



Reports of Cases

Judgment of the General Court (Ninth Chamber) of 25 November 2014 —

Ryanair v Commission

(Case T-512/11)

(State aid — Aviation sector — Irish air travel tax — Exemption for transit and transfer passengers — Decision finding no State aid — Failure to open the formal investigation procedure — Serious difficulties — Procedural rights of parties concerned)

- 1. Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Decision of the Commission finding no State aid — Action brought by the parties concerned within the meaning of Article 108(2) TFEU — Identification of the subject-matter of the action — Action designed to safeguard the procedural rights of the persons concerned — Pleas concerning the assessment of the information and evidence available to the Commission (Arts 108(2) TFEU and 263, fourth para., TFEU; Council Regulation No 659/1999, Art. 6(1)) (see paras 28, 29, 31, 32)*
- 2. State aid — Examination by the Commission — Preliminary review and main review — Compatibility of aid with the internal market — Difficulties of assessment — Commission's duty to initiate the main review procedure — Serious difficulties — Concept — Objective nature (Arts 107(1) TFEU and 108(2) and (3) TFEU; Council Regulation No 659/1999, Arts 4 and 6(1)) (see paras 57-62)*
- 3. State aid — Examination by the Commission — Preliminary review and main review — Compatibility of aid with the internal market — Difficulties of assessment — Commission's duty to initiate the main review procedure — Serious difficulties — Concept — Objective nature — Burden of proof — Circumstances enabling the existence of such difficulties to be determined (Arts 107(1) TFEU and 108(2) and (3) TFEU; Council Regulation No 659/1999, Art. 4(4)) (see para. 63)*
- 4. State aid — Examination by the Commission — Aid measures not notified but having been the subject-matter of complaints by interested third parties — Obligation on the Commission to terminate the preliminary investigation phase within a reasonable time — Scope — Infringement — Assessment of actual situation (Art. 108(3) TFEU) (see paras 68-74)*

5. *State aid — Examination by the Commission — Preliminary review and main review — Compatibility of aid with the internal market — Difficulties of assessment — Commission's duty to initiate the main review procedure — Circumstances allowing such difficulties to be established — Mere passage of time exceeding the normal duration of a preliminary investigation not sufficient (Arts 107(1) TFEU and 108(2) and (3) TFEU; Council Regulation No 659/1999, Art. 4(4)) (see para. 75)*
6. *State aid — Concept — Grant by the public authorities of favourable tax treatment to certain undertakings — Included — Advantages resulting from a general measure applicable without distinction to all economic operators — Not included (Art. 107(1) TFEU) (see paras 78, 79)*
7. *State aid — Concept — Specific tax measure — Selective nature of the measure — Justification based on the nature or economy of the tax system — Not included (Art. 107(1) TFEU) (see paras 80, 81)*
8. *State aid — Examination by the Commission — Preliminary review and main review — Compatibility of aid with the internal market — Difficulties of assessment — Commission's duty to initiate the main review procedure — Review insufficient and incomplete — Indicators of the existence of serious difficulties (Arts 107(1) TFEU and 108(2) and (3) TFEU; Council Regulation No 659/1999, Art. 4(4)) (see paras 88, 89, 94, 98, 102, 103, 105, 106)*
9. *State aid — Administrative procedure — Obligations of the Commission — Duty of diligence — Full examination — Diligent and impartial examination of the complaints — Examination of matters not expressly raised by the complainant (Art. 108(3) TFEU) (see para. 105)*

Re:

APPLICATION for annulment in part of Commission Decision C(2011) 4932 final of 13 July 2011 in so far as it finds that the non-application of the Irish air travel tax to transit and transfer passengers does not constitute State aid within the meaning of Article 107(1) TFEU (State aid SA.29064 (2011C ex 2011/NN)).

Operative part

The Court:

1. Annuls Commission Decision C(2011) 4932 final of 13 July 2011 in so far as it finds that the non-application of the Irish air travel tax to transit and transfer passengers does not constitute State aid within the meaning of Article 107(1) TFEU (State aid SA.29064 (2011C ex 2011/NN));

2. Orders the European Commission to bear its own costs and to pay those incurred by Ryanair Ltd;
3. Orders the Federal Republic of Germany and Ireland to bear their own costs.