

ORDER OF THE PRESIDENT OF THE GENERAL COURT

19 March 2020(*)

(Application for interim measures — European Parliament — Recognition of the applicants as Members of the European Parliament — No longer any legal interest in pursuing proceedings — No need to adjudicate)

In Case T-388/19 R-RENV,

Carles Puigdemont i Casamajó, residing in Waterloo (Belgium),

Antoni Comín i Oliveres, residing in Waterloo,

represented by P. Bekaert, S. Bekaert and G. Boye, lawyers, and B. Emmerson QC,

applicants,

v

European Parliament, represented by N. Görlitz, S. Seyr, T. Lukácsi and Z. Nagy, acting as Agents,

defendant,

APPLICATION pursuant to Articles 278 and 279 TFEU seeking, first, the suspension of several decisions of the European Parliament allegedly preventing the applicants from taking their seats as elected Members of the European Parliament and, second, an order requiring the European Parliament to take all necessary measures, including the recognition of the privileges and immunities of the applicants, to enable them to take their seats in the Parliament with effect from 2 July 2019,

THE PRESIDENT OF THE GENERAL COURT

makes the following

Order

Facts, procedure and forms of order sought

- 1 Mr Carles Puigdemont i Casamajó and Mr Antoni Comín i Oliveres (together, ‘the applicants’) stood as candidates for Members of the European Parliament in the elections held in Spain on 26 May 2019.
- 2 By decision of 13 June 2019, the Junta Electoral Central (Central Electoral Commission, Spain) proclaimed the results of those elections and the list of candidates elected as Members of the Parliament. The applicants were included on that list.
- 3 On 15 June 2019, the Tribunal Supremo (Supreme Court, Spain) refused to withdraw the arrest warrants issued in respect of each of the applicants in November 2017 and March 2018, respectively.
- 4 On 17 June 2019, the Central Electoral Commission refused to allow the applicants to take the pledge of allegiance to the Spanish Constitution either by written statement made before a notary or through representatives as designated in a notarised document.
- 5 On the same date, the Central Electoral Commission notified the Parliament of the list of the candidates in Spain elected to the Parliament. That list did not include the applicants.

- 6 By letter of 20 June 2019, the Central Electoral Commission informed the Parliament that, since the applicants had failed to swear or affirm allegiance to the Spanish Constitution, they had not acquired the status of Members of the Parliament, nor, accordingly, could they benefit from any of the corresponding prerogatives and, further, they would not acquire that status or those prerogatives until such time as they complied with those formalities.
- 7 By letter of 27 June 2019, the President of the Parliament informed the applicants that the Parliament took note of the results declared officially by the Spanish authorities and, in particular, of the fact that the names of the applicants were not included in the list of elected members (*lista de diputados electos*) officially communicated to it by those authorities. The letter also stated that, consequently, and until further notice by the Spanish authorities, the President of the Parliament was not in a position to treat the applicants as future Members of the Parliament.
- 8 By application lodged at the Registry on 28 June 2019, the applicants sought, in essence, annulment of several decisions of the Parliament allegedly preventing them from taking their seats in the Parliament as elected Members.
- 9 By a separate document, lodged at the Registry on the same date, the applicants brought an application for interim measures, pursuant to Articles 278 and 279 TFEU, in which they asked the President of the General Court, pending a ruling on the main action:
- to suspend the Parliament’s decision not to take note of the results officially declared by Spain of the elections to the Parliament of 26 May 2019, and the subsequent decision to take note of a different and incomplete list of elected Members that was notified on 17 June 2019 by the Spanish authorities, as confirmed by the letter of the President of the Parliament of 27 June 2019, in so far as it does not include the applicants;
 - to suspend the Parliament’s decision to treat the communication of the Central Electoral Commission of 20 June 2019 as depriving of effect the declaration of the applicants as elected Members of the Parliament, as confirmed by the letter of the President of the Parliament of 27 June 2019, which amounts to an unlawful declaration of a vacancy attributable to the Parliament;
 - to suspend the Parliament’s decision, as confirmed by the letter of the President of the Parliament of 27 June 2019, refusing to recognise the right of the applicants to take up their seats in the Parliament and on different Parliamentary bodies and preventing their enjoyment of all rights attaching thereto with effect from the date of the first sitting of the Parliament following the elections, that is to say, from 2 July 2019, and until such time as a ruling has been made on the disputes referred both to the Parliament and to the judicial authorities of Spain;
 - to order the Parliament to take all the necessary measures, including the recognition of the applicants’ privileges and immunities to enable them to take up their seats in the Parliament from the opening of the first sitting following the elections, that is to say, from 2 July 2019.
- 10 By order of the President of the General Court of 1 July 2019, *Puigdemont i Casamajó and Comín i Oliveres v Parliament* (T-388/19 R, not published, EU:T:2019:467), the application for interim measures was dismissed.
- 11 By letter lodged at the Registry of the Court of Justice of the European Union on 2 September 2019, the applicants brought an appeal against that order. By that appeal, the applicants asked the Court of Justice, in essence, to set that order aside and to adopt the interim measures sought before the General Court pending a ruling by the General Court on the main action.
- 12 By judgment of 19 December 2019, *Junqueras Vies* (C-502/19, EU:C:2019:1115), the Court of Justice declared that a person who has been officially declared elected to the Parliament must be regarded as having acquired, as a result and from that moment, the status of member of that institution.
- 13 By order of the Vice-President of the Court of Justice of 20 December 2019, *Puigdemont i Casamajó and Comín i Oliveres v Parliament* (C-646/19 P(R), not published, EU:C:2019:1149), the order of the

President of the General Court was set aside and the case was referred back to the General Court.

- 14 On 15 January 2020, the Parliament lodged its observations on that order. It submitted that on 13 January 2020 it took note of the election of the applicants as Members of the Parliament representing Spain and that it treats them as such with retroactive effect as from 2 July 2019. The Parliament considered that the applicants have thus lost any legal interest in pursuing their application for interim measures and requested the General Court to declare that there is no longer any need to adjudicate on it.
- 15 In their observations of 23 January 2020 on that request, the applicants concurred with the Parliament that the application for interim measures has become devoid of purpose and that there is no longer any need to adjudicate on it.
- 16 In the light of the foregoing, the President of the General Court considers that, following the Parliament's decision of 13 January 2020, the application for interim measures indeed has become devoid of purpose. It follows that there is no longer any need to adjudicate on it.
- 17 By virtue of Article 158(5) of the Rules of Procedure of the General Court, the costs must be reserved.

On those grounds,

THE PRESIDENT OF THE GENERAL COURT

hereby orders:

- 1. There is no need to adjudicate on the application for interim measures.**
- 2. The costs are reserved.**

Luxembourg, 19 March 2020.

E. Coulon

M. van der Woude

Registrar

President

* Language of the case: English.