Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

23 April 2026*

(Appeal – Civil service – Remuneration – Dependent child allowances – Article 2 of Annex VII to the Staff Regulations of Officials of the European Union – Conditions for granting – Withdrawal of entitlement to the allowance – Recovery of overpayments under Article 85 of the Staff Regulations of Officials of the European Union – Action for annulment – Article 91 of the Staff Regulations of Officials of the European Union – Distortion – Assessment of the legality of an act at the date of its adoption – Retroactive scope of a judgment delivered by a national court – *Res judicata*)

In Case C-882/24 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 19 December 2024,

AL, represented by R. Crăciun, avocate,

appellant,

the other party to the proceedings being:

European Commission, represented by T.S. Bohr and L. Hohenecker, acting as Agents,

defendant at first instance,

THE COURT (First Chamber),

composed of F. Biltgen, President of the Chamber, I. Ziemele, A. Kumin, S. Gervasoni (Rapporteur) and M. Bošnjak, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after hearing the Opinion of the Advocate General at the sitting on 20 November 2025,

gives the following

* Language of the case: English.

Judgment

1 By his appeal, AL seeks to have set aside the judgment of the General Court of the European Union of 10 April 2024, *AL* v *Commission* (T-50/22, 'the judgment under appeal', EU:T:2024:220), by which that court dismissed his action seeking annulment of the decision of the European Commission of 22 October 2021, inasmuch as it orders the recovery of certain sums paid in connection with allowances for his mother and three dependent children ('the decision at issue').

Background to the dispute

2 The background to the dispute is set out in paragraphs 2 to 13 of the judgment under appeal in the following terms:

> '2 The [appellant was] an official in the General Secretariat of the Council of the European Union as of 1 December 2007.
>
> 3 Following a request made by the [appellant], various allowances were granted to him between 2009 and 2019 in so far as his mother and three other persons were treated as dependent children within the meaning of Article 2(4) of Annex VII to the Staff Regulations of Officials of the European Union ("the Staff Regulations").
>
> 4 On 13 May 2019, pursuant to Article 2(2) of the Staff Regulations, the Council adopted Decision (EU) 2019/792 entrusting to the European Commission – the Office for the Administration and Payment of Individual Entitlements (PMO) – the exercise of certain powers conferred on the appointing authority and the authority empowered to conclude contracts of employment (OJ 2019 L 129, p. 3).
>
> 5 On 22 July 2020, the [appellant] was informed by the European Anti-Fraud Office (OLAF) that he was the subject of an investigation opened at the end of 2016, concerning possible fraud relating to his declaration concerning the composition of his family and to the conditions under which he had obtained the corresponding family allowances and the eligibility requirements for the corresponding family allowances.
>
> 6 In December 2020, the [appellant] was informed by OLAF that the investigation referred to in paragraph 5 above had been closed. In addition, OLAF sent the [appellant] and the General Secretariat of the Council the final report of the investigation concerning the [appellant] as well as two recommendations. The first concerned the recovery of sums which OLAF considered had been unduly paid to the [appellant] through those allowances, and the second concerned the opening of disciplinary proceedings.
>
> 7 On 10 February 2021, the appointing authority of the Council … decided, in accordance with the provisions of Article 3 of Annex IX to the Staff Regulations, to initiate disciplinary proceedings against the [appellant].

8 By a note of 3 March 2021, the Office for the Administration and Payment of Individual Entitlements (PMO) of the Commission informed the [appellant] that, following the OLAF recommendations, the unduly received amounts, corresponding to a total amount, excluding interest, of EUR 142 824.71, would be recovered and that he had the opportunity to submit his observations on that decision within 15 days of its notification. On 19 March 2021, the [appellant] sent observations to the PMO.

