

# State Aid: General Court Upholds Commission Decision Regarding Madeira Free Zone Scheme: *Região Autónoma da Madeira v Commission* (Case T-131/21)

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On 21 June 2023, the General Court of the European Union gave its judgement in the case of *Região Autónoma da Madeira v Commission* (Case T-131/21). With this action, Madeira requested the partial annulment of the European Commission Decision of 4 December 2020, C(2020)8550 final, on the aid scheme [SA.21259](#) (2018/C) (ex2018/NN) implemented by Portugal in favour of the Madeira Free Zone (MFZ) – Regime III (the Decision) (for prior coverage and details, see [State Aid – Madeira Brings Action for Partial Annulment of European Commission's Decision Regarding Madeira Free Zone \(31 May 2021\)](#)).

The General Court dismissed the action in its entirety, upholding the Commission's decision, and ordered Madeira to pay the costs.

In particular, the General Court considered that:

- the applicant (Madeira) has *locus standi* against the Decision under Article 263 Treaty on the Functioning of the European Union (TFEU);
- the scheme, as implemented, conferred a selective advantage to its beneficiaries;
- the Commission did not err in finding that:
  - the corporate tax income reduction provided by the scheme could only apply to profits resulting from activities "actually and materially carried out in Madeira";
  - the scheme, as implemented, infringed the condition of creating and maintaining jobs in Madeira; and
  - the scheme, as implemented, was substantially modified in relation to the scheme authorized by the Commission, and therefore amounted to new and illegal State aid;
- the Decision does infringe the principle of legitimate expectations, the principle of legal certainty, the principle of sound administration, or the principle of proportionality; and
- the limitation period for recovering unlawful aid has not been exceeded.

The full text of the judgement can be read [here](#) (in Portuguese only).

