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**A7-0012/2014**

20.12.2013

# REPORT

on amendment of Parliament's Rules of Procedure on the waiver and the defence of parliamentary immunity  
(2013/2031(REG))

Committee on Constitutional Affairs

Rapporteur: Anneli Jäätteenmäki

**CONTENTS**

	<b>Page</b>
PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	3
EXPLANATORY STATEMENT .....	14
OPINION OF THE COMMITTEE ON LEGAL AFFAIRS .....	17
RESULT OF FINAL VOTE IN COMMITTEE.....	28

## PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### on amendment of Parliament's Rules of Procedure on the waiver and the defence of parliamentary immunity (2013/2031(REG))

*The European Parliament,*

- having regard to the letter from the Chair of the Committee on Legal Affairs of 9 November 2012,
  - having regard to Rules 211 and 212 of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs and the opinion of the Committee on Legal Affairs (A7-0012/2014),
1. Decides to amend its Rules of Procedure as shown below;
  2. Points out that the amendments will enter into force on the first day of the next part-session;
  3. Instructs its President to forward this decision to the Council and the Commission, for information.

#### **Amendment 1**

##### **Parliament's Rules of Procedure Rule 5 – paragraph 1 a (new)**

*Present text*

*Amendment*

***1a. Parliamentary immunity is not a Member's personal privilege but a guarantee of the independence of Parliament as a whole and of its Members.***

#### **Amendment 2**

##### **Parliament's Rules of Procedure Rule 6 – paragraph 1**

*Present text*

1. In the exercise of its powers in respect of privileges and immunities, Parliament ***shall seek primarily*** to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties.

*Amendment*

1. In the exercise of its powers in respect of privileges and immunities, Parliament ***acts*** to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties. ***Any request for waiver of immunity shall be evaluated in accordance with Articles 7, 8 and 9 of the Protocol on the Privileges and Immunities of the European Union and with the principles referred to in this Rule.***

**Amendment 3**

**Parliament's Rules of Procedure  
Rule 6 – paragraph 2**

*Present text*

***2. Any request addressed to the President by a competent authority of a Member State that the immunity of a Member be waived shall be announced in Parliament and referred to the committee responsible.***

*Amendment*

***deleted***

*Justification*

*This text would be better placed in Rule 7 which covers procedural questions.*

**Amendment 4**

**Parliament's Rules of Procedure  
Rule 6 – paragraph 3**

*Present text*

***3. Any request addressed to the President by a Member or a former Member to defend privileges and immunities shall be announced in Parliament and referred to the committee responsible.***

*Amendment*

***deleted***

*Justification*

*This text would be better placed in Rule 7 which covers procedural questions.*

**Amendment 5**

**Parliament's Rules of Procedure  
Rule 6 – paragraph 4**

*Present text*

*Amendment*

*4. As a matter of urgency, in circumstances where Members are arrested or have their freedom of movement curtailed in apparent breach of their privileges and immunities, the President, after having consulted the chair and rapporteur of the committee responsible, may take an initiative to assert the privileges and immunities of the Member concerned. The President shall notify the committee of that initiative and inform Parliament.*

*deleted*

*Justification*

*This text would be better placed in a new Rule 6 b covering urgent situations.*

**Amendment 6**

**Parliament's Rules of Procedure  
Rule 6 – paragraph 4a (new)**

*Present text*

*Amendment*

*4a. Where Members are required to appear as witnesses or expert witnesses, there is no need to request a waiver of immunity, provided:*

*– that they will not be obliged to appear on a date or at a time which prevents them from performing their parliamentary duties, or makes it difficult for them to*

*perform those duties, or that they will be able to provide a statement in writing or in any other form which does not make it difficult for them to perform their parliamentary duties; and*

*– that they are not obliged to testify concerning information obtained confidentially in the exercise of their mandate which they do not see fit to disclose.*

#### *Justification*

*This text has been moved from Rule 7, as it concerns the question whether a request for the waiver of immunity is even necessary in cases where a Member is called as a witness.*

