Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

19 September 2024*

(Appeal – Law governing the institutions – Single Statute for Members of the European Parliament – Members of the European Parliament elected in Italian constituencies – Adoption by the Italian Chamber of Deputies of a decision on pensions – Change in the amounts of the pensions of members of the Italian Parliament – Corresponding change, by the European Parliament, in the amounts of the pensions of certain former Members of the European Parliament elected in Italy – Replacement of the decisions of the Parliament – Continuing interest in bringing proceedings for annulment of the judgment of the General Court of the European Union)

In Case C-725/20 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 28 December 2020,

Maria Teresa Coppo Gavazzi, residing in Milan (Italy),

Cristiana Muscardini, residing in Milan,

Luigi Vinci, residing in Milan,

Agostino Mantovani, residing in Brescia (Italy),

Anna Catasta, residing in Milan,

Vanda Novati, residing in Varese (Italy),

Francesco Enrico Speroni, residing in Busto Arsizio (Italy),

Maria Di Meo, residing in Cellole (Italy),

Giuseppe Di Lello Finuoli, residing in Palermo (Italy),

Raffaele Lombardo, residing in Catania (Italy),

Olivier Dupuis, residing in Saint-Gilles (Belgium),

Leda Frittelli, residing in Frosinone (Italy),

* Language of the case: Italian.

Livio Filippi, residing in Carpi (Italy),

Vincenzo Viola, residing in Palermo,

Antonio Mussa, residing in Turin (Italy),

Mauro Nobilia, residing in Rome (Italy),

Clara di Prinzio, as heiress of Mr Sergio Camillo Segre, residing in Rome,

Stefano De Luca, residing in Palermo,

Riccardo Ventre, residing in Formicola (Italy),

Mirella Musoni, residing in Rome,

Francesco Iacono, residing in Forio (Italy),

Vito Bonsignore, residing in Turin,

Claudio Azzolini, residing in Naples (Italy),

Vincenzo Aita, residing in Campagna (Italy),

Mario Mantovani, residing in Arconate (Italy),

Vincenzo Mattina, residing in Buonabitacolo (Italy),

Romano Maria La Russa, residing in Milan,

Giorgio Carollo, residing in Torri di Quartesolo (Italy),

Fiammetta Cucurnia, as heiress of Mr Giulietto Chiesa, residing in Rome,

Roberto Costanzo, residing in Benevento (Italy),

Giorgio Gallenzi, as heir of Mr Giulio Cesare Gallenzi, residing in Rome,

Vitaliano Gemelli, residing in Rome,

Pasqualina Napoletano, residing in Anzio (Italy),

Ida Panusa, residing in Latina (Italy),

represented by M. Merola, avvocato,

appellants,

the other party to the proceedings being:

European Parliament, represented by S. Alves and S. Seyr, acting as Agents,

defendant at first instance,

THE COURT (Fourth Chamber),

composed of C. Lycourgos, President of the Chamber, O. Spineanu-Matei, J.-C. Bonichot, S. Rodin (Rapporteur) and L.S. Rossi, Judges,

Advocate General: J. Kokott,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after hearing the Opinion of the Advocate General at the sitting on 11 January 2024,

gives the following

Judgment

1 By their appeal, Ms Maria Teresa Coppo Gavazzi, Ms Cristiana Muscardini, Mr Luigi Vinci, Mr Agostino Mantovani, Ms Anna Catasta, Ms Vanda Novati, Mr Francesco Enrico Speroni, Ms Maria Di Meo, Mr Giuseppe Di Lello Finuoli, Mr Raffaele Lombardo, Mr Olivier Dupuis, Ms Leda Frittelli, Mr Livio Filippi, Mr Vincenzo Viola, Mr Antonio Mussa, Mr Mauro Nobilia, Ms Clara di Prinzio, as heiress of Mr Sergio Camillo Segre, Mr Stefano De Luca, Mr Riccardo Ventre, Ms Mirella Musoni, Mr Francesco Iacono, Mr Vito Bonsignore, Mr Claudio Azzolini, Mr Vincenzo Aita, Mr Mario Mantovani, Mr Vincenzo Mattina, Mr Romano Maria La Russa, Mr Giorgio Carollo, Ms Fiammetta Cucurnia, as heiress of Mr Giulietto Chiesa, Mr Roberto Costanzo, Mr Giorgio Gallenzi, as heir of Mr Giulio Cesare Gallenzi, Mr Vitaliano Gemelli, Ms Pasqualina Napoletano and Ms Ida Panusa seek to have set aside the judgment of the General Court of the European Union of 15 October 2020, *Coppo Gavazzi and Others* v *Parliament* (T-389/19 to T-394/19, T-397/19, T-398/19, T-403/19, T-404/19, T-406/19, T-407/19, T-409/19 to T-414/19, T-416/19 to T-418/19, T-420/19 to T-422/19, T-425/19 to T-427/19, T-429/19 to T-432/19, T-435/19, T-436/19, T-438/19 to T-442/19, T-444/19 to T-446/19, T-448/19, T-450/19 to T-454/19, T-463/19 and T-465/19, 'the judgment under appeal', EU:T:2020:494), by which the General Court dismissed their actions for annulment of the notes of 11 April 2019 drawn up, for each appellant, by the European Parliament (together, 'the decisions at issue') and concerning the adjustment of the amounts of the pensions received by the appellants following the entry into force on 1 January 2019 of Decision No 14/2018 of the Ufficio di Presidenza della Camera dei deputati (Office of the President of the Chamber of Deputies, Italy) of 12 July 2018 ('Decision No 14/2018').

I. Legal context

A. European Union law

1. The Rules of Procedure of the Parliament

2 Rule 25 of the Rules of Procedure of the European Parliament, in the version applicable during the eighth parliamentary term (2014-2019) ('the Rules of Procedure of the Parliament'), entitled 'Duties of the Bureau', provided, in paragraph 3:

'The Bureau shall take financial, organisational and administrative decisions on matters concerning Members on a proposal of the Secretary-General or of a political group.'

3 That provision of the Rules of Procedure of the Parliament remained unchanged in the version of the rules applicable during the ninth parliamentary term (2019-2024).

2. The PEAM Rules

4 Article 1 of Annex III to the Rules governing the payment of expenses and allowances to Members of the European Parliament, in the version in force until 14 July 2009 ('the PEAM Rules'), provided:

'1. All Members of the European Parliament shall be entitled to a retirement pension.

2. Pending the establishment of a definitive Community pension scheme for all Members of the European Parliament, where no pension is provided under national arrangements or where the level and/or conditions of such pension are not identical to those applicable to Members of the national parliament of the Member State for which the Member was elected, a provisional pension shall, at the request of the Member concerned, be paid from the European Union budget, Parliament Section.'

5 Article 2 of Annex III to the PEAM Rules provided:

'1. The level and conditions of [the provisional] pension shall be identical to those applicable to the pension for Members of the lower house of the parliament of the Member State for which the Member of the European Parliament was elected.

2. A Member benefiting under Article 1(2) shall be required, when joining the scheme, to pay to the European Union budget a sum so calculated that he or she pays the same overall contribution as that payable by a Member of his or her parliament under national provisions.'

6 Under Article 3(1) and (2) of Annex III to the PEAM Rules:

'1. Applications to join this provisional pension scheme must be submitted within 12 months of the beginning of the Member's term of office.

Once that time limit has expired, membership of the pension scheme shall take effect from the first day of the month in which the application was received.

2. Applications for payment of the pension must be made within six months of the commencement of entitlement.

Once that time limit has expired, the pension shall be payable from the first day of the month in which the application was received.'

3. The Statute for Members

7 Article 25(1) and (2) of Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (OJ 2005 L 262, p. 1; 'the Statute for Members'), which entered into force on 14 July 2009, reads as follows:

'1. Members who belonged to Parliament prior to the entry into force of this Statute and were re-elected may opt for the national system applicable hitherto in respect of the salary, transitional allowance and pensions for the entire duration of their membership of the European Parliament.

2. These payments shall be made from the budget of the Member State in question.'

8 Article 28(1) of the Statute for Members provides:

'Any pension entitlement that a Member has acquired in accordance with national arrangements at the time when this Statute is applied shall be retained in full.'

