



TEXTS ADOPTED

P10_TA(2026)0275

Request for the waiver of the immunity of Francisco Assis

European Parliament decision of 15 September 2026 on the request for the waiver of the immunity of Francisco Assis (2026/2033(IMM))

The European Parliament,

- having regard to the request for the waiver of the immunity of Francisco Assis, submitted by the criminal investigative judge in Almada, Portugal, belonging to the District Court of Lisbon on 18 March 2026, in connection with an ongoing pretrial judicial investigation concerning Francisco José Pereira de Assis de Miranda ('Francisco Assis') and announced in Parliament on 26 March 2026,
- having heard Francisco Assis on 15 July 2026, 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 21 October 2008, 19 March 2010, 6 September 2011, 17 January 2013 and 19 December 2019¹,
- having regard to Article 157(2) and (3) of the Constitution of the

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 Court of Justice of 19 December 2019, *Junqueras Vies*, C-502/19, ECLI:EU:C:2019:1115.

Portuguese Republic,

- 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 (A10-0229/2026),
- A. whereas on 18 March 2026, the criminal investigative judge in Almada, Portugal, belonging to the District Court of Lisbon, submitted a request for the waiver of the immunity of Francisco Assis, Member of the European Parliament elected in Portugal, in connection with an alleged offence that took place in 2022;
- B. whereas, according to the request, an investigation was initiated following a complaint lodged by a plaintiff alleging that, on 31 March 2022, Francisco Assis, in his capacity as President of the Economic and Social Council of Portugal, issued a press release in which he maintained that the continued presence of the complainant at the Presidency of the Council of Ministers of Portugal degraded the country and was contrary to the political position of the Government of Portugal on the Russian invasion of the sovereign state of Ukraine; whereas Francisco Assis allegedly described the complainant as a ‘collaborator with the autocratic and criminal power installed in the Kremlin’ and asserted that it was ‘imperative, in the interests of national dignity and respect for the martyred Ukrainian people, that measures be taken to address this serious institutional anomaly’; whereas, according to the request, the alleged acts might constitute an offence of aggravated defamation under Article 180(1) of the Portuguese Criminal Code, in conjunction with Article 132(2), point 1, and Article 184 thereof; whereas after duly examining the case, the Public Prosecutor’s Office closed the preliminary investigation considering that no offence had been committed by Francisco Assis as the statements in the press release were made in the context of the right to freedom of expression; whereas it is further noted in the request that both the complainant and Francisco Assis are public figures as they both hold public office as part of Portuguese political life, and, consequently, that they must necessarily be more resilient to criticism; whereas after having been notified of the order to close the case, the complainant requested the nullity of that order and the opening of a pretrial investigation, which would require the waiver of the immunity of Francisco Assis and is thus the basis for the request received in this regard;
- C. whereas the purpose of immunity provided for in Protocol No 7 on the Privileges and Immunities of the European Union 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;

- D. whereas, in accordance with Rule 5(2) of the Rules of Procedure, 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 Francisco Assis was elected to the European Parliament in the June 2024 European elections and was, therefore, not a Member of the European Parliament at the time of the alleged offence;
- F. whereas Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union provides that Members of the European Parliament are not to 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 the alleged offence does not constitute, and the subsequent request for the waiver of the immunity of Francisco Assis is not related to, an opinion expressed or a vote cast by him in the performance of his duties within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
- H. whereas Article 9, first paragraph, point (a), of Protocol No 7 on the Privileges and Immunities of the European Union provides that, during the sessions of the European Parliament, its Members are to enjoy, in the territory of their own Member State, the immunities accorded to members of the parliament of their Member State;
- I. whereas Article 157(2) and (3) of the Constitution of the Portuguese Republic provides that:
 - '2. Members of the Assembly of the Republic may not appear as makers of declarations or accused persons without the Assembly's authorisation. In the latter case, the Assembly shall obligatorily decide in favour of authorisation when there are strong indications of the commission of a wilful crime punishable by imprisonment for a maximum term of more than three years.
 - 3. No Member of the Assembly of the Republic may be detained, arrested or imprisoned without the Assembly's authorisation, save for a wilful crime punishable by the type of prison term referred to by the previous paragraph and in flagrante delicto.';
- J. whereas the request specifically indicates that the initial assessment by the Public Prosecutor's Office was that the statements of Francisco Assis, in his capacity as President of the Economic and Social Council of Portugal, were made in the context of his right to freedom of expression, a fundamental right enshrined in Article 37 of the Constitution of the Portuguese Republic, and whereas the merits of the case are to be determined by the Portuguese judicial authorities in accordance with national law;

- K. whereas, in this case, Parliament has found no evidence of *fumus persecutionis*, that is to say it does not appear that the intention underlying the legal proceedings is to damage Francisco Assis' political activity as a Member of the European Parliament and thus Parliament's independence;
 - L. whereas Parliament cannot assume the role of a court and, in a waiver of immunity procedure, a Member cannot be regarded as a defendant²;
1. Decides to waive the immunity of Francisco Assis;
 2. Instructs its President to forward this decision immediately to the competent authority of the Portuguese Republic and to Francisco Assis.

² Judgment of the General Court of 30 April 2019, *Briois v Parliament*, T-214/18, ECLI:EU:T:2019:266.