

BoA Decision in Appeal Case AP/20/2023

**DECISION
OF THE EASA BOARD OF APPEAL
OF 7 SEPTEMBER 2023¹**

In Appeal Case AP/20/2023 lodged by

Fly Baghdad Company for Aviation Ltd

435 68 Ave NW
T2K 5Z3 Calgary
Canada

(**'the Appellant'**),² represented by [REDACTED]

against

The European Union Aviation Safety Agency

Konrad Adenauer Ufer 3
50668 Cologne
Germany

(**'the Agency'** or **'EASA'**), represented by Arthur Beckand

Appeal contesting EASA's decision of 22 December 2022 to refuse the Appellant's application No. IRQ-0005 of 10 February 2022 for a Third Country Operator (**'TCO'**) authorisation (**'the contested decision'**) and requesting EASA not to include the Appellant in the 'EU Air Safety List' (**'the Appeal'**).

THE EASA BOARD OF APPEAL

Composed of:

Dr. Michael Sánchez Rydelski (Chairman and Rapporteur)
Dr. Helmut Stärker (Member)
Humberto Vieira Rijo (Member)

Registrar: Loïc Rochas

gives, on 7 September 2023, the following decision:

The Appeal against EASA's decision of 22 December 2022 to refuse the Appellant's application No. IRQ-0005 of 10 February 2022 for a TCO authorisation is rejected as unfounded and the Appellant's request not to be included in the 'EU Air Safety List' is rejected as inadmissible.

¹ Language of the proceedings: English.

² The Appellant is also referred to as Fly Baghdad Airlines.

I. BACKGROUND

1. The Appellant is a privately owned operator established in Iraq and certified by the Iraqi Civil Aviation Authority. The head office is located in Baghdad, Iraq. The Appellant was founded in 2014 [REDACTED]. The Appellant mainly operates scheduled passenger services under its own code on five domestic and forty-five international routes. The destinations the Appellant wished to operate in the European Union were: [REDACTED]
[REDACTED]
2. On 10 February 2022, the Appellant applied to the Agency for a TCO authorisation (registered as application No. IRQ-0005), in accordance with TCO.300 of Annex 1 ('Part-TCO') to Commission Regulation (EU) No. 452/2014.
3. The Agency carried out a TCO assessment to determine whether the Appellant complied with the applicable requirements in Part-TCO. The assessment was completed in accordance with an agreed programme and covered quality and safety management, airworthiness and flight operations.
4. The TCO assessment was primarily based on documentation provided by the Appellant, followed by a physical technical consultation meeting, which took place on 28 September 2022. As a follow-up to the technical meeting, the Agency requested supporting documents/evidence, which the Appellant submitted on 15 November 2022.
5. As a result of the analysis of the information obtained during the initial evaluation procedure, the Agency raised one 'Level 1' finding and ten 'Level 2' findings pursuant to ART.230 (b) and (c) of Annex 2 ('Part-ART') to Commission Regulation (EU) No. 452/2014.
6. The Level 1 finding (IRQ-0005/TR-2022-01/04) stated:³

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].⁴

7. On 24 November 2022, the Agency notified the Appellant of those findings. In addition, the findings were also made available through the electronic TCO Web Interface to which the Appellant had access. Those communications explained to the Appellant why the findings were raised and indicated the requirements to which they related.

³ Reference was made in this context to Annex 6 Part I of the Chicago Convention, Chapter 4, Paragraph 4.10.2(a), in conjunction with Chapter 4, Paragraph 4.10.8.

⁴ [REDACTED].

8. The Appellant was requested to submit to the Agency by 22 December 2022 a Corrective Action Plan ('CAP'), a root cause analysis and proposed implementation timelines to address these findings. The Appellant was notified that the Agency would initiate further steps to refuse the application if an acceptable CAP for the Level 1 finding was not presented by 22 December 2022. The Appellant proposed a CAP on 16 December 2022.
9. On 22 December 2022, the Agency notified the Appellant of its decision to refuse application No. IRQ-0005 of 10 February 2022 for a TCO authorisation, due to the failure of the Appellant to demonstrate compliance with the applicable requirements of TCO.200 (a)(1) of Annex 1 (Part-TCO) of Regulation (EU) No. 452/2014.
10. In the contested decision, the Agency explained why the Appellant's proposed CAP for the Level 1 finding was considered insufficient. In that regard, the contested decision stated:

[REDACTED]

[REDACTED]

11. [REDACTED]

12. In light of these circumstances, the Agency stated that it could not establish a sufficient level of confidence in the Appellant and concluded that further assessment of the application at that stage would not result in the issuance of an authorisation. Therefore, the application for a TCO authorisation was refused pursuant to ART.200 (e)(1) of Part-ART.