9 By the decision of 22 March 2021, the PMO informed the [appellant] that, having regard to OLAF's final report and after an analysis of his observations, it had been decided to implement the note of 3 March 2021 and to issue the corresponding recovery order pursuant to Article 85 of the Staff Regulations, concerning the recovery of overpayments. In particular, recovery of the amount of allowances paid was ordered:

– in respect of the [appellant's] mother, as regards the period from 1 October 2009 to 30 September 2015, as had been decided in the decision of 22 March 2021, in so far as the mother could not be treated as a dependent child within the meaning of Article 2(4) of Annex VII to the Staff Regulations and the [appellant] had deliberately misled the administration within the meaning of the second paragraph of Article 85 of the Staff Regulations by failing to declare his military pension when applying for the allowance at issue;

– in respect of the [appellant's] two dependent children ("A and B"), to whom he was uncle-by-marriage and who had been placed in foster family care with him for the period from 1 August 2010 to 31 July 2013, for one, and from 1 August 2010 to 31 March 2013, for the other, as had been decided in the decision of 22 March 2021, since the foster placement relationship no longer legally existed, given the decision of the Romanian child protection authorities of 30 January 2013, which had put an end to the [appellant's] foster family placement measures [("the national decision terminating the foster placement")]. Moreover, the [appellant] deliberately misled the administration, within the meaning of the second paragraph of Article 85 of the Staff Regulations, concerning the end of the foster placement period of the two children;

– in respect of the [appellant's] adoptive daughter ("C"), for whom he had secured an adoption decision on 16 April 2019 by a Romanian court, as regards the period from 1 March 2019 to 31 January 2021 and the cessation of payment of allowances from 1 February 2021, as had been decided in the decision of 22 March 2021, on account of the fact that the [appellant] had not adduced any evidence of C's actual maintenance.

10 On 22 June 2021, the [appellant] lodged a complaint under Article 90(2) of the Staff Regulations against the decision of 22 March 2021.

11 On 27 September 2021, at the end of the disciplinary proceedings, the [Appointing Authority] of the Council adopted the penalty of removal from post in respect of the [appellant], in accordance with Article 9(1)(h) of Annex IX to the Staff Regulations.

12 On 22 October 2021, the Director-General for Human Resources and Security of the Commission adopted [the decision at issue].

13 By that decision, the Director-General for Human Resources and Security of the Commission rejected in part the [appellant's] complaint against the decision of 22 March 2021, maintaining that it was necessary to cease payment of the family allowances which he received in respect of C and to order recovery of a number of family allowances received by him. That complaint was nevertheless upheld as regards the allowances received by the [appellant] in respect of A and B for the period from 1 August 2010 to 29 January 2013.'

The procedure before the General Court and the judgment under appeal

3 By application lodged at the Registry of the General Court on 21 January 2022, the appellant, AL, brought the action for annulment referred to in paragraph 1 of the present judgment.

4 In support of the form of order he sought in that action, the appellant relied on five pleas in law, alleging, first, infringement of Articles 4, 5, 9 and 10 of the Council Decision of 29 April 2004 adopting the general implementing provisions concerning a person treated as a dependent child ('the GIP'); secondly, infringement of Article 85 of the Staff Regulations and an error of assessment concerning the allowance for his mother, treated as a dependent child; thirdly, failure to have regard to the principle of protection of legitimate expectations and to the principle of sound administration; fourthly, infringement of Article 85 of the Staff Regulations and an error of assessment concerning the dependent child allowance in respect of A and B; and, fifthly, infringement of Article 85 of the Staff Regulations and an error of assessment concerning the dependent child allowance in respect of C.

5 By the judgment under appeal, the General Court dismissed the action in its entirety.

Forms of order sought by the parties

6 By his appeal, the appellant claims that the Court should:

– set aside the judgment under appeal;

– annul the decision at issue in so far as it rejects in part the complaint submitted by the appellant against the decision of 22 March 2021; and

– order the Commission to bear its own costs and to pay the costs incurred by the appellant.

7 The Commission contends that the Court should:

– dismiss the appeal; and

– order the appellant to bear all the costs.

The appeal

8 In support of his appeal, the appellant raises three grounds: the first alleges an error in the application of the GIP; the second alleges a distortion of the facts and a failure to uphold the principle of the symmetry of forms; and the third alleges the absence of a judicial review.