4. The Implementing Measures

9 Recital 7 of Decision 2009/C 159/01 of the Bureau of the European Parliament of 19 May and 9 July 2008 concerning implementing measures for the Statute for Members of the European Parliament (OJ 2009 C 159, p. 1), as amended by Decision 2010/C 340/06 of the Bureau of the European Parliament of 13 December 2010 (OJ 2010 C 340, p. 6) ('the Implementing Measures'), states:

'… in the transitional provisions steps should be taken to ensure that persons in receipt of certain benefits under the PEAM Rules continue to receive them after those rules have been repealed, in keeping with the principle of [the protection of] legitimate expectations. Steps should also be taken to guarantee maintenance of the pension rights acquired on the basis of the PEAM Rules prior to the entry into force of the Statute [for Members].'

10 Article 49(1) of the Implementing Measures states:

'After the cessation of their term of office, Members who have exercised their mandate for at least one complete year shall be entitled, for life, to an old-age pension payable from the first day of the month following that in which they reach the age of 63.

Former Members or their legal representatives shall, except in cases of *force majeure*, submit their application for payment of the old-age pension within six months of the commencement of entitlement. After that deadline the date on which enjoyment of the old-age pension takes effect shall be the first day of the month in which the application is received.'

11 Pursuant to Article 73 of the Implementing Measures, those measures entered into force on the same date as the Statute for Members, namely on 14 July 2009.

12 Article 74 of the Implementing Measures specifies that, subject to the transitional provisions laid down in Title IV thereof, which contains Article 75 thereof, the PEAM Rules were to cease to be valid on the date on which the Statute for Members entered into force.

13 Under Article 75 of the Implementing Measures:

'1. The survivor's pension, the invalidity pension, the additional invalidity pension granted for dependent children and the old-age pension paid pursuant to Annexes I, II and III to the PEAM Rules shall continue to be paid pursuant to those annexes to those persons who were in receipt of the benefits in question prior to the date of entry into force of the Statute [for Members].

Where a former Member in receipt of the invalidity pension dies after 14 July 2009, the survivor's pension shall be paid to his or her spouse, stable non-marital partner or dependent children, subject to the conditions laid down in Annex I to the PEAM Rules.

2. The old-age pension rights acquired prior to the date of entry into force of the Statute [for Members] pursuant to the aforementioned Annex III shall be maintained. Persons who have acquired rights under that pension scheme shall receive a pension calculated on the basis of their acquired rights pursuant to the aforementioned Annex III as soon as they meet the relevant conditions laid down by the national law of the Member State concerned and they have submitted the application referred to in Article 3(2) of the aforementioned Annex III.'

B. Italian law

14 Under Article 1(1) to (3) of Decision No 14/2018:

'1. From 1 January 2019, the amount of direct and survivors' lifetime annuities and of the lifetime annuity proportion of pro rata direct and survivors' pension benefits, entitlement to which was acquired pursuant to the rules in force on 31 December 2011, shall be calculated in accordance with the new rules provided for in this decision.

2. The new calculation referred to in the preceding paragraph shall be carried out by multiplying the amount of the individual contribution by the conversion coefficient relating to the age of the Member of Parliament on the date on which the Member of Parliament became entitled to the lifetime annuity or pro rata pension benefit.

3. The conversion coefficients set out in Table 1, annexed to this decision, shall be applied.'

II. Background to the dispute

15 The background to the dispute is set out in paragraphs 14 to 23 of the judgment under appeal. For the purposes of the present appeal, it may be summarised as follows.

16 Each of the appellants is either a former Member of the European Parliament elected in Italy or a beneficiary of such a former Member of the European Parliament, in receipt of a retirement pension or a survivor's pension ('the pension').

17 By inserting a comment into the pension statements for January 2019, the Parliament warned the appellants that the amounts of their pensions could be revised pursuant to Decision No 14/2018 and that that new calculation might give rise to the recovery of overpaid sums.

18 From 1 January 2019, the Parliament, by applying that decision in accordance with Article 2(1) of Annex III to the PEAM Rules, reduced the amount of the appellants' pension.

19 By an undated note from the Head of the Members' Salaries and Social Entitlements Unit of the Parliament's Directorate-General (DG) for Finance ('the Head of Unit'), appended to the appellants' pension statements for February 2019, the Parliament, first of all, advised the appellants that, by Opinion No SJ-0836/18 of 11 January 2019, its Legal Service had confirmed that Decision No 14/2018 was automatically applicable to their situation ('the Opinion of the Legal Service'). It then went on to explain that once it had received the necessary information from the Camera dei deputati (Chamber of Deputies, Italy), the Parliament would notify the appellants of the new amounts of their pensions and would recover any difference over the following 12 months. Finally, it informed the appellants that the definitive amounts of their pensions would be decided in a formal act against which it would be possible to lodge a complaint or an action for annulment.

20 By the decisions at issue, the Head of Unit, first, informed the appellants that the amounts of their pensions would be adjusted, pursuant to Article 2(1) of Annex III to the PEAM Rules, in line with the reduction of similar pensions paid in Italy to former members of the national parliament by the Chamber of Deputies pursuant to Decision No 14/2018. Second, the amounts of the appellants' pensions would be adjusted as from April 2019, with retroactive effect from 1 January 2019, pursuant to the proposed new pension calculations appended to those decisions. Third, the decisions at issue gave the appellants a period of 30 days, from their receipt, to submit their comments. If they did not do so, the effects of those decisions would be considered final and would entail, in particular, the recovery of the amounts overpaid for January to March 2019.

21 Since none of the appellants in the present appeal submitted such comments, the effects of the decisions at issue became final in their respect on the expiry of that period.

III. The procedure before the General Court and the judgment under appeal

22 The appellants brought their actions for annulment of the decisions at issue by applications lodged at the Registry of the General Court on 27 June (Cases T-389/19 to T-393/19), 28 June (Cases T-397/19, T-407/19, T-409/19 to T-411/19, T-413/19, T-414/19, T-416/19 and T-417/19), 1 July (Cases T-436/19, T-439/19 to T-442/19 and T-445/19), 2 July (Cases T-421/19, T-422/19, T-425/19, T-426/19 and T-429/19 to T-431/19) and 3 July (Cases T-418/19, T-420/19, T-448/19 and T-450/19 to T-453/19).

23 In support of their actions, the appellants relied on four pleas in law. The first plea alleged lack of competence of the Head of Unit to adopt the decisions at issue and infringement of the obligation to state the reasons on which those decisions were based. The second plea alleged lack of a legal basis and misapplication of Article 75 of the Implementing Measures. The third plea alleged an error of law in the classification of Decision No 14/2018 and misapplication of Article 75(2) of the Implementing Measures. By the fourth plea, the appellants alleged a breach of the principles of legal certainty, the protection of legitimate expectations, proportionality and equal treatment, and an infringement of the right to property.

24 By the judgment under appeal, the General Court dismissed the action in Case T-453/19 as inadmissible and rejected all the pleas in the other cases, thus dismissing the actions in those cases.

IV. The procedure before the Court of Justice and the forms of order sought

25 The appellants claim that the Court should:

– set aside the judgment under appeal;

– refer Case T-453/19, *Panusa* v *Parliament*, back to the General Court;

– annul the decisions at issue in respect of the other appellants;

– order the Parliament to pay the costs of the appeal and of the procedure before the General Court.

26 The Parliament contends that the Court should:

– dismiss the appeal and

– order the appellants to pay the costs of the appeal and of the procedure before the General Court.

27 On 12 January 2022, Mr Enrico Falqui, in the procedure in Case C-391/21 P concerning him, lodged at the Registry of the Court of Justice a copy of judgment No 4/2021 of the Consiglio di giurisdizione della Camera dei deputati (Judicial Council of the Chamber of Deputies, Italy) of 23 December 2021 ('Judgment No 4/2021'), annulling Decision No 14/2018. That document was not, at that stage, added to the file.

28 On 9 March 2022, the appellants in Case C-198/21 P, *Santini and Others* v *Parliament*, lodged that judgment at the Court Registry.

29 In the present case, as well as in *Falqui* v *Parliament* (C-391/21 P) and *Santini and Others* v *Parliament* (C-198/21 P), the Registry, on 16 March 2022, addressed to the parties in those cases a measure of organisation prescribed by the Judge-Rapporteur and the Advocate General pursuant to Article 62 of the Rules of Procedure of the Court of Justice, according to which the parties were asked to produce all the documents likely to have a bearing on the subject matter of the case concerning them, inter alia Judgment No 4/2021.

30 On 25 March 2022, the appellants in the present case produced several documents, including Judgment No 4/2021. On 29 March 2022, the Parliament also produced a number of documents, including Judgment No 4/2021 and a document entitled 'New rules for the calculation of pensions adopted by the Italian Chamber of Deputies'. The Parliament also informed the Court that, upon receipt of the additional clarifications it had requested from the Chamber of Deputies regarding the application of those rules in practice, it would recalculate the appellants' pensions and send them a new draft decision on the determination of their pension rights, on which they would then have the opportunity to submit comments before the adoption of a final decision.

