



Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

2 October 2018*

(Action for annulment — Institutional law — Protocol on the location of the seats of the institutions and of certain bodies, offices, agencies and departments of the European Union — European Parliament — Concept of ‘budget session’ held in Strasbourg (France) — Article 314 TFEU — Exercise of budgetary powers during an additional plenary part-session in Brussels (Belgium))

In Case C-73/17,

ACTION for annulment under Article 263 TFEU, brought on 9 February 2017,

French Republic, represented by F. Alabrune, D. Colas, B. Fodda and E. de Moustier, acting as Agents,
applicant,

supported by:

Grand Duchy of Luxembourg, represented by D. Holderer and C. Schiltz, acting as Agents,
intervener,

v

European Parliament, represented by R. Crowe and U. Rösslein, acting as Agents,
defendant,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, A. Tizzano, Vice-President, R. Silva de Lapuerta, M. Ilešič, T. von Danwitz (Rapporteur) and A. Rosas, Presidents of Chamber, E. Juhász, D. Šváby, A. Prechal, F. Biltgen, K. Jürimäe, C. Lycourgos and M. Vilaras, Judges,

Advocate General: M. Wathelet,

Registrar: V. Giacobbo-Peyronnel, Administrator,

having regard to the written procedure and further to the hearing on 2 May 2018,

after hearing the Opinion of the Advocate General at the sitting on 5 June 2018,

gives the following

* Language of the case: French.

Judgment

- 1 By its application, the French Republic seeks the annulment of four acts of the European Parliament relating to the adoption of the annual budget of the European Union (EU) for the financial year 2017 (together ‘the contested acts’), namely:
 - the agenda for the plenary sitting of Parliament of 30 November 2016 (Document P8_OJ (2016) 11-30), in so far as it includes the debates on the joint text on the draft annual budget of the EU for the financial year 2017;
 - the agenda for the plenary sitting of the Parliament of 1 December 2016 (document P8_OJ (2016)12-01), in so far as it includes a vote followed by explanations of votes on that joint text;
 - the Parliament legislative resolution of 1 December 2016 (document T8-0475/2016, P8_TA-PROV (2016)0475) on that joint text;
 - the act of 1 December 2016 by which the President of the Parliament declared that the annual budget of the EU for the financial year 2017 had been definitively adopted.

Legal context

- 2 On 12 December 1992, the governments of the Member States adopted, on the basis of Article 216 of the EEC Treaty, Article 77 of the ECSC Treaty and Article 189 of the EAEC Treaty, a decision taken by common agreement on the location of the seats of the institutions and of certain bodies and departments of the European Communities (OJ 1992 C 341, p. 1; ‘the Edinburgh Decision’).
- 3 At the intergovernmental conference which led to the adoption of the Treaty of Amsterdam, it was decided to append the Edinburgh Decision to the EU, EC, ECSC and EAEC Treaties as a Protocol.
- 4 Currently, point (a) of the sole article of the Protocol on the location of the seats of the institutions and of certain bodies, offices, agencies and departments of the European Union (‘the Protocol concerning the seats of the institutions’) provides, in identical terms to those of Article 1(a) of the Edinburgh Decision:

‘The European Parliament shall have its seat in Strasbourg where the 12 periods of monthly plenary sessions, including the budget session, shall be held. The periods of additional plenary sessions shall be held in Brussels. The Committees of the European Parliament shall meet in Brussels. The General Secretariat of the European Parliament and its departments shall remain in Luxembourg.’

- 5 Article 314 TFEU provides *inter alia*:

‘The European Parliament and the Council, acting in accordance with a special legislative procedure, shall establish the Union’s annual budget in accordance with the following provisions.

...

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. ...

4. If, within forty-two days of such communication, the European Parliament:

...

(c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. ...

5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council.

...

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

(a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the budget shall be deemed to be definitively adopted in accordance with the joint text; or

(b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission; or

...

(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation Committee on the budget heading which is the subject of the amendment shall be retained. The budget shall be deemed to be definitively adopted on this basis.

...

9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been definitively adopted.

10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Treaties and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.'

6 The Rules of Procedure of the Parliament, in the version applicable to the dispute ('the EP Rules of Procedure'), provide, in Rule 156, entitled 'Time limits':

'Except in the cases of urgency referred to in Rules 135 and 154, a debate and vote shall not be opened on a text unless it has been distributed at least 24 hours earlier.'