The first ground of appeal

Arguments of the parties

9 The appellant claims that, in paragraphs 50 and 51 of the judgment under appeal, in its response to the first plea in law of the application at first instance, the General Court misapplied the GIP in holding that the amount of the costs assumed by the appellant for his mother's maintenance was to be calculated by deducting not only his mother's income and the rental value of the property owned by her, but also the contribution by another person to her maintenance and the income which the appellant obtained from his military pension. Those last two deductions are not to be made under Article 5(1) of the GIP, which refers strictly to the deduction of the income of the dependent person, but under Article 9 of the GIP. That error led the General Court to confirm the incorrect calculation of the administration.

10 In the appellant's view, that calculation should also be corrected to take into account the decision of 29 May 2024 by which the Tribunalul București (Regional Court, Bucharest, Romania) ordered the appellant's mother to reimburse her retirement pension for the period from 1 November 2007 to 1 May 2023. Accordingly, the amount of that pension should not have been deducted from the amount of costs borne by the appellant in respect of his mother's maintenance.

11 The Commission contends that that ground of appeal should be rejected.

Findings of the Court

12 In the first place, the appellant criticises the General Court for holding that the Commission correctly applied Article 5(1) of the GIP, by deducting from the amount of costs for the maintenance of his mother the contribution of another person to the mother's maintenance and the military pension received by the appellant, whereas those amounts should have been deducted pursuant to Article 9 of the GIP.

13 However, it is apparent from paragraph 50 of the judgment under appeal that that complaint is unfounded. The General Court expressly stated, in that paragraph, that the contribution of another person to the maintenance of the appellant's mother had been deducted by the Commission pursuant to Article 6 of the GIP and that the appellant's other net income corresponding to his military pension had been deducted under Article 9 of the GIP.

14 In the second place, it should be borne in mind that an appeal is limited to points of law, to the exclusion of any appraisal of the facts, save where the clear sense of the evidence has been distorted, and that a finding of distortion precludes recourse to new evidence which has not been produced before the General Court (see, to that effect, judgments of 18 July 2007, *Industrias Químicas del Vallés* v *Commission*, C-326/05 P, EU:C:2007:443, paragraph 60, and of 30 May 2017, *Safa Nicu Sepahan* v *Council*, C-45/15 P, EU:C:2017:402, paragraph 76).

15 It follows that the appellant is not entitled, in support of his appeal, to rely on the judgment of the Tribunalul București (Regional Court, Bucharest), delivered on 29 May 2024, after the delivery of the judgment under appeal.

16 However, if that judgment, by which, according to the appellant, his mother was ordered to reimburse her retirement pension for the period from 1 November 2007 to 1 May 2023, retroactively altered the income of that dependent person, it is capable of constituting new evidence capable of altering the calculation of the allowances due to the appellant in respect of the cost of maintaining his mother during the abovementioned period. It is for the appellant, if he believes it to be justified, to rely on it in support of an application for revision of the decision at issue.

17 It follows from the foregoing that the first ground of appeal must be rejected.

The second ground of appeal

Arguments of the parties

18 The appellant submits that, in paragraphs 100 and 101 of the judgment under appeal, the General Court vitiated its response to the fourth plea in his action at first instance by three errors of law. That ground of appeal is thus subdivided into three parts.

19 By the first part of his second ground of appeal, the appellant claims that that court failed to take account of the judgment of the Tribunalul București (Regional Court, Bucharest) of 16 May 2022 ('the judgment of the Regional Court, Bucharest, of 16 May 2022'), a copy of which had, nevertheless, been attached as an annex to the reply. By stating, in paragraph 100 of the judgment under appeal, that 'an action is pending before the Romanian courts against the decision terminating the foster family placement', the General Court is claimed to have distorted the facts, since it could not have been unaware that, by the abovementioned judgment, the Tribunalul București (Regional Court, Bucharest) had brought the proceedings to an end and declared the national decision terminating the foster placement to be affected by 'absolute nullity'.

20 By the second part of that ground of appeal, the appellant claims that the General Court erred in law in concluding that the national decision terminating the foster placement had produced legal effects since January 2013. The judgment of the Regional Court, Bucharest, of 16 May 2022 declared the absolute nullity *ex tunc* of that decision. Furthermore, that court held that the foster family placement measure had ceased on 13 May 2014 for A and on 28 July 2013 for B, with all the legal consequences deriving from that determination.

