

Form of order sought

The Appellants claim that the Court should:

- set aside the order under appeal;
- dismiss the plea of inadmissibility in its entirety;
- refer the case back to the General Court in order for the latter to examine the substance of the Application.

Pleas in law and main arguments

The Appellants claim that the order under appeal infringed Article 263 TFEU by concluding that the measure contested in the Application did not produce legal effects. Such infringement is the result of an erroneous interpretation of Article 11(6) of Regulation 1/2003⁽¹⁾, which accords undertakings legal protection from parallel antitrust proceedings as between the Commission and national competition authorities. The order under appeal failed to recognize that the contested measure deprived Amazon of that protection.

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003, L 1, p. 1).

Appeal brought on 29 December 2021 by Oriol Junqueras i Vies against the order of the General Court (Sixth Chamber) delivered on 14 October 2021 in Case T-100/20 Junqueras i Vies v Parliament

(Case C-824/21 P)

(2022/C 84/43)

Language of the case: Spanish

Parties

Appellant: Oriol Junqueras i Vies (represented by: M. Marsal i Ferret, lawyer)

Other party to the proceedings: European Parliament

Form of order sought

The applicant claims that the Court should:

First. — Set aside the order of 14 October 2021 of the Sixth Chamber of the General Court of the European Union in Case T-100/20.

Second. — Declare the action brought by the appellant to be fully admissible.

Third. — Once the action has been declared admissible, remit the proceedings to the Sixth Chamber of the General Court of the European Union so that it may hear the action.

Fourth. — Order the European Parliament to pay the costs of the proceedings relating to the plea of inadmissibility and the present appeal proceedings.

Pleas in law and main arguments

In support of the appeal, the appellant relies on four pleas in law:

First: The order under appeal is contrary to Article 263 TFEU in so far as it finds that Mr Junqueras has no direct interest in bringing proceedings because he was not a Member of the European Parliament at the time the action was brought. The General Court erred in finding that there had been a withdrawal of the mandate in accordance with the European Electoral Act (Article 13) whereas the internal decision of the Kingdom of Spain constitutes a decision of ineligibility that operates as a ground for incompatibility. Given that that decision does not constitute a withdrawal of the mandate pursuant to Article 13 of the European Electoral Act (and does not constitute a ground for incompatibility pursuant to Article 7 of the European Electoral Act), Mr Junqueras continues to have a real and direct interest in bringing proceedings. In the alternative, the order of the General Court distorts the internal decision of the Kingdom of Spain, in so far as it finds that Mr Junqueras has no direct interest in bringing proceedings, and is contrary to Article 263 TFEU.

Second: The order under appeal infringes the right to an effective remedy (Article 47 of the Charter of Fundamental Rights of the European Union and Articles 6 and 13 of the European Convention on Human Rights) and Article 263 TFEU. The order prejudices the substantive findings to be made in [Cases] C-115/21[P] and T-24/20 ⁽¹⁾ and wrongly finds that Mr Junqueras is unable to obtain reinstatement as a Member of the European Parliament by way of the judgments pending before the Courts of the European Union. Mr Junqueras may indeed obtain such reinstatement and therefore has a real and direct interest in bringing proceedings.

Third: The order under appeal infringes the right to an effective remedy (Article 47 of the Charter of Fundamental Rights of the European Union and Articles 6 and 13 of the European Convention on Human Rights) and Article 263 TFEU. In the Order, the General Court states that it is hypothetical that the actions before the national courts and before the Tribunal Constitucional (Constitutional Court, Spain) may lead to the reinstatement of Mr Junqueras as a Member of the European Parliament and, therefore, finds that he lacks a real and direct interest in bringing proceedings. The order disregards the fact that the Tribunal Supremo (Supreme Court, Spain) itself has confirmed that one of the possible effects of the actions brought by Mr Junqueras is the reinstatement of his mandate and, accordingly, the order is wrong to describe his reinstatement as being hypothetical and Mr Junqueras has a real and direct interest in bringing proceedings. Likewise, the order infringes the right to effective judicial protection and to an effective remedy in so far as the General Court did not join the decision regarding admissibility with the substantive decision, which clearly would have upheld those rights more effectively.

Fourth: In the order under appeal, the General Court finds that there are no grounds under which Mr Junqueras may be found to have an interest in the setting aside of the contested act, even if no implementing measures may be adopted in the event of its annulment. That is contrary to Article 263 TFEU because such grounds do exist and have been put forward. In particular, and taking into consideration that the protection of immunity was requested before the delivery of the criminal judgment and the decision concerning the loss of his parliamentary seat, Mr Junqueras' representatives consider that recognition of Mr Junqueras' status as a Member of the European Parliament and the processing of the request for the protection of his immunity would have resulted in an obligation (as set out in the judgment of the Court of Justice of 19 December 2019 in Case C-502/19) ⁽²⁾ to suspend all proceedings against Mr Junqueras, and the upholding of his action would establish that those internal decisions were adopted in breach of EU law, which is relevant to all the actions brought by Mr Junqueras before national courts and the Courts of the European Union, and to any future actions he may bring before the European Court of Human Rights, which is why Mr Junqueras does have an interest in the action based on Article 263 TFEU.

⁽¹⁾ Order of 15 December 2020, *Junqueras i Vies v Parliament* (T-24/20, EU:T:2020:601).

⁽²⁾ Judgment of 19 December 2019, *Junqueras Vies* (C-502/19, EU:C:2019:1115).

Order of the President of the Court of 29 October 2021 (request for a preliminary ruling from the Tribunal administratif de Dijon — France) — Mr. X v Préfet de Saône-et-Loire

(Case C-206/21) ⁽¹⁾

(2022/C 84/44)

Language of the case: French

The President of the Court has ordered that the case be removed from the register.

⁽¹⁾ OJ C 278, 12.7.2021.

Order of the President of the Court of 9 November 2021 — (request for a preliminary ruling from the Tribunale di Rieti — Italy) — Criminal proceedings against G.B., R.H., interested party: Procura della Repubblica di Rieti

(Case C-334/21) ⁽¹⁾

(2022/C 84/45)

Language of the case: Italian

The President of the Court has ordered that the case be removed from the register.

⁽¹⁾ OJ C 310, 2.8.2021.
