

---

DE BRAUW  
BLACKSTONE  
WESTBROEK

## Exception to right to strike: court limits public transport action around Schiphol

**The Noord-Holland District Court in preliminary relief proceedings ruled two days before a national public transport strike, set for 28 May 2019, that Schiphol Airport had to remain accessible by public transport. The judge hearing the case ruled that trains had to run four times an hour within the Schiphol region, to prevent congestion on the roads to the airport as well as tens of thousands of travellers being stranded, which might lead to severe safety risks. This ruling demonstrates yet again that the fundamental right to strike can be limited when the public interest urgently requires this.**

The trade unions' goal of calling a 24-hour public transport strike was to force the Dutch government to reconsider the state pension age. As a result of the strike, no trains or buses would run in any part of the country. But Schiphol Airport wanted to remain accessible for travellers, as earlier strikes had shown that even a slight disruption in public transport to Schiphol could cause major traffic and safety issues. Schiphol was joined in the lawsuit by the municipality of Haarlemmermeer.

In his ruling, the preliminary relief judge stated that completely paralysing public transport posed a real risk of serious disturbance of public order and safety. He also stated that a complete absence of public transport on 28 May would significantly impact tens of thousands of travelers, which could lead to substantial financial damage for Schiphol and the various airlines that operate out of Schiphol. This would mean that third parties who were not a party to the conflict would be affected. This implication resulted in the judge's decision to exclude the Schiphol area from the national strike in order to contain the safety risks and financial damage as much as possible.

The judge explained his decision by adding that limiting the scope of the strike in the Schiphol area would probably not reduce the objective and effectiveness of the strike, as this was a national strike. The large scale of the action campaign could still send a strong signal to the Dutch government: that it is time for a breakthrough in pension negotiations.

Stefan Sagel, Mirjam Kerkhof, Marlieke Schipper and Rik van Haeringen successfully litigated this case on behalf of Schiphol.

