



TEXTS ADOPTED

P9_TA(2020)0133

Request for waiver of the immunity of Guy Verhofstadt

European Parliament decision of 17 June 2020 on the request for waiver of the immunity of Guy Verhofstadt (2019/2149(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Guy Verhofstadt, submitted on 15 October 2019 by the Fifth Criminal Division of Warsaw-Śródmieście District Court, in connection with pending criminal proceedings further to civil proceedings brought before the same court (ref. X K 7/18), and announced in plenary on 13 November 2019,
 - having heard Guy Verhofstadt in accordance with Rule 9(6) of its Rules of Procedure,
 - having regard to Article 8 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 21 October 2008, 19 March 2010, 6 September 2011, 17 January 2013 and 30 April 2019¹,
 - 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 (A9-0037/2020),
- A. whereas the Fifth Criminal Division of Warsaw-Śródmieście District Court-, in Poland, has submitted a request for waiver of the parliamentary immunity of Guy Verhofstadt on the grounds of certain statements made by the latter on 15 November 2017 during a plenary debate at the European Parliament in Strasbourg; whereas the grounds for the order of the District Court state that, as it is for the applicant to obtain authorisation to commence proceedings, ‘in this situation the Public Prosecutor’s Office should be considered the relevant authority’, that ‘if the public prosecutor does not intervene in

¹ 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; judgment of the General Court of 30 April 2019, *Briois v Parliament*, T-214/18, ECLI:EU:T:2019:266.

the proceedings and the Court refuses to request that the immunity in question be waived', the civil applicant 'is deprived of the possibility of exercising his rights against persons protected by the immunity of the European Parliament' and that the provision in question [Rule 9(12) of its Rules of Procedure] 'does not provide that the Court should draft such a request, but merely that it should transmit it. Thus, the request for the waiver of parliamentary immunity in itself constitutes a purely formal transmission of a request' from the civil applicant; noting therefore that the request for waiver of parliamentary immunity was communicated by the judicial authorities in accordance with Rule 9(12) of its Rules of Procedure, but drawing attention to the fact that, under Rule 9(1) of its Rules of Procedure, any request for waiver of parliamentary immunity must be submitted by 'a competent authority of a Member State', the two concepts not being identical;

- B. whereas Guy Verhofstadt has been accused, in civil proceedings brought before the said court by the authorised representative of a private applicant, of having rashly insulted that private applicant; whereas in statements that he made during a plenary debate on the state of the rule of law and democracy in Poland and which were disseminated by the media, Guy Verhofstadt described the participants in the Independence March in Warsaw in 2017 as 'fascists, neo-Nazis and white supremacists'; whereas the applicant was among the participants in that march;
- C. whereas, in making those comments, Guy Verhofstadt allegedly publicly insulted the applicant in his absence and allegedly made accusations against the applicant which damaged his public reputation, as a result which the applicant considered himself to be in danger of forfeiting the trust necessary for the performance of duties, the exercise of a profession or engagement in a type of activity, which is an offence defined in Article 216(2) in conjunction with Article 212(2) in conjunction with Article 11(2) of the Polish Criminal Code;
- D. whereas parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of Parliament as a whole and of its Members;
- E. whereas, firstly, Parliament cannot be equated with a court, and, secondly, in the context of a procedure for the waiver of immunity, a Member of the European Parliament cannot be regarded as an 'accused'¹;
- F. whereas Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union stipulates that Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties;
- G. whereas Guy Verhofstadt made his statements during a plenary session of the European Parliament, within the precincts where the plenary sitting itself was being conducted, in the performance of his duties as a Member of the European Parliament;
- H. whereas the statements by Guy Verhofstadt were therefore made in the context of his duties as a Member of and his work at the European Parliament;
- 1. Decides not to waive the immunity of Guy Verhofstadt;

¹ Judgment of the Court (Grand Chamber) of 19 December 2019, Oriol Junqueras Vies, C-502./19, ECLI:EU:C:2019:1115.

2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent authority of the Republic of Poland and to Guy Verhofstadt.