

State Aid: Madeira Appeals General Court's Judgement Upholding Commission's Decision Regarding Madeira Free Zone Scheme

23 October 2023

Report from Angelika Xygka, Associate, IBFD

On 29 August 2023, the Autonomous Region of Madeira (Madeira) brought an appeal before the Court of Justice of the European Union (ECJ), *Região Autónoma da Madeira v Commission* ([Case C-547/23 P](#)), against the judgement of the General Court. As background, Madeira could bring an appeal – limited to points of law only – before the ECJ against the decision of the General Court within 2 months and 10 days following the notification of the relevant decision ([Case T-131/21](#)). For prior coverage of the judgement, see [State Aid: General Court Upholds Commission Decision Regarding Madeira Free Zone Scheme: Região Autónoma da Madeira v Commission \(Case T-131/21\) \(22 June 2023\)](#).

Madeira claimed that the ECJ should:

- set aside the judgment of the General Court of 21 June 2023 in Case T-131/21 *Região Autónoma da Madeira v Commission*; and
- order the European Commission to pay all the costs of the proceedings, including those of the Região Autónoma da Madeira.

As grounds of appeal, Madeira alleged – among other things:

- "[E]rror of law consisting of the misinterpretation of the condition relating to the origin of the profits to which the reduction in corporation tax is applied";
- "[E]rrors of law due to a misinterpretation of the condition concerning the origin of the profits and/or a failure to state reasons and/or distortion of evidence – the notification of the proposed public aid, the Estatuto dos Benefícios Fiscais (Tax Incentives Statute) and the negotiations that preceded Regime III";
- "[E]rrors of law consisting of a failure to state reasons or an inadequate statement of reasons and/or distortion of the evidence and/or substitution of the reasoning of the decision – condition relating to the creation/retention of jobs";
- "[E]rror of law involving the misinterpretation of the condition relating to job creation/retention and/or an inadequate statement of reasons"; and
- "[E]rror of law in that the jobs created are to be linked to activities actually and materially carried on in Madeira".

A summary of the main arguments supporting the above grounds of appeal can be found in the Official Journal of the European Union ([OJ C 208](#) of 23 October 2023).

European Union; Portugal; Madeira - State Aid: Madeira Appeals General Court's Judgement Upholding Commission's Decision Regarding Madeira Free Zone Scheme (23 Oct. 2023), News IBFD.

Exported / Printed on 10 Mar. 2024 by hkermadi@deloitte.lu.