Request for the waiver of parliamentary immunity of Hannes Swoboda

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The Committee on Legal Affairs unanimously adopted the report drawn up by Klaus-Heiner LEHNE (EPP-ED, DE) on the request for waiver of the immunity of Hannes SWOBODA (PES, AT). The committee decided not to waive the immunity of Hannes Swoboda, for the following reasons:

On 12 November 2008 a press release was published on the Austria Press Agency's Original Text Service (OTS), stating that, inter alia, Mr Swoboda described the meeting between the Czech President Vaclav Klaus and the Irish opponent of the EU Reform Treaty Declan Ganley as “scandalous”. Mr Swoboda called this meeting scandalous not because Ganley is an opponent of the Lisbon Treaty, but because, according to Mr Swoboda, “this man spreads many lies and moreover the funding of his activities is extremely opaque and dubious”. Mr Swoboda concluded that “the Czech EU Presidency had got off to a false start even before it had begun” and talked of “the need to provide the EU with more stable institutions”.

In response to the press release, Declan Ganley lodged a complaint with the Vienna Regional Criminal Court, calling for a waiver of Mr Swoboda’s immunity and consent to proceedings against him under criminal and media law, for defamation. The complainant considers that the accused made the statement not during a sitting of the European Parliament but to the press, which is why there should be a waiver of his immunity, so that proceedings can be brought against him.

However, having analysed this case, the Committee on Legal Affairs considers that Mr Swoboda’s statements cannot be separated from their overall context and that, in the case in question, he expressed his views on fundamental European Union issues to his voters. According to the committee, Mr Swoboda was therefore performing his duties as a Member of the European Parliament and his statements should be read in the context of a legitimate political discussion on the future of the Lisbon Treaty (even though they were made to the press).

Moreover, given that parliamentary immunity is intended in particular to protect Members’ freedom of expression and freedom of political debate, the committee believes that in all cases where the actions or statements of which a Member is accused are an integral part of, or directly connected with, his political activity, immunity cannot be waived.

In the light of the above considerations and after examining the reasons for and against a waiver of immunity, the Committee on Legal Affairs decides not to waive Mr Swoboda’s immunity.