



Reports of Cases

Case C-758/21 P

**Ryanair DAC
and
Airport Marketing Services Ltd
v
European Commission**

Judgment of the Court (Tenth Chamber) of 23 November 2023

(Appeal – State aid – Measures implemented by the Republic of Austria for Klagenfurt Airport, Ryanair and other airlines using that airport – Decision declaring the aid measures to be incompatible in part with the internal market – Article 85(3) of the Rules of Procedure of the General Court of the European Union – Evidence submitted to the General Court after the written part of the procedure has been closed – Admissibility – Regulation (EU) 2015/1589 – Article 17(1) and (2) – Powers of the European Commission to recover aid – Limitation period – Degree of precision with respect to actions that interrupt that period – Obligation to state reasons – Distortion of the clear sense of the evidence – Data relevant for determining the amount of aid to recover)

1. *Judicial proceedings – Time limit for producing evidence – Article 85(3) of the Rules of Procedure of the General Court – Submission of evidence before the oral part of the procedure is closed – Whether permissible – Conditions – Late submission that is justified – No justification – Obligation of the General Court to state reasons – Scope (Rules of Procedure of the General Court, Art. 85(3))*

(see paragraphs 37-45)

2. *Judicial proceedings – Time limit for producing evidence – Article 85(3) of the Rules of Procedure of the General Court – Submission of evidence before the oral part of the procedure is closed – Whether permissible – Conditions – Late submission that is justified – Absence of exceptional circumstances justifying the delay in the submission of evidence (Rules of Procedure of the General Court, Art. 85(3))*

(see paragraphs 47, 49)

3. *Aid granted by a Member State – Recovery of unlawful and incompatible aid – Ten-year limitation period laid down in Article 17 of Regulation 2015/1589 – Interruption of the limitation period by several requests for information sent by the Commission to the Member*

State concerned and the beneficiary – Aid measure composed of different agreements – Obligation for the Commission to identify each of those agreements in a specific manner in its requests for information – None
(Art. 108(2) TFEU; Council Regulation 2015/1589, Art. 17)

(see paragraphs 81-88)

4. *Acts of the institutions – Statement of reasons – Obligation – Scope – Commission decision on State aid – Reference to the dates on which the Commission adopted measures capable of interrupting the limitation period provided for in Article 17 of Regulation 2015/1589 – Sufficient statement of reasons*
(Arts 107(1) and 296 TFEU)

(see paragraphs 92-95)

5. *Appeal – Grounds – Incorrect assessment of the facts and evidence – Inadmissibility – Review by the Court of Justice of the assessment of the facts and evidence – Possible only where the clear sense of the evidence has been distorted*
(Art. 256(1), second subpara., TFEU; Statute of the Court of Justice, Art. 58, first para.)

(see paragraphs 109-111, 116, 117, 122, 123, 127-129)

6. *Aid granted by a Member State – Concept – Assessment according to the criterion of the private investor – Assessment in the light of all factors relevant to the operation at issue and its context – Taking into account of the information which was available and the developments which were foreseeable at the time when the decision on the measure in question was taken – Whether factors arising subsequent to the adoption of the measure at issue are to be taken into account – Precluded*
(Art. 107(1) TFEU)

(see paragraphs 146, 150, 154)

See the text of the decision.