- 7 Under Rule 158(1) of the EP Rules of Procedure, ‘all documents of Parliament shall be drawn up in the official languages’.

Background to the dispute

- 8 On 20 May 2015, the Parliament adopted the calendar of plenary part-sessions for 2016, providing, *inter alia*, for ordinary plenary part-sessions to be held in Strasbourg (France) from 24 to 27 October 2016, from 21 to 24 November 2016 and from 12 to 15 December 2016 and for an additional plenary part-session to be held on 30 November and 1 December 2016 in Brussels (Belgium).
- 9 On 18 July 2016, the Commission published a draft annual budget of the EU for the financial year 2017. On 14 September 2016, the Council forwarded to the Parliament its position on that draft. After a vote in the Committee on Budgets and debates during the ordinary plenary part-session held in Strasbourg from 24 to 27 October 2016, the Parliament adopted, on 26 October 2016, a legislative resolution containing amendments to that draft. On 27 October 2016, the budget conciliation procedure between the Parliament and the Council began. On 17 November 2016, that procedure resulted in an agreement on a joint text on the annual budget of the EU for the financial year 2017, which was forwarded to the Parliament and the Council on that day. The Commission services undertook a technical revision of the agreement in order to ‘transpose’ it into budgetary and legal terms. The joint text on the draft budget was thus finalised and provided to the Parliament in the course of the afternoon of 24 November 2016.
- 10 On 28 November 2016, the Council approved the joint text on the draft annual budget of the EU for the financial year 2017. The Parliament did not place the debate and vote on that text on the agenda for the ordinary plenary part-session which was held in Strasbourg from 21 to 24 November 2016, but on the agenda for the additional plenary part-session in Brussels on 30 November and 1 December 2016. By the legislative resolution of 1 December 2016, the Parliament approved the joint text. On the same day, the President of the Parliament declared, in plenary sitting, that the annual budget of the EU for the financial year 2017 had been definitively adopted.

Procedure before the Court and forms of order sought

- 11 The French Republic claims that the Court should:
- annul the contested acts;
 - maintain the effects of the act by which the President of the Parliament declared that the annual budget of the EU for the financial year 2017 had been definitively adopted until that budget is definitively adopted by an act in conformity with the Treaties within a reasonable period of time after the date of judgment, and
 - order the Parliament to pay the costs.
- 12 The Parliament requests the Court to:
- declare that the action is inadmissible in so far as it concerns the two agendas for the plenary sittings of the Parliament on 30 November and 1 December 2016 and the Parliament’s legislative resolution of 1 December 2016;
 - dismiss the action;
 - order the French Republic to pay the costs.

- in the alternative, to maintain the effects of the act by which the President of the Parliament declared that the annual budget of the EU for the financial year 2017 had been definitively adopted until the entry into force, within a reasonable period of time, of a new act intended to replace it.
- 13 By order of the President of the Court of 7 June 2017, the Grand Duchy of Luxembourg was granted leave to intervene in support of the form of order sought by the French Republic.

The action

Admissibility

- 14 The Parliament maintains that the action is inadmissible in so far as it concerns the two agendas for the plenary sittings of the Parliament on 30 November and 1 December 2016 and the Parliament's legislative resolution of 1 December 2016. Those two agendas are measures of purely internal organisation of the Parliament with no legal effects vis-à-vis third parties. It submits that the legislative resolution is only a preparatory act prior to the act by which the President of the Parliament declared that the annual budget of the EU for the financial year 2017 had been definitively adopted.
- 15 The Court observes in that regard that the Parliament, by placing the debate and vote on the joint text on the annual budget of the EU for the financial year 2017 on the agendas for the plenary sittings of 30 November and 1 December 2016, decided to exercise its budgetary powers under Article 314(6) TFEU during an additional plenary part-session in Brussels. The question whether those two agendas are concerned exclusively with the Parliament's internal organisation or whether they have legal effects vis-à-vis third parties, such effects arising as a result of the Parliament's exercise of its powers, is inseparably associated with consideration of the content of those agendas and, consequently, with consideration of the substance of the actions, meaning that that question cannot be examined in the context of the admissibility of the action (see, to that effect, judgments of 10 February 1983, *Luxembourg v Parliament*, 230/81, EU:C:1983:32, paragraph 30; of 28 November 1991, *Luxembourg v Parliament*, C-213/88 and C-39/89, EU:C:1991:449, paragraph 16; and of 13 December 2012, *France v Parliament*, C-237/11 and C-238/11, EU:C:2012:796, paragraph 20).
- 16 So far as the Parliament's legislative resolution of 1 December 2016 is concerned, the Court has already held that the Parliament's debate and vote on the draft annual budget at second reading on the basis of Article 203(6) of the EEC Treaty could form the subject matter of an action for annulment. Under paragraph 10 of that Article (subsequently Article 203(10) of the EC Treaty, which then became Article 272(10) EC and is and now Article 314(10) TFEU), each institution is to exercise the powers conferred upon it in budgetary matters in compliance with the Treaties. If it were not possible to refer the various acts adopted by the budgetary authority under that Article for review by the Court, the institutions of which that authority is composed could encroach upon the powers of the Member States or of the other institutions or exceed the limits which have been set to their own powers (see, to that effect, judgment of 3 July 1986, *Council v Parliament*, 34/86, EU:C:1986:291, paragraph 12). Those considerations apply, *mutatis mutandis*, with regard to the Parliament's legislative resolution of 1 December 2016 approving the joint text on the draft annual budget of the EU for the financial year 2017 at second reading on the basis of Article 314(6) TFEU.
- 17 It follows that the action is admissible.

