



Resolution 2572 (2024)¹

Request for waiver of the immunity of Mr Marcin Romanowski

Parliamentary Assembly

1. Parliamentary immunity, in its two forms: non-liability and inviolability, is a democratic safeguard, born out of the need to preserve the integrity of parliaments, including in their operation and their acts, and to protect their members' independence in the performance of their duties.
2. In addition, and quite apart from the national immunities they may enjoy, members of the Parliamentary Assembly of the Council of Europe are covered by special rules on immunity at European level, laid down by the General Agreement on Privileges and Immunities of the Council of Europe of 1949 and its additional protocol of 1952 (ETS Nos. 2 and 10). These rules establish the same twofold principle of parliamentary non-liability (Article 14) and inviolability (Article 15) and also provide for the free movement of Assembly members within the territory of the member States.
3. Immunity is not accorded for the personal benefit of the individual Assembly member, but in order to guarantee the independence and integrity of the Assembly as a whole and of its members in the exercise of their functions.
4. There are two exceptions to the parliamentary inviolability of a member of the Assembly: in flagrante delicto and waiver. In particular, the parliamentary immunity must be waived before the freedom of one of its members may be restricted; the Assembly alone is able to waive the immunity of a member.
5. The Assembly's Rules of Procedure specify the procedure to be followed to waive the inviolability of a member of the Assembly following a request by a competent authority of a member State, as well as the role of the president in defending the immunity of a member of the Assembly who has been arrested or deprived of freedom of movement in the absence of in flagrante delicto or prior waiver by the Assembly.
6. On 29 September 2024, the President of the Assembly received a request for waiver of the immunity of Mr Marcin Romanowski from the Public Prosecutor General and Minister of Justice of the Republic of Poland. According to the relevant Rules of Procedure, the president subsequently announced it in a plenary sitting on 30 September 2024 and the Committee on Rules of Procedure, Immunities and Institutional Affairs immediately considered this request.
7. The Assembly regrets that Mr Romanowski did not avail himself of the opportunity offered to him to be heard by the Committee on Rules of Procedure, Immunities and Institutional Affairs or to be represented by a member of the Assembly.
8. At the outset, the Assembly observes that the alleged offences do not concern opinions expressed or votes cast by Mr Marcin Romanowski in the exercise of his functions as a member of the Assembly. The request for waiver of immunity concerns facts which relate to activities of a local nature prior to the acquisition of the status of, and consequently immunity as, a member of the Assembly.
9. In conformity with the Rules of Procedure, the committee did not make any examination of the merits of the case in question, nor did it pronounce itself on the guilt or otherwise of the member concerned.

1. *Assembly debate* on 2 October 2024 (29th sitting) (see [Doc. 16053](#), report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, rapporteur: Ms Heike Engelhardt). *Text adopted by the Assembly* on 2 October 2024 (29th sitting).



10. When considering a request to waive the inviolability, the Assembly has to consider the following elements: (i) whether the legal proceedings initiated against the member would jeopardise the proper functioning of the Assembly, and (ii) whether the request is serious, namely it should not be inspired by reasons other than that of dispensing justice.
11. In the present case, the Assembly considers that, in the light of the current tasks of Mr Romanowski, his prosecution, possible arrest and detention would not as such affect the proper functioning of the Assembly.
12. Further, in the light of the material before it, the Assembly considers that there are no sufficient reasons to doubt the genuine intention of the prosecution against Mr Marcin Romanowski as aiming solely at the proper administration of justice. The request is therefore “serious”.
13. Having regard to the above considerations and without any prejudice as to the merits of the case, the Assembly decides to waive the immunity of Mr Marcin Romanowski to allow justice to be administered. It expects the Polish authorities to ensure that such administration of justice is fair and impartial, in full respect of the national law and the guarantees provided by the European Convention on Human Rights (ETS No. 5).
14. It instructs its president to forward this decision and the report of the Committee on Rules of Procedure, Immunities and Institutional Affairs immediately to the competent authorities of the Republic of Poland and to Mr Marcin Romanowski.