Tuesday 15 February 2022

P9_TA(2022)0017

Request for the defence of immunity of Mario Borghezio

European Parliament decision of 15 February 2022 on the request for defence of the privileges and immunities of Mario Borghezio (2021/2159(IMM))

(2022/C 342/25)

The European Parliament,

— having regard to the request by Mario Borghezio of 13 November 2018, announced in plenary on 25 March 2019, reiterated on 27 May 2021 by Mario Borghezio and forwarded to the Committee on Legal Affairs on 7 July 2021, for the defence of his privileges and immunities in connection with criminal proceedings No 4975/16 RGNR before the Public Prosecutor's Office in Imperia, Italy,

— having heard Mario Borghezio 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) and Rules 7 and 9 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A9-0015/2022),

A. whereas Mario Borghezio, Member of the European Parliament until 2 July 2019, has requested the defence of his parliamentary immunity in connection with criminal proceedings before the Public Prosecutor's Office in Imperia;

B. whereas Mario Borghezio is alleged to have had an altercation with an employee of a railway company who refused to allow him to travel on a train because he did not have a valid ticket;

C. whereas Mario Borghezio, in his hearing before the Committee on Legal Affairs, said nothing that could lead to the conclusion that the altercation in question concerned the expression of a political opinion by the former Member;

D. whereas, therefore, the alleged offence does 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 is applicable only to Members of the European Parliament; whereas Mario Borghezio was a Member of the European Parliament until 2 July 2019; whereas ceasing to be a Member of the European Parliament consequently entails the loss of the related immunity, the duration of which is limited, under Article 9 of Protocol No 7, to that mandate [2];

F. 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 not to defend the privileges and immunities of Mario Borghezio;

2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent Italian authorities and to Mario Borghezio.

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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.

[2] Judgment T-284/17, paragraph 28.

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