21 By the third part of that ground of appeal, the appellant submits that the General Court failed to uphold the principle of the symmetry of forms by holding, in paragraph 101 of the judgment under appeal, that it was irrelevant whether the allowance for the maintenance of A and B had been granted on the basis of consular documents or the foster placement decision of 28 July 2010. Since that allowance had been granted and renewed on the basis of consular declarations, the appellant submits that it could have been withdrawn only on the basis of consular documents and not on the basis of the national decision terminating the foster placement.

22 The Commission observes, in the first place, that, according to settled case-law, the legality of the contested act must be assessed on the basis of the elements of fact and of law existing at the time when the act was adopted. For that purpose, only those elements of which the Commission could have been aware during the administrative procedure may be taken into consideration. Consequently, the General Court was right not to take into account the judgment of the Regional Court, Bucharest, of 16 May 2022, which post-dated the decision at issue. By taking as its basis for

determination, as it was required to do, the date of the decision at issue, 22 October 2021, the General Court did not distort the facts by stating, in paragraph 100 of the judgment under appeal, that an action against the national decision terminating the foster placement was pending before the Romanian courts.

23 In the second place, the Commission submits that the General Court likewise did not err in law in concluding that the national decision terminating the foster placement had produced legal effects from January 2013, since, on 22 October 2021, the date of the decision at issue, that national decision had not yet been annulled.

24 In the third place, the Commission argues that paragraph 101 of the judgment under appeal is not vitiated by any error of law. The appellant has not in any way substantiated his reference to the principle of the symmetry of forms. In any event, the national decision terminating the foster placement justifies the recovery of the allowances unduly paid for the care of the two children after that decision, irrespective of the documents used to obtain that recovery.

Findings of the Court

25 By the first and second parts of the second ground of appeal, which it is appropriate to examine together, the appellant claims that the General Court distorted the facts of the dispute by failing to take into account, in paragraph 100 of the judgment under appeal, the judgment of the Regional Court, Bucharest, of 16 May 2022, a copy of which he had communicated to the General Court as an annex to the reply.

26 It must be noted that, under the second subparagraph of Article 256(1) TFEU and the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union, an appeal is to be limited to points of law. The General Court therefore has exclusive jurisdiction to find and appraise the relevant facts and to assess the evidence placed before it. The appraisal of those facts and the assessment of that evidence thus do not, save where the facts or evidence are distorted, constitute a point of law which is subject, as such, to review by the Court of Justice on appeal (judgment of 1 August 2025, *France and Commission* v *CWS Powder Coating and Others*, C-71/23 P and C-82/23 P, EU:C:2025:601, paragraph 66). The distortion must be obvious from the documents on the Court's file, without there being any need to carry out a new assessment of the facts and the evidence (judgment of 1 August 2025, *France and Commission* v *CWS Powder Coating and Others*, C-71/23 P and C-82/23 P, EU:C:2025:601, paragraph 67).

27 By the judgment of 16 May 2022, produced by the appellant as an annex to the reply before the General Court, the Tribunalul București (Regional Court, Bucharest), definitively annulled the national decision terminating the foster placement.

28 The General Court stated, in the first place, in paragraph 100 of the judgment under appeal, that 'an action is pending before the Romanian courts against the [national decision terminating the foster placement], although it clearly could not have been unaware that that decision had been annulled, since the judgment of the Regional Court, Bucharest, of 16 May 2022 had been produced in the proceedings.

29 In the second place, the General Court held, in the same paragraph of the judgment under appeal, that that decision '[had] in fact produced legal effects as from January 2013', whereas it was clear that that decision had to be regarded as never having produced legal effects, following the judgment of the Regional Court, Bucharest, of 16 May 2022.

30 It follows from the foregoing that the assessment of the facts of the dispute set out in paragraph 100 of the judgment under appeal is manifestly incorrect.

31 However, the Commission submits that, in order to assess the legality of the decision at issue, the General Court was right to take as its basis for determination the date of that decision and therefore did not have to take into account a judgment delivered subsequently.

32 It is true that, according to settled case-law, the legality of the contested act must be assessed on the basis of the facts and the law as they stood at the time when the measure was adopted (judgments of 7 February 1979, *France* v *Commission*, 15/76 and 16/76, EU:C:1979:29, paragraph 7; of 15 April 2010, *Gualtieri* v *Commission*, C-485/08 P, EU:C:2010:188, paragraph 26; and of 4 October 2024, *García Fernández and Others* v *Commission and SRB*, C-541/22 P, EU:C:2024:820, paragraph 327).

