



Press and Information

General Court of the European Union

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Order of the President of the General Court in Case T-388/19 R
Carles Puigdemont i Casamajó and Antoni Comín i Oliveres
v European Parliament

The application for interim measures of Mr Carles Puigdemont and Mr Antoni Comín, to order the European Parliament to enable them to take their seats in Parliament is dismissed

The applicants, Mr Carles Puigdemont i Casamajó and Mr Antoni Comín i Oliveres, presented themselves as candidates for the election of the European Parliament of 26 May 2019.

On 26 May 2019, the coalition Lliures per Europa (Junts), led by the applicants, received 1.018.435 votes and obtained two seats in the European Parliament. On 13 June 2019, the Spanish Central Electoral Commission adopted an act, published on the 14 June 2019, concerning the proclamation of the elected candidates and subjecting the said proclamation to the lodging of contentious-electoral petitions. That Commission also thereby established the date for the swearing in session for the elected candidates wherein they would swear or affirm allegiance to the Spanish Constitution.

On 15 June 2019, the Spanish Supreme Court Investigative Judge refused to withdraw the existing arrest warrants against the applicants. On 17 June 2019, the Spanish Central Electoral Commission refused to accept the applicants' pledge of allegiance to the Spanish Constitution through a written statement done in front of a public notary or through their legal representatives as designated in a notarized document. According to the applicants, the Spanish Senate had accepted a written statement done in front of a public notary as a valid way of pledging allegiance to the Spanish Constitution on 21 May 2019.

On 17 June 2019, the Spanish Central Electoral Commission notified the European Parliament of a list of the candidates elected in Spain. This list did not include the applicants. On 20 June 2019, the Spanish Central Electoral Commission sent a letter to the European Parliament notifying the latter of a resolution adopted by the Central Electoral Board and informing the European Parliament that the applicants would not acquire the status of Members of the European Parliament (...) until they swear or affirm allegiance to the Spanish Constitution.

The president of the European Parliament sent a letter to the applicants on 27 June 2019 notifying them of the letter sent by the Spanish Authorities and informing them that until further notice by the said Spanish Authorities he would not be in a position to treat the applicants as future Members of the European Parliament.

On 28 June 2019 the applicants brought an application for interim measures, requesting the President of the General Court to suspend a series of the European Parliament's decisions concerning the results officially declared by Spain of the election to the European Parliament of 26 May 2019 and to order the European Parliament to take all the necessary measures, to enable the applicants to take their seats in the said institution from the opening of the first sitting following the elections, on 2 July 2019, pending a ruling on the main action lodged on the same day.

The President examines the EU law regulating election of representatives to the European Parliament (the 1976 Act)¹, which states that for the purposes of verifying the credentials of its members, the Parliament is to take note of the results declared officially by the Member States and rule on any disputes which may arise out of the provisions of that act other than those arising out of the national provisions to which the act refers. In that context, the President recalls that the Parliament cannot call in question the validity itself of the declaration made by the national authorities. Nor does the 1976 Act allow the Parliament to refuse to take note of such declaration if it considers that there is an irregularity.

The President notes that as results from the text of the proclamation of 13 June 2019, it cannot be considered, *prima facie*, as the act by which the Kingdom of Spain had declared officially the 'results' in the sense of the 1976 Act. It is expressly stated in that proclamation that it is subject to the lodging of contentious-electoral petitions. Furthermore, it is specified that the elected candidates are supposed to swear or affirm allegiance to the Spanish constitution in a session to take place on 17 June 2019. Accordingly, if that proclamation can be deemed as an important and necessary step in the national procedure, it appears, *prima facie*, as an intermediary and not yet as the final step concluding the national procedure leading to the official communication of the results in the sense of Article 12 of the 1976 Act.

Consequently, the President finds that since it is undisputed that the names of the applicants were not included in the list sent by the Spanish authorities on 17 June 2019 to the Parliament, it must be held that, *prima facie*, the applicants were not officially declared as elected in the meaning of the 1976 Act. As a matter of consequence, **the applicants cannot successfully claim that the Parliament should have considered the proclamation of 13 June 2019 as the official declaration in the sense of the 1976 Act and that it should have disregarded the list sent by the Spanish authorities on 17 June 2019.**

In this context, the President also notes that **the question whether the applicants should have been allowed to swear or to affirm their allegiance to the Spanish constitution without appearing in person at the session convened on 17 June 2019 is a matter to be settled by the national authorities.** In this respect, the President notes that the applicants have sought legal recourse before a national court against the requirement to swear in person allegiance to the Spanish constitution and that the case is still pending.

Finally, in reply to the applicants claim that the letter of 20 June 2019 of the Spanish authorities to the Parliament resulting in the vacancy of the two corresponding seats is incompatible with the 1976 Act, the President notes that **in the absence of an official declaration by the Spanish authorities in the sense of the 1976 Act that the applicants were elected candidates, there was, *prima facie*, no scope for the Parliament to verify the credentials of the applicants.**

Accordingly, there was no scope for the Parliament to verify whether the fact that the applicants did not appear at the session on 17 June 2019 to swear or to affirm their allegiance to the Spanish constitution leads to the vacancy, in the meaning of the 1976 Act, of the corresponding seats in the Parliament. Consequently, there was also no scope for the Parliament to accord to the applicants, on a provisional basis, a seat in Parliament until their credentials had been verified.

The President of the General Court therefore finds that there is no *prima facie* case for the interim measures to succeed and the application is therefore dismissed.

NOTE: The General Court will deliver final judgment on the substance of this case at a later date. An order as to interim measures is without prejudice to the outcome of the main proceedings. An appeal, limited to points of law only, may be brought before the Vice-President of the Court of Justice against the decision of the President of the General Court within two months of notification of the decision.

¹ The act concerning the election of representatives to the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ 1976 L 278, p. 1), as amended and renumbered by Council Decision 2002/772/EC, Euratom of 25 June 2002 and 23 September 2002 (OJ 2002 L 283, p. 1).

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

Press contact: Jacques René Zammit ☎ (+352) 4303 3355