31 On 14 October and 29 November 2022, the Parliament lodged at the Court Registry the final decisions fixing the new amount of the pensions to be paid to the appellants from November 2022 with the arrears payable ('the new decisions of the Parliament').

32 By decision of 25 October 2022, the President of the Court of Justice asked the parties to state whether they took the view, first, that the new decisions of the Parliament had replaced the decisions at issue *ex tunc* and, second, that, following the adoption of those new decisions, the appeal retained its purpose.

33 On 29 November 2022, the Parliament stated that it took the view that the new decisions of the Parliament had replaced the decisions at issue *ex tunc*, but that the appeal retained its purpose. In its view, it would be in the interests of the parties and the proper administration of justice for the Court to rule on the merits of the appeal, in order to clarify whether the judgment under appeal is vitiated by an error of law and whether the Parliament may recalculate, on the basis of Article 2(1) of Annex III to the PEAM Rules, the appellants' pensions in the event of a change in the applicable national rules.

34 By letter lodged on 30 November 2022, the appellants stated that they took the view that the new decisions of the Parliament were a mere amendment to the decisions at issue.

35 They claim that, for the purposes of that recalculation, the Parliament continued to refer to the national rules, irrespective of their content, by automatically applying national decisions, on the basis of its interpretation of Article 75 of the Implementing Measures, read in conjunction with Article 2(1) of Annex III to the PEAM Rules ('the Parliament's internal rules').

36 The appellants concluded, first, that the new decisions of the Parliament remained intrinsically identical, at least to a large extent, to the decisions at issue. Second, the adoption of the new decisions of the Parliament resulted in a continuing breach of the principle of legal certainty, of the principle of the protection of legitimate expectations, of acquired rights and of the principle of proportionality, as relied on before the General Court as well as in the present appeal. In other words, although, for some of the appellants, the new decisions of the Parliament had the effect of restoring the amount of their pension to that which they were receiving before the decisions at issue came into force, the fact is that the error of law committed by the Parliament remains, in the form of a failure to give proper instructions and a misapplication of the general principles of EU law, which, in some cases, leads to a continuing unlawful reduction in those amounts.

37 Furthermore, the appellants take the view that the new decisions of the Parliament are not capable of replacing the decisions at issue *ex tunc*, except as regards the amounts of the pensions applicable from 1 January 2019. The basis on which the new calculations are made is still unlawful. Lastly, the appellants claim that the Head of Unit was not competent to adopt the new decisions of the Parliament, since it is not the body competent to adopt acts going beyond the scope of ordinary administration.

V. The appeal

38 In support of their appeal, the appellants raise three grounds of appeal seeking to challenge, in essence, the confirmation by the General Court of the soundness of the interpretation of the Parliament's internal rules which led the Parliament to apply Decision No 14/2018 with a view to reviewing the amount of their pension. The first part of the first ground of appeal alleges

misinterpretation of Article 75 of the Implementing Measures and the second part alleges infringement of the principles of legal certainty and of the protection of legitimate expectations, and of the right to property enshrined in Article 17 of the Charter of Fundamental Rights of the European Union ('the Charter'). The first part of the second ground of appeal alleges misinterpretation of Articles 74 and 75 of the Implementing Measures in that the provisions of Annex III to the PEAM Rules could provide a legal basis for the decisions at issue; the second part alleges infringement of Rule 25(3) of the Rules of Procedure of the Parliament by the General Court in so far as it wrongly held that the Head of Unit was competent to adopt those decisions and the third part alleges infringement of Article 296 TFEU, in that the General Court wrongly held that the statements of reasons for those decisions meet the requisite legal standard. The third ground of appeal concerns solely Ms Panusa and alleges that the General Court erred in law in assessing her interest in bringing proceedings.

A. Preliminary observations on the appellants' continuing interest in bringing proceedings

39 It is apparent from paragraph 31 above that the new decisions of the Parliament, adopted in the course of the proceedings before the Court, seek to fix the new amounts of the pensions paid to the appellants from November 2022 with the arrears payable.

40 In that regard, it should be borne in mind that, according to the settled case-law of the Court, the purpose of the action must, like the interest in bringing proceedings, continue until the final decision, failing which there will be no need to adjudicate, which presupposes that the appeal must be liable, if successful, to procure an advantage for the party bringing it (judgment of 4 September 2018, *ClientEarth* v *Commission*, C-57/16 P, EU:C:2018:660, paragraph 43 and the case-law cited).

41 Nevertheless, an applicant's interest in bringing proceedings does not necessarily disappear because the act challenged by him or her has ceased to have effect in the course of proceedings (see, to that effect, judgment of 28 May 2013, *Abdulrahim* v *Council and Commission*, C-239/12 P, EU:C:2013:331, paragraph 62).

42 In certain circumstances, an applicant may retain an interest in seeking the annulment of an act repealed in the course of proceedings, in order to induce the author of the contested act to make suitable amendments in the future, and thereby avoid the risk that the unlawfulness alleged in respect of that act will be repeated (judgment of 6 September 2018, *Bank Mellat* v *Council*, C-430/16 P, EU:C:2018:668, paragraph 64 and the case-law cited).

43 In the present case, it follows unambiguously from the Parliament's reply of 29 November 2022, summarised in paragraph 33 above, that the Parliament wishes, also in the future, to recalculate the pensions of former Members of the European Parliament in the event of a change in the national rules referred to in Article 2(1) of Annex III to the PEAM Rules ('the dynamic system').

44 Although the Parliament replaced the decisions at issue with the new decisions, the fact remains that all those decisions are based on an interpretation of the Parliament's internal rules according to which the Parliament is required to apply the dynamic system to former Members of the European Parliament in receipt of the retirement pension and to persons in receipt of the survivor's pension who, like the appellants, come within the scope of the annexes to the PEAM Rules ('the former Members of the European Parliament concerned').

45 It is precisely that interpretation which is called into question by the appellants in the present appeal. It follows that, notwithstanding the *ex tunc* replacement of the decisions at issue, the appellants retain an interest in obtaining a finding that the General Court erred in law in confirming the soundness of that interpretation, since the latter is liable to be applied by the Parliament when it adopts, in the future, decisions similar to the decisions at issue or to the new decisions of the Parliament, with the result that there is not only a risk that the alleged unlawfulness will be repeated, within the meaning of the case-law referred to in paragraph 42 above, but also a risk that, in the event of an action for annulment of such similar decisions, the General Court may again commit the alleged errors of law which led it to confirm the soundness of that interpretation.

46 It is apparent, moreover, from the new decisions that the Parliament remains of the view that the Head of Unit is authorised to adopt decisions changing the pension amount in the event of a change in national legislation and that those decisions do not have to include a statement of reasons as to their compliance with EU law.

47 It must be held that the appellants retain an interest in bringing proceedings before the Court of Justice, in so far as the present appeal is directed against the grounds of the judgment under appeal which constitute the *ratio decidenci* of the General Court's findings that, first, it follows from the Parliament's internal rules that the Parliament is required to apply the dynamic system to the former Members of the European Parliament concerned, second, the Head of Unit is competent to adopt decisions changing the amount of the pensions of those former Members and, third, the Parliament is not required to set out, in such decisions, the reasons for their compliance with EU law.

B. The first ground of appeal

1. Arguments of the parties

48 The first ground of appeal is divided into two parts.

49 In the first part, the appellants criticise the General Court for finding, in paragraphs 142 to 145, 147 and 156, 159, 160 and 162 of the judgment under appeal, that the decisions at issue did not infringe the appellants' acquired rights to receive a pension, relying in particular on the incorrect distinction between a reduction in the amount of the pension and an infringement of those acquired rights.

50 They argue that such a finding requires a clarification of the circumstances in which a reduction in the amount of the pension payable to former Members of the European Parliament under EU law does not adversely affect the acquired right to receive it. Otherwise, that finding would be arbitrary, in that the General Court, first, failed to ascertain whether or not that was the case with regard to specific situations and, second, failed to refer to objective, predefined and non-discriminatory criteria which would make it possible to determine in which situations of reduction the pension right of former Members of the European Parliament has been infringed.

51 Furthermore, the appellants claim that the General Court failed to distinguish between paragraphs 1 and 2 of Article 75 of the Implementing Measures. However, the General Court rejected the argument that the pension benefit acquired at the time of the repeal of the PEAM Rules was definitively fixed, both for the situations referred to in Article 75(1) of the Implementing Measures and for those referred to in Article 75(2) thereof.