Substance

Arguments of the parties

- 18 The French Republic, supported by the Grand Duchy of Luxembourg, raises a single plea in law alleging that the contested acts infringe the Protocol concerning the seats of the institutions. By virtue of point (a) of the sole article of the protocol, the Parliament is obliged to exercise the budgetary powers conferred on it by Article 314 TFEU entirely during the ordinary plenary part-sessions held in Strasbourg. The French Republic submits that, in the present case, the Parliament infringed that rule (i) by including the debate and vote on the joint text on the annual budget of the EU for the financial year 2017, for the purposes of Article 314(6) TFEU, on the agenda for its additional plenary part-session in Brussels on 30 November and 1 December 2016 and (ii) by declaring at the same additional plenary part-session, by the act of the President of the Parliament under Article 314(9) TFEU, that the budget had been definitively adopted.
- 19 The French Republic argues that the rule in point (a) of the sole article of the Protocol concerning the seats of the institutions does not provide for any exceptions. Although the French Republic has not objected to certain acts relating to the implementation of the budget being adopted during periods of additional plenary part-session, in particular in order to deal with certain unforeseen events, that practice cannot be condoned in the case of the budgetary procedure under Article 314 TFEU, which results in the adoption of the annual budget of the EU and constitutes a key event in the democratic life of the European Union.
- 20 According to the French Republic, the provisions of Article 314 TFEU must be reconciled with the rules relating to the Parliament's seat as set out in the Protocol concerning the seats of the institutions, which, in accordance with Article 51 TEU, form an integral part of the Treaties and have the same legal value as Article 314 TFEU. Thus the constraints arising from the time limits prescribed in Article 314 TFEU cannot take precedence over the obligations established by the protocol as regards the seat of the Parliament, especially as those constraints and obligations can be reconciled.
- 21 The French Republic submits in that regard that the Parliament is obliged to set the calendar for ordinary plenary part-sessions in Strasbourg in such a way that one of the part-sessions is scheduled to take place during the 14-day period laid down in Article 314(6) TFEU for the Parliament's vote on the joint text on the draft annual budget adopted in the conciliation procedure. Given that the Conciliation Committee will, as a general rule, use the full conciliation period of 21 days provided for in Article 314(5) TFEU, it is possible, in the French Republic's view, to foresee the date of the conciliation agreement concerning the joint text. Should the Conciliation Committee reach an agreement before the scheduled date, the 'formalisation' of that agreement and, accordingly, the date on which the 14-day period referred to above starts to run could be postponed.
- 22 Moreover, in the present case it would have been possible for the Parliament to include the debate and the vote on the joint text on the draft annual budget of the EU for the financial year 2017 on the agenda for a sitting during the ordinary plenary part-session that took place in Strasbourg from 21 to 24 November 2016 and still respect the 14-day period laid down in Article 314(6) TFEU. That period of ordinary plenary part-session took place in its entirety during that 14-day period and began 4 days after agreement on the joint text was reached on 17 November 2016. Thus, taking account of the only mandatory time limit preceding the opening of debate on a text (the 24-hour distribution period laid down in Rule 156 of the EP Rules of Procedure), the Parliament could perfectly well have included the debate and vote on the joint text on the agenda for the abovementioned ordinary plenary part-session. In that regard, the French Republic disputes that the matters raised by the Parliament concerning technical adjustments, translation and finalisation of the budgetary file made it impossible

for the Parliament to vote on the joint text on the draft annual budget of the EU for the financial year 2017 during the ordinary plenary part-session that was held in Strasbourg from 21 to 24 November 2016.