33 However, as the Advocate General stated, in essence, in points 50 to 55 of his Opinion, it cannot validly be argued that the judgment of the Regional Court, Bucharest, of 16 May 2022 was not a factor existing on the date of the decision at issue without disregarding the retroactive scope of that judgment.

34 By annulling, with *ex tunc* effect, the national decision terminating the foster placement, that judgment removed that decision from the legal order *ab initio* and restored the previous legal situation, as it existed before the adoption of that decision, namely the placement of A and B in foster family care with the appellant.

35 Consequently, the General Court distorted the legal position of the children A and B with regard to AL on the date of the decision at issue, by holding that the national decision terminating the foster placement had produced legal effects by terminating the foster placement of A and B, even though that decision had been annulled by the judgment of the Regional Court, Bucharest, of 16 May 2022.

36 While the Commission also contends that solely the evidence of which it could have been aware during the administrative procedure was to be taken into consideration by the General Court, it should be pointed out that such a limitation in principle of the review of legality carried out by the Courts of the European Union is not apparent from the case-law of the Court of Justice.

37 On the contrary, the latter has stated that the scope of judicial review provided for in Article 263 TFEU may, in certain cases, extend to all the evidence submitted by the appellants, whether that evidence pre-dates or post-dates the contested decision, whether it was previously submitted in the context of the administrative procedure or, for the first time, in the context of the action brought before the General Court, in so far as that latter evidence is relevant for the review of the legality of the contested decision on the date of its adoption (see, by analogy, judgment of 21 January 2016, *Galp Energía España and Others* v *Commission*, C-603/13 P, EU:C:2016:38, paragraph 72 and the case-law cited).

38 That solution is applicable in the present case. First, as is apparent from the case-law of the Court of Justice, the purpose of the pre-litigation procedure provided for by Article 91 of the Staff Regulations is to enable and encourage an amicable settlement of the dispute between officials and the administration and not to be strictly and definitively binding for the purposes of any contentious stage of the procedure, provided always that neither the legal basis nor the subject

matter of the complaint is changed in the action brought (see, to that effect, judgments of 7 May 1986, *Rihoux and Others* v *Commission*, 52/85, EU:C:1986:199, paragraph 12, and of 29 January 2026, *PB* v *SRB (Decision not to reclassify)*, C-727/23 P, EU:C:2026:58, paragraph 50).

39 Secondly, as the Advocate General observed in points 70 and 71 of his Opinion, in the context of Article 85 of the Staff Regulations, the complaint enables the administration, inter alia, to obtain some clarity on whether the preconditions for the application of that article are met and to thus avoid recourse to litigation. To require the appellant to bring a fresh action before the administration in order to be able to rely before the General Court on a judgment establishing facts existing at the date of the decision at issue would run counter to that objective.

40 It follows from the foregoing that the first and second parts of the second ground of appeal must be upheld.

41 By the third part of the second ground of appeal, the appellant alleges that, in paragraph 101 of the judgment under appeal, the General Court disregarded the principle of the symmetry of forms by holding that the appointing authority could lawfully decide to withdraw the allowance for the maintenance of A and B on the basis of the national decision terminating the foster placement, even though that allowance had been granted and renewed by the appointing authority on the basis of consular documents.

42 However, Article 2(1) of Annex VII to the Staff Regulations merely makes entitlement to the dependent child allowance subject to a substantive condition, namely the actual maintenance of one or more children, and does not require the decision to grant that allowance to be taken on the basis of specific documents. Consequently, the adoption of the decision withdrawing that allowance is likewise not subject to such a requirement.

43 In those circumstances, the General Court was right to hold, in paragraph 101 of the judgment under appeal, that it was irrelevant to the legality of the recovery of the allowances paid for the maintenance of A and B to know on the basis of which documents those allowances had been granted.

