

## Constitutional court ruling nourishes hope for lettori battle

The ruling underlines the need to guarantee that Italian law conforms with European law

By DAVID PETRIE

ROME - An Italian Constitutional Court judgment lends support for the legal battle by foreign lecturers in Italian universities by ruling that the "principle of non-retroactivity of the law constitutes a fundamental value of legal civilisation."

The genesis of Italy's longstanding dispute with its foreign lecturers (lettori) was on Feb. 9, 1989, when the Italian Constitutional Court declared Art. 28 of Decree law 382 of 1980, that had set a limit of five year renewability of contracts for the lettori contracts as unconstitutional and therefore, illegitimate.

Italy had reformed its higher education system putting its university teaching staff into the ambit of public law as civil servants. However, the foreign teachers were excluded from this arrangement and their salaries were fixed at the maximum enjoyed by associate professors at the start of their careers, thereby denying the lettori of increments for seniority payments for years of service.

The European Court of Justice went further in 1989 and 1993 declaring that since Italian teaching staff enjoyed open ended contracts, the same must be applied to non-Italian teaching staff, in order to conform with EU single market rules that prohibit illegitimate discrimination based on nationality.

Italy abrogated the offending Art. 28 of the 1980 presidential decree



David Petrie, head of the ALLSI foreign lecturers' trade union. PHOTO CREDIT: ANDREW CAWLEY

law in 1995. But this legislation had a sting in its tail. The lettori were to be "re-baptised" as "collaborators and linguistic experts" employed on open ended contracts, but were no longer designated lecturers, but technicians and therefore could be paid less -- those refusing to accept the downgrading were sacked en masse, notably in Bologna, Naples, Salerno and Verona when 173 lettori were driven back into litigation in the domestic courts.

The European Court of Justice intervened again in 2001 and 2006 ruling that Italy had failed to uphold its treaty obligations. The 2006 ruling noted that further Italian legislation passed in 2004 had the potential to

resolve the dispute, since it appeared to guarantee equal and fair wages, adding that it remained to be seen whether the legislation would actually achieve its stated aim.

The 2004 legislation potentially affected hundreds of lettori claims for compensation for arrears in unpaid wages and pension rights and represented a great cost to the universities and the Italian state.

Unable to stop the claims, Italy introduced, in December 2010, the so-called Gelmini reform. Its Article 26, by retroactively interpreting the previous measures in an allegedly 'authentic' manner, in reality nullified the career reconstruction of the lecturers for the longer period after 1995 and even declared the 'extinction' of pending cases, hindering the lecturers' right to have their legal claims fully adjudicated in a court of law. Secondary governmental measures followed, apparently to implement what could be derived from the Gelmini law.

On Aug.10 last year the European Commission brought an action (<https://tinyurl.com/Info-Curia>) against Italy alleging failure to uphold treaty obligations and to guarantee the economic treatment due to the lettori and the corresponding payment of arrears.

This will be the seventh occasion

in which the ECJ will rule on lettori cases.

The recent Constitutional Court ruling of Jan. 11, underlines and reinforces the need to guarantee that Italian law conforms with European law.

The Court declared the constitutional illegitimacy of a law that, with retroactive effect, even though it defined itself as an 'authentic interpretation' of a previous rule, which recognised increases in the individual seniority pay of civil servants in relation to a specific period of time, led to their exclusion from this economic benefit, in contrast with the content of the rule itself and the jurisprudential orientation that recognised their right to obtain it from the administrations to which they belonged.

The Italian Court justified this ruling by stating that if the self-defined 'interpretative' rule has an innovative content, it cannot be retroactive, referring not only to the provisions of the Italian Constitution, but also to principles developed by the European Court of Human Rights, which, on the basis of the fundamental right to a fair trial, provided for in Article 6 of the European Convention on Human Rights, has affirmed that it is an abuse of legislative power to intervene with laws aimed at conditioning the outcome of pending trials in favour of the State.

And it was precisely this situation that occurred with the Gelmini law, which in 2010 purported to deprive the most favourable economic effects in favour of the lettori of what had instead been envisaged by the 2004 decree-law, which had intended to implement the rulings of the Court of Justice of the European Union.

At the University of Basilicata lettori payslips show that in real terms their salaries are today on a par with what they were before 2002 when Italy abolished the Italian lire and adopted the Euro.

The ALLSI trade union representing foreign lecturers will be bringing this ruling to the attention of the European Commission in Brussels.

David Petrie is the Chair of ALLSI



Italy's Constitutional Court

## EGIC

### Debate over Mattei Plan, Africa's future at European Parliament

By JOSEPHINE DE LA BRUYÈRE and KATARINA HARRISON-GAZE

ROME - At Via Quattro Novembre's European Parliament offices last week, Mediterranean and African politicians, diplomats, and public servants convened to discuss Italy's role in promoting sustainability in Africa. "We can do more, we want to do more," said Fabrizio Spada, head of institutional relations for Italy's EP.

