

3. Third plea in law, alleging failure to observe the adversarial principle. The applicant submits, in that regard, that the penalty procedure was not adversarial, in so far as the right to be heard of the applicant was not respected, since he was unable to submit his observations prior to the penalty decision.
4. Fourth plea in law, alleging infringement of Article 6 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'). According to the applicant, the principle of equality was breached, in so far as the applicant was not notified of the contested decision in his maternal language and because it did not mention the remedies available and the periods in which these remedies may be exercised. Furthermore, the prosecutor also acted as decision-maker, although the separation of those functions is a guarantee offered by Article 6 of the ECHR.
5. Fifth plea in law, alleging breach of the principle of non-discrimination. The applicant argues that the contested decision, due to its severity, is marred by discrimination since it intervenes following the initial suspension decision of 18 June 2021, already confirming an inequality of treatment between Members according to their political affiliation.
6. Sixth plea in law, alleging breach of the principle of prohibition of any binding mandate. The contested decision deprives the Member of his independence and breaches the prohibition of any binding mandate in so far as the applicant cannot validly be criticised for having been invited by a State outside the European Union to act as an independent observer of a ballot, even though the applicant never claimed to represent, in that context, the European institution of which he is a member.
7. Seventh plea in law, alleging that the decision is final and non-reviewable. According to the applicant, the contested decision should be annulled, lastly, in so far as it is of immediate applicability and does not provide any possibility of re-examination before the end of the applicant's mandate.

---

**Action brought on 19 April 2022 — Poland v Commission**

(Case T-200/22)

(2022/C 237/75)

*Language of the case: Polish*

**Parties**

*Applicant:* Republic of Poland (represented by: B. Majczyna, acting as Agent)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul the decisions of the European Commission contained in the letters of 7 February 2022, 8 February 2022, 16 March 2022 and 31 March 2022, relating to the offsetting of the amounts receivable by way of the daily penalty payments imposed by the order of the Vice-President of the Court of Justice of 20 September 2021 (*Czech Republic v Poland*, C-121/21 R, EU:C:2021:752) with regard to the period from 20 September 2021 to 17 January 2022;
- order the European Commission to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging lack of competence on the part of the Commission and infringement of Articles 101 and 102 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council, <sup>(1)</sup> read in conjunction with Article 98 thereof, as a result of the application of the procedure for recovering the amounts receivable by offsetting, despite the fact that those amounts had ceased to exist. The applicant submits that the Commission had no legal basis for adopting the contested decisions given that, as a result of the settlement agreement concluded between the Polish and Czech governments, the waiver by both parties of any claims, and the removal of Case C-121/21 <sup>(2)</sup> from the register of the Court of Justice, the effects of the order of 20 September 2021 had retroactively ceased to exist.

2. Second plea in law, alleging infringement of Article 296 TFEU, as well as Article 41(2)(c) and Article 47 of the Charter of Fundamental Rights of the European Union, as a result of an insufficient statement of reasons in the contested decisions. The applicant submits that, in adopting the contested decisions, the Commission failed to provide a statement of reasons, as required by the Treaty and the case-law of the Court of Justice, with regard to the legal basis for the procedure for recovering the amounts receivable conducted by means of those decisions.

---

(<sup>1</sup>) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1).

(<sup>2</sup>) Order of 4 February 2022, *Czech Republic v Poland (Turów mine)*, C-121/21, not published, EU:C:2022:82.

---

### Action brought on 15 April 2022 — Netherlands v Commission

(Case T-203/22)

(2022/C 237/76)

*Language of the case: Dutch*

#### Parties

*Applicant:* Netherlands (represented by: M. Bulterman and J. Langer, acting as Agents)

*Defendant:* Commission

#### Form of order sought

- annul the decision of the European Commission of 15 February 2022 bearing reference number Ref. Ares (2022) 1097097 rejecting the request of the Kingdom of the Netherlands for review of the decision of 6 January 2022 and for an extension of four years of the eight-year period for recovery of amounts wrongly paid in the FresQ case;
- order the European Commission to pay the costs.

#### Pleas in law and main arguments

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

1. First plea in law, alleging that the decision of 15 February 2022 is based on the incorrect assumption that the recovery procedure is not yet concluded.
2. Second plea in law, alleging that the European Commission misapplies the third subparagraph of Article 54(2) of Regulation 1306/2013 in so far as it assumes that the exceedance of the eight-year period is attributable to the Kingdom of the Netherlands.

---

### Action brought on 20 April 2022 — Makhlouf v Council

(Case T-206/22)

(2022/C 237/77)

*Language of the case: French*

#### Parties

*Applicant:* Sara Makhlouf (Damascus, Syria) (represented by: G. Karouni and K. Assogba, lawyers)

*Defendant:* Council of the European Union