



Press and Information

General Court of the European Union  
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Judgment in Case T-259/20  
Ryanair DAC v Commission

## **The deferral of the payment of taxes introduced by France to support airlines which hold a French licence amid the Covid-19 pandemic is consistent with EU law**

*That aid scheme is appropriate for making good the economic damage caused by the Covid-19 pandemic and does not constitute discrimination*

In March 2020, France notified the European Commission of an aid measure in the form of a deferral of the payment of civil aviation tax and solidarity tax on airline tickets due on a monthly basis during the period from March to December 2020 (‘the deferral of the payment of the taxes’). That deferral, which benefits airlines holding a French licence,<sup>1</sup> involves postponing the payment of those taxes to 1 January 2021 and then spreading payments over a period of 24 months, that is to say until 31 December 2022. The precise amount of the taxes is determined by reference to the number of passengers carried and the number of flights operated from a French airport.

By decision of 31 March 2020,<sup>2</sup> the Commission classified the deferral of the payment of the taxes as State aid<sup>3</sup> compatible with the internal market, in accordance with Article 107(2)(b) TFEU. Pursuant to that provision, aid to make good the damage caused by natural disasters or exceptional occurrences is to be compatible with the internal market.

The airline Ryanair brought an action for the annulment of that decision, which is dismissed by the General Court of the European Union in its judgment today. **The General Court examines, for the first time, the legality of a State aid scheme adopted in order to address the consequences of the Covid-19 pandemic** under Article 107(2)(b) TFEU.<sup>4</sup> The General Court also clarifies the relationship between the rules on State aid and the principle of non-discrimination on grounds of nationality laid down in Article 18(1) TFEU, on the one hand, and the principle of the free provision of services, on the other.

### Assessment of the General Court

In the first place, the General Court carries out a review of the Commission’s decision in the light of the first paragraph of Article 18 TFEU, which prohibits any discrimination on grounds of nationality within the scope of application of the Treaties, without prejudice to any special provisions contained therein.. However, since Article 107(3)(b) TFEU is, according to the General Court, included in those special provisions, it examines whether the deferral of the payment of the taxes could be declared compatible with the internal market under that provision.

In that regard, the General Court confirms, first, that **the Covid-19 pandemic and the travel restrictions and lockdown measures adopted by France to deal with it, taken together, constitute an exceptional occurrence** within the meaning of Article 107(2)(b) TFEU, **which has**

<sup>1</sup> A licence issued under Article 3 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ 2008, L 293, p. 3).

<sup>2</sup> Commission decision C(2020) 2097 final of 31 March 2020 concerning State aid SA.56765 (2020/N) – France – Covid-19 – Deferral of the payment of airline taxes in favour of public air transport undertakings.

<sup>3</sup> Within the meaning of Article 107(1) TFEU.

<sup>4</sup> In its judgment of 17 February 2012, *Ryanair v Commission* (T-238/20), the General Court carries out an examination of the lawfulness under Article 107(3)(b) TFEU, of a State aid scheme adopted by Sweden to deal with the impact of the Covid-19 pandemic on the Swedish air transport market.

**caused economic damage to the airlines operating in France.** Nor can it be disputed, according to the General Court, that the objective of the deferral of the payment of the taxes is actually to make good the damage in question.

The General Court finds, secondly, that **limiting the deferral of the payment of the taxes to airlines possessing a French licence is appropriate for achieving the objective of making good the damage caused by the exceptional occurrence in question.** In that regard, the General Court notes that, under Regulation No 1008/2008, possession of a French licence means in practice that the principal place of business of the airlines is on French territory and that they are subject to financial and reputational monitoring by the French authorities. According to the General Court, the provisions of that regulation create reciprocal obligations between the airlines holding a French licence and the French authorities and, therefore, a, specific, stable link between them that adequately satisfies the conditions laid down in Article 107(2)(b) TFEU.

As regards the proportionality of the deferral of the payment of the taxes, the General Court notes, in addition, that the airlines eligible for the aid scheme are those most severely affected by the travel restrictions and lockdown measures adopted by France. The extension of that deferral to companies not established in France would not, by contrast, have made it possible to achieve the objective of making good the economic damage suffered by the airlines operating in France in so precise a manner and without a risk of overcompensation.

In the light of those findings, the General Court confirms that **the objective of the deferral of the payment of the taxes satisfies the requirements of the derogation laid down in Article 107(2)(b) TFEU and that the conditions for granting that aid do not go beyond what is necessary to achieve that objective.** Nor therefore does that scheme amount to discrimination prohibited under the first paragraph of Article 18 TFEU.

In the second place, the General Court examines the Commission's decision in the light of the free provision of services under Article 56 TFEU. In that respect, the General Court points out that that fundamental freedom does not apply as such to the air transport sector which is subject to a particular set of legal rules covered by Regulation No 1008/2008. The purpose of that regulation is precisely to define the conditions for applying the principle of the free provision of services within the air transport sector. However, Ryanair did not allege any infringement of that regulation..

In the third place, the General Court rejects the plea that the Commission committed a manifest error in the assessment of the value of the advantage accorded to the airlines benefiting from the deferral of the payment of the taxes. The General Court finds that the amount of damage suffered by the beneficiaries of the deferral of the payment of the taxes is, in all probability, higher, in nominal terms, than the total amount, in nominal terms, of the deferral, so that the spectre of possible overcompensation must evidently be ruled out. In addition, the General Court notes that the Commission took into account the commitments given by France to provide it with a detailed methodology of the way in which that Member State intended to quantify, *ex post facto* and for each beneficiary, the amount of the damage associated with the crisis caused by the pandemic, which is an additional safeguard for avoiding any risk of overcompensation.

Finally, the General Court rejects as unfounded the plea alleging an infringement of the duty to state reasons and finds that it is not necessary to examine the substance of the plea alleging an infringement of the procedural rights under Article 108(2) TFEU.

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**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.

**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.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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