

reaching the contested decision, since the later was based on unsubstantiated facts and allegations. In addition, according to the applicant, the decision at stake violates the principle of sound administration. Moreover, the applicant submits that the decision violates Article 2(3) of Regulation 2580/2001 EC and Article 1(4) of Common Position 2001/931/CFSP and contravenes the principle of proportionality. Furthermore, the applicant contends that the decision is contrary to the freedom of circulation of capital, enshrined in Article 56 EC. Finally, the applicant alleges that the decision was taken in violation of the general principles of Community law deriving from the principle of due process, the right to an impartial Court, the principle of presumption of innocence, the rights of defense and the right to be heard, the principle of legality, the right to the freedom of expression, the right of association as well as the right of ownership, provided in the European Convention of Human Rights. Lastly, the applicant contends that the Council misused its power by including the applicant on the list annexed to the contested decision.

<sup>(1)</sup> OJ L 169, p. 58.

<sup>(2)</sup> OJ L 344, 28.12.2001, p. 70.

**Action brought on 10 September 2007 — Ryanair v Commission**

(Case T-342/07)

(2007/C 269/106)

*Language of the case: English*

**Parties**

*Applicant:* Ryanair Holdings Plc (County Dublin, Ireland) (represented by: J. Swift, QC, V. Power, Solicitor, A. McCarthy, Solicitor, G. Berrish, lawyer, D. Hull, Solicitor)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul the decision;
- order the Commission to bear the costs of these proceedings.

**Pleas in law and main arguments**

By means of this application, the applicant seeks annulment of Commission Decision C(2007) 3104, of 27 June 2007, declaring a concentration to be incompatible with the common

market and the functioning of the EEA Agreement (Case COMP/M.4439 — Ryanair/Aer Lingus).

The applicant's main contention is that the Commission allegedly erred in finding, and failed to demonstrate to the requisite legal standard, that the merger would lead to a significant impediment to effective competition in the common market. In the alternative, the applicant submits that the Commission erred in finding, and failed to show to the requisite legal standard, that the merger as modified by the various commitments offered by the applicant during the investigation would lead to a significant impediment to effective competition.

In support of its claims, the applicant pleads that the Commission made manifest errors of assessment with regards to (a) the competitive relationship between the two carriers; (b) the barriers to entry/expansion; (c) its route-by-route analysis, as well as fundamental and manifest errors in its appreciation of the efficiencies which would flow from the merger and the treatment of the commitments offered by the applicant.

**Action brought on 12 September 2007 — allsafe Jungfalk v OHIM (ALLSAFE)**

(Case T-343/07)

(2007/C 269/107)

*Language of the case: German*

**Parties**

*Applicant:* allsafe Jungfalk GmbH & Co. KG (Engen, Germany) (represented by D. Jestaedt and J. Bühling, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

**Form of order sought**

- Annul the Decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 11 July 2007 (R 454/2006-4);
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Community trade mark concerned:* The word mark 'ALLSAFE' for goods and services in Classes 6, 12, 22, 35, 39 and 42 (application No 2 940 534).

*Decision of the Examiner:* Refusal of the application.