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TEXTS ADOPTED

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**P8\_TA(2018)0385**

**Consultation on the privileges and immunities of Alfonso Luigi Marra**

**European Parliament decision of 23 October 2018 on the request for consultation on the privileges and immunities of Alfonso Luigi Marra (2018/2058(IMM))**

*The European Parliament,*

- having regard to the requests for consultation on the privileges and immunities of Alfonso Luigi Marra, forwarded on 7 March 2018 by the Court of Appeal (*Corte d'Appello*) of Naples (Italy) in connection with legal proceedings instituted against him (Ref. Nos 4831/2015 RG and 4832/2015 RG respectively) and announced in plenary on 17 April 2018,
- having heard Alfonso Luigi Marra in accordance with Rule 9(6) of its Rules of Procedure,
- having regard to Article 8 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<sup>1</sup>,
- having regard to its resolution of 11 June 2002 on the immunity of Italian Members and the Italian authorities' practices on the subject<sup>2</sup>,

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<sup>1</sup> 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.

<sup>2</sup> OJ C 261 E, 30.10.2003, p. 102.

- having regard to Rule 5(2) and Rule 9(14) of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A8-0325/2018),
- A. whereas Alfonso Luigi Marra served as a Member of the European Parliament from 21 July 1994 to 19 July 1999;
- B. whereas two sets of legal proceedings were instituted against Mr Marra in connection with allegedly defamatory statements he had made in a leaflet dated 19 September 1996, i.e. when he was a Member of the European Parliament; whereas Mr Marra was ordered to pay compensation to the injured parties both by the court of first instance (judgments of 17 and 22 February 2000) and the court of second instance (judgments of 6 March 2002); whereas at the request of Mr Marra, by decisions of 20 February 2007 the Italian Supreme Court (*Corte di Cassazione*) referred the matter to the Court of Justice for preliminary rulings on the interpretation of the Community rules on the immunity of Members of the European Parliament;
- C. whereas, in the meantime, Parliament had adopted its resolution of 11 June 2002 on the immunity of Italian Members in Italy and the Italian authorities' practices on the subject; whereas on that occasion Parliament considered that the case of Alfonso Luigi Marra raised a prima facie case of absolute immunity, that the competent courts should be put on notice to transmit to Parliament the documentation necessary to establish whether the cases in question involve absolute immunity under Article 8 of Protocol No 7 and that the competent courts should be invited to stay proceedings pending a final determination by Parliament; whereas it was apparent from the orders for reference to the Court of Justice that that resolution had not reached the Italian courts;
- D. whereas, in the context of the abovementioned reference for preliminary rulings, the Court of Justice held that where an action has been brought against a Member of the European Parliament before a national court and that court is informed that a procedure for defence of the privileges and immunities of that Member, as provided for in Parliament's Rules of Procedure, has been initiated, that court must stay the judicial proceedings and request the Parliament to issue its opinion as soon as possible<sup>1</sup>;
- E. whereas, following the ruling of the Court of Justice, by judgments of 10 December 2009 the Italian Supreme Court referred the matter back to the Court of Appeal of Naples in order for the latter to take a decision on Mr Marra's case in the light of both Parliament's resolution of 11 June 2002 and the relevant case law of the Court of Justice; whereas by judgments of 5 December 2012 the Court of Appeal, without staying the proceedings and requesting Parliament's opinion, confirmed its previous judgments, by which Mr Marra had been ordered to pay compensation to the injured parties; whereas by judgments of 30 April 2015 the Italian Supreme Court quashed the decisions of the Court of Appeal and referred the matter back to it so that it could stay the proceedings and request Parliament's opinion; whereas the Court of Appeal of Naples did indeed decide to stay the proceedings and, by letter of 27 January 2018, to consult the European Parliament on the privileges and immunities of Alfonso Luigi Marra;
- F. whereas Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the

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<sup>1</sup> Joined Cases C-200/07 and C-201/07 *Marra*, cited above, paragraph 43.

European Union are mutually exclusive<sup>1</sup>; whereas the case at hand only concerns allegedly discriminatory opinions expressed by a Member of the European Parliament; whereas the applicability of Article 8 alone is therefore self-explanatory;

- G. whereas under Article 8 of Protocol No 7, 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; whereas such immunity must, to the extent that it seeks to protect the freedom of expression and independence of Members of the European Parliament, be considered as an absolute immunity barring any judicial proceedings in respect of an opinion expressed or a vote cast in the exercise of parliamentary duties<sup>2</sup>;
  - H. whereas the Court of Justice has held that, in order to enjoy immunity, an opinion must be expressed by a Member of the European Parliament in the performance of his duties, thus entailing the requirement of a link between the opinion expressed and the parliamentary duties; whereas such a link must be direct and obvious<sup>3</sup>; whereas even though the allegedly defamatory statements were made between 1996 and 2001 before the judgment of 2011 in Case *Patriciello*, the fact remains that the Italian courts sought the opinion of the Committee on Legal Affairs in 2018, which is to say after that case law was established;
  - I. whereas the facts of the case, as laid out in the documents provided to the Committee on Legal Affairs and in the hearing before it, indicate that Mr Marra's statements do not have a direct and obvious connection with his parliamentary duties;
  - J. whereas Alfonso Luigi Marra cannot therefore be deemed to have been acting in the performance of his duties as a Member of the European Parliament in relation to the opinions expressed by him in the case at hand;
1. Considers that the opinions expressed by Alfonso Luigi Marra are not covered by parliamentary immunity within the meaning of Article 8 of Protocol No 7;
  2. Instructs its President to forward this decision and the report of its committee responsible immediately to the competent authority of the Italian Republic and to Alfonso Luigi Marra.

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<sup>1</sup> Joined Cases C-200/07 and C-201/07 *Marra*, cited above, paragraph 45.

<sup>2</sup> Joined Cases C-200/07 and C-201/07 *Marra*, cited above, paragraph 27.

<sup>3</sup> Case C-163/10 *Patriciello*, cited above, paragraphs 33 and 35.