Basic information

2012/2325(IMM) IMM - Members' immunity	Procedure completed
Request for the waiver of parliamentary immunity of Marine Le Pen **Subject** 8.40.01.03 Members' immunity	

Key players

	Committee responsible	Rapporteur	Appointed
European Parliament	JURI Legal Affairs	WIKSTRÖM Cecilia (ALDE)	18/12/2012

Key events

Date	Event	Reference	Summary
19/06/2013	Vote in committee		
25/06/2013	Committee report tabled for plenary	A7-0236/2013	Summary
02/07/2013	Decision by Parliament	T7-0292/2013	Summary
02/07/2013	Results of vote in Parliament		
02/07/2013	End of procedure in Parliament		

Technical information

Procedure reference	2012/2325(IMM)
Procedure type	IMM - Members' immunity
Procedure subtype	Waiver of immunity
Legal basis	Rules of Procedure EP 6
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/11535

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary

Committee report tabled for plenary, single reading		A7-0236/2013	25/06/2013	Summary
Text adopted by Parliament, single reading		T7-0292/2013	02/07/2013	Summary

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Request for the waiver of parliamentary immunity of Marine Le Pen

2012/2325(IMM) - 25/06/2013 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted the report by Cecilia WIKSTRÖM (ALDE, SE) in which it **recommends that the European Parliament should waive the immunity of Marine LE PEN (NI, FR).**

To recall, the Chief Prosecutor at the Lyon Court of Appeal sent a request to Parliament to waive the parliamentary immunity of Marine LE PEN in the context of a legal action concerning an alleged offence of **incitement to hatred**, discrimination or violence against a group of persons on grounds of their religious affiliation.

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. This immunity thus covers opinions expressed by the Member while carrying out her duties.

However, the European Court of Justice has held “a statement made by a Member of the European Parliament beyond the precincts of that institution and giving rise to prosecution in his Member State of origin for the offence of making false accusations **does not constitute an opinion expressed in the performance of his parliamentary duties** covered by the immunity afforded by that provision unless that statement amounts to a subjective appraisal having a direct, obvious connection with the performance of those duties”. The Court has also recently recalled its case-law in the Gollnisch case according to which the opinion (in the broadest sense) of an MEP is covered by immunity – established on the basis of EU law – only where it was expressed ‘in the performance of [his duties]’, **thus implying the requirement of a link between the opinion expressed and the performance of the parliamentary duties**. That link must be direct and obvious.

On the basis of the facts of the present case there are no grounds for establishing the required direct and obvious link. The case does not fall within the scope of Marine LE PEN’s political activities as Member of the European Parliament as it concerns instead activities of a purely national or regional nature given that the speech was made to electors in Lyon as part of her campaign to be elected president of Front National and was thus distinct from her activity of Member of the European Parliament.

As a result, the alleged action does not therefore have a direct, obvious connection with Marine LE PEN’s performance of her duties as a Member of the European Parliament. Nor does it constitute an opinion expressed in the performance of her duties as a Member of the European Parliament for the purposes of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union. The accusation has no connection with Ms LE PEN’s office of Member of the European Parliament and, based on the explanations provided to the committee, there is no reason to suspect the existence of a *fumus persecutionis*.

On the basis of the above considerations, after considering the reasons for and against waiving the Member’s immunity, it is recommended that **the European Parliament should waive the parliamentary immunity of Marine LE PEN**.

Request for the waiver of parliamentary immunity of Marine Le Pen

2012/2325(IMM) - 02/07/2013 - Text adopted by Parliament, single reading

The European Parliament decided to **waive the immunity of Marine LE PEN (NI, FR).**

To recall, the Chief Prosecutor at the Lyon Court of Appeal sent a request to Parliament to waive the parliamentary immunity of Marine LE PEN in the context of a legal action concerning an alleged offence of **incitement to hatred**, discrimination or violence against a group of persons on grounds of their religious affiliation.

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. This immunity thus covers opinions expressed by the Member while carrying out her duties.

However, the European Court of Justice has held “a statement made by a Member of the European Parliament beyond the precincts of that institution and giving rise to prosecution in his Member State of origin for the offence of making false accusations **does not constitute an opinion expressed in the**

performance of his parliamentary duties covered by the immunity afforded by that provision unless that statement amounts to a *subjective appraisal having a direct, obvious connection with the performance of those duties*".

The case does not fall within the scope of Marine LE PEN's political activities as Member of the European Parliament as it concerns instead activities of a purely national or regional nature given that the speech was made to electors in Lyon as part of her campaign to be elected president of Front National and was thus distinct from her activity of Member of the European Parliament.

Given that there is no reason to suspect the existence of a *fumus persecutionis*, the European Parliament decided to waive the parliamentary immunity of Marine LE PEN.