44 It follows that the third part of the second ground of appeal must be dismissed.

The third ground of appeal

Arguments of the parties

45 The appellant submits that paragraph 120 of the judgment under appeal highlights the fact that the General Court failed to carry out an impartial and effective judicial review of the evidence which he provided documenting the reality of his expenses for the maintenance of C.

46 In order to provide proof of that maintenance, the appellant sent the appointing authority, during the administrative procedure, all his bank statements in order to prove the transfers made and those from C's bank account showing the transfers which she received from him. During that procedure, however, the appointing authority requested full disclosure of C's bank account, in order to determine whether the dependent child allowance had been used exclusively and

effectively to ensure the maintenance of that child. However, the appellant did not accede to that request, given that C, who had become an adult, did not consent to the disclosure of that information.

47 To dispel the appointing authority's suspicions that C's account might not have been used by her, or that the allowances may have been transferred by C back to the appellant's account, the appellant, having obtained C's consent, attached to the application at first instance the bank statements requested. It is clear therefrom that C had used the allowances for herself and that no payment had been made from her account to the appellant's account.

48 However, the General Court held, in paragraph 120 of the judgment under appeal, that 'C's bank account extracts do not constitute sufficient proof to establish C's actual maintenance by the [appellant]', without substantiating that finding or indicating what constitutes sufficient evidence documenting the reality of that maintenance.

49 The appellant draws attention to the fact that the judicial review carried out by the General Court in relation to administrative acts falling within the scope of the Staff Regulations must balance the discretionary powers of EU institutions with the protection of staff members' rights, ensuring that decisions affecting individuals are properly reasoned and proportionate.

50 The Commission contends that the ground of appeal should be rejected.

Findings of the Court

51 By the third ground of appeal, the appellant challenges the General Court's assessment, in paragraph 120 of the judgment under appeal, of the additional evidence relating to his actual maintenance of C which he provided as an annex to his application at first instance. The inadequate statement of reasons for that assessment is claimed to show that the General Court failed to carry out an impartial and effective judicial review of that evidence.

52 The General Court held in that paragraph that, 'in the light of the doubts raised by the Commission in the contested decision, C's bank account extracts do not constitute sufficient proof to establish C's actual maintenance by the [appellant]'.

53 It must be stated that that statement of reasons makes it difficult to understand how the doubts raised by the Commission in the decision at issue, when that institution was not yet aware of the bank account extracts in question, could call into question the probative value of those documents.

54 However, it should be noted that the assessment, in paragraph 120 of the judgment under appeal, of the probative value of C's bank account extracts was made by the General Court merely for the sake of completeness, to which attention was expressly drawn by the use of the phrase 'in any event' at the beginning of that paragraph. That is confirmed by the fact that the General Court had already adopted a position, in paragraph 119 of the judgment under appeal, on the extracts at issue from C's bank account.

55 In that paragraph of the judgment under appeal, the General Court justified, on grounds other than those set out in paragraph 120 thereof, its refusal to take into account C's bank account extracts produced during the proceedings.

56 In that regard, it recalled that the appellant had refused to provide, during the administrative procedure, the bank statements which he had attached as an annex to his application at first instance. It held that, first, the administration had to base itself on factual information available to it in order to assess the actual maintenance and to take a decision on the allowance at issue and, secondly, it could request further information from the appellant, who was required to demonstrate C's actual maintenance .

57 In addition, and as regards the paragraph of the judgment under appeal criticised in the third ground of appeal, it must be borne in mind that it follows from the second subparagraph of Article 256(1) TFEU, the first paragraph of Article 58 of the Statute of the Court of Justice of the European Union, Article 168(1)(d) and Article 169(2) of the Rules of Procedure of the Court of Justice that an appeal must indicate precisely the contested paragraphs of the judgment which the appellant seeks to have set aside and the legal arguments specifically advanced in support of the appeal (judgment of 18 December 2025, *Hamoudi* v *Frontex*, C-136/24 P, EU:C:2025:977, paragraph 54).

58 The third ground of appeal does not contain any criticism of the assessments made in paragraph 119 of the judgment under appeal or of the statement of reasons for them. Consequently, that ground of appeal must be assessed as referring only to paragraph 120 of the judgment under appeal.

59 For that reason, the appellant's line of argument is not sufficient to show that the General Court did not carry out an impartial and effective judicial review of the additional evidence relating to C's actual maintenance attached as an annex to the application or that it gave insufficient reasons for its rejection of that evidence.

