Court of Justice of the European Union
PRESS RELEASE No 110/12
Luxembourg, 6 September 2012

Press and Information

Advocate General's Opinion in Joined Cases C-237/11 and C-238/11
France v Parliament

Advocate General Mengozzi proposes that the Court annul the decision of the European Parliament concerning the calendar of parliamentary sessions for 2012 and 2013

In the view of the Advocate General, the plenary sessions of October 2012 and 2013, artificially split in two by the Parliament, cannot be classed individually as monthly plenary sessions

The Treaties[1] require the European Parliament, whose seat is established in Strasbourg, to meet in 12 monthly plenary sessions per year in Strasbourg, including the budgetary session, but do not prescribe the length of those sessions. It is traditional for two plenary sessions to be held in Strasbourg in October to compensate for the lack of plenary session in August. In accordance with practice, the ordinary plenary sessions, which last four days[2], are held in Strasbourg while the additional sessions which, in principle, are held on successive half-days, are held in Brussels.

Following two amendments, the Parliament, by two acts adopted on 9 March 2011, amended the calendar of sessions for 2012 and 2013. Firstly, one of the two plenary sessions of four days to be held in October 2012 and October 2013 in Strasbourg was cancelled. Secondly, the remaining plenary sessions of October 2012 and October 2013 were split in two: two separate plenary sessions of two days are thus to be held during the week of 22 to 25 October 2012 and two during the week of 21 to 24 October 2013 to be held in Strasbourg.

France brought an action before the Court of Justice seeking annulment of those two acts of the Parliament. Supported by Luxembourg, it submits that those acts infringe the Treaties and the case-law of the Court[3]. It alleges that the Parliament has broken the regularity of the rhythm of the plenary sessions by scheduling additional sessions in Brussels when only 11 plenary sessions were scheduled for Strasbourg. In its submission, the Parliament's only objective is to reduce the presence of the members of the European Parliament at its seat in Strasbourg, without giving reasons for that reduction based on internal organisational requirements of the work of that institution. The adoption of the calendars for 2012 and 2013 voted in identical terms confirms that it is not a specific response to a short-term need, but rather a practice intended to become permanent.

In his Opinion, the Advocate General, Mr Paolo Mengozzi, proposes that the Court uphold the action brought by France as being well founded.

As a preliminary point, he recalls that, although the Court cannot disregard the strong objection to the obligation of the Parliament to sit in Strasbourg, it is called upon to give a ruling on law in the present actions.

---

[1] In 1992, at the Edinburgh Summit, the Member States' Governments adopted the 'Edinburgh Decision' on the location of the seats of the institutions and of certain bodies and departments of the European Communities. At the intergovernmental conference leading to the Treaty of Amsterdam, it was decided to annex the Edinburgh Decision to the treaties. Currently, Protocol No 6 annexed to the TEU and the TFEU and Protocol No 3 annexed to the EAEC Treaty reproduce the text of the Edinburgh Decision (Article 1(a)).

[2] Currently the plenary sessions run from Monday at 17:00 to Thursday at 17:00. In 2000, the Parliament amended their duration by cancelling the Friday sittings.

[3] Case C-345/95 *France* v *Parliament*. By that judgment, the Court annulled the act of the European Parliament of 20 September 1995 on the ground that it did not schedule 12 ordinary plenary sessions in Strasbourg for 1996.

The Advocate General points, first of all, to the support found in the case-law of the Court since it has held that the seat of the Parliament in Strasbourg has been defined as the place where 12 ordinary plenary sessions are to be held, on a regular basis, including the budgetary session. Additional plenary sessions can, therefore, be scheduled for another place of work (in Brussels) only if the Parliament holds the 12 ordinary sessions in Strasbourg, the seat of the institution. Moreover, the Court traced a demarcation line between the competence of the Member States to determine the seat of the institutions and the competence accorded to the Parliament to determine its own internal organisation.

Next, the Advocate General points out that the length of the plenary sessions is not expressly defined in the Treaties or the Protocols or by the Rules of Procedure of the Parliament. The absence of an express rule combined with the natural development of the Parliament's role makes it necessary to carry out a dynamic interpretation of the Treaties. In order to do so, the overall cohesion of the calendars must be examined.

Accordingly, the Advocate General notes, firstly, that holding two monthly plenary sessions in the same week in October is **inconsistent.** For 2012 and 2013, in each month of the year except August and October, a monthly plenary session will be held over a period of four days (more precisely, from 17:00 on Monday to 17:00 on Thursday). In October, following the adoption of the amendments, one of the two sessions of four days has been cancelled and two sessions of two days (from Monday to Tuesday and from Thursday to Friday) are to be held in the same week.

It is thus apparent from a wholly objective examination of the calendars that the contested acts ratified **a break in the regularity of the sessions.** Consequently, it cannot be disputed that, although the lack of a session in August necessarily causes an irregularity in the calendar in that two plenary sessions have to be held in the same month, that irregularity is amplified by the arrangements made for the calendars of 2012 and 2013.

Secondly, the Advocate General takes the view that the Parliament has failed to justify, or at least explain, why the duration of the two plenary sessions in October 2012 and 2013 has been reduced to two days, unlike the other monthly plenary sessions.

The Advocate General notes in particular – examining the strongest argument put forward by the Parliament that the calendars for 2012 and 2013 seek to reduce the costs generated by the plurality of the places of work of the Parliament, costs rendered even more onerous in an economic crisis – that, in the current situation, this is a matter that could be considered by the Member States. However, he adds that those costs are part of the 'constraints ... inherent' in the plurality of the places of work of the Parliament to which the Court referred in its case-law. Since, in any event, the Treaties require twelve monthly plenary sessions, the holding, in the same month, of two plenary sessions each of which has a duration equal to those of the other months of the year does not represent an additional cost in relation to the cost of holding, over the whole year, such a session each month, including August.

In the light of the general scheme of the calendars for 2012 and 2013, it is clear that the two plenary sessions scheduled for the same week in October 2012 and 2013 in fact cover a single session, which may reasonably be presumed, owing to the lack of convincing explanations from the Parliament, to have been **artificially split into two** in order to meet, no less artificially, the requirements of the Treaties.

Accordingly, the Advocate General takes the view that the two sessions scheduled for the same week in October cannot be classified, taken separately, as monthly plenary sessions within the meaning of the Treaties.

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.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355