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Appeal brought on 8 March 2024 by Air France-KLM and Société Air France 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

(Case C-192/24 P)

(C/2024/2751)

Language of the case: English

Parties

Appellants: Air France-KLM, Société Air France (represented by: J. Derenne, D. Vallindas, avocats, A. Álvarez Vidal, abogada)

Other parties to the proceedings: Ryanair DAC, Malta Air ltd., European Commission, Federal Republic of Germany, French Republic, Kingdom of the Netherlands

Form of order sought

The Appellants claim that the Court should:

— 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 of the European Union to give final judgment in the matter and dismiss the action for annulment lodged in Case T-216/21;

— 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 Ryanair DAC and Malta Air ltd. to pay the costs of the appeal proceedings and of those in first instance, if it gives final judgment in the matter.

Pleas in law and main arguments

First Plea: the General Court applied an incorrect standard for the determination of the aid beneficiary within a corporate group and, therefore, wrongly concluded that the Air France-KLM Holding and its subsidiaries, including KLM and its subsidiaries, could not be excluded from the beneficiary of the aid measure at issue.

Second Plea: the General Court substituted its own assessment of the determination of the aid beneficiary without adequately establishing a manifest error of assessment of the contested decision (1) of the European Commission.

Third Plea: the General Court committed an error in law in its interpretation of the notions of indirect advantage and secondary effects in the State aid field.

(1) Commission Decision C(2020) 2983 final of 4 May 2020 on State Aid SA.57082 (2020/N) – France – COVID-19 – Temporary Framework 107(3)(b) – Guarantee and shareholder loan for Air France, as corrected by Decisions C(2020) 9384 final of 17 December 2020 and C(2021) 5701 final of 26 July 2021.