- 23 Finally, as regards the act whereby the President of the Parliament declared the annual budget of the EU for the financial year 2017 to be adopted, the French Republic submits that nothing prevented the President from waiting until the next ordinary plenary part-session, which took place from 12 to 15 December 2016.
- 24 The Parliament argues that the words ‘budget session’ must be interpreted as referring to one single, specific plenary part-session, namely the part-session during which the Parliament exercises the powers that were initially conferred on it by Article 203 of the EEC Treaty to propose amendments to the initial draft budget, as amended by the Council. The Edinburgh Decision enshrined the Parliament’s previous practice of organising for that purpose, towards the end of October or at the beginning of November, a plenary part-session in Strasbourg. That period of plenary part-session, known as the ‘October II session’, was additional to the October ordinary plenary part-session, because of the Parliament’s practice of not holding a plenary part-session in August, and was used, essentially, for the first reading of the draft budget.
- 25 On the other hand, contrary to what is claimed by the French Republic, nothing in the Protocol concerning the seats of the institutions indicates that the subsequent debates and votes on the joint text on the draft annual budget adopted by the Conciliation Committee must also take place during an ordinary plenary part-session in Strasbourg. According to the Parliament, the interpretation put forward by the French Republic entails either (i) holding more than six periods of monthly plenary sessions in Strasbourg in the second part of the year, which would be in breach of the obligation laid down in that protocol to hold the 12 periods of monthly plenary sessions on a regular basis, or (ii) consequences that would be incompatible with the practical effectiveness of Article 314 TFEU.
- 26 Pointing to the 14-day period laid down in Article 314(6) TFEU for approval of the joint text on the draft annual budget, the Parliament argues that such an interpretation would require the Conciliation Committee systematically to adopt that text within the 14 days preceding the date of a plenary part-session in Strasbourg, thereby removing the freedom of that committee to adopt the text at any point in the 21-day conciliation period provided for in Article 314(5) TFEU. In addition, that interpretation would prevent the Parliament from holding a debate on the draft annual budget of the EU and from voting on that budget after the 12th ordinary plenary part-session in Strasbourg and would fail to take account of the possibility, referred to in Article 314(7)(b) and (d) TFEU, that the budget may have to be adopted in a new budgetary procedure or by a Parliament vote confirming all or some of its amendments. The failure to adopt the budget by the end of a financial year would then result in the application of Article 315 TFEU concerning the provisional budget.
- 27 Moreover, it would not have been possible in the present case for the Parliament to place the debate and the vote on the joint text on the draft annual budget of the EU for the financial year 2017 on the agenda for a sitting of the ordinary plenary part-session which took place in Strasbourg from 21 to 24 November 2016. Before the joint text could be submitted to the Parliament and the Council for approval, it was necessary to ‘transpose’ the political agreement annexed to the covering letters from the Conciliation Committee into legal and budgetary texts and to have those texts translated into all the official EU languages. The Parliament states that technical finalisation of the joint text always requires about one week’s work and is usually undertaken by the Commission services. In the present case, the Commission informed the Council and the Parliament that the finalised joint text was available — solely in English — only 18 minutes before the end of the November 2016 period of ordinary plenary part-session.

