



Press and Information

Court of Justice of the European Union

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Advocate General's Opinion in Case C-73/17  
France v European Parliament

**Advocate General Wathelet proposes that the Court should annul only the act by which the President of the Parliament declared in Brussels, and not in Strasbourg, that the general budget of the EU for 2017 was definitively adopted**

*In accordance with France's request, the Advocate General proposes to maintain the effects of that act until the adoption of a new act validly adopted in Strasbourg*

France, supported by Luxembourg, asks the Court of Justice to annul several acts of the European Parliament concerning the adoption of the general budget of the EU for the financial year 2017. According to France, the debates on the joint text on the draft general budget, the Parliament's vote on that text, and the act of the President of the Parliament declaring that the budget was adopted, should have been adopted at an ordinary plenary part-session of the Parliament in Strasbourg, and not at the additional plenary part-session which was held in Brussels on 30 November and 1 December 2016.

In today's Opinion, Advocate General Melchior Wathelet proposes that the Court should uphold in part France's action and annul the act by which the President of the Parliament declared that the general budget of the EU for 2017 was definitively adopted, while maintaining its effects until the situation is remedied.

The Advocate General points out first of all that, in accordance with the protocols concerning the seats of the institutions<sup>1</sup>: 'the European Parliament shall have its seat in Strasbourg where the 12 periods of monthly plenary sessions, *including the budget session*, shall be held'. According to the Advocate General, it may legitimately be assumed that, by stating simply that '*the budget session*' must be held in Strasbourg, the governments of the Member States did not intend to refer to one of the specific stages of the adoption of the budget, but rather the exercise of budgetary powers as a whole.

The Advocate General then points out that the Parliament can decide to hold a plenary part-session away from Strasbourg only on an exceptional basis and for objective reasons connected with its proper functioning.<sup>2</sup> In the present case, the Advocate General notes that it is only the sixth time since 1993 that the annual budget of the EU has been voted on by the Parliament at an additional plenary part-session in Brussels, with the result that the condition relating to the exceptional nature of a vote in Brussels is met. Furthermore, the Advocate General notes that the ordinary plenary part-session of November 2016 was, because of time constraints, the only period during which the Parliament could debate and vote on the joint text on the draft budget for 2017 (the ordinary plenary part-session planned in December 2016 being too late). However, the documents relevant to that debate and that vote were made available only in the 24 official languages of the EU less than one hour before the end of the period of the ordinary part-session of November 2016. That circumstance appears, for the Advocate General, to be an objective reason justifying a derogation from the principle that the annual budget of the EU must be discussed and voted on by the Parliament at an ordinary plenary part-session in Strasbourg. From this, the

<sup>1</sup> Protocol No 36 annexed to the EU Treaty and the FEU Treaty and Protocol No 3 annexed to the EAEC Treaty, concerning the location of the seats of the institutions and of certain bodies and departments of the European Union.

<sup>2</sup>Joined Cases: [C-358/85 and C-51/86](#) France v Parliament.

Advocate General concludes that the debates and vote of the Parliament at the additional plenary part-session in Brussels are valid.

By contrast, the Advocate General points out that the act by which the President of the Parliament declares that the EU budget has been adopted is not subject to any formality or specific time limits. Consequently, that act could very well have been adopted at the ordinary plenary part-session of December 2016 in Strasbourg. The Advocate General therefore proposes that the Court should annul that act, the result of which would be the invalidity of the general budget of the EU for 2017 (the validity of the budget being conditional on the validity of the act of the President of the Parliament declaring the adoption of the budget). Since the financial year 2017 has entirely elapsed, the Advocate General considers that it is justified, as claimed by France, to maintain the effects of the act by which the President of the Parliament declared that the general budget of the EU for 2017 had been adopted until the entry into force, within a reasonable period of time, of a new act validly adopted in Strasbourg.

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**NOTE:** The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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*Unofficial document for media use, not binding on the Court of Justice.*

The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

Press contact: Holly Gallagher ☎ (+352) 4303 3355