52 According to the appellants, the pension entitlement of a former Member of the European Parliament arises when the Member of the European Parliament ceases to hold office, provided that he or she has paid contributions for at least five years. In order for that entitlement to be payable, the person concerned must have reached the pensionable age provided for by the laws of the Member State in which he or she was elected and the application for payment of the pension must have been submitted in accordance with Article 3(2) of Annex III to the PEAM Rules. Thus, the infringement of pension rights arising from the decisions at issue, which allegedly infringed the rights payable, concerned the two situations referred to in Article 75 of the Implementing Measures, and in particular that referred to in paragraph 1 thereof.

53 The appellants claim that, in the present case, the decisions at issue changed not only the amount of the appellants' pension, but also the method for calculating that amount. The method of calculation based on the allowance received during the term of office of the Member of the European Parliament concerned was replaced, retroactively, by that based on the contributions paid by that Member. The new calculation of the appellants' pension amount did not apply to the sums payable from the entry into force of Decision No 14/2018 but applied *ab initio*, that is to say on the pension payable to the former Member of the European Parliament concerned elected in Italy from the time that Member retired. Furthermore, the recalculation was carried out as if, during their term of office, all former Members of the European Parliament had paid contributions on the basis of the same rate determined by Decision No 14/2018, thereby penalising the appellants who paid contributions above that rate.

54 In the alternative, namely if the distinction between the right to a pension and the right to a pension benefit were applicable, the appellants submit that it is clear from Article 75 of the Implementing Measures that they are not only entitled to a pension, but they are also entitled to receive a fixed pension amount corresponding to that which they could expect when they decided to contribute to the pension scheme established by the PEAM Rules, or at least from the entry into force of the Statute for Members, contrary to what the General Court found in paragraph 143 of the judgment under appeal.

55 In their view, the decisions at issue lead to an imbalance to the detriment of the appellants, given that the contributions paid did not at that time have any influence on the acquisition of the entitlement to a pension. That imbalance is all the more evident in the case of the appellants who, having served only part of a full term of office as a Member of the European Parliament, because it was shortened or it began during the course of a parliamentary term, paid additional contributions to cover also the years during which they did not contribute, so as to be able to claim entitlement to a pension under the PEAM Rules.

56 By the second part of their first ground of appeal, the appellants submit that the rejection, in paragraphs 204, 211 and 236 of the judgment under appeal, of their arguments alleging infringement of the principles of legal certainty and of the protection of legitimate expectations, as well as of the right to property enshrined in Article 17 of the Charter, is based on reasoning which fails to have regard to those general principles of EU law and that fundamental right enshrined in the Charter.

57 First, the determination of pension rights on the basis of the new rules infringes the principle of legal certainty, which, in accordance with the rationale of Article 28 of the Statute for Members and Article 75 of the Implementing Measures, precludes an infringement of acquired rights.

58 Second, such a calculation infringes the principle of the protection of legitimate expectations in so far as that principle does not allow the rules for calculating pensions to which the appellants have voluntarily bound themselves to be modified.

59 Furthermore, in paragraph 202 of the judgment under appeal, the General Court failed to take account of the fact that the Parliament did not inform the appellants of the possible application to them of Decision No 14/2018 until January 2019, that is to say, after the date on which the reduction in the amount of their pension brought about by that decision should have applied, namely 1 January 2019.

60 Third, the appellants claim that the General Court failed to have regard to the right to property enshrined in Article 17 of the Charter.

61 In the first place, the General Court allegedly drew a distinction, in paragraph 222 of the judgment under appeal, between an infringement of the right to a pension and a mere adjustment of the amount of the pension. The General Court did not, however, indicate the limit beyond which the change in the amount of that pension no longer respects the essence of the right to property and results in an infringement of the right to a pension as such.

62 In the second place, in paragraph 228 of the judgment under appeal, the General Court wrongly found, on the basis of the content of Decision No 14/2018, that the purpose of the reduction in the amount of the appellants' pensions was to adjust the amount of the pensions paid to all former Members of the European Parliament to the contributory calculation method.

63 According to the appellants, that reasoning of the General Court is circular. It is based on the provisions of Italian law and not on an objective of general interest recognised by the EU legal order. It was for the General Court to examine whether the Parliament had duly verified whether the adjustment of the pension of former Members of the European Parliament elected in Italy was consistent with EU law, in the light, in particular, of an objective of general interest recognised by the EU legal order.

64 In addition, the appellants claim that that reasoning distorted the method for calculating the amount of the pensions provided for by Decision No 14/2018, which cannot be regarded as contributory, since it is based not on an individually determined rate of contributions paid to the EU budget, but on a rate that is identical for all the former Members of the European Parliament concerned. Thus, a former Member of the European Parliament who, during his or her term of office, paid contributions calculated at a rate higher than that identical rate would lose the benefit of the share of contributions going beyond that rate. Accordingly, the method for calculating the pension amounts introduced by Decision No 14/2018 demonstrates not only an infringement of the right to property, but also an infringement of the principle of proportionality, in so far as it is based on a non-individualised contribution rate.

65 According to the appellants, that infringement of the principle of proportionality in relation to the justification put forward is all the more evident if it is considered that the contributory pension scheme was introduced for the first time in Italy on 1 January 1996, and that it was extended to

the majority of workers as from 1 January 2012. By contrast, by the decisions at issue, the contributory system is imposed on the appellants in respect of a period long before 1995 for the payment of contributions, when that contributory system did not exist for anyone in Italy.

66 The Parliament contends that the first ground of appeal must be rejected as in part inadmissible and in part unfounded.

2. Findings of the Court

(a) Preliminary observations

67 By the first part of their first ground of appeal, the appellants claim, relying on Article 75 of the Implementing Measures, that the dynamic system adversely affects acquired rights to receive a pension.

68 Therefore, by such a claim, the appellants dispute, in essence, the soundness of the interpretation of the Parliament's internal rules according to which the Parliament is required to apply the dynamic system to the former Members of the European Parliament concerned.

69 The same is true of the second part of this ground of appeal, in so far as, by that part, the appellants claim that the application of the new rules for calculating the amount of their pension is inconsistent not only with the principle of legal certainty, in so far as those new rules adversely affect acquired rights to receive a pension, but also with the principle of the protection of legitimate expectations, in so far as that principle precludes any reduction in the pension amount which the appellants hoped to be able to claim by voluntarily joining the pension scheme established by Article 2(1) of Annex III to the PEAM Rules.

70 However, while, by this second part, the appellants criticise the General Court for failing to take account of the fact that the Parliament informed them belatedly that Decision No 14/2018 might apply, they do not criticise grounds of the judgment under appeal which constitute the *ratio decidendi* of one of the findings of the General Court referred to in paragraph 47 above. Indeed, this argument relates to a specific circumstance relating to the adoption of the decisions at issue.

71 As regards the second part still, in so far as, by that part, the appellants criticise the General Court for assessing the compatibility of the decisions at issue with the right to property enshrined in the Charter in the light not of an objective recognised by EU law, but of that pursued by Decision No 14/2018, they dispute, in essence, the compatibility with EU law of the interpretation of the Parliament's internal rules according to which the Parliament is required to apply the dynamic system to the former Members of the European Parliament concerned.

72 By contrast, the appellants do not dispute the soundness of the interpretation of the Parliament's internal rules when they criticise the General Court, first, for failing to specify the limit beyond which a change in the pension amount no longer respects the essence of the right to property and results in an infringement of the right to a pension as such, and, second, for distorting the method for calculating pensions laid down in Decision No 14/2018. Since, by such arguments, the appellants do not criticise grounds of the judgment under appeal which constitute the *ratio decidendi* of one of the findings of the General Court referred to in paragraph 47 above, there is no need to examine them.

73 The same is true of the argument alleging infringement of the principle of proportionality, by which the appellants submit that Decision No 14/2018 does not comply with that principle on account, first, of the method for calculating pensions provided for by that decision and, second, of the historical context of that decision.

(b) Substance

(1) The alleged infringement of the Parliament's internal rules

74 The appellants complain, in essence, that the General Court held, in paragraph 163 of the judgment under appeal, on the basis of the grounds set out in paragraphs 142 to 145, 147 and 156, 159, 160 and 162 of that judgment, that the Parliament was entitled to rely on its internal rules in order to apply the dynamic system to the former Members of the European Parliament concerned.