Findings of the Court

- 28 As Article 314(10) TFEU affirms, the Parliament is required to exercise the budgetary powers conferred upon it in compliance with the Treaties and the acts adopted thereunder.
- 29 In the first place, the Parliament must comply with the Protocol concerning the seats of the institutions which, in accordance with Article 51 TEU, forms an integral part of the Treaties. Point (a) of the sole article of the protocol provides that ‘the European Parliament shall have its seat in Strasbourg where the 12 periods of monthly plenary sessions, including the budget session, shall be held.’
- 30 The French Republic maintains that, under that provision, the Parliament is obliged to exercise all of its budgetary powers in Strasbourg, whereas, in the Parliament’s view, the said provision refers to a specific period of plenary part-session, namely the period relating to the first reading of the draft budget, meaning that the contested acts are, in its submission, outside the scope of the provision.
- 31 In that regard, the Court notes that point (a) of the sole article of the Protocol concerning the seats of the institutions refers to the ‘budget session’ but does not specify either a precise period of ordinary plenary part-session or the acts falling within the scope of the Parliament’s powers in the budgetary procedure which must be adopted during that period of plenary part-session. Under Article 314 TFEU, the Parliament may be required to take a decision upon the annual budget of the EU on more than one occasion and, in view of the deadlines and time limits laid down in that article, it may be required to do so during different periods of ordinary plenary part-session.
- 32 In the absence of any specific provision in point (a) of the sole article of that protocol, the words ‘budget session’ must be considered to refer to all the periods of plenary part-session during which the Parliament exercises its budgetary powers and to all the acts adopted by the Parliament for that purpose.
- 33 As regards Article 1(a) of the Edinburgh Decision, which is worded in identical terms to point (a) of the sole article of the Protocol concerning the seats of the institutions, the Court has already held that that provision defines the seat of the Parliament as the place where 12 ordinary plenary part-sessions must take place on a regular basis, including those during which the Parliament is to exercise the budgetary powers conferred upon it by the Treaty (see, to that effect, judgments of 1 October 1997, *France v Parliament*, C-345/95, EU:C:1997:450, paragraph 29, and of 13 December 2012, *France v Parliament*, C-237/11 and C-238/11, EU:C:2012:796, paragraph 40).
- 34 It should be added that the exercise by the Parliament of its budgetary powers in plenary sitting is of particular importance for the transparency and democratic legitimacy of actions of the European Union based on its annual budget. Such transparency and legitimacy cannot be secured solely by the first reading of the draft budget in the budgetary procedure laid down in Article 314 TFEU where the Parliament, pursuant to Article 314(4)(c) TFEU, adopts amendments to that draft.
- 35 According to the Court’s case-law, the exercise by the Parliament of its budgetary powers in plenary sitting constitutes a fundamental event in the democratic life of the European Union and requires, inter alia, a public debate in plenary sitting enabling the citizens of the European Union to acquaint themselves with the various political orientations expressed and, as a result, to form a political opinion on the European Union’s actions (judgment of 13 December 2012, *France v Parliament*, C-237/11 and C-238/11, EU:C:2012:796, paragraph 68). Furthermore, the transparency afforded by a parliamentary debate in a plenary sitting is likely to strengthen the democratic legitimacy of the budgetary procedure in the eyes of citizens of the European Union and the credibility of the latter’s actions.

- 36 The conciliation procedure provided for in paragraphs 4(c) and 5 of Article 314 TFEU may result in significant amendments to the draft budget that have neither been examined at the Parliament's first reading nor been publicly debated within the Conciliation Committee. As the Parliament confirmed at the hearing, sittings of that committee are not public and involve the participation of 28 Members of the Parliament, reflecting the majority relationships within the Parliament, whilst not fully representing the political interests of all the Members of the Parliament.
- 37 Accordingly, the words 'budget session' in point (a) of the sole article of the Protocol concerning the seats of the institutions encompass not only the ordinary plenary part-session during which the draft budget is considered at first reading, but also the second reading, under Article 314(6) TFEU, which guarantees a public debate and vote, in a plenary sitting, on the joint text on the draft annual budget adopted in the conciliation procedure.
- 38 In the second place, the Parliament is obliged to comply with the requirements that Article 314 TFEU imposes on it for the exercise of its budgetary powers in plenary sitting. The purpose of the deadlines and time limits laid down in that provision is to ensure that the annual budget of the EU is adopted by the end of the year preceding the financial year in question, as a possible failure to observe them can result in the application of Article 315 TFEU concerning a provisional budget.
- 39 Thus, in the event, in particular, of the Parliament failing to take a decision at second reading on the joint text on the draft annual budget within the 14-day period laid down in Article 314(6) TFEU and of the Council rejecting the joint text within that period, it follows from paragraph 7(b) of Article 314 TFEU that the Commission will submit a new draft budget and, consequently, that the budgetary procedure must be repeated in its entirety. In that situation, the Parliament will, in addition, lose the power arising under Article 314(7)(d) TFEU enabling it — should the Council reject the joint text on the draft annual budget — to decide alone on the adoption of the budget, acting by qualified majority in a further vote.
- 40 Moreover, if, within the 14-day period laid down in Article 314(6) TFEU, there has been no debate and vote in the Parliament on the joint text on the draft annual budget, the joint text may be adopted by the Council alone, under the conditions laid down in paragraph 7(a) of that article. As has been stated in paragraphs 34 to 36 of this judgment, it is of particular importance for the transparency and democratic legitimacy of action taken by the European Union, which are given expression through the procedure for adopting the annual budget, that the Parliament should exercise its powers under Article 314(6) TFEU and take a decision in plenary sitting on that joint text.
- 41 The Parliament is therefore required to act in this area with all the attention, rigour and commitment which such a responsibility demands (see, to that effect, judgment of 13 December 2012, *France v Parliament*, C-237/11 and C-238/11, EU:C:2012:796, paragraph 68), which presupposes that the parliamentary debate and vote be based on a text that has been made available to the Members in good time and been translated into all the official EU languages. The European Union is committed to multilingualism, the importance of which is stated in the fourth subparagraph of Article 3(3) TEU (see, to that effect, judgment of 5 May 2015, *Spain v Council*, C-147/13, EU:C:2015:299, paragraph 42, and of 6 September 2017, *Slovakia and Hungary v Council*, C-643/15 and C-647/15, EU:C:2017:631, paragraph 203).
- 42 In the third place, given that point (a) of the sole article of the Protocol concerning the seats of the institutions and Article 314 TFEU have the same legal value, the obligations arising under the sole article of the protocol cannot, as such, prevail over those arising under Article 314 TFEU, and vice versa. Their application must be on a case-by-case basis and in a manner that reconciles those obligations and strikes a fair balance between them.

