



TEXTS ADOPTED

P8_TA(2015)0193

Request for waiver of the parliamentary immunity of Janusz Korwin-Mikke

European Parliament decision of 19 May 2015 on the request for waiver of the immunity of Janusz Korwin-Mikke (2015/2049(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Janusz Korwin-Mikke, forwarded on 29 December 2014 by the Prosecutor-General of the Republic of Poland in connection with criminal proceedings brought by the District Prosecutor's Office in Warsaw (Case No V Ds 223/14), and announced in plenary on 28 January 2015,
- having heard Mr Korwin-Mikke in accordance with Rule 9(5) 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, 6 September 2011 and 17 January 2013¹,
- having regard to Article 105(2) of the Constitution of the Republic of Poland and Articles 7b(1) and 7c(1) of the Polish Act of 9 May 1996 on the exercise of the mandate of Deputy and Senator,
- having regard to Rule 5(2), Rule 6(1) and Rule 9 of its Rules of Procedure,

¹ Judgment of the Court of Justice of 12 May 1964, *Wagner v Fohrmann and Krier*, 101/63, ECLI:EU:C:1964:28; judgment of the Court of Justice of 10 July 1986, *Wybot v Faure and others*, 149/85, ECLI:EU:C:1986:310; judgment of the General Court of 15 October 2008, *Mote v Parliament*, T-345/05, ECLI:EU:T:2008:440; judgment of the Court of Justice of 21 October 2008, *Marra v De Gregorio and Clemente*, C-200/07 and C-201/07, ECLI:EU:C:2008:579; judgment of the General Court of 19 March 2010, *Gollnisch v Parliament*, T-42/06, ECLI:EU:T:2010:102; judgment of the Court of Justice of 6 September 2011, *Patriciello*, C-163/10, ECLI: EU:C:2011:543; judgment of the General Court of 17 January 2013, *Gollnisch v Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23.

- having regard to the report of the Committee on Legal Affairs (A8-0150/2015),
- A. whereas the Prosecutor-General of the Republic of Poland has forwarded a request from the District Prosecutor's Office in Warsaw for authorisation to bring criminal proceedings against a Member of the European Parliament, Janusz Korwin-Mikke, with regard to an offence under Article 222(1) of the Polish Criminal Code; whereas, in particular, the proceedings concern the alleged infringement of the physical integrity of a public official;
- B. whereas, according to Article 8 of the Protocol on the Privileges and Immunities of the European Union, Members of the European Parliament may not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties;
- C. whereas, according to Article 9 of the Protocol on the Privileges and Immunities of the European Union, Members of the European Parliament must enjoy, in the territory of their own State, the immunities accorded to members of their parliament;
- D. whereas, under Article 105(2) of the Constitution of the Republic of Poland, a Deputy shall not be subject to criminal accountability without the consent of the Sejm;
- E. whereas it is for Parliament alone to decide whether immunity is or is not to be waived in a given case; whereas Parliament may reasonably take account of the Member's position in reaching its decision on whether or not to waive his or her immunity¹;
- F. whereas, as also confirmed at his hearing, the alleged offence does not have a direct or obvious connection with Mr Korwin-Mikke's performance of his duties as a Member of the European Parliament, and nor does it constitute an opinion expressed or a vote cast in the performance of his duties as a Member of the European Parliament within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
- G. whereas in this case Parliament has found no evidence of *fumus persecutionis*, that is to say, a sufficiently serious and precise suspicion that the case has been brought with the intention of causing political damage to the Member concerned;
- 1. Decides to waive the immunity of Janusz Korwin-Mikke;
- 2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent authority of the Republic of Poland and to Janusz Korwin-Mikke.

¹ Case T-345/05 *Mote v Parliament* (cited above), paragraph 28.