



Press and Information

General Court of the European Union

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Judgment in Joined Cases T-710/21 Roos and others v Parliament,  
T-722/21 D'Amato and others v Parliament and  
T-723/21 Rookien and others v Parliament

## **COVID certificate and access to the buildings of the European Parliament: the General Court of the European Union dismisses the action of certain Members of the European Parliament**

*The access conditions do not disproportionately or unreasonably affect the free and independent exercise of the Member's mandate*

On 27 October 2021, the Bureau of the European Parliament introduced exceptional health and safety rules for access to the Parliament's buildings at its three places of work (Brussels, Strasbourg and Luxembourg). In essence, that decision made access to those buildings conditional on presentation of a digital COVID 19 vaccination, test or recovery certificate, <sup>1</sup> or an equivalent certificate, <sup>2</sup> for an initial period until 31 January 2022. The applicants, who are all Members of the European Parliament, brought proceedings before the General Court of the European Union for the annulment of that decision.

The General Court, ruling in extended composition, examines for the first time the lawfulness of certain restrictions imposed by the EU institutions with a view to protecting the health, in particular, of their staff, in the context of the COVID 19 pandemic. It dismisses the actions of the Members of the European Parliament and holds that the Parliament may require them to present a valid COVID certificate in order to access its buildings.

### The General Court's assessment

In the first place, the General Court holds that the Parliament did not need express authorisation from the EU legislature in order to adopt the contested decision. In that it seeks to restrict access to the Parliament's buildings only to those with a valid COVID certificate, that decision falls within the Parliament's power to adopt rules for its own internal organisation <sup>3</sup> and is intended to apply only on its premises. In addition, that decision can determine the elements of processing of personal data, as it constitutes a 'law', <sup>4</sup> that concept not being limited to legislative texts adopted after parliamentary debate.

In the second place, the General Court notes that the contested decision does not constitute a disproportionate or unreasonable interference with the free and independent exercise of the Member's mandate. The General Court recognises that in that it imposes an additional condition for access to the Parliament's buildings, that decision constitutes an interference with the free and independent exercise of the Members' mandate. Nevertheless, that decision pursues a legitimate aim, seeking to balance two competing interests in the context of a pandemic, namely, continuity of the Parliament's activities and the health of those present on its premises.

As regards an alleged infringement of the immunities granted to Members of the European Parliament, the General Court notes that it is not apparent either from the Protocol on the

<sup>1</sup> Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic (OJ 2021 L 211, p. 1).

<sup>2</sup> As provided for in Article 8 of Regulation 2021/953 ('COVID-19 certificates and other documentation issued by a third country').

<sup>3</sup> As provided for in Article 25(2) of the Rules of Procedure of the European Parliament, itself based on Article 232 TFEU.

<sup>4</sup> Within the meaning of Article 8 of the Charter of Fundamental Rights of the European Union.

privileges and immunities of the European Union<sup>5</sup> or the Parliament's Rules of Procedure that the Parliament could not adopt the internal organisation measures at issue. On the contrary, the Rules of Procedure expressly provide that the right of Members to participate actively in the Parliament's work is to be exercised in accordance with those rules.<sup>6</sup>

In the third place, the General Court holds that the processing of personal data by the Parliament under the contested decision is not unlawful or unfair. First, the contested decision, adopted on the basis of the power of internal organisation arising under the TFEU, constitutes a legal basis for the processing of the data contained in COVID certificates.<sup>7</sup> On that basis, the General Court notes that that processing pursues an EU general public interest, namely, the protection of public health. Secondly, the processing of the data is transparent and fair, as the Parliament first provided the individuals concerned with information concerning further processing of data for a purpose other than that for which those data were initially obtained.<sup>8</sup>

In the fourth place, the General Court considers that the contested decision is not an infringement or a disproportionate infringement of the right to physical integrity, the principles of equal treatment and non-discrimination, the right to free and informed consent to any medical treatment, the right to freedom and, lastly, the right to privacy and protection of personal data. Furthermore, it holds that, in view of the epidemiological situation and current scientific knowledge the measures at issue, at the time they were adopted, were necessary and appropriate. Although it is true that neither vaccination, tests nor recovery allow transmission of COVID 19 to be completely ruled out, the requirement to present a valid COVID certificate allows the objective and non-discriminatory reduction of that risk and thus the objective of protecting health to be achieved.

The General Court finds, moreover, that the measures at issue are also proportionate in relation to the objective pursued. The applicants have not established the existence of less restrictive measures that are equally effective. Therefore, without the measures at issue, a person who is neither vaccinated nor recovered, a potential carrier of the virus, could have free access to the Parliament's buildings, whilst risking, by the same token, infecting others. Furthermore, the contested decision takes account of the general epidemiological situation in Europe and also the specific situation of the Parliament, in particular frequent international travel of those with access to its premises. In addition, the measures at issue are limited in time and reviewed regularly.

Lastly, the General Court finds that the practical disadvantages caused by the presentation of a valid certificate cannot outweigh the protection of the health of others or be treated in the same way as disproportionate interferences with the applicants' fundamental rights.

However, it notes that those measures must be reassessed from time to time in the light of the health situation in the European Union and in the Parliament's three places of work and that they must apply only for so long as the exceptional circumstances which justify them continue.

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**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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<sup>5</sup> Protocol No 7 on the privileges and immunities of the European Union (OJ 2012 C 326, p. 1).

<sup>6</sup> Rule 5 of the Rules of Procedure of the European Parliament.

<sup>7</sup> In compliance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ 2018 L 295, p. 39).

<sup>8</sup> In accordance with Article 16(4) of Regulation 2018/1725.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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