



PRESS RELEASE No 122/24

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Judgment of the Court of Justice in Case C-591/21 P | Ryanair and Laudamotion v Commission

COVID-19: the Court of Justice confirms the lawfulness of the subordinated loan of €150 million granted by Austria to Austrian Airlines in the summer of 2020

The Court definitively dismisses the action brought by Ryanair and Laudamotion against the Commission's approval of that aid measure

On 23 June 2020, Austria notified the Commission of an aid measure in the form of a subordinated loan (convertible into a grant) of €150 million in favour of Austrian Airlines (AUA), which is part of the Lufthansa group ¹. That measure was intended to compensate AUA for the damage resulting from the cancellation or rescheduling of its flights owing to the COVID-19 pandemic.

By decision of 6 July 2020 ², the Commission approved that aid ³.

Ryanair and Laudamotion challenged that decision before the General Court of the European Union, without success. By judgment of 14 July 2021 ⁴, the General Court dismissed their action. It found, inter alia, that the aid at issue, deducted from the subsidies granted, in the same context, by Germany to the Lufthansa group, does not constitute overcompensation in favour of that group.

Ryanair and Laudamotion then brought an appeal before the Court of Justice against the judgment of the General Court.

By its judgment delivered today, **the Court of Justice** dismisses that appeal and thus **upholds the Commission's decision to approve the aid at issue**.

The Court of Justice, inter alia, makes clear that **a Member State may, for objective reasons, reserve to a single undertaking aid that is intended to make good the damage caused by an exceptional occurrence**.

Ryanair and Laudamotion may not, at the stage of the appeal, challenge the assertions of the General Court that **AUA's market share was 'significantly higher** than that of the second airline' and that **AUA was, 'proportionately and, because of the scale of its activities in Austria, significantly more affected** by [the] restrictions [imposed in the context of the COVID-19 pandemic] than Ryanair'.

Nor does the principle of proportionality require that the aid be allocated among all the victims of the exceptional occurrence at issue, in proportion to the damage which they suffered.

In addition, Ryanair and Laudamotion did not establish that the aid at issue constituted, because it benefited only AUA, an obstacle to the freedom of establishment and to the freedom to provide services. They failed to demonstrate that that aid produced restrictive effects which went beyond those inherent in State aid. The choice of AUA as the sole beneficiary of the aid at issue is inherent in the selective nature of that aid.

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 judgment 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 [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 Brussels Airlines, Swiss International Air Lines and Edelweiss Air are also included in that group.

² [Decision C\(2020\)4684 final](#) of the Commission of 6 July 2020 on State aid SA.57539 (2020/N) – Austria – COVID-19 – Aid to Austrian Airlines (see also the Commission press release [IP/20/1275](#)).

³ As aid to make good the damage caused by natural disasters or exceptional occurrences.

⁴ Judgment in *Ryanair and Laudamotion v Commission (Austrian Airlines; Covid-19)*, [T-677/20](#) (see also press release [No 125/21](#)).