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By PwC Deutschland | 26. Januar 2023

Ryanair - State Aid

Ryanair was unsuccessful in its action against state aid from Sweden before the European General Court as the court of first instance. Within a short period of time, the airline had brought actions against 16 different state aid measures, including the Swedish case involving the state support for the local airline SAS and which is currently pending before the European Court of Justice (ECJ). In his Opinion Advocate General Pitruzzella suggests that the ECJ rejects the appeal in its entirety.

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Background

In the current dispute, Sweden had notified the Commission of an aid measure in the form of a guarantee for a revolving credit facility of1.5 billion Swedish kronor (SEK) in favor of SAS AB on the grounds that this company had difficulties obtaining loans from credit institutions under the Swedish aid scheme. The measure was intended to partially compensate SAS for the damage caused by the cancellation or postponement of its flights because of the introduction of travel restrictions related to the Covid 19 pandemic. The EU Commission had approved the aid character of the measure in a decision dated April 24, 2020.

In its ruling of April 14, 2021 (case ref. T-379/20), the General Court decided that Sweden's multimillion-dollar aid to the Scandinavian airline SAS was in line with EU law and dismissed the action. Appeal was then brought before the ECJ on 21 May 2021 by Ryanair against the judgment of the General Court.

Today, **the Advocate General** (AG) had his turn and **presented his Opinion**.

Ryanair raises six grounds in support of its appeal.

The first alleges that the General Court erred in law in rejecting Ryanair's claim that aid granted on the basis of Article 107(2)(b) TFEU is not to make good damage suffered by a single victim. (addressed by the GA in para. 9 through 18).

The second (in which Ryanair makes eight separate submissions) alleges an error of law and manifest distortion of the facts in the application of Article 107(2)(b) TFEU and of the principle of proportionality in relation to the damage caused to SAS by the COVID-19 pandemic (discussed in para. 19 through 49).

The third alleges that the General Court erred in law in rejecting Ryanair's claim regarding infringement of the principle of non-discrimination (para. 50 through 80).

The fourth claims that the General Court erred in law and distorted the facts in rejecting Ryanair's claim regarding infringement of the freedom of establishment and of the freedom to provide Services (dealt with in para. 81 through 88).

The fifth alleges an error of law and distortion of the facts in connection with the failure to initiate the formal investigation procedure (para. 89 through 96).

The sixth ground of appeal sees an error of law and distortion of the facts in connection with a failure to state reasons (discussed in para. 97 through 102).

In summary, the AG suggests to the Court that all the grounds of appeal be rejected, and the appeal be dismissed in its entirety.

Source

The ECJ case reference is **C-320/21 P** *Ryanair v Commission* opinion of 26 January 2023.

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Schlagwörter

Coronavirus (COVID-19), state aid