



TEXTS ADOPTED

P8_TA(2019)0221

Request for waiver of the immunity of Jørn Dohrmann

European Parliament decision of 26 March 2019 on the request for waiver of the immunity of Jørn Dohrmann (2018/2277(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Jørn Dohrmann from the Minister of Justice of the Kingdom of Denmark, forwarded on 6 November 2018 by the Permanent Representative of Denmark to the European Union and announced in plenary on 28 November 2018, in connection with prosecution under point (1) of Section 260(1), Section 291(1), and Section 293(1), in conjunction with Section 21 of Danish Criminal Code,
- having heard Jørn Dohrmann 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 2013¹,
- having regard to Section 57 of the Constitution of the Kingdom of Denmark,
- 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 (A8-0178/2019),
- A. whereas the Viborg State Prosecutor has submitted a request for waiver of the immunity of Jørn Dohrmann, Member of the European Parliament elected for Denmark, in connection with offences within the meaning of Section 260(1)(1), Section 291(1), and Section 293(1), in conjunction with Section 21 of the Danish Criminal Code; whereas, in particular, the proceedings relate to alleged unlawful coercion, malicious damage and attempted unlawful use of an object belonging to another person;
- B. whereas on 26 April 2017, outside his private residence in Vamdrup, Jørn Dohrmann snatched a camera from a cameraman who was filming his house from a distance of approximately 195 metres with the view to using the obtained footage in a TV documentary about certain Danish Members of the European Parliaments; whereas Jørn Dohrmann threatened to smash the camera; whereas he damaged the said camera, including its microphone, screen and cable; whereas he took possession of the camera and the memory card with the intention of making unauthorised use of it by inspecting the recorded footage, but he was ultimately prevented from doing so as the police called at the address and retrieved the camera and the memory card, which he had removed from the device;
- C. whereas the cameraman had been first charged with an offence under Section 264a of the Danish Criminal Code for having unlawfully photographed persons who were on private property; whereas the State Prosecutor recommended that the charges be dropped considering the lack of the requisite element of intent needed to convict someone for a breach of Section 264a of the Danish Criminal Code;
- D. whereas South East Jutland Police pointed out that the company employing the journalist and owner of the camera had made a claim for compensation amounting to DKK 14 724,71 in connection with the case and that cases involving malicious damage, theft, appropriation and similar, where the penalty sought is a fine, must be settled in court proceedings if the injured party concerned has a claim to damages;
- E. whereas, initially, the State Prosecutor's Office recommended that a DKK 20 000 fine be set in the case against Jørn Dohrmann instead of a custodial sentence, with no formal charges being brought;
- F. whereas Jørn Dohrmann denied the charges against him; whereas, according to the Director of Public Prosecutions, it would then be inconsistent to seek an out-of-court settlement via a fixed penalty notice;
- G. whereas in order for a prosecution to be brought against Jørn Dohrmann, the competent authority made an application for his immunity to be waived;
- H. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union stipulates that Members of the European Parliament 'shall enjoy, in the territory of their own State, the immunities accorded to members of their parliament';
- I. whereas Section 57(1) of the Danish Constitution provides that, without the consent of the Danish Parliament, no Member of the Danish Parliament can be charged or subjected to imprisonment of any kind unless he or she is caught in the act of committing an offence; whereas this provision provides protection from public criminal

prosecutions, but not from private prosecutions in criminal matters; whereas, if the conditions are met to settle the matter out of court by means of a fixed penalty notice, the consent of the Danish Parliament is not required;

- J. whereas the scope of immunity accorded to Members of the Danish Parliament corresponds in fact to the scope of immunity accorded to Members of the European Parliament under Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union; whereas the Court of Justice of the European Union has held that for a Member of the European Parliament to enjoy immunity, an opinion must be expressed by the Member in the performance of his or her duties, thus entailing the requirement of a link between the opinion expressed and the parliamentary duties; whereas such a link must be direct and obvious;
 - K. whereas the alleged actions do not relate to opinions expressed or votes cast by the Member of the European Parliament in the performance of his duties within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union and therefore have no clear or direct bearing on the performance by Jørn Dohrmann of his duties as a Member of the European Parliament;
 - L. whereas there is no evidence nor any reason to suspect *fumus persecutionis*;
1. Decides to waive the immunity of Jørn Dohrmann;
 2. Instructs its President to forward this decision and the report of its committee responsible immediately to the Minister of Justice of the Kingdom of Denmark and to Jørn Dohrmann.