Tuesday 15 February 2022

P9_TA(2022)0018

Request for the waiver of the immunity of Jörg Meuthen

European Parliament decision of 15 February 2022 on the request for waiver of the immunity of Jörg Meuthen (2021/2160(IMM))

(2022/C 342/26)

The European Parliament,

— having regard to the request of the Public Prosecutor of Berlin for waiver of the immunity of Jörg Meuthen, forwarded by letter dated 16 June 2021 from the German Federal Ministry of Justice and Consumer Protection, in connection with a preliminary investigation into suspected criminal offences, and communicated in plenary on 5 July 2021,

— having heard Jörg Meuthen 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 to 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 2019 [1],

— having regard to Article 46(2), (3) and (4) of the Basic Law of the Federal Republic of Germany and Article 192b of the *Richtlinien für das Strafverfahren und das Bußgeldverfahren*,

— 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 (A9-0016/2022),

A. whereas the Berlin Public Prosecutor has requested the waiver of the immunity of Jörg Meuthen, MEP elected for Germany, with a view to initiating criminal proceedings pursuant to Article 152(2) of the German Code of Criminal Procedure (*Strafprozessordnung*) for embezzlement, within the meaning of Article 266 of the Criminal Code, and for suspicion of having committed a criminal offence, within the meaning of Article 31d(1)(1) of the Political Parties Act (*Parteiengesetz*);

B. whereas, in his capacity as federal spokesperson for the 'Alternative für Deutschland' (AfD) party for the years 2016, 2017 and 2018, Jörg Meuthen:

— allegedly provided incorrect information when presenting the AfD's activity report for 2016, relating to services totalling EUR 89 800 which he is said to have received from a Swiss company in the form of advertisements, posters, leaflets, posters and graphs for his election campaign as a candidate of the AfD in the regional elections of Baden-Württemberg of 13 March 2016, and which he is accused of not having clearly indicated in the AfD's activity report for 2016, sent to the President of the German Bundestag on 21 December 2017,

— allegedly provided false or incomplete information on individual payments received in support of the election campaigns for the regional elections in North Rhine-Westphalia on 14 May 2017, and for the elections to the German Bundestag on 24 September 2017, when submitting the activity report for 2017,

— allegedly submitted an incorrect activity report to the President of the Bundestag for the financial year 2018, in connection with the elections to the 18th Bavarian Regional Parliament, which took place on 14 October 2018;

---

[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.

Tuesday 15 February 2022

C. whereas Jörg Meuthen was elected as a Member of the European Parliament with effect from 8 November 2017;

D. whereas the alleged offences do not concern opinions expressed or votes cast in the performance of the duties of a Member of the European Parliament within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;

E. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union provides that Members of the European Parliament enjoy, in the territory of their own State, the immunities accorded to members of their parliament;

F. whereas Article 46(2), (3) and (4) of the Basic Law of the Federal Republic of Germany provides:

'(2) A Member may not be called to account or arrested for a punishable offense without permission of the Bundestag, unless he is apprehended while committing the offense or in the course of the following day.

(3) The permission of the Bundestag shall also be required for any other restriction of a Member's freedom of the person or for the initiation of proceedings against a Member under Article 18.

(4) Any criminal proceedings or any proceedings under Article 18 against a Member and any detention or other restriction of the freedom of his person shall be suspended at the demand of the Bundestag.';

G. whereas Article 192b of the *Richtlinien für das Strafverfahren und das Bußgeldverfahren* governs waivers of the immunity of Members of the European Parliament, and whereas, in particular, paragraph 1 thereof provides as follows:

'(1) German Members of the European Parliament shall benefit from the immunity enjoyed by members of the German Bundestag. (…)';

H. 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' ([2]);

I. whereas the purpose of parliamentary immunity 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;

J. whereas in this case, Parliament has found no evidence of *fumus persecutionis*, i.e. factual elements which indicate that the intention underlying the legal proceeding may be to damage a Member's political activity and thus the European Parliament;

1. Decides to waive the immunity of Jörg Meuthen;

2. Instructs its President to forward this decision and the report of its committee responsible immediately to the German authorities and to Jörg Meuthen.

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