



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0230/2012

16.7.2012

REPORT

on the request for waiver of the immunity of Jarosław Leszek Wałęsa
(2012/2112(IMM))

Committee on Legal Affairs

Rapporteur: Cecilia Wikström

CONTENTS

	Page
PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	3
RESULT OF FINAL VOTE IN COMMITTEE.....	5

PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the request for waiver of the immunity of Jarosław Leszek Wałęsa

(2012/2112(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Jarosław Leszek Wałęsa, forwarded on 20 April 2012 by the Public Prosecutor of the Polish Republic in connection with legal action concerning an alleged offence and announced in plenary on 23 May 2012,
 - having given Jarosław Leszek Wałęsa the opportunity to be heard in accordance with Rule 7(3) of its Rules of Procedure,
 - having regard to Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the European Union and Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,
 - having regard to the judgments of the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010 and 6 September 2011¹,
 - having regard to Article 105 of the Constitution of the Republic of Poland, and Articles 7b(1) and 7c, in conjunction with Article 10b, of the Polish Act of 9 May 1996 on the performance of the mandate of deputy or senator,
 - having regard to Rules 6(2) and 7 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A7-0230/2012),
- A. whereas the Public Prosecutor of the Polish Republic has requested the waiver of the parliamentary immunity of a Member of the European Parliament, Jarosław Leszek Wałęsa, in connection with legal action concerning an alleged offence;
- B. whereas the request by the Public Prosecutor relates to proceedings concerning an alleged offence under the Polish Act of 20 May 1971 establishing a Code of Offences and the Road Traffic Act of 20 June 1997 in relation to a traffic accident on 2 September 2011 in Poland in which Jarosław Leszek Wałęsa was involved and in which he was severely injured;
- C. whereas, according to Article 9 of the Protocol on the Privileges and Immunities of the European Union, Members shall enjoy, in the territory of their own State, the immunities accorded to members of their Parliament;

¹ Case 101/63 *Wagner v Fohrmann and Krier* [1964] ECR 195, Case 149/85 *Wybot v Faure and Others* [1986] ECR 2391, Case T-345/05 *Mote v Parliament* [2008] ECR II-2849, Joined Cases C-200/07 and C-201/07 *Marra v De Gregorio and Clemente* [2008] ECR I-7929, Case T-42/06 *Gollnisch v Parliament* (not yet published in the ECR) and Case C-163/10 *Patriciello* (not yet published in the ECR).

- D. whereas Jarosław Leszek Wałęsa declined to be heard by the Committee on Legal Affairs, but has indicated that he prefers a quick conclusion of this issue and is of the opinion that his immunity should be waived;
- E. whereas whether immunity is or is not to be waived in a given case is for Parliament alone to decide; whereas Parliament may reasonably take account of the Member's position in reaching its decision to waive or not to waive his immunity¹;
- F. whereas the facts of the case, as manifested in the submissions to the Committee on Legal Affairs, indicate that the alleged activities do not have a direct, obvious connection with Jarosław Leszek Wałęsa's performance of his duties as a Member of the European Parliament;
- G. whereas Jarosław Leszek Wałęsa was therefore not acting in the performance of his duties as a Member of the European Parliament;
1. Decides to waive the immunity of Jarosław Leszek Wałęsa;
 2. Instructs its President to forward this decision and the report of its competent committee immediately to the competent authority of Poland and to Jarosław Leszek Wałęsa.

¹ Case T-345/05 *Mote v Parliament* [2008] ECR II-2849, para. 28.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	9.7.2012
Result of final vote	+ : 8 - : 0 0 : 0
Members present for the final vote	Luigi Berlinguer, Françoise Castex, Christian Engström, Klaus-Heiner Lehne, Antonio Masip Hidalgo, Rebecca Taylor, Tadeusz Zwiefka
Substitute(s) present for the final vote	Eva Lichtenberger