

**AUGUST/SEPTEMBER 2026**

WE ARE PLEASED TO PRESENT THE FIFTH 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, COMPETITION LAW, STATE AID LAW, TAX AND PUBLIC PROCUREMENT

## NEWSLETTER

# METAXAS & ASSOCIATES LAW FIRM



### RECENT EU ENERGY AND STATE AID DEVELOPMENTS

- Commission approves €35 billion German capacity mechanism to secure electricity supply
- EU electrification and ETS review shape the next phase of the energy transition

### CASE NOTES AND COMMENTS

- CJEU rules on State aid for energy-intensive undertakings in financial difficulty (Acciaierie d'Italia)
- CJEU clarifies the scope of "direct lines" under the Electricity Market Directive
- BdM Banca v Commission: non-contractual liability for unlawful State aid decisions
- Spotlight: State Liability for National Courts' Failure to Refer



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# 10TH ATHENS CONFERENCE ON EU ENERGY LAW & POLICY

Metaxas & Associates Law Firm is proud to once again sponsor the upcoming 10th Athens Conference on EU Energy Law & Policy, which will take place virtually, on Thursday, December 10th, 2026. The Conference is organized by the Hellenic Energy Regulation Institute, in collaboration with the University of Bergen (UiB), the Institut für Energie- und Regulierungsrecht Berlin e.V. (EnReg), the Centre for Commercial Law Studies of Queen Mary University of London (QMUL), the Brussels Centre for Competition Policy Research Group of Vrije Universiteit Brussel, Abu Dhabi University and Abu Dhabi University's Law and Security Futures Research Center.



As a law firm committed to excellence we are honored to support this landmark 10th edition—a milestone event that continues to offer a valuable platform for constructive legal and regulatory dialogue in the energy sector.

Bringing together leading academics, policymakers and industry experts, this year's conference will address critical challenges and opportunities shaping the future of European energy regulation, infrastructure development and technological innovation.

## 1. EU INTERNATIONAL ENERGY COOPERATION

The Commission's overview highlights cooperation on clean electrification, grids, storage and methane reduction. The voluntary **Electrify Now** initiative supports policy exchanges, investment and implementation across international partners.

Analysis: International cooperation can help coordinate the infrastructure and investment needed for electrification. The voluntary platform's value will depend on whether policy exchanges lead to funded projects and implementation.

## 2. ELECTRIFICATION ACTION PLAN AND ETS REVIEW

The Commission announced an Electrification Action Plan and a review of the EU Emissions Trading System, aimed at strengthening Europe's competitiveness, decarbonisation and independence.

Electrification and carbon pricing influence the economics of moving away from fossil fuels. The key question is whether the detailed package aligns investment incentives with affordable electricity and sufficient grid capacity.

## 3. ENERGY EFFICIENCY AND SUSTAINABILITY OF EU DATA CENTERS

The Commission announced measures to enhance the energy efficiency and sustainability of data centres in the EU.

The announcement brings data centre energy demand into sharper policy focus. Operators and investors will need the detailed measures to assess their implications for infrastructure planning and operating costs.

## 4. ENERGY REGULATION ACADEMY LAUNCHED

The Commission and the European University Institute launched the Energy Regulation Academy to support national authorities in implementing electricity market reforms. Its three-year programme includes training, peer exchanges and tailored support for public officials.

The Academy addresses the gap between adopting EU rules and applying them nationally. Its effectiveness will depend on whether training and peer exchange translate into more consistent regulatory decisions.

## 5. RENEWABLES GENERATED 54% OF EU ELECTRICITY IN Q2 2026

Eurostat reports that renewables accounted for 54.1% of EU electricity generation in Q2 2026, compared with 54.3% a year earlier. Solar represented 41.6% of renewable electricity. These figures concern generation rather than the renewable share of electricity consumption.

The slight annual decline cautions against reading one quarter as a sustained trend. Solar's larger share of renewable generation also strengthens the case for examining storage and demand flexibility.