75 It should be noted, first of all, that according to Article 2(1) of Annex III to the PEAM Rules 'the level and conditions of [the provisional] pension shall be identical to those applicable to the pension for Members of the lower house of the parliament of the Member State for which the Member of the European Parliament was elected'.

76 As the General Court stated, in essence, in paragraph 139 of the judgment under appeal, it is apparent from the words 'the level and conditions of [the provisional] pension shall be identical' that the Parliament is required to apply to the former Members of the European Parliament concerned the rules for calculating pensions as applied to members of the parliament of the Member State in which those former Members of the European Parliament were elected. In other words, the Parliament is required to apply the dynamic system to the former Members of the European Parliament concerned.

77 That interpretation of Article 2(1) of Annex III to the PEAM Rules is consistent with the objective pursued by that provision, as set out in Article 1(2) of that annex.

78 The latter provision states that only former Members of the European Parliament in respect of whom the pension scheme of the Member State in which they were elected does not provide for a pension, or the level and/or method of calculation of the pension to which they are entitled are not identical to those applicable to members of the national parliament, may receive the pension provided for in Article 2(1) of that annex.

79 Therefore, the main purpose of Article 2(1) of Annex III to the PEAM Rules is to enable former Members of the European Parliament who find themselves in the situation referred to in Article 1(2) of that annex to be treated in the same way as Members of the European Parliament whose national pension scheme provided for the right to a pension the level and/or method of calculation of which were identical to those applicable to members of their national parliament.

80 An interpretation of that provision to the effect that it requires the Parliament to apply the dynamic system to the former Members of the European Parliament concerned thus has the effect of making those Members, like those other former Members of the European Parliament, subject to amendments made to the rules for calculating the pension amount of members of their national parliament.

81 That system, based on Annex III to the PEAM Rules, was maintained, in accordance with Article 75 of the Implementing Measures, after the entry into force of the Statute for Members as regards, inter alia, the retirement pensions of former Members of the European Parliament.

82 It is true that Article 74 of the Implementing Measures provides that the PEAM Rules cease to be valid on the date on which the Statute for Members enters into force. In that regard, the General Court rightly pointed out, in paragraph 153 of the judgment under appeal, that the Statute for Members and the Implementing Measures established two successive pension schemes involving two types of pension rights, namely, on the one hand, pension rights acquired prior to 14 July 2009, the date on which the statute entered into force, on the basis of the Parliament's internal rules, and, on the other hand, retirement pension rights acquired since that date, on the basis of Article 49 of the Implementing Measures.

83 However, as Article 74 of the Implementing Measures expressly states, that expiry of the PEAM Rules is subject to the transitional provisions laid down in Title IV of those measures. Those transitional provisions include Article 75 of those measures.

84 As the General Court found in paragraphs 145 and 153 of the judgment under appeal, Article 75(1) of the Implementing Measures applies to former Members of the European Parliament, including some of the appellants, who paid contributions into the EU budget under Article 2(2) of Annex III to the PEAM Rules and had begun to receive a pension in accordance with that annex prior to the entry into force of the Statute for Members, whereas Article 75(2) of the Implementing Measures applies to former Members of the European Parliament, including other appellants, who, while they too had paid such contributions, had not yet begun to receive a retirement pension on the date on which the Statute for Members entered into force.

85 First, according to Article 75(1) of the Implementing Measures, pensions paid pursuant to Annex III to the PEAM Rules are to continue to be paid pursuant to that annex to those persons who were in receipt of the benefits in question prior to the date of entry into force of the Statute for Members.

86 As the General Court correctly pointed out in paragraph 140 of the judgment under appeal, it must be inferred from the wording of that provision, more specifically from the mandatory nature of the sentence 'shall continue to be paid pursuant to [Annex III to the PEAM Rules]' and from the use of the modal verb 'shall' in that sentence, that the dynamic system remains applicable to the former Members of the European Parliament concerned after the entry into force of the Statute for Members.

87 Second, it is apparent from the first sentence of Article 75(2) of the Implementing Measures that 'the old-age pension rights acquired prior to the date of entry into force of the Statute [for Members] pursuant to [Annex III to the PEAM Rules] shall be maintained' and from the second sentence of that provision that 'persons who have acquired rights under [Annex III to the PEAM Rules] shall receive a pension calculated on the basis of their acquired rights pursuant to [that annex] as soon as they meet the relevant conditions laid down by the national law of the Member State concerned and they have submitted the application referred to in Article 3(2) of the aforementioned Annex III'.

88 In so far as the second sentence of Article 75(2) of the Implementing Measures lays down conditions which former Members of the European Parliament must meet in order to receive a pension calculated on the basis of their acquired rights pursuant to Annex III to the PEAM Rules, that provision is not intended to apply to former Members of the European Parliament who began to receive a pension pursuant to that annex before the Statute for Members entered into force.

89 Furthermore, in so far as the second sentence of Article 75(2) of the Implementing Measures provides that the former Members of the European Parliament concerned are to receive an old-age pension pursuant to Annex III to the PEAM Rules on the basis of acquired rights, the concept of 'acquired retirement pension rights' for the purposes of Article 75(2) must be understood, as the General Court correctly stated, in essence, in paragraphs 143 and 151 of the judgment under appeal, as referring to the pension rights resulting from the contributions paid on an individual basis by each of the former Members of the European Parliament concerned and which form the basis for the calculation of the retirement pension paid to them in accordance with Article 2(1) of Annex III to the PEAM Rules. That concept therefore cannot be understood as referring to an alleged right to receive a fixed and immutable pension amount calculated on the basis of the national rules in force at the time the Statute for Members entered into force or at the time of joining the scheme established by that provision.

90 Contrary to the appellants' submissions, the General Court therefore did not err in law either when it held, in paragraph 142 of the judgment under appeal, that a reduction in the amounts of the pensions of the former Members of the European Parliament concerned did not adversely affect their 'acquired retirement pension rights' for the purposes of the Parliament's internal rules, since those rules guarantee them only the right to have the amounts of their pensions determined in accordance with the dynamic system.

91 Consequently, it is clear from the wording, context and purpose of the Parliament's internal rules that, in paragraph 163 of the judgment under appeal, the General Court did not err in law when it held that the Parliament was entitled to rely on its internal rules in order to apply the dynamic system to the former Members of the European Parliament concerned.

(2) Alleged infringement of the principles of the protection of legitimate expectations and of legal certainty, and of the right to property enshrined in Article 17 of the Charter

92 The appellants submit that the General Court's interpretation of the Parliament's internal rules infringes the principles of the protection of legitimate expectations and of legal certainty, and the right to property enshrined in Article 17 of the Charter.

93 In accordance with a general principle of interpretation, an EU act must be interpreted, as far as possible, in such a way as not to affect its validity and in conformity with primary law as a whole and, in particular, with the provisions of the Charter. Thus, if the wording of secondary EU legislation is open to more than one interpretation, preference should be given to the interpretation which renders the provision consistent with primary law rather than to the interpretation which leads to its being incompatible with primary law (judgment of 21 June 2022, *Ligue des droits humains*, C-817/19, EU:C:2022:491, paragraph 86 and the case-law cited).

94 As regards, first, the principle of the protection of legitimate expectations, the appellants claim that the fact that they voluntarily joined the pension scheme established by Article 2(1) of Annex III to the PEAM Rules guarantees them, by virtue of that principle, that the amounts of their pensions is calculated in accordance with the rules in force at the time of their joining that scheme.

95 In accordance with the case-law of the Court of Justice, a person may not validly plead infringement of that principle unless the administration has given that person precise assurances. Any person to whom an institution has given justified hopes may rely on the principle of the protection of legitimate expectations. In whatever form it is given, information which is precise, unconditional and consistent and comes from authorised and reliable sources constitutes assurances capable of giving rise to such hopes (see, to that effect, judgment of 23 January 2019, *Deza* v *ECHA*, C-419/17 P, EU:C:2019:52, paragraphs 69 and 70 and the case-law cited).

96 By contrast, if a prudent and alert person can foresee the adoption of an EU measure likely to affect his or her interests, that person cannot plead the principle of protection of legitimate expectations if that measure is adopted (see, to that effect, judgment of 23 January 2019, *Deza* v *ECHA*, C-419/17 P, EU:C:2019:52, paragraph 71 and the case-law cited).

97 The mere fact that a former Member of the European Parliament voluntarily joined the pension scheme established by Article 2(1) of Annex III to the PEAM Rules does not entitle that Member, when joining that scheme, to receive a pension amount that is foreseeable, fixed and immutable. As the General Court correctly held in paragraphs 208 and 209 of the judgment under appeal, which were not criticised by the appellants in their appeal, the only precise and unconditional assurance which the Parliament was in a position to give was the assurance that, under its internal rules, the former Members of the European Parliament concerned would receive a retirement pension the level and conditions of which would be identical to those applicable to members of the parliament of the Member State in which they were elected, in accordance with the dynamic system.

