Parliamentary immunity in Poland

2008/2232(INI) - 24/04/2009 - Text adopted by Parliament, single reading

The European Parliament adopted by 384 votes to 3, with 16 abstentions, a resolution on parliamentary immunity in Poland.

The resolution echoes several requests for waiver of the immunity of Members elected in Poland which, in the current parliamentary term, have come up against certain difficulties in the interpretation of provisions of law that might be applicable in the case of those Members.

The resolution notes the difficulties faced by the Committee on Legal Affairs in terms of the admissibility of certain requests for waiver of immunity made by authorities who are not judged to be competent (the issue here relates to "**the competent authority**" responsible for requesting the waiver of immunity because under Polish law a private person has the right to make a direct request for waiver of immunity, whereas this is not necessarily compatible with the Parliament's Rules of Procedure). The European Parliament's responsible committee is competent to verify the admissibility of a request for waiver of immunity, including the question of the competence of the national authority to submit such a request. However, under the existing provisions the manifest conflict in this regard between the relevant provisions of Polish law and the European Parliament Rules of Procedure would have to be resolved by **regarding as inadmissible requests for waiver of immunity submitted by private persons**.

The resolution also highlights the particular situation of Members of the Polish *Sejm* and *Senat* who continue to be eligible, even after the waiver of their parliamentary immunity, which, according to the Parliament, represents an **obvious differentiation in treatment** between Members of the European Parliament elected in Poland and Members elected in Poland (normally, in the event that a Member is found guilty by the court and punished for an intentional, the waiver of their might result in the automatic loss of their eligibility, which would result in turn in the Member losing their seat - which is not the case in Poland for Members of the *Sejm* and *Senat*).

That is why the Parliament encourages the Commission to look at the discrepancies between the legal situation of Members of the European Parliament elected in Poland and that of Members of the Polish *Sejm* and *Senat*, and to engage as a matter of urgency in contacts with the competent authorities in Poland **with a view to identifying how to eliminate the manifest discrimination between the Members of the two Parliaments as regards their eligibility**. Moreover, the Parliament calls on Poland to review the current situation in which conditions of eligibility and loss of mandate of Members of two parliamentary assemblies are clearly unequal.

Furthermore, the Parliament calls on the Commission to carry out a comparative study designed to ascertain whether discrepancies in treatment of Members of national parliaments and Members of the European Parliament exist in the Member States which acceded to the European Union on or after 1 May 2004.

Member States are called upon to:

- ensure that procedural measures are put in place in order to ensure that requests for waiver of the immunity of Members of the European Parliament are always transmitted by the "competent authority", in order to guarantee observance of provisions of substantive and procedural national law, including the procedural rights of private persons, as well as Parliament's prerogatives;
- indicate to Parliament the authorities which are competent to present requests for waiver of a Member's immunity, in order to avoid any doubt.

Lastly, the Parliament reiterates the need for a **uniform Statute for Members of the European Parliament** and recalls, in this context, the commitment made on 3 June 2005 by the representatives of the Member States meeting within the Council to examine the request by Parliament for a revision of the relevant provisions of the 1965 Protocol on the privileges and immunities of the European Communities as regards the part thereof relating to Members of the European Parliament, in order to reach a conclusion as soon as possible. It therefore calls for equal treatment of Members of the national parliament and Members of the European Parliament to be secured as soon as possible, particularly in view of the coming elections in 2009.