COURT OF JUSTICE
OF THE EUROPEAN UNION

Judgment of the Court
in Case C-505/24 P | Condor Flugdienst v Ryanair

Press release No 158/26

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State aid in the context of the COVID-19 pandemic: the Court of Justice sets aside the judgment of the General Court which had annulled the approval by the Commission of €321 million in State aid from Germany for Condor and dismisses Ryanair's action against the approval decision

By decision of 26 July 2021 ('the decision at issue'), the European Commission, without initiating the formal investigation procedure, approved restructuring aid of €321 million which Germany planned to grant to the German charter airline Condor. The aid was intended to support the restructuring and continuation of Condor's business, resolving the difficulties which it faced owing to the insolvency of its former parent company Thomas Cook and the COVID-19 pandemic. [1]

Ryanair contested that decision before the General Court of the European Union, which annulled it. [2] The General Court found that the Commission should not have approved the restructuring aid at issue without initiating a formal investigation procedure. According to the General Court, Ryanair had demonstrated to a sufficient degree that the Commission should have had doubts justifying the initiation of such a procedure.

Condor lodged an appeal before the Court of Justice against the General Court's judgment.

By its judgment delivered today, **the Court of Justice sets aside the General Court's judgment and, ruling itself on the case, dismisses Ryanair's action**.

The General Court found in its judgment that the Commission should have ascertained whether the aid at issue met the requirement of adequate burden sharing. [3] In accordance with that requirement, any restructuring aid that enhances the beneficiary's equity position [4] should be granted on terms that afford the State a reasonable share of future gains in value of the beneficiary. The General Court held that the Commission had failed to determine whether the aid at issue had been granted on terms that would afford Germany a reasonable share of future gains in value of Condor.

Condor submits that the General Court erred in law in holding that the Commission should have applied that requirement to a partial write-off of debt, such as that included in the measure at issue.

The Court of Justice finds that **the General Court did not err in law in considering that the requirement relating to adequate burden sharing also concerns a situation in which the aid measure consists of a write-off of debt**.

Condor submits that, in any event, the General Court interfered with the competences of the Commission. Even though the Commission's approach, that the application of that requirement should be limited to capital injections by the State, is plausible, the General Court did not confine its examination of the Commission's position to a plausibility test, but considered that that issue is open to several interpretations.

The Court of Justice points out that **the General Court carried out a strictly legal review, as it was bound to do, of the interpretation of the scope of the requirement in question**, by carrying out a literal, contextual and teleological interpretation thereof, without in any way substituting its own assessment for the complex economic assessments of the Commission.

Furthermore, **to consider that the General Court should accept the interpretation put forward by the Commission**

because it is 'plausible' would amount to weakening the judicial review carried out by the EU judicature and to eroding legal certainty since the Commission would be able to rely on a lack of precision in guidelines in order to avoid applying its own self-imposed rules correctly.

By contrast, according to the Court of Justice, **the General Court erred in law in holding that the Commission had failed to assess whether the measure at issue fulfilled the requirement of adequate burden sharing**. The Court of Justice finds in fact that it is apparent from the decision at issue that the Commission implicitly took the view that there was no longer any need to carry out that assessment since it is required only where the beneficiary still possesses equity after losses have been accounted for by its existing investors, which was not the case as regards Condor.

Consequently, **the Court of Justice sets aside the General Court's judgment**.

Given that the state of the proceedings permits final judgment to be given, **the Court of Justice itself gives judgment in the matter**. **It examines the claims of Ryanair that were not assessed by the General Court**, related to errors in the Commission's assessment of the negative effects of the measure at issue and to breach of the principles of non-discrimination, the free provision of services and free establishment, and of the obligation to state reasons. Finding that those claims are unfounded, the Court of Justice dismisses the action at first instance brought by Ryanair in its entirety.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the decision of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

Unofficial document for media use, not binding on the Court of Justice. The presentation of the facts and the legal context refers to the relevant period and is based on the case file.

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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Images of the delivery of the judgment are available on 'Curia Web TV' and on 'European Broadcasting Service' ✆ (+32) 2 2964106.

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[1] In the context of that insolvency, Condor had already received rescue aid which the Commission had approved by decision of 14 October 2019 (see the press release of the Commission). 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 (also see press release No 87/22). Ryanair did not appeal against that judgment to the Court of Justice. Condor had also benefited from aid measures aimed at making good the damage it had suffered as a result of the imposition of travel restrictions connected with the COVID-19 pandemic, including aid relating to the period from 17 March to 31 December 2020, which took the form of two loans totalling €550 million, backed by a State guarantee. Following delivery of the judgment of 9 June 2021, *Ryanair* v *Commission (Condor; COVID-19)*, T-665/20 (also see press release No 98/21), by which the General Court annulled an initial Commission decision concerning the COVID-19 aid of 2020 (see the press release of the Commission), the Commission, by an amended decision on the COVID-19 aid of 2020 of 26 July 2021, approved that aid (see the press release of the Commission). The Commission found, inter alia, that on the basis of data provided later by the German authorities, Condor had received overcompensation of €91.745 million, plus interest. By the decision at issue, adopted on the same day, the Commission approved an aid measure aimed at supporting the restructuring and continuation of Condor's business, which comprises two parts. The first part consists in a modification to the terms of the COVID-19 loans of 2020 and a partial write-off of €90 million of debt resulting from those loans. The second part involves the write-off of €20.2 million of debt corresponding to the interest payable by Condor following the amended decision on the COVID-19 aid of 2020.

[2] Judgment of the General Court of 8 May 2024 in the case *Ryanair* v *Commission (Condor – restructuring aid)*, T-28/22 (also see press release No 83/24). Following that judgment, the Commission formally opened an in-depth investigation in July 2024 (see the press release of the Commission) and again approved the aid of €321.2 million by a decision of 28 April 2025. It found that the restructuring plan remained necessary to ensure Condor's return to viability without unduly distorting competition (see the press release of the Commission). Ryanair has challenged that new decision before the General Court (pending case T-44/26, *Ryanair and Ryanair Sun* v *Commission*).

[3] Point 67 of the Commission's Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty.

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