The Resistant Guild: Institutional Protectionism and Freedom of Movement in the Italian University System

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Just as craft guilds in the last century militated against economic liberalization, some professional bodies in the European Union have resisted the normalization of EC law in order to preserve their institutional traditions. The struggle between European unification and institutional traditionalism is illustrated in the competition between the European Commission and Italian universities over the rights of non-Italian university teachers. This article examines efforts by the Italian state and university system to undermine the single market by failing to implement EC laws regarding free movement and non-discrimination. It concludes with an assessment of the problems for European integration when highly autonomous institutions resist EC law and behave like protectionist-minded guilds.

In *The Great Transformation*, Karl Polanyi (1957: 65–6) includes a brief but important discussion of the competition between guild and market systems in the nineteenth century. Polanyi records that British craft guilds, with their long-standing systems of patronage and social organization, fought to protect labour from the liberalizing forces that swept aside the Statute of Artificers (1563) and Poor Laws (1601) and paved the way for a Ricardian system of free trade. Although his study concentrates on the transformation of pre-industrial Europe, Polanyi's analysis is relevant to contemporary investigations into the processes of European integration. Just as British guilds struggled to preserve their privileges from a system that commercialized labour and forced competition upon them, the single-market plan has similarly been challenged by guild-like institutions that reject the normalization of European Community laws in the workplace. Some of the most uncompromising institutions have been Italian universities.

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In November 1992, the European Commission recorded the first battle between the custodians of the single market and the Italian universities when it started infringement procedures against the Italian state. The Commission was motivated to act on the grounds that Italy had failed to abide by rulings of the European Court of Justice (ECJ) and had yet to implement EC laws regarding the freedom of movement of foreign nationals working in the state university system. In effect, the watchdog of the European Union was pursuing the charges of institutional discrimination made by some 1,500 non-Italians who held teaching positions in Italian universities. Known as '*lettori*' or foreign language assistants, these EU citizens insisted that for years they had been unjustly fired, underpaid, denied salary increases, refused basic rights to maternity leave and suffered additional problems purely on the grounds that they were not Italian citizens. Their accusations were widely publicized in the Italian press as well as in British and European newspapers. The teachers' charges were countered by the Italian professorate and their lawyers who maintained that the *lettori* occupied precarious positions and were the victims of restrictive laws rather than deliberate discrimination.

This article uses institutional analysis to construct a documentary history of the *lettori* problem. Following institutional theorists (Keohane 1988; March and Olsen 1989), I assume that: (1) institutions shape politics; and (2) institutions are fashioned by their histories, laws and customs, which produce certain political outcomes. The first part of this essay analyses how Italian universities responded to structural changes imposed by national and European reforms in the 1970s and 1980s. This section is balanced by an investigation into the workings of European institutions in support of these liberalizing efforts. As Robert Putnam comments in his study of Italian civic traditions, institutions can also serve as devices for achieving purposes, not just agreements. It is therefore essential to consider not just to what extent but *how* the single-market programme has been implemented in the Italian university sector. By documenting the *lettori* problem, this article aims to explain the institutional processes that accommodated national and local actors in their efforts to undermine the freedoms prescribed in the EEC Treaty and goals of further integration.

Data informing this study were gathered over the course of interviews with *lettori*, professors, judges, legal experts, students and trade union representatives in Milan, Verona, Venice, Florence, Rome and Naples, as well as officials of the European Parliament and Commission in Brussels. Interviews were conducted over two periods (January–March 1996 and July–August 1998).

LEGAL AND POLITICAL CONTEXT

On 11 July 1980, in an attempt to reform the Italian university system, a number of professional categories were created by means of a new education act and presidential decree. One of these categories was the class of *lettori*. According to Article 28 of DPR 382, foreign nationals could now be admitted into the university system as temporary teaching staff for a maximum of six years.

