

**Plea in law**

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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**Action brought on 19 December 2019 – Ryanair and Laudamotion v Commission**

**(Case T-866/19)**

(2020/C 68/54)

*Language of the case: English*

**Parties**

*Applicants:* Ryanair DAC (Swords, Ireland), Laudamotion GmbH (Schwechat, Austria) (represented by: E. Vahida and I. Metaxas-Maranghidis, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- annul the Decision; and
- order the Commission to pay the costs.

**Pleas in law and main arguments**

In their application, the applicants request the Court to annul Commission Implementing Decision (EU) 2019/1585 <sup>(1)</sup>.

In support of the action, the applicants rely on six pleas in law.

First plea in law, alleging that Commission implementing decision (EU) 2019/1585 violates the obligation to state reasons and the principle of free provision of services because the Commission has not reviewed the existence of an overriding general interest purpose that would justify the restriction of the principle of free provision of services introduced by the traffic distribution rules for Schiphol and Lelystad airports.

Second plea in law, in a subsidiary manner alleging that Commission implementing decision (EU) 2019/1585 violates the principle of free provision of services and Article 19(2) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council <sup>(2)</sup> because the saturation of Schiphol airport and the superior benefit of transfer flights that the traffic distribution rules aim to enhance are not established.

Third plea in law, alleging that Commission implementing decision (EU) 2019/1585 violates the principle of free provision of services and Article 19(2) of Regulation (EC) No 1008/2008 because of discrimination introduced by the traffic distribution rules in the absence of objective justifications.

Fourth plea in law, alleging that Commission implementing decision (EU) 2019/1585 violates the principle of free provision of services and Article 19(2) of Regulation (EC) No 1008/2008 because of the lack of proportionality of the traffic distribution rules and the Commission's failure to review the availability of less onerous means.

Fifth plea in law, alleging a breach of Council Regulation (EEC) No 95/93 <sup>(3)</sup> because the Commission failed to review the compliance with the procedure for the designation of Lelystad airport as a coordinated airport and because of the establishment of a link between slots and destinations and contradiction with the general principles governing Regulation (EEC) No 95/93.

Sixth plea in law, alleging a breach of Article 19(2) of Regulation (EC) No 1008/2008 because the Commission did not review the satisfaction of the condition that the airports offer necessary services to air carriers and do not unduly prejudice their commercial opportunities.

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<sup>(1)</sup> Commission Implementing Decision (EU) 2019/1585 of 24 September 2019 on the establishment of traffic distribution rules pursuant to Article 19 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council for the airports Amsterdam Schiphol and Amsterdam Lelystad (OJ 2019 L 246, p. 24).

<sup>(2)</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ 2008, L 293, p. 3).

<sup>(3)</sup> Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ 1993 L 14, p. 1).

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### Action brought on 20 December 2019 — RA v Court of Auditors

(Case T-867/19)

(2020/C 68/55)

*Language of the case: French*

#### Parties

*Applicant:* RA (represented by: S. Orlandi and T. Martin, lawyers)

*Defendant:* European Court of Auditors

#### Form of order sought

The applicant claims that the Court should:

- annul the decision of 27 February 2019 taken to comply with the judgment of 8 November 2018, *RA v Court of Auditors* (T-874/16, not published, EU:T:2018:757) not to promote him to grade AD11 during the 2016 promotion exercise;
- order the Court of Auditors to pay him a sum of EUR 8 000 for the non-material damage suffered;
- order the Court of Auditors to pay the costs.

#### Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that there was inadequate reasoning given in the response dismissing the complaint in that the relevant individual ground justifying the applicant not being promoted was not identified.
2. Second plea in law, alleging an infringement of Article 45 of the Staff Regulations of Officials of the European Union for not carrying out an effective evaluation of comparative merits for all of the officials eligible for promotion. First, by carrying out a 'general' assessment of merits of the officials eligible for promotion, the Appointing Authority did not carry out the comparative evaluation on a basis of equality. Secondly, it applied the criterion of use of languages improperly.
3. Third plea in law, alleging several manifest errors of assessment which vitiate the contested decision.