



Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

5 February 2026*

(Appeal – Institutional law – Members of the European Parliament – Privileges and immunities – Decision to waive parliamentary immunity of Members of the Parliament – Article 41(1) of the Charter of Fundamental Rights of the European Union – Principle of good administration – Parliament Committee on Legal Affairs – Requirement that the rapporteur be impartial)

In Case C-572/23 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 15 September 2023,

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

Antoni Comín i Oliveres, residing in Waterloo,

Clara Ponsatí i Obiols, residing in Waterloo,

represented by P. Bekaert and S. Bekaert, advocaten, and G. Boye, abogado,

appellants,

the other parties to the proceedings being:

European Parliament, represented by N. Görlitz, N. Lorenz and J.-C. Puffer, acting as Agents,

defendant at first instance,

Kingdom of Spain, represented by A. Gavela Llopis, acting as Agent,

intervener at first instance,

THE COURT (Third Chamber),

composed of C. Lycourgos, President of the Chamber, O. Spineanu-Matei (Rapporteur), S. Rodin, N. Piçarra and N. Fenger, Judges,

Advocate General: M. Szpunar,

* Language of the case: English.

Registrar: A. Calot Escobar,

having regard to the written procedure,

after hearing the Opinion of the Advocate General at the sitting on 4 September 2025,

gives the following

Judgment

- 1 By their appeal, Mr Carles Puigdemont i Casamajó, Mr Antoni Comín i Oliveres and Ms Clara Ponsatí i Obiols ('the appellants') ask the Court of Justice to set aside the judgment of the General Court of the European Union of 5 July 2023, *Puigdemont i Casamajó and Others v Parliament* (T-272/21, 'the judgment under appeal', EU:T:2023:373), by which the General Court dismissed their action seeking annulment of Decisions P9_TA(2021)0059, P9_TA(2021)0060 and P9_TA(2021)0061 of the European Parliament of 9 March 2021 on the request for waiver of their immunity ('the decisions at issue').

Legal context

European Union law

Protocol (No 7)

- 2 Article 9 of Protocol (No 7) on the Privileges and Immunities of the European Union ('Protocol No 7') provides:

'During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.'

The Rules of Procedure of the European Parliament

- 3 The Rules of Procedure of the European Parliament, applicable to the ninth parliamentary term (2019 to 2024), in the version prior to their amendment by the decision of the Parliament of 17 January 2023 ('the Rules of Procedure'), provided, in Rule 5, entitled 'Privileges and immunities':

'1. Members enjoy the privileges and immunities laid down in Protocol No 7 ...

2. In exercising its powers on privileges and immunities, Parliament shall act to uphold its integrity as a democratic legislative assembly and to ensure the independence of its Members in the performance of their duties. Parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of Parliament as a whole, and of its Members.

...'

- 4 Rule 6 of the Rules of Procedure, entitled 'Waiver of immunity', provided:

'1. Any request for waiver of immunity shall be evaluated in accordance with Articles 7, 8 and 9 of ... Protocol No 7 ... and with the principles referred to in Rule 5(2).

...'

- 5 Under Rule 9 of the Rules of Procedure, entitled 'Procedures on immunity':

'1. Any request addressed to the President [of the Parliament] by a competent authority of a Member State for the immunity of a Member to be waived, or by a Member or a former Member for privileges and immunities to be defended, shall be announced in Parliament and referred to the committee responsible.

...

13. The committee shall lay down principles for the application of this Rule.

...'

Notice No 11/2019

- 6 Point 6 of the Notice to Members on the principles for immunity cases, dated 19 November 2019 ('Notice No 11/2019'), adopted by the Committee on Legal Affairs of the European Parliament ('the JURI Committee'), provides:

'The [JURI] committee shall appoint a rapporteur for each immunity case.'

- 7 Point 7 of Notice No 11/2019 provides:

'For this purpose, each political group shall indicate one Member to be a standing rapporteur for immunity cases, who should be the coordinator, in order to ensure that immunity cases are dealt with by experienced Members. The political groups shall ensure that they appoint standing rapporteurs of the greatest probity.'

8 According to point 8 of Notice No 11/2019:

‘The position of rapporteur for each immunity case will be rotated on an equal basis between the political groups. However, the rapporteur may not be a member of the same group, or be elected in the same Member State, as the Member whose immunity is under discussion.’

9 According to point 43 of Notice No 11/2019:

‘Where the proceedings in question do not concern opinions expressed or votes cast in the performance of a Member’s duties, immunity should be waived unless it appears that the intention underlying the legal proceedings may be to damage a Member’s political activity and thus Parliament’s independence (*fumus persecutionis*).’

Background to the dispute

10 The background to the dispute is set out in paragraphs 2 to 19 of the judgment under appeal and may, for the purposes of the present judgment, be summarised as follows.

11 Mr Puigdemont i Casamajó was President of the Generalitat de Catalunya (Generalitat of Catalonia, Spain) and Mr Comín i Oliveres and Ms Ponsatí i Obiols were members of the Gobierno autonómico de Cataluña (Autonomous Government of Catalonia, Spain) at the time of the adoption of Ley 19/2017 del Parlamento de Cataluña, reguladora del referéndum de autodeterminación (Law 19/2017 of the Parliament of Catalonia regulating the referendum on self-determination) of 6 September 2017 (DOGC No 7449A of 6 September 2017, p. 1) and of Ley 20/2017 del Parlamento de Cataluña, de transitoriedad jurídica y fundacional de la República (Law 20/2017 of the Parliament of Catalonia on legal and functional transition of the Republic) of 8 September 2017 (DOGC No 7451A of 8 September 2017, p. 1), and at the time of the holding, on 1 October 2017, of the referendum on self-determination provided for in the first of those laws, the provisions of which had in the meantime been suspended by a decision of the Tribunal Constitucional (Constitutional Court, Spain).

12 Following the adoption of those laws and the holding of that referendum, the Ministerio Fiscal (Public Prosecutor’s Office, Spain), the Abogado del Estado (State Counsel, Spain) and the political party VOX initiated criminal proceedings against a number of individuals, including the appellants, on the ground that they had committed acts, depending on the persons concerned, constituting inter alia the offences of insurgency, sedition and misuse of public funds (‘the criminal proceedings at issue’).

13 On 21 March 2018, the Tribunal Supremo (Supreme Court, Spain) issued an order charging the appellants with alleged offences of insurgency and misappropriation of public funds. By order of 9 July 2018, the Tribunal Supremo (Supreme Court) declared that the appellants had refused to appear following their flight from Spain, and it stayed the criminal proceedings at issue until such time as they were found.