#### **Amendment 7**

#### **Parliament's Rules of Procedure Rule 6 a (new)**

*Present text*

*Amendment*

#### **Rule 6a**

#### ***Defence of privileges and immunity***

***1. In cases where the privileges and immunities of a Member or former Member are alleged to have been breached by the authorities of a Member State, a request for a Parliament decision as to whether there has, in fact, been a breach of those privileges and immunities may be made in accordance with Rule 7(-1).***

***2. In particular, such a request for the defence of privileges and immunities may be made if it is considered that the circumstances constitute an administrative or other restriction on the free movement of Members travelling to or from the place of meeting of Parliament or on an opinion expressed or***

*a vote cast in the performance of their duties, or that they fall within the scope of Article 9 of the Protocol on the Privileges and Immunities of the European Union.*

*3. A request for the defence of the privileges and immunities of a Member shall not be admissible if a request for the waiver or defence of that Member's immunity has already been received in respect of the same legal proceedings, whether or not a decision has been taken at that time.*

*4. No further consideration shall be given to a request for the defence of the privileges and immunities of a Member if a request for the waiver of that Member's immunity is received in respect of the same legal proceedings.*

*5. In cases where a decision has been taken not to defend the privileges and immunities of a Member, the Member may make a request for reconsideration of the decision, submitting new evidence. The request for reconsideration shall be inadmissible if proceedings have been instituted against the decision under Article 263 of the Treaty on the Functioning of the European Union, or if the President considers that the new evidence submitted is not sufficiently substantiated to warrant reconsideration.*

## **Amendment 8**

### **Parliament's Rules of Procedure Rule 6 b (new)**

*Present text*

*Amendment*

#### **Rule 6b**

***Urgent action by the President to assert immunity***

***1. As a matter of urgency, in circumstances where a Member is***

*arrested or has his or her freedom of movement curtailed in apparent breach of their privileges and immunities, the President, after consulting the chair and rapporteur of the committee responsible, may take an initiative to assert the privileges and immunities of the Member concerned. The President shall notify the committee of that initiative and inform Parliament.*

*2. When the President makes use of the powers conferred on him by paragraph 1, the committee shall take cognisance of the President's initiative at its next meeting. Where the committee deems it necessary, it may prepare a report for submission to Parliament.*

#### *Justification*

*This amendment introduces a new Rule 6 b covering emergency situations, for greater clarity. The amendment does not introduce any substantive changes.*

## **Amendment 9**

### **Parliament's Rules of Procedure Rule 7 – paragraph -1 (new)**

*Present text*

*Amendment*

***-1. Any request addressed to the President by a competent authority of a Member State that the immunity of a Member be waived, or by a Member or a former Member that privileges and immunities be defended, shall be announced in Parliament and referred to the committee responsible.***

#### *Justification*

*This is a new paragraph explaining the first step of the procedure, replacing Rule 6(2) and Rule 6(3) concerning waiver and defence procedures respectively, without making any substantive changes.*

## Amendment 10

### Parliament's Rules of Procedure Rule 7 – paragraph 1

#### *Present text*

1. The committee **responsible** shall consider without delay **and in the order in which they have been submitted** requests for the waiver of immunity or requests for the defence of **immunity and** privileges.

#### *Amendment*

1. The committee shall consider without delay, **but having regard to their relative complexity**, requests for the waiver of immunity or requests for the defence of privileges **and immunities**.

#### *Justification*

*In practice, in view of the differences in the technical complexity of immunity cases, it is not always possible to deal with requests strictly in chronological order. Applying this rule strictly would mean that simple cases are unnecessarily delayed by complex cases. The competent committee must deal with cases as quickly as possible, but needs some discretion as to the respective timetables of the cases.*

## Amendment 11

### Parliament's Rules of Procedure Rule 7 – paragraph 3

#### *Present text*

3. The committee may ask the authority concerned to provide any information or explanation which the committee deems necessary in order for it to form an opinion on whether immunity should be waived or defended. **The Member concerned shall be given an opportunity to be heard, may present any documents or other written evidence deemed by that Member to be relevant and may be represented by another Member.**

#### *Amendment*

3. The committee may ask the authority concerned to provide any information or explanation which the committee deems necessary in order for it to form an opinion on whether immunity should be waived or defended.

