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*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

## EUROPEAN PARLIAMENT

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**Request for the waiver of the parliamentary immunity of Tadeusz Cymański****European Parliament decision of 25 February 2014 on the request for waiver of the immunity of Tadeusz Cymański (2013/2278(IMM))**

(2017/C 285/24)

*The European Parliament,*

- having regard to the request for waiver of the immunity of Tadeusz Cymański, put forward by the Public Prosecutor of the Republic of Poland on 23 October 2013, and announced in plenary on 18 November 2013,
  - having heard Tadeusz Cymański in accordance with Rule 7(5) 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 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010 and 6 September 2011 <sup>(1)</sup>,
  - having regard to Article 105 of the Constitution of the Republic of Poland,
  - having regard to Rules 5(2), 6(1) and 7 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A7-0099/2014),
- A. whereas the Public Prosecutor of the Republic of Poland has requested the waiver of the parliamentary immunity of Tadeusz Cymański in connection with a request for authorisation to bring criminal proceedings against a Member of the European Parliament made by the General Inspectorate of Road Traffic with regard to the offence set out in Article 96(3) of the Polish Code of Minor Offences;

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<sup>(1)</sup> Judgment of 12 May 1964 in Case 101/63, *Wagner v Fohrmann and Krier* (ECR 1964, p. 195); judgment of 10 July 1986 in Case 149/85, *Wybot v Faure and others* (ECR 1986, p. 2403); judgment of 15 October 2008 in Case T-345/05, *Mote v Parliament* (ECR 2008, p. II-2849); judgment of 21 October 2008 in Joined Cases C-200/07 and C-201/07, *Marra v De Gregorio and Clemente* (ECR 2008, p. I-7929); judgment of 19 March 2010 in Case T-42/06, *Gollnisch v Parliament* (ECR 2010, p. II-1135); judgment of 6 September 2011 in Case C-163/10, *Patriciello* (ECR 2011, p. I-7565).

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- B. whereas, according to Article 8 of the Protocol on the Privileges and Immunities of the European Union, 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;
- C. whereas, according to Article 9 of the Protocol on the Privileges and Immunities of the European Union, Members of the European Parliament shall enjoy, in the territory of their own State, the immunities accorded to members of their Parliaments;
- D. whereas, under Article 105 of the Constitution of the Republic of Poland, 'a Deputy shall not be held accountable for his activity performed within the scope of a Deputy's mandate during the term thereof nor after its completion. Regarding such activities, a Deputy can only be held accountable before the Sejm and, in a case where he has infringed the rights of third parties, he may only be proceeded against before a court with the consent of the Sejm';
- E. whereas whether immunity is or is not to be waived in a given case is for Parliament alone to decide; whereas Parliament may reasonably take account of the Member's position in reaching its decision on whether or not to waive his/her immunity <sup>(1)</sup>;
- F. whereas the alleged offence does not have a direct or obvious connection with Tadeusz Cymański's performance of his duties as a Member of the European Parliament, nor does it constitute an opinion expressed or a vote cast in the performance of his duties as a Member of the European Parliament for the purposes of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
- G. whereas the criminal proceedings to be brought against Tadeusz Cymański are, therefore, not connected in any way with his position as a Member of the European Parliament;
- H. whereas in this case Parliament has found no evidence of *fumus persecutionis*, that is to say, a sufficiently serious and precise suspicion that the case has been brought with the intention of causing political damage to the Member concerned;
- I. whereas the request is brought as a result of a written declaration made by Tadeusz Cymański whereby he refused to comply with the obligation to identify the person to whom he had entrusted the vehicle referred to in the report by the General Inspectorate of Road Traffic and agreed to pay a fine of PLN 500 for the offence set out in Article 96(3) in the Polish Code of Minor Offences;
  - 1. Decides to waive the immunity of Tadeusz Cymański;
  - 2. Instructs its President to forward this decision and the report of its competent committee immediately to the competent authority of the Republic of Poland and to Tadeusz Cymański.

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<sup>(1)</sup> Case T-345/05 *Mote v Parliament*, cited above, at paragraph 28.