



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 40/16**

Luxembourg, 14 April 2016

Order of the Court in Case C-394/15 P  
Dalli v Commission

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**The Court has confirmed the inadmissibility of the action brought by former Commissioner John Dalli in relation to his resignation allegedly requested by ex-President Barroso**

On 16 October 2012 a meeting took place between José Manuel Barroso, then President of the European Commission, and John Dalli, the Maltese Commissioner responsible for the health and consumer protection portfolio. The Commission had received an OLAF (European Anti-Fraud Office) report concluding that Mr Dalli had participated in several unofficial and confidential meetings with representatives of the tobacco industry, 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, and Mr Dalli's behaviour could thus be seen 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 terminated his term of office or, at the very least, required his resignation by relying on the provision of the Treaty on European Union<sup>1</sup> which provides that 'a member of the Commission shall resign if the President so requests'. The Commission disputes those allegations and contends that Mr Dalli resigned voluntarily. By judgment of 12 May 2015,<sup>2</sup> the General Court rejected Mr Dalli's action seeking the annulment of that alleged oral decision as inadmissible. In essence, the General Court held that Mr Dalli had voluntarily resigned, no formal request for his resignation having been made by President Barroso. In the absence of a challengeable act, the General Court concluded that the action was inadmissible.

Mr Dalli brought an appeal before the Court of Justice, asking the Court to set aside the judgment of the General Court.

By order of 14 April 2016,<sup>3</sup> **the Court has rejected Mr Dalli's appeal** and thus confirmed the judgment of the General Court.

According to the Court, **the General Court did not commit an error in concluding that no formal request for the appellant's resignation had been made by President Barroso.** According to the General Court's findings, Mr Barroso merely put two options to Mr Dalli, namely, voluntary resignation or resignation formally requested by the President of the Commission. Like the General Court, the Court considered that **the mere mention made by Mr Barroso of the possibility of using a power entrusted to him as President of the Commission cannot be equated with the actual use of that power.** The General Court concluded from its factual findings that Mr Dalli had voluntarily resigned a purely factual assessment that may not be reviewed by the Court of Justice in an appeal.

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

<sup>2</sup>[T-562/12](#) Dalli v Commission, see Press Release No [51/15](#).

<sup>3</sup>Orders are generally published on the website [www.curia.europa.eu](http://www.curia.europa.eu) seven days after they have been notified to the parties.

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**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.

**NOTE:** Under Article 181 of its Rules of Procedure, where the appeal is, in whole or in part, manifestly inadmissible or manifestly unfounded, the Court may at any time, acting on a proposal from the Judge-Rapporteur and after hearing the Advocate General, decide by reasoned order to dismiss that appeal in whole or in part.

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*The [full text](#) of the order is published on the CURIA website.*

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