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(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

P8_TA(2017)0232

Request for waiver of the immunity of Béla Kovács

**European Parliament decision of 1 June 2017 on the request for waiver of the immunity of Béla Kovács
(2016/2266(IMM))**

(2018/C 307/31)

The European Parliament,

- having regard to the request for waiver of the immunity of Béla Kovács, forwarded on 19 September 2016 by Dr Péter Polt, the Prosecutor General of Hungary, in connection with criminal proceedings initiated by the Central Investigating Chief Prosecution Office against him and announced in plenary on 3 October 2016,
- having invited Mr Kovács to be heard on 12 January, 30 January and 22 March 2017, in accordance with Rule 9(6) of its Rules of Procedure,
- having regard to Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the European Union, 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 the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010, 6 September 2011 and 17 January 2013 ⁽¹⁾,
- having regard to Article 4(2) of the Fundamental Law of Hungary, Sections 10(2) and 12(1) of Act LVII of 2004 on the Status of the Hungarian Members of the European Parliament and Section 74(1) and (3) of Act XXXVI of 2012 on the National Assembly,
- having regard to Rule 5(2), Rule 6(1) and Rule 9 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs (A8-0203/2017),

⁽¹⁾ Judgment of the Court of Justice of 12 May 1964, *Wagner v Fohrmann and Krier*, 101/63, ECLI:EU:C:1964:28; judgment of the Court of Justice of 10 July 1986, *Wybot v Faure and others*, 149/85, ECLI:EU:C:1986:310; judgment of the General Court of 15 October 2008, *Mote v Parliament*, T-345/05, ECLI:EU:T:2008:440; judgment of the Court of Justice of 21 October 2008, *Marra v De Gregorio and Clemente*, C-200/07 and C-201/07, ECLI:EU:C:2008:579; judgment of the General Court of 19 March 2010, *Gollnisch v Parliament*, T-42/06, ECLI:EU:T:2010:102; judgment of the Court of Justice of 6 September 2011, *Patriciello*, C-163/10, ECLI:EU:C:2011:543; judgment of the General Court of 17 January 2013, *Gollnisch v Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23.

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- A. whereas the Prosecutor General of Hungary has requested the waiver of the immunity of a Member of the European Parliament, Béla Kovács, in order that investigations can be carried out to verify whether a charge will lie against him with regard to the crimes of budget fraud resulting in substantial financial loss in accordance with Section 396(1)(a) of the Hungarian Criminal Code and of the multiple use of forged private documents in accordance with Section 345 of the Criminal Code; whereas, according to that Section, any person who uses a falsified or forged private document or a private document with untrue contents for providing evidence for the existence, the changing or termination of a right or obligation, is guilty of a misdemeanour punishable by imprisonment not exceeding one year;
- B. whereas, according to Article 9 of the Protocol No 7 on the Privileges and Immunities of the European Union, Members of the European Parliament shall enjoy, in the territory of their own State, the immunities accorded to members of their parliament;
- C. whereas, according to Article 4(2) of the Fundamental Law of Hungary, Members of Parliament shall be entitled to immunity; whereas, according to Section 10(2) of Act LVII of 2004 on the Status of the Hungarian Members of the European Parliament, Members of the European Parliament are entitled to immunity equal to the immunity of Members of the Hungarian parliament, and according to Article 12(1), the decision to suspend the immunity of a Member of the European Parliament shall fall within the competence of the European Parliament; whereas, under Article 74(1) of Act XXXVI of 2012 on the National Assembly, criminal proceedings or, in the absence of a voluntary waiver of immunity in the case concerned, misdemeanour proceedings can only be applied against the Member with the prior consent of the National Assembly; whereas, according to Article 74(3) of the same law, until the submission of the indictment, the motion for the suspension of immunity shall be submitted by the Prosecutor General;
- D. whereas, according to Article 21(1) and (2) of Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament ⁽¹⁾, Members shall be entitled to assistance from personal staff whom they may freely choose and Parliament shall meet the expenses actually incurred by Members in employing such personal staff;
- E. whereas, according to Article 34(4) of the Decisions of the Bureau of 19 May and 9 July 2008 concerning implementing measures for the Statute for Members of the European Parliament, expenses incurred in connection with traineeship agreements, on the basis of the conditions laid down by the Bureau, may also be defrayed;
- F. whereas, according to Article I(1) of the Decision of the Bureau of 19 April 2010 on the Rules concerning Members' Trainees, Members of the European Parliament may, with a view to contributing to European education and vocational training and to promoting a better understanding of the way in which the institution functions, offer traineeships in Brussels and Strasbourg during plenary sittings or in the course of their activities as Members in the country in which the Member concerned was elected in each case;
- G. whereas, according to Article 5(1) and (2) of the Rules on Trainees, specific arrangements in relation to the traineeship shall be included in a written traineeship agreement signed by both the Member and the trainee; whereas the agreement shall include a clause stating explicitly that the European Parliament may not be deemed to be a party to the agreement; whereas, pursuant to Article 5(4), expenses relating to traineeships, including scholarships and the cost of the insurance cover if paid by the Member, are defrayable from the Parliamentary Assistance Allowance, in accordance with Article 33 (4) of the Implementing Measures, within the limits of that allowance;
- H. whereas, according to the last sentence of Article 1(1) of the Rules on Trainees, the scholarship granted to a trainee must not be such as to constitute in reality a disguised form of remuneration; whereas, according to Article 7(1), throughout the traineeship, trainees shall be under the sole responsibility of the Member to whom they are attached;

⁽¹⁾ OJ L 262, 7.10.2005, p. 1.

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- I. whereas in this case Parliament has found no evidence of *fumus persecutionis*, that is to say, a sufficiently serious and precise suspicion that the request for waiver was made in connection with proceedings brought with the intention of causing political damage to the Member concerned;
 - J. whereas the decision of the former President of Parliament to impose the penalty of a reprimand for Mr Kovács' violation of Article 1(a) of the Code of Conduct ⁽¹⁾ cannot be regarded as being tantamount to a judicial judgment constituting *res judicata* on the matters to which the criminal proceedings initiated by the Central Investigating Chief Prosecution Office relate; whereas, consequently, there is no violation of the principle *ne bis in idem*; whereas consequently, the sanction imposed by the former President of Parliament under the Code of Conduct does not prevent criminal proceedings being instituted or conducted in Hungary to see whether a charge will lie against him;
1. Decides to waive the immunity of Béla Kovács;
 2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent authority of Hungary and to Béla Kovács.
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⁽¹⁾ See Annex I to the Rules of Procedure, Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest.