



Press and Information

General Court of the European Union

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Judgment in Case T-388/20
Ryanair DAC v Commission

Finland's guarantee in favour of the airline Finnair to help it obtain a loan of €600 million from a pension fund to cover its working capital requirements following the Covid-19 pandemic is compatible with EU law

The guarantee was necessary in order to remedy the serious disturbance in the Finnish economy in view of the importance of Finnair for that economy

On 13 May 2020, Finland notified the Commission of an aid measure in the form of a State guarantee in favour of the Finnish airline, Finnair Plc, aimed at helping the latter obtain a loan of €600 million from a pension fund to cover its working capital needs. The guarantee, which was supposed to cover 90% of that loan, was limited to a maximum duration of three years and could be relied upon in the event of Finnair's default with regard to the pension fund.

Referring to its communication on the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak,¹ the Commission classified the guarantee granted to Finnair as State aid which is compatible with the internal market in accordance with Article 107(3)(b) TFEU.² Under that provision, aid intended to remedy a serious disturbance in the economy of a Member State may, under certain circumstances, be considered to be compatible with the internal market.

The airline Ryanair brought an action for annulment of the Commission's decision, which was nevertheless rejected by the Tenth Chamber (Extended Composition) of the General Court of the European Union. In that context, the Commission examines, for the first time, the legality of individual State aid adopted to address the consequences of the Covid-19 pandemic in the light of Article 107(3)(b) TFEU.³

Assessment of the General Court

In the first place, the General Court analyses the legality of the contested decision in the light of Article 107(3)(b) TFEU.

With regard, first, to the complaints that aid benefiting a single individual undertaking could not remedy a serious disturbance in the economy of a Member State within the meaning of Article 107(3)(b) TFEU, the General Court points out, first of all, that that provision applies both to aid schemes and to individual aid. Thus, individual aid may be declared to be compatible with the internal market if it is a necessary, appropriate and proportionate measure for remedying a serious disturbance in the economy of the Member State concerned.

¹ Communication from the Commission on the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ 2020 C 91 I, p. 1), amended on 3 April 2020 (OJ 2020 C 112 I, p.1).

² Commission Decision C(2020) 3387 final of 18 May 2020 on State Aid SA.56809 (2020/N) – Finland – COVID-19: State loan guarantee for Finnair.

³ In its judgment of 17 February 2021, *Ryanair v Commission*, [T-238/20](#) (see also press release [No 16/21](#)), the General Court carried out a similar examination of the legality of a State aid scheme adopted by Sweden in order to respond to the consequences of the Covid-19 pandemic on the Swedish air transport market. In its judgments of 14 April 2021, *Ryanair v Commission* [T-378/20](#) and *Ryanair v Commission* [T-379/20](#) (see also Press Release [No 52/21](#)), the General Court also carried out an examination of two separate individual aid measures on the basis of Article 107(2)(b) TFEU.

Next, the Court states that **Finnair's possible failure would have had serious consequences for the Finnish economy, so that the State guarantee, in so far as it is intended to maintain Finnair's activities and prevent its possible failure from further disrupting the Finnish economy, is appropriate to contribute to remedying the serious disruption to the Finnish economy caused by the Covid-19 pandemic.**

The General Court's conclusion is based on the fact that Finnair:

- is the main air carrier in Finland, with almost 15 million passengers carried in 2019, or 67% of all passengers carried to, from and within Finland;
- is the main air cargo operator in Finland, serves the needs of a number of companies located in Finland, both for the export and import of goods, and has an extensive Asian network;
- has 6 800 employees, with purchases from suppliers, who are mostly Finnish, coming to €1.9 billion in 2019;
- makes significant efforts in respect of research in Finland and is the 16th largest company in Finland in terms of its contribution to that country's GDP.

Secondly, with regard to the complaints that the Commission failed to balance the beneficial effects of the aid against its adverse effects, the General Court holds that Article 107(3)(b) TFEU does not require such an analysis, contrary to what is prescribed by Article 107(3)(c) TFEU. Nor is such a balancing act required on the basis of the communication on the temporary framework.

In the second place, the General Court examines the alleged infringement of the principle of non-discrimination. In that regard, the General Court observes, first of all, that by its nature individual aid introduces a difference in treatment, or even discrimination, which is inherent in the individual character of the measure. Arguing that such aid is contrary to the principle of non-discrimination would, in essence, amount to calling into question systematically the compatibility with the internal market of any individual aid, when EU law allows Member States to grant such aid in accordance with the conditions laid down in Article 107 TFEU.

Furthermore, even if the difference in treatment brought about by the guarantee granted to Finnair could be regarded as discrimination, it must be ascertained whether it is justified by a legitimate objective and whether it is necessary, appropriate and proportionate to achieve that objective.

According to the General Court, the arrangements **for providing Finnair with the guarantee are capable of attaining the objective envisaged, since the existence of a serious disturbance in the Finnish economy as a result of the Covid-19 pandemic and the significant adverse effects of that pandemic on the Finnish air transport market have been established to the requisite legal standard. Moreover, the aid measure is necessary because Finnair was at risk of going into liquidation due to the sudden erosion of its business and the fact that it could not cover its liquidity needs through the credit markets. Finally, in view of Finnair's importance for the Finnish economy, the grant of the State guarantee only to Finnair does not go beyond the limits of what is appropriate and necessary in order to achieve the objectives pursued by Finland.**

In the third place, as regards the complaints alleging infringement of the freedom to provide services and the freedom of establishment, the General Court finds that **Ryanair has not established how the exclusive nature of the grant of the State guarantee is capable of dissuading it from establishing itself in Finland** or from providing services to and from Finland. The General Court states that Ryanair has failed to identify the factual or legal elements which would cause the individual aid at issue to produce restrictive effects which go beyond those which trigger the prohibition in Article 107(1) TFEU, but which are nevertheless necessary and proportionate to remedy the serious disturbance in the Finnish economy caused by the Covid-19 pandemic, in accordance with the requirements of Article 107(3)(b) TFEU.

Finally, the General Court rejects as unfounded the pleas alleging breach of the obligation to state reasons and finds that it is not necessary to examine the merits of the plea alleging breach of the procedural rights under Article 108(2) TFEU

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 EU 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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