

JUDGMENT OF THE COURT (First Chamber)

8 October 2026 (*)

(Appeal – Common foreign and security policy – Restrictive measures taken in view of the military aggression against Ukraine – Regulation (EU) 2022/334 amending Regulation (EU) No 833/2014 – Articles 3d and 3e – Prohibition for any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body, to land in, take off from or overfly the territory of the Union – Rejection of a flight plan – Action for annulment – Admissibility – Act amenable to review)

In Case C-482/24 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 9 July 2024,

Global 8 Airlines, established in Bishkek (Kyrgyzstan), represented by E. Novicāne, K. Novicāns and E. Stankevičs, advokāti,

appellant,

the other party to the proceedings being:

European Commission, represented by M. Bruti Liberati, M. Carpus-Carcea and B. Sasinowska, acting as Agents,

defendant at first instance,

supported by:

Federal Republic of Germany, represented by J. Möller and R. Kanitz, acting as Agents,

intervener in the appeal,

THE COURT (First Chamber),

composed of F. Biltgen (Rapporteur), President of the Chamber, T. von Danwitz, Vice-President of the Court, acting as Judge of the First Chamber, S. Gervasoni, A. Kumin and I. Ziemele, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: A. Lamote, Administrator,

having regard to the written procedure and further to the hearing on 17 December 2025,

after hearing the Opinion of the Advocate General at the sitting on 12 March 2026,

gives the following

Judgment

- 1 By its appeal, Global 8 Airlines LLC seeks to have set aside the order of the General Court of the European Union of 29 April 2024, *Global 8 Airlines v Commission* (T-277/23, ‘the order under appeal’, EU:T:2024:285), by which the General Court dismissed as inadmissible its action seeking the annulment of the decision adopted by the European Commission, of which it was informed on 20 March 2023, relating to the inclusion of two light business jets owned by it on a list of aircraft subject to a prohibition to land in, take off from or overfly the territory of the Union, pursuant to Council Regulation (EU) 2022/334 of 28 February 2022 amending Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine (OJ 2022 L 57, p. 1) (‘the decision at issue’).

Legal context

International law

- 2 The Eurocontrol International Convention relating to Co-Operation for the Safety of Air Navigation, signed in Brussels on 13 December 1960, was amended several times and consolidated by the Protocol of 27 June 1997. Although that convention is not yet in force, its provisions have been applied provisionally since 1998, in accordance with a decision of the Permanent Commission of the European Organisation for the Safety of Air Navigation (Eurocontrol) taken in December 1997. The European Community approved the protocol on the accession to Eurocontrol by Council Decision 2004/636/EC of 29 April 2004 on the conclusion by the European Community of the Protocol on the accession of the European Community to the European Organisation for the Safety of Air Navigation (OJ 2004 L 304, p. 209).
- 3 In accordance with Article 1 of that international convention, the aim thereof is to strengthen the cooperation of its contracting parties and to develop their joint activities in the field of air navigation, making due allowance for defence needs and providing maximum freedom for all airspace users consistent with the required level of safety. Eurocontrol was established for that purpose.

European Union law

Regulation No 833/2014

- 4 Article 3d of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine (OJ 2014 L 229, p. 1), as amended by Regulation 2022/334 (‘Regulation No 833/2014’), provides:

‘1. It shall be prohibited for any aircraft operated by Russian air carriers, including as a marketing carrier in code-sharing or blocked-space arrangements, or for any Russian registered aircraft, or for any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body, to land in, take off from or overfly the territory of the Union.

2. Paragraph 1 shall not apply in the case of an emergency landing or an emergency overflight.

3. By way of derogation from paragraph 1, the competent authorities may authorise an aircraft to land in, take off from, or overfly, the territory of the Union if the competent authorities have determined that such landing, take-off or overflight is required for humanitarian purposes or for any other purpose consistent with the objectives of this Regulation.

4. The Member State or Member States concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 3 within two weeks of the authorisation.’

- 5 Article 3e of Regulation No 833/2014 provides:

‘1. The Network Manager appointed by the Commission pursuant to its Implementing Decision (EU) 2019/709 [of 6 May 2019 on the appointment of the network manager for air traffic management (ATM) network functions of the single European sky (OJ 2019 L 120, p. 27)] shall support the Commission and

[the] Member States in ensuring the implementation of, and compliance with, Article 3d. The Network Manager shall, in particular, reject all flight plans filed by aircraft operators indicating an intent to carry out activities over the territory of the Union that constitute a violation of this Regulation or of other safety and security measures in place, such that the pilot is not permitted to fly.

2. The Network Manager shall regularly supply to the Commission and the Member States, based on the analysis of flight plans, reports on the implementation of Article 3d.'

Implementing Decision 2019/709

6 Under Article 1(1) and (2) of Implementing Decision 2019/709, read in conjunction with Article 7 of Commission Implementing Regulation (EU) 2019/317 of 11 February 2019 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 (OJ 2019 L 56, p. 1), Eurocontrol was appointed as network manager for the period from 2020 to 2029.

Background to the dispute

7 The background to the dispute is set out in paragraphs 2 to 17 of the order under appeal and may be summarised as follows.

8 Global 8 Airlines is a limited liability company incorporated under Kyrgyz law. It is a commercial airline company, entered in the companies register of the Kyrgyz Republic, from which it is apparent that it is owned by Mr D.L. and managed by Mr U.M., both Latvian nationals.

