P8_TA-PROV(2019)0136

Request for waiver of the immunity of Jean-Marie Le Pen

European Parliament decision of 12 March 2019 on the request for waiver of the immunity of Jean-Marie Le Pen (2018/2247(IMM))

The European Parliament,

– having regard to the request for waiver of the immunity of Jean-Marie Le Pen, forwarded on 5 September 2018 by the Ministry of Justice of the French Republic on the basis of a request made by the Prosecutor-General at the Paris Court of Appeal, and announced in plenary on 22 October 2018, in connection with a case pending before the Examining Magistrates pertaining to a judicial investigation on grounds of alleged offences of breach of trust, concealment of breach of trust, fraud by an organised group, forgery and the use of forged documents, and concealed work by concealment of employees, in relation to the employment conditions of parliamentary assistants,

– having heard Jean-François Jalkh, replacing Jean-Marie Le Pen, in accordance with Rule 9(6) of its Rules of Procedure,

– having regard to Article 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 2013:

– having regard to Article 26 of the Constitution of the French Republic,

– having regard to Rule 5(2), Rule 6(1) and Rule 9 of its Rules of Procedure,

– having regard to the report of the Committee on Legal Affairs (A8-0167/2019),

A. whereas the Examining Magistrates at the Paris Regional Court have requested the waiver of the parliamentary immunity of Jean-Marie Le Pen in order to hear him in connection with alleged offences;

B. whereas the request for waiver of immunity of Jean-Marie Le Pen relates to alleged offences of breach of trust, concealment of breach of trust, fraud by an organised group, forgery and the use of forged documents, and concealed work by concealment of employees, in relation to the employment conditions of assistants of Members of the European Parliament affiliated to the Front National;

C. whereas a judicial investigation was launched on 5 December 2016 following a preliminary investigation initiated after a denouncement by the then President of the European Parliament on 9 March 2015 regarding a certain number of parliamentary assistants of Members of the European Parliament affiliated to the Front National;

D. whereas during a search conducted at the headquarters of the Front National in February 2016, a number of documents were seized in the office of the treasurer of the Front National, which bore witness to the party’s desire to make ‘savings’ through the European Parliament’s defrayal of the remuneration of employees of the party by virtue of their capacity as parliamentary assistants;

E. whereas the Front National’s establishment plan, published in February 2015, listed only 15 Members of the European Parliament (of a total of 23), 21 local parliamentary assistants and 5 accredited parliamentary assistants (of a total of 54 assistants); whereas a number of parliamentary assistants declared that their place of employment was the headquarters of the Front National in Nanterre, in some cases indicating that they were employed there full time, though residing between 120 and 945 km from the declared place of employment; whereas, at this stage in the investigation, it emerged that 8 parliamentary assistants carried out virtually no parliamentary assistance work, or did so only as a very small part of their overall duties;

F. whereas the investigations also revealed circumstances that made it seem unlikely that the parliamentary assistants concerned were genuinely performing duties connected with the European Parliament, notably:

– EU parliamentary assistants’ employment contracts interspersed between two Front National employment contracts,

– EU parliamentary assistants’ employment contracts for the European Parliament and for the Front National running concurrently,

– employment contracts for the Front National concluded for periods immediately following periods covered by EU parliamentary assistants’ employment contracts;

G. whereas the investigation revealed that in his capacity as Member of the European Parliament, Jean-Marie Le Pen employed a parliamentary assistant in 2011, but the
parliamentary assistant in question told investigators that he had worked on the election campaign of another Member of the European Parliament during the period concerned; whereas Jean-Marie Le Pen arranged for the payment of parliamentary assistants’ salaries to three other people, although they had done virtually no work whatsoever in that capacity;

H. whereas the investigation also revealed that in his capacity as President of the Front National at the time of the alleged offences, Jean-Marie Le Pen established a system, brought to light by the European Parliament, of using EU funds to pay for some of the Front National’s employees through parliamentary contracts with people who, in reality, worked for the party, thereby infringing the EU rules in force;

I. whereas the Examining Magistrates consider it necessary to hear Jean-Marie Le Pen;

J. whereas Jean-Marie Le Pen refused to enter an appearance in response to the summonses served by the investigators on 21 June 2018 and did the same when served with a summons by the Examining Magistrates in July 2018, invoking his parliamentary immunity;

K. whereas with a view to carrying out the questioning of Jean-Marie Le Pen in connection with the charges brought against him, the competent authority lodged an application for his immunity to be waived;

L. whereas, pursuant to Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union, Members of the European Parliament enjoy, in the territory of their own state, the immunities accorded to members of their parliament;

M. whereas Article 26 of the French Constitution states that ‘No Member of Parliament shall be arrested for a serious crime or other major offence, nor shall he be subjected to any other custodial or semi-custodial measure, without the authorisation of the Bureau of the House of which he is a member. Such authorisation shall not be required in the case of a serious crime or other major offence committed flagrante delicto or when a conviction has become final’;

N. whereas there is no evidence of nor any reason to suspect fumus persecutionis;

1. Decides to waive the immunity of Jean-Marie Le Pen;

2. Instructs its President to forward this decision and the report of its committee responsible immediately to the Minister of Justice of the French Republic and to Jean-Marie Le Pen.