



Plenary sitting

A8-0350/2018

22.10.2018

REPORT

on the request for waiver of the immunity of Sophie Montel
(2018/2076(IMM))

Committee on Legal Affairs

Rapporteur: Tadeusz Zwiefka

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PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the request for waiver of the immunity of Sophie Montel (2018/2076(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Sophie Montel forwarded on 21 February 2018 by the French Minister of Justice and Liberties in connection with a judicial inquiry (B-49 2018/00243) opened against Sophie Montel at the Nanterre Regional Court in response to an application with joinder filed by the ‘Maison des Potes – Maison de l’ Égalité’ association on grounds of public incitement to racial or religious discrimination and announced in plenary on 28 May 2018,
 - having heard Sophie Montel in accordance with Rule 9(6) 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 26 of the Constitution of the French Republic, as amended by Constitutional Law of 4 August 1995 No 95-880,
 - 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 (A8-0350/2018),
- A. whereas the Public Prosecutor at the Versailles Court of Appeal has requested the waiver of the parliamentary immunity of a Member of the European Parliament, Sophie Montel, in connection with a legal action concerning an alleged offence;
- B. whereas the waiver of immunity of Sophie Montel relates to an alleged offence of public incitement to discrimination on grounds of nationality, race or religion by word of mouth, in written form or by means of images or electronic public communication by a person or persons unknown, an offence provided for in French law, namely in Article 24(8), Article 23(1), and Article 42 of the Law of 29 July 1881 and Article 93(3) of Law No 82-652 of 29 July 1982, the penalties for which are laid down in Article 24(8), (10), (11) and (12) of the Law of 29 July 1881 and Article 121(7) of the French Criminal

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.

Code;

- C. whereas the judicial inquiry against Sophie Montel was opened in response to the civil action brought on 22 May 2014 by the ‘Maison des Potes – Maison de l’Égalité’;
- D. whereas the complaint concerned statements made in a brochure entitled ‘Handbook for Front National local councillors’, published on 19 September 2013 and posted on the official website of the Front National federation on 30 November 2013, that encouraged any National Front candidates elected to the post of local councillor in the elections held on 23 and 30 March 2014 to recommend, at the first sitting of their new local council, that priority should be given to French people (‘priorité nationale’) when allocating social housing;
- E. whereas French law might attribute criminal liability not only to the material author of a publication;
- F. whereas the investigators were informed in the course of the investigation by the Front National’s then publications director that the contested handbook had been drawn up by the services of the general secretariat; whereas Sophie Montel was at the time responsible for coordinating elected representatives in that general secretariat;
- G. whereas with a view to carrying out the initial questioning of Sophie Montel in connection with the charges brought against her, the competent authorities made an application for her immunity to be waived;
- H. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union states that Members of the European Parliament shall enjoy, in the territory of their own State, the immunities accorded to members of the Parliament of that State;
- I. whereas Article 26 of the French Constitution provides that no Member of the French Parliament shall be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or votes cast in the performance of his official duties;
- J. whereas the scope of immunity accorded to Members of the French 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 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 duties, thus entailing the requirement of a link between the opinion expressed and the parliamentary duties; whereas such link must be direct and obvious;
- K. whereas Sophie Montel was not a Member of the European Parliament when the alleged offence took place, namely on 19 September and 30 November 2013, but the allegedly offensive materials were still available for consultation by anyone wishing to access them on 23 June and 2 October 2014;
- L. whereas the charges are manifestly unrelated to the position of Sophie Montel as a Member of the European Parliament and concern instead activities of a national or regional nature, given that the statements relate to prospective local council members

with a view to the local elections to be held on 23 and 24 March 2014;

- M. whereas the alleged actions do not relate to opinions expressed or votes cast by the Member of the European Parliament in the performance of her duties within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
- N. whereas there is no reason to suspect that the intention underlying the legal proceedings, which were opened following an application by the ‘Maison des Potes – Maison de l’Égalité’ association and submitted before the Member assumed her seat in the European Parliament, is to obstruct the parliamentary work of Sophie Montel (*fumus persecutionis*);
 - 1. Decides to waive the immunity of Sophie Montel;
 - 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 Sophie Montel.

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	22.10.2018
Result of final vote	+ : 12 - : 1 0 : 2
Members present for the final vote	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Mady Delvaux, Mary Honeyball, Sajjad Karim, Sylvia-Yvonne Kaufmann, Julia Reda, Evelyn Regner, Pavel Svoboda, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
Substitutes present for the final vote	Geoffroy Didier, Tiemo Wölken