9 On 28 February 2022, in the context of a series of restrictive measures concerning, inter alia, the closure of EU airspace to certain categories of aircraft, the Council of the European Union adopted, on the basis of Article 29 TEU, Decision (CFSP) 2022/335 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ 2022 L 57, p. 4) and, on the basis of Article 215 TFEU, Regulation 2022/334.

10 By two decisions of 9 September 2022 and of 20 February 2023, respectively, the management board of Global 8 Airlines approved the purchase of two aircraft with the manufacturer's serial numbers RB274 and RB120 ('the two aircraft'). The purchase was concluded between Global 8 Airlines and a Russian company, whose sole shareholders were Russian nationals.

11 The two aircraft were entered in the companies register of the Kyrgyz Republic as being in the ownership of Global 8 Airlines, on 12 September 2022 under registration number EX-88012, and on 9 March 2023 under registration number EX-88011, respectively.

12 After they were entered in the register of the Kyrgyz Republic, the aircraft registered under EX-88012 performed several flights, inter alia, from Russia to the European Union, and the aircraft registered under EX-88011 did not have any registered movements.

13 On 24 February 2023, Global 8 Airlines submitted to Eurocontrol a flight plan for the aircraft registered under EX-88012 for a route from Augsburg (Germany) to Budapest (Hungary). Eurocontrol rejected that flight plan on the same day by means of an automated message.

14 On 15 March 2023, Global 8 Airlines sent an email to Eurocontrol seeking clarification of that automated message.

15 By an email of 20 March 2023, Eurocontrol, first, confirmed to Global 8 Airlines that the aircraft registered under EX-88012 appeared on a list of aircraft covered by Article 3d of Regulation No 833/2014 and subject to a flight ban ('the list at issue'), stating that that list had been provided to it by the Commission. Second, Eurocontrol invited Global 8 Airlines to contact that institution, through its mailbox

(‘the mailbox’) managed by its Directorate-General (DG) for Mobility and Transport, if it wished to request the removal of the aircraft in question from the list at issue.

- 16 On 21 March 2023, Global 8 Airlines sent an email to the Commission, using the mailbox, in order to seek clarification of its position and, in essence, a review of its situation as regards, inter alia, the lifting of the flight ban for the two aircraft, their removal from the list at issue, as well as the communication to Eurocontrol of updated information concerning the appellant. It also asked that it be informed, where appropriate, of the name of the national authority with competence to process its request for review.
- 17 By an email of 28 March 2023, the member of staff of DG Mobility and Transport in charge of the mailbox informed Global 8 Airlines that the two aircraft were subject to a flight ban under Articles 3c and Article 3d of Regulation No 833/2014. He also informed it that that flight ban had to be maintained as well as of the reasons for that.
- 18 By an email of 6 April 2023, Global 8 Airlines replied to the member of staff of DG Mobility and Transport, providing him with additional information concerning its situation.
- 19 On 25 April 2023, that member of staff again informed Global 8 Airlines that there were no grounds justifying the removal of the two aircraft from the list at issue.

The action before the General Court and the order under appeal

- 20 By application lodged at the Registry of the General Court on 22 May 2023, Global 8 Airlines brought an action under Article 263 TFEU seeking the annulment of the decision at issue.
- 21 By separate document lodged at the Registry of the General Court on 15 September 2023, the Commission raised an objection of inadmissibility, pursuant to Article 130(1) of the Rules of Procedure of the General Court, claiming that, first, the decision at issue did not exist and, in any event, could not be precisely identified, second, that decision could not be the subject of an action for annulment, since it had to be regarded, where appropriate, as a provisional measure which, in any event, did not produce binding legal effects vis-à-vis Global 8 Airlines, third, the act adversely affecting the appellant was attributable only to the Member States, fourth, the action for annulment had been directed against the wrong act and to a court which had no jurisdiction to hear it, fifth, that action was time barred, and, sixth, that action was devoid of purpose, in view of the general operating ban in the European Union, on safety grounds, imposed on air carriers entered in the register of the Kyrgyz Republic.
- 22 By the order under appeal, the General Court dismissed the action for annulment as inadmissible on the ground that the decision at issue did not constitute an act against which an action for annulment may be brought under Article 263 TFEU.

The procedure before the Court of Justice and the forms of order sought

- 23 By decision of the President of the Court of Justice of 22 November 2024, the Federal Republic of Germany was granted leave to intervene in the proceedings in support of the form of order sought by the Commission.
- 24 By its appeal, Global 8 Airlines claims that the Court should:
 - deem the appeal admissible and well founded;
 - set aside the order under appeal in full, and
 - order the Commission to pay the costs incurred by the appellant in connection with the appeal.

25 The Commission contends that the Court should:

- dismiss the appeal as inadmissible and, in any event, as unfounded in its entirety, and
- order Global 8 Airlines to pay the costs of the proceedings.

26 The Federal Republic of Germany contends that the Court should:

- dismiss the appeal as inadmissible or, in the alternative, as unfounded, and
- order Global 8 Airlines to pay the costs of the proceedings.

