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Request for waiver of the immunity of Georgios Kyrtsos

European Parliament decision of 6 February 2024 on the request for waiver of the immunity of Georgios Kyrtsos (2023/2185(IMM))

(C/2024/6346)

The European Parliament,

— having regard to the request for waiver of the immunity of Georgios Kyrtsos from the Public Prosecutor at the Athens Court of First Instance in connection with criminal proceedings, transmitted by the Deputy Prosecutor of the Supreme Court of Greece by letter dated 27 June 2023 and announced in plenary on 10 July 2023,

— having heard Georgios Kyrtsos 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 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 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 (A9-0028/2024),

A. whereas the Prosecutor of the Athens Court of First Instance has requested the waiver of the immunity of Georgios Kyrtsos, Member of the European Parliament elected for Greece, in connection with criminal proceedings to be brought against him for non-payment of a certain amount owed to the Greek State;

B. whereas Georgios Kyrtsos, in his capacity as deputy managing director of the company KMP Ekdotiki Anonimi Etaireia [KMP Publishing plc], is accused of failing to pay a certain amount owed to the Greek State;

C. whereas the act allegedly committed by Georgios Kyrtsos constitutes an offence of non-payment of debts to the State under Article 25(1)(b) of Greek Law No 1882/90, as replaced by Article 23(1) of Greek Law 2523/97, as amended by Article 18(2) and 28(2-4) of Greek Law No 2948/01, as supplemented by Article 34 of Greek Law No 3016/02, by Article 34(1) of Greek Law No 3220/04 and by Article 3(1) of Greek Law No 3943/11, as replaced by Article 20 of Greek Law No 4321/15, as amended by Article 71(2) of Greek Law No 4174/13, which was added with Article 8 of Greek Law No 4337/15 and as supplemented with Article 469 of Greek Law No 4619/19;

D. 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; whereas the alleged offence clearly has no direct link with the activities of Georgios Kyrtsos as a Member of the European Parliament, but instead relates to his position as manager of his newspaper company;

E. whereas the alleged offence also does not constitute opinions expressed or votes cast in the performance of Georgios Kyrtsos's duties as 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;

([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.

F. whereas by virtue of 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 and, in the territory of any other Member State, immunity from any measure of detention and from legal proceedings; whereas immunity cannot be claimed when a Member is found in the act of committing an offence, nor prevent the European Parliament from exercising its right to waive the immunity of one of its Members;

G. whereas Article 62 of the Constitution of the Hellenic Republic provides that, during their parliamentary term, members of parliament may not be prosecuted, arrested, imprisoned or otherwise confined without prior leave granted by parliament;

H. whereas in this case, Parliament has found no evidence of *fumus persecutionis*, which is to say factual elements indicating that the judicial investigation in question was initiated with the intention of damaging the political activity of the Member in his capacity as a Member of the European Parliament;

I. whereas it is for Parliament alone to decide, in a given case, whether or not to waive immunity; whereas Parliament may reasonably take account of the position of the Member in order to decide whether or not to waive his/her immunity ([2]); whereas, at his hearing, Georgios Kyrtsos stated that he did not object to his parliamentary immunity being waived;

J. 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 ([3]);

1. Decides to waive the immunity of Georgios Kyrtsos;

2. Instructs its President to forward this decision and the report of its committee responsible immediately to the Greek authorities and to Georgios Kyrtsos.

([2]) Judgment of the General Court of 15 October 2008, *Mote* v *Parliament*, T-345/05, ECLI:EU:T:2008:440, paragraph 28.
([3]) Judgment of the General Court of 30 April 2019, *Briois* v *Parliament*, T-214/18, ECLI:EU:T:2019:266.