

Action brought on 4 April 2018 — Et Djili Soy Dzhihangir Ibryam v EUIPO — Lupu (Djili)**(Case T-231/18)**

(2018/C 200/58)

*Language in which the application was lodged: English***Parties***Applicant:* Et Djili Soy Dzhihangir Ibryam (Dulovo, Bulgaria) (represented by: C. Romițan, lawyer)*Defendant:* European Union Intellectual Property Office (EUIPO)*Other party to the proceedings before the Board of Appeal:* Victor Lupu (Bucharest, Romania)**Details of the proceedings before EUIPO***Applicant of the trade mark at issue:* Applicant*Trade mark at issue:* EU figurative mark Djili — Application for registration No 15 497 662*Procedure before EUIPO:* Opposition proceedings*Contested decision:* Decision of the Fifth Board of Appeal of EUIPO of 31 January 2018 in Case R 1902/2017-5**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- reject Lupu Victor's appeal;
- order the opponent and the appellant Lupu Victor to bear the costs of the proceedings.

Pleas in law

- The Board of Appeal erred in finding that there was an aural similarity between the signs;
- The Board of Appeal erred in finding that the conceptual comparison had no relevance in the case.

Action brought on 16 April 2018 — Polskie Linie Lotnicze 'LOT' v Commission**(Case T-240/18)**

(2018/C 200/59)

*Language of the case: Polish***Parties***Applicant:* Polskie Linie Lotnicze 'LOT' S.A. (Warsaw, Poland) (represented by: M. Jeżewski, lawyer)*Defendant:* European Commission**Form of order sought**

The applicant claims that the Court should:

- annul the European Commission's decision of 12 December 2017 in Case M.8672 (EASYJET / CERTAIN AIR BERLIN ASSETS), ref. C(2017) 8776 final;
- order the Commission to pay the costs of the proceedings before the General Court;
- require the Commission to address, in the context of its statement in defence, certain questions raised by the applicant concerning the manner in which the assessment of the effects on competition of the concentration concerned was carried out, and to provide certain evidence serving as the basis for its decision.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Commission infringed the provisions of the Treaty on European Union (‘the Treaty’) and the provisions for its implementation, in particular those of Regulation (EC) No 139/2004,⁽¹⁾ by failing to carry out a full assessment of the adverse effects of the concentration concerned from the point of view of competition.
2. Second plea in law, alleging that the Commission incorrectly assessed the impact of the concentration concerned with regard to the possibility of providing passenger air transport services to and from certain airports, thereby committing a serious and manifest error in its assessment of that concentration. A properly conducted analysis of the concentration concerned would necessarily have led to the conclusion that its implementation will have a series of negative effects on competition, and that it will have a greater negative impact on competition than the absence of a concentration in the opposite scenario.
3. Third plea in law, alleging that the Commission infringed the ‘Guidelines on the assessment of horizontal mergers’ by failing to examine whether the efficiency gains achieved by the concentration concerned offset the negative effects of that concentration on competition.
4. Fourth plea in law, alleging that the Commission infringed the provisions of the Treaty and the provisions for its implementation by failing to impose requirements on easyJet designed to prevent the significant distortion of effective competition by the concentration concerned.
5. Fifth plea in law, alleging that the Commission infringed the provisions of the Treaty and the provisions for its implementation by failing to carry out an assessment of the impact of the concentration concerned on the internal market in the context of the State aid in the amount of EUR 150 million previously granted to Air Berlin on 15 August 2017 by the Federal Republic of Germany. That aid was approved by the Commission by Commission Decision C(2017) 6080 final of 4 September 2017 approving the State aid granted to Air Berlin by the Federal Republic of Germany.
6. Sixth plea in law, alleging that the Commission infringed Article 296 TFEU by providing an inadequate statement of reasons in its decision, as demonstrated by, inter alia, the failure to carry out a full analysis of the facts of the case, the failure to take account of a series of elements needed to provide a reliable verification of the full impact of the concentration on competition, the failure to carry out an assessment of the impact of that concentration on the internal market in the context of the State aid previously granted to Air Berlin, and the failure to provide any grounds for not carrying out such an assessment.

⁽¹⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ 2004 L 24, p. 1).

Action brought on 16 April 2018 — Benavides Torres v Council

(Case T-245/18)

(2018/C 200/60)

Language of the case: English

Parties

Applicant: Antonio José Benavides Torres (Venezuela) (represented by: L. Giuliano and F. Di Gianni, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- annul Council Decision (CFSP) 2018/90 of 22 January 2018 amending Decision (CFSP) 2017/2074 concerning restrictive measures in view of the situation in Venezuela and Council Implementing Regulation (EU) 2018/88 of 22 January 2018 implementing Regulation (EU) 2017/2063 concerning restrictive measures in view of the situation in Venezuela, in so far as their provisions concern the applicant; and
- order the Council to bear the costs of the proceedings.