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RAPORT

Umberto Bossi immuuteedi ja privileegide kaitse taotlus
(2004/2203(IMM))

Õiguskomisjon

Raportöör: Diana Wallis

SISUKORD

lehekülg

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EUROOPA PARLAMENDI OTSUSE ETTEPANEK

Umberto Bossi immuuteedi ja privileegide kaitse taotlus 2004/2203(IMM)

Euroopa Parlament,

- võttes arvesse Umberto Bossit esindava vandeadvokaadi 3. augusti 2004. aasta taotlust tema immuuteedi kaitsmiseks seoses tsiviilasjaga Padua ringkonnakohtus, mis tehti teatavaks 13. septembri 2004. aasta täiskogu istungil;
 - võttes arvesse 8. aprilli 1965. a Euroopa ühenduste privileegide ja immuuteetide protokollis artikleid 9 ja 10 ja liikmete otsest ja üldist Euroopa Parlamenti valimist käsitleva 20. septembri 1976. a akti artikli 6 lõiget 2;
 - võttes arvesse Euroopa Ühenduste Kohtu 12. mai 1964. a ja 10. juuli 1986. a otsuseid¹;
 - võttes arvesse parlamendi kodukorra artikli 6 lõiget 3 ja artiklit 7;
 - võttes arvesse õiguskomisjoni raportit (A6-0209/2005),
- A. arvestades, et Umberto Bossi oli Euroopa Parlamendi neljanda koosseisu liige (mandaadi algus 19. juuli 1994, mandaat kontrollitud 15. novembril 1994, mandaadi aegumine 19. juulil 1999) ja viienda koosseisu liige (mandaadi algus 20. juulil 1999, mandaat kontrollitud 15. detsembril 1999, mandaadi aegumine 10. juunil 2001 ühitamatuse tõttu);
- B. arvestades, et Euroopa Parlamendi liikme suhtes ei tohi algselt uurimist, kohtumenetlust või kohaldada vahistamist tulenevalt sellest, milliseid seisukohti ta on ametiülesannete täitmisel väljendanud või kuidas ta on hääletanud²;
- C. arvestades, et Euroopa Parlamendi liikmetele omistatav immuuteet hõlmab ka immuuteeti tsiviilasjade menetlemise suhtes,
1. otsustab kaitsta Umberto Bossi immuuteeti ja privileege;
 2. teeb vastavalt ülalmainitud protokollis artiklile 9 ja arvestades asjaomase liikmesriigi toiminguid ettepaneku kõnealuste menetluste läbiviimise katkestamiseks; kutsub kohut üles tegema sellest tulenevaid asjakohaseid otsuseid;
 3. teeb presidendile ülesandeks edastada käesolev otsus ja vastutava komisjoni raport viivitamatult Padua ringkonnakohtule.

¹ Vt kohtuasja 101/63: Wagner *versus* Fohrmann ja Krier, EKL 1964, lk 195 ning kohtuasja 149/85: Wybot *versus* Faure ja teised, EKL 1986, lk 2391.

² Euroopa ühenduste privileegide ja immuuteetide protokollis artikkel 9.

EXPLANATORY STATEMENT

I. Admissibility of request

Umberto Bossi's first term of office as Member of the European Parliament lasted from 19 July 1994 to 19 July 1999. His second term lasted from 20 July 1999 to 10 June 2001, the day on which he was appointed minister (incompatibility, pursuant to Article 6(1), first indent, of the Act concerning the Election of the Representatives of the Assembly by direct universal suffrage¹. His third term started on 20 July 2004. The facts in connection with the legal proceedings pending before the Padua Civil District Court took place on 1998 and on February 1999.

The request is therefore admissible pursuant to Rule 6(3) of the European Parliament's Rules of Procedure, since Umberto Bossi was a Member of the European Parliament at the time in question.

II. Substance and merits of the request

In accordance with Rule 6 of the European Parliament's Rules of Procedure, the President announced at the sitting of 13 September 2004 that he had received a request from a barrister acting for Mr Umberto Bossi MEP for his parliamentary immunity to be defended in connection with the legal proceedings pending before the Padua Civil District Court.

In implementation of Rule 6(3), the President referred all the requests to the Legal Affairs Committee, as the committee responsible.

III. Facts of the case

Mr Fabrizio Comencini, former member of Mr Bossi's party (Lega Nord), sued Mr Bossi for damages before the Padua District Court.