- 43 Moreover, it is settled case-law that the Protocol concerning the seats of the institutions is predicated on mutual respect on the part of the Member States and the Parliament for each other's areas of competence and on a reciprocal duty of sincere cooperation (see, to that effect, judgments of 22 September 1988, *France v Parliament*, 358/85 and 51/86, EU:C:1988:431, paragraphs 34 and 35; of 1 October 1997, *France v Parliament*, C-345/95, EU:C:1997:450, paragraphs 31 and 32; and of 13 December 2012, *France v Parliament*, C-237/11 and C-238/11, EU:C:2012:796, paragraphs 41, 42 and 60).
- 44 Thus, the Parliament is obliged to exercise its budgetary powers in an ordinary plenary part-session in Strasbourg, although that obligation, arising under point (a) of the sole article of the Protocol concerning the seats of the institutions, does not preclude the annual budget from being debated and voted on during an additional plenary part-session in Brussels, if that is called for by essential requirements relating to the proper conduct of the budgetary procedure that is laid down in Article 314 TFEU. If that procedure were conducted in such a way as to give absolute precedence to observance of point (a) of the sole article of the protocol to the detriment of Parliament's full participation in the budgetary procedure, that would be incompatible with the need to reconcile the obligations arising under those provisions, to which reference has been made in paragraph 42 of this judgment.
- 45 As regards judicial review of compliance with the requirements stemming from paragraphs 42 to 44 of this judgment, it must be stated that when the Parliament undertakes the necessary reconciliation between the obligations under point (a) of the sole article of the Protocol concerning the seats of the institutions and those under Article 314 TFEU, it has a discretion deriving from the essential requirements relating to the proper conduct of the budgetary procedure. That judicial review therefore concerns the question whether the Parliament made errors of assessment by opting to exercise some of its budgetary powers in the course of an additional plenary part-session.
- 46 The question whether the contested acts respect the necessary reconciliation of the obligations arising under point (a) of the sole article of the Protocol concerning the seats of the institutions and those arising under Article 314 TFEU must be examined in the light of those considerations.
- 47 The French Republic submits in that regard that an adjustment of the parliamentary calendar would have enabled the debate and the vote on the joint text on the draft annual budget of the EU for the financial year 2017 to be held in Strasbourg, within the time limit laid down in Article 314(6) TFEU, and that such a debate and vote could, in any event, have taken place during the November 2016 ordinary plenary part-session. It also submits that the act whereby the President of the Parliament declared the annual budget of the EU for the financial year 2017 to be definitively adopted could still have been adopted during the next ordinary plenary part-session, from 12 to 15 December 2016.
- 48 As regards the 2016 parliamentary calendar, the French Republic's argument is based, in essence, on the premiss that, since the date on which the Conciliation Committee would reach agreement on a joint text on the draft annual budget of the EU (17 November 2016) could reasonably be foreseen by the Parliament at the time when it adopted that calendar, the Parliament should have scheduled an ordinary plenary part-session for a time after 21 to 24 November 2016, so that, in the course of that part-session, a debate and vote at second reading on that draft could be held in due time.
- 49 None of the considerations put forward by the French Republic establish that, in this regard, the Parliament's scheduling of its calendar of plenary part-sessions for 2016 was vitiated by an error of assessment.
- 50 Indeed, the premiss set out in paragraph 48 of this judgment cannot be accepted. Thus, at the time when the calendar of ordinary plenary part-sessions was adopted, it was fundamentally uncertain whether there would be a conciliation procedure and equally uncertain when that procedure would begin and, in the event of agreement on a joint text on the draft annual budget, when it would end.