14 The appellants applied to stand as candidates in the elections of Members of the European Parliament (‘Member’ or ‘Members’) held in Spain on 26 May 2019.

- 15 On 14 October 2019, the investigating judge of the Criminal Chamber of the Tribunal Supremo (Supreme Court) issued a national arrest warrant, a European arrest warrant and an international arrest warrant against Mr Puigdemont i Casamajó, so that he might be tried in the criminal proceedings at issue. On 4 November 2019, similar arrest warrants were issued by the same judge against Mr Comín i Oliveres and Ms Ponsatí i Obiols.
- 16 At the plenary session of 13 January 2020, the Parliament took note, following the judgment of 19 December 2019, *Junqueras Vies* (C-502/19, EU:C:2019:1115), of the election of Mr Puigdemont i Casamajó and Mr Comín i Oliveres to the Parliament with effect from 2 July 2019.
- 17 On 13 January 2020, the President of the Tribunal Supremo (Supreme Court) sent to the Parliament a request dated 10 January 2020, communicated via the President of the Criminal Chamber of that court, following an order of that same day made by the investigating judge of that chamber, for the immunity of Mr Puigdemont i Casamajó and Mr Comín i Oliveres to be waived.
- 18 On 10 February 2020, the Parliament, following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union on 31 January 2020, took note of the election of Ms Ponsatí i Obiols as a Member with effect from 1 February 2020.
- 19 On 10 February 2020, the President of the Tribunal Supremo (Supreme Court) sent to the Parliament the request dated 4 February 2020, communicated via the President of the Criminal Chamber of that court, following an order of that same day made by the investigating judge of that chamber, for the immunity of Ms Ponsatí i Obiols to be waived.
- 20 The Vice-President of the Parliament announced in plenary session the requests for waiver of immunity referred to in paragraphs 17 and 19 of the present judgment and referred them to the JURI Committee.
- 21 On 23 February 2021, the JURI Committee adopted Reports A 9-0020/2021, A 9-0021/2021 and A 9-0022/2021 concerning those requests.
- 22 By the decisions at issue, the Parliament granted those requests.

The procedure before the General Court and the judgment under appeal

- 23 By application lodged at the Registry of the General Court on 19 May 2021, the appellants brought an action for annulment of the decisions at issue.
- 24 By separate document lodged at the Registry of the General Court on 26 May 2021, the appellants submitted an application for interim measures under Articles 278 and 279 TFEU seeking suspension of the operation of the decisions at issue.
- 25 By order of 2 June 2021, *Puigdemont i Casamajó and Others v Parliament* (T-272/21 R), the Vice-President of the General Court ordered the suspension of the operation of the decisions at issue until the date of the order closing the proceedings for interim relief. By order of 30 July 2021, *Puigdemont i Casamajó and Others v Parliament* (T-272/21 R, EU:T:2021:497), the Vice-President of the General Court dismissed the application for interim measures referred to in the preceding paragraph and set aside the order of 2 June 2021.

- 26 By order of 24 May 2022, *Puigdemont i Casamajó and Others v Parliament and Spain* (C-629/21 P(R), EU:C:2022:413), the Vice-President of the Court of Justice set aside the order of 30 July 2021, *Puigdemont i Casamajó and Others v Parliament* (T-272/21 R, EU:T:2021:497), ordered the suspension of the operation of the decisions at issue and reserved the costs of the appellants relating to the proceedings at first instance.
- 27 In support of their action, the appellants raised eight pleas in law.
- 28 By the judgment under appeal, the General Court dismissed that action after rejecting:
- in the first place, the first plea, alleging that the reasons stated for the decisions at issue are insufficient;
 - in the second place, the second plea, based on the alleged lack of competence of the national authority that issued and sent to the Parliament the requests for the appellants’ immunity to be waived;
 - in the third place, the fifth plea, alleging breach of the principles of legal certainty and sincere cooperation, the right to effective judicial protection and the rights of the defence because of the lack of clarity of the decisions at issue;
 - in the fourth place, the sixth plea, in so far as it alleged infringement of Article 343 TFEU, Article 9 of Protocol No 7 and Rule 5(2) of the Rules of Procedure and of certain fundamental rights of the appellants;
 - in the fifth place, the sixth plea, in so far as it alleged errors of fact and of law vitiating the Parliament’s examination of *fumus persecutionis*, and the seventh plea, alleging breach of the principles of good administration and equal treatment and manifest errors made by the Parliament in its assessment of *fumus persecutionis*;
 - in the sixth place, the eighth plea, alleging breach of the principles of good administration and equal treatment in so far as the Parliament had refused to apply the provisions of Rule 9(7) of the Rules of Procedure;
 - in the seventh place, the fourth plea, alleging, in essence, infringement of the right to be heard; and
 - in the eighth place, the third plea, alleging breach of the principle of impartiality.

Forms of order sought by the parties to the appeal

- 29 By their appeal, the appellants claim that the Court should:
- set aside the judgment under appeal;
 - annul the decisions at issue or, in the alternative, refer the case back to the General Court; and
 - order the Parliament and the Kingdom of Spain to pay the costs or, in the alternative, reserve the costs.

30 The Parliament and the Kingdom of Spain contend that the Court should:

- dismiss the appeal; and
- order the appellants to pay the costs.

The appeal

31 In support of their appeal, the appellants raise 10 grounds of appeal,

- the first, alleging that the General Court erred in law in so far as it rejected the first plea for annulment on the ground that the decisions at issue had not infringed the obligation to state reasons laid down in Article 296 TFEU and Article 41(2) of the Charter of Fundamental Rights of the European Union ('the Charter');
- the second, alleging that the General Court erred in law in so far as it rejected the second plea for annulment by holding that it was not for the General Court, nor for the Parliament, to review the legality of the request for waiver of immunity, in particular its admissibility, in accordance with the judgment of 19 December 2018, *Berlusconi and Fininvest* (C-219/17, EU:C:2018:1023);
- the third, alleging that the General Court erred in law in so far as it found that the appellants' right to have their affairs handled impartially and fairly by the Parliament had not been infringed;
- the fourth, alleging that the General Court erred in law in holding that the Parliament had not infringed their right to be heard, enshrined in Article 41(2) of the Charter;
- the fifth, alleging that the General Court erred in law by rejecting the fifth plea for annulment, based on the breach of the principle of legal certainty arising from the lack of clarity of the decisions at issue;
- the sixth, alleging that the General Court erred in law in so far as it rejected the sixth plea for annulment, based on infringement of the immunities provided for in Article 343 TFEU and Article 9 of Protocol No 7, read in conjunction with Article 6, Article 39(2) and Article 45 of the Charter and Rule 5(2) of the Rules of Procedure, and in so far as it rejected the seventh plea for annulment, alleging breach of the principles of good administration and of equal treatment;
- the seventh, alleging that the General Court, by rejecting the eighth plea for annulment, erred in law in that it distorted the evidence concerning previous decisions of the Parliament, from which it is apparent that that institution does not waive the immunity of its Members in cases where there is a risk that they will be arrested without having been convicted beforehand, and in the context of its assessment of the application of Rule 9(7) of the Rules of Procedure;
- the eighth, alleging infringement by the General Court of Article 47 of the Charter – read in the light of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and of the case-law of the European Court of Human Rights – Article 296 TFEU and Articles 36 and 53 of the Statute of the Court of Justice

of the European Union, in so far as the General Court erred in law by failing to provide adequate and sufficient reasons for the judgment under appeal;

