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II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

P9_TA(2021)0443

Request for the waiver of the immunity of Fulvio Martusciello

European Parliament decision of 11 November 2021 on the request for waiver of the immunity of Fulvio Martusciello (2021/2049(IMM))

(2022/C 205/06)

The European Parliament,

— having regard to the request for waiver of the immunity of Fulvio Martusciello, submitted on 31 March 2021 by the Federal Public Service for Foreign Affairs of the Kingdom of Belgium, and announced in plenary on 26 April 2021,

— having heard Fulvio Martusciello 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, 6 September 2011, 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 (A9-0302/2021),

A. whereas the Prosecutor General at the Brussels Court of Appeal has requested the waiver of the immunity of Fulvio Martusciello, Member of the European Parliament elected for Italy, in connection with a speeding offence in breach of Article 11.2(1)(a) of the Royal Decree of 1 December 1975 laying down general regulations on road traffic police and the use of public roads and Article 29(3) of the Law of 16 March 1968 on road traffic police;

B. whereas on 25 November 2020, as part of an anti-speeding campaign, the traffic police intercepted a vehicle on the E411 motorway that was recorded as travelling at 179 km/h in a 120 km/h zone;

[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.

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C. whereas the driver of that vehicle was identified by the police as Fulvio Martusciello, who stated that he was a Member of the European Parliament; whereas on 15 December 2020 Fulvio Martusciello was sent a copy of the police report by the Walloon Brabant Public Prosecutor, asking him to submit any comments, and in response did not contest the speeding offence;

D. 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]);

E. whereas the alleged offence has no direct or obvious bearing on the performance by Fulvio Martusciello of his duties as a Member of the European Parliament, and nor does it constitute an opinion expressed or a vote cast in the performance of those duties within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;

F. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union states:

'During the sessions of the European Parliament, its Members shall enjoy:

(a) in the territory of their own State, the immunities accorded to members of their parliament;

(b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.';

G. whereas, in this case, Parliament has found no evidence of *fumus persecutionis*, i.e. facts which suggest that the intention underlying the legal proceedings in question is to undermine the Member's political activity as a Member of the European Parliament;

1. Decides to waive the immunity of Fulvio Martusciello;

2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent authority of the Kingdom of Belgium and to Fulvio Martusciello.

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