The 1980 legislation was significant for two reasons: first, it brought foreigners into the university sector; second, it represented a significant attempt to reform a system that had been marred by the political struggles of the late 1960s and early 1970s. According to sociologist Burton Clark (1977), at that time the Italian university resembled a compromise between a centrally administered bureaucracy and a self-governing professional body. This view is shared by Adrian Lyttelton (1996: 46), who notes that in spite of the strong trend towards regionalism elsewhere, the university sector, especially in north and central Italy, was an exception. In Lyttelton's words, the university system 'propagated a national ideal' that served to centralize its authority. In his entry in the *Encyclopedia of Higher Education*, A. Martinelli (1992) observed the downside to this system, claiming that it had 'manifest negative aspects, such as institutional rigidity, resistance to innovation, lack of coordination'.

With the introduction of the 1980 legislation and the creation of the Ministry for University and Scientific and Technological Research in 1989, the development of greater coordination between teaching, research and government policies became a major priority. Yet, this reform had a double edge to it. While insisting on closer coordination, the government also devolved greater autonomy to these 'rigid' and 'resistant' institutions. In 1994, following the creation of a new law, universities were granted greater autonomy in key areas, notably the distribution of funds for the purposes of hiring, promoting research, maintenance and operating costs. These reforms placed responsibility with the faculty administrative councils that now determine how funds are to be used. As the president of the University of Florence explained, academic administrators must now convince fellow faculty members on the administrative council when they need to hire new staff or whenever money is drawn from university budgets.[1]

The principal shortcoming of the 1994 reforms was that while universities became more self-reliant and innovative in order to survive, other areas of higher education remained controlled by the central government. In many respects, the 1994 reforms built on top of the

system established in 1980 which stratified the academic professional classes. The compromise that Clark described could find its roots in the structural division of the university between the three main classes of faculty, full professors, associate professors and researchers (who were protected under public law), and the untenured support staff.

None of the 1980, 1989 or 1994 reforms challenged the power base within the university system, which retained its guild-like appearance and hierarchical structures. Contrasting guilds with bureaucracy, Clark maintained that the state framework in which universities were housed had to accommodate itself to the reality of professorial power which operated along vertical lines and preserved certain feudal elements: divisions of labour depended on personal agreements among a few individuals; authority was treated as a 'private possession'; and the division between superiors and subordinates was more like the gulf between lord and vassal (Clark 1977: 11). Since the interests of senior professors were expressed through this guild-like organization, the administrative structure of higher education was essentially 'Balkanized' (Clark 1977: 162).

In 1999, professors still carry great influence both within the university and state sectors. As with other systems of higher education, membership is tightly regulated and controlled by means of a competitive entrance examination known as the *concorsi*. While Balkanization may account for divergent administrative practices within a predominantly unitary and public university system, academics remain a prominent and exclusive group in Italian society. The source of protection lies in the professors' own monopoly over public administration and research, along with the system of *cohabitatione* in which professors may advise and preside over the selection of public officials. The interchange between political power and the professorate is obvious in the composition of recent governments, which, in the words of one academic, might be more accurately described as 'faculty boards'.[2]

In the 1990s, Italian universities and legal agencies representing the state maintained that the tradition of membership based on peer-controlled entrance examinations, notably the *concorsi*, was the central distinguishing factor between the professors and the *lettori*. If privilege was to be graded in terms of competence, as Clark suggests, then the *lettori* were considerably less competent in the eyes of the Italian professorate.

When the *lettori* problem became public, it unleashed a controversy which exposed the administrative practices of Italian universities and, in the process, opened up a challenge to their traditions of protection and

exclusion. As the foreign teachers sought greater security in the workplace and demanded recognition based on their performance in the classroom, their struggle to be better integrated in the university system immediately raised a number of delicate questions that were put before the European Court of Justice. These were:

- Does membership of a group determine status and hence salary and benefits?
- Is someone a university teacher on the basis of having passed a competitive examination?
- Is someone a university teacher based on the basis of what that person does within the classroom?

The debate between the *lettori* and the professorate, and subsequently, the European Parliament and Commission versus the Italian state, was polarized around competing answers to these questions.

