non-negotiable. Even where ECHA is legally obliged to act, errors in the assessment of underlying data can still lead to annulment. For registrants, the case underscores that procedural and evidentiary scrutiny remains a powerful litigation tool, even in a highly technical and precautionary regulatory framework.

You may see the entire decision of the General Court at the following link:
https://infocuria.curia.europa.eu/tabs/affair?lang=el&sort=AFF_NUM-DESC&searchTerm=%22T-1122%2F23%22

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Our deep knowledge of the dynamics that drive our clients' markets together with our ability to provide critical strategic support make our firm a top choice in the practice areas including Energy Law, EU Law, Competition and State Aid Law.

Our firm combines strong litigation experience with in-depth knowledge of EU judicial procedures, institutional mechanisms, and the applicable regulatory framework. In parallel, we provide strategic legal consultancy aimed at preventing disputes and supporting informed decision-making in complex EU-law matters.

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