

Request for defence of the parliamentary immunity of Claudio Fava

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The Committee on Legal Affairs adopted by unanimity the report drafted by Mr. Klaus-Heiner LEHNE (EPP-ED, DE), whereby it decided to defend the immunity of the Italian Member, Mr. Claudio FAVA (PES, IT).

To recap, Mr Fava, at the sitting of 6 June 2007, requested the defence of his parliamentary immunity in relation to civil proceedings brought against him and pending before the Civil Court of Marsala (Sicily) since 29 May 2007. The proceedings in question were brought by Mr David Salvatore Costa against Mr Fava, along with other defendants, to answer to a claim for them to be ordered to pay, jointly and severally or individually, such amount as the Court should consider just as compensation for statements they made on 16 November 2006 during the TV programme 'Annozero', broadcast by the State television channel RAI 2, which, that evening, was devoted to Sicily. Among the guests on the programme were the President of the Region, Mr Salvatore Cuffaro, and Mr Fava.

According to Mr Costa's writ of summons, in the final part of the programme, Mr Fava, after violently hurling abuse at Mr Cuffaro, in a theatrical tone, wildly launched slanderous and defamatory accusations against Mr Costa, who was, moreover, not present during the debate. Mr Fava allegedly insinuated that Mr Costa, advisor to Mr Cuffaro, had gone out, and with the assistance of the local mafia, was seeking votes during the election campaign in Sicily.

The Committee on Legal Affairs, having examined the case, came to the view that Mr Fava is engaged in these civil proceedings for having expressed his opinions in the exercise of his duties, and that Articles 9 and 10 of the Protocol on Privileges and Immunities of the European Communities of 8 April 1965 can be invoked to defend his immunity. As a matter of fact, in his statements reported by the writ of summons filed by the claimant, Mr Fava merely commented on facts in the public domain. In describing and criticising what, in his views, were deviations in the electoral campaign in Sicily, he was carrying out his duty as a Member of Parliament in expressing his opinion on a matter of public interest to his constituents. In short, in the committee's view, Mr FAVA was simply doing his job as a Member of Parliament. To seek to gag Members of Parliament from expressing their opinions on matters of legitimate public interest and concern by bringing legal proceedings is unacceptable in a democratic society and manifestly in breach of Article 9 of the Protocol, which is intended to protect Members' freedom of expression in the performance of their duties in the interests of Parliament as an Institution.

On the legal form, the committee opted for a broad interpretation of the term 'legal proceedings' used in Articles 9 and 10 of the Protocol on the Privileges and Immunities of the European Communities. In fact, traditionally, this expression had been interpreted as covering only criminal proceedings. However, on 23 September 2003 Parliament decided, for the first time, to uphold the immunity of a Member in civil proceedings. Subsequently, many other similar decisions were taken in other cases involving civil proceedings. Accordingly, the reference to 'legal proceedings' is now interpreted as covering any attempt to secure punitive damages by means of civil proceedings.

On the basis of the above considerations, the Committee on Legal Affairs, having examined the reasons for and against defending immunity, recommends that the immunity of Mr Claudio Fava should be defended.