#### *Justification*

*The provisions on hearings should be moved to a new, more detailed paragraph.*

## Amendment 12

### Parliament's Rules of Procedure Rule 7 – paragraph 3 a (new)

*Present text*

*Amendment*

***3a. The Member concerned shall be given an opportunity to be heard, may present any documents or other written evidence deemed by that Member to be relevant and may be represented by another Member.***

***The Member shall not be present during debates on the request for waiver or defence of his or her immunity, except for the hearing itself.***

***The chair of the committee shall invite the Member to be heard, indicating a date and time. The Member may renounce the right to be heard.***

***If the Member fails to attend the hearing pursuant to that invitation, he or she shall be deemed to have renounced the right to be heard, unless he or she has asked to be excused from being heard on the date and at the time proposed, giving reasons. The chair of the committee shall rule on whether such a request to be excused is to be accepted in view of the reasons given, and no appeals shall be permitted on this point.***

***If the chair of the committee grants the request to be excused, he or she shall invite the Member to be heard at a new date and time. If the Member fails to comply with the second invitation to be heard, the procedure shall continue without the Member having been heard. No further requests to be excused, or to be heard, may then be accepted.***

*Justification*

*This amendment concerns the right of Members to be heard in immunity cases. The reason for*

*the clarifications is that individual Members have, in the past, abused their right to be heard, using it as a tool to delay proceedings and prevent Parliament from taking a decision. The amendment aims to ensure that Members may be heard, but that they cannot repeatedly postpone their hearing in order to block judicial proceedings against them. The Chair is given powers to prevent such unjustified delays.*

### **Amendment 13**

#### **Parliament's Rules of Procedure Rule 7 – paragraph 5**

*Present text*

*Amendment*

**5. Where Members are required to appear as witnesses or expert witnesses, there is no need to request a waiver of immunity, provided:** *deleted*

*- that they will not be obliged to appear on a date or at a time which prevents them from performing, or makes it difficult for them to perform, their parliamentary duties, or that they will be able to provide a statement in writing or in any other form which does not make it difficult for them to fulfil their parliamentary duties;*

*- that they are not obliged to testify concerning information obtained confidentially in the exercise of their mandate which they do not see fit to disclose.*

*Justification*

*This paragraph should be moved to Rule 6, as it concerns the question whether a request for a waiver of immunity is required in cases where Members are to appear as witnesses.*

### **Amendment 14**

#### **Parliament's Rules of Procedure Rule 7 – paragraph 6**

*Present text*

*Amendment*

**6. In cases concerning the defence of immunity or privileges, the committee shall state whether the circumstances constitute an administrative or other restriction imposed on the free movement of Members travelling to or from the place of meeting of Parliament or an opinion expressed or a vote cast in the performance of the mandate or fall within aspects of Article 9 of the Protocol on Privileges and Immunities which are not a matter of national law, and shall make a proposal to invite the authority concerned to draw the necessary conclusions.**

*deleted*

*Justification*

*This paragraph should be moved to Rule 6a, as it concerns the basic criteria for defending the immunity of a Member.*

## **Amendment 15**

### **Parliament's Rules of Procedure Rule 7 – paragraph 10**

*Present text*

*Amendment*

**10. When the President makes use of the powers conferred on him by Rule 6(4), the committee responsible shall take cognisance of the President's initiative at its next meeting. Where the committee deems it necessary it may prepare a report for submission to Parliament.**

*deleted*

*Justification*

*This paragraph should be moved to Rule 6b, as it concerns the President's powers in urgent cases.*

## **Amendment 16**

### **Parliament's Rules of Procedure Rule 7 – paragraph 12 a (new)**

*Present text*

*Amendment*

***12a. The committee shall lay down principles for the application of this Rule.***

*Justification*

*This addition is not meant to empower the committee to make substantive assessments, which in the end are a matter for Parliament. The object is to ensure that when the cases are similar, so too will be the approaches proposed by the Committee on Legal Affairs, thus laying the foundations for a kind of 'case law'.*

