



PRESS RELEASE No 65/24

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Advocate General's Opinion in Case C-600/22 P | Puigdemont i Casamajó and Comín i Oliveres v Parliament

Advocate General Szpunar: the refusal by the former President of the European Parliament to recognise the status of Carles Puigdemont and Antoni Comín as Members of the European Parliament in June 2019 must be annulled

Following the holding, on 1 October 2017, of the referendum on the self-determination of Catalonia (Spain), criminal proceedings were brought against Carles Puigdemont i Casamajó and Antoni Comín i Oliveres (who, at the time, were President and Member of the Autonomous Government of Catalonia, respectively). They fled Spain. National arrest warrants were issued against them. Mr Puigdemont and Mr Comín subsequently stood as candidates and were elected in the elections to the European Parliament which were held in Spain on 26 May 2019.

On 29 May 2019, the then President of the European Parliament issued an instruction for the purposes of (i) refusing all the candidates elected in Spain access to the “special welcome service” provided to persons newly elected to the European Parliament and (ii) suspending those candidates’ accreditation until official confirmation of their election.

On 14 June 2019, Mr Puigdemont and Mr Comín requested the President of the European Parliament to take note of the results of the elections, as set out in the list of elected candidates declared by the Spanish Central Electoral Commission on 13 June 2019, in which their names were included. They also requested the President to withdraw the Instruction of 29 May 2019 so that they could, *inter alia*, take their seats and enjoy their rights as Members of the European Parliament from 2 July 2019, the date of the first plenary session following the elections.

On 17 June 2019, the Spanish Central Electoral Commission notified the European Parliament of the list of candidates elected in Spain. The names of Mr Puigdemont and Mr Comín were not on that list because they had not taken the oath to respect the Spanish Constitution, as required by national law ¹. The Central Electoral Commission therefore declared that their seats were vacant and that all the prerogatives attaching to their duties were suspended.

By letter of 27 June 2019, the President of the European Parliament informed Mr Puigdemont and Mr Comín that he could not regard them as future Members of the European Parliament because their names were not on the list of elected candidates officially communicated by the Spanish authorities.

The following day, Mr Puigdemont and Mr Comín brought an action for annulment before the General Court of the European Union, essentially directed against the refusals of the President of the European Parliament to grant them access to the special welcome service and to recognise their status as Members of the European Parliament ².

At the plenary session of 13 January 2020, the European Parliament decided to take note, following the delivery of the judgment of the Court of Justice in the case *Junqueras Vies* ³ of the election of Mr Puigdemont and Mr Comín to

the Parliament with effect from 2 July 2019 ⁴.

By judgment of 6 July 2022, the General Court dismissed the action brought by Mr Puigdemont and Mr Comín as inadmissible on the ground that the disputed refusals of the President of the European Parliament were not open to challenge ⁵. Mr Puigdemont and Mr Comín then brought an appeal before the Court of Justice.

Advocate General Maciej Szpunar takes the view that the allegations in respect of the Instruction of 29 May 2019 are unfounded. By contrast, he **proposes that the Court of Justice set aside the judgment of the General Court in so far as it concerns the refusal of the former President of the European Parliament to recognise the status of Mr Puigdemont and Mr Comín as Members of the European Parliament**, contained in the letter of 27 June 2019, **and that that refusal also be annulled**.

According to the Advocate General, **the main error made by the General Court** was that it did not find that the letter of 27 June 2019 contained **the final decision of the President of the European Parliament to disregard the declaration of 13 June 2019, by which**, in accordance with the judgment in *Junqueras Vies*, **Mr Puigdemont and Mr Comín had acquired the status of Members of the Parliament**.

By adopting the act of 27 June 2019, **the President of the European Parliament**, first, **called into question the officially declared election results**, whereas the Parliament was bound by the declaration of 13 June 2019 which was the official declaration of the results. Its President chose, however, to follow up on the subsequent communications of the Spanish authorities, which did not reflect faithfully and completely those results. Second, **he gave effect to the suspension of the prerogatives of Mr Puigdemont and Mr Comín which derived from their status as Members of the European Parliament, in breach of EU law**. There is no provision of that law that authorises a Member State to suspend the prerogatives of Members of the European Parliament.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case; otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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

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¹ The Spanish authorities refused to withdraw the national arrest warrants issued against Mr Puigdemont and Mr Comín, and the Spanish Central Electoral Commission refused to allow them to take the oath by way of a written declaration or through attorneys, on the ground that it had to be done in person.

² Case [T-388/19](#), *Puigdemont i Casamajó and Comín i Oliveres v Parliament*. On the same day, Mr Puigdemont and Mr Comín submitted an application for interim measures, seeking suspension of operation of the various decisions of the European Parliament amounting to not recognising their status as Members of the Parliament. They also requested that the European Parliament be ordered to take all the necessary measures, including the assertion of their privileges and immunities, to enable them to take their seats in the Parliament from the opening of the first session following the

elections. By order of 1 July 2019, *Puigdemont i Casamajó and Comín i Oliveres v Parliament*, [T-388/19 R](#), the President of the General Court dismissed the application for interim measures (see [Press Release No 85/19](#)).

³ Judgment of the Court of Justice of 19 December 2019, *Junqueras Vies*, [C-502/19](#) (see also [Press Release No 161/19](#)). In that judgment, the Court held, *inter alia*, that a person who had been officially declared elected to the European Parliament, but who had not been authorised to comply with certain requirements laid down under national law following such a declaration and to travel to the Parliament in order to take part in its first session had to be regarded as enjoying an immunity under the Protocol (No 7) on the privileges and immunities of the European Union. Following the delivery of that judgment, by order of 20 December 2019, *Puigdemont i Casamajó and Comín i Oliveres v Parliament*, [C-646/19 P\(R\)](#), the Vice-President of the Court of Justice set aside the order of the President of the General Court of 1 July 2019 dismissing the application for interim measures, referred the case back to the General Court and reserved the costs (see [Press Release No 166/19](#)).

⁴ By order of 19 March 2020, *Puigdemont i Casamajó and Comín i Oliveres v Parliament*, [T-388/19 R-RENV](#), the President of the General Court, after the case was referred back to the General Court, held that, in view of the Parliament's decision of 13 January 2020, there was no longer any need to adjudicate on the application for interim measures and reserved the costs.

⁵ See [Press Release No 116/22](#).