II. PROCEDURE

13. On 11 February 2023, the Appellant lodged an appeal against the contested decision, together with the statement of grounds (**'the Appeal'**). In March 2023, the Appellant paid the appeal charges.
14. On 26 March 2023, the Appellant provided additional arguments to substantiate its appeal, following a request of the EASA Board of Appeal.
15. On 29 March 2023, the Registrar of the Board of Appeal formally notified the Executive Director of the Agency of the Appeal and requested, on behalf of the Board of Appeal, an interlocutory revision in accordance with Article 111 of Regulation (EU) 2018/1139.
16. On 25 May 2023, the Agency handed down its interlocutory revision. The interlocutory revision concluded that the Appeal was unfounded. The Agency therefore upheld the contested decision.
17. On 26 May 2023, the Registrar of the Board of Appeal informed the Appellant of the outcome of the interlocutory revision, by way of transmitting the Agency's interlocutory revision opinion, and invited the Appellant to submit a reply to that opinion by 26 June 2023.
18. On 21 June 2023, the Appellant submitted its reply to the interlocutory revision, which was forwarded to the Agency, with an invitation to submit a rejoinder.
19. On 26 June 2023, the Agency informed the Board of Appeal that in light of the Appellant's previous submissions, it had no further comments on the substance of the appeal. The Agency's final written submission was sent to the Appellant.
20. On 29 June 2023, the Board of Appeal informed the Appellant and the Agency that it did not consider it necessary to have an oral hearing in the present appeal case, to which both the Agency and the Appellant agreed.

III. MAIN PROVISIONS AT ISSUE

21. According to Article 108(1) of Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No. 2111/2005, (EC) No. 1008/2008, (EU) No. 996/2010, (EU) No. 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No. 552/2004 and (EC) No. 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No. 3922/91 (**'the Basic Regulation'**),⁵

⁵ OJ L 212, 22.8.2018, page 1.

an appeal may be brought against decisions of the Agency taken pursuant to, *inter alia*, Article 82 of the Basic Regulation.

22. Article 110 of the Basic Regulation, entitled 'Time limit and form', reads:

The appeal, together with a substantiated statement of grounds thereof, shall be filed in writing at the Board of Appeal's secretariat within two months of the notification of the measure to the person concerned or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

23. Article 82 of the Basic Regulation, entitled 'Third-country aircraft operators and international safety oversight', provides in its first and third paragraph:

(1) The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the authorisations and declarations for the operations of aircraft and for aircraft operators referred to in Article 60 unless a Member State carries out the functions and duties of the state of operator in respect of the aircraft operators concerned.

...

(3) The Agency shall, upon request, assist the Commission in the implementation of Regulation (EC) No 2111/2005 by conducting all the necessary safety assessments, including on-site visits, of third country operators and authorities responsible for their oversight. It shall provide the results of those assessments, with appropriate recommendations, to the Commission.

24. Article 3 of Commission Regulation (EU) No. 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No. 216/2008 of the European Parliament and of the Council ('**Regulation 452/2014**'),⁶ entitled 'Authorisations', states:

Third country operators shall only engage in commercial air transport operations within, into or out of the territory subject to the provisions of the Treaties if they comply with the requirements of Annex 1 and hold an authorisation issued by the Agency in accordance with Annex 2 to this Regulation.

⁶ OJ L 133, 6.5.2014, page 12. As amended by: Commission Regulation (EU) 2016/1158 of 15 July 2016 amending Regulation (EU) No. 452/2014 as regards the deletion of templates for the authorisations issued to third country operators and for the associated specifications (OJ L192, 16.7.2016, page 12); and Commission Delegated Regulation (EU) 2023/659 of 2 December 2022 amending Regulation (EU) No. 452/2014 as regards the technical requirements and administrative procedures related to air operations of third country operators (OJ L 83, 22.3.2023, page 38).

