



Press and Information

General Court of the European Union
PRESS RELEASE No 213/21
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Order of the Vice-President of the General Court in Case T-272/21 R II
Puigdemont i Casamajó and Others v Parliament

The Vice-President of the General Court of the European Union refuses the new request for the suspension of waiver of the parliamentary immunity of Mr Carles Puigdemont i Casamajó, Mr Antoni Comín i Oliveres and Ms Clara Ponsatí i Obiols

On 13 January and 10 February 2020, the European Parliament received requests for waiver of the parliamentary immunity of Mr Carles Puigdemont i Casamajó, Mr Antoni Comín i Oliveres and Ms Clara Ponsatí i Obiols, who are elected Members of Parliament ('MEPs'). Those requests, made by the President of the Second Chamber of the Tribunal Supremo (Supreme Court, Spain) in criminal proceedings concerning, inter alia, alleged offences of sedition, were intended to ensure that the execution of the European arrest warrants issued against the MEPs continues.

By decisions of 9 March 2021, the Parliament waived the immunity of the three MEPs. On 19 May 2021, those MEPs brought an action before the General Court of the European Union, seeking the annulment of those decisions. They take the view that the Parliament has failed to ensure their ability, as MEPs, to exercise their fundamental rights as representatives of the European Union's citizens and infringed their rights protected by several articles of the Charter of Fundamental Rights of the European Union. ¹

On 26 May 2021, the MEPs lodged a first application for interim measures in which they requested the Vice-President of the General Court to suspend the operation of those decisions. They alleged that their arrest and potential surrender to the Spanish authorities would cause them serious and irreparable harm and would prevent them from exercising their duties as MEPs. By an order of 30 July 2021, the Vice-President of the General Court dismissed the MEPs' application for interim measures on the ground that they had failed to show that the condition relating to urgency was satisfied ² ('first order for interim measures').

It follows, inter alia, from that order that, **in the criminal proceedings at issue, the Tribunal Supremo submitted, on 9 March 2021, a request for a preliminary ruling to the Court of Justice. ³ That request had the effect of staying the criminal proceedings. Given that the request for a preliminary ruling concerns the execution of the European arrest warrants issued in those criminal proceedings, which include the warrants relating to the MEPs, it was considered that this called for the suspension of the execution of the warrants, as the Spanish authorities had essentially stated. It was inferred from this that there was nothing to suggest that the Belgian judicial authorities or the authorities of another Member State could execute the European arrest warrants issued against the MEPs and could surrender them to the Spanish authorities. The serious and irreparable damage pleaded by the MEPs could not be classified as damage which is certain or established with a sufficient degree of**

¹ OJ 2012 C 326, p. 391.

² See Press Release [No 141/21](#). On 11 October 2021, the applicants brought an appeal against the first order for interim measures (Case C-629/21 P(R), *Puigdemont i Casamajó and Others v Parliament and Spain*). By order of 2 June 2021, the Vice-President of the General Court had initially ordered the suspension of operation of the decisions of the Parliament until the adoption of the order terminating the proceedings for interim measures (see Press Release [No 91/21](#)). That order was revoked by the order of 30 July 2021.

³ *Puig Gordi and Others*, [C-158/21](#).

probability. The MEPs had therefore failed to show that the condition relating to urgency was satisfied.

On 23 September 2021, Mr Puigdemont was arrested at Alghero Airport (Italy) in execution of the European arrest warrant relating to him. On 1 October 2021, the MEPs lodged a second application for interim measures, in which they advance new evidence.

By its order of 26 November 2021, **the Vice-President of the General Court dismissed that second application for interim measures.**

The Vice-President of the General Court establishes, first of all, whether the evidence adduced by the MEPs actually constitutes new facts capable of calling into question the assessment made in the first order for interim measures concerning the lack of urgency.

The MEPs rely on Mr Puigdemont's arrest in Italy, his release the following day and his invitation to a hearing by the President of the Corte d'appello di Cagliari, sezione distaccata di Sassari (Cagliari Court of Appeal, Separate Sassari Chamber, Italy). They also, inter alia, rely on the fact that the Tribunal Supremo informed the Italian court that neither the criminal proceedings at issue nor the European arrest warrants issued against the MEPs had been suspended, since the submission of the request for a preliminary ruling, according to the Tribunal Supremo, had no suspensory effect, and that Mr Puigdemont should be surrendered to the Spanish judicial authorities.

The Vice-President of the General Court notes that **none of the evidence put forward by the MEPs calls into question the considerations set out in the first order for interim measures concerning the legal effects arising from the submission of the request for a preliminary ruling.** He therefore confirms that **the criminal proceedings at issue are suspended until the Court has ruled on the request for a preliminary ruling** and specifies that **that suspension follows directly from the submission of that request and does not require any specific decision of the Tribunal Supremo in that regard.** He adds that the Spanish court was, moreover, aware of that suspensory effect. He also confirms that, **given that that request concerns the execution of the European arrest warrants issued in the criminal proceedings at issue, suspension of those proceedings necessarily calls for the suspension of the execution of those warrants.** He states that **that suspension follows directly from the suspension of the criminal proceedings at issue and that its effects are binding on the competent national authorities, including judicial authorities, without the need for a specific decision by those authorities.**

The MEPs contend that they may still be arrested, have their freedom of movement curtailed, or even be extradited and imprisoned in Spain, thus exposing themselves to serious and irreparable damage, as demonstrated by the new facts on which they rely.

According to the Vice-President of the General Court, although some of the circumstances referred to by the MEPs tend to show that it is possible that certain national authorities did not draw all the conclusions from the submission of the request for a preliminary ruling, in particular those relating to the suspension of the criminal proceedings at issue and of the execution of the European arrest warrants, **the evidence adduced in support of the second application for interim measures does not call into question the assessments made in the first order for interim measures.**

The Vice-President of the General Court emphasises in that regard that **the MEPs' arrest does not, in itself, constitute serious and irreparable harm.** It would have to impair the MEPs' right to freely exercise their parliamentary mandate and the proper functioning of the Parliament. However, as was observed in the first order for interim measures, the MEPs still enjoy their immunity when travelling to attend meetings of the Parliament, so that **serious and irreparable damage caused by an arrest remains hypothetical.**

Next, the Vice-President of the General Court observes that, **far from establishing the existence of serious and irreparable damage, the facts following Mr Puigdemont's arrest in Italy** (release the following day based expressly on the considerations set out in the first order for

interim measures and suspension of the procedure for the execution of the European arrest warrant) **tend to confirm that, drawing the conclusions from the submission of the request for a preliminary ruling, the executing judicial authorities do not intend to execute the European arrest warrants relating to the MEPs before the Court of Justice has given judgment in that case and that, therefore, they do not run, at this stage, the risk of surrender to the Spanish authorities.**

Moreover, and in any event, in accordance with the **principle of sincere cooperation, the national authorities must take into account the suspension** of the criminal proceedings and the execution of the European arrest warrants relating to the MEPs. **The premiss that the competent national authorities might not draw all the conclusions from the submission of the request for a preliminary ruling can only be hypothetical** and cannot be the basis of the finding of serious and irreparable damage.

The Vice-President concludes that **the evidence submitted by the MEPs is not such as to call into question the assessments made in the first order for interim measures that there was no urgent need to order suspension of operation of the decisions of the Parliament.**

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.

NOTE: 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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