Tuesday 27 April 2021

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Request for waiver of the immunity of Ioannis Lagos

European Parliament decision of 27 April 2021 on the request for waiver of the immunity of Ioannis Lagos (2020/2240(IMM))

(2021/C 506/20)

The European Parliament,

— having regard to the request submitted on 23 October 2020 by the Supreme Court Prosecutor of the Hellenic Republic for waiver of the immunity of Ioannis Lagos with a view to the enforcement against him of Decisions 2425, 2473, 2506 and 2644/2020 handed down by the Athens Court of Appeal (First Chamber with three judges adjudicating on criminal matters), announced in plenary on 11 November 2020,

— having heard Ioannis Lagos pursuant to 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 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 (A9-0136/2021),

A. whereas the prosecutor responsible for these proceedings has requested waiver of the immunity of Ioannis Lagos, Member of the European Parliament, with a view to enforcing against him a prison sentence of thirteen (13) years and eight (8) months and a total fine of one thousand three hundred euros (EUR 1 300) for one major crime and two smaller offences;

B. 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;

C. whereas Ioannis Lagos was elected to the European Parliament on 2 July 2019 and the request for waiver of immunity concerns acts and indictments relating to a period before he became a Member of the European Parliament and acquired immunity as such;

D. whereas, under Article 62 of the Constitution of the Hellenic Republic, no Member may, during his or her term of office, be prosecuted, arrested, imprisoned or subject to other measures involving deprivation of liberty without the authorisation of the Chamber of Deputies;

E. whereas Ioannis Lagos was found guilty of (a) the crime of membership and leadership of a criminal organisation (Article 187 (1) and (3) of the Criminal Code) committed in Athens between 2008 and today, (b) the offence of possession of a weapon (Law No 2168/1993), following an authorised amendment to the charge which was that of ownership of a weapon, committed in Perama (Attica) on 30 September 2013 and (c) breach of Law No 456/1976 on flare pistols and fireworks, committed in Perama (Attica) on 29 September 2013;

F. whereas the sentence handed down by the Athens appeal court is directly enforceable, the court having ruled that the appeal against the decision shall not have suspensory effect;

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[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.

G. whereas the Committee on Legal Affairs has duly noted the documents presented to it by Ioannis Lagos pursuant to Rule 9(6) of the Rules of Procedure and considered by him to be relevant to the proceedings;

H. whereas enforcement of the sentence does not concern opinions expressed or votes cast by Ioannis Lagos in the performance of his duties within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;

I. whereas, pursuant to Rule 9(8) of the Rules of Procedure, the Committee on Legal Affairs shall not, under any circumstances, pronounce on the guilt, or otherwise, of the Member, nor shall it pronounce on whether or not the opinions or acts attributed to the Member justify prosecution, even if the committee, in considering the request, acquires detailed knowledge of the facts of the case;

J. whereas it is not for the European Parliament to query the merits of national legal and judicial systems;

K. whereas the European Parliament is not empowered to assess or query the jurisdiction of the national judicial authorities in charge of the criminal proceedings under consideration;

L. whereas Ioannis Lagos is one of a number of individuals in a similar situation of being condemned by the Athens Appeal Court to a prison term of several years for the offences in question, the only difference being that he currently enjoys immunity as a Member of the European Parliament;

M. whereas, pursuant to Rule 5(2) of its Rules of Procedure, parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of Parliament as a whole, and of its Members;

N. 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;

O. whereas the alleged offences have no clear or direct bearing on the performance by Mr Ioannis Lagos of his duties as a Member of the European Parliament;

P. whereas they occurred prior to his election to the European Parliament; whereas on this basis, it cannot be claimed that the judicial proceedings initiated in 2014 were intended to hinder the future political activity of Ioannis Lagos as a Member of the European Parliament, since his future status as a Member of the European Parliament was at that time still hypothetical;

Q. whereas, in this case, Parliament found no evidence of *fumus persecutionis*, i.e. factual elements which suggest that the intention underlying the legal proceedings in question was to undermine the Member's political activity, including his activity as a Member of the European Parliament;

1. Decides 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 Supreme Court Prosecutor of the Hellenic Republic and to Ioannis Lagos.