

The Court of Justice of the European Union

Sent by e-curia 15/11/2019

Reference: **C-646/19 P (R)** - *Mr. Carles Puigdemont i Casamajó and Mr. Antoni Comín i Oliveres vs. European Parliament*

Mr. President,

Pursuant to Article 76 of the Rules of Procedure, we request a hearing before the ruling on the appeal.

Despite the fact that Article 57(3) of the Statute of the Court of Justice provides that appeals against decisions of the General Court pursuant to Articles 278 and 279 TFEU shall be heard and determined by way of summary procedure, the Court of Justice has accepted that hearings can be held in appeal proceedings on decisions of the General Court rejecting an application for interim measures, when necessary.

As provided for in point 45 of the ECJ Practice Directions, "*the decisive criterion for holding a hearing is (...) the assessment made by the Court itself as to the potential contribution of that hearing to the outcome of the dispute*". Thus, we respectfully point out that a hearing is likely to contribute to a better understanding of the appeal and the issues raised by it, and that a hearing is necessary given the complexity, the impact for citizen of the Union and the public awareness of the case.

The hearing would be particularly necessary as to the assessment of the existence of a *prima facie* case. In particular, the hearing would have to address the following:

a) Whether it can be *prima facie* excluded, as the President of the General Court excludes, that the official proclamation of the results of the election to the European Parliament published on the Spanish Official Journal on 14 June 2019 is the final step of the electoral procedure, and that the appellants were declared officially elected, from the documents in the case-file. Therefore, whether or not the conclusion that the opposite is immediately obvious amounts to a clear misinterpretation of EU law and a distortion of evidence and of national law.

To this extent, the Advocate-General, in his opinion released on 12 November 2019 on the *Junqueras Vies* case, held that, as sustained by the appellants in this case, swearing allegiance to the Spanish

Constitution is not a step in the process for election to the European Parliament in Spain, and that process must be regarded as being concluded with the official declaration of the results.²

b) Whether it can be *prima facie* excluded, as the President of the General Court excludes, that, under Article 12 of the 1976 Act, Parliament is obliged to take note of the results declared by a Member State irrespective of the fact that such results have not been notified in full by the Member State.

The Advocate-General, in his opinion released on 12 November 2019 on the *Junqueras Vies* case, held that, as sustained by the appellants in this case, Article 12 of the 1976 Act shall prevail over any provision in the Rules of Procedure of the European Parliament.³

c) Whether it can be *prima facie* excluded, as the President of the General Court excludes, that Parliament's decision to treat the communication of the Spanish authorities of 20 June 2019 as depriving of effect the declaration of the appellants as elected Members of Parliament is a pertinent issue.

The Advocate-General, in his opinion released on 12 November 2019 on the *Junqueras Vies* case, held that, as sustained by the appellants in this case, the vacancy established as a consequence of the communication of the Spanish authorities of 20 June 2019 is illegal under Article 13 of the 1976 Act.⁴

d) Whether it can be *prima facie* excluded, as the President of the General Court excludes, that Parliament had the obligation to accord to the appellants, on a provisional basis, in accordance with Rule 3(2) of the Rules of Procedure, a seat in Parliament, until their credentials have been verified.

e) Whether the interpretation of Article 39(2) and Articles 20 and 21 of the Charter of Fundamental Rights is relevant when establishing, in an application for interim measures of an elected candidate to the European Parliament, if there is a *prima facie* case.

f) Whether the main action is admissible, and whether the conditions of urgency and balance of interests are met.

A hearing would have a potential contribution in the outcome of the dispute, as it would address complex legal issues of Union law, closely related with national law too, including some core issues on the principles of Union law.

Respectfully yours,

Paul Bekaert Simon Bekaert Gonzalo Boye Ben Emmerson

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