



TEXTS ADOPTED

P9_TA(2023)0023

Request for waiver of the immunity of Andrea Cozzolino

European Parliament decision of 2 February 2023 on the request for waiver of the immunity of Andrea Cozzolino (2023/2006(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Andrea Cozzolino dated 28 December 2022, which was issued by the Federal Prosecutor at the Belgian Federal Public Prosecutor's Office in connection with criminal proceedings that he wishes to institute against him and was forwarded by the Federal Public Service for Foreign Affairs, Foreign Trade and Development Cooperation by letter dated 30 December 2022 and announced in plenary on 16 January 2023,
- having heard Andrea Cozzolino 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,

¹ Judgment of the Court of Justice of 21 October 2008, Marra, 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.

- 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 (A9-0016/2023),
- A. whereas the Federal Prosecutor at the Belgian Federal Public Prosecutor's Office has requested the waiver of the immunity of Andrea Cozzolino, a Member of the European Parliament elected for Italy, in connection with an ongoing investigation into criminal offences;
- B. whereas the ongoing investigation has shown that Andrea Cozzolino may have been involved in acts of corruption arising from interference by one or more third countries aimed at influencing the debates and decisions taken in the European Parliament;
- C. whereas it has also emerged from the ongoing investigation that Andrea Cozzolino is suspected of having, from 2019 onwards, participated in an agreement with other persons to cooperate in protecting the interests of third countries in the European Parliament, not least by impeding the adoption of parliamentary resolutions that might damage the interests of those countries, in exchange for sums of money;
- D. whereas the acts allegedly committed by Andrea Cozzolino constitute the criminal offences of public corruption under Articles 246 and 247 of the Belgian Criminal Code, of participation in a criminal organisation under Articles 324a and 324b of the Belgian Criminal Code, and of money laundering under Article 505 of the Belgian Criminal Code;
- E. whereas Parliament cannot assume the role of a court, and whereas, in a waiver of immunity procedure, a Member cannot be regarded as a 'defendant'¹;
- F. whereas parliamentary immunity is not a personal privilege of the Member, but a guarantee of the independence of Parliament as a whole and of its members, and whereas parliamentary immunity is intended 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;
- G. whereas the alleged offences do not constitute opinions expressed or votes cast by Andrea Cozzolino in the performance of his duties as a Member of the European Parliament within the meaning of Article 8

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

of Protocol No 7 on the Privileges and Immunities of the European Union;

- H. whereas by virtue of Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union, Members of the European Parliament enjoy, in the territory of their own State, the immunities accorded to members of their parliament and, in the territory of any other Member State, immunity from any measure of detention and from legal proceedings; whereas immunity cannot be claimed when a member is found in the act of committing an offence, nor prevent the European Parliament from exercising its right to waive the immunity of one of its members;
 - I. whereas it is for Parliament alone to decide, in a given case, whether or not to waive immunity; whereas Parliament may reasonably take account of the position of the Member in order to decide whether or not to waive his immunity¹; whereas, at his hearing, Andrea Cozzolino stated that he did not object to his parliamentary immunity being waived;
 - J. whereas, in this case, Parliament has found no evidence of *fumus persecutionis*, or in other words factual elements indicating that the intention underlying the judicial investigation in question may be to damage a Member's political activity and thus the European Parliament;
1. Decides to waive the immunity of Andrea Cozzolino;
 2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent authority of the Kingdom of Belgium and to Andrea Cozzolino.

¹ Judgment of the General Court of 15 October 2008, Mote v Parliament, T-345/05, ECLI:EU:T:2008:440, paragraph 28.