

In support of its application the applicant puts forward two pleas in law.

First, the applicant submits that the Commission's refusal infringes Article 4 of Regulation No 1049/2001. First of all, it states that the Commission performed an overall examination instead of carrying out an individual examination of the documents referred to in the request for access. In particular, the applicant claims that the Commission has not assessed to the requisite legal standard the existence of the specific, actual and foreseeable risk of harming the protected interests set out in Article 4(2) and (3) of the Regulation. Moreover, the applicant argues that the Commission failed to assess to the requisite legal standard that partial disclosure of the documents would have harmed the protection of legal advice, the purpose of investigations or the Commission's decision-making process and thus infringed Article 4(6) of the Regulation and it has failed to apply properly the principle of proportionality. Finally, the applicant contends that the Commission failed to assess the public interest considerations regarding the right of defence and transparency and openness relied on by the applicant.

Second, the applicant submits that the Commission's implied refusal of access and its decision of 9 October 2008 infringe the duty to state reasons pursuant to Article 253 EC and Article 8 of Regulation No 1049/2001.

(<sup>1</sup>) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ 2001 L 145, p. 43.

**Action brought on 14 November 2008 — Ryanair/Commission**

(Case T-495/08)

(2009/C 32/79)

*Language of the case: English*

**Parties**

*Applicant:* Ryanair Ltd (Dublin, Ireland) (represented by: E. Vahida, I. Metaxas-Maragkidis, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

— declare in accordance with Articles 230 and 231 EC that the Commission's implied decision refusing access to the documents for which access was requested by the applicant in an application dated 25 June 2008 is void and that the Commission's decision of 8 October 2008 refusing access to the same documents is non-existent;

— alternatively, declare in accordance with Articles 230 and 231 EC that the Commission's decision of 8 October 2008 refusing access to the documents for which access was requested by the applicant in an application dated 25 June 2008 is void;

— order the Commission to pay the costs incurred by the applicant in the proceedings; and

— take such further action as the Court may deem appropriate.

**Pleas in law and main arguments**

By means of this application the applicant seeks annulment of the Commission implied decision rejecting the applicant's request, pursuant to Regulation No 1049/2001 (<sup>1</sup>), of the access to documents relating to State aid procedures concerning the presumed State aid granted through an agreement with the operator of Alghero airport. The said decision was followed by the express decision of 8 October 2008. The annulment of the express decision is alternatively sought by the applicant in the present case.

The pleas in law and main arguments relied on by the applicant are identical to those relied on in Case T-494/08 *Ryanair v Commission*.

(<sup>1</sup>) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ 2001 L 145, p. 43.

**Action brought on 14 November 2008 — Ryanair/Commission**

(Case T-496/08)

(2009/C 32/80)

*Language of the case: English*

**Parties**

*Applicant:* Ryanair Ltd (Dublin, Ireland) (represented by: E. Vahida, I. Metaxas-Maragkidis, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

— declare in accordance with Articles 230 and 231 EC that the Commission's implied decision refusing access to the documents for which access was requested by the applicant in an application dated 25 June 2008 is void;