

2. Second plea in law, alleging a breach of the rights of defence, a failure to state reasons and a breach of essential procedural requirement.

According to the applicant, the European Commission violated the applicant's rights of defence by failing to (i) provide any or any adequate reasoning to support the finding of a single and continuous infringement on all routes; (ii) define the nature and scope of the alleged infringement(s) with the particularity required by law; (iii) correct the inherent contradiction between a single and continuous infringement and four separate infringements that led to the annulment of Commission Decision C (2010) 7694 final of 9 November 2010, these being sufficient grounds for the annulment of the Decision in its entirety.

3. Third plea in law, alleging a manifest error of assessment and a manifest error of law relating to the non-ability of non-EU/EEA carriers to operate on intra-European routes.

The applicant puts forward that the European Commission (i) wrongly found in Articles 1(1) and 1(4) of the contested decision that the applicant had participated in an infringement or infringements on routes within the EEA and between airports within the EU and airports in Switzerland on which it had no legal ability to provide airfreight services; (ii) overlooked or misunderstood the international and EU legal regimes governing aviation traffic rights; (iii) wrongly applied the relevant case law in finding that there were no 'insurmountable barriers' to the applicant offering services on intra-European routes and thus wrongly identifying the applicant as a potential competitor on those routes. According to the applicant, each and all comprise manifest errors of assessment and manifest errors of law, and individually or collectively provide sufficient grounds for the annulment in its entirety of the contested decision in its entirety, or, in the alternative of Articles 1(1) and 1(4) of that decision.

4. Fourth plea in law, alleging a manifest error of law and fact in relation to jurisdiction.

The applicant puts forward that the contested decision is vitiated by manifest errors of law and fact relating to (i) the wrongful reliance on entirely lawful acts on third country routes to prove or constitute an infringement on intra-European routes which infringement is impossible of commission (grounds for annulment of the contested decision in its entirety); (ii) wrongful assertion of jurisdiction over supposed collusion on 'inbound' traffic on third country routes (ground for annulment of the contested decision in its entirety or in the alternative of Articles 1(2) and 1(3)).

5. Fifth plea in law, alleging a manifest error of assessment in relation to the evidence relied on against the applicant.

According to the applicant, the European Commission: (i) failed properly to apply the law relating to single and continuous infringement as regards evidence; (ii) failed to establish a reliable evidential basis and to prove the facts against the applicant to the requisite legal standard; and (iii) wrongly refused to accept the applicant's withdrawal of its misconceived leniency application and failed to consider the effect of that withdrawal on the evidence relied on against the applicant, these being sufficient grounds for the annulment of the contested decision in its entirety.

6. Sixth plea in law, in accordance with the First, Second, Third, Fourth and Fifth Pleas in Law, the applicant requests the Court to cancel the fine imposed by Article 3 or in the alternative substantially reduce the fine pursuant to its unlimited jurisdiction under Article 261 TFEU, Article 31 of Regulation 1/2003 and established case law.

Action brought on 26 May 2017 — Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO — M. J. Dairies (BBQLOUMI)

(Case T-328/17)

(2017/C 239/69)

Language in which the application was lodged: English

Parties

Applicant: Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi (Nicosia, Cyprus) (represented by: S. Malynicz, QC and V. Marsland, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board*³²⁸ *of Appeal:* M. J. Dairies EOOD (Sofia, Bulgaria)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: EU figurative mark containing the word element 'BBQLOUMI' — Application for registration No 13 069 034

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 16/03/2017 in Case R 497/2016-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 31 May 2017 — Cargolux Airlines v Commission

(Case T-334/17)

(2017/C 239/70)

Language of the case: English

Parties

Applicant: Cargolux Airlines International SA (Sandweiler, Luxembourg) (represented by: G. Goeteyn, Solicitor, E. Aliende Rodríguez, lawyer, and C. Rawnsley, Barrister)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- in the event that the Court upholds the First, Second, Third or Fourth pleas, annul in their entirety Articles 1(1) to 1(4) of 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 (AT.39258 — Airfreight), insofar as they relate to Cargolux;
- in the event that the Court upholds the Fifth plea,
 - annul Article 1(1) in its entirety, or if Article 1(1) is not annulled in its entirety, annul Article 1(1): (i) insofar as it relates to Security Surcharge and commissioning; (ii) insofar as it relates to the period 22 January 2001 to end of 2002; and (iii) insofar as it makes any finding of involvement in cartel conduct as that term is normally understood prior to 10 June 2005 at the earliest;
 - annul Article 1(2) in its entirety, or if Article 1(2) is not annulled in its entirety, annul Article 1(2): (i) insofar as it relates to Security surcharge and commissioning; (ii) insofar as it makes any finding of involvement in cartel conduct as that term is normally understood prior to 10 June 2005 at the earliest;
- annul Articles 1(3) and 1(4) in their entirety.