The appeal

27 In support of its appeal, the appellant raises, in essence, three grounds of appeal, directed against paragraphs 34 to 55 of the order under appeal, alleging, first, an error in the identification of the subject matter of the action at first instance, second, an incorrect understanding of the structure of Regulation No 833/2014, and, third, an incorrect assessment of EU law as applied in practice by all the actors involved. Since the second and third grounds of appeal both criticise the legal classification of the decision at issue as an act not amenable to review, they will be examined together.

Admissibility of the appeal

Arguments of the parties

28 The Commission, supported by the Federal Republic of Germany, contends that the appeal is inadmissible.

29 That institution submits, first, that the appellant has not identified with sufficient precision the grounds of the order under appeal that are concerned. Second, the appellant has not alleged any specific error of law committed by the General Court in the order under appeal. Third, the errors alleged either lack a statement of reasons or amount to a request to the Court of Justice for a total re-examination of the entire application submitted to the General Court, for which, in the Commission's submission, the Court of Justice does not have jurisdiction on appeal.

30 Global 8 Airlines claims that its appeal is admissible.

Findings of the Court

31 It must be recalled that it follows from the second subparagraph of Article 256(1) TFEU, the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union and Article 168(1)(d) and Article 169(2) of the Rules of Procedure of the Court that an appeal must indicate precisely the contested paragraphs of the judgment or order under appeal and the legal arguments specifically advanced in support of the appeal, failing which the appeal or the ground of appeal concerned may be inadmissible (see, to that effect, judgment of 15 July 2025, *ECB and Commission v Corneli*, C-777/22 P and C-789/22 P, EU:C:2025:580, paragraph 58 and the case-law cited).

32 In the present case, the appellant has identified the paragraphs of the order under appeal, namely paragraphs 39 to 55 thereof, as grounds that are alleged to have been vitiated by error, and has set out, admittedly in a succinct manner, but sufficiently comprehensibly, not only the errors of law alleged to have been committed by the General Court in relation to the identification of the subject matter of the action at first instance and to the legal classification of the decision at issue as an act not amenable to review, but also the reasons why it considers that the order under appeal should be set aside.

33 In those circumstances, the appeal must be declared admissible.

Substance

The first ground of appeal, alleging an error in the identification of the subject matter of the action

– Arguments of the parties

34 In support of the first ground of appeal, the appellant submits that its action at first instance did not concern Eurocontrol's rejection of its flight plan, but the inclusion of the two aircraft on the list at issue.

35 The Commission, supported by the Federal Republic of Germany, disputes Global 8 Airlines' line of argument and contends that the first ground of appeal should be rejected.

– Findings of the Court

36 As regards the first ground of appeal, it is clear from paragraph 1 of the order under appeal that the General Court identified the subject matter of the action at first instance as being 'the decision adopted by the European Commission, of which [the appellant] was informed on 20 March 2023, relating to the inclusion of two light business jets owned by it on a list of aircraft subject to a prohibition to land in, take off from or overfly the territory of the Union, pursuant to [Regulation 2022/334]'.

37 It is also clear from a combined reading of paragraphs 14, 37, 39, 48, 51 and 55 of the order under appeal that it was that decision which the General Court examined in order to determine whether it constituted an act against which an action for annulment may be brought under the fourth paragraph of Article 263 TFEU.

38 It is true that paragraphs 41, 42, 47 and 54 of that order are devoted to the rejection, by Eurocontrol, on behalf of the Member States, of the flight plans filed by the aircraft operators concerned seeking to carry out activities that infringe the prohibition laid down in Article 3d of Regulation No 833/2014. That said, that reasoning forms part of an analysis of the factual and legal context in which the decision at issue was taken, in accordance with the case-law cited in paragraph 36 of the order under appeal. Thus, it merely confirms the General Court's finding that other acts, taken in the context of the processing of flight plans filed by those aircraft operators and attributable to the Member States, are capable of having binding legal effects on the legal position of those aircraft operators, with the result that such acts adopted in the context of the implementation of Article 3d and Article 3e of that regulation are subject to judicial review by the courts of the Member States.

39 It follows from the foregoing that the General Court did not err in finding that the action brought before it was directed against the decision of the Commission whose content is set out in paragraphs 1 and 36 above.

40 Consequently, the first ground of appeal must be rejected as unfounded.

The second and third grounds of appeal, alleging an incorrect classification of the decision at issue as an act not amenable to review

– Arguments of the parties

41 In support of its second and third grounds of appeal, the appellant submits, first, that Article 3d of Regulation No 833/2014 enshrines the concept of 'aircraft ... owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body', which calls for a separate legal assessment relating to the ownership or the control of the aircraft referred to in that article. In particular, that concept is independent and specific in relation to the concept of the performance by Eurocontrol of air traffic services, referred to separately in Article 3e of that regulation. Eurocontrol's role as a network manager is merely ancillary to that legal assessment.

42 The appellant claims, first, that the ultimate decision as regards the exact status of the aircraft concerned is taken by DG Mobility and Transport, and the Member States and Eurocontrol merely implement that

decision through their respective competences.