60 It follows that that line of argument is ineffective and, therefore, the third ground of appeal must be rejected.

61 It follows from all the foregoing that only the first and second parts of the second ground of appeal must be upheld. Since those two parts are directed against the General Court's response to the fourth plea in law at first instance, the judgment under appeal must therefore be set aside in so far as it rejected that fourth plea and the appeal dismissed as to the remainder.

The action before the General Court

62 In accordance with the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union, the Court of Justice may, after setting aside a decision of the General Court, refer the case back to the General Court for judgment or, where the state of the proceedings so permits, itself give final judgment in the matter.

63 In the present case, it is appropriate for the Court of Justice to give final judgment in the matter, as the state of the proceedings so permits.

64 As is apparent from paragraph 61 of the present judgment, the partial setting aside of the judgment under appeal by the Court of Justice calls that judgment into question only in so far as it rejected the fourth plea in the action at first instance. Consequently, the subject matter of the dispute remaining before the Court of Justice following that setting aside is now limited to the

challenge to the decision at issue set out in that fourth plea in law (see, by analogy, judgment of 1 July 2008, *Chronopost and La Poste* v *UFEX and Others*, C-341/06 P and C-342/06 P, EU:C:2008:375, paragraphs 138 and 139).

65 By the fourth plea in his action at first instance, as supplemented in the reply, the appellant submits, inter alia, that, in the light of the judgment of the Regional Court, Bucharest, of 16 May 2022, which annulled the national decision terminating the foster placement, by which the Romanian child protection authorities had terminated the measure placing the children A and B in foster family care with him, the Commission could not seek reimbursement of the allowances which he had received in respect of A's care for the period from 1 February 2013 to 31 July 2013 and in respect of B's care for the period from 1 February 2013 to 31 March 2013.

66 In the first place, it has been stated in paragraph 34 of the present judgment that, pursuant to the judgment of the Regional Court, Bucharest, of 16 May 2022, the children A and B must be regarded as having remained in foster family care with the appellant after 30 January 2013.

67 In the second place, it is apparent from that final judgment that the foster family care placement with the appellant ended for A on 13 May 2014 and for B on 28 July 2013.

68 Accordingly, the Commission was not justified in ordering the recovery of the family allowances paid to the appellant in respect of A's care from 1 February 2013 to 31 July 2013 and in respect of B's care from 1 February 2013 to 31 March 2013.

69 The decision at issue must therefore be annulled to that extent.

Costs

70 Under Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is well founded and the Court itself gives final judgment in the case, the Court is to make a decision as to the costs.

71 Under Article 138 of those rules, applicable to appeal proceedings by virtue of Article 84(1) of those rules:

'1. The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

2. Where there is more than one unsuccessful party the Court shall decide how the costs are to be shared.

3. Where each party succeeds on some and fails on other heads, the parties shall bear their own costs. However, if it appears justified in the circumstances of the case, the Court may order that one party, in addition to bearing its own costs, pay a proportion of the costs of the other party.'

72 In the present case, since AL has applied for costs and the Commission has been in part unsuccessful, the Commission must be ordered, in addition to bearing its own costs, to pay half of those incurred by AL, both at first instance and on appeal.

On those grounds, the Court (First Chamber) hereby:

1. **Sets aside the judgment of the General Court of the European Union of 10 April 2024, *AL* v *Commission* (T-50/22, EU:T:2024:220), in so far as it dismisses the fourth plea raised at first instance;**

2. **Dismisses the appeal as to the remainder;**

3. **Annuls the European Commission's decision of 22 October 2021 in so far as it orders the recovery of the family allowances paid to AL in respect of A's care from 1 February 2013 to 31 July 2013 and in respect of B's care from 1 February 2013 to 31 March 2013;**

4. **Orders the European Commission, in addition to bearing its own costs, to pay half of the costs incurred by AL, both at first instance and on appeal.**

Biltgen Ziemele Kumin

Gervasoni Bošnjak

Delivered in open court in Luxembourg on 23 April 2026.

A. Calot Escobar
Registrar

F. Biltgen
President of the Chamber