

Request for the waiver of parliamentary immunity of Agnes Hankiss

2010/2213(IMM) - 24/05/2011

The Committee on Legal Affairs unanimously adopted the report by Diana WALLIS (ADLE, UK) in which it calls on the European Parliament to waive the immunity of Ágnes HANKISS (EPP, HU).

The Central District Court of Buda, Budapest (HU) has requested the waiver of immunity of Ágnes Hankiss, a Member of the Parliament, in order to conduct renewed criminal proceedings against the Member. This proceeding relates to an alleged offence of defamation under Section 181 of the Hungarian Criminal Code as a result of a statement made during the programme 'Péntek 8 mondatvadász' on 23 January 2004.

Ágnes Hankiss was accused by a private plaintiff in an accusation dated 18 February 2004 of an alleged offence of defamation of the memory of a dead person (the plaintiff's father).

She was acquitted of the charges on 6 February 2009 but the Supreme Court of the Republic of Hungary annulled the judgments on the grounds of breach of substantive law and instructed the Central District Court of Buda to conduct new proceedings. The Central District Court opened renewed proceedings on 31 March 2010. At the same day the proceedings were suspended on the grounds that Ágnes Hankiss enjoys parliamentary immunity as a Member of the Parliament. The relevant request for the waiver of that immunity was made by the Court on 6 July 2010.

Under Article 9 of the Protocol, given that the proceedings concern an offence allegedly committed in Hungary, whose citizenship Ágnes Hankiss enjoyed at the material time, the only applicable part is the one pursuant to which 'during the sessions of the European Parliament its Members shall enjoy: a) in the territory of their own State, the immunities accorded to members of their parliament'. In the present case, the committee finds that the case does not come within the scope of Ágnes Hankiss's political activities as Member of the Parliament. It concerns instead a statement made in 2004, long before she was elected a Member of the Parliament. The committee has also found no evidence of *fumus persecutionis*, i.e. a sufficiently serious and precise suspicion that the case has been brought with the intention of causing political damage to the Member.

As a consequence, the committee considers it appropriate to recommend that parliamentary immunity be waived in this instance.