

consequently:

- annul the ‘contested decision’ comprising the payslips for the months of March, April and June 2018;
- declare, if necessary, that the decision of 6 November 2018 rejecting the complaint is annulled;
- order the defendant to pay all the costs.

### **Pleas in law and main arguments**

In support of the action, the applicant relies on a single plea in law, based on infringement of the principles of legality and legal certainty and a plea of illegality: the contested decision was taken on the basis of unlawful internal rules and implementing provisions.

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## **Action brought on 26 February 2019 — Ashworth v Parliament**

**(Case T-132/19)**

(2019/C 148/55)

*Language of the case: French*

### **Parties**

*Applicant:* Richard Ashworth (Lingfield, United Kingdom) (represented by: A. Schmitt and A. Waisse, lawyers)

*Defendant:* European Parliament

### **Form of order sought**

The applicant claims that the Court should:

- join the present case with the case brought by Mr Salvador Garriga Polledo and 45 others against the European Parliament on 19 February 2019 (Case T-102/19) on the basis of Article 68 of the Rules of Procedure of the General Court owing to the connection between those two cases;
- where necessary, by way of the measures of organisation of procedure or measures of inquiry of the case, order the European Parliament to disclose the opinions issued by the legal service of the European Parliament, which were allegedly delivered on 16 July 2018 and 3 December 2018, without prejudice to the precise date, and in any event before the adoption of the decision of the European Parliament Bureau of 10 December 2018 amending the Implementing Measures for the Statute for Members of the European Parliament (OJ 2018 C 466, p. 8, ‘the Implementing Measures’);
- annul the aforementioned decision of the Parliament Bureau of 10 December 2018 amending the Implementing Measures, in so far as it amends Article 76 of the Implementing Measures (recitals 5 and 6, Article 1(7) and Article 2 in so far as it concerns Article 76 of the Implementing Measures of the aforementioned decision), or in so far as it introduces a levy of 5 % on pensions payable after 1 January 2019, or, should it be deemed that all the aforementioned elements cannot be considered separately from the rest of the contested act, annul the aforementioned decision in its entirety;

— order the Parliament to pay the costs.

### **Pleas in law and main arguments**

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

1. First plea in law, alleging lack of competence *ratione materiae* of the Bureau.

— First, the contested act was adopted in infringement of the Statute for Members of the European Parliament adopted by decision of the European Parliament of 28 September 2005, 2005/684/EC, Euratom (OJ 2005 L 262, p.1) ('the Statute'). The contested act infringes, inter alia, Article 27 of the Statute which requires that 'acquired rights' and 'future entitlements' be maintained.

— Second, the contested act creates a tax by introducing a special levy of 5 % of the nominal amount of the pension although the creation of a tax does not fall within the competence of the Bureau according to Article 223(2) TFEU.

2. Second plea in law, alleging infringement of essential procedural requirements.

— First, the applicant alleges that the Bureau adopted the contested act without complying with the rules laid down in Article 223 TFEU.

— Second, the contested act is insufficiently reasoned and therefore it infringes the duty to state reasons laid down in the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging infringement of acquired rights and future entitlements and of the principle of legitimate expectations.

— First, the contested act infringes the acquired rights and future entitlements resulting both from the general principles of law and the Statute, which expressly requires that they be maintained 'in full' (Article 27).

— Second, the contested act infringes the principle of legitimate expectations.

4. Fourth plea in law, alleging infringement of the principle of proportionality and the principles of equal treatment and non-discrimination.

— First, the prejudice to the applicants' rights is disproportionate to the objectives pursued by the contested act.

— Second, the contested act must be annulled on the ground that it infringes the principles of equal treatment and non-discrimination.

5. Fifth plea in law alleging infringement of the legal certainty and the absence of transitional measures.

— First, the contested act infringes the principle of legal certainty in that it has unlawful retroactive consequences.

— Second, the contested act infringes the principle of legal certainty in that it failed to take transitional measures.

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