25. TCO.200 (a)(1) of Annex 1 (Part-TCO) of Regulation 452/2014, entitled 'General requirements', provides:

(a) The third country operator shall comply with:

(1) the applicable standards contained in the Annexes to the Convention on International Civil Aviation, in particular Annexes 1 (Personnel licensing), 2 (Rules of the Air), 6 (Operation of Aircraft), as applicable, 8 (Airworthiness of Aircraft), 18 (Dangerous Goods), and 19 (Safety Management); ...

26. TCO.300 of Annex 1 (Part-TCO) of Regulation 452/2014, entitled 'Application for an authorisation', states in lit. (a):

(a) Prior to engaging in commercial air transport operations under Part-TCO the third country operator shall apply for and obtain an authorisation issued by the Agency.

27. ART.110 of Annex 2 (Part-ART) to Regulation 452/2014, entitled 'Exchange of information', provides in lit. (a)(1):

(a) The Agency shall inform the Commission and the Member States when it:

(1) rejects an application for an authorisation; ...

28. ART.200 of Annex 2 (Part-ART) to Regulation 452/2014, entitled 'Initial evaluation procedure - general', provides in lit. (a) and (e)(1):

(a) Upon receiving an application for an authorisation in accordance with TCO.300, the Agency shall assess the third country operator's compliance with applicable requirements in Part-TCO.

...

(e) When the Agency cannot establish a sufficient level of confidence in the third country operator and/or the State of the operator during the initial assessment, it shall:

(1) reject the application when the outcome of the assessment indicates that further assessment will not result in the issue of an authorisation; ...

29. ART.230 of Annex 2 (Part-ART) to Regulation 452/2014, entitled 'Findings and corrective actions', provides in lit. (b), (c), (d) and (e):

(b) A level 1 finding shall be issued by the Agency when any significant non-compliance is detected with the applicable requirements of Regulation (EU) 2018/1139 and Part-TCO, or with the terms of the authorisation that lowers safety or seriously hazards flight safety.

The level 1 findings shall include, but are not limited to:

(1) failure to give the Agency access to the third country operator's facilities as defined in TCO.115(b) of Annex 1 during normal operating hours and after a written request;

(2) implementing changes requiring prior approval without having received an approval as defined in ART.210;

(3) obtaining or maintaining the validity of the authorisation by falsification of documentary evidence;

(4) evidence of malpractice or fraudulent use of the authorisation;

(5) presence of multiple level 2 findings raised during an assessment, indicating systematic weakness that lowers safety or seriously hazards flight safety.

(c) A level 2 finding shall be issued by the Agency when any non-compliance is detected with the applicable requirements of Regulation (EU) 2018/1139 and Part-TCO, or with the terms of the authorisation which could lower safety or hazard flight safety.

(d) When a finding is detected during monitoring, the Agency shall, without prejudice to any additional action required by Regulation (EU) 2018/1139 and its delegated and implementing acts, communicate the finding to the third country operator in writing and request corrective action to eliminate or mitigate the root cause in order to prevent recurrence of the non-compliance(s) identified.

(e) In the case of level 2 findings, the Agency shall:

(1) grant the third country operator a corrective action implementation period appropriate to the nature of the finding. At the end of the period, and subject to the nature of the finding, the Agency may extend the period subject to a second satisfactory corrective action plan agreed by the Agency; and

(2) assess the corrective action and implementation plan proposed by the third country operator. If the assessment concludes that it contains root cause(s) analysis and course(s) of action to effectively eliminate or mitigate the root cause(s) to prevent recurrence of the non-compliance(s), the corrective action and implementation plan shall be accepted.

If the third country operator fails to submit an acceptable corrective action plan, as referred to in (e)(1), or to perform the corrective action within the time period accepted or extended by the Agency, the finding shall be raised to a level 1 finding and action taken as laid down in point ART.235(a).

IV. SUBMISSIONS OF THE PARTIES

The Appellant

- 30. The Appellant requests the Agency to either cancel the TCO application that the Appellant submitted on 10 February 2022 or to revoke in whole or in part the contested decision. In addition, the Appellant requests the Agency not to include it in the ‘EU Air Safety List’.

- 31. The Appellant states that since the Agency’s assessment in September 2022, the Appellant has taken steps to address non-compliance [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- 32. In light of these efforts, the Appellant requests the Agency, when acting as technical advisor to the Air Safety Committee, not to consider or propose that the Appellant be included in the ‘EU Air Safety List’, but to wait until an evaluation of the implementation of the new CAP has been carried out.

- 33. However, the Appellant accepts the Agency’s findings as the result of TCO assessment and acknowledges its failure to propose an appropriate CAP for the 11 findings within the set deadline, together with a root cause analysis and proposed implementation timelines.

The Agency

- 34. The Agency submits that the Appellant’s request to cancel its TCO application is not legally possible since the administrative procedure has been concluded with a formal decision to refuse the application. In the Agency’s view, the Appellant should have decided to cancel its TCO application before the Agency formally decided to reject that application. Once the decision to refuse the application is made, the Appellant can only challenge the decision taken by the Agency if it believes that the decision was based on errors or made unfairly.

- 35. The Agency takes note that the Appellant has not contested the findings raised by the Agency nor submitted evidence that the Agency’s assessment concerning the CAP was done incorrectly. On the contrary, the Appellant expressed in its submissions during the appeal proceedings its acceptance of the TCO assessment made by the Agency and acknowledged its failure to propose an appropriate CAP. Consequently, the Agency takes the view that there is no justification or valid reason to rectify the contested decision.

36. The Agency also points out that concerning the Appellant's commitment to correct the deficiencies identified by the Agency, the Appellant has the right to submit a new application for a TCO authorisation to the Agency in accordance with Regulation 452/2014 once the Appellant is confident that it has effectively implemented corrective actions necessary to ensure compliance with applicable standards of the Annexes to the Chicago Convention. However, the Agency stresses that such a new application for a TCO authorisation should only be submitted to the Agency at the earliest after 22 September 2023.⁷
37. Finally, the Agency takes note of the Appellant's request not to be included in the 'EU Air Safety List'. In that regard, the Agency points out that the Appellant confused two EU aviation safety framework procedures, namely the 'EU Air Safety List', which is governed by Regulation (EC) No. 2111/2005, and the TCO authorisation procedures, which are governed by Regulation 452/2014. According to the Agency, these are two different legal regimes under the responsibility of two different entities, namely the European Commission and the Agency, respectively. The Agency therefore submits that the Appellant's request is ineffective.

V. FINDINGS OF THE BOARD OF APPEAL

Admissibility

Concerning the Agency's refusal for a TCO authorisation

38. According to Article 108(1) of the Basic Regulation, an appeal may be brought against decisions the Agency has adopted pursuant to, *inter alia*, Article 82 of the same Regulation. The contested decision is an Agency decision taken pursuant to Article 82(1) of the Basic Regulation and is therefore subject to appeal, as set forth in Article 108(1) of the same Regulation.
39. Under Article 109 of the Basic Regulation, the Appellant, as the addressee of the contested measure, is entitled to appeal the contested decision.
40. The Appellant paid the appeal charges in accordance with Article 17(3) of the Regulation (EU) 2019/2153.⁸
41. Article 110 of the Basic Regulation, entitled 'Time limit and form', provides that the appeal, together with a substantiated statement of grounds thereof, shall

⁷ In this context reference was made to point ART.200 (f) of Annex 2 to Regulation 452/2014, which states: *When an application from a third country operator was previously rejected or authorisation revoked, the Agency may decide to wait 9 months from the date of revocation or rejection before starting to process the new application.*

⁸ Commission Implementing Regulation (EU) 2019/2153 of 16 December 2019 on the fees and charges levied by the European Union Aviation Safety Agency, and repealing Regulation (EU) No. 319/2014 (OJ L 327, 17.12.2019, page 36).

be filed in writing at the Board of Appeal's secretariat⁹ within two months of the notification of the measure to the person concerned, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

42. The Appellant was notified of the contested decision on 22 December 2022. The Appeal, together with a statement of grounds, was filed in writing at the Board of Appeal's secretariat on 11 February 2023 and was therefore within the two-month time limit laid down in Article 110 of the Basic Regulation.
43. Against this background, the Appeal concerning the Agency's refusal for a TCO authorisation is therefore admissible.

