Procedure file

Basic information

IMM - Members' immunity	2022/2056(IMM)	Procedure completed
Request for the waiver of the immunity of Nicolaus Fest Subject 8.40.01.03 Members' immunity		

Key players

European Parliament	

Key events

28/02/2023	Vote in committee		
08/03/2023	Committee report tabled for plenary	A9-0055/2023	Summary
14/03/2023	Results of vote in Parliament		
14/03/2023	Decision by Parliament	T9-0061/2023	Summary

Technical information

Procedure reference	2022/2056(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/9/09283

Documentation gateway

Committee report tabled for plenary, single reading		A9-0055/2023	08/03/2023	EP	Summary
Text adopted by Parliament, single reading		T9-0061/2023	14/03/2023	EP	Summary

Request for the waiver of the immunity of Nicolaus Fest

The Committee on Legal Affairs adopted the report by Ilana CICUREL (Renew, FR) on the request for waiver of the immunity of Nicolaus Fest.

As a reminder, the Chief Public Prosecutor of Berlin has requested the waiver of the parliamentary immunity of Nicolaus Fest, Member of the

European Parliament, with a view to opening an investigation into alleged insult within the meaning of Section 185 of the German Criminal Code. The complainant filed a complaint against Nicolaus Fest which relates to declarations made and published by Nicolaus Fest on Twitter.

Members considered that the allegations against Nicolaus Fest, and the subsequent request for waiver of his immunity, are not related to an opinion expressed or vote cast by him in the performance of his duties as a Member of the European Parliament, but to the fact that, in response to a tweet, he posted a tweet presenting allegations perceived by the targeted person as insulting.

In the present case, the Parliament has not been able to establish that there was fumus persecutionis, i.e. factual elements indicating that the possible legal proceedings in question will be initiated with the intention of damaging the political activity of the Member and, consequently, of the European Parliament.

In the light of these considerations, the committee responsible recommended that the European Parliament decide to waive the immunity of Nicolaus Fest.

Request for the waiver of the immunity of Nicolaus Fest

The European Parliament decided to waive the immunity of Nicolaus Fest (ID, DE).

As a reminder, the Chief Public Prosecutor of Berlin has requested the waiver of the parliamentary immunity of Nicolaus Fest, Member of the European Parliament, with a view to opening an investigation into alleged insult within the meaning of Section 185 of the German Criminal Code. The complainant filed a complaint against Nicolaus Fest which relates to declarations made and published by Nicolaus Fest on Twitter.

Parliament pointed out that the allegations against Nicolaus Fest, and the subsequent request for waiver of his immunity, are not related to an opinion expressed or vote cast by him in the performance of his duties as a Member of the European Parliament, but to the fact that, in response to a tweet, he posted a tweet presenting allegations perceived by the targeted person as insulting.

It is recalled that 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.

In the present case, Parliament has not been able to establish that there was fumus persecutionis, i.e. factual elements indicating that the possible legal proceedings in question will be initiated with the intention of damaging the political activity of the Member and, consequently, of the European Parliament.

Therefore, following the recommendation of its Legal Affairs Committee, Parliament decided to waive the immunity of Nicolaus Fest.