

APRIL/MAY 2026

WE ARE PLEASED TO PRESENT THE THIRD ISSUE OF OUR FIRM'S BI-MONTHLY NEWSLETTER FOR 2026. THIS PUBLICATION COVERS A BROAD RANGE OF NOTEWORTHY DEVELOPMENTS IN OUR KEY PRACTICE AREAS, INCLUDING ENERGY, EU LAW, EU COMPETITION AND STATE AID LAW, TAX, AND PUBLIC PROCUREMENT.

NEWSLETTER

METAXAS & ASSOCIATES LAW FIRM



RECENT EU ENERGY AND STATE AID DEVELOPMENTS

- Commission Approves €1.3 Billion German State Aid Scheme for Renewable Hydrogen Production
- Infrastructure at the Centre of Europe's Clean Energy Transition
- Commission Refers Greece to the CJEU over Renewable Energy Directive – Will Law 5299/2026 Resolve the Dispute?

'FROM LUXEMBOURG' | CASE NOTES & COMMENTS

Update of the CJEU case law: State aid measures, environmental protection, renewable energy



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STATE AID IN THE ENERGY SECTOR

COMMISSION APPROVES €1,3 BILLION GERMAN STATE AID SCHEME FOR RENEWABLE HYDROGEN PRODUCTION

The European Commission has approved a **€1.3 billion German State aid** scheme to support the production of **renewable hydrogen**.

The measure was authorised under EU State aid rules and will be implemented through the European Hydrogen Bank's "**Auction-as-a-Service**" mechanism, a tool designed to coordinate national support schemes with **EU-level hydrogen policy**.



The scheme forms part of the EU's broader strategy to accelerate the **deployment of renewable hydrogen** and reduce greenhouse gas emissions in hard-to-abate sectors. Renewable hydrogen is expected to play a **central role in the decarbonisation of heavy industry**, transport and other energy-intensive activities where direct electrification remains difficult.

The measure also contributes to the objectives of the **Clean Industrial Deal** and the **REPowerEU Plan**, both of which seek to **strengthen Europe's competitiveness** while reducing dependence on fossil fuels.



€1,3 bill. German State aid scheme | Renewable H2 [con't]

A model for other Member States?

Under the **approved scheme**, aid will be awarded through a competitive bidding process. Successful projects will receive a **fixed premium** for each kilogram of renewable hydrogen produced over a period of up to ten years. The support is intended to **bridge the cost gap between renewable hydrogen and conventional fossil-based alternatives**, thereby improving the commercial viability of large-scale projects

According to the Commission, the scheme could support up **to 1 GW of electrolyser capacity** and facilitate the production of **significant volumes** of renewable hydrogen.

The supported projects are expected to **be connected to emerging cross-border hydrogen infrastructure**.

A scheme that may serve as a model for other Member States and which demonstrates how State aid rules are increasingly being used as an instrument of industrial policy in support of the energy transition.

It also highlights the Commission's ambition to move from pilot hydrogen projects towards a fully integrated European hydrogen market supported by both production incentives and cross-border infrastructure.





COPENHAGEN FORUM | INFRASTRUCTURE AT THE CENTRE OF EUROPE'S CLEAN ENERGY TRANSITION

Energy infrastructure emerged as a key theme at the recent **Copenhagen Forum**, where policymakers, regulators and industry representatives discussed the **investments required to achieve the European Union's energy and climate objectives**.

Participants highlighted that the success of the energy transition depends not only on **expanding renewable energy** generation but also on **modernising the networks needed to transport, store and distribute clean energy across Europe**. Particular attention was given to cross-border electricity interconnections, hydrogen infrastructure and the digitalisation of energy systems.

The discussions underscored **the importance of strengthening system resilience** in response to growing geopolitical and climate-related challenges. **Enhanced infrastructure** is expected to improve security of supply, facilitate market integration and enable greater deployment of renewable energy sources.

Stakeholders also stressed the need to **accelerate permitting procedures** and mobilise both public and private investment. Despite significant progress in recent years, concerns remain regarding bottlenecks in project development and the pace of network expansion.

