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Judgment of the General Court in Case T-827/22 | Wizz Air Hungary v Commission (TAROM II; Covid-19)

State aid: the General Court dismisses an action brought by Wizz Air in respect of aid granted by Romania to national airline TAROM in order to provide compensation for the damage suffered owing to the COVID-19 pandemic

That aid, amounting to almost €2 million, is compatible with the internal market

On 3 February 2022, Romania notified the Commission of individual aid of almost €2 million, in the form of a capital injection, for the Romanian airline TAROM. The aid was financed from the general budget of Romania and is intended to compensate TAROM for the damage suffered on 14 specific international routes in the period from 1 July to 31 December 2020 owing to the travel restrictions linked to the COVID-19 pandemic.

On 29 April 2022, the Commission found that aid to be compatible with the internal market under Article 107(2)(b) TFEU without initiating the formal investigation procedure.

Competing airline Wizz Air challenges that decision before the General Court of the European Union, **which today dismisses its action.**

The General Court observes, inter alia, that aid which provides compensation for damage caused by exceptional occurrences, such as the COVID-19 pandemic, is permitted and that the measure at issue was intended to compensate TAROM for the damage it suffered between 1 July and 31 December 2020 owing to the travel restrictions linked to that pandemic, which were in force during that period.

Next, the General Court confirms that the Commission correctly assessed the proportionality of the aid granted to TAROM and that the measure at issue did not give rise to overcompensation. In that regard, the General Court considered, in particular, that the Commission had accurately calculated, on the basis of an appropriate counterfactual, the losses suffered by TAROM that were directly caused by the travel restrictions in force during the period at issue and that it had verified properly that TAROM had taken reasonable measures to limit the damage during that period.

In addition, the General Court also rejects Wizz Air's arguments that the Commission had not taken into account the rescue aid previously granted to TAROM under Article 107(3)(c) TFEU and that the Commission had underestimated the competitive advantage obtained by TAROM. First, the earlier aid and the measure at issue are distinct and do not cover the same costs, and, second, the Commission is not required to consider any advantage from which TAROM might have indirectly benefited, such as the competitive advantage alleged by Wizz Air.

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, 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 within two months and ten days of notification of the judgment or order.

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The [full text and, as the case may, 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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