



Plenary sitting

A9-0231/2023

27.6.2023

REPORT

on the request for waiver of the immunity of Georgios Kyrtos
(2023/2025(IMM))

Committee on Legal Affairs

Rapporteur: Sergey Lagodinsky

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PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the request for waiver of the immunity of Georgios Kyrtzos (2023/2025(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Georgios Kyrtzos from the Public Prosecutor at the Athens Court of First Instance in connection with criminal proceedings, transmitted by the Deputy Prosecutor of the Supreme Court of Greece by letter dated 27 January 2023 and announced in plenary on 14 February 2023,
 - having regard to the fact that Georgios Kyrtzos has renounced his right to be heard under Rule 9(6) of its Rules of Procedure,
 - having regard to Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the European Union, and Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,
 - having regard to the judgments of the Court of Justice of the European Union of 21 October 2008, 19 March 2010, 6 September 2011, 17 January 2013 and 19 December 2019¹,
 - having regard to Article 62 of the Constitution of the Hellenic Republic,
 - having regard to Rule 5(2), Rule 6(1) and Rule 9 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A9-0231/2023),
- A. whereas the Prosecutor of the Athens Court of First Instance has requested the waiver of the immunity of Georgios Kyrtzos, Member of the European Parliament elected for Greece, in connection with criminal proceedings to be launched against him regarding non-payment of amounts owed to the Greek State;
- B. whereas Georgios Kyrtzos, in his capacity as CEO and legal representative of the company Free Sunday Publishing House Ltd., is accused of failing to pay EUR 459 918.18 owed to the Greek State;
- C. whereas the act allegedly committed by Georgios Kyrtzos constitutes the criminal offence of delay in the payment of amounts owed to the State under Article 25 of Greek Law 1882/90, as supplemented by Article 20(8) of Greek Law 2298/95, replaced by Article 23(1) of Greek Law 2523/97, amended by Article 34 of Greek Law 3220/2004, replaced by Article 3(1) of Greek Law 3943/2011, replaced by Article 20 of Greek Law

¹ Judgment of the Court of Justice of 21 October 2008, *Marra v De Gregorio and Clemente*, C 200/07 and C-201/07, ECLI:EU:C:2008:579; judgment of the General Court of 19 March 2010, *Gollnisch v Parliament*, T-42/06, ECLI:EU:T:2010:102; judgment of the Court of Justice of 6 September 2011, *Patriciello*, C 163/10, ECLI: EU:C:2011:543; judgment of the General Court of 17 January 2013, *Gollnisch v Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23; judgment of the Court of Justice of 19 December 2019, *Junqueras Vies*, C-502/19, ECLI:EU:C:2019:1115.

4321/2015 and amended by Article 8 of Greek Law 4337/2015;

- D. whereas Parliament cannot assume the role of a court, and whereas, in a waiver of immunity procedure, a Member cannot be regarded as a defendant²;
 - E. whereas the alleged offences do not constitute opinions expressed or votes cast 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;
 - F. whereas the purpose of parliamentary immunity is to protect Parliament and its Members from legal proceedings in relation to activities carried out in the performance of parliamentary duties and which cannot be separated from those duties; whereas the alleged offence clearly has no direct link with the activities of Georgios Kyrtsos as a Member of the European Parliament, but instead relates to his former position as manager of his newspaper company;
 - G. whereas by virtue of Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union, Members of the European Parliament enjoy, in the territory of their own State, the immunities accorded to members of their parliament and, in the territory of any other Member State, immunity from any measure of detention and from legal proceedings; whereas immunity cannot be claimed when a Member is found in the act of committing an offence, nor prevent the European Parliament from exercising its right to waive the immunity of one of its Members;
 - H. whereas Article 62 of the Constitution of the Hellenic Republic provides that, during their parliamentary term, members of parliament may not be prosecuted, arrested, imprisoned or otherwise confined without prior leave granted by parliament;
 - I. whereas in this case, Parliament has found no evidence of *fumus persecutionis*, which is to say factual elements indicating that the judicial investigation in question was initiated with the intention of damaging the political activity of the Member in his capacity as a Member of the European Parliament;
1. Decides to waive the immunity of Georgios Kyrtsos;
 2. Instructs its President to forward this decision and the report of its committee responsible immediately to the Greek authorities and to Georgios Kyrtsos.

² Judgment of the General Court of 30 April 2019, *Briois v Parliament*, T-214/18, ECLI:EU:T:2019:266.

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	27.6.2023
Result of final vote	+: 19 -: 0 0: 0
Members present for the final vote	Pascal Arimont, Ilana Cicurel, Angel Dzhambazki, Ibán García Del Blanco, Sergey Lagodinsky, Gilles Lebreton, Maria-Manuel Leitão-Marques, Karen Melchior, Franco Roberti, Raffaele Stancanelli, Adrián Vázquez Lázara, Axel Voss, Marion Walsmann, Lara Wolters, Javier Zarzalejos
Substitutes present for the final vote	Caterina Chinnici, Andrzej Halicki, René Repasi, Yana Toom