In his pleadings, Mr Comencini complained that Mr Bossi, on several occasions, had spoken in terms which had been seriously offensive and detrimental to his reputation.

In particular The '*Giornale di Vicenza*' of 9 October 1998, referring to the Lega Nord Congress in Bassano del Grappa, reported that Mr Bossi had said towards Mr Comencini and his supporters: '*Spit in his eye*'. '*Traitors, insects, scroungers, layabouts: first he split the MSI and then the Lega Nord: schism is in his DNA*'. '*We are men, we are not Comencini*'. '*A puppet in the hands of the puppet master from Arcore*'. '*Crush him*'.

¹ OJ L 278, 8.10.1976, pp. 5-11.

On other occasions Mr Bossi declared that Mr Comencini *'was plotting in the shadows'* and *'was considering giving a hand to the Polo delle Libertà coalition and its leader, Silvio Berlusconi the mafioso'* to allow the *'mafioso's party to win'* and *'we shall never ally ourselves with the mafioso'* (*'La Padania'* of 27 October 1998, 29 September 1998 and 13 October 1998). Also: *'Cosa Nostra dictates the line to be followed by Berlusconi, who manipulates Galan and Comencini in the Veneto'* (*'La Padania'* of 13 October 1998): *'Comencini (...) the bought man, the man bribed by Berlusconi'* (*'Il Gazzettino'* of 1 February 1998).

IV. Applicable provisions

Article 9 of the PPI reads as follows:

'Members of the European Parliament 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 duties'.

The key point is therefore to determine whether the statements, which are the subject of the legal proceedings, were made by Mr Bossi in the performance of his duties as Member of the European Parliament.

A civil action may also constitute prosecution by the state of a Member of Parliament within the meaning of Article 9 of the PPI¹.

Parliament has consistently taken it as a fundamental principle that immunity may on no account be waived in cases in which the acts or statements of which a Member stands accused were carried out in the performance of his or her political duties or were directly related to such duties². The right to make such statements is of key importance for the role of a Member of Parliament elected by the people.

In accordance with those principles, Committee on Legal Affairs notes that the statements at issue by Mr Umberto Bossi constitute an expression of opinions during a political exchange of views. These statements must be seen in the context of a political dispute between politicians, after the division of a political party, and concern a matter of genuine public interest. In conclusion these statements do not exceed the bounds of legitimate political criticism.

V. Conclusions

In the light of the above remarks, the Committee on Legal Affairs recommends that Parliament should defend the immunity and privileges of Umberto Bossi, pursuant to Rule 7(2) of its Rules of Procedure.

¹ Request for defence of parliamentary immunity of Jannis Sakellariou, A5-0309/2003 and Giuseppe Gargani, decision of 16 December 2003, (2003/2182(IMM)).

² See Decision of 1 July 2003, (2003/2249(IMM)) request for waiver of immunity of Mogens N.J. Camre.

MENETLUS

Pealkiri	Umberto Bossi immuniteedi ja privileegide kaitsmise taotlus			
Menetluse number	2004/2203(IMM)			
Puutumatuse ja privileegide kaitse taotlus				
esitaja				
taotluse esitamise kuupäev	3.8.2004			
istungil teada andmise kuupäev	13.9.2004			
Vastutav komisjon	JURI			
istungil teada andmise kuupäev	13.9.2004			
Menetlusalus	art 6 lg 3 ja art 7			
Raportöör	Diana Wallis			
nimetamise kuupäev	26.10.2004			
Aseraportöör				
Arutamine komisjonis	30.11.2004	20.01.2005	30.3.2005	21.6.2005
Vastuvõtmise kuupäev	21.6.2005			
Lõpphääletuse tulemused	poolt: 15 vastu: 0 erapooletuid: 0			
Lõpphääletuse ajal kohal olnud liikmed	Maria Berger, Bert Doorn, Monica Frassoni, Giuseppe Gargani, Kurt Lechner, Klaus-Heiner Lehne, Katalin Lévai, Antonio López-Istúriz White, Antonio Masip Hidalgo, Viktória Mohácsi, Francesco Enrico Speroni, Diana Wallis, Nicola Zingaretti, Jaroslav Zvěřina			
Lõpphääletuse ajal kohal olnud asendusliikmed	Manuel Medina Ortega			
Lõpphääletuse ajal kohal olnud asendusliikmed (kodukorra art 178 lg 2)				
Esitamise kuupäev – A6	22.6.2005	A6-0209/2005		