- the ninth, alleging that the General Court infringed Article 47 of the Charter, interpreted in the light of Articles 6 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as it refused to adopt the measures of organisation of procedure and the measures of inquiry sought by the appellants; and
- the tenth, alleging that the General Court erred in law in so far as it did not examine of its own motion whether it was still necessary to rule on the action for annulment, having regard in particular to the order of the investigating judge of the Tribunal Supremo (Supreme Court) of 12 January 2023, alleging breach of the principle of legal certainty.

32 It should be noted that the third ground of appeal is divided into four parts.

33 By the first part of the third ground of appeal, the appellants submit that, in paragraphs 234 to 238 of the judgment under appeal, the General Court erred in law in finding that the appointment of a single rapporteur for the three waiver of parliamentary immunity cases was not contrary to Article 41(1) and Article 39(2) of the Charter or to points 6 and 8 of Notice No 11/2019.

34 By the second part of the third ground of appeal, the appellants submit that, in paragraphs 239 to 257 of the judgment under appeal, the General Court erred in law and distorted the evidence in so far as it stated that their argument alleging a lack of impartiality on the part of the rapporteur was unfounded, and infringed Article 41(1) and Article 39(2) of the Charter and the principles arising from point 8 of Notice No 11/2019.

35 By the third part of the third ground of appeal, the appellants submit that, in paragraphs 258 to 262 of the judgment under appeal, the General Court erred in law and distorted the evidence in so far as it found that their argument alleging a lack of impartiality on the part of the Chair of the JURI Committee was unfounded.

36 By the fourth part of the third ground of appeal, the appellants submit that, by misinterpreting the fourth part of the third plea in law in the action for annulment and by rejecting it, the General Court, in paragraphs 219 and 262 of the judgment under appeal, erred in law and erred in its reasoning, infringed the right to effective judicial protection and the rights of the defence and failed to fulfil its obligation to state reasons.

37 The Court considers it appropriate to examine the second part of the third ground of appeal.

Arguments of the parties

38 By way of introduction to their third ground of appeal, the appellants observe that the ‘political’ nature of the decisions at issue, as the General Court described it, can only be understood as stemming from the ‘political nature’ of the Parliament, which is no different from that of the Council of the European Union or the European Commission, which are political institutions. According to the appellants, the Parliament was therefore fully bound to comply with Article 41(1) and Article 39(2) of the Charter.

39 The second part of the third ground of appeal consists of five complaints.

- 40 By the first complaint, the appellants claim that, in paragraphs 244 to 246 of the judgment under appeal, the General Court erred in law by stating that the fact that the rapporteur responsible for examining the requests for waiver of immunity belongs to the same political group as that of the Members of the national political party which – having relied on *actio popularis* in the criminal proceedings at issue – instigated the prosecution in the criminal proceedings at issue (‘the political party that instigated the criminal proceedings at issue’) was not contrary to Article 41(1) of the Charter, read in the light of point 8 of Notice No 11/2019.
- 41 In that regard, the appellants recall that the requirement of impartiality imposed by Article 41(1) of the Charter encompasses subjective impartiality and objective impartiality.
- 42 They submit that, having regard to the wording of point 8 of Notice No 11/2019 and contrary to what the General Court stated in paragraph 244 of the judgment under appeal, the Parliament itself took the view that mere membership of a political group within that institution affects the assessment of the rapporteur’s impartiality. They argue that it is clear from point 8 that the Parliament takes the view that the fact that a rapporteur belongs to the same political group as that of the Member concerned by the request for waiver of immunity objectively raises legitimate doubts as to the impartiality of that rapporteur. According to the appellants, the same is true, contrary to what the General Court held in paragraphs 245 and 246 of the judgment under appeal, where the rapporteur is a member of the same political group as the Members of the political party that instigated the criminal proceedings at issue.
- 43 Furthermore, the appellants submit that, in paragraph 246 of the judgment under appeal, the General Court erred in law and misinterpreted their observations by holding that they had stated that political affinities were the sole ground for denying a member of the political group to which the Members of that party belong the possibility of being a rapporteur. According to the appellants, members of different political groups may share such affinities. Consequently, the argument that the rapporteur cannot be a member of the same political group as that to which the Members of that party belong and the argument that an individual cannot be a rapporteur for the sole reason that he or she shares political affinities with that group cannot be placed on the same footing.
- 44 By the second complaint, the appellants claim that, in paragraphs 247 to 251 of the judgment under appeal, the General Court refused to accept that the fact that the rapporteur organised an event which was held on 6 March 2019 in the Parliament (‘the event of 6 March 2019’) during which an intervener shouted the words ‘Lock Puigdemont up!’ was proof of his bias or, at the very least, raised legitimate doubts as to his impartiality. According to the appellants, it is irrelevant in that regard that the rapporteur did not express his support orally, as the General Court points out in paragraph 250 of the judgment under appeal, but by applauding that intervention.
- 45 In the first place, they claim that, in paragraphs 249 and 250 of the judgment under appeal, the General Court distorted the evidence and, therefore, erred in law by failing to take into account the fact that the rapporteur not only organised that event, but was present at the table of speakers and expressly supported the intervention referred to in the preceding paragraph by applauding it.
- 46 In the second place, the appellants submit that, in paragraph 251 of the judgment under appeal, the General Court also distorted the evidence by stating that that event had as its sole theme, given its title, ‘the political situation in Catalonia’, when over half of the speaker’s speech related to the criminal proceedings brought in Spain, inter alia, against them.

