Request for the waiver of the immunity of Mylène Troszczynski

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The Committee on Legal Affairs adopted the report by Tadeusz ZWIEFKA (EPP, PL) on the request for waiver of the immunity of **Mylène TROSZCZYNSKI** (ENF, FR).

As a reminder, the request to waive the immunity of Mylène Troszczynski was forwarded by the Minister of Justice of the French Republic in connection with a judicial investigation being conducted by the Bobigny Public Prosecutor on the grounds of **public defamation** and incitement to hatred or violence in respect of a person or group of persons on account of their origin or membership or non-membership of a particular ethnic group, nation, race or religion.

The request relates to the posting on her Twitter account on 23 September 2015 of a picture of women wearing the full veil who seem to be queuing outside the offices of a CAF (*Caisse d'allocations familiales* – Family Allowances Fund), accompanied by the comment 'Rosny-Sous-Bois CAF on 9.12.14. Wearing of the full veil is supposed to be prohibited by law...'.

The offending image was in fact a **photomontage based on a picture taken in London** and already used by another Twitter account holder. The investigation revealed that it was not Mylène Troszczynski who published the message online, but her assistant, who confessed to having done so.

Mylène Troszczynski promptly removed it from her Twitter account.

Members recalled that Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union states that Members shall enjoy, in the territory of their own State, the immunities accorded to members of the Parliament of that State.

The scope of immunity accorded to Members of the French Parliament corresponds in fact to the scope of immunity accorded to Members of the European Parliament under Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union.

The Court of Justice of the European Union has held that for a Member of the European Parliament to enjoy immunity an opinion must be expressed by the Member in the performance of his or her duties, thus entailing **the requirement of a link between the opinion expressed and the parliamentary duties**. Such link must be direct and obvious.

However, the charges are **unrelated to the position of Mylène Troszczynski as a Member of the European Parliament** and concern instead activities of a regional nature, given that the forged picture and the comments referred to what was allegedly happening in Rosny-Sous-Bois, in violation of the French law.

Therefore, there is no suspicion of *fumus persecutionis*, which is any evident attempt to obstruct the parliamentary work of Mylène Troszczynski, behind the judicial inquiry which was opened following a complaint alleging defamation of a public administration, lodged by the Seine-Saint-Denis Family Allowances Fund represented by its general manager.

The committee on legal affairs recommended the European Parliament to waive the immunity of **Mylène Troszczynski**.