Reports of Cases

Case T-77/24

Dassault Aviation
v
European Commission

Judgment of the General Court (First Chamber, sitting with five Judges) of 24 June 2026

(Environment – Delegated Regulation (EU) 2023/2485 – Taxonomy – Transitional activities – Exclusion of the activity of manufacturing business aircraft – Manifest error of assessment)

1. *Action for annulment – Natural or legal persons – Interest in bringing proceedings – Need for a vested and present interest – Assessment at the time when the action was brought – Action capable of securing a benefit for the applicant – Burden of proof*
(Art. 263, fourth para., TFEU)

(see paragraph 18)

2. *Action for annulment – Natural or legal persons – Interest in bringing proceedings – Need for a vested and present interest – Action capable of securing a benefit for the applicant – Action brought against a delegated regulation establishing technical screening criteria with a view to supplementing the Taxonomy Regulation – Action for the annulment of a provision of the delegated regulation classifying the manufacture of aircraft produced by the applicant as an activity which is not taxonomy-aligned – Admissibility*
(Art. 263, fourth para., TFEU; European Parliament and Council Regulation 2020/852, Art. 3; Commission Regulation 2023/2485)

(see paragraphs 19-48)

3. *Judicial proceedings – Application initiating proceedings – Formal requirements – Summary of the pleas in law on which the application is based – Plea of illegality put forward in the application initiating proceedings – Application making it possible to identify without ambiguity the provision challenged – Admissibility the of plea*
(Art. 277 TFEU; Rules of Procedure of the General Court, Art. 76(d))

(see paragraphs 55-64)

4. *EU institutions – Exercise of powers – Power conferred on the Commission to adopt delegated acts – Obligation not to modify the essential elements of the basic legislative act – Basic regulation laying down environmental sustainability criteria – Delegated regulation laying down technical screening criteria for all types of activity meeting those sustainability criteria – Whether permissible*
(European Parliament and Council Regulation 2020/852, Art. 3; Commission Regulation 2023/2485)

(see paragraphs 67-88)

5. *Fundamental rights – Charter of Fundamental Rights – Right to good administration – Right to be heard – Not applicable to procedures leading to the adoption of measures of general scope – Exception – Express provision of the legal framework governing the adoption of the act in question conferring the right to be heard*
(Charter of Fundamental Rights of the European Union, Art. 41(2)(a))

(see paragraph 93)

6. *Acts of the institutions – Statement of reasons – Obligation – Scope – Regulation laying down environmental sustainability criteria – Delegated regulation laying down technical screening criteria for all types of activity meeting those sustainability criteria – Obligation to identify in the statement of reasons for the delegated regulation the specific and concrete elements justifying that measure – Regulation being part of a context known to the person concerned, enabling him or her to understand the scope of the measure taken – Whether a summary statement of reasons is sufficient*
(Art. 296 TFEU; European Parliament and Council Regulation 2020/852; Commission Regulation 2023/2485)

(see paragraphs 108-120)

7. *Action for annulment – Pleas in law – Lack of or inadequate statement of reasons – Separate plea in law from the one concerning substantive legality*
(Arts 263 and 296 TFEU)

(see paragraphs 121-123)

8. *Judicial proceedings – Application initiating proceedings – Formal requirements – Summary of the pleas in law on which the application is based – Plea alleging the infringement of a provision not expressly referred to in the application – Plea enabling the defendant to identify the provision referred to – Admissibility*
(Rules of Procedure of the General Court, Art. 76(d))

(see paragraphs 130-136)

9. *EU institutions – Exercise of powers – Power conferred on the Commission to adopt delegated acts – Scope – Complex assessments and evaluations – Broad discretion – Judicial review – Limits*
(European Parliament and Council Regulation 2020/852, Commission Regulation 2023/2485)

(see paragraphs 139-142)

10. *Approximation of laws – Framework to facilitate sustainable investment – Taxonomy Regulation – Regulation laying down environmental sustainability criteria – Delegated regulation laying down technical screening criteria for all types of activity meeting those sustainability criteria – Exclusion of the activity of the design, manufacture and sale of business aeroplanes from transitional activities within the meaning of the Taxonomy Regulation – Exclusion based on the criterion of the* CO_2 *footprint per passenger kilometre of business aeroplanes and on the existence of technologically and economically feasible alternatives – Manifest error of assessment*
(European Parliament and Council Regulation 2020/852, Art. 10(2); Commission Regulation 2023/2485)

(see paragraphs 143-176)

11. *Action for annulment – Purpose – Partial annulment – Condition – Severability of the contested provisions – Objective criterion – Condition fulfilled*
(Art. 263 TFEU; Commission Regulation 2023/2485, Annex I, point (2))

(see paragraphs 179-186)

Résumé

In partially annulling Delegated Regulation 2023/2485,[1] the General Court, for the first time, finds that an economic operator has an interest in bringing proceedings against a European Commission delegated regulation which, with a view to supplementing the Taxonomy Regulation,[2] establishes technical screening criteria for the sector of activity to which that operator belongs.

The Taxonomy Regulation establishes a unified classification system in order to harmonise, at EU level, the criteria for determining whether an economic activity qualifies as environmentally sustainable in the light of various environmental objectives. Article 10(2) of that regulation concerns, inter alia, transitional activities, namely those for which there is no technologically and economically feasible low-carbon alternative, but which support the transition to a climate-neutral economy, subject to compliance with certain criteria.