## DIRECT ELECTRICITY LINES AND BACK-UP GRID CONNECTIONS

### COURT OF JUSTICE OF THE EUROPEAN UNION, THIRD CHAMBER

17 SEPTEMBER 2026

Joined Cases C-722/24 and C-756/24: SIA Elektro bizness v Public Utilities Regulatory Commission, Latvia, and Public Utilities Regulatory Commission v SIA Jelgavas autobusu parks

The Latvian Supreme Court referred questions to the Court of Justice under Article 267 TFEU by decisions of 23 and 31 October 2024.

The main question was whether electricity can be supplied directly from a producer to a customer through a private electricity line, rather than through the public distribution network. The Court held that it can. An existing line may qualify as a “direct line” under Directive (EU) 2019/944 if it allows electricity to pass directly from the producer to the customer without using the distribution network.

The customer may still remain connected to the public grid as a back-up. Having that back-up connection does not stop the private line from being treated as a direct line, and the customer does not need to show exceptional circumstances to use such an arrangement.

However, this does not mean that a direct line can be operated without regulation. It remains subject to the authorisation rules in Article 7 of the Directive. In addition, if the customer keeps a connection to the public grid for back-up purposes, it may have to contribute appropriately to the costs of keeping that grid connection available.

The ruling supports direct supply arrangements while allowing back-up grid access. For project planning, the remaining authorisation conditions and contribution to grid costs are central to assessing feasibility.





## 1. GERMAN CAPACITY MECHANISM OF UP TO €35 BILLION APPROVED

The Commission announced approval of a German capacity mechanism of up to €35 billion to secure electricity supply.

The mechanism places security of supply alongside the energy transition. Its significance will depend on which resources qualify and how the scheme balances reliability, competition and decarbonisation.

## 2. CEF ENERGY INVESTS €125.8 MILLION IN CROSS-BORDER RENEWABLES

The Commission approved €125.81 million for three projects: UNITED HEAT (€70 million), TWIN HEAT (€11.41 million) and UELJO WP (€44.40 million). Funding supports district heating cooperation between Germany and Poland and an onshore wind project near the Latvia–Lithuania border.

The awards illustrate the value of coordinating renewable investment across borders. Their practical impact will depend on construction progress and the successful integration of shared infrastructure.

## 1. ACCIAIERIE D'ITALIA AND ENERGY AID FOR UNDERTAKINGS IN DIFFICULTY

JOINED CASES C-503/25 AND C-504/25 | 24 SEPTEMBER 2026

The Italian authorities refused to grant Acciaierie d'Italia financial support available to companies that use very large amounts of energy. The reason was that the company was insolvent and had been placed under “extraordinary administration”.

The Court confirmed that EU rules on this type of energy support exclude companies that are considered to be “undertakings in difficulty”. A company undergoing extraordinary administration can fall within that category where the procedure is a collective insolvency proceeding that follows a formal finding of insolvency. It is for the national court to verify whether those conditions are met in this case. The fact that extraordinary administration is intended to rescue the company and restore its financial health does not change this conclusion. The **Court** explained that support for high energy costs and aid intended to rescue or restructure a company in financial difficulty are governed by different EU rules and serve different purposes.

Analysis: Being a major energy consumer is therefore not enough to qualify for energy-related State aid. A company must also satisfy the scheme’s financial eligibility requirements.

## 2. BDM BANCA V COMMISSION AND DAMAGES FOR UNLAWFUL STATE AID DECISIONS

CASE C-145/24 P | 3 SEPTEMBER 2026

The Court addressed EU non-contractual liability following the annulment of a Commission State aid decision. It emphasised the objective nature of the State aid concept and the Commission’s considerably reduced, or absent, discretion when classifying a measure under Article 107(1) TFEU. In this context, an infringement can satisfy the sufficiently serious breach requirement; the conceptual errors at issue could not be excused by the case’s complexity. Nevertheless, the damages claim failed because the necessary causal link between the unlawful decision and the alleged loss had not been established.

Analysis: Annulment can strengthen a damages claim without establishing an entitlement to compensation. Claimants still need persuasive evidence connecting each alleged loss to the unlawful decision and addressing independent causes of that loss.

