

Request for the waiver of parliamentary immunity of Krzysztof Lisek

European Parliament decision of 11 November 2010 on the request for waiver of the immunity of Krzysztof Lisek (2009/2244(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Krzysztof Lisek, forwarded by the Polish judicial authorities on 5 November 2009 and announced in plenary sitting on 14 December 2009,
 - having heard Krzysztof Lisek in accordance with Rule 7(3) 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 annexed to the Treaties,
 - having regard to the judgments of 12 May 1964 and 10 July 1986¹ of the Court of Justice of the European Union,
 - having regard to Article 151 of the Constitution of the Republic of Poland,
 - having regard to Rules 6(2) and 7 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A7-0301/2010),
- A. whereas criminal proceedings have been brought against Krzysztof Lisek, Member of the European Parliament, by the Polish judicial authorities, Mr Lisek being accused of criminal offences under Article 296(1) and (3) of the Penal Code of 6 June 1997 published in the Journal of Laws of 1997, No 88, Item 553, as amended; Article 586 of the Commercial Companies Code of 15 September 2000 published in the Journal of Laws of 2000, No 94, Item 1037, as amended; Article 77(1) and (2) of the Accountancy Act of 29 September 1994 (consolidated text published in Journal of Laws 2002, No 76, Item 694), as amended),
- B. whereas, according to Article 9 of the Protocol on the Privileges and Immunities of the European Union, during the sessions of the European Parliament its Members enjoy in the territory of their own State the immunities accorded to members of their parliament; whereas immunity cannot be claimed when a Member is caught in the act of committing an offence; and whereas this does not prevent the European Parliament from exercising its right to waive the immunity of one of its Members,
- C. whereas the charges brought against Mr Lisek do not relate to opinions expressed or votes cast in the performance of his duties as a Member of the European Parliament,
- D. whereas, according to the Article 105 of the Constitution of the Republic of Poland, a member of the national Parliament (Sejm) shall not be subject to criminal liability without

¹ Case 101/63 *Wagner v Fohrmann and Krier* [1964] ECR 195, and Case 149/85 *Wybot v Faure and Others* [1986] ECR 2391.

the consent of the Parliament,

- E. whereas Article 105 goes on to provide that a member of the national parliament shall not be liable for activities performed within the scope of a deputy's mandate during the term thereof nor following expiry thereof,
- F. whereas Mr Lisek is essentially charged with offences in relation to his management and accounting activities as chairman of the board of the Polish Youth Card Association and Campus Sp. during a period prior to his election to the European Parliament; and whereas the offences with which Mr Lisek is charged have nothing to do with his activities as a Member of the European Parliament,
- G. whereas no cogent evidence has been adduced as to the existence of any *fumus persecutionis*,
- H. whereas it is therefore appropriate to waive his immunity,
 - 1. Decides to waive the immunity of Krzysztof Lisek;
 - 2. Instructs its President to forward this decision, and the report of the committee responsible, immediately to the appropriate authority of the Republic of Poland.