98 It follows that the interpretation of the Parliament's internal rules to the effect that the Parliament is required to apply that system is consistent with the principle of the protection of legitimate expectations.

99 As regards, next, the right to property, the appellants claim that the General Court erred in law, in paragraph 228 of the judgment under appeal, when it examined the compatibility of the decisions at issue with the right to property in the light of the objective of Decision No 14/2018 and not of an objective recognised by EU law.

100 It must be borne in mind that, in paragraph 219 of the judgment under appeal, the General Court held that, although the decisions at issue do not entail an outright deprivation of the appellants' pensions, the fact remains that they reduce the amount thereof, thereby restricting their right to property.

101 Subsequently, in paragraphs 220 to 235 of the judgment under appeal, the General Court examined whether that restriction satisfied the requirements of Article 52(1) of the Charter, recalled in paragraph 213 of that judgment. In that regard, in paragraph 227 of that judgment, the General Court held that the public interest objective pursued by the decisions at issue could not be appraised without having regard to the objectives underlying the adoption of Decision No 14/2018. It is to that extent that, following the examination of the compatibility of those

decisions with the right to property which it carried out, in paragraphs 228 to 234 of that judgment, taking account of those objectives, the General Court decided, in paragraph 236 thereof, that the complaint alleging infringement of the right to property had to be rejected.

102 According to the case-law of the Court of Justice, the scope of that right must, in accordance with Article 52(3) of the Charter, be determined having regard to Article 1 of Protocol No 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Paris on 20 March 1952, which enshrines that right (see, to that effect, judgment of 13 June 2017, *Florescu and Others*, C-258/14, EU:C:2017:448, paragraph 49).

103 It follows from the case-law of the European Court of Human Rights that the rights resulting from the payment of contributions to a social security scheme constitute rights of property for the purposes of that article (judgment of 13 June 2017, *Florescu and Others*, C-258/14, EU:C:2017:448, paragraph 50).

104 Moreover, a reduction in the amount of a retirement pension which is liable to have an effect on the quality of life of the person concerned constitutes a restriction of that person's right to property (see, to that effect, ECtHR, 1 September 2015, *Da Silva Carvalho Rico v. Portugal*, CE:ECHR:2015:0901DEC001334114, § 33).

105 In so far as the interpretation of the Parliament's internal rules to the effect that it is required to apply the dynamic system to the former Members of the European Parliament concerned is liable to lead to such a reduction in the pension amount, that interpretation may lead to a restriction of the right to property enshrined in Article 17 of the Charter.

106 The right to property is not absolute and its exercise may thus be subject to restrictions, provided, inter alia, that they are justified by objectives of general interest pursued by the European Union (see, to that effect, judgment of 13 June 2017, *Florescu and Others*, C-258/14, EU:C:2017:448, paragraph 51 and the case-law cited).

107 Under Article 52(1) of the Charter, any limitation on the right to property enshrined in Article 17 thereof is compatible with that provision if it is provided for by law, it respects the essence of the right to property and, subject to the principle of proportionality, it is necessary and genuinely meets objectives of general interest recognised by the European Union or the need to protect the rights and freedoms of others.

108 In that regard, it should be recalled, in the first place, that the requirement that any limitation on the exercise of fundamental rights must be provided for by law implies that the act which permits the interference with those rights must itself define the scope of the limitation on the exercise of the right concerned, bearing in mind, on the one hand, that that requirement does not preclude the limitation in question from being formulated in terms which are sufficiently open to be able to adapt to different scenarios and keep pace with changing circumstances and, on the other hand, that the Court may, where appropriate, specify, by means of interpretation, the actual scope of the limitation in the light of the very wording of the EU legislation in question as well as its general scheme and the objectives it pursues, as interpreted in view of the fundamental rights guaranteed by the Charter (judgment of 21 June 2022, *Ligue des droits humains*, C-817/19, EU:C:2022:491, paragraph 114).

109 As noted in paragraph 91 above, it is clear from the wording, context and purpose of the Parliament's internal rules, which are of general application with regard to Members of the European Parliament and may therefore be regarded as being the equivalent, internally, of a 'law' within the meaning of Article 52(1) of the Charter (see, by analogy, Opinion 1/15 *(EU-Canada PNR Agreement)* of 26 July 2017, EU:C:2017:592, paragraphs 145 and 146), that the Parliament is required to apply the dynamic system to the former Members of the European Parliament concerned.

110 In the second place, the General Court, in its capacity as the court ruling on the substance and without erring in law, found in paragraphs 216 and 235 of the judgment under appeal that the appellants had not adduced specific evidence capable of showing that the reduction in the amounts of their pensions adversely affected the essence of their right to property or had to be described as disproportionate.

111 As regards, in the third place, the question whether the dynamic system and the resulting reductions in the pension amounts are necessary and genuinely meet one or more objectives of general interest recognised by the European Union, it must be held that the General Court erred in law, in paragraph 227 of the judgment under appeal, when it held that, having regard to Article 2(1) of Annex III to the PEAM Rules, the adoption of the decisions at issue is necessarily determined by the choices made by the competent Italian authorities, with the result that 'the appraisal of the public interest objective pursued [by the decisions at issue could not] disregard the objectives underlying the adoption of Decision No 14/2018'.

112 The objectives pursued by Decision No 14/2018, applicable to the former Members of the European Parliament concerned under the dynamic system, are purely national in nature. As such, they are not, therefore, capable of justifying a reduction in the pension amounts, since those sums are paid under a pension scheme established not under national law, but under EU law, and are charged to the EU budget.

113 Accordingly, the General Court was also wrong, in paragraphs 228 to 234 of the judgment under appeal, to take into consideration the objectives pursued by that national decision for the purpose of examining whether the adverse effect on the appellants' right to property, brought about by the decisions at issue, was justified.

114 It must be borne in mind, however, that, if the grounds of a judgment of the General Court disclose an infringement of EU law but its operative part is shown to be well founded on other legal grounds, such an infringement cannot lead to the setting aside of that judgment, and a substitution of grounds must be made and the appeal dismissed (judgment of 14 December 2023, *Commission* v *Amazon.com and Others*, C-457/21 P, EU:C:2023:985, paragraph 51 and the case-law cited).

115 It is therefore necessary to ascertain whether the rejection of the complaint alleging infringement of the right to property enshrined in Article 17 of the Charter is shown to be well founded on legal grounds other than those vitiated by the error identified in paragraphs 111 and 113 above.

116 In that regard, it should be noted that the application of the dynamic system to former Members of the European Parliament in the situation referred to in Article 1(2) of Annex III to the PEAM Rules pursues an objective of general interest recognised by the European Union, in so far as it seeks, as is apparent from paragraph 79 above, to treat in the same way, on the one hand, Members of the European Parliament who either are not entitled to a pension scheme in the

Member State in which they were elected, or are covered by a pension scheme in which the level and/or method of calculation of the pension were not identical to those applicable to members of the national parliament and, on the other hand, Members of the European Parliament whose national pension scheme provided for that level and/or a method of calculation of the pension identical to those applicable to members of the national parliament.

117 The application of the dynamic system to the former Members of the European Parliament concerned does indeed meet that objective of equal treatment, since it has the effect that the two categories of Members of the European Parliament referred to in the preceding paragraph are subject, at all times, to the national rules relating to the calculation of the retirement pensions of members of parliament of the Member State concerned.

118 That application was, moreover, necessary in order to achieve that objective, since only an alignment of the level of and/or method for calculating the pension such as that provided for in Article 2(1) of Annex III to the PEAM Rules, read in conjunction with Article 1(2) of that annex, could lead to equal treatment between those categories of Members of the European Parliament.

119 It is thus apparent that, notwithstanding the error of law identified in paragraphs 111 and 113 above, the rejection of the complaint alleging infringement of the right to property enshrined in Article 17 of the Charter is well founded, with the restriction of the right to property at issue satisfying all the conditions laid down in Article 52(1) of the Charter.

120 As regards, lastly, the principle of legal certainty, the appellants submit that that principle precludes an infringement of their acquired rights to which the application of the dynamic system leads.