## EXPLANATORY STATEMENT

### 1. Introduction

In his letter of 9 November 2012, the Chair of the Legal Affairs Committee (JURI) raised several questions in connection with the application of the rules on immunity of Members. According to this letter, although the Rules of Procedure provide expressly only for requests for waiver or defence of immunity, it would seem that there should be some room for a Member who asked for his immunity to be defended to ask Parliament to review its decision not to defend his or her immunity. It seemed to the competent committee that the scope of requesting such a review, especially the time limit for doing so, should be strictly limited. Moreover, the JURI committee also raised the issue that a request for defence of immunity should be inadmissible where Parliament has already waived the Member's immunity in respect of the same facts. It observed that Rule 7, in its present wording, doesn't provide any solution to these problems.

On 9 July 2013 the JURI committee adopted an opinion to the attention of the AFCO committee. This opinion proposes to redraft the existing rules on immunity in order to reflect both the case-law of the Court of Justice of the EU and the practice of the JURI committee. It also proposes a new, more logical structure for the rules in question. Your rapporteur based this draft report on the draft and final opinions by JURI — the committee responsible for "privileges and immunities" of Members pursuant to point XVI/10 of Annex VII of the Rules.

### 2. The relevant primary law

Similarly to most continental legal systems, EU primary law deals with two aspects of parliamentary immunity. The first aspect is of substantive nature: an elected member can not be held responsible for any act he or she committed as a member of a legislative body in the course of the duration of his or her mandate (*immunitas*). The second aspect is of procedural nature: any procedure for holding an elected member responsible for acts committed outside his/her capacity as a member of a legislative body can only be started with the prior permission of the legislative body (*inviolabilitas*).

The first aspect is regulated by Article 8 (ex Article 9) of Protocol n° 7 on the privileges and immunities of the EU. Pursuant to this Article, Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

The second, procedural aspect is regulated by Article 9 (ex Article 10), according to which during the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and

from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

### 3. The relevant case-law of the Court of Justice of the EU

Three cases require our attention: *Marra*<sup>1</sup>, *Patricello*<sup>2</sup> and *Gollnisch*<sup>3</sup>.

3.1. In *Marra*, the Court ruled that the Community [currently: Union] rules relating to the immunity of Members of the EP must be interpreted as meaning, in an action for damages brought against a Member in respect of opinions he has expressed,

– where the national court which has to rule on such an action has received no information regarding a request by that Member to the European Parliament seeking defence of the immunity provided for in Article 9 [currently: Article 8] of the Protocol [N° 7], it is not obliged to request the European Parliament to give a decision on whether the conditions for that immunity are met;

– where the national court is informed of the fact that that Member has made a request to the European Parliament for defence of that immunity, within the meaning of Rule 6(3) of the Rules of Procedure of the European Parliament, it must stay the judicial proceedings and request the European Parliament to issue its opinion as soon as possible;

– where the national court considers that that Member enjoys the immunity provided for in Article 9 [currently: Article 8] of the Protocol, it is obliged to dismiss the action brought against the Member concerned.

3.2. In *Patricello*, the Court ruled that Article 8 of the Protocol must be interpreted to the effect that a statement made by a Member of the European Parliament beyond the precincts of that institution and giving rise to prosecution in his Member State of origin for the offence of making false accusations does not constitute an opinion expressed in the performance of his parliamentary duties covered by the immunity afforded by that provision unless that statement amounts to a subjective appraisal having a direct, obvious connection with the performance of those duties. It is for the court making the reference to determine whether those conditions have been satisfied in the case in the main proceedings.

3.3. In *Gollnisch* the General Court, building on previous jurisprudence, gave an overview of parliamentary immunity in Union law and especially on the distinction between the waiver

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<sup>1</sup> Judgment of 21 October 2008 in joined cases C-200/07 and 201/07, *Marra v De Gregorio and Clemente*.

