Request for the waiver of the immunity of Tomasz Piotr Porba

2023/2024(IMM) - 09/11/2023 - Text adopted by Parliament, single reading

The European Parliament decided to waive the immunity of Tomasz Piotr PORBA (ECR, PL).

On 17 October 2018, an election clip entitled ‘Safe Local Government’ was posted on social media on the Law and Justice Party’s Twitter account in the context of the municipal elections held in Poland on 21 October 2018. Dissemination was facilitated by, among others, Tomasz Piotr Porb. The post allegedly incited hatred against Muslim immigrants.

On 13 December 2022, the XIV Criminal Division of the Warsaw-Mokotów District Court transmitted a request for waiver of the parliamentary immunity of Tomasz Piotr Porba, elected in Poland, that request having been submitted to it by a private individual in response to a post on the Law and Justice Party’s Twitter account that allegedly incited national, ethnic, racial and religious hatred.

The request for waiver of parliamentary immunity was transmitted by the judicial authority in accordance with Rule 9(12) of the Rules of Procedure of the European Parliament.

Tomasz Piotr Porba is one of the individuals among a group of individuals who find themselves in a similar situation of being charged with the alleged offence in question, with the only difference being that he currently enjoys immunity as a Member of the European Parliament.

Parliament stated that the alleged offence does not concern opinions expressed or votes cast by Tomasz Piotr Porba in the performance of his duties as 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 but relates to activities of a local nature.

The resolution also noted that a Member of the European Parliament cannot be interviewed as a suspect or be held criminally liable without the consent of the European Parliament. Parliament cannot assume the role of a court, and whereas, in a waiver of immunity procedure, a Member cannot be regarded as a defendant.

In this case, 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 and thus the European Parliament.

Therefore, following the recommendation of its Legal Affairs Committee, the European Parliament decided to waive the immunity of Tomasz Piotr Porba.