



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Legal Affairs

2013/2031(REG)

26.6.2013

AMENDMENTS

15 - 25

Draft opinion
Klaus-Heiner Lehne
(PE508.079v01-00)

on amendment of Rule 7 of Parliament's Rules of Procedure
(2013/2031(REG))

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Amendment 15
Giuseppe Gargani, Clemente Mastella

Parliament's Rules of Procedure
Rule 6 – paragraph 1

Present text

1. In the exercise of its powers in respect of privileges and immunities, Parliament **shall seek primarily** to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties.

Amendment

1. In the exercise of its powers in respect of privileges and immunities, Parliament **acts** to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties.

Or. en

Justification

The immunity provided for in Article 8 of the Protocol on the Privileges and Immunities of the European Union may not be waived. In applying the Protocol on Privileges and Immunities, regard should be had to the case law of the Court of Justice.

Amendment 16
Rainer Wieland

Parliament's Rules of Procedure
Rule 6 – paragraph 1

Present text

1. In the exercise of its powers in respect of privileges and immunities, Parliament shall seek primarily to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties.

Amendment

1. In the exercise of its powers in respect of privileges and immunities, Parliament shall seek primarily to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties. **Parliament may not waive the immunity provided for in Article 8 of the Protocol on the Privileges and Immunities of the European Union.**

Or. de

Amendment 17
Giuseppe Gargani, Clemente Mastella

Parliament's Rules of Procedure
Rule 6 – paragraph 1 a (new)

Present text

Amendment

1a. Parliamentary immunity is not a Member's personal privilege, but a guarantee of the independence of Parliament as a whole and its Members.

Or. en

Amendment 18
Giuseppe Gargani, Clemente Mastella

Parliament's Rules of Procedure
Rule 6 – paragraph 1 b (new)

Present text

Amendment

1b. Parliament assesses whether the legal action requiring the waiver is motivated by a will to impede the functioning of Parliament or to attack the Member because of his or her membership of Parliament.

Or. en

Justification

It is inappropriate to include provisions in the Rules which would bind Members in the exercise of their discretion as Members of Parliament. It is unwise to cite specific cases of the Court of Justice and the General Court, since the case law is, by its very nature, liable to develop.

Amendment 19
Giuseppe Gargani, Clemente Mastella

**Parliament's Rules of Procedure
Rule 6 – paragraph 1 c (new)**

Present text

Amendment

1c. The request for waiver of immunity is evaluated in accordance with the provisions of Articles 7, 8 and 9 of the Protocol on the Privileges and Immunities of the European Union and with the principles referred to in this Rule.

Or. en

**Amendment 20
Giuseppe Gargani, Clemente Mastella**

**Parliament's Rules of Procedure
Rule 6 a (new)**

Present text

Amendment

Rule 6a – Defence of immunity

1. In cases where the privileges or immunities of a Member or former Member are alleged to have been breached by the authorities of a Member State, a request may be made for the defence of those privileges or immunities.

2. A request for the defence of the privileges and immunities of a Member shall not be admissible if a request for the waiver or defence of that Member's immunity has already been received in respect of the same facts, whether or not a decision has been taken at that time.

3. No further consideration shall be given to a request for the defence of the privileges and immunities of a Member if a request for the waiver of that Member's immunity is received in respect of the same legal proceedings.

4. In cases where a decision has been taken not to defend the immunity of a

Member, the Member may make a request to reconsider the decision only in the light of new facts. No request for defence shall be entertained where the matter to which the request relates is already before the Court of Justice.

Or. en

Amendment 21
Klaus-Heiner Lehne

Parliament's Rules of Procedure
Rule 6 a – paragraph 1 – subparagraph 2 (new)

Present text

Amendment

Where national law is applicable to a procedure for the defence of immunity pursuant to Article 9, first paragraph, point a, of the Protocol on Privileges and Immunities, the decision on the defence of immunity shall have the legal effects which the national law in question confers on such decisions.

