



Reports of Cases

Judgment of the General Court (Tenth Chamber) of 18 October 2023 – Ryanair v Commission (Alitalia II; COVID-19)

(Case T-333/21)¹

(State aid – Italian air transport market – Aid granted by Italy to an airline in the context of the COVID-19 pandemic – Direct grant – Decision not to raise any objections – Aid intended to make good the damage caused by an exceptional occurrence – Article 107(2)(b) TFEU – Consideration of earlier aid measures in favour of the same beneficiary which are the subject of pending formal investigations – Assessment of damages – Causal link – Principle of non-discrimination – Free provision of services – Freedom of establishment – Obligation to state reasons)

1. *Aid granted by a Member State – Prohibition – Derogations – Aid compatible with the internal market – Aid to make good the damage caused by natural disasters or exceptional occurrences – Direct grant to an airline to compensate it for the COVID-19 pandemic – Assessment in the light of Article 107(2)(b) TFEU – Taking account of all relevant factors – Earlier aid measures in favour of the same beneficiary but pursuing different objectives – Lack of relevance of those measures*

(Art. 108(2) and (3) TFEU; Council Regulation 2015/1589, Art. 4(3) and (4))

(see paragraphs 23-32)

2. *Aid granted by a Member State – Prohibition – Derogations – Aid compatible with the internal market – Aid to make good the damage caused by natural disasters or exceptional occurrences – Direct grant to an airline to compensate it for the COVID-19 pandemic – Assessment in the light of Article 107(2)(b) TFEU – Criteria – Proportionality of the aid – Assessment of the damage caused by the COVID-19 pandemic to the undertaking in receipt of the aid on the basis of the most recent and appropriate historical data – No manifest error of assessment made by the Commission*

(Art. 107(2)(b) TFEU)

(see paragraphs 45-61)

3. *Aid granted by a Member State – Prohibition – Derogations – Aid compatible with the internal market – Aid to make good the damage caused by natural disasters or exceptional*

¹ OJ C 310, 2.8.2021.

occurrences – Aid measure that does not make good the entirety of the damage caused by an exceptional occurrence – Included

(Arts 107(2)(b) and 108(3), TFEU)

(see paragraphs 106-111)

4. *Aid granted by a Member State – Prohibition – Derogations – Aid compatible with the internal market – Aid to make good the damage caused by natural disasters or exceptional occurrences – Direct grant to an airline to compensate it for the COVID-19 pandemic – Assessment in the light of Article 107(2)(b) TFEU – Criteria – Proportionality of the aid – Obligation to take account of the competitive advantage arising from the aid measure – None*

(Art. 107(2)(b) TFEU)

(see paragraphs 123-125)

5. *Aid granted by a Member State – Prohibition – Derogations – Aid compatible with the internal market – Aid to make good the damage caused by natural disasters or exceptional occurrences – Direct grant to an airline to compensate it for the COVID-19 pandemic – Assessment in the light of Article 107(2)(b) TFEU – Assessment of compatibility with the principle of non-discrimination – Criteria – Objective of the aid – Need for the aid – Proportionality of the aid*

(Arts 18, first para., and 107(2)(b) TFEU)

(see paragraphs 130-134, 136-147)

6. *Aid granted by a Member State – Prohibition – Derogations – Aid compatible with the internal market – Aid to make good the damage caused by natural disasters or exceptional occurrences – Direct grant to an airline to compensate it for the COVID-19 pandemic – Aid compatible with the internal market pursuant to Article 107(2)(b) TFEU – Infringement of the freedom to provide services and the freedom of establishment – None*

(Arts 56, 58(1), 100(2), and 107(2)(b) TFEU; European Parliament and Council Regulation No 1008/2008)

(see paragraphs 148-153)

7. *Aid granted by a Member State – Commission decision not to raise objections in respect of a national measure – Obligation to state reasons – Scope – Account taken of the context and all the legal rules governing the matter*

(Arts 108(3) and 296 TFEU)

(see paragraphs 162-164)

Operative part

The Court:

1. Dismisses the action;
2. Orders Ryanair DAC to bear its own costs and to pay those incurred by the European Commission;
3. Orders the Italian Republic to bear its own costs.