<sup>2</sup> Judgment of 6 September 2011 in case C-163/10, *Aldo Patricello*.

<sup>3</sup> Judgment of 17 January 2013 in joint cases T-346/11 and T-347/11, *Bruno Gollnisch*.

and the defence of immunity. Referring back to its findings in the *Marra* case, the Court emphasised that the Rules of Procedure are rules of internal organisation and cannot grant powers to the Parliament which are not expressly acknowledged by a legislative measure, in this case by the Protocol. It follows that, even if the Parliament, pursuant to a request from the Member concerned, adopts, on the basis of those rules, a decision to defend immunity, that constitutes an opinion which does not have binding effect with regard to national judicial authorities. In addition, the fact that the law of a Member State<sup>4</sup> provides for a procedure in defence of members of the national parliament – enabling that parliament to intervene where the national court does not recognise that immunity – does not imply that the same powers are conferred on the European Parliament in relation to its Members coming from that Member State, since Article 9 of the Protocol does not expressly grant the Parliament such power and does not refer to the rules of national law.

It follows from the above doctrine, that the defence of immunity can only be applicable in a case where the immunity of a Member, as it results from the law of his or her own state, is compromised (notably by an action of the police or the judicial authorities of the Member's own state) and there is no request for the waiver of the member's immunity. In such cases the Member is entitled to ask for the defence of his or her immunity pursuant to the Rules of Procedure of the EP. Therefore, the defence of immunity is a way for Parliament to intervene, at the request of a Member of Parliament, when national authorities violate or are preparing to violate the immunity of one of its Members. On the other hand, when a request for the waiver of immunity is submitted by the national authorities, the Parliament shall decide whether to waive or not to waive the immunity. In such cases the defence of immunity does not make sense any more: Parliament either waives the immunity and thus there is no place for its defence, or it refuses to waive the immunity and thus the defence becomes useless because the national authorities are informed that their request to waive the immunity had been rejected and therefore the parliamentary immunity prevents them from taking the measures they were preparing to take.

#### 4. Conclusion

On the basis of the legal context explained above and the draft and final opinions of the JURI committee, your rapporteur proposes to reformulate the relevant rules to make their structure more coherent and their substance to be in line with recent jurisprudence and the practice of the competent committee. Parliamentary immunity is not a Member's personal privilege, but a guarantee of the independence and integrity of Parliament as a whole and its Members. The Rules of Procedure should therefore regulate this matter in a legally waterproof and sufficiently detailed manner in order to protect the stature of the institution where the citizens of the Union are directly represented<sup>5</sup>.

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<sup>4</sup> Cf. for example Article 68, first paragraph of the Italian Constitution.

<sup>5</sup> Article 10(1) of the Treaty on European Union.

10.7.2013

## OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Constitutional Affairs

on amendment of Rule 7 of Parliament's Rules of Procedure  
(2013/2031(REG))

Rapporteur: Klaus-Heiner Lehne

### AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following amendments into its report:

#### Amendment 1

##### Parliament's Rules of Procedure Rule 5 – paragraph 1 a (new)

*Present text*

*Amendment*

***1a. Parliamentary immunity is not a Member's personal privilege, but a guarantee of the independence of Parliament as a whole and its Members.***

#### Amendment 2

##### Parliament's Rules of Procedure Rule 6 – paragraph 1

*Present text*

*Amendment*

1. In the exercise of its powers in respect of

1. In the exercise of its powers in respect of

privileges and immunities, Parliament ***shall seek primarily*** to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties.

privileges and immunities, Parliament ***acts*** to uphold its integrity as a democratic legislative assembly and to secure the independence of its Members in the performance of their duties. ***Any request for waiver of immunity shall be evaluated in accordance with the provisions of Articles 7, 8 and 9 of the Protocol on the Privileges and Immunities of the European Union and with the principles referred to in this paragraph.***

### Amendment 3

#### Parliament's Rules of Procedure Rule 6 – paragraph 2

*Present text*

*Amendment*

***2. Any request addressed to the President by a competent authority of a Member State that the immunity of a Member be waived shall be announced in Parliament and referred to the committee responsible.***

