

**Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on
4 August 2022 — GE v British Airways Plc**

(Case C-522/22)

(2022/C 389/11)

Language of the case: German

Referring court

Landgericht Frankfurt am Main

Parties to the main proceedings

Applicant: GE

Defendant: British Airways Plc

Questions referred

1. Must Article 8(1)(a) of Regulation (EC) No 261/2004, ⁽¹⁾ in conjunction with Article 7(3) thereof, be interpreted as meaning that a passenger who has paid for a flight partly in frequent flyer miles may claim from the operating air carrier, which is not his or her contracting partner, reimbursement (only) in frequent flyer miles in that respect?
2. In the event that the Court answers the first question in the affirmative:

Does Regulation No 261/2004 preclude national legislation under which, in the event of failure to provide reimbursement in the form of frequent flyer miles, contrary to the corresponding obligation under Article 8(1)(a) of that regulation, compensation in lieu of performance may be claimed from the operating air carrier, or is the passenger bound by his or her original request for reimbursement in frequent flyer miles?

3. In the event that the Court answers the first question in the negative:

In the event that the passenger may also claim reimbursement in money or is reimbursed in money, must Article 8(1)(a) of Regulation No 261/2004, in conjunction with Article 7(3) thereof, be interpreted as meaning that, as reimbursement of the cost of the ticket (...) at the price at which it was bought, the passenger is reimbursed by the operating air carrier the amount in money which would enable, or would have enabled, him or her to purchase, without using frequent flyer miles, re-routing, under comparable transport conditions, to his or her final destination at the earliest opportunity or at a later date at his or her convenience, subject to availability of seats?

⁽¹⁾ Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

**Appeal brought on 17 August 2022 by the European Commission against the judgment of the
General Court (Third Chamber, Extended Composition) delivered on 1 June 2022 in Case T-481/17
Fundación Tatiana Pérez de Guzmán el Bueno and SFL v SRB**

(Case C-551/22 P)

(2022/C 389/12)

Language of the case: Spanish

Parties

Appellant: European Commission (represented by: L. Flynn, D. Triantafyllou, A. Nijenhuis, P. Němečková and A. Steiblytė, acting as Agents)

Other parties to the proceedings: Fundación Tatiana Pérez de Guzmán el Bueno, Stiftung für Forschung und Lehre (SFL), Single Resolution Board (SRB), Kingdom of Spain, European Parliament, Council of the European Union, Banco Santander, S.A.

Form of order sought

The appellant claims that the Court should:

- annul the judgment of the General Court of 1 June 2022, *Fundación Tatiana Pérez de Guzmán el Bueno and SFL — Stiftung für Forschung und Lehre (SFL) v Single Resolution Board* (T-481/17, EU: T:2022:311), in so far as the General Court found the action for annulment at first instance to be admissible;
- declare the action for annulment brought in case T-481/17 at first instance inadmissible, and, consequently, dismiss it in its entirety; and
- order Fundación Tatiana Pérez de Guzmán el Bueno and SFL, Stiftung für Forschung und Lehre (SFL) (applicants at first instance) to pay the costs incurred by the Commission both in the proceedings before the General Court and in the present proceedings.

Pleas in law and main arguments

The appellant raises three grounds of appeal and submits that the General Court made the following errors of law:

- error in the interpretation of Article 263, paragraph 4, TFEU and article 18, paragraph 7, of the Regulation on the Single Resolution Mechanism, ⁽¹⁾ in so far as it treats the resolution scheme as a challengeable act (first ground of appeal),
- error in the interpretation of article 263, paragraph 4, TFEU and infringement of the rights of the defence of the Commission, as regards the omission to address the action for annulment against the author of the legally binding final act (second ground of appeal), and,
- contradictory reasoning in the judgment under appeal, resulting from the decision, by the General Court, to find the action for annulment against the contested resolution scheme to be admissible, while the General Court concludes that said resolution scheme only enters into force and produces binding legal effects through the Commission's decision (third ground of appeal).

⁽¹⁾ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1).