



Press and Information

General Court of the European Union

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Judgment in Case T-562/12  
Dalli v Commission

## **The General Court dismisses the action of the former Commissioner John Dalli concerning the fact that President Barroso allegedly required him to resign**

*Mr Dalli in fact resigned voluntarily at a meeting with President Barroso on 16 October 2012*

On 16 October 2012 a meeting took place between Mr José Manuel Barroso, the President of the European Commission, and Mr John Dalli, the former Maltese Commissioner responsible for the health and consumer protection portfolio, following transmission of an OLAF report concluding that Mr Dalli had on several occasions been in contact with representatives of the tobacco industry in unofficial and confidential meetings, which were conducted without the knowledge or involvement of the competent Commission Services.

According to OLAF, the image and reputation of the Commission had been put at risk as far as tobacco producers and, possibly, public opinion were concerned. Mr Dalli's behaviour could thus be seen, in OLAF's view, as a breach of his duty to behave in keeping with the dignity and the duties of his office.

Mr Dalli claims that in the course of the meeting Mr Barroso required his resignation, relying on the EU Treaty Article <sup>1</sup> which provides that 'a member of the Commission shall resign if the President so requests'. Mr Dalli seeks annulment of that alleged oral request. The Commission disputes the allegation and contends that Mr Dalli resigned voluntarily.

Towards the end of that face-to-face meeting, they were joined by the Head of President Barroso's Cabinet, Mr Johannes Laitenberger, and the Director-General of the Commission's Legal Service, Mr Luis Romero Requena. An hour after the meeting ended, Mr Romero Requena handed Mr Dalli a draft letter of resignation. Mr Dalli deleted some of the text of that letter but did not alter the part concerning his resignation.

In order to ascertain whether or not Mr Dalli had resigned orally at the meeting, and whether he had done so voluntarily, the Court ordered him to appear in person at the hearing on 7 July 2014. The Court also heard evidence, at that hearing, from President Barroso, Mr Laitenberger, Mr Romero Requena, Ms Joanna Darmanin (Mr Dalli's former Head of Cabinet) and Mr Frédéric Vincent (his former spokesperson).

On the basis of those testimonies and the evidence, the Court finds that **it is established to the requisite legal standard that Mr Dalli resigned orally during the meeting** with President Barroso on the afternoon of 16 October 2012 and that he gave oral confirmation of that resignation in the presence of Mr Laitenberger and Mr Romero Requena.

That conclusion is corroborated by, in particular:

- the statement made to the Maltese Parliament by the Maltese Prime Minister during the plenary session on 16 October 2012; Mr Gonzi stated, inter alia, that he had received a telephone call that day from Mr Dalli, during which the latter had explained that he would

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<sup>1</sup> Article 17(6) TEU.

challenge any allegation made against him but that he had decided to resign in order better to defend himself;

- the interview given by Mr Dalli to a Maltese radio station on the evening of 16 October 2012, in which he presented his departure from the Commission as a political choice freely made, stating in particular that 'I do not stay where I am not wanted' when the journalist suggested that President Barroso had forced him to resign;
- the fact that Mr Dalli did not challenge the press statement issued by the Commission at around 17.00 on 16 October 2012, although he was aware of that statement which referred to his resignation;
- the absence of any official declaration on Mr Dalli's part, in particular in his own press statement issued on the evening of 16 October 2012, denying that he had resigned as announced by the Commission;
- the limited nature of the handwritten annotations made by Mr Dalli to the draft letter of resignation;
- the account of the meeting drawn up by Mr Romero Requena on 18 October 2012 (that is, before Mr Dalli first disputed either the fact or the legality of his resignation), according to which Mr Dalli, '... while categorically denying the accusations against him, stated that in order to defend his reputation he was presenting his resignation as a member of the European Commission with immediate effect'.

Next, the Court finds that **Mr Dalli resigned voluntarily**, no formal request for his resignation having been made by President Barroso.

In that regard, the Court states that, at an early stage of the meeting, President Barroso had decided, in view of Mr Dalli's failure to provide a full and convincing explanation when faced with OLAF's conclusions, that Mr Dalli should leave the Commission, and that he was determined, should it prove necessary, to exercise his power under the TEU to request Mr Dalli's resignation to achieve that end. At the same time, President Barroso remained willing, in Mr Dalli's own interest, to accord him what he regarded as the 'political favour' of giving him the opportunity to resign voluntarily, without a formal request from the President.

In that context, the fact that President Barroso asserted, increasingly insistently in the face of Mr Dalli's reluctance and hesitation, that it would be more honourable for him to resign voluntarily than to be asked to do so, does not suffice to establish the existence of the alleged contested decision. As long as a request for resignation under the TEU was not clearly formulated, President Barroso's words, however insistent they may have been, did not result in a request to that effect which was capable of affecting Mr Dalli's interests by significantly altering his legal situation.

**Since the existence of that request – which is the act that the present application for annulment purports to challenge – has not been established, the Court dismisses the action as inadmissible. The Court in consequence also rejects Mr Dalli's claim for compensation.**

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

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