***deleted***

*Justification*

*This text would be better placed in Rule 7 which covers procedural questions.*

### Amendment 4

#### Parliament's Rules of Procedure Rule 6 – paragraph 3

*Present text*

*Amendment*

***3. Any request addressed to the President by a Member or a former Member to defend privileges and immunities shall be announced in Parliament and referred to the committee responsible.***

***deleted***

*Justification*

*This text would be better placed in Rule 7 which covers procedural questions.*

## Amendment 5

### Parliament's Rules of Procedure Rule 6 – paragraph 4

*Present text*

*Amendment*

***4. As a matter of urgency, in circumstances where Members are arrested or have their freedom of movement curtailed in apparent breach of their privileges and immunities, the President, after having consulted the chair and rapporteur of the committee responsible, may take an initiative to assert the privileges and immunities of the Member concerned. The President shall notify the committee of that initiative and inform Parliament.***

***deleted***

*Justification*

*This text would be better placed in a new Rule 6 b covering urgent situations.*

## Amendment 6

### Parliament's Rules of Procedure Rule 6 – paragraph 5 (new)

*Present text*

*Amendment*

***5. Where Members are required to appear as witnesses or expert witnesses, there is no need to request a waiver of immunity, provided:***

***- that they will not be obliged to appear on a date or at a time which prevents them from performing, or makes it difficult for them to perform, their parliamentary duties, or that they will be able to provide a statement in writing or in any other form which does not make it difficult for them to fulfil their parliamentary duties;***

***- that they are not obliged to testify concerning information obtained confidentially in the exercise of their***

*mandate which they do not see fit to disclose.*

*Justification*

*This text has been moved from Rule 7, as it concerns the question of whether a request for the waiver of immunity is even necessary in cases where a Member is called as a witness.*

**Amendment 7**

**Parliament's Rules of Procedure  
Rule 6 a (new)**

*Present text*

*Amendment*

***Rule 6 a – Defence of immunity***

***1. In cases where the privileges and immunities of a Member or former Member are alleged to have been breached by the authorities of a Member State, a request for a Parliament decision as to whether there has, in fact, been a breach of those privileges and immunities may be made in accordance with Rule 7(-1).***

***2. In particular, such a request for the defence of privileges and immunities may be made if it is considered that the circumstances constitute an administrative or other restriction imposed on the free movement of Members travelling to or from the place of meeting of Parliament or an opinion expressed or a vote cast in the performance of the mandate or fall within aspects of Article 9 of the Protocol on Privileges and Immunities of the European Union.***

***3. A request for the defence of the privileges and immunities of a Member shall not be admissible if a request for the waiver or defence of that Member's immunity has already been received in respect of the same legal proceedings, whether or not a decision has been taken***

*at that time.*

*4. No further consideration shall be given to a request for the defence of the privileges and immunities of a Member if a request for the waiver of that Member's immunity is received in respect of the same legal proceedings.*

*5. In cases where a decision has been taken not to defend the privileges and immunities of a Member, the Member may make a request to reconsider the decision, submitting new evidence. The request for reconsideration shall be inadmissible if proceedings have been instituted against the decision under Article 263 TFEU, or if the President considers that the new evidence submitted is not sufficiently substantiated to warrant reconsideration.*

#### *Justification*

*The purpose of this amendment is to insert a new rule covering requests for the defence of parliamentary immunity, and laying down the basic principles relating thereto. It seeks to prevent the use of repeated requests for defence of immunity as a delaying tactic. Furthermore, it clarifies what is to be done in cases where requests for both waiver and defence are made in respect of the same facts.*

## **Amendment 8**

### **Parliament's Rules of Procedure Rule 6 b (new)**

*Present text*

*Amendment*

***Rule 6 b – Urgent action by the President to defend immunity***

***1. As a matter of urgency, in circumstances where Members are arrested or have their freedom of movement curtailed in apparent breach of their privileges and immunities, the President, after having consulted the chair and rapporteur of the committee responsible, may take an initiative to assert the privileges and immunities of the***

