



PRESS RELEASE No 83/24

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Judgment of the General Court in Case T-28/22 | Ryanair v Commission (Condor - Restructuring aid)

The General Court of the European Union annuls the decision of the Commission to approve restructuring aid for charter airline Condor

Having regard to the doubts that the Commission should have had as regards the compatibility of that aid with EU law, it should have initiated a formal investigation procedure

By decision of 26 July 2021, the Commission, without initiating a formal investigation procedure, approved restructuring aid of €321 million, which Germany intended to grant to the German charter airline Condor. The objective of the aid was to support the restructuring and continuation of Condor's operations, resolving the difficulties, which it faced owing to the insolvency of its former parent company Thomas Cook ¹.

Ryanair contested that decision before the General Court of the European Union.

By its judgment, the General Court **annuls the decision of the Commission**.

The Commission should not have approved the restructuring aid at issue without initiating a formal investigation procedure. Thus, Ryanair has demonstrated to a sufficient degree that the Commission should have had doubts justifying the initiation of such a procedure.

Accordingly, the Commission should have questioned whether the aid at issue satisfied the requirement of adequate burden sharing ². In accordance with that requirement, in particular, any restructuring aid that enhances the beneficiary's equity position ³ should be granted on terms that afford the State a reasonable share of future gains in value of the beneficiary. However, there is nothing in the contested decision to suggest that the Commission ascertained whether the aid at issue had been granted on terms that would afford Germany a reasonable share of future gains in the value of Condor.

Furthermore, those doubts that the Commission should have had necessarily affect its assessment of the scope of the measures to limit distortions of competition foreseen in its decision and that are applicable to Condor.

The General Court, while allowing Ryanair's application to annul the Commission's decision, states that Ryanair may contest that decision before it only to the extent that Ryanair is seeking to protect its procedural rights in the framework of the formal investigation procedure. By contrast, Ryanair cannot challenge the contents of the decision on the merits. Ryanair has not demonstrated that the aid at issue was liable to have a substantial adverse effect on its competitive position and that it was therefore individually concerned by the decision of the Commission.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the

act.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

Unofficial document for media use, not binding on the General Court.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106.

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¹ In the context of that insolvency, Condor has already benefited from rescue aid which the Commission had approved by decision of 14 October 2019. The action brought by Ryanair against that decision was dismissed by the General Court by judgment of 18 May 2022, *Ryanair v Commission* (Condor; rescue aid), [T-577/20](#); see also Press Release [No 87/22](#). Ryanair has not appealed to the Court of Justice against that judgment.

² Set out by the Commission in its [Guidelines](#) on State aid for rescuing and restructuring non-financial undertakings in difficulty.

³ According to the General Court, the restructuring aid at issue, which is in the form in particular of a partial write-off of Condor's debt, enhances the beneficiary's equity position.