The Forum highlighted a **growing consensus** that infrastructure investment will be a decisive factor in achieving the **EU's decarbonisation goals** while maintaining competitiveness and energy security. As renewable energy deployment accelerates, **ensuring that supporting infrastructure** keeps pace is becoming an increasingly urgent policy priority.



Commission Refers Greece to the CJEU over RED III *Will Law 5299/2026 Resolve the Dispute?*

The European Commission has referred **Greece, alongside Malta and Portugal**, to the Court of Justice of the European Union (CJEU) **for failing to fully transpose the revised Renewable Energy Directive (RED III)** into national law.



The Directive strengthens renewable energy targets, promotes electrification and renewable hydrogen, and streamlines permitting procedures for renewable energy projects. Member States **were required to transpose the Directive by 21 May 2025**, while certain permitting provisions had to be implemented even earlier.

According to the Commission, **Greece had not notified all the necessary transposition measures** by the end of the infringement procedure, leading to **the referral to the Court**. However, the situation may have evolved since then. The **recent adoption of Law 5299/2026 appears intended**, at least in part, to implement several obligations arising under RED III and to further align the **Greek regulatory framework with EU energy legislation**.



Will Law 5299/2026 Resolve the Dispute?

The adoption of corrective legislation after a referral **does not automatically bring infringement proceedings to an end.**

Under settled CJEU case law, compliance is generally assessed by reference to the situation existing at the expiry of the deadline set out in the Commission's reasoned opinion. In other words, even if Greece has now fully transposed the Directive, **the Court may still find that an infringement existed** at the relevant point in time.

That said, **subsequent compliance remains highly relevant.** If the Commission and/or the Court finds that law 5299/2026 remedies the deficiencies identified by the Commission, Greece may reduce its exposure to further enforcement measures and potential financial penalties. Moreover, the Commission's primary objective in infringement proceedings is **to secure compliance with EU law** rather than obtain declaratory judgments against Member States.

The key question will therefore be whether the new legislation is found to fully address the transposition gaps that led to the referral which will not focus on the formal adoption but on substance.

If **Law 5299/2026** successfully completes the transposition of RED III, it could enhance regulatory certainty and **support the further deployment of renewable energy projects in Greece**, particularly in areas such as permitting procedures, grid integration and renewable hydrogen.





'FROM LUXEMBOURG' | CASE NOTES & COMMENTS

by Lou-Ane Bielawski & Dr Sofia Tzortzi

Advocate General Athanasios Rantos: Renewable Energy Priority Is Not Absolute

On 21 May, Advocate General, Mr **Athanasios Rantos**, delivered his Opinion on the interpretation of EU rules granting priority status to RES projects.

Council directive 2022/2577, adopted in response to the **energy crisis** triggered by the war in Ukraine, the EU introduced emergency measures to facilitate and accelerate the procedure for RES permits. A rebuttable presumption that RES projects serve an overriding public interest, was also created. **But at what cost?** Questions have arisen regarding **the extent of this priority and how it should be balanced against other legitimate interests.**

Background

Eneco Wind Belgium, sought permission in Belgium to build two wind turbines and ancillary installations at a plant located in the region of Namur. The permit was refused on the grounds that the project would have a significant visual impact affecting the landscape. Following an appeal before the Belgium Council of State, a preliminary question was referred to the CJEU.

Advocate General's Opinion

In his Opinion, Advocate General Rantos reasserted that construction and operation of RES projects **do benefit from a presumption that they serve an overriding public interest.** This presumption though which is intended to facilitate and accelerate the production of RES. Member States remain entitled to assessing particular project on a **case-by-case basis** and revert the presumption should they reveal major negative impacts on the environment.

Advocate General Rantos **highlighted that the Member states must "implement the priority rule, without, however, establishing absolute priority"** and they also have a broad margin of discretion in evaluating whether a given project should be authorised, considering its specific characteristics and overall impact.



Why this matters ?

Advocate General Opinions are **not binding on the Court**, but still, they often provide an indication of the ratio of the final judgment while also offering guidance to Member States on the possible course of action. While the Opinion highlights the ongoing challenge to strike a **fair balance** between the deployment of RES which are crucial for EU's decarbonisation, with the protection of other (mainly but not exclusively, environmental) **public interests**.

