

— order the EMA to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that the exception of illegality being well-founded, the challenged decision is not legally admissible because the EMA erred in fact and law and failed to fulfil its duty to state reasons and to perform a careful and thorough assessment, as provided under Article 296 TFEU.
2. Second plea in law, alleging that the legality of the challenged decision is also contested, given that the ‘new active substance’ status should have been examined again upon the filing of Mylan’s objections which were submitted during the application phase. Thus, the EMA has allegedly failed to perform its duties appropriately, in particular its duty to perform an effective and careful assessment and to state reasons, pursuant to Article 296 TFEU, which in turn renders the challenged decision illegal.

Action brought on 30 October 2020 — Ryanair v Commission

(Case T-657/20)

(2020/C 433/82)

Language of the case: English

Parties

Applicant: Ryanair DAC (Swords, Ireland) (represented by: F. Laprévote, V. Blanc, E. Vahida, S. Rating and I. Metaxas-Maranghidis, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the European Commission’s decision (EU) of 9 June 2020 on State aid SA.57410 COVID — Recapitalisation of Finnair⁽¹⁾; and
- order the European Commission to pay the costs.

The applicant has also requested that its action be determined under the expedited procedure as referred to in Article 23a of the Statute of the Court of Justice.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the Commission misapplied Article 107(3)(b) TFEU and incompletely applied the Temporary Framework and committed a manifest error of assessment by finding that the aid addresses a serious disturbance in the Finnish economy, by violating its obligation to weigh the beneficial effects of the aid against its adverse effects on trading conditions and the maintenance of undistorted competition (i.e., the ‘balancing test’) and by finding that Finnair had no significant market power.
2. Second plea in law, alleging that the Commission violated specific provisions of the TFEU and the general principles of European law regarding the prohibition of discrimination, free provision of services and free establishment that have underpinned the liberalisation of air transport in the EU since the late 1980s. The liberalization of the air transport market in the EU has allowed the growth of truly pan-European low-fares airlines. The European Commission ignored the damage caused by the COVID-19 crisis to such pan-European airlines and their role in the air connectivity of Finland by authorising Finland to reserve aid to Finnair.

3. Third plea in law, alleging that the Commission failed to initiate a formal investigation procedure despite serious difficulties and violated the applicant's procedural rights.
4. Fourth plea in law, alleging that the Commission violated its duty to state reasons.

⁽¹⁾ European Commission's decision (EU) of 9 June 2020 on State aid SA.57410 COVID — *Recapitalisation of Finnair*, OJ 2020 C 310, p. 6

Action brought on 2 November 2020 — Jakober v EUIPO (Shape of a cup)

(Case T-658/20)

(2020/C 433/83)

Language of the case: German

Parties

Applicant: Philip Jakober (Stuttgart, Germany) (represented by: J. Klink, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Tridimensional EU trade mark (Shape of a cup) — Application for registration No 15 963 994

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 20 August 2020 in Case R 554/2020-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- alter the contested decision so that his appeal is well-founded and, consequently, EU trade mark application No 15 963 994 be allowed to proceed to entry in the register of EUIPO;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 7(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Order of the General Court of 30 September 2020 — Banco Comercial Português and Others v Commission

(Case T-298/18) ⁽¹⁾

(2020/C 433/84)

Language of the case: English

The President of the Ninth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 249, 16.7.2018.