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*Plenary sitting*

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**A9-0201/2023**

30.5.2023

# REPORT

on the request for waiver of the immunity of Maria Spyraiki  
(2023/2009(IMM))

Committee on Legal Affairs

Rapporteur: Ilana Cicurel

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## PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### on the request for waiver of the immunity of Maria Spyraiki (2023/2009(IMM))

*The European Parliament,*

- having regard to the request for waiver of the immunity of Maria Spyraiki, submitted by the European Chief Prosecutor, dated 15 December 2022 and announced in plenary on 19 January 2023,
  - having heard Maria Spyraiki in accordance with 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 Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (‘the EPPO’)<sup>1</sup>, and in particular Article 29(2) thereof,
  - 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 2019<sup>2</sup>,
  - 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 (A9-0201/2023),
- A. whereas the European Chief Prosecutor has requested the waiver of Maria Spyraiki’s parliamentary immunity in the context of an ongoing investigation into facts that may constitute incitement to defraud the financial interests of the EU, pursuant to Article 4 of Greek Law 2803/2000, as applicable since the entry into force of the transitional provisions laid down in Article 463(2) of the Greek Criminal Code (with effect from 1 July 2019), in conjunction with Article 46(1) and Article 98 of the Greek Criminal Code;
- B. whereas, following an OLAF report registered by the EPPO on 1 July 2021, the Greek European Delegated Prosecutor opened the investigation in question on 8 September 2021;

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<sup>1</sup> OJ L 283, 31.10.2017, p. 1.

<sup>2</sup> 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.

- C. whereas the alleged irregularities, of which Maria Spyraiki is deemed to have been aware, relate in particular to (i) the failure by one of her accredited parliamentary assistants (APAs) to be present at his place of work between November 2016 and February 2020 and to the performance of his duties and, (ii) the submission of mission orders and statements of expenses and the collection of reimbursements for missions which were not carried out by two of Maria Spyraiki's APAs, between November 2014 and February 2020 for the first assistant and between July 2014 and February 2020 for the second assistant;
- D. whereas Maria Spyraiki has repaid to Parliament all amounts unduly paid and identified to date; whereas the repayment of these amounts does not exclude her potential criminal liability;
- E. whereas Parliament cannot assume the role of a court, and whereas, in a waiver of immunity procedure, a Member cannot be regarded as a defendant<sup>3</sup>;
- F. whereas the alleged offence does not constitute opinions expressed or votes cast by Maria Spyraiki in the performance of her duties as a Member of the European Parliament for the purposes of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
- G. whereas, pursuant to 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 national parliament;
- H. whereas Article 62 of the Greek Constitution provides, inter alia, that during the parliamentary term, Members of Parliament shall not be prosecuted, arrested, imprisoned or subjected to any other constraint without the prior authorisation of Parliament;
- I. 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;
- J. whereas it is for Parliament alone to decide, in a given case, whether or not to waive immunity; whereas Parliament may reasonably take account of the position of the Member in order to decide whether or not to waive his or her immunity<sup>4</sup>;
- K. whereas 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 Member's political activity and thus the European Parliament;
1. Decides to waive the immunity of Maria Spyraiki;
  2. Instructs its President to forward this decision and the report of the competent committee immediately to the EPPO and to Maria Spyraiki.

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<sup>3</sup> Judgment of the General Court of 30 April 2019, *Briois v Parliament*, T-214/18, ECLI:EU:T:2019:266.

<sup>4</sup> Judgment of the General Court of 15 October 2008, *Mote v Parliament*, T-345/05, ECLI:EU:T:2008:440, paragraph 28.



## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	23.5.2023
<b>Result of final vote</b>	+: 9 -: 6 0: 2
<b>Members present for the final vote</b>	Gunnar Beck, Ilana Cicurel, Angel Dzhambazki, Ibán García Del Blanco, Sergey Lagodinsky, Gilles Lebreton, Sabrina Pignedoli, Jiří Pospíšil, Lara Wolters
<b>Substitutes present for the final vote</b>	Patrick Breyer, Andrzej Halicki, Emil Radev
<b>Substitutes under Rule 209(7) present for the final vote</b>	João Albuquerque, Eider Gardiazabal Rubial, Vlad Gheorghe, Liudas Mažylis, Ljudmila Novak