

## Our Members

### Argentina

[Funes de Rioja & Asociados](#)

### Australia

[Freehills](#)

### Austria

[Kunz Schima Wallentin  
Rechtsanwälte OG](#)

### Belgium

[Claeys & Engels](#)

### Brazil

[Veirano Advogados](#)

### Canada

[Heenan Blaikie](#)

### Chile

[Philippi, Yrarrázaval, Pulido  
& Brunner](#)

### Colombia

[Brigard & Urrutia](#)

### Costa Rica

[BDS Asesores](#)

### Cyprus

[The Law Offices of George  
Z. Georgiou](#)

### Czech Republic

[Randl Partners](#)

### Denmark

[Norbom Vinding](#)

### Dominican Republic

[Pellerano & Herrera](#)

### Estonia

[Raidla Lejins & Norcous](#)

### Finland

[Dittmar & Indrenius](#)

### France

[Capstan](#)

### Germany

[Kliemt & Vollstädt](#)

### Greece

[Kremalis-Law Firm](#)

### India

[Kochhar & Co.](#)

### Ireland

[LK Shields Solicitors](#)

### Italy

[Toffoletto e Soci](#)

### Latvia

[Raidla Lejins & Norcous](#)

### Lithuania

[Raidla Lejins & Norcous](#)

### Luxembourg

[Castegnaro](#)

### Mexico

[Basham, Ringe y Correa](#)

### Netherlands

- [Bronsgest Deur Advocaten](#)

- [Bergamin & Gielink](#)

[pensioenrechtadvies B.V.](#)

(pension)

### Norway

[Hjort](#)

### Panama

[Arosemena Noriega &](#)

[Contreras](#)

### Peru

[Estudio Olaechea](#)

### Poland

[Raczkowski i Wspólnicy sp.k.](#)

### Portugal

[Pedro Pinto, Bessa Monteiro,](#)

[Reis, Branco & Associados,](#)

[RL](#)

### Russia

[Law Firm ALRUD](#)

### Spain

[Sagardoy Abogados](#)

### Sweden

[Elmzell Advokatbyrå AB](#)

### Switzerland

[Lenz & Staehelin](#)

### Turkey

[Bener Law Office](#)

### United Kingdom

- [Lewis Silkin](#)

- [Sacker & Partners \(pension\)](#)

### USA

[Littler Mendelson, P.C.](#)

### Venezuela

[Araque Reyna Sosa Viso &](#)

[Pittier](#)

September 2011

## Pilot error

### Airline's retirement policy grounded by European Court

How old should airline pilots be before they're made to retire? That was the central question in a case brought by German pilots against the airline Lufthansa which has just been considered by the European Court of Justice (ECJ).

A collective agreement to which Lufthansa had signed up included a blanket prohibition on pilots working after they had reached the age of 60. Three pilots, whose employment contracts automatically terminated on their 60th birthday, didn't feel ready to hang up their captain's hats. They claimed the rule amounted to unlawful age discrimination.

The German court decided to ask the ECJ what it thought. A key point was that both German and international law allows pilots aged between 60 and 65 to carry on working, so long as the other members of the air crew are younger than 60.

In light of that, the ECJ concluded that a complete ban on pilots working beyond the age of 60 was a disproportionate requirement. It went beyond what was really needed to ensure air traffic safety and protect public health and security.

The ECJ did accept that possessing particular physical capabilities is a genuine requirement for acting as a pilot and such capabilities diminish with age. But the judgment makes clear that any difference in treatment on grounds of age must be justified as being necessary and proportionate.

### Flying lessons

This case has obvious implications for the aviation sector. But more generally, it highlights the developing obligation under age discrimination laws for organisations to justify compulsory retirement ages. They need be in a position to provide cogent, objective reasons for adopting particular ages for particular jobs. Conducting a comprehensive audit of retirement policies and procedures is strongly advisable.

Employers who try to wing it could be heading for a crash landing... in court.

## **International labour, employment and pensions lawyers**

With more than 2,500 lawyers and more than 40 firms worldwide, Ius Laboris offers unparalleled access to leaders in Labour and Employment law.

To see how we can solve your Human Resource challenges internationally, check [www.iuslaboris.com](http://www.iuslaboris.com) Our Members

---

*Prigge and others v Deutsche Lufthansa AG (C-447/09)*, 13 September 2011  
– [judgment available here](#)

Author: R. Lister,  
[Lewis Silkin](#), the UK member of Ius Laboris