INTRA-UNIVERSITY STRUGGLES

The foreign teachers interviewed all claimed to have been victimized not only by the Italian university authorities, but also by the Italian state. In their defence, they recorded a litany of historical grievances. While these charges varied in their seriousness and also their relevance to European Community law, the most pertinent allegations could be briefly stated. The *lettori* claimed that they were employed according to a 'hire-fire' policy, refused raises in salary commensurate with years of service and were treated unfavourably when applying for other jobs within the university system. In some cases, women had particular complaints. One alleged that she had been victimized as she sought maternity leave. In a letter to Hugh McMahon, Member of the European Parliament, dated 27 December 1995, this teacher in Salerno described how she was dismissed upon her return from maternity leave and was reinstated only as a result of a court injunction. Her situation mirrored the story of a British teacher in Naples who described the shortcomings of her contracts, the denial of health insurance as well as maternity leave:

> I have three children of 12, 7, and 5 years of age. For none was I granted maternity leave. My employment does not qualify me for National Health medical treatment of subsidized medicines ... For years my contract has been deliberately limited to 6 months and 20 days, and more recently to 5 months and 20 days in order to severely limit my rights at the University of Naples under Italian Labour Law.[3]

There was general agreement on the date when these grievances first occurred. The two groups of *lettori* interviewed, the 'historical group' that has been in Italy since the early 1980s and those who arrived more recently, maintained that the *lettori* problem first surfaced in Verona in autumn 1983. Their situation worsened in the late 1980s and came to a crisis in 1993, when large numbers went on strike. According to a British teacher, the original crisis started when Minister Falucci, then in charge of university education, had sent faxes indicating that the university *lettori* were not to be funded as they had been until then. Instead, they were to receive half their salaries. From November to mid-December 1984, the *lettori* held their first nationwide strike. This action, and its eventual resolution, established a pattern of behaviour that would carry on ten years later.

In 1988–89 the issue re-emerged. During the intervening period since the first strike, the long-term *lettori* were employed on yearly contracts which were signed retrospectively in May. There was nothing unusual about this practice; at the University of Verona, it was common to wait until December to receive the first instalment of pay. However, by 1988, the situation had deteriorated and, during a period of internal troubles at the university, dozens of *lettori* were suddenly ousted as members of examination commissions. This was an official decision made by the rector in a letter issued on 31 May 1988. Their dismissal also led to an immediate change in their status. From this day forward, the *lettori* were only permitted to 'suggest marks' rather than award them to students as they had previously done. According to one English teacher at the University of Verona, the changes in 1988–89 led to a gradual reduction of duties and laid the foundations for the real crisis a few years later.[4]

One of the younger teachers, who arrived in Verona in 1989, argued that there was a budgetary crisis at the university and the *lettori* were simply the first casualties. His own case signalled the change in atmosphere and treatment accorded these non-Italian teachers. Together with five new arrivals, he found that his own salary had been reduced and that he was receiving half of what his colleagues were paid. In 1990, these young *lettori* took the University of Verona to court and won. In return, each received a cheque for 22 million lira to cover the shortfall in salary. However, the university immediately appealed and 'started clawing back the maximum', he claimed. The maximum was one-fifth of his total salary. What was interesting about this particular episode was that it was the first illustration of salaries being cut without any explanation and of the university using its privilege of appeal to draw out the case.

In 1993, the local problem of the *lettori* in Verona took on a national dimension. Throughout Italy, *lettori* were ousted from examination

commissions and had their duties reduced. Again, the initial rationale for this act was economic and the reduction in duties was used as a way of legitimating the cut in salaries. According to one French teacher, the decision to prohibit *lettori* from teaching contradicted 13 years of previous service. Interviews with the *lettori* and correspondence collected revealed that there was broad agreement on the teachers' responsibilities and that these had been reduced in 1993 as a means of demoting them.

For some, the reduction of duties and pattern of demotions started even earlier. One German national, who had been working in Naples for 11 years, alleged that she had initially been offered a ten-month contract of 19 million lira per year. Since this contract was exclusively for liberal professionals, no contributions were made towards health care. In 1987–88, her contract was reduced to seven months for 15 million lira per year and by 1989, her contract was shortened to six months and two days. From 1992 onwards, she was paid as a *subordinario* and received contributions for social security. This was evidence that she was no longer considered a liberal professional, that is, part of the teaching staff, and was, in fact, being downgraded in addition to having suffered severe reductions in her teaching responsibilities and contact hours, she claimed.

