

Request for defence of the immunity of Gabriele Albertini

European Parliament decision of 21 May 2013 on the request for defence of the immunity and privileges of Gabriele Albertini (2012/2240(IMM))

The European Parliament,

- having regard to the request by Gabriele Albertini of 19 July 2012, announced in plenary on 10 September 2012, for defence of his immunity in connection with proceedings pending before the Court of Milan, Italy,
 - having heard Gabriele Albertini in accordance with Rule 7(3) of its Rules of Procedure,
 - having regard to Article 68 of the Constitution of the Italian Republic, as amended by Constitutional Law No 3 of 29 October 1993,
 - having regard to Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union, annexed to the Treaty on the Functioning 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 and 6 September 2011¹,
 - having regard to Rules 6(3) and 7 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A7-0149/2013),
- A. whereas a Member of the European Parliament, Gabriele Albertini, has requested the defence of his parliamentary immunity in connection with proceedings before an Italian court;
- B. whereas the request by Gabriele Albertini relates to a writ of summons filed against him before the Court of Milan on behalf of Alfredo Robledo, in connection with statements made by Gabriele Albertini in a first interview published by the Italian newspaper *Il Sole 24 Ore* on 26 October 2011 and in a second interview published by the Italian newspaper *Corriere della Sera* on 19 February 2012;
- C. whereas, according to the writ of summons, statements made in those interviews constitute libel, resulting in a claim for damages;

¹ Judgment of 12 May 1964 in Case 101/63, *Wagner v Fohrmann and Krier* (ECR 1964, p. 195); judgment of 10 July 1986 in Case 149/85, *Wybot v Faure and others* (ECR 1986, p. 2403); judgment of 15 October 2008 in Case T-345/05, *Mote v Parliament* (ECR 2008, p. II-2849); judgment of 21 October 2008 in Joined Cases C-200/07 and C-201/07, *Marra v De Gregorio and Clemente* (ECR 2008, p. I-7929); judgment of 19 March 2010 in Case T-42/06, *Gollnisch v Parliament* (ECR 2010, p. II-1135); judgment of 6 September 2011 in Case C-163/10, *Patriciello* (ECR 2011, p. I-7565).

- D. whereas the statements made in both interviews concern the ‘derivatives trial’ on the investigation into facts dating back to 2005, involving the municipality of Milan and relating to the function of Gabriele Albertini as mayor of that city;
 - E. whereas both interviews were given at a time when Gabriele Albertini was a Member of the European Parliament, following his election in the 2004 and 2009 European Parliament elections;
 - F. whereas, according to Article 8 of the Protocol on the Privileges and Immunities of the European Union, Members of the European Parliament may 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;
 - G. whereas, in accordance with Parliament’s established practice, the fact that the legal proceedings are of a civil or administrative law nature, or contain certain aspects falling under civil or administrative law, does not *per se* prevent the immunity afforded by that article from applying;
 - H. whereas the facts of the case, as manifested in the writ of summons and in Gabriele Albertini’s oral explication to the Committee on Legal Affairs, indicate that the statements made do not have a direct and obvious connection with Gabriele Albertini’s performance of his duties as a Member of the European Parliament;
 - I. whereas Gabriele Albertini, in granting both interviews in question on the ‘derivatives trial’, was therefore not acting in the performance of his duties as a Member of the European Parliament;
1. Decides not to defend the immunity and privileges of Gabriele Albertini;
 2. Instructs its President to forward this decision immediately to the competent authority of the Italian Republic and to Gabriele Albertini.