Request for the waiver of the immunity of Béla Kovács

2014/2044(IMM) - 14/10/2015 - Text adopted by Parliament, single reading

The European Parliament **decided to waive the immunity of Béla KOVÁCS** (NI, HU).

Parliament recalled that the request for the waiver of the immunity of Béla Kovács is made in order that investigations can be carried out, on the basis of reasonable suspicions, to see whether a charge will lie against him with regard to **the offence of espionage against the institutions of the European Union** under Section 261/A of Act C of 2012 on the Hungarian Criminal Code.

According to that Section, any person who conducts intelligence activities for a non-European Union third country against the European Parliament, the European Commission or the Council of the European Union shall be punishable in accordance with Section 261; paragraph (1) of which provides that any person who conducts intelligence activities for a foreign power or foreign organisation against Hungary is guilty of a felony punishable by a term of imprisonment of between two and eight years.

However, according to the information provided by the Prosecutor General, **Mr Kovács' covert contacts with Russian intelligence officers were first detected in 2010** by the Hungarian Constitution Protection Office in the course of its investigation into the activities of certain foreign nationals.

The investigation and any subsequent indictment for which the waiver of immunity is sought are limited to events having occurred **after 1 January 2014**.

It is also noted that the criminal investigation will be carried out by the Central Chief Prosecution Office of Investigation and that under Article 29(1) of the Fundamental Law of Hungary, **the Prosecutor-General and the Prosecution Service are independent**, and shall carry out their constitutional tasks independently from external organisations, and proceed **in compliance with the presumption of innocence**.

In order to decide whether or not to waive a Member's parliamentary immunity, the European Parliament applies its own consistent principles. One of these principles is that immunity is usually waived when the offence falls within Article 9 of Protocol No 7, provided that there is no *fumus persecutionis*, i.e. a sufficiently serious and precise suspicion that the matter is being raised with the intention of causing political damage to the Member concerned.

It is considered that there is no *fumus persecutionis* in this case and that the investigation and any subsequent indictment for which the waiver of immunity is sought are limited to events having occurred **after 1 January 2014**, the date on which Section 261/A of Act C of 2012 on the Hungarian Criminal Code entered into effect.

On the basis of the above considerations and pursuant to Rule 9(3) of the Rules of Procedure, Parliament recommended that the parliamentary immunity of Mr Béla Kovács should be waived.