EP Rules of Procedure, Rule 7: waiver and defence of parliamentary immunity

2013/2031(REG) - 08/01/2014 - Committee report tabled for plenary, single reading

The Committee on Constitutional Affairs adopted the report by Anneli JÄÄTTEENMÄKI (ADLE, FI) on the amendment of Parliament's Rules of Procedure on the waiver and the defence of parliamentary immunity.

Members stipulated that **Parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of Parliament as a whole and of its Members**.

Procedures on immunity: the report stated that any request for waiver of immunity shall be evaluated in accordance with Articles 7, 8 and 9 of the Protocol on the Privileges and Immunities of the European Union and with the principles referred to in the Parliament's Rules of Procedure.

Defence of privileges and immunity: in a new Article it is stated that in cases where the privileges and immunities of a Member or former Member are alleged to have been breached by the authorities of a Member State, a request for a Parliament decision as to whether there has, in fact, been a breach of those privileges and immunities may be made. In particular, such a request for the defence of privileges and immunities may be made if it is considered that the circumstances constitute an administrative or other restriction on the free movement of Members travelling to or from the place of meeting of Parliament or on an **opinion expressed or a vote cast in the performance of their duties**, or that they fall within the scope of Article 9 of the Protocol on the Privileges and Immunities of the European Union.

Admissibility: it is stipulated that a request for the defence of the privileges and immunities of a Member shall not be admissible if a request for the waiver or defence of that Member's immunity has already been received in respect of the **same legal proceedings**, whether or not a decision has been taken at that time.

Reconsideration: in cases where a decision has been taken not to defend the privileges and immunities of a Member, the Member may make a request for reconsideration of the decision, submitting **new evidence**. The request for reconsideration shall be inadmissible if proceedings have been instituted against the decision under Article 263 of the Treaty on the Functioning of the European Union, or if the President considers that the new evidence submitted is not sufficiently substantiated to warrant reconsideration.

Right to be heard: clarifications have been made to ensure that Members may be heard, but that they cannot repeatedly postpone their hearing in order to block judicial proceedings against them.

Principles for the application of this Rule: a new provision has been introduced on the principles for application. This addition is not meant to empower the committee to make substantive assessments, which in the end are a matter for Parliament. The aim is to ensure that when the cases are similar, so too will be the approaches proposed by the Committee on Legal Affairs, thus laying the foundations for a kind of 'case law'.

It should be noted that a certain number of articles have been moved. These concern:

- emergency situations (as a matter of urgency, in circumstances where a Member is arrested or has his or her freedom of movement curtailed in apparent breach of their privileges and immunities, the President, after consulting the chair and rapporteur of the committee responsible, may take an initiative to assert the privileges and immunities of the Member concerned);

- defence of privileges and immunity;
- provisions on hearings ;
- the question whether a request for a waiver of immunity is required in cases where Members are to appear as witnesses.
- the basic criteria for defending the immunity of a Member.