As the French Republic accepts, it could not therefore be ruled out at that time that, if the Conciliation Committee were convened, it would reach agreement on a joint text on the draft annual budget of the EU before 17 November 2016: that would have allowed the Parliament to hold a debate and to vote on the joint text at second reading during the ordinary plenary part-session of 21 to 24 November 2016 — and to do so without failing to comply with the requirement to act with attention, rigour and commitment referred to in paragraph 41 of this judgment.

- 51 The last-mentioned finding cannot be called in question by the French Republic's argument that, in the event of agreement within the Conciliation Committee before the expiry of the period laid down in Article 314(5) TFEU, it was conceivable that that committee would postpone formal approval of that agreement. Such an approach, which would entail artificially deferring the date of that agreement, is not compatible with Article 314(6) TFEU, from which it follows that the 14-day period which the Parliament and the Council have in order to approve the joint text starts to run on the date on which the Conciliation Committee reaches such agreement.
- 52 Consequently, it must be held that the Parliament did not exceed the bounds of the discretion referred to in paragraph 45 of this judgment when it adopted its calendar of ordinary plenary part-sessions for 2016.
- 53 It should also be determined whether, within the framework set by that calendar, the Parliament could, without making an error of assessment, exercise its budgetary powers, by means of the contested acts, during the additional plenary part-session held in Brussels on 30 November and 1 December 2016.
- 54 As regards, first, the agendas for the plenary part-sessions of the Parliament on 30 November and 1 December 2016 and the Parliament's legislative resolution of 1 December 2016 concerning the joint text on the draft annual budget of the EU for the financial year 2017, it is not disputed that the Conciliation Committee's agreement on the joint text was reached on 17 November 2016 and was forwarded to the Parliament and to the Council on the same day. The Parliament did not include the debate and vote on the joint text on the agenda for the ordinary plenary part-session in Strasbourg from 21 to 24 November 2016, but on the agenda for the additional plenary part-session which was held in Brussels on 30 November and 1 December 2016.
- 55 It must be noted in that regard that, in the present case, 1 December 2016 was the last day of the period laid down in Article 314(6) TFEU. As the Council had approved the joint text on the draft annual budget of the EU for the financial year 2017 on 28 November 2016, the failure of the Parliament to act within that period would have entailed adoption of the annual budget for the financial year 2017, pursuant to Article 314(7)(a) TFEU, without the Parliament participating in the budgetary procedure at second reading.
- 56 As regards the French Republic's argument that the Parliament could have taken a decision on the joint text on the annual budget of the EU for the financial year 2017 at an earlier date, namely during the ordinary plenary part-session from 21 to 24 November 2016 in Strasbourg, it should be observed that the fact that the Parliament used the entirety of the period laid down in Article 314(6) TFEU cannot call in question the lawfulness of the agendas for the plenary sittings of the Parliament on 30 November and 1 December 2016, or of the Parliament's legislative resolution of 1 December 2016, from the perspective of the Protocol concerning the seats of the institutions. The Parliament is entitled fully to utilise the periods afforded it by Article 314 TFEU. As the Parliament pointed out at the hearing before the Court, internal discussions within the various political groups and the Committee on Budgets take considerable time: that time is particularly important for preparing for the debate and vote on the budget in plenary session and, in particular, for securing a majority.
- 57 In addition, the agreement of the Conciliation Committee on the joint text on the annual budget of the EU for the financial year 2017 was worked on for the purposes of technical finalisation and was translated into all the official EU languages, the need for which is not disputed as between the parties.

Nor do the parties contest the decision to make the Commission services responsible for that technical finalisation, by the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (OJ 2013 C 373, p. 1).

