

State Aid: Nutmark Lda Brings Action for Annulment of European Commission's Decision Regarding Madeira Free Zone

23 January 2023

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On 14 November 2022, Nutmark Lda brought an action to the General Court (the Court) in the case of *Nutmark v Commission* ([Case T-714/22](#)).

The action was brought against the European Commission's [decision of 4 December 2020](#) on the aid scheme [SA.21259](#) (2018/C) (ex2018/NN) implemented by Portugal for the Madeira Free Zone (MFZ) – Regime III (the Decision), which was considered as not compatible with the EU internal market because it constituted incompatible State aid according to article 107(3)(a) of the Treaty on the Functioning of the European Union (TFEU) (for details on the decision, see [European Commission Concludes that the Madeira Free Zone is not Compatible with State aid \(7 December 2020\)](#)).

The applicant claims that the Court should:

1. annul the Decision in its entirety; and
2. order the European Commission to pay all the costs.

With five pleas in law, the applicant alleged:

1. "an error of law due to the incorrect identification of the reference system, in breach of Article 4(2) [[Treaty on European Union \(TEU\)](#)] and Articles 107(1) and 263 [TFEU](#)";
2. "an error of law due to the failure to demonstrate that Regime III of the Zona Franca da Madeira (Madeira Free-Trade Zone) amounts to a derogation from the reference tax system which establishes differences between economic operators that are in a comparable factual and legal situation, in breach of Article 107(1) [TFEU](#)";
3. "an error of law in the assessment relating to the fulfilment of the requirements for the correct implementation of Regime III of the Zona Franca da Madeira, in that the Portuguese Republic adopted, for that purpose, criteria in accordance with Article 107(1) [TFEU](#)";
4. "an error of law consisting in an infringement of the principles of legal certainty and security laid down in Article 16(1) of Council Regulation No 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 [TFEU](#)"; and
5. an error of law consisting in the infringement of the right to private property laid down in Article 1 of the Additional Protocol to the European Convention on Human Rights".

Note: Between 11 and 17 November 2022, several other applicants challenged the Decision by bringing actions to the Court. The pleas and main arguments of these actions, published in the Official Journal of the European Union on 23 January 2023, can be consulted [here](#).

Portugal; Madeira; European Union - State Aid: Nutmark Lda Brings Action for Annulment of European Commission's Decision Regarding Madeira Free Zone (23 Jan. 2023), News IBFD.

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