Request for consultation on the immunity and privileges of Alfonso Luigi Marra

2018/2058(IMM) - 15/10/2018 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted the report by Gilles LEBRETON (ENF, FR) on the request for consultation on the privileges and immunities of Alfonso Luigi Marra.

This report is in response to the request for consultation on the privileges and immunities of Alfonso Luigi Marra, transmitted on 7 March 2018 by the Court of Appeal of Naples (Italy), in connection with legal proceedings brought against him.
As a reminder, two sets of legal proceedings were instituted against Alfonso Luigi 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. He was ordered to pay compensation to the injured parties both by the court of first instance (2000) and the court of second instance (2002).
At the request of Alfonso Luigi Marra, by decisions of 20 February 2007 the Italian Supreme Court 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.
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. In this resolution, 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.
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 Alfonso Luigi Marra's case in the light of both Parliament's resolution and the relevant case law of the Court of Justice.
In its judgment of 5 December 2012, the Court of Appeal, without staying the proceedings and requesting Parliament's opinion, confirmed its previous judgments, by which Alfonso Luigi Marra had been ordered to pay compensation to the injured parties.
This judgment was quashed by the Italian Court of Cassation on 30 April 2015, which again referred the case to the Naples Court of Appeal to stay the proceedings and request the opinion of the European Parliament.
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.

Members considered that 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 Alfonso Luigi Marra's statements do not have a direct and obvious connection with his parliamentary duties. He 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.

Members considered that the opinions expressed by Alfonso Luigi Marra are not covered by parliamentary immunity within the meaning of Article 8 of Protocol No 7.