- 58 In the present case, as a result of that technical finalisation, the joint text on the annual budget of the EU for the financial year 2017 was not made available to the Parliament until the afternoon of 24 November 2016, in other words the last day of the November 2016 ordinary plenary part-session, and only the English-language version was made available. In those circumstances, the debate and vote on the joint text could not, in accordance with Rules 156 and 158 of the EP Rules of Procedure, be included on the agenda for 24 November 2016. In accordance with those provisions, a debate and vote can be opened only on a document drawn up in the official EU languages which has been made available to the Members at least 24 hours earlier. Compliance with those minimum requirements is essential for the purpose of preparing for the debate and vote in plenary sitting on the joint text on the draft annual budget with all the necessary attention, rigour and commitment and, in particular, in the light of the requirements pertaining to multilingualism.
- 59 As to the duration of the technical finalisation of the Conciliation Committee's agreement on the joint text on the draft annual budget of the EU for the financial year 2017 (which was seven days in the present case), the French Republic has not shown that it was excessive. The Parliament of course has to make sure that everything is done to ensure that the duration of that technical finalisation makes it possible, where necessary, for the requirements arising under point (a) of the sole article of the Protocol concerning the seats of the institutions to be observed. However, the French Republic has not put forward any specific matters demonstrating that the Parliament infringed that obligation and, consequently, that the period of technical finalisation could have been reduced, thus allowing the joint text to be made available to Parliament, in accordance with the conditions laid down by the EP Rules of Procedure, before 24 November 2016.
- 60 Even if that period could have been shorter, account must be taken of the time which, beyond the minimum requirements of Rule 156 of the EP Rules of Procedure, is necessary to prepare for the plenary sitting concerning the joint text on the draft annual budget, namely the time which the Members — particularly those of the parliamentary minority, none of whose representatives have participated in the conciliation procedure — must have in order to enable them to acquaint themselves properly with the joint text and to debate and vote on it with all the necessary attention, rigour and commitment.
- 61 Accordingly, the Parliament did not make an error of assessment by including the debate and vote on the joint text on the draft annual budget of the EU for the financial year 2017 on the agenda for the additional plenary part-session that took place in Brussels on 30 November and 1 December 2016 and by approving that joint text by legislative resolution in that same plenary part-session.
- 62 As regards, second, the act declaring that the annual budget of the EU for the financial year 2017 had been definitively adopted, the Court notes that the FEU Treaty does not afford the President of the Parliament any time limit for adopting the budget: under Article 314(9) TFEU, that adoption has to take place when the procedure provided for in that article has been completed.
- 63 That act is in fact closely linked to the vote, at second reading, on the joint text on the annual budget. The act of the President of the Parliament formally declaring, after verification that the procedure has been conducted lawfully, that the annual budget of the EU has been definitively adopted constitutes the final stage of the procedure for the adoption of that budget and endows it with binding force (see, to that effect, judgment of 17 September 2013, *Council v Parliament*, C-77/11, EU:C:2013:559, paragraph 50). Thus, when the Parliament, in the light of the necessary reconciliation of obligations to

which reference has been made in paragraph 42 of this judgment, is entitled to debate and vote on the joint text on the annual budget during an additional plenary part-session in Brussels, the President of the Parliament makes that declaration during the same plenary part-session.

- 64 Moreover, in view of the importance of the adoption of the annual budget for the actions of the European Union, the President of the Parliament cannot be required to wait until the next period of ordinary plenary part-session in Strasbourg to declare the budgetary procedure definitively concluded and to confer binding force on the annual budget of the EU.
- 65 Accordingly, the President of the Parliament could, without making any error of assessment, declare, during the plenary sitting held on 1 December 2016 in Brussels, that the annual budget of the EU for the financial year 2017 was definitively adopted.
- 66 Having regard to all the foregoing, the French Republic's single plea in law must be rejected and, consequently, the action must be dismissed.

Costs

- 67 Under Article 138(1) of the Rules of Procedure of the Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Parliament has applied for the French Republic to be ordered to pay the costs and the latter has been unsuccessful, it must be ordered to bear its own costs and to pay those incurred by the Parliament. Under Article 140(1) of those rules, the Grand Duchy of Luxembourg, which has intervened in the proceedings, is to bear its own costs.

On those grounds, the Court (Grand Chamber) hereby:

- 1. Dismisses the action;**
- 2. Orders the French Republic to pay, in addition to its own costs, those of the European Parliament;**
- 3. Orders the Grand Duchy of Luxembourg to bear its own costs.**

[Signatures]