



Press and Information

General Court of the European Union

PRESS RELEASE No 04/13

Luxembourg, 17 January 2013

Judgment in Joint Cases T-346/11 and T-347/11
Bruno Gollnisch v Parliament

The decisions of the European Parliament to waive and not to defend Mr. Gollnisch's immunity are valid

Members of the European Parliament are protected under the Protocol on the privileges and immunities of the EU. In particular, by virtue of the immunity accorded to them, MEPs shall 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 duties¹. In addition, during the sessions of the European Parliament, MEPs shall enjoy inter alia, in the territory of their own State, the immunities accorded to members of their national parliament. This is a matter of Members' privilege, which may be lifted in certain cases by the European Parliament².

Mr. Bruno Gollnisch MEP, is also President of the *Front National* group of the Rhône-Alpes (France) regional council. That group drafted, on 3 October 2008, a press release entitled '*Affaires des fiches à la région: les Tartuffe s'insurgent*'. Following a complaint from the International League against Racism and Antisemitism (LICRA), the French authorities opened a judicial inquiry on 22 January 2009 for incitement to racial hatred.

On 14 June 2010, the President of the European Parliament announced, during a plenary session, that he had received from Mr. Gollnisch a request for defence of his immunity and that he referred that request to the Legal Affairs Committee of the European Parliament for it to be examined without delay and for a proposal for a decision to be made, either recommending the adoption or the rejection of the request for defence of his immunity.

By letter dated 25 October 2010, received by the Parliament on 3 November 2010, the French authorities transmitted to the President of the Parliament a request for waiver of the parliamentary immunity of Mr. Gollnisch, pursuant to an application dated 14 September 2010 from the Attorney General of the Cour d'appel de Lyon (Court of Appeal, Lyon), in order to pursue the investigation of the complaint against Mr. Gollnisch and to allow, where applicable, its reference to the competent court or tribunal. On 10 May 2011, the European Parliament adopted two decisions, firstly to waive Mr. Gollnisch's immunity, and secondly and at the same time, not to defend his immunity.

Mr Gollnisch brought an action before the General Court seeking annulment of those two decisions of the Parliament and compensation for the non-material damage which he claims to have suffered.

In its judgment of this day, the General Court rejects both actions brought by Mr. Gollnisch.

The General Court reiterates that the rules on immunity of MEPs, established by the Protocol, seek to protect the freedom of expression and the independence of MEPs and that parliamentary privilege includes, in principle, protection from judicial proceedings (Articles 8 and 9 of the Protocol).

¹ Article 8 of the Protocol No 7 on the privileges and immunities of the European Union.

² Article 9 of the Protocol.

Firstly, the General Court clarifies the distinction between **waiver of immunity** and **defence of immunity** within the meaning of the Protocol. Thus, defence of immunity covers only the case where there has been no request for the waiver of the immunity of an MEP, but his privilege, which is to be inferred from provisions of the national legislation of the Member State of origin of the MEP, is compromised inter alia by actions of the national police or judicial authorities.

It then recalls the case-law³ of the Court of Justice pursuant to which, the opinion (in the broadest sense) of an MEP is covered by immunity – established on the basis of EU law⁴ – only where it has been expressed ‘in the performance of [his duties]’, **thus implying the requirement of a link between the opinion expressed and the performance of the parliamentary duties**. That link must be direct and obvious.

However, in the present case, the General Court notes that the statement set out in the press release, allegedly made by Mr. Gollnisch, concerns the manner in which the President and Director General of services of the Rhône-Alpes regional council reacted to a request from the intelligence services seeking to obtain information in relation to certain civil servants. It is not disputed that the statement was drafted by the spokesperson of the *Front National* group, of which Mr. Gollnisch is President. It is also not disputed that, during a press conference which took place in Lyon, Mr. Gollnisch confirmed that the press release had been drafted by persons authorised to speak in the name of the elected representatives of the political group concerned within the regional council. It must be stated that those facts directly concern the duties carried out by the applicant acting in his capacity as regional councillor and President of the *Front National* group. Consequently, there is no link between the statement allegedly made by Mr. Gollnisch and his duties as MEP nor, a fortiori, a direct and obvious link between the statement at issue and his duties as an MEP.

The Parliament cannot therefore be criticised, having regard to the circumstances of the present case and to France’s application, for having lifted the immunity of Mr. Gollnisch so as to allow the French authorities to pursue their investigation on the basis of the Protocol.

In the same way, in contrast to Mr. Gollnisch’s argument, the Parliament considered correctly that the judicial investigation initiated in France had not been brought with the intention of causing damage to his political activity as a Member (lack of *fumus persecutionis*). Indeed the judicial proceedings had not been brought by a political opponent but by an association authorised under French law to bring proceedings against exponents of written or oral racist or anti-Semitic statements. In addition, the proceedings did not concern either historical matters or acts carried out during an electoral campaign and further, there is no evidence, in light of the facts taken into consideration by the Parliament which have not been contested by Mr. Gollnisch, to show that the manifest purpose of the proceedings is to make an example out of him.

It follows that the obligation for the Parliament to examine, with care and impartiality, all the pertinent elements of the present case has been met.

Finally, the applicant has failed to show a breach of the principle of sound administration. The same is true in relation to the principle of equal treatment, as Mr Gollnisch has been unable to show that he has been the subject of a different treatment in comparison with that usually reserved for MEPs in comparable situations.

Consequently, the General Court dismisses the applications, and the subsidiary application for compensation.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may,

³ Case [C-163/10 Patriciello](#), see also Press Release No [81/11](#).

⁴ Article 8 of the Protocol.

under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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