***Member concerned. The President shall notify the committee of that initiative and inform Parliament.***

***2. When the President makes use of the powers conferred on him by paragraph 1, the committee responsible shall take cognisance of the President's initiative at its next meeting. Where the committee deems it necessary it may prepare a report for submission to Parliament.***

*Justification*

*This amendment introduces a new Rule 6 b covering emergency situations, for greater clarity. The amendment does not introduce any substantive changes.*

**Amendment 9**

**Parliament's Rules of Procedure  
Rule 7 – paragraph -1 (new)**

*Present text*

*Amendment*

***-1. A competent authority of a Member State may address a request to the President that the immunity of a Member be waived, and a Member or a former Member may address a request to the President to defend privileges and immunities. Such requests shall be announced in Parliament and referred to the committee responsible.***

*Justification*

*This is a new paragraph explaining the first step of the procedure, replacing Rule 6(2) and Rule 6(3) concerning waiver and defence procedures respectively, without making any substantive changes.*

**Amendment 10**

**Parliament's Rules of Procedure  
Rule 7 – paragraph 1**

*Present text*

1. The committee *responsible* shall consider without delay *and in the order in which they have been submitted* requests for the waiver of immunity or requests for the defence of immunity and privileges.

*Amendment*

1. The committee shall consider without delay *but having regard to their relative complexity* requests for the waiver of immunity or requests for the defence of immunity and privileges.

*Justification*

*In practice, in view of the differences in the technical complexity of immunity cases, it is not always possible to deal with requests strictly in chronological order. Applying this rule strictly would mean that simple cases are unnecessarily delayed by complex cases. The Committee on Legal Affairs must deal with cases as quickly as possible, but needs some discretion as to the respective timetables of the cases.*

**Amendment 11**

**Parliament's Rules of Procedure  
Rule 7 – paragraph 3**

*Present text*

3. The committee may ask the authority concerned to provide any information or explanation which the committee deems necessary in order for it to form an opinion on whether immunity should be waived or defended. *The Member concerned shall be given an opportunity to be heard, may present any documents or other written evidence deemed by that Member to be relevant and may be represented by another Member.*

*Amendment*

3. The committee may ask the authority concerned to provide any information or explanation which the committee deems necessary in order for it to form an opinion on whether immunity should be waived or defended.

*Justification*

*The provisions on hearings should be moved to a new, more detailed paragraph.*

**Amendment 12**

**Parliament's Rules of Procedure  
Rule 7 – paragraph 3 a (new)**

**3a. The Member concerned shall be given an opportunity to be heard, may present any documents or other written evidence deemed by that Member to be relevant and may be represented by another Member.**

**The Member shall not be present during debates on the request for waiver or defence of his or her immunity, except for the hearing itself.**

**The Chair of the committee shall invite the Member to be heard, indicating a date and time. The Member may waive the right to be heard.**

**If the Member fails to attend the hearing pursuant to that invitation, he or she shall be deemed to have waived the right to be heard, unless he or she asks to be excused from being heard at the date and time proposed, giving reasons. The Chair of the committee is the sole authority empowered to rule on whether such a request to be excused is to be accepted in view of the reasons given, and no appeals are permitted on this point.**

**If the Chair of the committee grants the request to be excused, he or she shall invite the Member to be heard at a new date and time. If the Member fails to comply with the second invitation to be heard, the procedure shall continue without the Member having been heard. No further requests to be excused, or to be heard, may then be accepted.**

#### *Justification*

*This amendment concerns the right of Members to be heard in immunity cases. The reason for the clarifications is that individual Members have, in the past, abused their right to be heard, using it as a tool to delay proceedings and prevent Parliament from taking a decision. The amendment aims to ensure that Members may be heard, but that they cannot repeatedly postpone their hearing in order to block judicial proceedings against them. The Chair is given powers to prevent such unjustified delays.*

## Amendment 13

### Parliament's Rules of Procedure Rule 7 – paragraph 5

*Present text*

*Amendment*

**5. Where Members are required to appear as witnesses or expert witnesses, there is no need to request a waiver of immunity, provided:** **deleted**

