



PRESS RELEASE No 10/26

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Judgment of the Court in Case C-572/23 P | Puigdemont i Casamajó and Others v Parliament (Waiver of parliamentary immunity)

The Court annuls the Parliament's decisions waiving the immunity of Carles Puigdemont, Antoni Comín and Clara Ponsatí

The appointment of the rapporteur responsible for the requests for waiver of immunity was contrary to the requirement of impartiality

Following the referendum on self-determination held in Catalonia (Spain) on 1 October 2017, the Spanish Public Prosecutor's Office, the Spanish State Counsel and the political party VOX initiated criminal proceedings against several individuals, including Carles Puigdemont i Casamajó (then President of the Generalitat of Catalonia), Antoni Comín i Oliveres and Clara Ponsatí i Obiols (members, at the time, of the Autonomous Government of Catalonia).

In March 2018, the Spanish Supreme Court issued an order charging Mr Puigdemont, Mr Comín and Ms Ponsatí with alleged offences of insurgency and misappropriation of public funds. As the accused had left Spain, the criminal proceedings were stayed until such time as they were found. The Spanish Supreme Court issued arrest warrants against them so that they might be tried.

Mr Puigdemont, Mr Comín and Ms Ponsatí having been elected in the elections of the European Parliament held in Spain on 26 May 2019¹ the Spanish Supreme Court asked the Parliament to waive the parliamentary immunity of those three Members; those requests were granted by the Parliament on 9 March 2021.² The Members requested the General Court of the European Union to annul those decisions.

By judgment of 5 July 2023, the General Court dismissed their action against the Parliament's decisions.³ The Members brought an appeal against that judgment before the Court of Justice.

The Court sets aside the judgment of the General Court and annuls the three decisions of the Parliament.

The Court notes that, in order to ensure the impartiality of the rapporteur who examines a request for waiver of immunity,⁴ the Parliament has laid down a rule according to which **the rapporteur cannot belong to the same political group as that to which the Member whose immunity is under discussion belongs**. Affinities they may share could indeed give rise **to legitimate doubts as to the rapporteur's impartiality**.

However, for the sake of **consistency**, Parliament must also exclude a rapporteur who is a member of a political group to which belong Members of the political party that instigated the criminal proceedings against the Member whose immunity is under discussion. According to the Court, **such a rapporteur** could be perceived as **not being impartial** and his or her **appointment** would be **contrary to the right to good administration**.

The General Court therefore erred in finding that the fact that the **rapporteur** appointed to examine the requests for waiver of immunity of the Members in question **belonged to the same political group**⁵ as that to which members of the **political party VOX** – which instigated the criminal proceedings against those Members – belonged, **had no bearing on the assessment of** that rapporteur's **impartiality**.

Moreover, **the General Court failed to take into account** a particularly relevant factor with regard to the requirement of impartiality: on 6 March 2019, **the person subsequently appointed rapporteur organised an event** on the theme 'Catalonia is Spain' in which the **Secretary-General of the political party VOX** intervened.⁶ At that time, the party VOX had already instigated the criminal proceedings at issue. The organisation of that event was therefore such as to indicate not only support for the political ideas of that party on the situation in Catalonia, but also a position in favour of the criminal prosecution of the Members of Parliament.

The Court annuls the Parliament's decisions, which were adopted on the basis of **reports** that should have been considered **invalid**, since the **appointment of the rapporteur was contrary to the requirement of impartiality**.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ Mr Puigdemont and Mr Comín with effect from 2 July 2019; Ms Ponsatí with effect from 1 February 2020 (because, following the withdrawal of the United Kingdom from the European Union on 31 January 2020, the number and distribution of seats in the European Parliament have changed).

² By order of 24 May 2022, [C-629/21 P\(R\)](#), the Vice-President of the Court of Justice ordered the suspension of the operation of those decisions.

³ Judgment of the General Court of 5 July 2023, *Puigdemont i Casamajó and Others v Parliament*, [T-272/21](#), (see also press release [No 114/23](#)).

⁴ While the Parliament enjoys a broad discretion in determining the rules applicable to decisions on the waiver of immunity, it is required to comply with, among other things, the right to good administration (enshrined in Article 41(1) of the Charter of Fundamental Rights of the European Union). Under that provision, every person (including a Member of the Parliament concerned by a request for waiver of immunity) has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

⁵ The European Conservatives and Reformists Group (ECR).

⁶ That event was held within the Parliament. The Secretary-General of the political party VOX ended his speech with the words 'Long live Spain, long live Europe and lock Puigdemont up!'. The Parliament claimed that there was no indication that the rapporteur specifically approved those last three words.