- 43 The Commission, supported by the Federal Republic of Germany, contends that the appeal is unfounded.
- 44 According to the Commission, the inclusion of aircraft on the list at issue does not have to be subject to a review of legality by the General Court, since the flight ban applies directly by virtue of Article 3d of Regulation No 833/2014 and it is not for the Commission but solely for the Member States to adopt the measures necessary to enforce that regulation, which are exercised, on their behalf, by Eurocontrol.
- 45 Consequently, according to that institution, the General Court was correct to hold that the inclusion by the Commission of the two aircraft on the list at issue did not constitute an act with binding legal effects. Such effects stem solely from the rejection of the individual flight plans by Eurocontrol, acting on behalf of the Member States.
- 46 According to the Commission, moreover, even if it were accepted that the list at issue should be subject to a review of legality and that DG Mobility and Transport takes the ultimate decision as regards the status of aircraft on that list, the annulment of that decision would have no legal effects on the appellant's situation, since it would not lead to the automatic annulment of the enforcement decisions of the Member States and of Eurocontrol's rejection of the flight plan concerned.
- 47 The Federal Republic of Germany shares the Commission's view that the flight ban laid down in Article 3d of Regulation No 833/2014 is directly applicable and the appellant should have challenged not the inclusion of the two aircraft on the list at issue, but the rejection of its flight plan. Nevertheless, unlike the Commission, the Federal Republic of Germany submits that an action for annulment against the rejection of a flight plan should be brought against Eurocontrol, an organisation which, under Article 3e of that regulation, has been empowered to reject flight plans filed by aircraft operators seeking to carry out activities that infringe the prohibition laid down in Article 3d of that regulation.

– *Findings of the Court*

- 48 It is important to recall that, in accordance with the first paragraph of Article 263 TFEU, the Court of Justice is to review, *inter alia*, the legality of acts of the Commission and of the bodies, offices or agencies of the European Union intended to produce legal effects vis-à-vis third parties.
- 49 In accordance with the Court's case-law, the action for annulment provided for in Article 263 TFEU is available in the case of all measures adopted by the institutions, bodies, offices or agencies of the European Union, whatever their form, which are intended to have binding legal effects (see, to that effect, judgments of 12 July 2022, *Nord Stream 2 v Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraph 62, and of 10 February 2026, *WhatsApp Ireland v European Data Protection Board*, C-97/23 P, EU:C:2026:81, paragraphs 66 and 68 and the case-law cited).
- 50 In order to determine whether an act produces binding legal effects, it is necessary to examine, *inter alia*, the substance of that act and the intention of its author. In that regard, the Court has stated that examining the substance of an act involves assessing its effects in the light of objective criteria, such as the content of that act, taking into account, as appropriate, the context in which it was adopted and the powers of the institution which adopted the act, powers which should not be understood in the abstract but should be regarded as factors that inform the specific analysis of the content of that act, which is central and indispensable (see, to that effect, judgments of 6 May 2021, *ABLV Bank and Others v ECB*, C-551/19 P and C-552/19 P, EU:C:2021:369, paragraphs 40 and 41, and of 10 February 2026, *WhatsApp Ireland v European Data Protection Board*, C-97/23 P, EU:C:2026:81, paragraph 67 and the case-law cited).
- 51 It is in the light of the case-law referred to in paragraphs 49 and 50 above that it must be determined whether the General Court correctly classified the decision at issue as an act against which an action for annulment may not be brought under Article 263 TFEU.

- 52 In the first place, as regards the General Court's assessment of the substance of the decision at issue, it should be noted that, despite the fact that it set out the criterion relating to the content of the act in paragraphs 36 and 37 of the order under appeal and expressly referred to it in the conclusion which it reached, in paragraph 53 of that order, at the end of its examination, the General Court failed to carry out a specific analysis of the content of that decision. By contrast, it determined whether that act is amenable to review in the light of other objective criteria relating to the context in which the act in question was adopted and to the powers of the institution which adopted the act, which are rather factors that inform the specific analysis of the content of that act.
- 53 In paragraph 39 of that order, the General Court set out the reasons why the appellant's analysis, according to which the Commission could be regarded as the author of the decision that imposed the flight ban referred to in Article 3d of Regulation No 833/2014 by including the appellant's aircraft on the list at issue, could not be followed. Those reasons, set out in paragraphs 40 to 48 of that order, relate to the legal context of the decision at issue and to the respective powers of the Commission, Eurocontrol and the Member States of Eurocontrol, rather than to the content of that decision.
- 54 Moreover, the General Court could not dispense with a specific analysis of the content of the act at issue for the reason that the first ground of inadmissibility raised by the Commission, alleging that the decision at issue did not exist and, in any event, could not be identified, could otherwise have been upheld. By ruling, in paragraphs 34 to 55 of the order under appeal, on the second ground of inadmissibility raised by the Commission, which alleged that that decision did not constitute an act against which an action for annulment may be brought under Article 263 TFEU, the General Court implicitly but necessarily rejected that first ground of inadmissibility and therefore proceeded on the premiss that that decision existed.
- 55 Accordingly, the General Court erred in law by failing to carry out a specific analysis of the content of the decision at issue, even though such an analysis is central and indispensable in order to determine whether an act is amenable to review for the purposes of Article 263 TFEU.
- 56 Furthermore, it is common ground that the decision at issue was not placed on the file at first instance by the parties and that the General Court did not adopt a measure of organisation of procedure ordering the parties to produce that decision. The third plea in law raised at first instance by the appellant sought precisely that the General Court, as a measure of organisation of procedure, order the Commission to produce all the documents relating to the decision at issue in so far as they concerned the appellant, a plea which the General Court, having upheld the objection of inadmissibility raised by the Commission, without entering into the merits of the case, did not, however, examine.
- 57 However, since it was required to carry out a specific analysis of the content of the decision at issue, the General Court could not dispense with requesting the Commission, which had adopted the decision at issue, to produce that decision before it.
- 58 Accordingly, by examining whether the decision at issue was amenable to review for the purposes of Article 263 TFEU without first requesting the Commission to produce that decision, the General Court erred in law.
- 59 In the second place, the General Court reached the conclusion, in paragraph 48 of the order under appeal, that the decision at issue did not have binding legal effects on the appellant's legal position following an examination, in paragraphs 40 to 47 of that order, of the legal context of the adoption of that decision and of the powers of the EU institution which adopted it.
- 60 The General Court held, in essence, in paragraphs 40 to 48 of that order, that such binding legal effects followed, first, from the flight ban laid down in Article 3d of Regulation No 833/2014, which is of general application and the provisions of which were to be implemented by the Member States, and, second, from the individual measures to enforce the ban and, more specifically, from the rejection of the flight plans of individual aircraft operators, for which competence was vested in the Member States and exercised, on their behalf, by Eurocontrol, in accordance with Article 3e of that regulation.