**- that they will not be obliged to appear on a date or at a time which prevents them from performing, or makes it difficult for them to perform, their parliamentary duties, or that they will be able to provide a statement in writing or in any other form which does not make it difficult for them to fulfil their parliamentary duties;**

**- that they are not obliged to testify concerning information obtained confidentially in the exercise of their mandate which they do not see fit to disclose.**

*Justification*

*This paragraph should be moved to Rule 6, as it concerns the question whether a request for a waiver of immunity is required in cases where Members are to appear as witnesses.*

## Amendment 14

### Parliament's Rules of Procedure Rule 7 – paragraph 6

*Present text*

*Amendment*

**6. In cases concerning the defence of immunity or privileges, the committee shall state whether the circumstances constitute an administrative or other restriction imposed on the free movement of Members travelling to or from the place of meeting of Parliament or an opinion expressed or a vote cast in the performance of the mandate or fall within** **deleted**

*aspects of Article 9 of the Protocol on Privileges and Immunities which are not a matter of national law, and shall make a proposal to invite the authority concerned to draw the necessary conclusions.*

*Justification*

*This paragraph should be moved to Rule 6 a, as it concerns the basic criteria for defending the immunity of a Member.*

**Amendment 15**

**Parliament's Rules of Procedure  
Rule 7 – paragraph 10**

*Present text*

*Amendment*

*10. When the President makes use of the powers conferred on him by Rule 6(4), the committee responsible shall take cognisance of the President's initiative at its next meeting. Where the committee deems it necessary it may prepare a report for submission to Parliament.*

*deleted*

*Justification*

*This paragraph should be moved to Rule 6 b, as it concerns the President's powers in urgent cases.*

**Amendment 16**

**Parliament's Rules of Procedure  
Rule 7 – paragraph 12 a (new)**

*Present text*

*Amendment*

*12a. The committee shall draw up principles for the application of this Rule.*

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	9.7.2013
<b>Result of final vote</b>	+: 19 -: 0 0: 0
<b>Members present for the final vote</b>	Luigi Berlinguer, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Klaus-Heiner Lehne, Antonio López-Istúriz White, Antonio Masip Hidalgo, Jiří Maštálka, Bernhard Rapkay, Rebecca Taylor, Cecilia Wikström, Tadeusz Zwiefka
<b>Substitute(s) present for the final vote</b>	Piotr Borys, Eva Lichtenberger, Axel Voss
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Jörg Leichtfried, Anna Záborská

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	17.12.2013
<b>Result of final vote</b>	+: 22 -: 0 0: 1
<b>Members in favour</b>	Alfredo Antoniozzi, Elmar Brok, Zdravka Bušić, Andrew Duff, Ashley Fox, Roberto Gualtieri, Enrique Guerrero Salom, Sylvie Guillaume, Gerald Häfner, Daniel Hannan, Stanimir Ilchev, Anneli Jäätteenmäki, Constance Le Grip, David Martin, Sandra Petrović Jakovina, Paulo Rangel, Algirdas Saudargas, Helmut Scholz, György Schöpflin, Indrek Tarand, Manfred Weber, Luis Yáñez-Barnuevo García
<b>Members against</b>	
<b>Members abstained</b>	Andrew Henry William Brons
<b>Members present for the final vote</b>	Alfredo Antoniozzi, Andrew Henry William Brons, Zdravka Bušić, Carlo Casini, Andrew Duff, Ashley Fox, Roberto Gualtieri, Enrique Guerrero Salom, Gerald Häfner, Daniel Hannan, Stanimir Ilchev, Constance Le Grip, David Martin, Morten Messerschmidt, Sandra Petrović Jakovina, Paulo Rangel, Algirdas Saudargas, Indrek Tarand, Manfred Weber, Luis Yáñez-Barnuevo García
<b>Substitute(s) present for the final vote</b>	Elmar Brok, Sylvie Guillaume, Anneli Jäätteenmäki, Helmut Scholz, György Schöpflin