

FEBRUARY/ MARCH 2026

WELCOME TO THE SECOND ISSUE OF 2026 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



EU COMPETITION ENFORCEMENT AND STATE AID CONTROL SHAPE THE FUTURE OF THE GREEN TRANSITION

- Investigation under the Foreign Subsidies Regulation examines potential distortions in the EU wind market
- Commission reviews €2.86 billion Romanian State aid plan to ensure viability and fair competition during the green energy transition
- Commission approves €400 million Greek State aid scheme under CISAF

'FROM LUXEMBOURG' | CASE NOTES & COMMENTS

- CJEU Case Law Update: CFSP Sanctions, Environmental Protection, Rule of Law Enforcement and EU Funding Conditionality



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STATE AID IN THE ENERGY SECTOR

INVESTIGATION UNDER THE FOREIGN SUBSIDIES REGULATION EXAMINES POTENTIAL DISTORTIONS IN THE EU WIND MARKET

by Athanasia Magklara

The European Commission has initiated an **in-depth investigation** pursuant to **Article 10 (3) of the [Foreign Subsidies Regulation \(FSR\)](#)** into Goldwind Science & Technology Co., Ltd. and its affiliates to assess whether foreign subsidies granted to the company distort competition in the internal market.

Goldwind, headquartered in Beijing, People's Republic of China, operates in the **wind energy sector**, particularly in wind turbine manufacturing, research and development, sales, and servicing. The Commission suspects that the company may **have benefited from foreign subsidies capable of improving its competitive position within the EU while potentially distorting competition.**



In **April 2024**, the Commission **launched an ex officio investigation under Article 9 FSR** into several undertakings active in the EU wind sector, including Goldwind, in order to assess alleged foreign subsidies that could distort the internal market. Following its **preliminary review**, the Commission concluded that **certain financial contributions granted to Goldwind may constitute foreign subsidies within the meaning of Article 3 FSR and could give rise to distortive effects under Article 4 FSR.**

The financial contributions under scrutiny reportedly include grants, preferential tax measures, and preferential financing in the form of loans.



STATE AID IN THE ENERGY SECTOR

INVESTIGATION UNDER THE FOREIGN SUBSIDIES REGULATION EXAMINES POTENTIAL DISTORTIONS IN THE EU WIND MARKET

In **February 2026**, pursuant to **Article 10 (3) FSR**, the Commission adopted a decision to open an in-depth investigation. This second-stage review aims to **further examine the relevant factual and legal elements** in order to determine whether the identified foreign subsidies distort competition within the internal market.

According to the Commission's **preliminary assessment**,

there are **sufficient indications** that the subsidies may confer **an undue competitive advantage**. In particular, absent these foreign subsidies, Goldwind might not have been able, in certain circumstances, to submit **lower-priced bids in EU public procurement procedures** and thereby secure the award of those contracts.



The Commission also considers that the financial contributions may **free up resources within the undertaking**; potentially enabling cross-subsidisation of its activities in the internal market, particularly in light of the close functional, economic, and organisational links between the entities comprising the group.

As part of the in-depth investigation, the Commission has invited interested parties, including natural and legal persons, Member States, and the third country **alleged to have granted the subsidies**, to **submit their observations**.

The Commission must **conclude** its in-depth investigation within **18 months**. During this period, **it may adopt interim measures if necessary to prevent irreparable damage to competition**.



STATE AID IN THE ENERGY SECTOR

INVESTIGATION UNDER THE FOREIGN SUBSIDIES REGULATION EXAMINES POTENTIAL DISTORTIONS IN THE EU WIND MARKET

BACKGROUND

The **Foreign Subsidies Regulation**, applicable since 2023, was introduced to address distortions in the Single Market caused by **foreign subsidies**. It seeks to close a regulatory gap between the EU State aid regime, applicable to subsidies granted by Member States, and financial contributions granted by third countries.

The Regulation **empowers the Commission to investigate foreign financial contributions** that allow undertakings to acquire EU companies or secure public procurement contracts under conditions that distort competition.



Nevertheless, **under Article 6 FSR (balancing test)**, a distortion may be deemed compatible with the internal market if **the positive effects of the subsidy outweigh its negative effects**, particularly where it contributes to the achievement of Union policy objectives or supports the development of the relevant economic activity within the Union.



