

The President

Ms Ana GOMES
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D 311199 02.09.2019

Dear Ms Gomes,

I refer to your letter of 1st July 2019, by which you informed President Tajani of a legal action regarding facts which had taken place during your mandate and asked him to clarify whether you still benefit from parliamentary immunity after the end of your mandate as the Member of the European Parliament on 2 July 2019.

Article 8 of the Protocol on the Privileges and Immunities of the European Union protects Members of the European Parliament from any form of inquiry, detention or legal proceedings in respect of opinions expressed in the performance of their duties. The Court of Justice has had the occasion to clarify that the immunity in Article 8 of the Protocol must be considered as an absolute immunity barring any judicial proceedings in respect of an opinion expressed in the exercise of parliamentary duties. Consequently, the immunity awarded by that provision lasts indefinitely to the extent that the facts concerned are to be considered as having occurred in the exercise of parliamentary duties and does not expire at the end your mandate as the Member of the European Parliament.

In this context, I would like to inform you of the possibility to submit a request for a defence of your immunity by Parliament based on Rule 7 of the Rules of Procedure. Parliament would issue an opinion on the applicability of Article 8 of the Protocol. However, such opinion would not have any binding effect for the national court which is called on to apply Article 8. Such court would have the exclusive jurisdiction to assess the applicability of that provision but it could refer a question to the Court of Justice for a preliminary ruling if it has doubts concerning the interpretation of that provision. You would nevertheless have the possibility to ask the national court to stay the proceedings while the defence procedure is pending before Parliament.

Yours sincerely,



David Maria SASSOLI