

***Case No COMP/M.4998 -  
EDF / EnBW / ERSA***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 11/03/2009

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## COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.3.2009  
SG-Greffe(2009) D/1422  
C(2009) 1904

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

SIMPLIFIED PROCEDURE

### **To the notifying parties**

Dear Madam(s) and/or Sir(s),

**Subject: Case No COMP/M.4998 - EDF/ EnBW/ ERSA  
Notification of 11/02/2009 pursuant to Article 4 of Council Regulation (EC) No 139/2004<sup>1</sup>  
Publication in the Official Journal of the European Union No C 43, 21/02/2009,  
p.9**

1. On 11 February 2009, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking E.D.F. International (France), controlled by Electricité de France SA ("EDF", France), and Energie Baden-Württemberg AG ("EnBW", Germany) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the undertaking Elektrownia "Rybnik" S.A. ("ERSA", Poland) by way of purchase of shares.
2. The business activities of the undertakings concerned are:
  - for EDF: generation, transmission, distribution and supply of electricity;
  - for EnBW: generation, transmission, distribution and supply of electricity;
  - for ERSA: generation, processing and distribution of electricity in Poland.

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<sup>1</sup> OJ L 24, 29.1.2004, p. 1.

3. After examination of the notification, the Commission has concluded that, further to Article 26 of Council Regulation (EC) No 139/2004, the notified operation falls within the scope of Council Regulation (EC) 4064/89<sup>2</sup> and of paragraph 4 (c) of the Commission's Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) 4064/89.
4. For the reasons set out in the Notice on a simplified procedure, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EC) 4064/89.

For the Commission  
*(signed)*  
Philip LOWE  
Director General

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<sup>2</sup> OJ L 395, 30.12.1989, p. 1. Regulation as last amended by Regulation (EC) N° 1310/97 (OJ L180, 9.7.1997, p. 1)