

Action brought on 11 August 2021 — Aquind and Others v ACER**(Case T-492/21)**

(2021/C 391/34)

*Language of the case: English***Parties**

Applicants: Aquind Ltd (London, United Kingdom), Aquind Energy Sàrl (Luxembourg, Luxembourg), Aquind SAS (Rouen, France) (represented by: S. Goldberg, L. Van den Hende, L. Malý and E. White, lawyers)

Defendant: European Union Agency for the Cooperation of Energy Regulators

Form of order sought

The applicants claim that the Court should:

- annul the defendant's Board of Appeal decision of 4 June 2021; and
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging that the defendant's Board of Appeal erred in finding that the appeal before it was inadmissible. It is argued that the defendant remained competent to replace its annulled decision ⁽¹⁾ with a new one and to grant the exemption to AQUIND Interconnector under Article 17 of Regulation (EC) No 714/2009 ⁽²⁾. Furthermore, it is alleged that the defendant's Board of Appeal failed to fulfill its obligation to ensure full and complete compliance with the Judgment of the General Court of 18 November 2020 ⁽³⁾.
2. Second plea in law, alleging that the defendant's Board of Appeal infringed requirements in Articles 25(3) and 28(4) of Regulation (EU) No 2019/942 ⁽⁴⁾ and in the Rules of Procedure of the defendant's Board of Appeal. It is argued that the defendant's Board of Appeal did not follow the correct procedure with one of its members not attending the hearing, the oral proceedings not constituting evidence, and no deliberation meeting minutes having been published.

⁽¹⁾ Decision A-001-2018, of 17 October 2018, of the defendant's Board of Appeal.

⁽²⁾ Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (Text with EEA relevance) (OJ 2009 L 211, p. 15-35).

⁽³⁾ Judgment of 18 November 2020, *Aquind v ACER*, T-735/18, EU:T:2020:542.

⁽⁴⁾ Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (Text with EEA relevance) (OJ 2019 L 158, p. 22-53).

Action brought on 6 August 2021 — Ryanair and Malta Air v Commission**(Case T-494/21)**

(2021/C 391/35)

*Language of the case: English***Parties**

Applicants: Ryanair DAC (Swords, Ireland) and Malta Air ltd. (Pietà, Malta) (represented by: F.-C. Laprévotte, E. Vahida, V. Blanc, S. Rating and I.-G. Metaxas-Maranghidis, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the defendant's decision of 5 April 2021 on State aid SA.59913 (2021/N) — *France* — COVID-19 — *Recapitalisation of Air France and the Air France* — *KLM Holding*; ⁽¹⁾ and
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on seven pleas in law.

1. First plea in law, alleging that the defendant wrongly excluded KLM from the scope of the contested decision.
2. Second plea in law, alleging that the defendant misapplied the Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak.
3. Third plea in law, alleging that the defendant misapplied Article 107(3)(b) TFUE.
4. Forth plea in law, alleging that the contested decision violates specific provisions of the TFEU and the general principles of European Law that have underpinned the liberalisation of EU air transport since the late 1980s (i.e., nondiscrimination, free provision of services ⁽²⁾ and free establishment).
5. Fifth plea in law, alleging that the defendant failed to initiate a formal investigation procedure despite the serious difficulties and violated the applicants' procedural rights.
6. Sixth plea in law, alleging that the defendant violated its duty to state reasons.
7. Seventh plea in law, alleging that the contested decision failed to meet the requirements of Article 342 TFUE and of the Regulation 1/58 pertaining to the language of official acts of EU institutions. ⁽³⁾

⁽¹⁾ OJ 2021 C 240, p. 13.

⁽²⁾ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (Text with EEA relevance) (OJ 2008 L 293, p. 3–20).

⁽³⁾ EEC Council: Regulation No 1 determining the languages to be used by the European Economic Community (OJ 1958 17, p. 385-386).

Action brought on 16 August 2021 — Lotion v EUIPO (BLACK IRISH)

(Case T-498/21)

(2021/C 391/36)

Language of the case: English

Parties

Applicant: Lotion LLC (Woodland Hills, California, United States) (represented by: A. Deutsch, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark BLACK IRISH — Application for registration No 18 189 156

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 7 June 2021 in Case R 199/2021-5