


Procedure file

Basic information	
IMM - Members' immunity	2019/2005(IMM)
Decision on the request for waiver of the immunity of José Manuel Fernandes	Procedure completed
Subject	8.40.01.03 Members' immunity

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs	 GARCÍA DEL BLANCO Ibán	24/07/2019
	Former committee responsible		
	 Legal Affairs		

Key events			
12/11/2019	Vote in committee		
12/11/2019	Committee report tabled for plenary	A9-0023/2019	Summary
14/11/2019	Results of vote in Parliament		
14/11/2019	Decision by Parliament	T9-0051/2019	Summary
14/11/2019	End of procedure in Parliament		

Technical information	
Procedure reference	2019/2005(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 159
Stage reached in procedure	Procedure completed
Committee dossier	JURI/9/00522

Documentation gateway					
Committee report tabled for plenary, single reading		A9-0023/2019	12/11/2019	EP	Summary
Text adopted by Parliament, single reading		T9-0051/2019	14/11/2019	EP	Summary

The Committee on Legal Affairs adopted the report by Ibán GARCÍA DEL BLANCO (S&D, ES) on the request for waiver of the parliamentary immunity of José Manuel FERNANDES (EPP, PT).

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 by putting a company in a more favourable position than its competitors, as this company was awarded the tender on 22 December 2008.

Given that 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 Members political activity, the committee recommended that the European Parliament waive the immunity of José Manuel Fernandes.

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

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 Members political activity.