## 3. DESFA AND SPECIAL OR EXCLUSIVE RIGHTS IN UTILITIES PROCUREMENT

OPINION OF ADVOCATE GENERAL MANUEL CAMPOS SÁNCHEZ-BORDONA |  
10 SEPTEMBER 2026

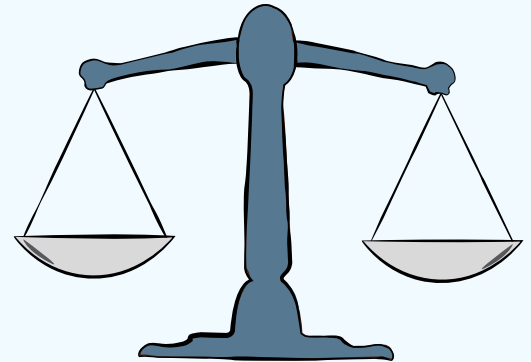
In Case C-618/25, the Greek Council of State asks whether DESFA, now privately owned and operating the national natural gas transmission system (NGTS), is a "contracting entity" under Article 4 of Directive 2014/25/EU by virtue of holding special or exclusive rights. Advocate General Campos Sánchez-Bordona proposes answering yes to both questions.

First, the rights to own, operate, maintain, manage, exploit and develop the NGTS, conferred by statute on a single operator, are "special or exclusive rights", even though independent systems may operate in unsupplied areas and charges may be imposed on them for DESFA's benefit, since those systems' rights are residual and DESFA keeps a predominant position. Second, the privatisation (the sale of 66% of DESFA's shares) is not a procedure for granting rights under Article 4(3), second and third subparagraphs: it merely changed the ownership, while the rights flow directly from Law 4001/2011 and remained unchanged. The eligibility conditions for bidders and DESFA's re-certification as an ownership-unbundled operator do not alter this, and a broader reading would undermine the Directive's aim of opening up the utilities markets.



## FERREIRA DE SILVA E BRITO II ON FAILURE TO REFER UNDER ARTICLE 267 TFEU AND STATE LIABILITY CASE C-293/24 | 8 SEPTEMBER 2026

The Court held that a court of last instance's failure to make a reference under the third paragraph of Article 267 TFEU is only one factor in assessing whether a Member State incurs liability for a sufficiently serious breach of EU law. It must be accompanied by a breach of another EU rule that confers rights on individuals.



The Court recalled that the obligation reflects shared responsibility between national courts and the Court of Justice for the uniform interpretation of EU law, and that Article 267 is not a remedy at the parties' disposal, so a party merely asserting that a question of EU law arises does not compel a reference. A court of last instance may be relieved of the obligation only in the three *Cilfit* situations: the question is irrelevant, the provision has already been interpreted by the Court, or the correct interpretation is so obvious as to leave no reasonable doubt. Where it considers the answer apparent from existing case-law, it has only limited discretion, either to follow that case-law or to make a reference seeking clarification or a departure from it. It cannot depart from the Court's established interpretation without referring.

## 1. NEW REGULATIONS RESHAPE GREECE'S WIND AND SOLAR INVESTMENT MAP

RAEY is currently recalculating the “carrying capacity” for new wind and solar projects because of the new Special Spatial Framework for Renewable Energy Sources (RES), with the aim of updating the available capacity margins for each Regional Unit.

The new regulations impose stricter spatial planning restrictions for wind projects, while for solar projects, the maximum land coverage ratio is set at 1.5% of the total area of the Regional Units. These changes primarily affect new, not yet finalized projects with a total capacity of approximately 24.4 GW, as they are also expected to have an impact on investment planning and amendments to existing permits.



## 2. PUBLIC CONSULTATION ON THE CODE OF ALTERNATIVE DISPUTE RESOLUTION

The Greek Ministry of Justice opened an electronic public consultation on a draft law entitled “Code of Alternative Dispute Resolution”. The OpenGov link provides the consultation page for the draft legislation.

Analysis: A consolidated code could make dispute resolution procedures easier to navigate, depending on its final provisions. The consultation offers stakeholders an opportunity to assess clarity, accessibility and how the proposed mechanisms would operate.

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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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