- 61 According to the General Court, a flight ban as referred to in Article 3d, with binding legal effects vis-à-vis third parties, could not, by contrast, result from an act attributable to the Commission. As is apparent, in essence, from paragraphs 45 to 48 of the order under appeal, according to the General Court, by preparing the list at issue, the Commission, acting together with the European Union Aviation Safety Agency (EASA) and with the participation of the authorities of the Member States, merely coordinated the information flow from different sources on aircraft controlled or chartered by Russian persons or entities subject to the flight ban laid down in Article 3d of that regulation, with a view to facilitating the implementation of that article.
- 62 The General Court stated, in that regard, in paragraph 47 of the order under appeal that, since the Commission is not empowered, under Article 3d of Regulation No 833/2014, to impose a flight ban on aircraft to which that article applies, that institution, in exercising the role of information gatherer and distributor, merely assists the Member States in the performance of their tasks, so that it is the Member States which take coordinated decisions on the processing of individual flight plans. It follows from that, according to the General Court, that neither the preparation of the list at issue nor, consequently, the inclusion of individual aircraft on that list is a decision allegedly taken by or on behalf of the Commission such as to have binding legal effects on the appellant's legal position.
- 63 As regards, first, the legal context of the decision at issue, it should be noted that neither the general scope of the provisions of Article 3d of Regulation No 833/2014 nor the finding that those provisions may entail implementing measures to be adopted by the competent national authorities, in particular in the context of the processing of the flight plans of individual aircraft operators subject to the flight ban laid down in that article, makes it possible to rule out the possibility that the decision at issue may constitute an act against which an action for annulment may be brought under Article 263 TFEU. That scope and that finding do not preclude the mechanism established by the Commission and the EASA, with the participation of the Member States, for coordinating the flow of information from different sources on aircraft controlled or chartered by Russian persons or entities from giving rise to the EU-wide adoption of acts, attributable to the Commission, intended to have binding legal effects concerning the inclusion of the aircraft of individual aircraft operators among the aircraft subject to that flight ban laid down in Article 3d.
- 64 It is true that Article 3d and Article 3e of that regulation do not expressly provide that it is for the Commission, following an assessment of the criterion of 'control' exerted by a Russian natural or legal person, entity or body over aircraft operators, referred to in Article 3d of that regulation, to include the individual aircraft operators concerned on the list at issue. The fact remains that the first sentence of Article 3e(1) of that regulation, according to which 'the Network Manager appointed by the Commission pursuant to [Implementing Decision 2019/709] shall support the Commission and [the] Member States in ensuring the implementation of, and compliance with, Article 3d [of Regulation No 833/2014]', without conferring implementing powers on the Commission, nevertheless refers to the existence of certain responsibilities which the Commission is required to assume in the context of the implementation of that Article 3d. It is also clear from a combined reading of the two sentences of Article 3e(1) of that regulation that those responsibilities are linked to the tasks entrusted to Eurocontrol, as network manager, under Article 3e of that regulation, which include, in particular, the rejection of all plans filed by aircraft operators seeking to carry out activities over the territory of the Union that constitute an infringement of that regulation.
- 65 Therefore, the legal context of the decision at issue could not legitimately justify the General Court's classification of the decision at issue as an act against which an action for annulment may not be brought under Article 263 TFEU.
- 66 Moreover, Article 291(2) TFEU specifically envisages the conferral of implementing powers on the Commission or on the Council, where uniform conditions for implementing legally binding Union acts are needed, under the conditions set out in that provision. The Court has held that Article 215 TFEU does not preclude a regulation, adopted on its basis, from conferring implementing powers on the Commission or on the Council in the field of restrictive measures under the conditions laid down in Article 291(2) TFEU, for the purposes both of drawing up implementing rules and of applying rules to specific cases by means of acts of individual application (see, to that effect, judgment of 1 March 2016, *National Iranian Oil*

Company v Council, C-440/14 P, EU:C:2016:128, paragraphs 34 to 36). The implementation of Article 3d of Regulation No 833/2014, which provides for a prohibition for any aircraft that meets the criteria set out therein ‘to land in, take off from or overfly the territory of the Union’, requires such uniform EU-wide implementing conditions.

