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ECJ: Guidelines on State aid for companies with high natural gas or electricity consumption

In a request for a preliminary ruling from Italy regarding state aid, the European Court of Justice decided that an ‘undertaking in difficulty’ may not benefit from advantages provided for undertakings with high consumption of natural gas or electricity.

Background:

In 2024, the Italian authorities rejected the applications made by ADI, the leading Italian steel group, for inclusion on the lists of undertakings with high electricity or gas consumption. Consequently, ADI did not benefit from the advantages provided for those undertakings.

The refusals were based on ADI’s classification as an ‘undertaking in difficulty’ within the meaning of the guidelines of the European Commission on State aid for rescuing undertakings in difficulty, on account of its having been placed under the Italian extraordinary administration scheme and on account of its insolvency.

That’s what the ECJ had to say:

In its decision, the ECJ finds that, when it adopted the guidelines on rescue aid, the Commission deliberately limited its own discretion in assessing the compatibility of State aid. Consequently, any derogation from those rules would constitute a breach of the general principles of law, in particular those of equal treatment and the protection of legitimate expectations.

The ECJ further observes, that Italy merely aligned its rules in the field of State aid for energy with the requirements contained in the Commission’s Guidelines on aid for climate, environmental protection and energy, which specify that aid for energy must not be granted to undertakings in difficulty within the meaning of the guideline on rescue aid.

An **undertaking placed under extraordinary administration** is an ‘undertaking in difficulty’ within the meaning of EU law, since that regime constitutes collective proceedings subject to a prior declaration that the undertaking concerned is insolvent, which is a matter for the referring court to determine.

This applies irrespective of the fact that the collective insolvency proceedings provided for by the laws of the Member States pursue an objective of restoring the economic viability of the undertakings concerned.

Furthermore, the ECJ adds that energy aid cannot be confused with rescue aid, which pursues separate objectives.

Source: ECJ, judgment of 24 September 2026 in joined cases **C-503/25 and**

C-504/25 *Acciaierie d'Italia*. – ECJ, press release **No. 133/26**.

Keywords

insolvency, state aid