



TEXTS ADOPTED

P9_TA(2024)0226

Request for waiver of the immunity of Anna Júlia Donáth

European Parliament decision of 11 April 2024 on the request for waiver of the immunity of Anna Júlia Donáth (2024/2002(IMM))

The European Parliament,

- having regard to the request for waiver of the immunity of Anna Júlia Donáth, of 19 December 2023, from the Prosecutor General of Hungary in the matter of criminal case No 2.Nyom.397/2022 in progress at the Regional Prosecutor's Office in Budapest, which is responsible for the investigation, for the use of force, acting as a group, against persons holding public authority and in connection with the criminal proceedings which it intends to bring against Anna Júlia Donáth for alleged violation of Article 310(1)(a) of Hungarian Law C of 2012 on the Hungarian Criminal Code, and announced in plenary on 15 January 2024,
- having heard Anna Júlia Donáth 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 Article 4(2) of the Fundamental Law of Hungary, Articles 10(2) and 12(1) of Act No LVII of 2004 on the Legal Status of Hungarian Members of the European Parliament and Article 74(1) and (3) of Act No XXXVI of 2012 on the National Assembly of Hungary,
- having regard to the judgments of the Court of Justice (CJEU) of the European Union of 21 October 2008, 19 March 2010, 6 September 2011, 17 January 2013 and 19 December 2019¹,

¹ Judgment of the Court of Justice of 21 October 2008, *Marra v De Gregorio and Clemente*, C-200/07 and C-201/07,

- 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 (A9-0168/2024),
- A. whereas on 19 December 2023 the Prosecutor General of Hungary submitted a request for waiver of the immunity of Anna Júlia Donáth, Member of the European Parliament elected in Hungary, in connection with criminal proceedings which the Regional Prosecutor's Office in Budapest intends to initiate against Anna Júlia Donáth for alleged violation of Article 310(1)(a) of Hungarian Act C of 2012 on the Hungarian Criminal Code for events which occurred on 21 February 2022 during a search in the context of other criminal proceedings concerning a third person;
 - B. whereas on 21 February 2022, during a search of premises belonging to a well-known Hungarian religious figure, in the context of criminal proceedings in connection with an alleged budget fraud offence which that figure was alleged to have committed, Anna Júlia Donáth, together with three Members of the Hungarian national parliament and others, visited the premises where the search was taking place; whereas, according to the request for waiver of immunity, an altercation occurred with the customs police responsible for protecting the premises where the search was taking place; whereas the members of the crowd involved in that altercation, including Anna Júlia Donáth and the three Members of the Hungarian national parliament, apparently only stopped when police officers, who had been called because the search was being obstructed, arrived at the scene;
 - C. whereas Anna Júlia Donáth was elected to the European Parliament at the European elections in 2019;
 - D. whereas, pursuant to Article 310(1)(a) of Hungarian Act C of 2012 on the Criminal Code, anyone who forcibly prevents a person holding public authority from exercising their lawful duties is committing a crime; whereas Anna Júlia Donáth was interviewed as a suspect during the subsequent investigation; whereas a criminal case was initiated against her;
 - E. whereas the purpose of parliamentary immunity is to protect Parliament and its Members from legal proceedings in relation to

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; judgment of the Court of Justice of 19 December 2019, *Junqueras Vies*, C-502/19, ECLI:EU:C:2019:1115.

activities carried out in the performance of parliamentary duties and which cannot be separated from those duties;

- F. whereas Parliament cannot assume the role of a court, and whereas, in a waiver of immunity procedure, a Member cannot be regarded as a defendant¹;
- G. whereas the alleged offence does not constitute an opinion expressed or a vote cast in the performance of Anna Júlia Donáth's duties as a Member of the European Parliament within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
- H. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union provides that Members of the European Parliament enjoy, in the territory of their own State, the immunities accorded to members of their parliament;
- I. whereas, pursuant to Article 4(2) of the Fundamental Law of Hungary, members of the Hungarian Parliament enjoy parliamentary immunity; whereas under Article 10(2) of Act No LVII of 2004 on the Legal Status of Hungarian Members of the European Parliament, Members of the European Parliament enjoy the same immunity as Members of the Hungarian National Assembly, and whereas under Article 12(1) of the same act, any decision to waive the immunity of a Member of the European Parliament falls within the competence of the European Parliament; whereas, pursuant to Article 74(1) of Act No XXXVI of 2012 on the National Assembly, criminal proceedings or, in the event of immunity not being waived voluntarily in respect of the matter in question, misdemeanour proceedings may be initiated or pursued and coercive measures applied against a Member only with the prior consent of the National Assembly;
- J. whereas it follows from CJEU case-law that Parliament has a 'broad discretion when deciding whether to grant or to refuse a request for waiver of immunity (...), owing to the political nature of such a decision'²;
- K. whereas the Hungarian religious figure who was the subject of the search is regarded as an opponent of the current Hungarian government; whereas, in the debates in her political group in the European Parliament, Anna Júlia Donáth has spoken on a number of occasions in support of this figure in the context of the fight against corruption; whereas Anna Júlia Donáth sits on the European Parliament's Committee on Civil Liberties, Justice and Home Affairs,

¹ Judgment of the General Court of 30 April 2019, *Briois v Parliament*, T-214/18, ECLI:EU:T:2019:266.

² Judgment of the Court of Justice of 17 January 2013, *Gollnisch v Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23, paragraph 59 and the case-law cited.

which regularly deliberates on all matters concerning the rule of law, including in Hungary; whereas she regularly speaks out against her country's political authorities;

- L. whereas the alleged offence attributed to Anna Júlia Donáth was allegedly committed on 21 February 2022, while the request for waiver of immunity is dated 19 December 2023; whereas the request was therefore not made until almost two years after the events in question and in the run-up to the 2024 European elections; whereas it appears that of the Members of Parliament present on the premises and implicated in the alleged events, only two, including Anna Júlia Donáth, have been subject to national proceedings; whereas it appears that the two Members of Parliament in question are candidates for the 2024 European elections in Hungary;
 - M. whereas the concordance of this concrete evidence raises a serious doubt that the intention may have been to undermine Anna Júlia Donáth's political activity, and in particular her activity as a Member of the European Parliament;
 - N. whereas it would therefore appear that, in this instance, *fumus persecutionis* can be assumed, i.e. there is 'concrete evidence'¹ that the intention underlying the legal proceedings in question is to undermine the political activity of the Member concerned by the request for waiver of immunity, including her activity as a Member of the European Parliament standing as a candidate in the 2024 European elections as head of list of her political party;
1. Decides not to waive the immunity of Anna Júlia Donáth;
 2. Instructs its President to forward this decision, and the report of its committee responsible, immediately to the competent authority of Hungary and to Anna Júlia Donáth.

¹ Judgment of the Court of Justice of 17 September 2020, *Troszczynski v Parliament*, C-12/19, ECLI:EU:C:2020:725, paragraph 26.