Concerning the request not to be included in the 'EU Air Safety List'

44. The Board of Appeal turns now to the Appellant's request not to be included in the 'EU Air Safety List' and to request the Agency, when acting as technical advisor to the EU Air Safety Committee, not to consider or propose that the Appellant should be included in the 'EU Air Safety List'.
45. The Board of Appeal observes that the 'EU Air Safety List' is a list of air carriers which do not fulfil international safety standards and which are therefore either fully banned from operating commercial air transport to, in and from the European Union, or are subject to certain restrictions when performing such operations. The update of the 'EU Air Safety List' is regulated by Regulation (EC) No. 2111/2005¹⁰ and falls, according to Article 4(2) of Regulation (EC) No. 2111/2005, within the final responsibility of the European Commission.
46. In updating the list, the European Commission is assisted by the EU Air Safety Committee ('**ASC**'), which comprises aviation safety experts from all EU Member States and is chaired by the European Commission, with support from the Agency, as technical advisor. Acting on a proposal by the European Commission, the ASC delivers its opinion by a qualified majority. The Agency has no voting rights in the ASC. The proposed measures are then subject to a scrutiny review by the European Parliament and the EU Council before final adoption by the European Commission and the subsequent publication in the Official Journal of the European Union. The legal acts updating the 'EU Air Safety List' are Commission Implementing Regulations.¹¹

⁹ Article 110 of the Basic Regulation refers to the "Board of Appeal's secretariat". However, the function of the "secretariat" is performed by the Board of Appeal's Registry.

¹⁰ Regulation (EC) No. 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, page 15), as amended.

¹¹ See for example: Commission Implementing Regulation (EU) 2023/1111 of 6 June 2023 amending Regulation (EC) No. 474/2006 as regards the list of air carriers banned from operating or subject to operational restrictions within the Union (OJ L 147, 7.6.2023, page 142).

47. According to Article 108(1) of the Basic Regulation, an appeal may be brought against decisions the Agency has adopted pursuant to Articles 64, 65, 76(6), 77 to 83, 85 or 126 of that Regulation. Consequently, the Board of Appeal has only jurisdiction over decisions adopted by the Agency, but not over Commission Implementing Regulations. In any event, no Commission Implementing Regulation, including the Appellant in the 'EU Air Safety List', has been adopted so far.
48. The Board of Appeal observes further that in accordance with Article 82(3) of the Basic Regulation, when requested by the European Commission to assist it in the implementation of Regulation (EC) No. 2111/2005, for example by conducting all the necessary safety assessments, including on-site visits, of third country operators and authorities responsible for their oversight, the Agency provides the results of those assessments, with appropriate recommendations, to the European Commission. In that regard, the Board of Appeal notes that the Agency only makes 'recommendations' and that the final decision on whether to include an air carrier in the 'EU Air Safety List' is ultimately up to the European Commission. Hence, the Agency serves as a technical adviser. The Board of Appeal observes also that the Agency only informs the European Commission, as required by ART.110 (a)(1) of Part-ART, when it refuses an application for a TCO authorisation.
49. Consequently, the Agency's functions and tasks in the context of Regulation (EC) No. 2111/2005 do not constitute decisions the Agency adopts pursuant to, *inter alia*, Article 82(1) and (2) of the Basic Regulation. The Agency's 'recommendations', according to Article 82(3) of the Basic Regulation, are internal preparatory steps without direct effect on air carriers, which may lead to the adoption of a final Commission Implementing Regulation. However, such tasks and functions of the Agency do not constitute decisions taken by the Agency within the meaning of Article 108(1) of the Basic Regulation.
50. Against this background, the Appeal concerning the Appellant's request not to be included in the 'EU Air Safety List' is therefore inadmissible.