- 47 In the third place, they claim that, in paragraph 251 of that judgment, the General Court erred in law by suggesting that the rapporteur's lack of impartiality would be relevant only had it been necessary for the Parliament to determine whether the alleged acts had been established.
- 48 By the third complaint, the appellants submit that, in paragraphs 253 and 254 of the judgment under appeal, the General Court infringed, first, Article 85(2) of the Rules of Procedure of the General Court and the right to effective judicial protection and the rights of the defence, in the light of Article 41(1) and Article 39(2) of the Charter, and, second, its obligation to state reasons, in that it rejected evidence consisting of an interview with the rapporteur published in a Bulgarian newspaper as inadmissible, on the ground that the appellants had not given reasons for the late submission of that interview.
- 49 By the fourth complaint, they claim that the General Court erred in law in holding that the evidence referred to in paragraph 255 of the judgment under appeal, which was distorted by that court, and the other evidence previously relied on, did not enable the rapporteur's lack of impartiality to be established.
- 50 By the fifth complaint, the appellants complain that the General Court erred in law, in paragraph 256 of the judgment under appeal, in so far as it stated that they had not invoked any personal interest of the rapporteur capable of adversely affecting his impartiality. In any event, lack of objective impartiality is sufficient for the purposes of finding infringement, in the present case, of Article 41(1) and Article 39(2) of the Charter.
- 51 In their reply, the appellants emphasise that their argument concerning the lack of impartiality of the rapporteur was not based on the existence of mere 'political opposition' to them, but on the very special situation stemming from the direct involvement in the criminal proceedings at issue of a political party whose Members in the Parliament were affiliated to the same political group as the rapporteur.
- 52 In addition to being a situation objectively comparable to that provided for in point 8 of Notice No 11/2019, it is clear that the conflict of interest resulting from the fact that the rapporteur is a member of the same political group as the Members of that political party deprived that rapporteur of any appearance of impartiality.
- 53 Furthermore, as regards the event of 6 March 2019, the gentle presentation of the facts by the General Court, which goes as far as to omit the real theme and the nature of that event, was aimed at portraying it as innocuous.
- 54 The Parliament disputes the appellants' arguments set out in the second part of the third ground of appeal.
- 55 In its response, the Parliament, in the first place, disputes the appellants' arguments calling into question the General Court's findings relating to the political nature of the decisions at issue, set out in paragraphs 243 to 246 of the judgment under appeal.
- 56 First, in its view, the appellants' line of argument relating to paragraph 244 of the judgment under appeal is unfounded. The situation referred to in point 8 of Notice No 11/2019 cannot be compared to that in which the rapporteur belongs to a group which is politically opposed to the Member concerned by the request for waiver of immunity. The Parliament submits that, as the General Court recalled in paragraphs 225 and 226 of the judgment under appeal, decisions on

requests for waiver of immunity are of a political nature and the Members, who are members of the JURI Committee, are not, by definition, politically neutral. Should designation as a rapporteur be restricted solely to politically neutral members of that committee, that committee would become ineffective. Because the appellants have drawn the public's attention to their cause, it can be considered that all the members of that committee have adopted a political position – be it positive or negative – with regard to them and their cause.

- 57 Second, according to the Parliament, the appellants' imprecise line of argument concerning paragraph 246 of the judgment under appeal, in which they submit that their claim was based not only on political affinities but also on the economic, financial and strategic interests which members of a political group share, is inadmissible. That line of argument is, in any event, unfounded because, at first instance, the appellants merely mentioned that the rapporteur was a member of the political group to which the members of the political party VOX belong.
- 58 In the second place, the Parliament disputes the arguments calling into question the General Court's findings concerning the event of 6 March 2019, set out in paragraphs 247 to 251 of the judgment under appeal.
- 59 As a preliminary point, it observes that that event took place during a different parliamentary term, before the rapporteur could even know that he would be elected to the Parliament in the 2019 elections and, in any event, long before he was appointed rapporteur for the requests for waiver of immunity in question.
- 60 First, it submits that the appellants' arguments relating to paragraphs 249 and 250 of the judgment under appeal, by which they claim that the General Court distorted the evidence, are inadmissible, since, in essence, the appellants seek a new assessment of the facts. In any event, those arguments are unfounded, since, as the General Court noted, the Secretary-General of the political party VOX closed his speech with the words 'Long live Spain, long live Europe and lock Puigdemont up' and there is nothing in the recording of the event of 6 March 2019 to indicate that the rapporteur specifically approved the last three words of that speech. Rather, that recording shows a gesture of usual politeness towards a speaker at the end of an intervention.
- 61 Second, the Parliament submits that the General Court's finding, in paragraph 250 of the judgment under appeal, that the rapporteur had not taken the floor at that event is not irrelevant.
- 62 Third, the appellants' line of argument that, in paragraph 251 of the judgment under appeal, the General Court distorted the evidence by stating that the theme of the event of 6 March 2019 was just 'the political situation in Catalonia' is based on a misreading of that judgment, since the General Court did not in any way rule out the possibility that that theme also covered the criminal proceedings at issue. Moreover, the General Court did not distort the recording of that event by summarising its theme. In any event, that line of argument is inadmissible since the appellants are requesting a new appraisal of the facts.
- 63 Fourth, it submits that the appellants' arguments calling into question the third and fourth sentences of paragraph 251 of the judgment under appeal are ineffective, since the considerations set out therein were put forward in the alternative. In any event, those arguments should be rejected. First of all, the appellants' argument that the General Court disregarded relevant criteria for the purposes of assessing *fumus persecutionis* is based on a misreading of the judgment under appeal. Next, the General Court did not err in law in stating, in essence, in the third and fourth sentences, that the issues discussed at the event of 6 March 2019 did not concern the questions

to be decided by the Parliament in the context of a procedure for waiver of immunity. Last, the Parliament submits that, in so far as the appellants claim that the rapporteur approved, by his applause, the message that the decisions at issue, the European arrest warrants and the alerts in the Schengen Information System, considered as a whole, exposed them to a high risk of arrest, that argument is inadmissible, since the appellants are asking the Court, in essence, to make a finding of fact. That argument is, in any event, unfounded, since the rapporteur did not applaud that message.