121 In its examination of the compatibility of the decisions at issue with the principle of legal certainty, the General Court recalled, in paragraph 191 of the judgment under appeal, that it was already apparent from paragraphs 126 to 161 of that judgment that 'acquired pension rights' had to be distinguished from 'the amounts of pensions'. The General Court stated, in that regard, that, although 'pension rights' are acquired definitively and cannot be altered, and even though pensions continue to be paid, there was nothing to prevent the amounts of those pensions from being adjusted upwards or downwards, which the Parliament was required to do in the present case, having regard to its obligation to apply the dynamic system to the former Members of the European Parliament concerned.

122 In paragraph 202 of the judgment under appeal, the General Court concluded its analysis by holding that the appellants had not shown that the principle of legal certainty had been infringed in that case. The Parliament's internal rules meant that the new amounts of the appellants' pensions would enter into force on 1 January 2019. The General Court pointed out that those internal rules largely predated, and did not post-date, 1 January 2019. Moreover, the appellants had neither established nor claimed that the Parliament had applied those new amounts before 1 January 2019, that is to say, before the date fixed for that purpose by Decision No 14/2018. Finally, according to the General Court, the Parliament had informed the appellants as early as January 2019 that the rules laid down in Decision No 14/2018 might apply to them, which the Parliament confirmed to them in February 2019. The General Court inferred from this that the appellants had been informed of the amendment of the rules applicable to the calculation of their pension amounts before the decisions at issue were adopted.

123 It should be recalled in that regard that the principle of legal certainty requires that EU rules enable those concerned to know precisely the extent of the obligations which are imposed on them, and that those persons must be able to ascertain unequivocally what their rights and obligations are and take steps accordingly (judgment of 9 November 2023, *Global Silicones Council and Others* v *Commission*, C-558/21 P, EU:C:2023:839, paragraph 99 and the case-law cited).

124 Thus, new laws, which amend the old law, apply, unless otherwise provided, to the future effects of situations which arose under that law. The position is different only in respect of situations originating and becoming definitive under the old law, which create acquired rights. A right is considered to be acquired when the event giving rise to it occurred before the legislative amendment. That is not the case when the event creating the right did not take place under the legislation that has been amended (see, to that effect, judgment of 9 March 2023, *Grossetête* v *Parliament*, C-714/21 P, EU:C:2023:187, paragraph 84 and the case-law cited).

125 As regards, in particular, the right to receive a retirement pension, that right is acquired, in principle, at the time when the event giving rise to that right occurs, that is to say, when the pension becomes payable (see, to that effect, judgment of 9 March 2023, *Grossetête* v *Parliament*, C-714/21 P, EU:C:2023:187, paragraphs 85 to 87).

126 That does not mean, however, that any amendment to the method for calculating a pension which leads to a reduction in that amount, applied on the basis of legislation adopted after that pension became payable, constitutes an infringement of those acquired rights.

127 It must be borne in mind, in that regard, that there is no principle in EU law that acquired rights may not be altered or reduced under any circumstances. It is possible, under certain conditions, to alter such rights (see, to that effect, judgment of 9 March 2023, *Grossetête* v *Parliament*, C-714/21 P, EU:C:2023:187, paragraphs 88 and 89).

128 In the present case, the General Court was fully entitled to conclude, on the basis of the evidence referred to, inter alia, in paragraph 202 of the judgment under appeal, that the application of the dynamic system, as provided for in Annex III to the PEAM Rules and Article 75 of the Implementing Measures, is compatible with the principle of legal certainty.

129 In the light of all the foregoing, the first ground of appeal must be rejected in so far as, by that ground of appeal, the appellants challenge the interpretation of the Parliament's internal rules according to which the Parliament is required to apply the dynamic system to the former Members of the European Parliament concerned.

C. The second ground of appeal

1. Arguments of the parties

130 The second ground of appeal comprises three parts.

131 In the first part, the appellants claim that the General Court erred in law, in paragraph 126 of the judgment under appeal, in interpreting Articles 74 and 75 of the Implementing Measures as meaning that the provisions of Annex III to the PEAM Rules could provide a valid legal basis for the adoption of the decisions at issue.

132 They argue that the General Court found, by virtue of the reference provided for in Article 74 of the Implementing Measures read in conjunction with Article 75 thereof, that it was not the content of that annex at the time of the adoption of the Statute for Members that was applicable, but the legal provision as such, even though it had been repealed. Thus, according to the General Court, that annex should apply not only by reference to the time when the former pension scheme was repealed but also in the future, through the retroactive application of changes in the Italian pension benefit decided upon when Annex III was no longer in force.

133 According to the appellants, it is apparent from the wording of Article 74 of the Implementing Measures, read in conjunction with recital 7 thereof, that Annex III to the PEAM Rules was repealed in its entirety on the date on which the Statute for Members entered into force.

134 In the second part, the appellants claim that, in paragraphs 90 to 92 of the judgment under appeal, the General Court erred in law in interpreting Rule 25(3) of the Rules of Procedure of the Parliament as meaning that the Head of Unit was competent to adopt the decisions at issue, since the relevant powers had been properly subdelegated to him.

135 The decisions at issue should have been adopted by the Bureau of the Parliament, since they qualify as acts outside the scope of ordinary administration. The appellants claim that such decisions refer to a new, complex and unforeseen situation, as evidenced, moreover, by the intervention of the Parliament's Legal Service, with the result that their compliance with the higher-ranking rules and principles of the European Union should have been verified before they were adopted. Therefore, they are not purely technical decisions, capable of being delegated to a head of unit.

136 In the third part of their second ground of appeal, the appellants claim that, in paragraphs 110 to 114 of the judgment under appeal, the General Court erred in its assessment of the statement of reasons for the decisions at issue.

137 They submit that those decisions merely make an indirect reference to the statement of reasons set out in the Opinion of the Legal Service. However, that opinion was neither mentioned in the decisions at issue nor appended to them. Nor was that opinion annexed to the notice appended to the pension statements for February 2019 which were sent to the appellants. There was only a reference to the opinion, in the form of a mere mention to the fact that the Parliament's Legal Service had confirmed that Decision No 14/2018 was automatically applicable.

138 Moreover, according to the appellants, the General Court wrongly stated that the letter sent by the Head of Unit on 11 June 2019 to Mr Florio, the appellant in Case T-465/19, contained a direct link to the Parliament's internet page on which the Opinion of the Legal Service could be consulted. That letter was in fact the response to the comments submitted by the person concerned following notification of the note of 11 April 2019 concerning him. The other appellants therefore did not receive any such information and the decisions at issue do not contain any link to the website on which the Opinion of the Legal Service is publicly available.

139 They claim that the fact that the appellants succeeded in obtaining that opinion cannot lead to the conclusion that the formal requirements laid down in Article 296 TFEU have been complied with.

140 Lastly, they submit that the Opinion of the Legal Service included only a very incomplete and brief examination of compliance with higher-ranking rules and fundamental principles of EU law, a fact which the General Court disregarded.

141 The Parliament contends that the second ground of appeal must be rejected as unfounded.

2. Findings of the Court

(a) Preliminary observations

142 The first part, alleging infringement of Articles 74 and 75 of the Implementing Measures, concerns the interpretation of the Parliament's internal rules according to which the Parliament is required to apply the dynamic system to the former Members of the European Parliament concerned. Having regard to the case-law referred to in paragraph 42 above, it is appropriate to examine the merits of such a complaint since, by that complaint, the appellants rely on an unlawfulness that is likely to be repeated in the future.

143 The same is true of the second part, by which the appellants claim that the Head of Unit was not competent under Rule 25(3) of the Rules of Procedure of the Parliament to adopt the decisions at issue.

144 By the third part, the appellants submit, in essence, that the General Court infringed Article 296 TFEU. According to them, first, the General Court wrongly held, in paragraphs 112 and 116 of the judgment under appeal, that the Parliament had not failed to comply with its obligation to state reasons since the appellants had had free access to the Opinion of the Legal Service and were fully aware of its content before bringing their actions. Second, the General Court allegedly overlooked the fact that the Opinion of the Legal Service contained only a very incomplete and brief examination of compliance with higher-ranking rules and fundamental principles of EU law.

145 It must be held in that regard that this part of this ground of appeal is inadmissible.

146 In accordance with 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 limited to points of law. The General Court alone has jurisdiction to establish and assess the relevant facts and to evaluate the evidence. The assessment of those facts and evidence does not therefore constitute, save in the case of their distortion, a question of law subject, as such, to review by the Court of Justice in the context of an appeal (judgment of 28 September 2023, *Changmao Biochemical Engineering* v *Commission*, C-123/21 P, EU:C:2023:708, paragraph 121 and the case-law cited).

