



C/2024/2740

29.4.2024

Appeal brought on 1 March 2024 by European Commission against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 20 December 2023 in Case T-216/21, Ryanair and Malta Air v Commission (Air France; COVID-19)

(Case C-166/24 P)

(C/2024/2740)

Language of the case: English

Parties

Appellant: European Commission (represented by: L. Flynn, J. Carpi Badía and M. Farley, acting as Agents)

Other parties to the proceedings: Ryanair DAC, Malta Air Ltd., Federal Republic of Germany, French Republic, Kingdom of the Netherlands, Air France-KLM, Société Air France

Form of order sought

The appellant claims that the Court should:

- grant the appeal and set aside the judgment under appeal;
- make use of its power under the second sentence of the first paragraph of Article 61 of the Statute of the Court of Justice to give final judgment in the matter;
- alternatively, refer the case back to the General Court for consideration of the pleas not already assessed; and
- reserve the costs of the present proceedings, if it refers the case back to the General Court, or order the respondents to pay the costs, if it gives final judgment in the matter.

Pleas in law and main arguments

The appellant puts forward two grounds of appeal.

First, the General Court applied an incorrect standard for defining when a beneficiary of aid is limited to only one or several entities within a corporate group for the purposes of the EU State aid rules. In particular, the General Court committed an error of law when concluding that factors merely indicating that: (i) as a general matter, Air France-KLM, as ultimate parent company, can exercise a degree of control over Société Air France (Air France) and Koninklijke Luchtvaart Maatschappij NV (KLM) and their subsidiaries; and (ii) there is a certain degree of integration, coordination and cooperation between Air France, Air France-KLM and KLM, were sufficient to demonstrate that Air France-KLM and KLM actually benefitted from the aid – and, thus, should be considered as a beneficiary for the purposes of the EU State aid rules – in a situation where the precise content and terms on which the aid was granted explicitly prevent the aid from being used for Air France-KLM's and KLM's benefit.

Second, the General Court impermissibly substituted its own assessment for that of the Commission when determining whether only certain companies within the Air France-KLM Group constitute the beneficiary of the aid measure – an area which the Union Courts have recognised as requiring complex economic assessments, and in respect of which the Commission enjoys a broad margin of discretion – without adequately establishing that the Commission's reasoning was vitiated by a manifest error of assessment