

## WFW ADVISES RYANAIR ON APPEALS ON TERRITORIAL CONTINUITY AGAINST ITALY'S MIT

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**Watson Farley & Williams (“WFW”) advised Ryanair on its appeals against the Italian Ministry of Infrastructure and Transport’s (“MIT”) Decrees no. 2 of 8 January 2020 and no. 69 of 12 February 2020, which imposed public service obligations (“PSOs”) for scheduled air services from Trapani to Trieste, Brindisi, Parma, Ancona, Perugia and Naples (and vice versa) and PSOs for scheduled air services from Comiso to Rome Fiumicino and Milan Linate (and vice versa) respectively.**

According to Regulation (EU) No 1008/2008, PSOs shall be imposed only on routes considered vital for the economic and social development of the region which the airport serves, and to the extent necessary to ensure on that route the minimum provision of scheduled air services satisfying fixed standards of continuity, regularity, pricing or minimum capacity, which air carriers would not assume if they were solely considering their commercial interest. Pursuant to the above-mentioned regulation, through public tenders PSOs are entrusted to the awarded air carriers with exclusive rights (preventing other air carriers from operating on the routes concerned by PSOs) and financial compensation.

The Supreme Administrative Court, by decision no. 931 of 26 February 2021, determined on the basis of a summary examination of the grounds of Ryanair’s appeal against the Decree imposing PSOs at Trapani and Comiso airports, accepted the air carrier’s petition. Although it did not suspend the effectiveness of the Decree, the Supreme Administrative Court did order the Lazio Regional Administrative Court (Rome branch) to promptly schedule a hearing on the merits, which will be held on 12 May 2021.

Given the ongoing Covid-19 pandemic, which IATA (the “International Air Transport Association”) estimates will cause reduced air traffic demand until at least until 2024 compared to pre-pandemic levels, this decision will have an important impact for all international airlines as it could help them avoid any possible PSO-related competition restrictions on the routes at Comiso and Trapani airports.

The first Italian court decision on the legitimacy of the imposition of public service obligations on the air traffic sector under Regulation (EU) No 1008/2008 is expected in May 2021.

The WFW Italy Regulatory team advising Ryanair comprised Of Counsel Matteo Castioni, Counsel Giannalberto Mazzei, Senior Associates Arcangelo Pecchia and Alessandro Di Carlo, Associate Federica Politi and Trainee Ludovica Cesari.

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