- 64 In the third place, the Parliament disputes the appellants' arguments calling into question the General Court's findings relating to other events, set out in paragraphs 252 to 255 of the judgment under appeal. First, it disputes the appellants' argument that the General Court infringed Article 85(2) of its Rules of Procedure and its obligation to state reasons by rejecting as inadmissible the appellants' arguments based on an interview with the rapporteur published in a Bulgarian newspaper. Second, it disputes the appellants' argument that, by finding that the political party VOX's reactions to the adoption of the decisions at issue did not demonstrate the rapporteur's lack of impartiality, the General Court erred in law and distorted the evidence.
- 65 In the fourth place, the Parliament disputes the appellants' arguments calling into question the General Court's findings concerning the absence of a conflict of interest as regards the rapporteur, set out in paragraph 256 of the judgment under appeal. First, the appellants' claim that the General Court considered that bias can be expressed only by statements is based on a misreading of paragraph 256. Second, since the appellants' argument concerning the existence of a personal interest of the rapporteur capable of adversely affecting his impartiality is not substantiated, it is inadmissible. It is, in any event, unfounded.
- 66 In its rejoinder, the Parliament contends, in the first place, that, although the appellants refer to the action brought by the political party VOX against them before the Spanish courts, they do not in any way indicate how that party's conduct could be imputed to the political group to which the rapporteur belongs. Given that there were within that group Members who supported the appellants' cause and others who opposed it, the mere fact that the rapporteur belonged to that group does not support the assertion that that rapporteur was not impartial.
- 67 In the second place, the Parliament submits that the General Court did not distort the theme of the event of 6 March 2019. It observes that, although the title of the recording of that event to which the appellants refer in the annexes to their application at first instance was 'Catalonia is Spain', the theme of the meeting, in which the Secretary-General of the political party VOX intervened, was 'The role of nation States in the EU and the defence of civil liberties'. The Parliament states that the European arrest warrants to which the Secretary-General of that party referred during his intervention were not those issued after the appellants were elected Members.
- 68 The Kingdom of Spain disputes the arguments put forward by the appellants in the second part of the third ground of appeal.
- 69 As a preliminary point, the Kingdom of Spain states that, in the context of the procedure for dealing with a request for waiver of immunity, the Parliament must comply with Article 39 and Article 41(1) of the Charter, which was the case when the decisions at issue were adopted.
- 70 In the first place, the Kingdom of Spain submits that the appellants' arguments concerning an alleged error of law in the interpretation of point 8 of Notice No 11/2019, read in conjunction with Article 41 of the Charter, are not such as to undermine the reasoning set out in paragraphs 245

and 246 of the judgment under appeal, which is a conclusion reached on the basis of paragraphs 242 to 244 of that judgment, which are not disputed. In paragraphs 242 to 244, the General Court explained that mere membership of a political group has no bearing on the impartiality of the individual who is a member of that group.

- 71 In the second place, the Kingdom of Spain observes that, although the appellants claim that the General Court distorted the facts in paragraphs 249 to 251 of the judgment under appeal, their arguments are not such as to establish a manifest error on the part of the General Court in its assessment of those facts.
- 72 In the third place, the appellants' argument relating to an alleged error of law by the General Court at the end of paragraph 251 of the judgment under appeal refers to a statement made for the sake of completeness.
- 73 In the fourth place, the appellants' line of argument alleging that the General Court erred in law in finding that a document produced in their reply was inadmissible is not sufficiently precise and should be rejected.

Findings of the Court

Preliminary observations

- 74 As is apparent from the first sentence of Article 343 TFEU, the European Union is to enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in Protocol No 7.
- 75 That protocol is intended to provide the institutions of the European Union with complete and effective protection against hindrances or risks to their proper functioning and independence (see, to that effect, judgment of 19 December 2019, *Junqueras Vies*, C-502/19, EU:C:2019:1115, paragraph 82).
- 76 In the case of the Parliament, that objective implies not only that, in accordance with the principle of representative democracy, which gives concrete expression to the value of 'democracy' referred to in Article 2 TEU and is implemented in Article 14(3) TEU, the composition of that institution must faithfully and fully reflect the free expression of the choices made by EU citizens as to the persons by whom they wish to be represented during a given parliamentary term, but also that, in accordance with the principle of the separation of powers, the Parliament must be protected, in the exercise of its tasks, against hindrances or risks to its proper functioning. It is on that dual basis that the immunities granted to Members of the Parliament are intended to ensure the independence of that institution (see, to that effect, judgment of 19 December 2019, *Junqueras Vies*, C-502/19, EU:C:2019:1115, paragraphs 63, 83 and 84).
- 77 That objective of the immunities granted to Members of the Parliament is also referred to in Rule 5 of the Rules of Procedure. After stating, in paragraph 1 thereof, that Members are to enjoy privileges and immunities laid down in Protocol No 7, that rule provides, in paragraph 2, that, in exercising its powers on privileges and immunities, the Parliament is to act to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties and that parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of the Parliament as a whole, and of its Members.

- 78 Under the third paragraph of Article 9 of Protocol No 7, the Parliament has the right to waive the immunity of one of its Members. The procedure for the waiver of immunity thus takes place within the Parliament. Although that procedure is conducted by politicians, it and the decision by which the Parliament decides to waive immunity are not political in nature, as the General Court stated in paragraphs 112, 225 and 242 of the judgment under appeal, but legal.
- 79 It is true that, in the light of the fact that the decision to waive immunity falls within the competence of the Parliament, that institution has a broad discretion in determining the rules applicable when dealing with requests for waiver of immunity. Those rules are therefore adopted and applied by Members of the Parliament, who belong to political groups formed within the Parliament.
- 80 However, in accordance with the values of the rule of law and respect for human rights set out in Article 2 TEU, the Parliament must comply, when examining a request for waiver of immunity, with the legal rules and principles which apply to that immunity and with the Charter, the provisions of which are addressed to the Parliament as one of the institutions of the European Union covered by Article 51(1) thereof. The serving of his or her term of office by the Member concerned – which constitutes the main attribute of the status of Member of the European Parliament and arises from being elected by direct universal suffrage in a free and secret ballot provided for by EU law (judgment of 19 December 2019, *Junqueras Vies*, C-502/19, EU:C:2019:1115, paragraph 65) – may be hindered by a decision to waive immunity. It follows that requests for waiver of immunity, which are capable of affecting both the term of office of the Member concerned and, as recalled in paragraph 76 of the present judgment, the proper functioning of the Parliament as a whole, must be examined in the light of the rights of the individual concerned and the principles of representative democracy and of the separation of powers, and not by reference to political guidelines.
- 81 It is in the light of the foregoing considerations that it is necessary to examine the appellants' first and second complaints, by which they complain, in essence, that the General Court infringed Article 41(1) of the Charter, in paragraphs 244 to 246 of the judgment under appeal and in paragraphs 247 to 251 of that judgment, respectively, by holding that their argument alleging a lack of impartiality on the part of the rapporteur responsible, within the JURI Committee, for examining the requests for waiver of immunity concerning them was unfounded.

The first complaint

- 82 In paragraph 244 of the judgment under appeal, the General Court considered, in essence, that the impartiality of a rapporteur during the phase of investigation into a request for waiver of immunity conducted by a parliamentary committee cannot, in principle, be assessed in the light of his or her political ideology or in the light of a comparison between his or her political ideology and that of the Member concerned by the request for waiver of immunity. It stated, first of all, that the fact that that rapporteur belongs to a national political party or to a political group formed within the Parliament, whatever their values and ideas, and even if those values and ideas could reveal sensitivities that are a priori unfavourable to the situation of that Member had, in principle, no bearing on the assessment of the rapporteur's impartiality. On the basis of its case-law, the General Court considered that the difference in political ideology between that rapporteur and that Member was not, in itself, such as to call into question the lawfulness of the procedure for the adoption of the decisions at issue.

