



Reports of Cases

Judgment of the General Court (Sixth Chamber, Extended Composition) of 13 December 2018 — Ryanair and Airport Marketing Services v Commission

(Case T-77/16)

(State aid — Agreements concluded with the airline Ryanair and its subsidiary Airport Marketing Services — Airport services — Marketing services — Decision declaring the aid incompatible with the internal market and ordering its recovery — Notion of State aid — Advantage — Private investor test — Recovery — Selectivity)

1. *State aid — Concept — Selective nature of the measure — Discounts granted to all airlines using an airport — Not selective in character*

(Art. 107(1) TFEU)

(see paras 31, 39, 42-45)

2. *State aid — Concept — Assessment according to the private investor test — Complex evaluation of economic matters — Discretion of the Commission — Judicial review — Limits*

(Art. 107(1) TFEU)

(see para. 51)

3. *State aid — Concept — Assessment according to the private investor test — Assessment of all factors relevant to the transaction at issue and its context — Burden of proof on the Commission — Scope*

(Art. 107(1) TFEU)

(see paras 50, 52-66)

4. *Judicial proceedings — Introduction of new pleas during the proceedings — Conditions — Amplification of an existing plea — Admissibility*

(Rules of Procedure of the General Court, Arts 177(1)(d) and 84(1))

(see para. 57)

Re:

Action under Article 263 TFEU for partial annulment of Commission Decision (EU) 2016/152 of 1 October 2014 on State aid SA 27339 (12/C) (ex 11/NN) implemented by Germany for Zweibrücken airport and airlines using the airport (OJ 2016 L 34, p. 68).

Operative part

The Court:

1. Annuls Article 1(2) of Commission Decision (EU) 2016/152 of 1 October 2014 on State aid SA 27339 (12/C) (ex 11/NN) implemented by Germany for Zweibrücken airport and airlines using the airport, and Articles 3, 4 and 5 of that decision, in so far as they concern Ryanair DAC and Airport Marketing Services Ltd;
2. Orders the European Commission to bear its own costs and to pay the costs incurred by Ryanair and Airport Marketing Services;
3. Orders the Council of the European Union to pay its own costs;
4. Orders the Republic of Latvia to bear its own costs.