Request for defence of the parliamentary immunity of Renato Brunetta

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The Committee on Legal Affairs unanimously adopted the report by Aloyzas **SAKALAS** (PES, LT) on the on the request for defence of the immunity and privileges of Renato **BRUNETTA** (EPP-ED, IT).

Facts: at the sitting of 31 January 2007, the President of Parliament announced that he had received a request for the defence of the parliamentary immunity of Renato Brunetta by letter of 18 January 2007, which was forwarded to the Committee on Legal Affairs. The request relates to the civil proceedings brought by Hera S.p.A. against Mr Brunetta, along with other defendants, and currently pending before the District Court of Milan. Hera S.p.A. is an Italian holding company operating in the field of public utilities in the Emilia-Romagna region. It is a public-private company whose 59% of shares is controlled by a group of local municipalities and the remaining 41% belongs to a group of (public) bank foundations and cooperative firms. In 2006, Hera S.p.A summoned Renato Brunetta and other defendants to appear before the Cles section of the Trento District Court, so that the latter might declare them jointly liable for the material published in a book forming part of the "I documenti di Panorama" series, entitled 'Red Capitalism - Investigating The Cooperatives, From Shares To Speculation'.

That book, together with FREE (Foundation for Research on European Economy), was allegedly defamatory of Hera, which asked the court to order to the defendants, jointly, to compensate for all the material and moral damage caused.

In its writ of summons, Hera gave the following extracts of the abovementioned book, taken

from the introduction written by Mr Brunetta, as examples of defamatory statements: 'On the basis of these findings, we shall address the reasons which have led to important sectors of the cooperative movement with links to the Left Democrats becoming implemental in the emergence of 'red capitalism', the degeneration of the cooperative economy into a partisan movement. In a word, a monster'; 'Red capitalism' is part of FREE's efforts to denounce the "red" cooperatives' "hidden member" technique and restore the original rules and raison d'être of the cooperative movement'; 'FREE's "Red capitalism" shows that competition rules have been altered and a political party has taken control of the cooperatives as a "hidden member"'.

Defending Parliamentary immunity: Article 9 of the “Protocol on privileges and immunities” provides that Members of the European Parliament have **absolute immunity** from legal proceedings “in respect of opinions expressed in the performance of their duties”.

As a matter of fact, in his statements reported by the writ of summons filed by Hera S.p.A., Mr Brunetta merely commented on **facts in the public domain** which had a European political dimension as they were directly linked to Unipol’s bid to take over the Banca Nazionale del Lavoro (BNL) and the European Commission was carrying out the checks required under Community law with regard to the legality of that takeover bid.

Furthermore, as a Member of the European Parliament and full professor of Economics, Mr Brunetta only stressed the market failure resulting from to the links existing between public-private companies, cooperatives and political parties which create a de facto monopoly and may therefore jeopardise the functioning of the internal market as far as consumers' protection

and fair competition are concerned.

The case of Hera S.p.A. was just a paradigmatic example of how this economic paradox exists and works.

In this context, defining such a situation as an "economic monster" is not at all defamatory, as the word "monster" comes from the Latin expression "monstrum" which only means "extraordinary", "something against nature". The message that Mr Brunetta intended to give to his readers was nothing more than the description, from a merely economic point of view, of the existing anomalies of the Italian market, which seem to prevent Italy from fully attaining the objectives of the internal market.

In describing and criticising the deviations of the cooperatives' system, he was carrying out his duty as a Member of Parliament in expressing his opinion on a matter of public interest to his constituents.

In short, Mr Brunetta was simply doing his job as a Member of Parliament. To seek to gag Members of Parliament from expressing their opinions on matters of legitimate public interest and concern by bringing legal proceedings is unacceptable in a democratic society and manifestly in breach of Article 9 of the Protocol, which is intended to protect Members' freedom of expression in the performance of their duties in the interests of Parliament as an Institution.

Conclusion: on the basis of the above considerations, the Committee on Legal Affairs, having examined the reasons for and against defending immunity, **recommends that the immunity of Mr Renato Brunetta be defended**.