

## Ryanair to appeal SAS's billion-euro Covid-19 handout, airline's legal chief Komorek says

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By Nicholas Hirst

### In Brief

Ryanair plans to advance its legal fight against the billions of euros handed out to European airlines to help them weather the Covid-19 storm, with the Irish carrier's chief legal officer saying it would appeal EU approval for a capital injection of up to 1 billion euros into Scandinavian carrier SAS. In an interview with MLex, Juliusz Komorek also argued for fairer ways of helping airlines and said carriers such as Lufthansa should be made to operate with more cash in reserve.

Ryanair will file a legal action at the EU courts against approval for up to 1 billion euros in state aid for ailing Scandinavian carrier SAS to help it weather the Covid-19 pandemic, the Irish airline's chief legal officer has said.

"We have no choice but to refer those decisions to the European Court," Juliusz Komorek said in an interview with MLex. It's "incompatible" with the European Single Aviation Market "to select one airline in a particular country and say it is essential and to ignore the other operators offering connectivity in those countries."

"It amazes me how much [government] attention SAS receives," Komorek said, citing three aid measures for the carrier from Sweden and two each from Norway and Denmark. "That must be a world record, especially for an airline that no one was giving any chance ... to survive on its own."

On Aug. 17, the European Commission said it had approved plans presented by the Swedish and Danish governments to take stakes in SAS — formally named Scandinavian Airlines System — to prevent it going insolvent as a result of the economic slowdown caused by the Covid-19 pandemic.

The intervention was made in line with the EU state aid regulator's rules that set out how governments can provide capital to businesses suffering losses due to the Covid-19 crisis: Conditions include not paying dividends until the aid is reimbursed and a prohibition on buying rivals.

The commission said that the new aid meant that a revolving credit facility, 90 percent guaranteed by the two countries, would be cancelled. Its approval of that facility under EU state aid rules had already been challenged before the bloc's courts in Luxembourg by Ryanair.

The Irish airline has also filed lawsuits against handouts to Portugal's TAP and Finland's Finnair as well as Swedish and French programs reserved for airlines holding licenses issued by those countries.

Hearings challenging the TAP funds and the Swedish and French measures have already been scheduled for Sept. 22 and 23 at the EU's lower-tier General Court under an "expedited procedure," it is understood (see [here](#)).

Ryanair has also threatened to appeal Lufthansa's 9 billion-euro recapitalization by the German government (see [here](#)).

— UK, Romania set an example —

Not all aid schemes designed to help the European aviation industry reeling from the Covid-19 pandemic were bad, Komorek said.

He gave the example of the UK's Covid Corporate Financing Facility, which is open to all businesses operating in the country: "It's interesting that the one country that has left the EU is the one that is most respecting of its rules," he said. Ryanair said on May 18 that it had drawn down 600 million pounds from the scheme.

Komorek also cited the recent approval of aid at a Romanian airport to support traffic recovery.

On July 31, the commission approved plans for Oradea Airport to hand out up to 1 million euros to revive tourism in the north-western Romanian region (see [here](#)). Airlines would benefit in proportion to the number of routes they were offering, the number of flights they intended to operate and the number of passengers they expected to carry.

"We have always argued that helping airports is as close as it comes to neutral," Komorek said.

— Questions around EU licensing rules —

Ryanair has argued in favor of helping all airlines by reducing taxes and charges imposed on them in proportion to traffic, Komorek added. Germany, for example, imposes a travel tax of about 10 euros on all airline passengers from Germany to elsewhere in Europe.

"That would be a nice way of distributing aid in accordance to traffic," he said. "That is where the European Commission failed: It could have encouraged member states to come up with such solutions."

The lawyer also argued that regulators should revisit the 2008 EU law that regulates the licensing of European air carriers, including criteria on financial health.

"How is it that some airlines in Europe, like Lufthansa, were allowed to operate with so little cash that when the crisis hit they had just two weeks of cash?" he asked. By contrast, he noted, Wizz Air had enough to survive for 18 months.

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