



Press and Information

General Court of the European Union
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Order of the Vice-President of the General Court in Case T-24/20 R
Junqueras i Vies v Parliament

The Vice-President of the General Court of the European Union dismisses the application of Mr Junqueras i Vies for interim measures

By judgment of the Tribunal Supremo (Supreme Court, Spain) delivered on 14 October 2019, Mr Oriol Junqueras i Vies was sentenced to thirteen years imprisonment and disqualified from holding office for the same period, whereby he lost all his existing public posts and duties, including those to which he had been elected, and was barred from obtaining or holding further such posts or duties. The charges brought against him included participation in a process of secession as Vice-President of the Gobierno autonómico de Cataluña (Autonomous Government of Catalonia, Spain) when a referendum on self-determination was held there. In the course of that process, Mr Junqueras i Vies was elected as a member of the European Parliament on 26 May 2019, that result being announced by the Spanish Central Electoral Commission in a decision of 13 June 2019. However, since Mr Junqueras i Vies was not permitted to take the oath to respect the Spanish Constitution, as required of those elected to the European Parliament by national law, his seat was declared vacant by that commission.¹ Mr Junqueras i Vies therefore did not attend the first session of the European Parliament, which commenced on 2 July 2019.

By judgment of 19 December 2019,² the Court of Justice answered questions referred to it by the Tribunal Supremo concerning the immunity provided for in the Protocol on the privileges and immunities of the European Union.^{3 4} On 20 December 2019 Ms Riba i Gener, Member of the European Parliament, made a request to the President of the Parliament for urgent measures to confirm the immunity of Mr Junqueras i Vies.

By decision of 3 January 2020, the Central Electoral Commission declared Mr Junqueras i Vies ineligible to hold office, due to his having been sentenced to a period of imprisonment. Mr Junqueras i Vies made an application to the Tribunal Supremo for the suspension of enforcement of that decision.

By order of 9 January 2020, the Tribunal Supremo gave a ruling on the effects of the judgment of the Court of Justice of 19 December 2019 on the criminal proceedings concerning Mr Junqueras i Vies. The Tribunal Supremo held that there was no reason to permit Mr Junqueras i Vies to travel to the place of meeting of the European Parliament, or to permit his liberation, or to set aside the judgment of 14 October 2019, or to send a request to the Parliament for a waiver of parliamentary immunity. The Tribunal Supremo also decided to notify the Central Electoral Commission and the

¹ For a more detailed account of the facts, see [Press Release 139/19](#).

² Judgment of 19 December 2019, *Junqueras Vies* (C-502/19), see [Press Release 161/19](#).

³ Protocol (No 7) on the privileges and immunities of the European Union (OJ 2012 C 326, p. 266).

⁴ The Court held that a person who had been officially declared elected to the European Parliament while subject to a measure of provisional detention in the context of proceedings in respect of serious criminal offences, but who had not been permitted to comply with certain requirements under national law following such a declaration and to travel to the European Parliament in order to take part in its first session, had to be regarded as qualifying for immunity under the Protocol. The Court added that that immunity entailed that the measure of provisional detention imposed on the person concerned had to be lifted, in order to enable him to travel to the European Parliament and complete the necessary formalities there. The Court stated, last, that if the competent national court considered that that measure should be maintained after the person concerned acquired the status of Member of the European Parliament, it ought as soon as possible to request the European Parliament to waive that immunity.

Parliament of that order. The Tribunal Supremo observed that, when Mr Junqueras i Vies had been declared elected, the criminal proceedings brought against him were concluding and the court was considering its verdict. Accordingly, since Mr Junqueras i Vies had acquired the status of Member of the European Parliament when those proceedings had already reached the trial phase, he could not rely on any immunity to impede the continuation of that trial.

In its plenary session of 13 January 2020, the European Parliament, first, took note, further to the judgment of the Court of Justice of 19 December 2019, of the election to the Parliament of Mr Junqueras i Vies with effect from 2 July 2019 and, second, given the decision of the Central Electoral Commission of 3 January 2020 and the order of the Tribunal Supremo of 9 January 2020, declared his seat to be vacant with effect from 3 January 2020.

Mr Junqueras i Vies then brought, before the General Court of the European Union, an action seeking the annulment of the decision of the Parliament of 13 January 2020 declaring his seat to be vacant with effect from 3 January 2020 and of the Parliament's decision to reject the request, submitted on 20 December 2019, for urgent measures to protect his parliamentary immunity. Mr Junqueras i Vies also made an application for interim measures.

By his order of 3 March 2020, the Vice-President of the General Court dismisses the application of Mr Junqueras i Vies for interim measures.

Mr Junqueras i Vies sought the suspension of the rejection of the request of 20 December 2019. The Vice-President of the General Court holds that the application for suspension is inadmissible, **as it is not apparent that the Parliament has made any decision to reject the request of 20 December 2019.**

Mr Junqueras i Vies also requested the General Court to order the Parliament to take all measures necessary to protect and give effect to his privileges and immunities and his fundamental rights to exercise in full his office as a member of the Parliament, until the delivery of the judgment on the action for annulment. **However, that request appears to disregard the system of division of powers established in Article 266 TFEU, whereby the courts of the European Union cannot take the place of the Parliament to take decisions concerning the enforcement of a judgment annulling an act of that institution instead of and in place of the Parliament.** The Vice-President of the General Court considers that that request is, accordingly, inadmissible.

Mr Junqueras i Vies requested the General Court to order Spain to liberate him forthwith so that he can exercise in full his office as a member of the Parliament, until the delivery of the judgment on the action for annulment. The Vice-President of the General Court states that, as a general rule, **a judge hearing an application for interim measures cannot issue directions to entities which, like the Spanish authorities in this case, are not parties to the proceedings.** That request is therefore also inadmissible.

Mr Junqueras i Vies requested, last, the suspension of the declaration that his seat was vacant from 13 January 2020. The Vice-President of the General Court considers that Mr Junqueras i Vies has failed to demonstrate that the granting of that request is justified *prima facie*, in fact and in law (*fumus boni juris*). Under the Electoral Act,⁵ **the withdrawal of the mandate of a member of the Parliament, as a result of the application of national legislation, automatically entails that the mandate of the member concerned of the Parliament comes to an end, and that the seat of that member becomes vacant. The Parliament is merely informed by the national authorities that the mandate has ended, and of the date when it ended by its President.** The Parliament does not therefore have the power to call into question the regularity of the seat becoming vacant as a result of the withdrawal of the mandate since it is merely informed of that situation, which arises exclusively out of a decision of the competent national authorities. On 13 January 2020 the Parliament did no more, in essence, than declare that the seat of Mr

⁵ 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), amended, latterly, by Council Decision 2002/772/EC, Euratom of 25 June and 23 September 2002 (OJ 2002 L 283, p. 1).

Junqueras i Vies was vacant with effect from 3 January 2020, but it had no power to review the regularity of the national procedure that led to the withdrawal of his mandate and therefore to his seat becoming vacant.

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 Vice-President of the General Court within two months and ten days of notification of the decision.

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

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