

Wednesday 24 June 2015

## II

(Information)

### INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## EUROPEAN PARLIAMENT

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### **Request for the waiver of the immunity of Sotirios Zarianopoulos**

**European Parliament decision of 24 June 2015 on the request for waiver of the immunity of Sotirios Zarianopoulos (2015/2015(IMM))**

(2016/C 407/14)

*The European Parliament,*

- having regard to the request for the waiver of the immunity of Sotirios Zarianopoulos, forwarded on 8 December 2014 by the deputy public prosecutor of the Supreme Court of Greece, regarding proceedings pending before the Third Single-Member Magistrates Court in Thessaloniki (File No G2010-1744), and announced in plenary on 13 January 2015,
  - having heard Sotirios Zarianopoulos in accordance with Rule 9(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, 6 September 2011 and 17 January 2013 <sup>(1)</sup>,
  - having regard to Article 62 of the Constitution of the Hellenic 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 (A8-0191/2015),
- A. whereas the deputy public prosecutor of the Supreme Court of Greece has requested the waiver of the immunity of Sotirios Zarianopoulos, Member of the European Parliament, as part of an investigation concerning an alleged crime;
- B. whereas, under 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;
- C. whereas, under Article 62 of the Constitution of the Hellenic Republic, during the parliamentary term, Members of Parliament may not be prosecuted, arrested, imprisoned or otherwise confined without prior leave granted by the Parliament;

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<sup>(1)</sup> Judgment of the Court of Justice of 12 May 1964, *Wagner v Fohrmann and Krier*, 101/63, ECLI:EU:C:1964:28; judgment of the Court of Justice of 10 July 1986, *Wybot v Faure and others*, 149/85, ECLI:EU:C:1986:310; judgment of the General Court of 15 October 2008, *Mote v Parliament*, T-345/05, ECLI:EU:T:2008:440; 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.

Wednesday 24 June 2015

- D. whereas Sotirios Zarianopoulos is accused of having threatened physical violence and illegally entered the premises of Greek public television channel ERT-3 on 4 March 2010 to interrupt the midday news bulletin and read out a statement;
- E. whereas the alleged crime clearly has no connection with the position of Sotirios Zarianopoulos as a Member of the European Parliament, given that it relates to action carried out by the Greek trade union PAME and that Sotirios Zarianopoulos was not a Member of the European Parliament at the time the offence was committed;
- F. whereas, under Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union and in accordance with the case law of the Court of Justice of the European Union, an opinion expressed by a Member of the European Parliament in the performance of his or her duties is defined as being a subjective appraisal having a direct, obvious connection with the performance of those parliamentary duties, but the alleged actions of Sotirios Zarianopoulos cannot be included in that definition;
- G. whereas, therefore, the criminal proceedings do not concern any opinion expressed or vote cast in the performance of the duties of 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;
- H. whereas, pursuant to Rule 9(7) of the Rules of Procedure, the Committee on Legal Affairs may not, under any circumstances, pronounce on the guilt or otherwise of the Member nor on whether or not the opinions or acts attributed to him or her justify prosecution, even if, in considering the request, it acquires detailed knowledge of the facts of the case;
- I. whereas, since Sotirios Zarianopoulos maintains that the charges are politically motivated, the committee, having heard the Member and considered the documents the latter has produced, has also considered the statements made to the investigating authorities by witnesses in 2010, on which the charges are based;
- J. whereas those statements were made in the context of the legal proceedings against Sotirios Zarianopoulos, while it is not up to this committee to carry out an investigation on the substance of the case, nor to decide on whether or not the Member of the European Parliament subject to legal proceedings is guilty;
- K. whereas, therefore, in the light of the information acquired by the committee, there is no reason to assume that the intention underlying the criminal proceedings is to damage a Member's political activity (*fumus persecutionis*), given that the prosecution was initiated a number of years before the Member took up his post;
1. Decides to waive the immunity of Sotirios Zarianopoulos;
  2. Instructs its President to forward this decision and the report of its committee responsible immediately to the Public Prosecutor's Office at the Supreme Court of Greece and to Sotirios Zarianopoulos.
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