

The unlawful collective expulsion of the applicant on 28–29 April 2020 is attributable to Frontex, its ‘true author’, since it was executed in line with the legally binding Operational Plan for RBI Aegean, drafted by Frontex’s ED. In the alternative, Frontex incurs liability based on its aiding and assisting in the commission of the unlawful collective expulsion of the applicant taking place on 28–29 April 2020. Both aspects of non-material damage would not have occurred without the contested unlawful conducts of the Agency.

⁽¹⁾ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624.

⁽²⁾ OJ 2012, C 326, p. 391.

Action brought on 14 March 2022 — Netherlands v Commission

(Case T-137/22)

(2022/C 198/77)

Language of the case: Dutch

Parties

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

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- annul the Commission decision bearing reference number Ares (2022) 99942 refusing the request of the Kingdom of the Netherlands for an extension by 4 years in addition to the 8-year period rule for the recovery of unduly paid amounts resulting from the FresQ case, and
- order the 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 contested decision is based on an erroneous assumption that the recovery procedure in the FresQ case is not yet finalised.
2. Second plea in law, alleging that the Commission makes an erroneous application of the third subparagraph of Article 54(2) of Regulation No 1306/2013 in so far as it assumes that the exceedance of the 8-year period for the recovery of the unduly paid amounts resulting from the FresQ case is attributable to the Netherlands.

Action brought on 15 March 2022 — HCP v EUIPO — Timm Health Care (PYLOMED)

(Case T-138/22)

(2022/C 198/78)

Language in which the application was lodged: German

Parties

Applicant: HCP GmbH (Hanover, Germany) (represented by: H. Suhren, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Timm Health Care BV (Borculo, Netherlands)