147 In the first place, in so far as the appellants dispute that they had free access to the Opinion of the Legal Service and were fully aware of its content before they brought their actions, they are in fact seeking a fresh assessment of the facts and evidence from the Court of Justice, without, however, alleging that they have been distorted by the General Court.

148 In the second place, as regards the appellants' argument that the General Court disregarded the incomplete and brief nature of the examination of compliance with higher-ranking rules and fundamental principles of EU law contained in the Opinion of the Legal Service, it must be held that that argument is inadmissible since it is based on an unlawful act allegedly committed by the Parliament which was not raised before the General Court and, consequently, was not debated before it.

149 It is apparent from Article 58 of the Statute of the Court of Justice of the European Union that the grounds of appeal must be based on arguments made in the proceedings before the General Court. Moreover, according to Article 170(1) of the Rules of Procedure, the subject matter of the proceedings before the General Court may not be changed in the appeal. Thus, the jurisdiction of the Court of Justice in an appeal is confined to a review of the findings of law on the pleas and arguments debated before the General Court (judgment of 21 December 2021, *Aeris Invest* v *SRB*, C-874/19 P, EU:C:2021:1040, paragraph 53 and the case-law cited).

150 It is true that the appellants criticised the Parliament before the General Court, as is apparent from paragraph 99 of the judgment under appeal, for failing to assess to what extent the retroactive application of a less favourable pension scheme might be compatible with EU law. However, that argument differs from the one summarised in paragraph 140 above, in particular in so far as it is not related to the obligation to state reasons, as the General Court rightly held in paragraph 120 of the judgment under appeal.

151 It follows that it is appropriate to examine the merits of the first and second parts of the second ground of appeal only.

(b) Substance

152 As regards the first part, it should be noted that Article 74 of the Implementing Measures provides that, subject to the transitional provisions laid down in Title IV of those measures, the PEAM Rules cease to be valid on the date on which the Statute for Members enters into force.

153 It cannot be inferred from that wording that the former Members of the European Parliament concerned should be subject, in an inalterable way, to the rules for calculating pensions which were applicable, at the time when the PEAM Rules were repealed, to members of the parliament of the Member State in which those former Members were elected.

154 As is apparent from paragraphs 81 to 83 above, the dynamic system remains applicable to such Members under Article 75 of the Implementing Measures after the entry into force of the Statute for Members.

155 Contrary to what the appellants claim, that interpretation of Article 75 of the Implementing Measures is not invalidated by recital 7 thereof.

156 Recital 7 of the Implementing Measures states, first, that 'persons in receipt of certain benefits under the PEAM Rules [must be able to] continue to receive them after those rules have been repealed, in keeping with the principle of [the protection of] legitimate expectations' and, second, that 'steps should also be taken to guarantee maintenance of the pension rights acquired on the basis of the PEAM Rules prior to the entry into force of the Statute'.

157 It follows from that recital that it states that the benefits granted under those rules are to continue to be paid, without its being possible to infer therefrom that those rules would cease to apply after that date.

158 Thus, the concept of 'acquired pension rights' has the same scope in that recital as in Article 75(2) of the Implementing Measures, as set out in paragraph 89 above.

159 Therefore, the General Court did not err in law when, in paragraph 126 of the judgment under appeal, it found, in essence, that Article 2(1) of Annex III to the PEAM Rules, which provides for the application of the dynamic system to the former Members of the European Parliament concerned, has not been repealed and remains applicable after the entry into force of the Statute for Members, in the case of the appellants.

160 It follows that the first part must be rejected as unfounded.

161 As regards the second part, it should be noted that the General Court found, in paragraph 90 of the judgment under appeal, that the Head of Unit had been appointed authorising officer by subdelegation for budget line 1030 relating to retirement pensions referred to in Annex III to the PEAM Rules, by Decision FINS/2019-01 of the Director-General for Finance of the Parliament of 23 November 2018 and that that decision expressly states that the Head of Unit is authorised, inter alia, to make legal and budgetary commitments, validate expenditure and authorise payments, and also draw up estimates of amounts receivable, establish entitlements to be recovered and issue recovery orders.

162 In paragraph 91 of the judgment under appeal, the General Court noted, inter alia, that the rules laid down by the Implementing Measures and the PEAM Rules, as adopted by the Bureau of the Parliament, were not altered but only implemented by the Head of Unit.

163 In those circumstances, the General Court held, in paragraph 92 of the judgment under appeal, that the Head of Unit was competent to adopt the decisions at issue.

164 In so far as Decision FINS/2019-01 of the Director-General for Finance of the Parliament of 23 November 2018 authorises the Head of Unit, inter alia, to make legal and budgetary commitments, validate expenditure and authorise payments, and also draw up estimates of amounts receivable, establish entitlements to be recovered and issue recovery orders, it is drafted in sufficiently broad terms to cover the situations put forward by the appellants, namely new, complex and unforeseen situations in the delegated areas.

165 In addition, the appellants do not claim that that decision contains a reservation relating to the competence to apply EU primary law and, in particular, the provisions of the Charter, in the context of the adoption of decisions coming within those areas.

166 Moreover, Rule 25(3) of the Rules of Procedure of the Parliament, contrary to what the appellants submit, does not contain any reservation of competence in that area in favour of the Bureau of the Parliament. Indeed, according to that provision 'the Bureau shall take financial, organisational and administrative decisions on matters concerning Members on a proposal of the Secretary-General or of a political group'. Nor can any purported distinction between acts outside the scope of ordinary administration, the adoption of which would be reserved for the Bureau of the Parliament, and acts within the scope of ordinary administration, which would have been delegated to the Head of Unit, be inferred from this provision.

167 Consequently, the second part must be rejected as unfounded.

168 It follows that the second ground of appeal must be dismissed as in part inadmissible and in part unfounded.

D. The third ground of appeal

1. Arguments of the parties

169 The third ground of appeal is directed against paragraph 70 of the judgment under appeal, by which the General Court found that the action brought by Ms Panusa in Case T-453/19 was inadmissible, on the ground that the note of the Head of Unit of 11 April 2019 concerning her had not entailed any reduction in the amount of the survivor's pension.

170 According to the appellants, that finding is vitiated by an error of law, in so far as, in essence, the survivor's pension which Ms Panusa receives is calculated on the basis of the provisions of Annex III to the PEAM Rules, whereas the determination of such a pension is covered by the provisions of Annex I to those rules, which should allow her to claim a higher pension amount.

171 The Parliament contends that the third ground of appeal must be rejected as inadmissible and, in the alternative, as unfounded.

2. Findings of the Court

172 It is clear that the grounds of the judgment under appeal covered by the third ground of appeal do not constitute the *ratio decidendi* of one of the findings of the General Court referred to in paragraph 47 above.

173 Consequently, there is no need to examine that ground.

174 Since all the grounds of appeal put forward by the appellants in support of their appeal have been rejected, the appeal must be dismissed in its entirety.

VI. Costs

175 In accordance with Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is unfounded, the Court shall make a decision as to the costs. Under Article 138(1) of those rules, which applies to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

176 Since the appellants have been unsuccessful and the Parliament has applied for costs, the appellants must be ordered to bear their own costs and to pay those incurred by the Parliament.

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

1. Dismisses the appeal;

2. Orders Ms Maria Teresa Coppo Gavazzi, Ms Cristiana Muscardini, Mr Luigi Vinci, Mr Agostino Mantovani, Ms Anna Catasta, Ms Vanda Novati, Mr Francesco Enrico Speroni, Ms Maria Di Meo, Mr Giuseppe Di Lello Finuoli, Mr Raffaele Lombardo, Mr Olivier Dupuis, Ms Leda Frittelli, Mr Livio Filippi, Mr Vincenzo Viola, Mr Antonio Mussa, Mr Mauro Nobilia, Ms Clara di Prinzio, as heiress of Mr Sergio Camillo Segre,

Mr Stefano De Luca, Mr Riccardo Ventre, Ms Mirella Musoni, Mr Francesco Iacono, Mr Vito Bonsignore, Mr Claudio Azzolini, Mr Vincenzo Aita, Mr Mario Mantovani, Mr Vincenzo Mattina, Mr Romano Maria La Russa, Mr Giorgio Carollo, Ms Fiammetta Cucurnia, as heiress of Mr Giulietto Chiesa, Mr Roberto Costanzo, Mr Giorgio Gallenzi, as heir of Mr Giulio Cesare Gallenzi, Mr Vitaliano Gemelli, Ms Pasqualina Napoletano and Ms Ida Panusa to bear their own costs and to pay those incurred by the European Parliament.

[Signatures]