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Request for waiver of the immunity of Ioannis Lagos

European Parliament decision of 6 February 2024 on the request for waiver of the immunity of Ioannis Lagos (2023/2092(IMM))

(C/2024/6345)

The European Parliament,

— having regard to the request by the Deputy Public Prosecutor at the Athens Court of First Instance for the waiver of the immunity of Ioannis Lagos, transmitted by letter dated 31 May 2023 by the Deputy Prosecutor of the Supreme Court of Greece in connection with possible criminal charges (Re. ABM: RB 2022/13-EG: 104-23/3), and announced in plenary on 14 June 2023,

— having heard Ioannis Lagos in accordance with Rule 9(6) of its Rules of Procedure,

— having regard to Article 8 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, 17 January 2013, 17 January 2013 and 19 December 2019 ([1]),

— 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 (A9-0027/2024),

A. whereas the Deputy Public Prosecutor at the Athens Court of First Instance has submitted a request for waiver of the parliamentary immunity of Ioannis Lagos in order to launch criminal proceedings against him on the grounds of a statement he posted on the internet;

B. whereas on 1 March 2022, Ioannis Lagos published a message on his party's website allegedly constituting public incitement to violence or hatred against a group of people identified on the basis of national origin, religion or sexual orientation in violation of Article 1 of Greek Law No 927/1979 as amended by Greek Laws No 4285/2014 and No 4491/2017;

C. whereas on 2 March 2022, the Greek Observatory of the Helsinki Accords notified the Athens Court of First Instance, for information and necessary action, of the message posted by Ioannis Lagos the day before;

D. whereas, on 1 March 2022, Ioannis Lagos took part in the European Parliament plenary vote on the motion for resolution on 'Russian aggression against Ukraine' and whereas, on the same day, after the vote, he published on his party's website a statement entitled 'I will not sell out, nor will I betray my principles and beliefs' explaining the reasons leading to his vote;

E. whereas, by making that statement, Ioannis Lagos is allegedly guilty of public incitement to violence and hatred against a group of people identified on the basis of national origin, religion or sexual orientation, which constitutes a criminal offence under Article 1 of Greek Law No 927/1979 as amended by Greek Laws No 4285/2014 and No 4491/2017;

F. whereas parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of Parliament as a whole and of its Members;

G. 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]) 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.

H. whereas Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union stipulates that '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';

I. whereas a statement made by a Member outside the European Parliament may constitute an opinion expressed in the performance of their duties, within the meaning of Article 8 of the Protocol, where it contains a subjective assessment having a direct and obvious connection with the performance of that Member's duties in the European Parliament; whereas whether or not this is the case must therefore be determined by the nature and content of the statement and not by the place where it was made;

J. whereas nowadays the political debate in which Members of the European Parliament participate, in the exercise of their mandate, increasingly takes place also outside Parliament's premises, including on the internet;

K. whereas, against this background, the statement published by Ioannis Lagos was clearly made in his capacity as a Member of the European Parliament and whereas a direct and obvious connection between the statement under consideration and the parliamentary mandate of Ioannis Lagos can be deemed to exist;

1. Decides not to waive the immunity of Ioannis Lagos;

2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent authority of the Hellenic Republic and to Ioannis Lagos.