



TEXTS ADOPTED

P8_TA(2019)0334

Request for waiver of the immunity of Lampros Fountoulis

European Parliament decision of 4 April 2019 on the request for waiver of the immunity of Lampros Fountoulis (2018/2269(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Lampros Fountoulis, forwarded on 12 October 2018 by the Deputy Public Prosecutor of the Supreme Court of Greece, in connection with procedure No ABM: 2017/10839 and announced in plenary on 13 November 2018,
- having heard Lampros Fountoulis 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 to 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 62 of the Constitution of Greece,
- 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 (A8-0183/2019),

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.

- A. whereas the Deputy Public Prosecutor's Office of the Supreme Court of Greece has requested the waiver of the immunity of Lampros Fountoulis, Member of the European Parliament, in connection with possible legal action concerning an alleged offence;
 - B. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union states that Members of the European Parliament enjoy, in the territory of their own state, the immunities accorded to members of the parliament of that state;
 - C. whereas Article 62 of the Constitution of Greece provides that, during their parliamentary term, members of parliament may not be prosecuted, arrested, imprisoned or otherwise confined without prior leave granted by parliament;
 - D. whereas the request of the Deputy Public Prosecutor of the Supreme Court of Greece relates to proceedings concerning alleged breach of Article 45 and Article 232A of the Greek Criminal Code, which concern joint violation of a court ruling;
 - E. whereas Lampros Fountoulis is accused of having failed to comply with the interim ruling No 3603/2015 of the Athens single-judge court of first instance ordering the removal of all cameras from the ground floor and the entrance of the building located at No 73 Odos Grammou in Marousi (Attica) and the payment of a fine of EUR 600 (six hundred euros) for each future infringement of the ruling of 25 May 2015;
 - F. whereas, pursuant to Rule 9(8) of the Rules of Procedure, the Committee on Legal Affairs shall not, under any circumstances, pronounce on the guilt or otherwise of the Member, nor on whether or not the opinions or acts attributed to him justify prosecution, even if, in considering the request, the committee acquires detailed knowledge of the facts of the case;
 - G. whereas it is also not for the European Parliament to take a stance on the guilt or otherwise of the Member or whether the acts attributed to the Member warrant the opening of criminal proceedings, nor to pronounce itself on the relative merits of national legal and judicial systems;
 - H. whereas in accordance with Rule 5(2) of the Rules of Procedure of the European Parliament, parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of Parliament as a whole and of its Members;
 - I. whereas the purpose of parliamentary immunity is to protect Parliament and its Members from legal proceedings in relation to activities carried out in the performance of parliamentary duties and which cannot be separated from those duties;
 - J. whereas the prosecution does not concern opinions expressed or votes cast in the performance of the duties of the Member of the European Parliament in question for the purposes of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
 - K. whereas on the basis of the information and explanations provided in this case, there is no reason to suspect that the intention underlying criminal proceedings is to damage a Member's political activity or reputation and thus the independence of Parliament (*fumus persecutionis*);
1. Decides to waive the immunity of Lampros Fountoulis;

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2. Instructs its President to forward this decision and the report of its committee responsible immediately to the Greek authorities and to Lampros Fountoulis.