

Tuesday 11 June 2013

- having regard to Rules 6(2) and 7 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs (A7-0195/2013),
- A. whereas the Public Prosecutor of the Polish Republic has requested the waiver of the parliamentary immunity of a Member of the European Parliament, Małgorzata Handzlik, in connection with an investigation and possible legal action concerning an alleged offence;
- B. whereas, under Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union, Members shall enjoy, in the territory of their own State, the immunities accorded to members of the Parliament of that State;
- C. whereas Article 105(2) of the Constitution of the Polish Republic provides that Members of Parliament may only be prosecuted with the Parliament's consent;
- D. whereas the request by the Public Prosecutor relates to proceedings concerning an alleged offence under the Polish Criminal Code of 6 June 1997;
- E. whereas the substantive allegation relates to the attempted infringement of Articles 270(1) and 286(1) of that code, which concern fraud and the use of forged documents respectively;
- F. whereas Małgorzata Handzlik is effectively accused of having attempted to commit fraud against the financial interests of the Union by allegedly submitting forged documents with a view to obtaining reimbursement of the costs of attending a language course which she did not in fact attend;
- G. whereas the alleged actions do not constitute opinions expressed or votes cast in the performance of the duties of the Member of the European Parliament within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
- H. whereas, however, given the circumstances in which the case against Małgorzata Handzlik was handled by the various authorities involved, and bearing in mind the small amount in question and the uncertain status and provenance of the evidence, there are serious doubts surrounding the procedure;
- I. whereas it therefore appears that this is a case where the existence of a *fumus persecutionis* may be assumed;
- J. whereas Ms Małgorzata Handzlik's immunity should therefore not be waived;
  1. Decides not to waive the immunity of Małgorzata Handzlik;
  2. Instructs its President to forward this decision and the report of its competent committee immediately to the Public Prosecutor of the Polish Republic and to Małgorzata Handzlik.

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## **Request for waiver of the parliamentary immunity of Alexander Alvaro**

**European Parliament decision of 11 June 2013 on the request for waiver of the immunity of Alexander Alvaro (2013/2106(IMM))**

(2016/C 065/28)

*The European Parliament,*

- having regard to the request for waiver of the immunity of Alexander Alvaro, forwarded on 8 May 2013 by the German Federal Ministry of Justice, in connection with a case pending before the Chief Public Prosecutor of Cologne (Germany), and announced in plenary on 23 May 2013,
- having given Alexander Alvaro the opportunity to be heard in accordance with Rule 7(3) of its Rules of Procedure,

Tuesday 11 June 2013

- having regard to Article 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 Article 46 of the German Basic Law (*Grundgesetz*),
  - having regard to Rules 6(2) and 7 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A7-0188/2013),
- A. whereas the Chief Public Prosecutor of Cologne (Germany) has requested the waiver of the parliamentary immunity of Alexander Alvaro, Member and Vice-President of the European Parliament, in connection with the launch of investigative proceedings concerning an alleged offence;
- B. whereas the request by the Chief Public Prosecutor relates to investigations into a serious road traffic accident in which Alexander Alvaro was involved;
- C. whereas, according to Article 9 of the Protocol on the Privileges and Immunities of the European Union, Members shall enjoy, in the territory of their own State, the immunities accorded to members of their Parliament;
- D. whereas, under Article 46(2) of the German Basic Law (*Grundgesetz*), a Member may not be called to account for a punishable offence without the permission of Parliament unless apprehended while committing the offence or in the course of the following day;
- E. whereas, consequently, Parliament must waive the parliamentary immunity of Alexander Alvaro if the proceedings against him are to go ahead;
- F. whereas Article 9 of the Protocol on the Privileges and Immunities of the European Union and Article 46(2) of the German *Grundgesetz* do not preclude the waiver of the immunity of Alexander Alvaro;
- G. whereas it is therefore advisable that parliamentary immunity be waived in the case in question;
1. Decides to waive the immunity of Alexander Alvaro;
  2. Instructs its President to forward this decision and the report of its competent committee immediately to the appropriate authorities of the Federal Republic of Germany and to Alexander Alvaro.
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