[1] Commission Delegated Regulation (EU) 2023/2485 of 27 June 2023 amending Delegated Regulation (EU) 2021/2139 establishing additional technical screening criteria for determining the conditions under which certain economic activities qualify as contributing substantially to climate change mitigation or climate change adaptation and for determining whether those activities cause no significant harm to any of the other environmental objectives (OJ L, 2023/2485).

[2] Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ 2020 L 198, p. 13; 'the Taxonomy Regulation').

Against that background, the Commission adopted Delegated Regulation 2021/2139[3] to supplement the Taxonomy Regulation by establishing technical screening criteria for determining the conditions under which certain economic activities contribute substantially to the environmental objectives pursued by that delegated regulation.

Subsequently, Delegated Regulation 2023/2485 amended Delegated Regulation 2021/2139 by adding the manufacture of aircraft to taxonomy-eligible economic activities, that is to say, activities capable of satisfying the technical screening criteria established by that regulation. In that context, the manufacture of aircraft produced for business aviation is considered to be taxonomy-aligned – in other words, regarded as satisfying the relevant technical screening criteria – only in respect of aircraft with zero direct (tailpipe) CO_2 emissions.

By its action, Dassault Aviation, a French group active, inter alia, in the design, manufacture and sale of business aeroplanes, seeks the annulment of the provision of Delegated Regulation 2023/2485 concerning the manufacture of aircraft ('the contested provision').

Findings of the Court

Hearing a plea of inadmissibility raised by the Commission, the Court first examines whether the applicant has a legal interest in obtaining the annulment of the contested provision.

In that regard, the Court observes that the contested provision imposes on the applicant – which does not produce aircraft with zero direct (tailpipe) CO_2 emissions – the obligation to publish in its management report the fact that its activity of manufacturing business aeroplanes, although taxonomy-eligible, is not taxonomy-aligned, that is to say that it is not an economic activity that is environmentally sustainable.

The annulment of the contested provision would make the manufacture of aircraft produced for 'private or commercial business aviation' a taxonomy-non-eligible economic activity. That would have the effect of removing the applicant's obligation to state, in its management report, that its activity of manufacturing business aeroplanes is not taxonomy-aligned.

In addition, the Court finds that there is a sufficiently direct link between the presentation of the applicant's economic activities as not taxonomy-aligned and the conditions under which it may access funding. The contested provision therefore adversely affects the applicant's legal position, with the result that it has a legal interest in bringing proceedings in the present case.

As to the substance, the Court finds that the Commission did not fail to fulfil its obligation to state reasons by excluding the activity of manufacturing aircraft intended for private or commercial business aviation from transitional activities within the meaning of Article 10(2) of the Taxonomy Regulation.

[3] Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives (OJ 2021 L 442, p. 1).

It is apparent, in particular, from the explanatory memorandum to Delegated Regulation 2023/2485, read in the light of the working document which accompanied that regulation, that the Commission considered that that activity did not meet the conditions laid down by the Taxonomy Regulation for the establishment of technical screening criteria, given the CO_2 footprint per passenger kilometre of the latest generation aircraft produced for private or commercial business aviation compared to that of other means of transport available.

The applicant could not have been unaware of the context in which Delegated Regulation 2023/2485 had been adopted, given its participation in the public consultation procedure concerning the proposed technical screening criteria. It was therefore in a position to understand why that delegated regulation excludes the abovementioned activity from the transitional activities referred to in the Taxonomy Regulation.

However, the Court considers that the Commission made a manifest error of assessment in excluding the manufacture of aircraft produced for private or commercial business aviation from transitional activities within the meaning of Article 10(2) of the Taxonomy Regulation.

First, the Commission could not use the existence of technologically and economically feasible alternatives as a basis for that exclusion on the ground that other available means of transport constituted low-carbon alternatives to the latest generation of business aeroplanes.

The fact – assuming it to be established – that scheduled commercial aeroplanes emit significantly less CO_2 per passenger than the latest generation of business aeroplanes does not, in itself, lead to the conclusion that the transport of passengers by scheduled commercial aircraft is a low-carbon activity. Moreover, trains, buses and private cars cannot constitute an alternative to the latest generation business aeroplanes, since they lack the flexibility and speed of such aeroplanes.

Second, the Commission could not base the abovementioned exclusion on the assertion that the latest generation of business aeroplanes have a significantly higher CO_2 footprint per passenger kilometre than other available means of transport. In fact, for the purposes of Article 10(2) of the Taxonomy Regulation, the Commission was required to take into account the CO_2 emissions of aircraft produced for private or commercial business aviation in relation to the best performance in the passenger air transport sector, and not the rail or road sectors.

Third, the Commission made the manifestly arbitrary decision not to take into account the ability of business aeroplanes to operate with a significant proportion of sustainable aviation fuel, even though it did take that ability into account for other aircraft with a take-off mass of more than 5.7 tonnes.

Fourth, it is apparent from the Commission working document that the Commission had not analysed all the relevant factors for assessing whether the activity of manufacturing aircraft produced for private or commercial business aviation fell within the scope of transitional activities.

In the light of those considerations, the Court annuls Delegated Regulation 2023/2485 in so far as it concerns the manufacture of aircraft.