ARTICLE

EU GREEN TAXONOMY: GENERAL COURT ANNULS EXCLUSION OF BUSINESS AIRCRAFT MANUFACTURING

European Law | 27/07/26 | Emmanuelle Mignon Marc Mossé David Zygas

A E R O N A U T I C S & D E F E N S E

General Court Judgment of June 24, 2026, Case T-77/24, Dassault Aviation v. European Commission

August Debouzy secured a significant victory before the General Court of the European Union in annulment proceedings brought by Dassault Aviation against the provisions of the EU Green Taxonomy that excluded the manufacture of business aircraft from the list of "transitional" economic activities.

Background: What Is the EU Green Taxonomy?

The EU Green Taxonomy Regulation (Regulation (EU) 2020/852), which entered into force in 2020, establishes a classification system for economic activities to determine the conditions under which a given activity (referred to as "taxonomy-eligible" if it is listed in the Taxonomy) may be considered environmentally sustainable (i.e., "taxonomy-aligned"). In practice, the Regulation requires companies within its scope to disclose the proportion of their activities that are taxonomy-eligible and taxonomy-aligned, thereby helping to redirect investment toward sustainable economic activities. The conditions for taxonomy alignment, known as the "technical screening criteria," are established by the European Commission through delegated acts.

Eligible activities include so-called "transitional activities," which are activities for which no low-carbon alternatives are currently available but that support the transition to a climate-neutral economy, provided they achieve greenhouse gas emission levels consistent with the best-performing activities in their sector.

The Dispute: The Categorical Exclusion of Business Aircraft Manufacturing

In 2023, the European Commission adopted Delegated Regulation (EU) 2023/2485, which brought aircraft manufacturing within the scope of the EU Green Taxonomy, subject to certain conditions. As a result, aircraft manufacturing became a taxonomy-eligible activity and, where the applicable criteria are met, may qualify as taxonomy-aligned.

However, the Delegated Regulation categorically excluded the manufacture of business aircraft from the list of activities eligible for taxonomy alignment, with the sole exception of business aircraft that produce zero direct CO_2 emissions (tailpipe emissions), a technological prospect that remains a long way off. The accompanying Staff Working Document justified this exclusion on the grounds that the CO_2 emissions of business aircraft, measured on a per passenger-kilometer basis, are too high compared with those of other available modes of transport.

Dassault Aviation, the world's third-largest manufacturer of business aircraft, challenged this exclusion before the General Court of the European Union, arguing that it was based on an erroneous and incomplete assessment of the economic activity at issue.

The Decision: A Manifest Error in the Commission's Assessment

In its judgment of June 24, 2026, the General Court ruled in favor of Dassault Aviation on the merits and annulled the entire contested section, namely the provisions of the EU Green Taxonomy relating to aircraft manufacturing. The Court found that the European Commission had committed a manifest error of assessment in four respects.

First, the General Court held that the European Commission could not conclude that genuine alternatives to business aircraft exist. Business aircraft serve several specific needs that cannot be met by other modes of transport, including emergency medical transport, access to remote or island communities, certain humanitarian and aerial surveillance missions, and economic connectivity on routes that are not, or are inadequately, served by commercial air or rail networks. Business aircraft are therefore not interchangeable with other modes of transport.

Second, the General Court found that the criterion based on CO_2 emissions per passenger-kilometer, relied on by the European Commission, relates to the operation of aircraft rather than their manufacture. However, the activity at issue in this case was aircraft manufacturing. The Court therefore concluded that the Commission had relied on an inappropriate criterion.

Third, the General Court found that the European Commission failed to take into account the ability of business aircraft to operate on sustainable aviation fuels, even though it had considered that factor for other categories of aircraft.

Fourth, the General Court noted that, in documents published after the adoption of the contested Delegated Regulation, the European Commission itself acknowledged that further analysis was needed to determine whether, and under what conditions, the manufacture of next-generation business aircraft could contribute to the objectives of the EU Green

Taxonomy. In the Court's view, this confirmed that, at the time it adopted the contested Delegated Regulation, the Commission had failed to examine all the relevant factors.

The General Court did not rule on whether business aviation is inherently sustainable. Rather, it held that the European Commission could not exclude the manufacture of business aircraft from the category of transitional activities on the basis of the assessment it had conducted. Accordingly, the Court annulled Section 3.21 in its entirety.

Implications: A Significant Ruling for the Implementation of the EU Green Taxonomy

Beyond the specific case of Dassault Aviation, the judgment is significant in several respects.

First, the General Court confirmed that an economic operator may have standing to challenge a delegated regulation adopted under the EU Green Taxonomy where that regulation adversely affects its legal position. This is because the classification of an economic activity under the Taxonomy has a direct impact on the conditions under which companies can access financing.

Second, the judgment places important limits on the European Commission's discretion when establishing the technical screening criteria. Before excluding an economic activity, the Commission must carefully and impartially examine all relevant factors, taking into account the nature and specific characteristics of the activity concerned.

Finally, the judgment may have practical implications for the sustainability reporting obligations of the companies concerned. Once the annulment of Section 3.21 takes effect, subject to any appeal, the manufacture of business aircraft will no longer be classified as a taxonomy-eligible activity that is necessarily not taxonomy-aligned. Companies concerned will therefore need to reflect this change in the legal framework in their sustainability disclosures.