

By Registered Mail

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Brussels, 20 November 2019

To the President of the European Parliament,

To the Members of the Bureau,

To the Chairman of the Committee on Legal Affairs,

Subject: Relevant document to be added to the pending dispute on credentials

Dear Sir/Madam,

We are the counsellors of Members of the European Parliament Mr. Carles Puigdemont i Casamajó and Mr. Antoni Comín i Oliveres.

In attachment we send you an additional annex to add to our pending dispute application as filed under Article 12 of the 1976 Electoral Act and Rule 3(3) of the Rules of Procedure of the European Parliament , submitted on 24 June 2019 and resubmitted on 9 October 2019:

- *Opinion of the First Advocate General in Case C-502/19 (Junqueras Vies) on 12 November 2019.*¹

We consider this annex to be of utmost relevance for the dispute on credentials we lodged on behalf of our clients, as it contains the conclusions presented on 12 november 2019 to the European Court of Justice by the First Advocate General Maciej Szpunar on the Junqueras Vies case, an elected MEP facing an analogous situation.

The Advocate General recommends the Court of Justice to declare that **a person whose election as a Member of the European Parliament has been officially declared by the relevant authority of the Member State in which that election took place acquires, solely as a result of that fact, and from that moment, the status of a Member of the Parliament**, notwithstanding any subsequent formality which that person is required to complete, whether under EU law or the national law of the Member State in question. That person retains that status up to the end of his/her mandate, except in cases of resignation, death or withdrawal of the mandate.

The Advocate General concludes, in line with our arguments, that since **the mandate of MEPs** is acquired solely from the electorate it **cannot be dependant on the notification by the**

¹ The document is available in many different languages, although not yet in English, in this website: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=220537>

Member State to the European Parliament. In that sense, Article 12 of the 1976 Act shall prevail over any provision in the Rules of Procedure of the European Parliament (paragraph 51).

He also holds that while the electoral process is governed by the national law of the Member States, the status of Members of the Parliament, as directly elected representatives of EU citizens and Members of a European institution, may be governed only by EU law, failing which the Parliament's independence and the autonomy of the EU's legal order overall would be called into question.

Indeed, in paragraphs 49 and 65 of the Opinion, the First Advocate General makes it clear that swearing allegiance to the Spanish Constitution is not a step in the process for election to the European Parliament in Spain, and that the process must be regarded as being concluded with the official declaration of the results, as published in the Spanish Official Journal on 14 June 2019.

Finally, he also concludes (paragraphs 52, 53 and 54) that the temporary vacancy that was established as a consequence of the communication of the Spanish authorities of 20 June 2019 is illegal under Article 13 of the 1976 Electoral Act.

Therefore, we urge the European Parliament to take action, pursuant to Rule 5(2) of its Rules of Procedure, to defend its integrity as a democratic legislative assembly.

We must also insist that, pursuant to Rule 3(2) of the Rules of Procedure, **our clients are entitled to take their seats on a provisional basis until their credentials have been verified and a ruling has been given on this dispute.**

We therefore call upon the Committee to take all the necessary measures to enable Mr. Carles Puigdemont and Mr. Antoni Comín to take their seats in the European Parliament in accordance with the 1976 Electoral Act and the Parliament's Rules of Procedure.

On behalf of our clients,

Paul BEKAERT

Simon BEKAERT

Gonzalo BOYE

Ben EMMERSON

Attorneys at Law

Annexes:

- Conclusions of the First Advocate General in Case C-502/19 - Spanish
- Conclusions of the First Advocate General in Case C-502/19 - French