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Press and Information

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Judgment of the Court of First Instance in Case T-345/05

Ashley Neil Mote v Parliament

**THE COURT OF FIRST INSTANCE DISMISSES THE APPLICATION FOR
ANNULMENT OF THE PARLIAMENT'S DECISION WAIVING THE IMMUNITY OF
ONE OF ITS MEMBERS**

The Parliament did not err in law when it decided to waive Mr Mote's immunity

Ashley Neil Mote, a British citizen, received various State benefits between 1996 and 2002. Criminal proceedings were brought against him in November 2003 on the ground that those benefits had been obtained on the basis of false declarations.

Following his election to the European Parliament in June 2004, Mr Mote applied for the criminal proceedings pending against him to be stayed, relying on the privileges and immunities that he enjoys in his capacity as a Member of the European Parliament. The prosecution was stayed by the competent national court in November 2004. That court held that the bail condition under which Mr Mote had been placed constituted an obstacle to the free movement of Members of the Parliament, and thus infringed the Protocol on the Privileges and Immunities of the European Communities¹.

Following an application by the Attorney General of England and Wales, the plenary assembly of the Parliament decided, by decision of 5 July 2005, to waive Mr Mote's immunity.

Following the waiver of immunity, there was a resumption of the criminal proceedings against Mr Mote, who was found guilty and sentenced to nine months' imprisonment by the UK courts. Mr Mote lodged an appeal.

Mr Mote brought a case before the Court of First Instance for annulment of the Parliament's decision waiving his immunity.

In its judgment delivered today, the Court holds, first, that a decision by which the Parliament waives the immunity of one of its Members can be challenged in an action for annulment before the Community Courts.

¹ Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 annexed to the Treaty establishing a single Council and a single Commission (Journal Officiel 1967 152, p. 13).

Secondly, while the Court holds that the Parliament is competent to decide on an application for waiver of the immunity of a Member of the European Parliament, for the purposes of Article 10 of the Protocol, by contrast there is no rule establishing the Parliament as the competent authority for deciding whether the privilege provided for by Article 8 of the Protocol applies. The Court further holds that Article 8 of the Protocol has the function of protecting Members of the Parliament against restrictions on their freedom of movement, other than restrictions arising from court proceedings. The Court points out that the matters put forward by Mr Mote as constituting interference with the exercise of his parliamentary functions were merely restrictions of a judicial kind. It therefore concludes that the Parliament did not err in law when it decided to waive Mr Mote's immunity without ruling on the privilege under Article 8 granted to him in his capacity as a Member of the Parliament.

Consequently, the Court dismisses the action.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: DE, EN, EL, FR, IT, PL, RO

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-345/05>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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