- 83 Next, in paragraph 245 of that judgment, the General Court found that, in the circumstances, the fact that the rapporteur belongs to the European Conservatives and Reformists political group, is, in principle, irrelevant to the assessment of the rapporteur's impartiality.
- 84 Last, in paragraph 246 of that judgment, the General Court stated that that political group did indeed include the Members of the political party VOX, which had been placed in a very specific situation with regard to the appellants, since it was behind the criminal proceedings at issue. According to the General Court, that special situation, however, concerned Members belonging to the political party VOX and could not extend, as a matter of principle, to all the members of that political group on the sole ground that, since they belonged to the same group, they shared political affinities.
- 85 As the General Court pointed out in paragraphs 225 and 226 of the judgment under appeal, the procedure which may lead to the adoption of a decision to waive immunity must be compatible with the right to good administration, enshrined in Article 41(1) of the Charter.
- 86 That provision of the Charter provides that every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union. That right, which is conferred on any person, is therefore also conferred on any Member of the Parliament concerned by a request for waiver of immunity.
- 87 The requirement of impartiality consists of two components, namely, first, subjective impartiality, in accordance with which no member of the institution concerned who is responsible for the matter may show bias or personal prejudice, and, second, objective impartiality, according to which that institution must offer sufficient guarantees to exclude any legitimate doubt as to possible bias on the part of the institution concerned (see, to that effect, judgment of 20 December 2017, *Spain v Council*, C-521/15, EU:C:2017:982, paragraph 91).
- 88 In the exercise of its broad discretion, referred to in paragraph 79 of the present judgment, the Parliament may adopt rules which give concrete expression to protection against the risk of bias which Article 41 of the Charter requires.
- 89 It thus provided, in Rule 6 of the Rules of Procedure, that any request for waiver of immunity is to be evaluated in accordance with Protocol No 7 and the principles referred to in Rule 5(2) of those rules.
- 90 Rule 9 of those rules states, in relation to paragraphs 1 and 13 thereof, that any request addressed to the President of the Parliament by a competent authority of a Member State for the immunity of a Member to be waived is to be announced in plenary session and referred to the committee responsible, which is to lay down the principles for the application of Rule 9.
- 91 The JURI Committee, which was designated to deal with requests for waiver of immunity, thus adopted Notice No 11/2019, applicable at the material time, which lays down rules applicable to those requests.
- 92 In that notice, first, the rules relating to the substantive examination of a request for waiver of immunity were laid down. In point 43 of that notice, it was thus provided, in essence, that, where the request concerns the waiver of immunity provided for in Article 9 of that protocol, immunity

should be waived unless it appears that the intention underlying the legal proceedings may be to damage a Member's political activity and thus the Parliament's independence (*fumus persecutionis*).

- 93 Second, procedural rules for dealing with requests for waiver of immunity were established.
- 94 First of all, according to point 6 of Notice No 11/2019, the JURI Committee is to appoint a rapporteur for each request for waiver of immunity.
- 95 Next, point 7 of that notice provides, inter alia, that each political group is to indicate for that purpose a Member who acts as standing rapporteur for immunity cases known to be of the greatest probity.
- 96 Last, under point 8 of that notice, the position of rapporteur for each immunity case is to be rotated on an equal basis between the political groups; however, the rapporteur may not be a member of the same political group, or be elected in the same Member State, as the one to which the Member whose immunity is under discussion belongs.
- 97 It is apparent from point 8 of Notice No 11/2019 that the Parliament took the view that a rapporteur from the same political group as that to which the Member whose immunity is under discussion belongs could not examine the request for waiver of that immunity. That approach is thus based on the consideration that, because they belong to the same political group, that rapporteur and that Member may share certain affinities, in particular political affinities, with the result that legitimate doubts as to possible prejudice, within the meaning of the case-law referred to in paragraph 87 of the present judgment, by that rapporteur in favour of that Member cannot be ruled out. The Parliament therefore, exercising its broad discretion, deemed it necessary, in order to guarantee the impartiality of the rapporteur, as required by Article 41(1) of the Charter, to lay down a rule preventing that rapporteur from belonging to a given political group.
- 98 Compliance with Article 41(1) of the Charter requires a consistent application of the guarantees established by the institution concerned in order to avoid any legitimate doubt as to bias and to enable requests for waiver of immunity to be dealt with fairly.
- 99 For the purposes of such an application, the requirement of impartiality given concrete expression by point 8 of Notice No 11/2019 must also be implemented in such a way that the rapporteur who belongs to a political group other than that of the Member whose immunity is under discussion appears to be objectively impartial.
- 100 In the light of the objectives of the immunities granted to Members of the Parliament, recalled in paragraphs 75 to 77 of the present judgment, that requirement of impartiality on the part of the rapporteur means that that Member must not be able to entertain legitimate doubts as to the fact that the rapporteur who is called upon to examine that request is not guided by considerations which would prevent him or her from carrying out objectively his or her duties in preparing the Parliament's decision on the possible existence of *fumus persecutionis*, as referred to in paragraph 92 of the present judgment.
- 101 While the opposition of such a rapporteur to the political ideas of the Member whose immunity is under discussion does not, in itself, mean that that rapporteur is not impartial, the same is not true where the rapporteur belongs to the same political group as Members of a political party that

instigated the criminal proceedings against that Member, those proceedings form the basis of the request for waiver of immunity and that political party has a specific interest in the outcome of those proceedings.

