

Pleas in law and main arguments

In accordance with Article 106 of Directive 2013/59/Euratom, Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with that directive by 6 February 2018, and to communicate those provisions to the Commission.

Given that the Kingdom of Spain has not yet incorporated all the provisions of Directive 2013/59/Euratom into Spanish legislation or, in any event, has not communicated those provisions to the Commission, as required by Article 106 thereof, the Commission decided, on 9 February 2022, to bring the present action before the Court of Justice for a declaration, under the second paragraph of Article 258 TFEU, that the Kingdom of Spain has failed to fulfil its obligations under Article 106 of Directive 2013/59/Euratom.

(¹) OJ 2014 L 13, p. 1.

Appeal brought on 13 June 2022 by Koninklijke Luchtvaart Maatschappij NV against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-325/17, Koninklijke Luchtvaart Maatschappij v Commission

(Case C-385/22 P)

(2022/C 303/36)

Language of the case: English

Parties

Appellant: Koninklijke Luchtvaart Maatschappij NV (represented by: R. Wesseling and F. Brouwer, advocaten)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the judgment under appeal insofar as it holds that the Commission has jurisdiction to apply Article 101 TFEU and Article 53 EEA Agreement to inbound airfreight services on EEA-third country routes; and
- annul, the entire Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision); or
- in the alternative, partly annul the Decision insofar as it finds that the appellant infringed Article 101 TFEU and Article 53 EEA Agreement with regard to inbound airfreight services on EEA-third country routes; and
- in any event, order the Commission to pay all the costs, including those incurred by the appellant before the Court.

Pleas in law and main arguments

In support of the action, the appellant relies on the following plea in law.

The General Court erred in law and infringed its duty to state reasons by concluding that the inbound freight services fall within the scope of Article 101 TFEU and Article 53 EEA Agreement.

First part: The General Court infringed its duty to state reasons, erred in law and violated Article 101 TFEU in concluding that inbound freight services sorted relevant effects in the EEA.

Second part: The General Court infringed its duty to state reasons, erred in law and violated Article 101 TFEU in concluding that inbound freight services sorted probable effects in the EEA.

Third part: The General Court erred in law by relying on arguments and evidence not advanced by the Commission.

Fourth part: The General Court erred in law and violated Article 101 TFEU by concluding that the single and continuous infringement can extend the Commission's jurisdiction over conduct outside the EEA.

Appeal brought on 13 June 2022 by Martinair Holland NV against the judgment of the General Court (Fourth Chamber, Extended Composition) delivered on 30 March 2022 in Case T-323/17, Martinair Holland v Commission

(Case C-386/22 P)

(2022/C 303/37)

Language of the case: English

Parties

Appellant: Martinair Holland NV (represented by: R. Wesseling and F. Brouwer, advocaten)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the judgment under appeal insofar as it holds that the Commission has jurisdiction to apply Article 101 TFEU and Article 53 EEA to inbound airfreight services on EEA-third country routes; and
- annul, the entire Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight) (the Decision); or
- in the alternative, partly annul the Decision insofar as it finds that the appellant infringed Article 101 TFEU and Article 53 EEA Agreement with regard to inbound airfreight services on EEA-third country routes; and
- in any event, order the Commission to pay all the costs, including those incurred by the appellant before the Court.

Pleas in law and main arguments

In support of the action, the appellant relies on the following plea in law.

The General Court erred in law and infringed its duty to state reasons by concluding that the inbound freight services fall within the scope of Article 101 TFEU and Article 53 EEA Agreement.

First part: The General Court infringed its duty to state reasons, erred in law and violated Article 101 TFEU in concluding that inbound freight services sorted relevant effects in the EEA.