




Procedure file

Basic information	
IMM - Members' immunity	2023/2024(IMM)
Request for the waiver of the immunity of Tomasz Piotr Por?ba	Procedure completed
Subject 8.40.01.03 Members' immunity	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs	 VÁZQUEZ LÁZARA Adrián	07/11/2023

Key events			
07/11/2023	Vote in committee		
08/11/2023	Committee report tabled for plenary	A9-0348/2023	
09/11/2023	Results of vote in Parliament		
09/11/2023	Decision by Parliament	T9-0381/2023	Summary

Technical information	
Procedure reference	2023/2024(IMM)
Procedure type	IMM - Members' immunity
Procedure subtype	Waiver of immunity
Legal basis	Rules of Procedure EP 6; Rules of Procedure EP 9-p14
Stage reached in procedure	Procedure completed
Committee dossier	JURI/9/11326

Documentation gateway					
Committee report tabled for plenary, single reading		A9-0348/2023	08/11/2023	EP	
Text adopted by Parliament, single reading		T9-0381/2023	09/11/2023	EP	Summary

The European Parliament decided to waive the immunity of Tomasz Piotr Por?ba (ECR, PL).

On 17 October 2018, an election clip entitled Safe Local Government was posted on social media on the Law and Justice Partys Twitter account in the context of the municipal elections held in Poland on 21 October 2018. Dissemination was facilitated by, among others, Tomasz Piotr Por?b. The post allegedly incited hatred against Muslim immigrants.

On 13 December 2022, the XIV Criminal Division of the Warsaw-Mokotów District Court transmitted a request for waiver of the parliamentary immunity of Tomasz Piotr Por?ba, elected in Poland, that request having been submitted to it by a private individual in response to a post on the Law and Justice Partys Twitter account that allegedly incited national, ethnic, racial and religious hatred.

The request for waiver of parliamentary immunity was transmitted by the judicial authority in accordance with Rule 9(12) of the Rules of Procedure of the European Parliament.

Tomasz Piotr Por?ba is one of the individuals among a group of individuals who find themselves in a similar situation of being charged with the alleged offence in question, with the only difference being that he currently enjoys immunity as a Member of the European Parliament.

Parliament stated that the alleged offence does not concern opinions expressed or votes cast by Tomasz Piotr Por?ba 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 but relates to activities of a local nature.

The resolution also noted that a Member of the European Parliament cannot be interviewed as a suspect or be held criminally liable without the consent of the European Parliament. Parliament cannot assume the role of a court, and whereas, in a waiver of immunity procedure, a Member cannot be regarded as a defendant.

In this case, 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 and thus the European Parliament.

Therefore, following the recommendation of its Legal Affairs Committee, the European Parliament decided to waive the immunity of Tomasz Piotr Por?ba.