STATE AID IN THE ENERGY SECTOR

INVESTIGATION UNDER THE FOREIGN SUBSIDIES REGULATION EXAMINES POTENTIAL DISTORTIONS IN THE EU WIND MARKET

Why This Matters for EU Wind Operators

For **EU-based wind manufacturers, suppliers, developers, investors, and contracting authorities**, the Commission's investigation marks a **potentially significant recalibration of competitive conditions in the wind sector**. It underscores the EU's determination to safeguard a level playing field in public procurement by scrutinising the impact of foreign subsidies under the FSR. In practical terms, this means that participation in major wind tenders may increasingly involve not only technical and financial competitiveness, but also **careful assessment of exposure to third-country financial support and related notification risks**.

At the same time, the investigation highlights the **FSR's dual character**: it operates both as a **compliance obligation** and as a **strategic instrument** capable of addressing distortive financing from outside the EU. Market participants can therefore expect heightened transparency requirements regarding financing structures, shareholder backing, and supply-chain arrangements. More broadly, the case illustrates the **deepening intersection between EU competition enforcement and industrial policy**, particularly in strategically sensitive sectors such as renewable energy, where market access, strategic autonomy, and sustainability objectives increasingly converge.





STATE AID IN THE ENERGY SECTOR

COMMISSION REVIEWS €2.86 BILLION ROMANIAN STATE AID PLAN TO ENSURE VIABILITY AND FAIR COMPETITION DURING THE GREEN ENERGY TRANSITION

In February 2026, the Commission launched an **in-depth investigation** to assess the **compatibility of a Romanian State aid scheme with the EU internal market**. The investigation will examine whether the plan continues to restore CE Oltenia's long-term viability, whether contributions from the company, investors, or financial institutions are sufficient to maintain proportionality, whether additional measures adequately limit competitive distortions, and whether delays in implementing key restructuring steps were beyond the control of CE Oltenia or Romanian authorities.

EU Launches In-Depth Review of CE Oltenia's State Aid



CE Oltenia's Original Aid Plan: Driving Romania's Green Energy Transition

The scheme concerns the Romanian state-controlled power producer Complexul Energetic Oltenia SA (CE Oltenia), which in January 2022 received approval for restructuring aid of €2.66 billion in the form of grants for the period 2021–2026.

The original plan aimed to **support Romania's green decarbonisation objectives**, as outlined in its **Recovery and Resilience Plan (RRP)**, by **gradually replacing lignite-based electricity generation with lower-carbon sources, including natural gas, solar, and hydropower**. This transition contributes to the EU's climate neutrality goals and reduces the environmental footprint of the Romanian energy sector.

At the time, the Commission found the aid appropriate and proportionate, addressing both the liquidity and solvency issues of CE Oltenia. The company and market investors contributed over 30% of the expected restructuring costs (€1.24 billion), and compensatory measures were in place to limit potential distortions of competition.

In December 2025, Romania notified an amended restructuring plan, increasing the aid from €2.66 billion to €2.86 billion and extending the restructuring period by three years to the end of 2029. The revision responds to delays in implementing new solar and gas power plants, which have postponed the phaseout of CE Oltenia's lignite capacities.



STATE AID IN THE ENERGY SECTOR

COMMISSION APPROVES €400 MILLION GREEK STATE AID SCHEME UNDER CISAF

The European Commission has approved a targeted Greek State Aid scheme aimed at **accelerating the transition to a net-zero economy and facilitating the development of key economic activities that are essential for the effective implementation of the EU Clean Industrial Deal**. Through this aid, Greece seeks to strengthen **strategic autonomy within the European value chain for clean technologies**, directing support toward the production of batteries, solar panels, wind turbines, electrolyzers, and carbon capture solutions.

The new State Aid scheme, amounting to roughly **€400 million** in the form of **direct grants** and **tax advantages**, will remain in **force until 31 December 2030**. It is designed to support strategic investments in zero-emission technologies under the [Clean Industrial Deal State Aid Framework \(CISAF\)](#).

The scheme aims to **incentivize investments that expand manufacturing capacity for net-zero technologies and their key components** (including the use of secondary raw materials), as listed in **Annex II of the CISAF**. It also supports the production of new or recovered critical raw materials necessary for these technologies or their main components. Eligible companies are those established across the entire territory of Greece.

This initiative reflects the EU's broader industrial and climate policy objectives, combining environmental sustainability with strategic economic autonomy in the green technology sector.





'FROM LUXEMBOURG' | CASE NOTES & COMMENTS

by Prof Dr Antonis Metaxas & Dr Sofia Tzortzi

AG Biondi's Opinion in Case C-802/24 Reibel: Confirming the 'Seraing Doctrine' and Constitutionalising CFSP Sanctions (26.02.2026)

AG Andrea Biondi's Opinion in *NV Reibel v JSC VO Stankoimport* **is far more than an arbitration case**. It is a **constitutionally ambitious intervention addressing fundamental questions about the place of sanctions and arbitration within the EU legal order**. The preliminary reference, brought by a Swedish court reviewing an arbitral award, offered -in the Advocate General's own words- the opportunity to *"write a new chapter in the relationship, sometimes perceived as tortuous, between EU law and out-of-court dispute resolution mechanisms"*.