- 67 As regards, second, the powers of the EU institution which adopted the measure in question, it should be noted that, contrary to what the General Court held in paragraph 47 of the order under appeal, the finding that the Commission was not empowered to impose a flight ban on aircraft to which Article 3d of Regulation No 833/2014 applies does not make it possible to rule out that an act having the binding legal effect of imposing that flight ban on aircraft of individual aircraft operators was taken by the Commission or on its behalf.
- 68 To adopt such an approach would mean that EU acts vitiated by a ground of illegality alleging a lack of competence on the part of the institution which adopted them would not be subject to review by the Courts of the European Union, since they would not, for that very reason, constitute acts against which an action for annulment may be brought under Article 263 TFEU. Such an outcome would be incompatible with the scheme of Article 263 TFEU, which provides, in its second paragraph, that the Court of Justice is to have jurisdiction, under that article, in actions brought, inter alia, ‘on grounds of lack of competence’.
- 69 As regards, third, the factual context of the decision at issue, although the General Court examined the appellant’s arguments as regards the context, relating to the ‘actual conduct’ of DG Mobility and Transport, Eurocontrol and the Federal Republic of Germany, in paragraphs 50 to 52 of the order under appeal, assessing, more specifically, the emails of 28 March and 25 April 2023 sent by the member of staff of that DG through the mailbox, which were annexed, respectively, as Annex A.2 and Annex A.4 to the application at first instance, it found, in paragraph 49 of that order, that those arguments did not call into question the conclusion which it had reached in paragraph 48 of that order, according to which the decision at issue did not have binding legal effects on the appellant’s legal position.
- 70 Contrary to what is apparent from paragraph 50 of the order under appeal, the emails sent by the member of staff of DG Mobility and Transport, through the mailbox, allude to ‘decisions’ originating, inter alia, from the Commission and support the argument that the explanations given by that member of staff of the Commission as regards the grounds justifying the inclusion and maintenance of the appellant’s two aircraft on the list at issue were the result of a uniform and coordinated position adopted EU-wide, relating to the inclusion of those two aircraft on the list at issue, which was liable to be attributed to the Commission.
- 71 It is clear from the emails of the member of staff of DG Mobility and Transport of 28 March and 25 April 2023, annexed, respectively, as Annex A.2 and Annex A.4 to the application at first instance, referred to in paragraphs 50 and 51 of the order under appeal, that that member of staff of the Commission was responsible for replying, through the mailbox, to the requests for information and for review submitted by the appellant concerning the two aircraft, providing the appellant with the grounds for the inclusion of those two aircraft on the list at issue and communicating to it the rejection of its requests for information and for review.
- 72 It must be noted in that regard that, in its email of 28 March 2023, DG Mobility and Transport uses expressions such as ‘we have examined’, ‘the following has been established’, and ‘we see no other option but to continue with grounding of the aircraft’. Furthermore, the email from DG Mobility and Transport of 25 April 2023 includes expressions such as ‘we (and the relevant member States) normally base our decisions’ and ‘we see no reason to lift the ban on these two aircrafts’.
- 73 Thus, those emails suggest that the Commission assumed, alone or jointly with the Member States, responsibility for adopting the restrictive measures against the appellant, both as regards the inclusion of the two aircraft on the list at issue and their maintenance on that list.
- 74 That analysis is supported by the email of 20 March 2023, annexed as Annex A.1 to the application at first instance, referred to in paragraphs 14 and 52 of the order under appeal, by which Eurocontrol, as network

manager, in response to a request for clarification from the appellant concerning the rejection of the flight plan for the aircraft registered under EX-88012, referred to the existence of a list of aircraft covered by Article 3d of Regulation No 833/2014 which the Commission had provided to it and invited the appellant to contact the Commission through the mailbox, managed by DG Mobility and Transport, in the event that it wished to request the delisting of the aircraft in question.

