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Judgments of the General Court in Cases T-216/21 | Ryanair and Malta Air v Commission (Air France; COVID-19) and T-494/21 | Ryanair and Malta Air v Commission (Air France-KLM and Air France; COVID-19)

State aid in the context of the COVID-19 pandemic: the General Court annuls the Commission's decisions approving the financial aid granted by France to Air France and Air France-KLM

Where there are grounds to fear the effects on competition of an accumulation of State aid within the same group, the onus is on the Commission to exercise particular vigilance in examining the links between the companies belonging to that group

In April 2020, during the COVID-19 pandemic, France notified the European Commission of an individual aid measure granted to Air France and providing for (i) a State loan guarantee covering 90% of a loan of €4 billion granted by a consortium of banks and (ii) a shareholder loan of up to €3 billion. According to the Commission, Air France was the sole beneficiary of that aid, to the exclusion of all the other companies in the Air France-KLM group.

In March 2021, France also notified the Commission of individual aid in the form of a recapitalisation of Air France and the holding company Air France-KLM totalling €4 billion. That measure consisted in (i) the participation by France in a planned share capital increase of up to €1 billion and (ii) the conversion of the shareholder loan into a hybrid instrument. According to the Commission, Air France and the Air France-KLM holding were the sole beneficiaries of that aid, to the exclusion of, in particular, KLM, a company forming part of the Air France-KLM group.

In both cases, the Commission decided not to raise objections: in its view, those measures constitute aid compatible with the internal market. Ryanair and Malta Air contest those decisions and submit, in essence, that the measures at issue are contrary to EU law. In their view, the Commission incorrectly defined the beneficiaries of that aid by deciding that neither the Air France-KLM holding (in the decision being contested in Case T-216/21) nor KLM (in both decisions being contested) were beneficiaries of that aid.

The General Court upholds those actions and annuls the Commission's decisions. It considers that the Commission erred in defining the beneficiaries of the State aid granted by excluding the Air France-KLM holding and KLM in Case T-216/21 and KLM in Case T-494/21. In that regard, the General Court examines the capital, organic, functional and economic links between the companies in the Air France-KLM group and the contractual framework on the basis of which the measures at issue were granted, as well as the type of aid measure granted and the context in which they were granted. It concludes, on that basis, that the Air France-KLM holding (in the first case) and KLM (in the second case) were capable of benefiting, at least indirectly, from the advantage granted by the State aid at issue.

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.

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The full text and, as the case may be, the résumés of the judgments ([T-216/21](#) and [T-494/21](#)) are 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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