

[emphasis added]

- Resolution 2127 (2016)

13. The Assembly reminds its members that they are covered by specific rules of immunity that they share with the members of the European Parliament. **This immunity is autonomous in nature as it is distinct from and independent of the national parliamentary immunity which members of parliament may enjoy in the territory of their own State.**

16. The Assembly reminds member States that it must decide on the lifting of the immunity of its members in cases where national law requires authorisation from a national parliament prior to the criminal prosecution of its members. **It considers that the need to ensure respect for the rule of law and to prevent any disguised attempt to cause political damage to a member by judicial action (fumus persecutionis) requires the Assembly to examine the lifting of immunity which members enjoy under Article 15.a of the General Agreement on Privileges and Immunities, regardless of the procedure that could take place at national level.**

- Recommendation 2095 (2016)

2. Under the General Agreement on Privileges and Immunities of the Council of Europe, concluded in application of Article 40 of the Statute, **the members of the Parliamentary Assembly enjoy three types of protection:**

...

2.2 **parliamentary inviolability** (Article 15 of the general agreement), which protects them against any arrest, detention or judicial proceedings outside the national territory in the territory of any other member State, **in addition to the national immunity they enjoy in their own State;**

- Explanatory report

52. Members of the Parliamentary Assembly are covered by special rules on immunity which they share with members of the European Parliament. This system dates back to the era when the European Parliament was not directly elected but was composed, like the Parliamentary Assembly, by delegates from the national parliaments. Consequently, both institutions have the same system of immunities. After direct elections were introduced in 1979, the European Parliament attempted to change the system. The proposal to revise the Protocol on Privileges and Immunities formulated in the 1980s failed. The wording of the provisions has remained unchanged throughout subsequent revisions of the treaties and remains identical to the regime of immunity of Assembly members.

53. These provisions have made possible the establishment of a common European parliamentary body of law on immunities. **This immunity is autonomous in nature and distinct from and independent of national parliamentary immunity which members of parliament may moreover enjoy on the territory of their own State.**

65. Moreover, the Committee on Rules of Procedure was consulted to treat certain individual cases of parliamentarians raising the question of the protection granted to them by the Council of Europe Statute and the General Agreement on Privileges and Immunities with regard to their freedom of movement in member States. The committee made it clear that, whatever their national regime of immunity, Assembly members are protected against prosecution and arrest in the exercise of their duties as members of the Assembly or when travelling on Assembly business, whether inside or outside their national territory (Article 15 of the General Agreement). **If they are not exercising an activity as defined or travelling on Assembly business, in pursuance of a decision taken by a competent Assembly body, only their national regime of immunity applies (i.e. in their country).**

71. Concerning **inviolability**, both the European Parliament and the Parliamentary Assembly provide protection during the whole length of the parliamentary year, including between part-sessions, given the continuous nature of parliamentary activities. It amounts, de facto, in the case of the Parliamentary Assembly to the duration of member's credentials and in the case of the European Parliament to the duration of the member's term of office. If legislative elections take place in the course of a session, the members of the Parliamentary Assembly concerned continue to enjoy the immunity granted by the General Agreement on Immunities and Privileges until a new delegation is appointed, which shall be made within six months after the elections. Equally, **both institutions recognise that this type of immunity is applicable with regard to acts committed prior to the start of the mandate.**