In 1993, Verona again became the centre of a crisis when *lettori* were sent home and effectively fired. One British teacher claimed that he was not given either written or verbal notification but his salary was stopped.[5] The situation was almost identical in other cities. For example, in Bologna, all of the *lettori*, a total of 63 teachers, were dismissed by the university. The *lettori* in Bologna were forced to seek a court injunction for immediate reinstatement just as their colleagues in Verona had done. In 1993, a pressure group, the Committee for the Defence of Foreign Lecturers, was created in Verona by a Scottish teacher, David Petrie. This group served to unite the *lettori* throughout Italy and campaigned on a national and European level. Having already taken their case before the administrative tribunal in Verona (TAR) which ruled that universities could not legally cut the teachers' salaries, the *lettori* decided to take action. In March and April when the University of Verona failed to reinstate the teachers and pay them at their previous salary level, the *lettori* considered initiating penal proceedings against the university rector and prepared to strike. In May, during the examination period, the *lettori* finally went on strike. As a result of this protest, back pay was finally awarded and the strike was concluded within a month.

However, by February 1993, there was a new European dimension to this conflict when David Petrie started filing complaints with the

European Parliament. Petrie maintained that Italian universities (and not just the University of Verona) were discriminating against non-Italian teachers and were undermining the provisions of freedom of movement as recorded in Article 48 of the EEC Treaty. In spite of legal rulings to reinstate *lettori*, and the courts' insistence that universities should award back pay, the processes of appeal and the lack of jurisprudence in Italy ensured that universities throughout the country could fight these decisions and prolong the dispute. In this knowledge, Petrie decided to approach European institutions. Writing to Egon Klepsch on 9 February 1993, he requested that the President of the European Parliament intervene on behalf of the foreign teachers and bring the case before the European Court of Justice. Some 30 *lettori* from Britain, France, Germany, Spain, Greece and Belgium signed the petition. This was the start of a major battle between the Italian state and the European institutions, notably the Parliament, Commission and Court of Justice.

TEMPO INDETERMINATO: A CONTROVERSIAL DEMAND

In terms of EC law, and in the context of the teachers' charges of discrimination, the most important of these grievances concerns the provision of *tempo indeterminato* or open-ended contracts. The demands for better remuneration and basic rights within the workplace were considered secondary complaints, in large part because the conditions of the *lettori* were determined by the nature of their contracts. According to the 1980 law, the *lettori* were to be admitted into the university on five-year contracts which could be renewed for an additional year. They were employed under private law and did not, therefore, immediately enjoy *tempo indeterminato*, as did Italian nationals working within the university system.

Extending the provision of *tempo indeterminato* was highly sensitive since it touched directly on the issue of status within the university system. The professorate and the legal authorities representing the Italian universities repeated the charge that one could earn *tempo indeterminato* only as a result of passing the *concorsi*. *Tempo indeterminato* was, therefore, a professorial right. Since the *lettori* had never sat this competitive examination, they could not claim to have similar status or conditions.

The exclusive means of entry was repeated by a senior academic who argued that, 'above all, one cannot enter the ranks of the personnel teaching staff without having passed the national competition'.[6] The majority of the professors and university presidents personally interviewed believed that the foreign teachers were trying to enter the

faculty staff via the back door. Their suspicions were clearly expressed. One university president made this point explicitly and blamed an intervening Member of the European Parliament, Hugh McMahon.

