

The Economist Debate Series
Health care: a question of economics?
October 6th-16th [JOIN THIS LIVE DEBATE](#)

SUPPORTED BY PHILIPS **PHILIPS**

Economist.com

Economist.com

WORLD
EUROPE

Silvio Berlusconi's troubles

Out of court

Oct 7th 2009 | ROME
From The Economist print edition

Italy's constitutional court rules against Silvio Berlusconi, yet again

AFP



SO IT did not work. On Wednesday October 7th Italy's constitutional court threw out Silvio Berlusconi's latest wheeze for putting himself above the law. The judges voted by a majority that an immunity law passed last year was unconstitutional. It would have shielded from prosecution not only the prime minister, but also the president and the speakers of both houses of parliament. The judges decided that such a step required a constitutional reform, not a mere law. An earlier immunity law had been rejected by the same court in 2004.

The prime minister has long claimed to be the victim of a plot by left-wing members of the judiciary. On this reading, the immunity law was needed to protect him from enemies who would otherwise subvert the will of the electorate. In the words of the defence minister, Ignazio La Russa, the law's rejection would be "a political decision, more than a juridical one". Several of the prime minister's associates publicly advised him to respond by calling for a show of popular support, as a prelude to a showdown with the judiciary. The leader of the Northern League, Umberto Bossi, spoke of "dragging the people" (presumably on to the streets). But even he shied away from calling for a snap election.

Despite his problems with the law, Mr Berlusconi governed Italy for two years after the previous immunity law was thrown out. This time, he faces two trials, neither of which can do more than embarrass him. In one, he is charged with bribery. His co-defendant, a British lawyer named David Mills, has been convicted of taking the bribe, which the court has ruled came from Mr Berlusconi. But since the charges were dropped after the passage of the immunity law, the prosecution may have to start from scratch. It will probably be timed out by a statute of limitations before a verdict is reached. In a second trial, for tax evasion, the proceedings were suspended and can be resumed immediately. That will be discomfiting when the government is clamping down on tax dodgers and offering an amnesty to get back capital. But again proceedings are likely to be abandoned before the full procedure, involving as many as three trials, has run its course.

The biggest threat to Mr Berlusconi may come from a related inquiry involving alleged tax evasion as recently as 2005. Yet the court's ruling also opens up another front against Mr Berlusconi, who is significantly weaker than he was a few months ago. He is a central figure, though not a suspect, in an investigation by prosecutors in Bari into prostitution and drug-trafficking. The main suspect, a local businessman, is under investigation for having supplied around 30 women for parties at the prime minister's residence where some stayed the night and were allegedly rewarded for doing so. Mr Berlusconi denies knowing they were paid.

On October 3rd a judge in Milan ruled that Mr Berlusconi's Fininvest group should pay damages of €750m (\$1.1 billion) for bribing a judge to win control in 1991 of Mondadori, Italy's biggest publishing house. Fininvest's lawyer, Cesare Previti, was convicted two years ago of buying this judgment. The judge who awarded the damages said Mr Berlusconi was jointly responsible for the bribe.

For Mr Berlusconi's detractors this was a timely warning of what is at stake, and a reminder that Italy's prime minister is a billionaire entrepreneur who has stood trial more than a dozen times. In several cases, the only reason he has escaped conviction has been either an amnesty or a modification of the statute of limitations sponsored by his own government. To the prime minister's supporters, though, the ruling is yet more evidence that he is the victim of a plot by his enemies and left-wing members of the judiciary. The beneficiary of the award was a company controlled by Carlo De Benedetti, whose L'Espresso media group has been leading investigations into the prime minister's private life.

The weakness (but also the strength) of the right-wing conspiracy theory is that it is self-confirming: the more the prime minister is prosecuted, the more he seems persecuted. Large numbers of Italians now believe this. That is the real tragedy of Mr Berlusconi's storm-tossed venture into politics. Many, perhaps even most, Italians now doubt the good faith of an institution, the judiciary, whose impartiality is essential to any functioning democracy. After the constitutional court announced its decision, several associates did their utmost to fuel those doubts. Fabrizio Cicchitto, leader of his party in the lower house, blamed the outcome on a "process of politicisation" that had set the judges "against prime minister Berlusconi". That is reckless, dangerous talk.

Copyright © 2009 The Economist Newspaper and The Economist Group. All rights reserved.