- 75 That analysis is supported, furthermore, by the email from the Ministry of Digital and Transport (Germany) of 31 July 2023, annexed as Annex C.2 to the appellant's observations on the objection of inadmissibility raised by the Commission at first instance, referred to in paragraphs 31 and 52 of the order under appeal, in response to an email from the appellant concerning the possibility of being given physical access to the two aircraft in order to carry out maintenance operations. The representative of that ministry stated in that email of 31 July 2023 that he had already approached the Commission for further clarification on the ownership of those two aircraft and on their inclusion on the list at issue.
- 76 Thus, those emails from Eurocontrol and the German authorities confirm the analysis that the Commission had a leading role in the inclusion of the two aircraft among the aircraft subject to a flight ban under Article 3d of Regulation No 833/2014.
- 77 In that regard, the Commission acknowledged at the hearing, in reply to a question from the Court, that Eurocontrol had no discretion to depart from the instructions of the Member States as regards the processing of flight plans of aircraft subject to a flight ban under Article 3d of Regulation No 833/2014. On the contrary, Eurocontrol is required, subject to the derogations provided for in Article 3d(3) of Regulation No 833/2014, to reject all flight plans filed by individual aircraft operators seeking to carry out activities over the territory of the Union which constitute an infringement of that prohibition, in accordance with the second sentence of Article 3e(1) of that regulation.
- 78 It follows that the inclusion of the two aircraft on the list at issue, which definitively establishes the position of the Commission, to which the inclusion is attributable, necessarily binds Eurocontrol in the context of the processing of flight plans filed by the appellant and therefore has binding legal effects at least vis-à-vis that organisation.
- 79 Consequently, as the Advocate General emphasised, in essence, in point 73 of his Opinion, the identification, in the list at issue, of the aircraft operators covered by the prohibition, whose flight plans may be rejected at a later date, is an act which is substantive in its own right and from which legal effects vis-à-vis third parties flow directly.
- 80 In those circumstances, it is clear from the analysis of the factual context of the decision at issue that, contrary to what the General Court held in paragraphs 49 to 52 of the order under appeal, the documents placed on the file at first instance, examined by the General Court, support the conclusion that the decision at issue is capable of constituting an act attributable to the Commission, by which that institution definitively decided on the inclusion of the two aircraft on the list at issue.
- 81 Accordingly, in paragraphs 40 to 52 of the order under appeal, devoted to the analysis of the legal context of the adoption of the decision at issue, the powers of the EU institution which adopted it and the examination of the appellant's arguments concerning the factual context of that decision, the General Court erred in law by giving precedence to the fact that the Commission did not have the powers necessary to adopt an act relating specifically to the flight ban regarding the aircraft on the list at issue over the body of evidence produced by the appellant in order to demonstrate that the Commission had taken a decision having binding effects vis-à-vis third parties as regards the inclusion of the two aircraft on that list.
- 82 It must be added that, contrary to what follows, in particular, from paragraphs 35, 39, 48 and 53 of the order under appeal, the conclusion in paragraph 78 above cannot be called into question by the fact, even if it were established, that the decision at issue did not have binding legal effects 'on the [appellant's] legal position'.

- 83 In order to establish whether an act of which the applicant is not the addressee, such as the decision at issue, has binding legal effects, and is therefore capable of forming the subject matter of an action for annulment under Article 263 TFEU, it is not necessary to ascertain whether those effects are capable of affecting the applicant's legal position, since that verification is relevant only in the context of the examination of compliance with the conditions of admissibility laid down in the fourth paragraph of Article 263 TFEU, according to which an action for annulment of an act is available to any person directly and individually concerned by it, where that latter provision applies. Whether an act is open to challenge must therefore be assessed objectively, on the basis of its substance, and not by reference to the applicant (see, to that effect, judgments of 12 July 2022, *Nord Stream 2 v Parliament and Council*, C-348/20 P, EU:C:2022:548, paragraph 63, of 13 February 2025, *Swissgrid v Commission*, C-121/23 P, EU:C:2025:83, paragraph 46, and of 10 February 2026, *WhatsApp Ireland v European Data Protection Board*, C-97/23 P, EU:C:2026:81, paragraph 68).
- 84 Accordingly, in paragraphs 35, 39, 48 and 53 of the order under appeal, the General Court set out and applied an incorrect legal test, that is to say, whether the act in question had binding legal effects capable of affecting the interests of the appellant by bringing about a distinct change in its legal position. In so doing, the General Court erred in law by confusing the requirements resulting from the first and fourth paragraphs of Article 263 TFEU, respectively.
- 85 In the light of all the foregoing considerations, the second and third grounds of appeal must be upheld and the order under appeal must be set aside.

The action before the General Court

- 86 In accordance with Article 61 of the Statute of the Court of Justice of the European Union, if the appeal is well founded, the Court of Justice is to quash the decision of the General Court. It may then itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the General Court for judgment.
- 87 In the present case, as regards the first to third grounds of inadmissibility raised by the Commission during the proceedings before the General Court, by which the Commission claimed that the decision at issue did not exist, did not constitute an act against which an action for annulment may be brought and was not attributable to it, for the purposes of the fourth paragraph of Article 263 TFEU, the state of the proceedings permits final judgment to be given.
- 88 As regards, more specifically, the second ground of inadmissibility raised by the Commission during the proceedings at first instance, alleging that the decision at issue did not constitute an act against which an action for annulment may be brought under Article 263 TFEU, it follows from paragraph 50 above that the examination of that ground requires an assessment of the effects of that decision in the light, in particular, of its actual content. However, it is common ground that that decision was not placed on the file at first instance and the General Court did not ask the parties to produce it.
- 89 In those circumstances, by a measure of organisation of procedure, taken on 10 September 2025, pursuant to Article 62(1) of the Rules of Procedure, the Commission was asked to reply to questions in writing regarding, inter alia, the production of an extract from the decision at issue, in so far as that decision related to the two aircraft, or, in the event that that decision did not exist, the production of the list at issue provided by the Commission to Eurocontrol, referred to in Eurocontrol's email of 20 March 2023.
- 90 On 7 October 2025, the Commission replied to the questions put by the Court, stating that there was no 'decision' and producing an extract from the list at issue, which was, nevertheless, according to the Commission, not in the nature of a 'decision'.
- 91 Following that measure of organisation of procedure and the hearing held on 17 December 2025, during which the parties had the opportunity to present their views on the relevant matters of fact and of law for

the purpose of analysing whether the decision at issue is an act amenable to review, the Court of Justice therefore has the information necessary to give final judgment on the second ground of inadmissibility raised by the Commission during the proceedings at first instance.

