

Procedure file

Basic information		
IMM - Members' immunity	2016/2107(IMM)	Procedure completed
Request for the waiver of the immunity of Jean-François Jalkh		
Subject 8.40.01.03 Members' immunity		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs		

Key events			
08/11/2016	Vote in committee		
10/11/2016	Committee report tabled for plenary	A8-0319/2016	Summary
22/11/2016	Results of vote in Parliament		
22/11/2016	Decision by Parliament	T8-0430/2016	Summary
22/11/2016	End of procedure in Parliament		

Technical information	
Procedure reference	2016/2107(IMM)
Procedure type	IMM - Members' immunity
Procedure subtype	Waiver of immunity
Legal basis	Rules of Procedure EP 6
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/06828

Documentation gateway					
Committee report tabled for plenary, single reading		A8-0319/2016	10/11/2016	EP	Summary
Text adopted by Parliament, single reading		T8-0430/2016	22/11/2016	EP	Summary

Request for the waiver of the immunity of Jean-François Jalkh

Jean-François JALKH (ENF, FR).

The request for waiver of the immunity of Jean-François Jalkh was forwarded on 14 April 2016 by the French Minister of Justice and Liberties in connection with a judicial inquiry (file No 1422400530) opened against Jean-François Jalkh at the Paris District Court in response to an application with joinder filed by the Association ?National Office for Vigilance against Anti-Semitism (BNVCA)? on grounds of public incitement to discrimination, hatred or violence.

The Public Prosecutor at the Paris Court of Appeal requested the waiver of the parliamentary immunity of a Member of the European Parliament, Jean-François Jalkh, in connection with a legal action concerning an alleged offence of incitement to discrimination, 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, an offence provided for in French law, namely in Article 24(8) and Article 23(1) of the Law of 29 July 1881.

Jean-François Jalkh was accused by the Association ?National Office for Vigilance against Anti-Semitism (BNVCA)? in an application lodged with the Senior Examining Magistrate in Paris on 12 August 2014. The complaint concerned statements made by Jean-Marie Le Pen during an interview disseminated on the official National Front?s website regarding the singer Patrick Bruel, who had said that he could no longer perform in towns which had elected mayors belonging to the National Front. Jean-François Jalkh was the publications director of the official website of the National Front.

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 Court of Justice 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 duties, thus entailing the requirement of a link between the opinion expressed and the parliamentary duties. Such link must be direct and obvious.

Given that Jean-François Jalkh had not assumed his duties as a Member of the European Parliament when the alleged offence took place, namely on 6 June 2014, assuming them only as of 1 July 2014 and that the charges are manifestly unrelated to the position of Jean-François Jalkh as a Member of the European Parliament and that there is no suspicion of any attempt to obstruct the parliamentary work of Jean-François Jalkh (*fumus persecutionis*) behind the judicial inquiry which was opened following an application by the BNVCA, Members called on the European Parliament to waive the immunity of Jean-François Jalkh.

Request for the waiver of the immunity of Jean-François Jalkh

The European Parliament decided to waive the immunity of Jean-François JALKH (ENF, FR).

The French Minister of Justice and Liberties forwarded the request on 14 April 2016 in connection with a judicial inquiry opened against Jean-François Jalkh at the Paris District Court in response to an application with joinder filed by the Association ?National Office for Vigilance against Anti-Semitism (BNVCA)? on grounds of public incitement to discrimination, hatred or violence.

The Public Prosecutor at the Paris Court of Appeal requested the waiver of the parliamentary immunity of a Member of the European Parliament, Jean-François Jalkh, in connection with a legal action concerning an alleged offence of incitement to discrimination, 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.

Parliament 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. It also recalled that the Court of Justice 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 duties, thus entailing the requirement of a link between the opinion expressed and the parliamentary duties. Parliament decided to waive the immunity of Jean-François Jalkh because:

- Jean-François Jalkh had not assumed his duties as a Member of the European Parliament when the alleged offence took place;
- there is no suspicion of any attempt to obstruct his parliamentary work (*fumus persecutionis*).