



Press Office of the Constitutional Court

Press release of 6 March 2019

INDIRECT INTERCEPTION OF PARLIAMENTARIANS'
COMMUNICATIONS: THE OBLIGATION TO OBTAIN AUTHORISATION
FROM THEIR CHAMBERS ALSO APPLIES TO TELEPHONE RECORDS

The provision requiring courts to obtain authorisation from the chamber of Parliament to which a parliamentarian belongs, before telephone records registered to third parties who have been in contact with the parliamentarian may be admitted as evidence, is not unconstitutional.

This was established by the Constitutional Court in [Judgment No. 38](#) (Judge Rapporteur: Nicolò Zanon), filed today. In this judgment, the Constitutional Court held that the reference in Article 68(3) of the Constitution to “conversations or communications” leads to the conclusion that the Constitution’s protection also covers “external” data, that is, “communication-related facts” that may be drawn from telephone records: the date and time of the conversations or communications, their duration and the users involved. Moreover, the term “communications” has, among its common meanings, those of “contact”, “relationship” and “connection”, and evokes precisely the data and new information that a telephone record is able to reveal.

The question of constitutionality had been raised by the judge of preliminary investigations [*giudice per le indagini preliminari*] of the Court of First Instance of Bologna. According to the judge, Article 68(3) of the Constitution requires the relevant chamber of Parliament to provide authorisation only when the conversations and communications of parliamentarians are to be intercepted, without mentioning their telephone records. Therefore, the ordinary legislation was alleged to unconstitutionally expand the scope of this privilege.

However, the Constitutional Court did not agree.

The judgment notes that the constitutional protection was intended to safeguard not parliamentarians’ privacy, but rather their freedom to exercise their functions, in conformity with the nature of parliamentary immunity. This immunity, indeed, aims to protect the autonomy and independence of the chambers of Parliament from

undue encroachment by other powers, and only instrumentally has effects that extend to the persons in whom those functions are vested.

For these reasons, the protection extends to the admission of telephone records at court, as this is liable to infringe upon parliamentarians' freedom of communication.

Rome, 6 March 2019

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