92 In its reply to that measure of organisation of procedure, the Commission produced a non-confidential extract from the list at issue, which contains the listing of the two aircraft, worded, for each of those two aircraft, as follows:

‘22/02/2023: [Commission] decision to list aircraft in Confirmed list, based on evidence gathered by German Authorities during Inspection and other resources; Global 8 Airlines ... is providing services to passengers, flights organised from Russia via Minsk to [the European Union]; Intra-Russia, Intra-EU. Such operation also breaks “Safety list” rules ...’

93 That extract expressly refers to a ‘decision’, whose author is the ‘Commission’, dated ‘22 February 2023’, relating to the inclusion of the two aircraft on that list, that sets out the grounds for including those two aircraft on the list at issue, identifying the actual and specific reasons why those two aircraft had to be subject to restrictive measures.

94 Therefore, it follows both from that extract, which refers to the decision at issue, and from the grounds set out in paragraphs 59 to 80 above, that that decision constitutes an act that has binding legal effects vis-à-vis third parties, irrespective of whether that decision had the effect of bringing about a distinct change in the appellant’s legal position.

95 In so far as the Commission argued at the hearing before the Court of Justice that no ‘decision’ specifically imposing on the two aircraft a flight ban as laid down in Article 3d of Regulation No 833/2014 had been adopted by its College of Commissioners, suffice it to recall that, in accordance with settled case-law, the fact that an act does not take the form of a formal Commission decision is not decisive for its classification as an act open to challenge for the purposes of Article 263 TFEU (see, to that effect, judgments of 11 November 1981, *IBM v Commission*, 60/81, EU:C:1981:264, paragraph 9, and of 17 July 2008, *Athinaiki Techniki v Commission*, C-521/06 P, EU:C:2008:422, paragraphs 44 and 59).

96 Consequently, the second ground of inadmissibility raised by the Commission, alleging that the decision at issue did not constitute an act against which an action for annulment may be brought under Article 263 TFEU, and, therefore, the first ground of inadmissibility raised by that institution, alleging that that decision did not exist and, in any event, could not be identified, must be rejected, as must the third ground of inadmissibility put forward by that institution, alleging that the presumed effects of that decision were not attributable to the Commission but to the Member States.

97 By contrast, the state of the proceedings does not permit final judgment to be given as regards the fourth, fifth and, in part, sixth grounds of inadmissibility raised by the Commission, the conditions of admissibility laid down in the fourth paragraph of Article 263 TFEU and the matter of the Commission’s competence to adopt the decision at issue, since those aspects of the dispute involve legal and factual assessments which were not made by the General Court and since those aspects have not been subject to an adversarial procedure in the appeal proceedings.

98 As regards, more specifically, the sixth ground of inadmissibility raised by the Commission, the General Court examined only the Commission’s argument that the action was devoid of purpose in the light of the general operating ban in the European Union, on safety grounds, imposed on air carriers entered in the register of the Kyrgyz Republic, under Commission Regulation (EC) No 1543/2006 of 12 October 2006 amending Regulation (EC) No 474/2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council and as amended by Regulation (EC) No 910/2006 (OJ 2006 L 283, p. 27), an argument which the General Court rejected in paragraph 34 of the order under appeal, but which does not exhaust that ground of inadmissibility.

99 Furthermore, as regards the fourth and fifth grounds of inadmissibility raised by the Commission, the General Court did not examine the arguments put forward by the Commission, according to which, first, the action at first instance had been brought against the wrong act and before a court which had no jurisdiction to hear it and, second, and in any event, even if it had been directed against the relevant act, that action would have had to be dismissed on the ground of being time barred.

100 Nor did the General Court examine, first, the conditions governing admissibility laid down in the fourth paragraph of Article 263 TFEU, which raise an absolute bar to proceeding which the EU Courts may consider at any time, even of their own motion (judgment of 27 February 2014, *Stichting Woonpunt and Others v Commission*, C-132/12 P, EU:C:2014:100, paragraph 45 and the case-law cited), or, second, the substance of the action brought before it and, in particular, the competence of the authority which adopted the act, which itself constitutes an absolute bar to proceeding (judgment of 14 December 2016, *SV Capital v EBA*, C-577/15 P, EU:C:2016:947, paragraph 32 and the case-law cited).

101 Accordingly, the objection of inadmissibility raised by the Commission must be rejected in so far as the first to third grounds thereof are concerned and the case must be referred back to the General Court as to the remainder.

Costs

102 Since the case is being referred back to the General Court, the costs relating to the appeal proceedings must be reserved.

On those grounds, the Court (First Chamber) hereby:

- 1. Sets aside the order of the General Court of the European Union of 29 April 2024, *Global 8 Airlines v Commission* (T-277/23, EU:T:2024:285);**
- 2. Rejects the objection of inadmissibility raised by the European Commission in so far as the first to third grounds thereof are concerned;**
- 3. Refers the case back to the General Court of the European Union as to the remainder;**
- 4. Reserves the costs.**

Biltgen
Kumin

von Danwitz

Gervasoni
Ziemele

Delivered in open court in Luxembourg on 8 October 2026.

V. Di Bucci

F. Biltgen

Registrar

President of the Chamber

* Language of the case: English.