

5. If Questions 1 and 2 are answered in the negative, does a right to complain against old charges arise in any event from the first paragraph of Article 47 of the Charter of Fundamental Rights of the European Union and the second subparagraph of Article 19(1) of the Treaty on European Union (TEU) in so far as, where the regulatory body has not decided on the complaint, reimbursement of unlawful old charges under the rules of national civil law is precluded in accordance with the case-law of the Court in Case C-489/15<sup>(2)</sup> (judgment of 9 November 2017)?

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<sup>(1)</sup> Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast) (OJ 2012 L 343, p. 32).

<sup>(2)</sup> EU:C:2017:834, *CTL Logistics*.

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**Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 5 September 2022 — QM v Kiwi Tours GmbH**

**(Case C-584/22)**

(2022/C 441/24)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Applicant and appellant on a point of law: QM*

*Defendant and respondent in the appeal on a point of law: Kiwi Tours GmbH*

**Questions referred**

Is Article 12(2) of Directive (EU) 2015/2302<sup>(1)</sup> to be interpreted

1. as meaning that the assessment of the justification of the termination must be based solely on such unavoidable and extraordinary circumstances as have already occurred at the time of termination,
2. or as meaning that it is also necessary to take into account unavoidable and extraordinary circumstances that actually occur after the termination but before the planned start of the journey?

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<sup>(1)</sup> Directive of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ 2015 L 326, p. 1).

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**Appeal brought on 16 September 2022 by Carles Puigdemont i Casamajó and Antoni Comín i Oliveres against the judgment of the General Court (Sixth Chamber, Extended Composition) delivered on 6 July 2022 in Case T-388/19, Puigdemont i Casamajó and Comín i Oliveres v Parlament**

**(Case C-600/22 P)**

(2022/C 441/25)

*Language of the case: English*

**Parties**

*Appellants: Carles Puigdemont i Casamajó and Antoni Comín i Oliveres (represented by: P. Bekaert, S. Bekaert, advocaten, and G. Boye, abogado)*

*Other parties to the proceedings: European Parliament, Kingdom of Spain*

**Form of order sought**

The appellants claim that the Court should:

- set aside the judgment under appeal;
- refer the case back to the General Court or, in the alternative, annul the challenged acts; and
- order the Parliament and the Kingdom of Spain to pay the costs or, in the alternative, reserve the costs.

**Pleas in law and main arguments**

In support of this appeal, the appellants rely on the following four pleas in law:

First, the General Court erred in law and infringed Article 263 TFEU and, thus, Article 47 of the Charter, by concluding that the fact that the appellants had not been allowed by the Parliament to take office, exercise their mandate and sit in the Parliament as from 2 July 2019 was not the result of the refusal of the Parliament to recognize the appellants' status as Members of the European Parliament, as reflected in the instruction of 29 May 2019 and the letter of 27 June 2019, and therefore, that the challenged acts did not bring about a change to the appellants' legal situation.

Pursuant to Article 12 of the 1976 Act, <sup>(1)</sup> it is for the Parliament to decide disputes that may arise out of the provisions of the 1976 Act, of which Article 1(3) is an essential provision. *Donnici* <sup>(2)</sup> wrongly interpreted the division of powers between national authorities and the Parliament provided for in Article 12 of the 1976 Act as regards the powers conferred to the Parliament. The appellants would have in any event been able to take their seats pending the decision on the dispute they brought before the Parliament, and therefore, the judgment under appeal erred in law by deciding that the challenged acts did not bring a change to the appellants' situation.

The General Court erred in law by concluding that the decision not to take an initiative to assert the privileges and immunities pursuant to Rule 8 of the Rules of Procedure of the European Parliament is not a challengeable act.

The General Court erred in law by claiming that the appellants had not made a request to the Parliament for the defence of their privileges and immunities pursuant to Rules 7 and 9 of the Rules of Procedure of the European Parliament.

<sup>(1)</sup> Act concerning the election of the Members of the European Parliament by direct universal suffrage (OJ 1976 L 278, p. 5), annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ 1976 L 278, p. 1), as amended by Council Decision 2002/772/EC, Euratom of 25 June and 23 September 2002 (OJ 2002 L 283, p. 1).

<sup>(2)</sup> Judgment of 30 April 2009, *Italy and Donnici v Parliament*, C-393/07 and C-9/08, EU:C:2009:275.

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**Request for a preliminary ruling from the Landesverwaltungsgericht Tirol (Austria) lodged on 19 September 2022 — Umweltverband WWF Österreich and Others v Tiroler Landesregierung**

(Case C-601/22)

(2022/C 441/26)

*Language of the case: German*

**Referring court**

Landesverwaltungsgericht Tirol

**Parties to the main proceedings**

*Applicants:* Umweltverband WWF Österreich, ÖKOBURO — Allianz der Umweltbewegung, Naturschutzbund Österreich, Umweltdachverband, Wiener Tierschutzverein

*Defendant:* Tiroler Landesregierung