In panels on media coverage of climate change, Prime Minister Meloni's recently announced Mattei Plan, and lifestyle and food security, speakers underscored time and again Africa's particular vulnerability to the dangers of climate change.

Rome's "bizarre winter of 2023-2024" should open Western Europeans' eyes to what Africa and the southern Mediterranean "have been suffering for a long time," said Rajae Naji El Makkaoui, Moroccan ambassador to the Holy See.

The speakers said that natural disasters, food and water scarcity, and biodiversity erosion all caused by climate change threaten to usher in a period of conflict and of large-scale migration — an International Fund



Giorgia Meloni with Zimbabwean president Emmerson Mnangagwa

for Agricultural Development representative said the IFAD expect at least 73 million people to be displaced because of food insecurity by 2040 — beginning in Africa and spreading across the globe.

Speakers argued that the EU must invest particular attention in African sustainability to combat those impending crises and to limit Russian and Chinese influence. Said Paolo Gentiloni, Italian commissioner to the EU: "the more we talk about Africa the better."

Europe must help African governments explore the development of

resilient crops and soils which can survive harsh and warm climates, said Jo Puri, IFAD vice president. She and Francesco Corvaro, the Italian special envoy for climate change, both advocated for new attitudes towards international and interagency cooperation.

Contemporary diplomacy is "outdated," Corvaro said. To address the climate change crisis effectively nations must engage with each other on equal footing and with mutual respect, he said. He expressed optimism that Meloni could use her G7 Presidency to "make a change."

A slate of members of Meloni's Fratelli d'Italia party who participated in the daylong conference touted the prime minister's Mattei Plan: a 5.5-billion-euro commitment to sustainable development in Africa.

One FDI member called the Mattei Plan the "start of a new dialogue with Africa"; FDI senator Marco Scurria called it a "new page," free from the shadow of colonialism, in the history of Italian-African cooperation.

FDI EU delegate Nicola Procaccini said that the Mattei Plan would provide a path — "another street another strategy," he said — for the EU to become an alternative to China in Africa.

But African participants in the conference shared largely different perspectives.

Moroccan Ambassador Makkaoui appreciated "the thrust" of the Mattei Plan. But its efforts are "absolutely" not sufficient, she said.

She said the Plan allocated "far from the trillions of euros needed to support third-world countries transition to sustainable energy." Mmathari Mashao, minister of the South African Embassy in Rome, said that the Mattei Plan "on the face of it looks and sounds good."

He expressed scepticism, though, about its efficiency. The plan was presented as *fait accompli*, he said. "But if you want people to buy in, you engage them prior; you seek their advice; you get to know what they think." Italy's, and Europe's, success in Africa will depend on their willingness, and effort, to engage with African States and players, he said.

And he urged European nations to "stop coming to the Continent and saying 'China' this, 'Russia' that." He argued that in contrast to European countries, Russia and China shared long histories of good-faith efforts to promote African self-sufficiency.

"Don't talk about them", he repeated. "They don't talk about you."

## Artist closes Israel pavilion at Venice Biennale

By LYND SAY WEATHERALL

ROME - The Israeli artist and curator, Ruth Patir, has said the Israel pavilion at the 60<sup>th</sup> Venice Biennale will remain closed until "a ceasefire and hostage release agreement is reached." The exhibition, which should have opened on Tuesday morning, instead displayed a sign stating the team's decision, and was guarded by Italian soldiers.



Patir explained, "As an artist and educator, I firmly object to cultural boycott, but I have a significant difficulty in presenting a project that speaks about the vulnerability of life in a time of unfathomed disregard for it."

"With those I stand within their scream, ceasefire now, bring the people back from captivity. We can't take it anymore."

The organisers went on to clarify that "The decision by the artist and curators is not to cancel themselves nor the exhibition; rather, they choose to take a stance in solidarity with the families of the hostages and the large community in Israel who is calling for change."

Patir was not the only person to release a statement, with Mira Lapidot, one of the exhibition's curators revealing to the Israeli newspaper Haaretz that, "In contrast to the political arena, the art world [has in the past] pretended, or aspired, to present something more complex, ambiguous, which could contain internal contradictions — and suddenly in a single blow, the perception changed. You can either be on this side or on the other side."

Through the glass of the pavilion, however, a screen displaying the video *Keening*, released by the artist is visible. The rest of Patir's work, titled (M)otherland, which focuses on the theme of fertility "awaits inside for the moment when hearts can once again be open to art" according to the organisers.

Since Hamas' attack in the south of Israel on Oct 7, 1200 people were killed and around 240 taken hostage. Israel then launched a military attack on the Gaza Strip, killing over 33,000 people and wounding 80,000, subsequently displacing around 80 percent of the population.