Some stakeholders have expressed **concern of the risk of an abusive use or even misuse** of the Member States' margin of appreciation.

Court Confirms German State Aid Measure

The Court of Justice has upheld its previous ruling concerning a **German State aid measure**, reinforcing the Commission's assessment that the scheme is compatible with EU competition rules.

The decision strengthens legal certainty for both Member States and market participants by confirming **the analytical framework** applied by the Commission when assessing State aid measures.



Such rulings are particularly significant at a time when **governments are increasingly relying on public support schemes** to advance strategic objectives, including the energy transition, industrial decarbonisation and economic resilience. The judgment also contributes to the development of established case law regarding the **balance between public intervention and the preservation of competition** within the internal market.

While State aid remains subject to strict scrutiny **under EU law**, the Court's decision confirms that appropriately designed measures can be authorised where **they pursue legitimate policy objectives** and minimise distortions of competition.

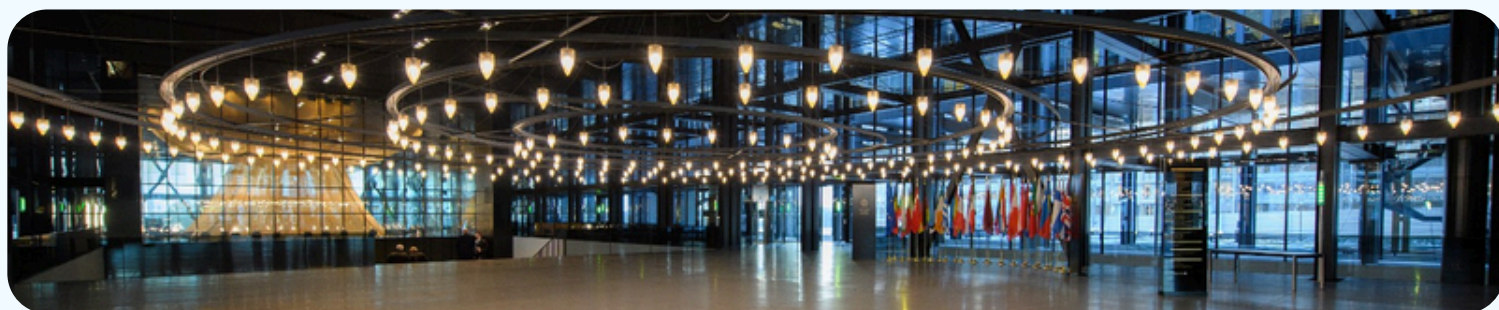
For Member States, the ruling provides **additional guidance** on the design of future support schemes. For businesses, it offers reassurance that Commission-approved measures are likely to withstand judicial review when they comply with the principles of **necessity, proportionality and transparency** that underpin EU State aid policy.



CJEU upholds annulment of Germany's €6 billion State aid to Lufthansa

On 23 April 2026, the Court of Justice of the European Union (CJEU) dismissed Lufthansa's appeal and upheld the General Court's judgment annulling the European **Commission's approval of Germany's €6 billion recapitalisation measure** granted to Lufthansa during the COVID-19 pandemic.

In June 2020, Germany notified the European Commission of an individual recapitalization State aid of €6 billion, in accordance **with Article 107(3)(b) TFEU**, in favour of Lufthansa Group. The aid was intended to combat serious disturbances in the economy due to Covid-19 and was hence part of **temporary measures for State aids** of that time. The Commission approved the aid as compatible with the internal market on the basis that it was necessary to remedy a serious disturbance in the German economy.



Ryanair and Condor challenged such aids before the General Court. The Court agreed and overturned the Commission's decision. Lufthansa appealed before the Court of Justice.

the Court of Justice **dismissed Lufthansa's appeal** and confirmed the General Court's ruling. In particular, the Court agreed that the Commission had incorrectly assessed the Temporary Framework, including the methodology used to determine the conversion price of Silent Participation II into equity.

The judgment serves as a reminder that the Commission's broad discretion in State aid matters is not unlimited. When assessing **the compatibility of State aid**, that discretion must be exercised within the limits established by the applicable legal framework.




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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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