



Press and Information

Court of Justice of the European Union
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Judgment in Case C-502/19
Junqueras Vies

A person elected to the European Parliament acquires the status of Member of that institution at the time of the official declaration of the results and enjoys, from that time, the immunities attached to that status

In the preliminary ruling in *Junqueras Vies* (C-502/19), delivered on 19 December 2019, **the Court, sitting as the Grand Chamber, clarified the personal, temporal and material scope of the immunities enjoyed by Members of the European Parliament.**¹

In this case, a number of questions were referred to the Court for a preliminary ruling relating to the interpretation of Article 9 of the Protocol by the Tribunal Supremo (Supreme Court, Spain). Those questions were raised in the context of an action brought by a politician elected to the European Parliament in the elections of 26 May 2019 against an order refusing to grant him a special authorisation to leave prison. The person concerned had been placed in provisional detention prior to those elections in the context of criminal proceedings brought against him for his participation in the organisation of the referendum on self-determination held on 1 October 2017 in the autonomous community of Catalonia. He requested that authorisation in order to discharge a formality required by Spanish law following the declaration of results, namely swearing or pledging to abide by the Spanish Constitution before a central electoral board, and subsequently to travel to the European Parliament in order to take part in the inaugural session of the new parliament. Following the referral made to the Court, the Tribunal Supremo, on 14 October 2019, sentenced the person concerned to a 13-year term of imprisonment and, for that same period, a 13-year disqualification from holding any public office or exercising any public function.

The Court held, in the first place, that **a person who is elected to the European Parliament acquires the status of Member of Parliament as a result of and from the time of the declaration of the election results, with the result that he enjoys the immunities guaranteed by Article 9 of the Protocol.**

In that regard, the Court noted that, although the electoral procedure and the declaration of the results are, in principle, governed by the law of the Member States, in accordance with Articles 8 and 12 of the 1976 Electoral Act,² the election of Members of the European Parliament by direct universal suffrage in a free and secret ballot³ constitutes an expression of the constitutional principle of representative democracy, the scope of which is defined by EU law itself. It follows from the Treaties and from the 1976 Electoral Act that **the status of Member of the European Parliament arises solely from the election of the person concerned and is acquired by virtue of the official declaration of those results by the Member States.** Moreover, it follows from Article 343 TFEU that the European Union, and thus its institutions and their Members, must enjoy the immunities necessary for the performance of their tasks.

¹ Immunities provided for in Article 343 TFEU and Article 9 of Protocol (No 7) on the privileges and immunities of the European Union (OJ 2012 C 326, p. 266) ('the Protocol').

² Act concerning the election of the members of 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 last amended by Council Decision 2002/772/EC, Euratom of 25 June and 23 September 2002 (OJ 2002 L 283, p. 1) ('the 1976 Electoral Act').

³ Article 14(3) TEU.

In the second place, the Court held that **persons who, like Mr Junqueras Vies, have been elected Members of the European Parliament enjoy, from the moment the results are declared, the immunity as regards travel which is attached to their status as Member and provided for in the second paragraph of Article 9 of the Protocol.** The purpose of that immunity is to allow such persons to, *inter alia*, travel to and take part in the inaugural session of the newly elected European Parliament. Unlike the immunity as regards sessions provided for in the first paragraph, which they enjoy only from the time of that inaugural session and during the entire duration of the sessions of the European Parliament, **the immunity as regards travel applies to the Members while they are travelling to the place of meeting of the European Parliament, including to that first sitting.**

The Court pointed out, in that regard, that the objectives pursued by the immunities provided for in the Protocol consist of ensuring that the proper functioning and independence of the institutions is protected. In that context, the immunity as regards travel, referred to in the second paragraph of Article 9 of that Protocol, serves to ensure the right to stand as a candidate at elections, guaranteed in Article 39(2) of the Charter of Fundamental Rights of the European Union, by enabling every Member – from the time he is declared elected and irrespective of whether he has discharged any formalities required by national law – to participate in the inaugural session of the European Parliament without being impeded as regards travel.

Finally, the Court held, in the third place, that **the immunity as regards travel granted to every Member of the European Parliament entails lifting any measure of provisional detention imposed prior to the declaration of that Member's election, in order to allow that person to travel to and take part in the inaugural session of the European Parliament. Consequently, if the competent national court considers that the measure should be maintained, it must as soon as possible request the European Parliament to waive that immunity, on the basis of the third paragraph of Article 9 of the Protocol.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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