- 102 As stated in paragraph 97 of the present judgment, according to the rule set out in point 8 of Notice No 11/2019, the fact that a rapporteur belongs to a given political group may have a bearing on whether he or she can be appointed as rapporteur to examine a specific request for waiver of immunity. It cannot be held that the requirement of impartiality implemented by that rule applies only where the rapporteur belongs to the same political group as the Member concerned by such a request, to the exclusion of any situation in which that rapporteur belongs to another political group.
- 103 It follows that, given that the Parliament established, in point 8 of Notice No 11/2019, the rule that, in the rotation system applied for the appointment of a rapporteur, any rapporteur who is a member of the political group to which the Member concerned by a request for waiver of immunity belongs is precluded from acting in that case, that institution must also exclude, in order to comply with Article 41(1) of the Charter, a rapporteur in a situation where he or she belongs to the same political group as Members of the political party that instigated the criminal proceedings against the Member, those proceedings form the basis of that request and that party has a specific interest in the outcome of those proceedings. Such a rapporteur could indeed be perceived as not being impartial within the meaning of the case-law referred to in paragraph 87 of the present judgment.
- 104 In that regard, the Court cannot accept the Parliament's argument that the links between its Members, who come from various national political parties and come together to form a political group within the Parliament, are not sufficiently close to be capable of adversely affecting the objective impartiality of a member of that political group called upon to perform the duties of rapporteur responsible for examining a request for waiver of immunity concerning another member of that group. That argument is contradicted by the fact that the Parliament itself took the view, by adopting point 8 of Notice No 11/2019, that the fact that the rapporteur belongs to the same political group as that to which the Member whose immunity is under discussion belongs is incompatible with the objective impartiality of that rapporteur.
- 105 Consequently, when a Member – who belongs to a political group to which Members of a political party that instigated the criminal proceedings brought against the Member concerned by a request for waiver of immunity also belong, in a situation such as that set out in paragraphs 101 and 103 of the present judgment – is appointed rapporteur, within the JURI Committee, to examine that request, such a rapporteur does not offer sufficient guarantees to exclude any legitimate doubt on the part of the Member concerned by that request as to possible bias against him or her and cannot, therefore, be regarded as impartial, in accordance with the standard established by the Parliament itself, exercising its broad discretion, as recalled in paragraph 97 of the present judgment. Such an appointment must be regarded as having been made in breach of Article 41(1) of the Charter.
- 106 In the light of all the foregoing considerations, it must be held that paragraphs 245 and 246 of the judgment under appeal are vitiated by an error of law, in so far as the General Court held that the fact that the rapporteur, appointed to examine a request for waiver of the immunity of a Member, belongs to the same political group as that to which Members of a political party that instigated

the criminal proceedings brought against the Member concerned by that request belong had no bearing on the assessment of the impartiality of that rapporteur and, in essence, that a member of that political group could thus be appointed rapporteur.

107 Accordingly, the first complaint in the second part of the third ground of appeal must be upheld.

Second complaint

108 In paragraph 249 of the judgment under appeal, the General Court noted that it was common ground that, in the course of his duties as a Member of the Parliament, the rapporteur had organised the event of 6 March 2019, involving an intervention by the Secretary-General of the political party VOX on the subject ‘Catalonia is Spain’, who closed his speech with the words ‘Long live Spain, long live Europe and lock Puigdemont up’.

109 In paragraph 250 of that judgment, the General Court observed that it was apparent from the recording of that event that the rapporteur was present at the table of speakers, alongside two other Members of the Parliament and the Secretary-General in question, and that only the latter intervened orally.

110 In paragraph 251 of that judgment, the General Court held that the organisation of such an event could be regarded as an expression of the rapporteur’s support for the ideas advocated by the political party VOX concerning, in particular – given the theme of that event – the political situation in Catalonia, and his opposition to the political ideas supported by the appellants.

111 Moreover, in paragraph 251 of the judgment under appeal, the General Court held that, while it is true that the facts alleged against the appellants in the criminal proceedings at issue concern the political situation in Catalonia in so far as they relate to the adoption of the laws referred to in paragraph 11 of the present judgment and to the holding of the referendum on self-determination referred to in the same paragraph, the expression, by the Member, future rapporteur in the cases for waiver of the appellants’ immunity, of his position on that situation cannot, for the reasons set out in paragraphs 244 and 246 of the judgment under appeal, suffice to constitute a breach of the principle of impartiality.

112 The facts established by the General Court, in paragraphs 249 and 250 of the judgment under appeal, were relevant for the purpose of assessing whether, in the circumstances, the conduct of the rapporteur appointed to examine the requests for waiver of immunity concerning the appellants was such as to undermine the requirement of impartiality, since they could be perceived as reflecting bias, contrary to what the Parliament maintains, even if those facts occurred before that rapporteur could know that he would be elected in the 2019 elections, before those requests were received by the Parliament and before the Member in question was appointed, in the context of the equal rotation between the political groups, as rapporteur to examine those requests. It was important to take account of the existence of those facts in order to assess whether he could be appointed as rapporteur to examine those requests.

113 In that regard, it should be noted that, in paragraph 251 of the judgment under appeal, the General Court stated that it was of little importance that the rapporteur expressed himself in favour of the position of the political party VOX on the situation in Catalonia by referring, in order to justify its conclusion that the organisation of the event of 6 March 2019 was not in breach of the principle of impartiality, to paragraphs 244 and 246 of that judgment. First, that paragraph is vitiated by an error of law, as has been held in paragraph 106 of the present judgment. Second, the General

Court's statement, which refers back to paragraph 244 of that judgment, that it is irrelevant that the rapporteur expressed himself in favour of that position did not address the appellants' arguments, which did not concern the opinion of the future rapporteur on the situation in Catalonia, but the active support which he gave to the political party that instigated the criminal proceedings at issue.

- 114 As is apparent from the chronology of the background to the dispute set out by the General Court in the judgment under appeal, in particular the elements summarised in paragraphs 11 to 13 of the present judgment, that political party had already instigated the criminal proceedings at issue when the event of 6 March 2019 was organised. The organisation, by the person subsequently appointed rapporteur, of that event was therefore such as to indicate not only support for that party's political ideas on the situation in Catalonia, but also a position in favour of the criminal prosecution of the appellants. By disregarding that aspect in its analysis, the General Court failed to take account of a factor which was particularly relevant in order to assess whether the organiser of that event could subsequently, without undermining the requirement of impartiality, be appointed rapporteur in the procedure for examining requests for waiver of immunity based on that criminal prosecution.
- 115 It follows from the foregoing considerations that the legal classification of the facts made in paragraph 251 of the judgment under appeal is incorrect, in that the General Court held, on the basis, *inter alia*, of paragraph 246 of that judgment, itself vitiated by an error of law, and without duly taking into account the chronology of the background to the dispute, that the organisation, by the person subsequently appointed rapporteur, of the event of 6 March 2019 did not make that person unfit for appointment as rapporteur and could not therefore constitute an infringement of the requirement of impartiality within the meaning of Article 41(1) of the Charter.
- 116 In those circumstances, the second complaint in the second part of the third ground of appeal must also be upheld.
- 117 Since the errors of law established in paragraphs 106 and 115 of the present judgment are such as to lead to the judgment under appeal being set aside, the appeal must be upheld without it being necessary to examine the other complaints in the second part of the third ground of appeal and the other grounds of appeal.

