

Decision on the request for waiver of the immunity of José Manuel Fernandes

2019/2005(IMM) - 14/11/2019 - Text adopted by Parliament, single reading

The European Parliament decided to waive the parliamentary immunity of José Manuel FERNANDES (EPP, PT).

As a reminder, the Porto Department of Criminal Investigation and Prosecution has requested the waiver of the immunity of José Manuel Fernandes, Member of the European Parliament, in connection with a possible legal action concerning an alleged crime of malfeasance, provided for in and punishable under Portuguese Law 34/87 of 16 July, which carries a prison sentence of two to eight years.

José Manuel Fernandes, in his capacity as Mayor of Vila Verde and in the performance of his tasks in that role and in collusion with others, is under investigation for allegedly violating the general principles of public procurement rules and specifically, the principles of impartiality, neutrality, competition and transparency, by putting a company in a more favourable position than its competitors, and allegedly participating in the prior preparation and completion of documents required for the tender procedure. That company was awarded the tender on 22 December 2008.

José Manuel Fernandes asked for his immunity to be waived. It is for Parliament alone to decide, in a given case, whether or not to waive immunity and it may reasonably take account of the position of the Member in order to decide whether or not to waive his or her immunity.

Members stressed that the legal proceeding does not concern opinions expressed or votes cast in the performance of the duties of the Member of the European Parliament for the purposes of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union.

Moreover, Parliament has found no evidence of *fumus persecutionis*, i.e. factual elements which indicate that the intention underlying the legal proceeding may be to damage a Member's political activity.