



PRESS RELEASE No 151/24

Luxembourg, 26 September 2024

Judgment of the Court in Case C-600/22 P | Puigdemont i Casamajó and Comín i Oliveres v Parliament

The Court of Justice definitively dismisses the action brought by Mr Puigdemont and Mr Comín against the refusal of the President of the European Parliament to recognise their status as Members of the European Parliament in June 2019

Following the holding, on 1st 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). Since Mr Puigdemont and Mr Comín had left Spain, those proceedings were suspended until they were found. 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 President of the European Parliament issued an instruction stating, first, that all the candidates elected in Spain should be refused access to the 'special welcome service' provided to persons newly elected to the European Parliament and, second, that those candidates' accreditation should be suspended 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 declared by the Spanish Central Electoral Commission on 13 June 2019. They also requested the President to withdraw the Instruction of 29 May 2019 so that they could, inter alia, take their seats and enjoy the rights attached to their status 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, following their election declared on 13 June 2019, they had not taken the oath or promise to respect the Spanish Constitution, as required by national electoral law. That commission therefore declared that their seats were vacant and that all the prerogatives attaching to their duties were suspended until such time as they took that oath or promise.

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, mainly 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 ¹.

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* ², of the election of Mr Puigdemont and Mr Comín to the Parliament with effect from 2 July 2019.

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 acts that were open to challenge³. Mr Puigdemont and Mr Comín then brought an appeal before the Court of Justice.

In its judgment, **the Court of Justice dismisses the appeal brought by Mr Puigdemont and Mr Comín.**

The General Court correctly held that the President of the European Parliament could not depart from the list of elected Members which had been officially notified to him by the Spanish authorities. The President of the Parliament has **no power to review the accuracy of that list, as otherwise the division of powers between the European Union and the Member States would be disregarded.** Such a review is a matter for the national courts alone, where appropriate after making a reference to the Court of Justice for a preliminary ruling, or it is for the Court of Justice, when hearing an action for failure to fulfil obligations. The President of the Parliament merely did what he was required to do, namely to take note of the list of elected Members communicated by the Spanish authorities, which, for him, constituted a pre-existing situation that was based on the decisions taken at national level⁴. **The letter of 27 June 2019** therefore did not alter the legal situation of Mr Puigdemont and Mr Comín, and, **was not, therefore, an act open to challenge.**

As regards the **Instruction of 29 May 2019**, the General Court did not err in stating that that instruction **was not the reason why Mr Puigdemont and Mr Comín were unable to take their seats in the European Parliament.** It was because they did not appear on the official list of results notified by the Spanish authorities that they were unable to take their seats. The Instruction of 29 May 2019 **therefore also did not alter the legal situation** of Mr Puigdemont and Mr Comín.

The Court also states that the failure of the President of the European Parliament to exercise his **discretion to take an initiative as a matter of urgency** in order to assert the privileges and immunities of Mr Puigdemont and Mr Comín, which comes under a procedure that is separate from a request for the defence of privileges and immunities that can be made by Members themselves, **could not be the subject of an action for annulment**⁵. In accordance with what the General Court had held, the Court of Justice also finds that the **line of argument directed against the alleged refusal** of the President of the Parliament **to communicate** to the competent committee the request **of Mr Puigdemont and Mr Comín** for the defence of their privileges and immunities **was directed against a non-existent act.**

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 and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ 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](#)).

² 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 (Case [T-388/19 R](#)), referred the case back to the General Court and reserved the costs (see [Press Release No 166/19](#)). 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.

³ See [Press Release No 116/22](#).

⁴ The Court states that, in its judgment in Junqueras Vies, it did not adopt a position on the consequences to be drawn, by the European Parliament, from the national authorities' communication of the list of elected Members, and in particular did not adopt a position as to whether or not that institution was bound by such a communication. The fact that, subsequent to the letter of 27 June 2019, the Parliament adopted the act of 13 January 2020 authorising Mr Puigdemont and Mr Comín to take their seats without carrying out a prior verification of their credentials, thus drawing the conclusions which it believed it had to attach to the judgment in Junqueras Vies, is not, in any event, capable of altering the legal nature of the letter of 27 June 2019.

⁵ The mechanism for the protection of the privileges and immunities of Members of the European Parliament provided for in Rules 7 and 9 of the Rules of Procedure of the European Parliament is separate from the mechanism that is a matter of individual initiative of the President of that institution, who alone decides, provided for in Rule 8 of those rules of procedure. The latter mechanism is not governed by any procedural formalities, since the President is required only subsequently to inform the competent committee of the Parliament and that institution itself in respect of that initiative.