

2. Second plea in law, alleging that the Parliament's decision not to take note of the results officially declared by Spain of the election to the European Parliament of 26 May 2019, and the subsequent decision to take note of a different and incomplete list of elected members notified on 20 June 2019 by the Spanish authorities, which does not include the applicants, infringe Article 12 of the 1976 Electoral Act and Article 3(2) of the European Council Decision 2018/937 ⁽¹⁾, in connection with Article 39(2) of the Charter, Article 10(1) and (2) TEU, Article 14(2) and (3) TEU and Article 1(3) of the 1976 Electoral Act.
3. Third plea in law, alleging that the Parliament's decision to treat the communication of the Spanish Electoral Commission of 20 June 2019 as depriving of effect the declaration of the applicants as elected members of Parliament, amounts to an unlawful declaration of a vacancy that violates Article 13 of the 1976 Electoral Act, attributable to Parliament, that infringes Articles 6(2), 8 and 13 of the 1976 Electoral Act, in connection with Article 39(2) of the Charter, Article 10(1) and (2) TEU, Article 14(2) and (3) TEU and Article 1(3) of the 1976 Electoral Act.
4. Fourth plea in law, alleging that the Parliament's decision refusing to guarantee, pursuant to Rule 3(2) of its Rules of Procedure, the right of the applicants to take their seats in Parliament and on its bodies and to enjoy all the rights attaching thereto from the date of the first sitting and until a ruling has been given on the disputes referred both to Parliament and to the judicial authorities of Spain, infringes Rule 3(2) of the Rules of Procedure of the European Parliament and Articles 5(1) and 12 of the 1976 Electoral Act, in connection with Article 39(2) of the Charter, Article 10(1) and (2) TEU, Article 14(2) and (3) TEU and Article 1(3) of the 1976 Electoral Act.
5. Fifth plea in law, alleging that the President's decision refusing to assert the privileges and immunities of the applicants under Article 9 of Protocol (No 7) on the Privileges and Immunities of the European Union, infringes Rule 5(2) of the Rules of Procedure of the European Parliament, Article 6(2) of the 1976 Electoral Act and Article 9 of the said Protocol in connection with Article 39(2) of the Charter, Article 10(1) and (2) TEU, Article 14(2) and (3) TEU, and Article 1(3) of the 1976 Electoral Act.

⁽¹⁾ European Council Decision (EU) 2018/937 of 28 June 2018 establishing the composition of the European Parliament (OJ L 165I, 2.7.2018, p. 1).

Action brought on 27 June 2019 — Coppo Gavazzi v Parliament

(Case T-389/19)

(2019/C 270/50)

Language of the case: Italian

Parties

Applicant: Maria Teresa Coppo Gavazzi (Milan, Italy) (represented by: M. Merola, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- declare non-existent or annul in its entirety the measure of which the applicant was informed by means of the contested communication, in which the European Parliament redetermined retirement pension rights and ordered recovery of the amount paid on the basis of the earlier pension calculation;

- order the European Parliament to refund all the sums unduly withheld, and to pay statutory interest from the date of withholding to the date of payment and order the European Parliament to implement the judgment and undertake all the necessary initiatives, acts or measures to ensure the immediate, full re-establishment of the original pension amount;
- order the European Parliament to pay the costs of the legal proceedings.

Pleas in law and main arguments

The present action is directed against the act by which the European Parliament redetermined the rights to a retirement pension of the applicant following the entry into force on 1 January 2019 of Resolution No 14/18 of the Office of the President of the Italian Chamber of Deputies and the recovery of the amount paid, paid on the basis of the earlier determination.

In support of the action, the applicant raises four pleas in law.

1. By the first plea in law, the applicant claims incompetence on the part of the author of the act, infringement of essential procedural requirements and the consequent infringement of Article 41 of the Charter of Fundamental Rights.
 - The applicant claims in that regard that the communication of the European Parliament is unlawful, since it is vitiated by serious and clear omissions, of a principally procedural nature, and, in particular, the decision was adopted by the Directorate-General for Finance and not by the Bureau of the European Parliament in accordance with Article 11a⁽⁶⁾ and Article 25(3) of the European Parliament's Rules of Procedure. The communication did not contain any justification for its adoption or for the automatic application of the Italian resolution.
 2. By the second plea in law, the applicant claims that there is no legal basis for the contested act and that there was an error of law in the interpretation of Article 75 of the Implementing measures for the Statute for Members of the European Parliament
 - The applicant claims in that regard that the contested act erroneously refers to Annex II to the Rules governing the payment of expenses and allowances to Members of the European Parliament and Article 75 of the Implementing measures for the Statute for Members of the European Parliament. The pension scheme provided for by those rules expired on 14 July 2009, with the entry into force of the Statute for Members of the European Parliament. Article 75 of the Statute, which refers to Annex III to the Rules governing the payment of expenses and allowances to Members of the European Parliament, does not authorise the European Parliament to adopt measures such as that contested.
 3. By the third plea in law, the applicant claims that the communication clearly infringes the statutory reservation of powers established in Article 75(2) of the Statute, which refers expressly to the conditions laid down by national law, thereby rendering internal resolutions of the Chamber of Deputies of a Member State irrelevant.
 - The applicant claims in this regard that the amendments referred to in Resolution No 14/2018 of the Office of the President of the Italian Chamber of Deputies were not adopted by means of a national law, but by a mere decision of the Office of the President of the Italian Chamber of Deputies.
 4. By the fourth plea in law, the applicant alleges clear infringement of the general principles of EU law, such as the principles of legal certainty, legitimate expectations, protection of acquired rights and the principle of equality.
 - The applicant claims in that regard that the contested resolution seriously undermines the confidence of former Members in the inalienability of their previously acquired rights, and the expectations arising on the basis of the legal framework in force at the time of their mandate. In addition, the considerable reduction in the emoluments of former parliamentarians on the basis of the earlier rules is not supported by any appropriate legal justification or overriding requirement as stated in the case-law of the Court of Justice and of the European Court of Human Rights.
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