Yet the Opinion goes further: **it firmly integrates CFSP-generated sanctions into the core of EU public policy**. Building on the 'Seraing doctrine', Biondi confirms that commercial arbitration remains permissible, provided EU courts retain effective judicial control where EU public policy is engaged.

Sanctions under Regulation 833/2014 do not render disputes inarbitrable, but they do constitutionally contain arbitral autonomy. The decisive move lies in the treatment of Article 11 -the "no-claims clause"- as part of EU public policy. It cannot be contracted out of and binds arbitrators no less than national courts. If followed, the Opinion will embed EU sanctions enforcement firmly within the Union's constitutional architecture.

Check our comprehensive note on our website and AG Biondi's Opinion [here](#).





'FROM LUXEMBOURG' | CASE NOTES & COMMENTS

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Recent Hungarian Cases Before the CJEU

Judgment in Case C-144/24 Commission v Hungary (Additional Mining Fee) (12.01.2026)

This judgment takes us back to the fundamentals of **freedom of establishment**, recalling landmark case law such as **Gebhard**. It confirms that **formally neutral fiscal measures may infringe Article 49 TFEU** where, in practice, they **disadvantage companies from other Member States and seriously undermine economic viability**. Hungary's 2021 decree set reference prices for certain construction materials and imposed an additional mining fee on undertakings selling above those prices, alongside minimum extraction obligations. The Court found that the scheme rendered establishment **less attractive** -even **economically unsustainable** -and operated mainly to the **detriment of foreign-established companies**, amounting to **indirect discrimination**. Crisis rhetoric could not mask a structural restriction of internal market freedoms.

Check our comprehensive note on our website and the judgment is [here](#).



Failure to Fulfil Obligations: Hungary's Vote Against the EU Common Position on Cannabis (27.01.2026)

In a significant judgment on external representation, the Court held that **Hungary infringed EU law by voting against a Council common position at the UN Commission on Narcotic Drugs**. Because amendments to UN drug schedules directly affect EU legislation, the matter fell within the Union's exclusive external competence. **Hungary's unilateral vote breached both the Council decision and the principle of sincere cooperation**. The Court reaffirmed that a Member State cannot justify non-compliance by alleging the unlawfulness of an EU act, save in the exceptional case of a manifestly non-existent act.

Check our comprehensive note on our website and the judgement [here](#).



'FROM LUXEMBOURG' | CASE NOTES & COMMENTS

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AG Ćapeta in Parliament v Commission (C-225/24): Funding Conditionality Refined (12.02.2026)

Advocate General Ćapeta clarifies the **legal architecture governing the suspension and release of EU funds in rule-of-law contexts**. Although formally concerning Hungary and the Charter horizontal enabling condition under the CPR, the Opinion has broader implications. It distinguishes that **framework from Article 7 TEU and the Conditionality Regulation and stresses that compliance must be assessed in substance, not form**. The Commission must demonstrate, with adequate reasoning, that structural risks to the EU budget have genuinely been remedied.

Check our comprehensive note on our website and AG Ćapeta's Opinion [here](#).



Judgment in Case C-131/24 VIRUS and Others: Road Projects and the Protection of Wild Birds (27.02.2026)

The challenge of the authorisation of a 1.69-km dual carriageway in Austria brought by E-NGOs in the national courts was the trigger for this ruling where the Court clarified what the prohibition on 'deliberate disturbance' under the Birds Directive stands for. The Court held that 'deliberate' covers not only activities intended to harm birds, but also those where harmful effects are knowingly accepted, thus applying a threshold of a conscious acceptance of risk, rather than direct intent. However, it applies only where disturbances have a significant effect on the population level of the species concerned, not merely on individual specimen. **Mitigation measures must be considered** and if they effectively prevent significant effects, the prohibition does not apply.

Check our comprehensive note on our website and the judgment [here](#)




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Metaxas & Associates is a leading law firm set to deviate from the traditional general practice model, offering first class legal advice and extensive expertise in specific areas of practice.

Our aim is to provide, both reactively and proactively, the optimum level of legal services, tailored and integrated business-focused solutions, that meet the complex needs of our clients while assisting them to adapt in the rapidly changing EU and national regulatory landscape, and thrive in today's global market place.

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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