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Press and Information

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Judgment of the Court of Justice in Joined Cases C-200/07 and C-201/07

*Alfonso Luigi Marra v Eduardo De Gregorio and Antonio Clemente*

**THE COURT OF JUSTICE CLARIFIES THE RULES FOR APPLYING THE  
IMMUNITY OF MEMBERS OF THE EUROPEAN PARLIAMENT FOR OPINIONS  
EXPRESSED AND VOTES CAST IN THE COURSE OF THEIR DUTIES**

Article 9 of the Protocol on the Privileges and Immunities of the European Communities sets out the principle of immunity of Members of the European Parliament in respect of opinions expressed or votes cast by them in the performance of their duties<sup>1</sup>.

Eduardo De Gregorio and Antonio Clemente brought proceedings before the Italian courts against Alfonso Marra, a former Member of the European Parliament, claiming damages for the loss which he allegedly caused them by distributing a leaflet containing insulting remarks about them. Since the courts of first instance found against him, not accepting that his actions constituted opinions expressed in the course of his duties as an MEP, Mr Marra alleged, before the Corte di cassazione, an infringement of the Rules of Procedure of the Parliament inasmuch as no ‘authorisation’ had been sought before proceedings had been initiated against him.

The reference made by the Corte di cassazione to the Court of Justice concerns the issues of, first, whether, where the national court which has to rule on an action for damages brought against an MEP in respect of opinions expressed by him has received no information regarding a request from that MEP to the Parliament seeking defence of his immunity<sup>2</sup>, that court may itself rule on whether the immunity applies. Second, whether, where the national court is informed of the fact that that MEP has made such a request to the Parliament, that court must await the decision of the Parliament before continuing with the proceedings against the MEP. Third, whether, where the national court finds that that immunity does apply, it must request the waiver of that immunity for the purposes of continuing with the legal proceedings.

The Court makes clear, first, that the immunity provided for in Article 9 of the Protocol seeks to protect the freedom of expression and independence of MEPs, and must be considered as an **absolute immunity** barring any judicial proceedings.

<sup>1</sup> Under Article 10 of the Protocol, during the sessions of the European Parliament, its Members also enjoy the immunities accorded to members of the national parliament of their Member State, from any measure of detention and from legal proceedings in respect of acts other than votes cast and opinions expressed in the course of their duties. In that case, the Protocol provides that the Parliament may waive the immunity.

<sup>2</sup> On the basis of the Rules of Procedure of the European Parliament (Rule 6(3)).

It states that it is within the **exclusive jurisdiction of the national court** to determine whether the conditions for applying that immunity are met; the national court is not obliged to refer that question to the Parliament, which for its part does not have the power to determine whether the conditions for application are met.

Where, by contrast, the Parliament has, following a request from the member concerned, adopted a **decision to defend immunity**, that decision constitutes, with regard to the national legal authorities, a **non-binding opinion**.

The Court rules, in the present case, that even if the national law of a Member State provides for the national parliament to intervene in defence of its members where a national court does not recognise that immunity, that does not imply that the same powers are conferred on the European Parliament in relation to its members coming from that State, since the Protocol does not expressly grant the European Parliament such power and does not refer to the rules of national law.

Where a **procedure for defence of immunity** is brought by the member before the Parliament and the national court is informed of that procedure, the court – in the interest of sincere cooperation between the European institutions and the national authorities – must stay the judicial proceedings and request the Parliament to issue its opinion as soon as possible.

Once the national court has established that the conditions for the absolute immunity provided for in Article 9 of the Protocol are met, the court is bound to respect that immunity, as is the Parliament. It follows that such **immunity cannot be waived by the Parliament** and the action brought against the member concerned must be dismissed.

*Unofficial document for media use, not binding on the Court of Justice.*

*Languages available: DE, EL, EN, FR, IT, NL, RO*

*The full text of the judgment may be found on the Court's internet site*

*<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-200/07>*

*It can usually be consulted after midday (CET) on the day judgment is delivered.*

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