Substance

51. The Board of Appeal turns now to the Appellant's request that the Agency either cancels the TCO application that the Appellant submitted on 10 February 2022 or that it revokes in whole or in part the contested decision.
52. The Board of Appeal remarks at the outset that, according to Regulation 452/2014, the Agency is responsible for issuing, continuously monitoring and, if necessary, taking enforcement actions on authorisations issued to third-country operators that engage in commercial air transport operations into, within or out of the territory of the European Union.
53. According to Article 3 of Regulation 452/2014, third country operators are only allowed to engage in commercial air transport operations within, into or out of the territory of the European Union, if they comply with the requirements of

Annex 1 (Part-TCO) and hold an authorisation issued by the Agency in accordance with Annex 2 (Part-ART) to this Regulation.

54. In accordance with ART.200 (a) of Part-ART, upon receiving an application for authorisation in accordance with TCO.300 of Part-TCO, the Agency must assess the third country operator's compliance with applicable requirements in Part-TCO.
55. Pursuant to TCO.200 (a)(1) of Part-TCO, a third country operator must comply with the applicable standards contained in the Annexes to the Chicago Convention when engaged in commercial air transport operations into, within or out of the territory of European Union.
56. As a result of the analysis of the information obtained during the initial evaluation procedure, the Agency raised one 'Level 1' finding and ten 'Level 2' findings pursuant to ART.230 (b) and (c) of Part-ART. The Board of Appeal observes that all findings were well substantiated and documented. The Board of Appeal further notes that the Appellant has not disputed these findings. On the contrary, the Appellant accepted the findings made by the Agency as a result of the TCO assessment.
57. In line with ART.230 (d) of Part-ART, the Agency communicated these findings to the Appellant in writing and requested it to submit a CAP to address all Level 1 and Level 2 findings by 22 December 2022. The Agency also informed the Appellant in its letter dated 24 November 2022 that failure to properly address the identified non-compliances would result in further steps to refuse the application.
58. The CAP proposed by the Appellant was considered insufficient by the Agency to address the Level 1 finding and all the Level 2 findings. Subsequently, the Level 1 finding remained open, and all the Level 2 findings were reclassified as Level 1 findings, in accordance with ART.230 (e) of Part-ART. Consequently, the Applicant failed to comply with applicable standards in the Annexes to the Chicago Convention as referred to in TCO.200 (a)(1) of Part-TCO and did not establish a timely and successful CAP submitted in response to identified non-compliances. The Board of Appeal notes that the Appellant acknowledged its failure to propose an appropriate CAP for the 11 findings within the set deadline, together with a root cause analysis and proposed implementation timelines. The Appellant has not disputed that the proposed CAP was insufficient.
59. In accordance with ART.200 (e)(1) of Part-ART, if the Agency cannot establish a sufficient level of confidence in the third country operator during the initial assessment, it refuses the application when the outcome of the assessment indicates that further assessment will not result in the issue of authorisation.
60. In light of the above mentioned circumstances, the Agency was therefore correct in its conclusion that a sufficient level of confidence in the Appellant during the initial assessment could not be established and was therefore

equally correct in its decision to refuse the application, as required by ART.200 (e)(1) of Part-ART, since the Appellant failed to demonstrate compliance with the applicable requirements of Part-TCO, notably TCO.200 (a)(1) thereof.

61. Finally, the Appellant's request to cancel the TCO application submitted on 10 February 2022 is legally not possible, since the administrative procedure was concluded with a formal decision to refuse the application.
62. Against this background, the Appeal is unfounded.

VI. CONCLUSION

63. The examination of the Appeal has not disclosed any reasons for allowing the Appeal.
64. Thus, the Appeal is rejected as partly inadmissible and partly unfounded.
65. The decision is unanimous.

VII. JUDICIAL REVIEW

66. This decision can be appealed to the General Court of the European Union, in accordance with Article 263 of the Treaty on the Functioning of the European Union in conjunction with Article 114 of the Basic Regulation. Any appeal must be made within two months of the notification of this decision to the Appellant.

Signatures of the Board of Appeal

<signed>

<signed>

<signed>

Dr. Michael Sánchez Rydelski

Dr. Helmut Stärker

Humberto Vieira Rijo

Adopted on 7 September 2023

Registrar:

<signed>

Loïc Rochas