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Judgment of the General Court in Case T-77/24 | Dassault Aviation v Commission

EU green taxonomy: the General Court annuls the exclusion of the manufacture of aircraft intended for private or commercial business aviation from ‘transitional’ activities

Regulation 2020/852¹ on taxonomy established a unified classification system for sustainable activities, harmonising at EU level the criteria for determining whether an economic activity qualifies as environmentally sustainable. It has thus provided investors and other economic operators with a common understanding of the activities in question.

In 2023, the Commission adopted a delegated regulation² which, *inter alia*, lays down technical criteria for the classification of aircraft manufacturing. That delegated regulation excludes aircraft intended for private or commercial business aviation from the scope of activities regarded as contributing to climate change mitigation.

Being of the view that the exclusion is unlawful, Dassault Aviation, a French group active in particular in the design, manufacture and sale of business aircraft, brought an action before the General Court of the European Union seeking its annulment.

By its judgment, the General Court **upholds the action** and **annuls the contested exclusion**.

First of all, it finds that Dassault Aviation has demonstrated that it has an interest in bringing proceedings. Indeed, the exclusion of aircraft produced for private or commercial business aviation from the scope of transitional activities obliges that company to present, in the sustainability information it publishes, its activity of manufacturing business aircraft as an activity that is not aligned with the taxonomy. The annulment of that exclusion would mean it would no longer be subject to that obligation and could have an impact on its conditions of access to funding.

Next, the General Court notes that the Commission excluded the manufacture of aircraft intended for business aviation from the scope of transitional activities having regard to their CO₂ footprint per passenger kilometre compared to that of other available modes of transport.

However, according to the General Court, the Commission could not consider that those other modes of transport necessarily constituted low-carbon alternatives to business aircraft, given in particular their specific characteristics in terms of CO₂ emissions, flexibility, speed and connectivity.

The General Court also holds that the Commission could not base its assessment on the criterion of the CO₂ footprint per passenger kilometre, as this is not provided for in the Taxonomy Regulation and relates to the operation of aircraft rather than their manufacture.

It further notes that the Commission failed to take into account certain relevant factors, in particular the ability of these aircraft to operate on sustainable aviation fuels, and that it itself acknowledged that further analysis was necessary.

NOTE: An action for annulment seeks the annulment of acts of the European Union institutions, bodies, offices or agencies

that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

Unofficial document for media use, not binding on the General Court.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ [Regulation \(EU\) 2020/852](#) of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.

² [Commission Delegated Regulation \(EU\) 2023/2485](#) of 27 June 2023 amending Delegated Regulation (EU) 2021/2139 establishing additional technical screening criteria for determining the conditions under which certain economic activities qualify as contributing substantially to climate change mitigation or climate change adaptation and for determining whether those activities cause no significant harm to any of the other environmental objectives.