Or. en

Justification

This amendment, to be read in conjunction with Amendment 6, covers situations where national law provides for a procedure for the defence of immunity of national MPs and national decisions under that procedure have binding effects. This amendment clarifies that a European Parliament decision would have the same effects in those circumstances.

Amendment 22
Rainer Wieland

Parliament's Rules of Procedure
Rule 6 a (new)

Defence of immunity

1. In cases where the privileges and immunities of a Member or former Member are alleged to have been breached by the authorities of a Member State, a request may be made for a Parliament decision as to whether there has, in fact, been a breach of those privileges and immunities. That decision shall invite the authority concerned to draw the necessary conclusions.

2. In particular, a request for the defence of immunity or privileges may be made if it is considered that the circumstances constitute an administrative or other restriction imposed on the free movement of Members travelling to or from the place of meeting of Parliament or an opinion expressed or a vote cast in the performance of the mandate or fall within aspects of Article 9 of the Protocol on Privileges and Immunities.

3. Acting on its own authority or at the request of the Member concerned, Parliament may, at any stage of the procedure, review a decision to waive or defend immunity if the circumstances giving rise to an earlier decision have materially altered or if, given the course of the procedure to date, such action seems warranted.

Or. de

**Amendment 23
Cecilia Wikström**

**Parliament's Rules of Procedure
Rule 7 – paragraph 3 a (new)**

Present text

Amendment

3a. The Member concerned shall be given an opportunity to be heard, may present any documents or other written evidence deemed by that Member to be relevant and may be represented by another Member.

The Member shall not be present during debates on the request for waiver or defence of his or her immunity, except for the hearing itself.

The Chair of the committee shall invite the Member to be heard, indicating a date and time. The Member may waive the right to be heard.

If the Member fails to attend the hearing pursuant to that invitation, he or she shall be deemed to have waived the right to be heard, unless he or she asks to be excused from being heard at the date and time proposed, giving reasons. The coordinators of the committee are empowered to rule, upon a recommendation by the rapporteur, whether such a request is to be accepted in view of the reasons given. No appeals are permitted on this point.

If the coordinators of the committee grant the request to be excused, the chair of the committee shall invite the Member to be heard at a new date and time. If the Member fails to comply with the second invitation to be heard, the procedure shall continue without the Member having been heard. No further requests to be excused, or to be heard, may then be accepted.

Or. en

Justification

This amendment builds on Amendment 11 by the rapporteur, but with the difference that it should be for the coordinators and not for the Chair of the committee to make the decision regarding requests for second hearings in order not to put the Chair in a position where

he/she is forced to rule on a case regarding a colleague from the same country or political party. It would also be reasonable to base this decision on a recommendation by the rapporteur.

Amendment 24
Giuseppe Gargani, Clemente Mastella

Parliament's Rules of Procedure
Rule 7 – paragraph 3 b (new)

Present text

Amendment

3b. The competent committee shall consider whether the opinion expressed by the Member with respect to issues of general interest has a link with the performance of his duties as a representative of the European people.

Or. en

Amendment 25
Giuseppe Gargani

Parliament's Rules of Procedure
Rule 7 – paragraph 6

Present text

Amendment

6. In cases concerning the defence of immunity or privileges, the committee shall **state** whether the circumstances constitute an administrative or other restriction imposed on the free movement of Members travelling to or from the place of meeting of Parliament or an opinion expressed or a vote cast in the performance of the mandate or fall within aspects of Article 9 of the Protocol on Privileges and Immunities which are not a matter of national law, and shall make a proposal to invite the authority concerned to draw the necessary conclusions.

6. In cases concerning the defence of immunity or privileges, the committee shall **assess** whether the circumstances constitute an administrative or other restriction imposed on the free movement of Members travelling to or from the place of meeting of Parliament or an opinion expressed or a vote cast in the performance of the mandate or fall within aspects of Article 9 of the Protocol on Privileges and Immunities which are not a matter of national law, and shall make a proposal to invite the authority concerned to draw the necessary conclusions.

Or. it