The action before the General Court

- 118 In accordance with the second sentence of the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union, if the decision of the General Court is set aside, the Court of Justice may itself give final judgment in the matter, where the state of the proceedings so permits.
- 119 In the present case, the Court of Justice considers that it should give final judgment in the present dispute. The state of the proceedings is such that it may give final judgment since the action for annulment brought by the appellants before the General Court is based on pleas that were the subject of an exchange of arguments before it and whose examination does not require any further measure of organisation of procedure or inquiry to be taken (see, to that effect, judgment of 8 September 2020, *Commission and Council v Carreras Sequeros and Others*, C-119/19 P and C-126/19 P, EU:C:2020:676, paragraph 130).

- 120 As stated in paragraph 28 of the present judgment, the appellants raised eight pleas in law in support of their action before the General Court.
- 121 The third plea in law in the action, divided into three parts, is based on an infringement of the right of the appellants to have their affairs handled impartially and fairly laid down in Article 41(1) of the Charter, read in conjunction with the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter.
- 122 By the second part of the third plea in their action, the appellants submit that the Parliament infringed Article 41(1) and Article 39(2) of the Charter and infringed an essential procedural requirement by appointing a partial rapporteur.
- 123 By the first complaint, they claim that the lack of impartiality of the rapporteur stems from the fact that he is a member of a political group of which Members of the Parliament belonging to the political party VOX were also part; that party was opposed to the appellants and instigated the criminal proceedings at issue.
- 124 By the second complaint, they claim that that lack of impartiality results from the fact that that rapporteur organised with that political party the event of 6 March 2019, in the context of which he supported the slogan ‘Lock Puigdemont up’, by applauding that intervention.
- 125 The Parliament, supported by the Kingdom of Spain, disputes the appellants’ arguments. First, it submits that there is no rule or principle which precludes the rapporteur from belonging to a political group which also includes Members of a national party which has political objectives contrary to those pursued by the Member concerned by a request for waiver of immunity. It observes that such membership results from the political nature of the Parliament and the decisions on such a request and emphasises the heterogeneity of the political groups formed within it. Second, it maintains that, even if the appellants’ arguments concerning the conduct of the rapporteur concerned were admissible, those arguments are not sufficient, in any event, to call into question the impartiality of that rapporteur.
- 126 In that regard, as has been recalled in paragraphs 86 and 87 of the present judgment, the right to good administration, enshrined in Article 41(1) of the Charter, provides that every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union. That requirement of impartiality encompasses subjective impartiality and objective impartiality.
- 127 As stated in paragraph 79 of the present judgment, the Parliament has a broad discretion as regards the handling of requests for waiver of immunity, which entails the power to determine the procedural rules applicable when the Parliament must issue a decision on such requests.
- 128 In the exercise of its broad discretion, the Parliament, in the context of the work of the JURI Committee, adopted Notice No 11/2019, which defines the principles applicable to the handling of a request for waiver of immunity by that committee, including those set out in point 8 of that notice which governs the appointment, in the context of equal rotation between political groups, of the rapporteur called upon to examine such a specific request.

- 129 In the present case, it is common ground that the rapporteur responsible for investigating the requests for waiver of immunity concerning the appellants was a member of the political group to which Members of the political party that instigated the criminal proceedings at issue also belonged.
- 130 For the reasons set out in paragraphs 97 to 105 and 114 of the present judgment, it must be held that that rapporteur did not offer sufficient guarantees to exclude any legitimate doubt on the part of the appellants as to any unfavourable bias against them on his part and could not, therefore, be regarded as meeting the requirement of impartiality. The appointment of that rapporteur must therefore be regarded as having been made in breach of Article 41(1) of the Charter.
- 131 It follows that that appointment constitutes a defect vitiating the procedure for adopting reports within the JURI Committee. Consequently, the procedure for the adoption of the decisions at issue is itself vitiated by a formal defect.
- 132 In that regard, it is settled case-law that failure to comply with the procedural rules relating to the adoption of an act adversely affecting an individual constitutes an infringement of essential procedural requirements within the meaning of the second paragraph of Article 263 TFEU, so that, if the EU judiciary finds that the contested measure was not properly adopted, it must draw the appropriate conclusions from the infringement of an essential procedural requirement and, consequently, annul that act (judgment of 14 March 2014, *D & A Pharma v Commission and EMA*, C-291/22 P, EU:C:2024:228, paragraph 158 and the case-law cited). In the present case, since the decisions at issue were adopted on the basis of reports of the JURI Committee that should have been considered invalid, those decisions are themselves invalid.
- 133 Consequently, the second part of the third plea in law in the action must be declared well founded and the decisions at issue must be annulled, in accordance with the form of order sought to that effect before the General Court by the appellants, without there being any need to examine the other parts of the third plea and the other pleas in the action.

Costs

- 134 Under Article 184(2) of the Rules of Procedure of the Court of Justice, the Court of Justice is to make a decision as to costs where the appeal is well founded and the Court itself gives final judgment in the case.
- 135 Under Article 138(1) of those rules, applicable to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.
- 136 In the present case, since the Parliament has been unsuccessful both in the proceedings before the General Court and in the appeal proceedings, it must be ordered, in accordance with the form of order sought by the appellants, to bear its own costs and to pay those incurred by the appellants relating to those two sets of proceedings.
- 137 Furthermore, in accordance with Article 184(4) of the Rules of Procedure of the Court of Justice, the Court may decide that, where the appeal has not been brought by an intervener at first instance, that intervener may not be ordered to pay costs in the appeal proceedings unless he or

she participated in the written or oral part of the proceedings. In the present case, the Kingdom of Spain, intervener at first instance which participated in the written part of the procedure in the present appeal, must be ordered to bear its own costs.

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

- 1. Sets aside the judgment of the General Court of the European Union of 5 July 2023, *Puigdemont i Casamajó and Others v Parliament* (T-272/21, EU:T:2023:373);**
- 2. Annuls Decisions P9_TA(2021)0059, P9_TA(2021)0060 and P9_TA(2021)0061 of the European Parliament of 9 March 2021;**
- 3. Orders the European Parliament to bear its own costs, relating both to the proceedings before the General Court of the European Union and to the appeal proceedings, and to pay those incurred by Mr Carles Puigdemont i Casamajó, Mr Antoni Comín i Oliveres and Ms Clara Ponsatí i Obiols, in those two sets of proceedings;**
- 4. Orders the Kingdom of Spain to bear its own costs relating both to the proceedings before the General Court of the European Union and to the appeal proceedings.**

Lycourgos

Spineanu-Matei

Rodin

Piçarra

Fenger

Delivered in open court in Luxembourg on 5 February 2026.

A. Calot Escobar
Registrar

C. Lycourgos
President of the Chamber