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*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN PARLIAMENT

Request for waiver of the immunity of Mr Marek Siwiec

P7_TA(2009)0050

**European Parliament decision of 20 October 2009 on the request for waiver of the immunity of
Marek Siwiec (2009/2067(IMM))**

(2010/C 265 E/08)

The European Parliament,

- having regard to the request for waiver of the immunity of Marek Siwiec, forwarded by the Polish Prosecutor-General on 27 September 2006 and announced in plenary sitting on 10 April 2008,
- having heard Marek Siwiec in accordance with Rule 7(3) of its Rules of Procedure,
- having regard to Article 10 of the Protocol of 8 April 1965 on the Privileges and Immunities of the European Communities, and Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,
- having regard to the judgments of 12 May 1964 and 10 July 1986 ⁽¹⁾ of the Court of Justice of the European Communities,
- having regard to Article 105 of the Constitution of the Republic of Poland of 2 April 1997,
- having regard to Article 7b(1) of the Polish Law of 9 May 1996 on the performance of the mandate of deputy or senator,
- having regard to Rules 6(2) and 7 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs (A7-0030/2009),

A. whereas a private prosecution has been brought against Marek Siwiec,

⁽¹⁾ Case 101/63 *Wagner v Fohrmann and Krier* [1964] ECR 195 and Case 149/85 *Wybot v Faure and others* [1986] ECR 2391.

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B. whereas it appears from the timing of the prosecution during an electoral campaign three years after the alleged offences were committed, and from the overtly political aims of the private individual bringing the prosecution, as evidenced in particular by documents presented by that individual himself to the President of Parliament and by the fact that he claims to be acting on behalf of citizens who object in general terms to Mr Siwiec's carrying out a public activity, that the bringing of the criminal proceedings in question constitutes a *fumus persecutionis*, inasmuch as there are serious reasons to believe that the charges against Mr Siwiec have been brought by a political opponent with the principal aim of undermining his activity as a Member of the European Parliament,

1. Decides not to waive the immunity of Marek Siwiec;
 2. Instructs its President to forward this decision, and the report of the committee responsible, immediately to the appropriate authority of the Republic of Poland.
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