As they rationalized the charge that the *lettori* sought to enter the university through the back door, the Italian professors and their lawyers argued that the foreigners' lobbying campaign was built on deception. While the *lettori* were writing to Members of the European Parliament and calling attention to their plight by striking and speaking to the press, many professors reported that the *lettori* problem and the confusion over these workers' status within the university simply emerged out of linguistic ambiguity. It was the translation into English and the designation of *lettori* as 'lecturer', understood as the equivalent of assistant professor, that was at the heart of the problem. Some believed that this is what provoked the equivocation of the Court of Justice. One professor in Verona was less guarded and implied that this was deliberate on the part of the foreign language teachers. 'They have been playing over the ambiguities of the words,' he asserted.[7] There was also a sense that this 'ambiguity' was fuelled by grassroots activity. In this instance, the European institutions, especially the European Court of Justice, were seen as reactive and politicized bodies. In the opinion of one senior academic, this was all too clear:

> At this moment, the European Court of Justice, encouraged by the language teachers, said that the Italian state could not discriminate between the *lettori* and other personnel engaged in teaching but this was born out of an ambiguity.[8]

The ambiguity was nothing other than the foreigners' actual role in the university.

Since the charge of discrimination assumed a degree of comparability between the *lettori* and the university professors, in their defence, the *lettori* argued that many of them carried out functions more or less identical to those of Italian professors and should, therefore, enjoy greater job security. This fact was later recognized by the 1996 Nascimbene Report, *Opinion for the European Commission: Foreign Language Assistants and Italian Law*, drawn up for the European Commission, which concluded that:

> The law is very vague, so when it comes to actual arrangements for employment relationships with assistants there are inevitable disparities in treatment on two fronts. Firstly, the duties of these assistants differ throughout the Italian universities, sometimes simply supplemental to the main teaching activity, and in other

> cases involving more intensive cooperation and sometimes even sitting on boards for examinations and degrees, department meetings, etc. (CEC 1996: 5.)

While the professors argued that the 1980 education act codified the teachers' status as support staff, the *lettori* responded by recalling that many of them had been recruited to teach highly specialized subjects. As a second means of defence, they pointed to Article 36 of the Italian Constitution which stipulated that payment should be determined by one's actual duties. This article established a provision whereby one's *de facto* responsibilities would be recognized *de jure* and compensated accordingly.[9]

THE BATTLE FOR *TEMPO INDETERMINATO*

The bid to extend the teachers' length of term and the provision of *tempo indeterminato* was initially fought out through national courts, as *lettori* appealed against sackings and reduction of salaries. There was a long history of domestic battles between the *lettori* and their employers on this issue. On 29 April 1987, the *lettori* won the first round in improving their situation. The Pretura del lavoro in Verona, the local labour court, declared that the plaintiffs should be treated as regular employees and that their health insurance and pension contributions had to be paid by the university. A year later, the Pretura di Verona ruled (13 August 1988) in favour of an injunction that ordered the University of Verona to guarantee the employment status of the plaintiffs for the year 1988/89. The same tribunal ruled on 26 October 1991 that the working relationship between the *lettori* and the university was for an indeterminate period of time and could not be limited by an annual contract. This ruling was later upheld by the Supreme Court, La Corte Suprema di Cassazione, which rejected the appeal put forward by the University of Verona on 11 May 1991.

However, in spite of these legal rulings, the struggle over *tempo indeterminato*, and the attempt to improve the foreigners' economic conditions, did not result in a comprehensive settlement until the European Court of Justice stepped in. According to Judge Daniella Perdibon of the Pretura in Venice, who had worked on the cases of *lettori*, it was Judge Silvan Arbia at the Pretura di Lavora in Venice who initially referred one of these cases to the European Court in Luxembourg. The case of Pillar Allué and Carmel Coonan (C-33/88), known as Allué I, was the first instance when the legality of time restrictions built into the foreigners' contracts was openly questioned.[10]

Perdibon's account of the processes that led up to Allué I exposes the extent to which the Italian authorities in Venice and Parma would go to preserve their academic system. In Perdibon's report, the Avvocaturo dello Stato, the legal body that represents the state and many public institutions, insisted that there was a legal rationale to limiting contracts offered to foreign teachers.[11] The argument offered was that after a certain period of time, the *lettori* would become less and less capable of expressing themselves in their mother tongue.

