



Press and Information

General Court of the European Union
PRESS RELEASE No 158/20
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Order in Case T-24/20
Junqueras i Vies v Parliament

The General Court declares the action brought by Mr Junqueras i Vies, against the statement by the European Parliament that his seat was vacant, to be inadmissible

The President of the European Parliament did no more than inform that institution of a pre-existing legal situation that was brought about exclusively by decisions of the Spanish authorities

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 the criminal proceedings which led to that judgment, 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, in a decision of 20 June 2019.¹ 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 Diana Riba i Giner, Member of the European Parliament, made a request to the President of the European Parliament that he urgently take measures, on the basis of Rule 8 of the Rules of Procedure of the European Parliament, to assert the immunity of Mr Junqueras i Vies.

By decision of 3 January 2020, the Spanish 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.

¹ For a more detailed account of the facts, see Press Release [No 139/19](#).

² Judgment of 19 December 2019, *Junqueras Vies*, [C-502/19](#); see Press Release [No 161/19](#).

³ Protocol (No 7) on the privileges and immunities of the European Union, annexed to the EU and FEU Treaties (OJ 2012 C 326, p. 266) ('the Protocol').

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 that institution to waive that immunity.

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 European 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 those proceedings.

In its plenary session of 13 January 2020, the President of the European Parliament stated that that institution took note, further to the judgment of the Court of Justice of 19 December 2019, of the election to the European Parliament of Mr Junqueras i Vies with effect from 2 July 2019. Further, he stated that, given the decision of the Central Electoral Commission of 3 January 2020 and the order of the Tribunal Supremo of 9 January 2020, the European Parliament found 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, first, of the declaration of 13 January 2020, and second, the purported rejection by the President of the European Parliament of the request of 20 December 2019 by Ms Riba i Giner that he urgently take measures to assert the immunity of M. Junqueras i Vies.⁵

By its order today, **the General Court dismisses the action of Mr Junqueras i Vies as being inadmissible.**

The European Parliament has asked the General Court to give a ruling on the inadmissibility of the action without consideration of its merits. The General Court holds that it has sufficient information from the documents in the file to do so without continuing the proceedings.

The European Parliament submits that the statement of 13 January 2020, on the one hand, and the purported rejection of the request of 20 December 2019 by Ms Riba i Giner, on the other, are not acts having an adverse effect which may form the subject matter of an action for annulment.

First, as regards the statement of 13 January 2020, **the General Court observes that the European Parliament has no competence to review the decision of the authorities of a Member State declaring an individual to be ineligible to hold office as a member of the European Parliament under national law and the resulting decision that the seat is vacant, since the institution is merely informed of that vacancy by the national authorities.** The General Court adds that **nor does the European Parliament have the power to refuse to take account of the decision of national authorities declaring that vacancy.**

Accordingly, **at the plenary session of 13 January 2020, the President of the European Parliament did no more than inform that institution of a pre-existing legal situation that was brought about exclusively by decisions of the Spanish authorities. Given that the statement of 13 January 2020 was purely informative, that statement may not, therefore, form the subject matter of an action for annulment.**

Further, the General Court recalls that **the verification of compliance, by the national authorities, with procedures laid down by national law and EU law does not fall within the competence of the European Parliament, but rather within the competence of the Spanish courts and, as the case may be, the Court of Justice where infringement proceedings are brought before it.**

⁵ He also brought an application for interim measures, which was dismissed by order of 3 March 2020 of the Vice-President of the General Court (Case [T-24/20 R](#), *Junqueras i Vies v Parliament*, see Press Release [No 24/20](#)). On 8 October 2020, the Vice-President of the Court of Justice dismissed the appeal brought by Mr Junqueras i Vies against that order (order of 8 October 2020, *Junqueras i Vies v Parliament*, [C-201/20 P \(R\)](#), see Press Release [No 131/20](#)).

Second, as regards the **purported rejection of the request of 20 December 2019 by Ms Riba i Giner**, the General Court states that **in reality annulment is sought of a non-existent act, and consequently the claims for annulment directed against the purported rejection must be dismissed as being inadmissible**. That is because the request of 20 December 2019 of Ms Riba i Giner was neither expressly nor implicitly rejected by the President of the European Parliament. In the view of the General Court, the lack of an express response to that request does not constitute an implicit decision rejecting that request, since, in this instance, there is no time limit on the expiry of which an implicit decision is to be deemed to have been made, and there are no exceptional circumstances from which the existence of such an implicit decision can be inferred.

The General Court adds that, **in any event, the measures that the President of the European Parliament may take on the basis of Rule 8 of the Rules of Procedure of that institution constitute opinions that are not binding on the national authorities to whom they are addressed**. Further, it is apparent from Rule 8 that the President of the European Parliament is in no way obliged to take measures to assert the immunity of a member of the European Parliament and that the President has a discretion in that regard, even where that member has been arrested or has had his or her freedom of movement curtailed in apparent breach of his or her privileges and immunities. That discretion precludes Mr Junqueras i Vies having any right to insist that the President of the European Parliament take, as a matter of urgency, measures to assert his immunity.

NOTE: An appeal, limited to questions of law, may be brought before the Court, against the decision of the General Court, within two months and ten days from its notification.

NOTE : An action for annulment seeks to annul acts of the institutions of the Union which are contrary to EU law. Under certain conditions, Member States, European institutions and individuals can bring an action for annulment to the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must remedy any legal vacuum created by the annulment of the act.

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

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