On 30 May 1989, the European Court ruled that *tempo indeterminato* should apply. The Allué ruling expressly said that the Treaty of Rome did not rule out the possibility of member states applying certain measures in order to assure proper management of their universities, which could affect other EC nationals, however, member states should still abide by the principle of proportionality to achieve the desired end. Under point 21, the Allué ruling noted that there was a clash between EC law and Italian law since only non-Italians seemed to be affected by such time-limited contracts.

Yet, this was not the end for Judge Perdibon who was forced to secure a second opinion from the ECJ. According to Perdibon, the Italian supreme court had maintained that the first Allué ruling applied only to contracts that were to be renewed after five years and did not, therefore, totally reject the principle of issuing fixed contracts. When Mme. Allué returned to the Pretura in Venice and charged her university with discrimination, rather than offering her own opinion, Perdibon suspended the case and referred it back to the European Court.

In theory, the issue was now almost settled. European law, which takes precedence over national law, ruled on 2 August 1993 (C-259/91) that it was illegal to issue time-limited contracts to non-Italian nationals except under certain circumstances. However, in practice, the issue was not completely resolved. The Italian state had yet to introduce this law and hence, infringement procedures remained in place. During this period, *lettori* in Verona were denied the right to apply for temporary teaching positions, on the grounds that they had never passed the *concorsi*, and again were forced to take legal proceedings against the university. In Naples, *lettori* were 'sacked' on 15 July every year and would spend five, six, or seven months without work. In March 1995, *lettori* in Bologna would still argue that they were being discriminated against, in spite of the Allué rulings. Consequently, the European Commission insisted that infringement procedures would remain in place until the Italian state complied with the ECJ ruling on Allué.

In order to abide by the ECJ ruling, the Italian state was required to convert the second Allué ruling into law. Consequently, a new decree was

passed on 21 April 1995 and converted into law on 21 June 1995 (DPR 236). Another feature of this law was that it officially abolished the category of *lettori*, as it annulled DPR 382. Instead, the *lettori* were labelled 'linguistic collaborators' or 'linguistic experts'. *Tempo indeterminato* was awarded to the former *lettori*, but new conditions were introduced with respect to incoming foreigners.

In some respects, universities acted within the letter of the law and used the 1995 decree as a way of addressing previous grievances. The University of Florence was a fine example of an institution that was trying to apply *tempo indeterminato*, respecting the acquired rights of long-serving foreign teachers, while recognizing the need to provide new foreign staff with clear guidelines. However, other universities were less responsive. Until this law took direct effect, and that meant that subsequent negotiations with the universities, trade unions and educational ministries had to take place beforehand, there were still many examples of discrimination which one could cite.

In August 1995, three *lettori* in Verona who were prevented from even applying for a temporary research position on the grounds that they had not passed the *concorsi* and did not enjoy tenured status challenged their university through the local labour court. Two months later, in November, two research positions advertized at the University of Udine again included Italian nationality as one of the requirements for the job.[12] The worst offending universities were in Naples. Professor Bruno Nascimbene, in his report to the European Commission, singled out these Neapolitan universities as sites where the right to *tempo indeterminato* was frequently violated and where arbitrary firings were commonplace.

The universities in Naples waited until the very last minute when the Allué ruling was converted into Italian law. During the intervening period, the university administrations effectively denied the primacy of EC law, previous rulings and the demand for *tempo indeterminato*. In January 1996, 88 foreign language teachers were dismissed without pay and spent months in between contracts in the middle of the academic year. The President of the Istituto Universitario Orientale in Naples offered the following reasons for not applying *tempo indeterminato*. He argued that it was within the university's rights to determine how people were hired:

> The important thing is that the European Court stated that there was a contrast between European law and Italian law if Italian state approved a law where *lettori* approved *tempo indeterminato*. The University of Naples and [Instituto Universitario] Orientale states

> that in a *bando di concorso* they took 88 *lettori* at that time with the possibility of offering *tempo indeterminato*. The reason why no *tempo indeterminato* was granted is because until this law and the national contract was passed, the university is free to decide upon its own regulations under Art 3, subsection 2.[13]

However, the president's opinion was rejected by the local courts in Naples. The judge considered the *bando*, that is, the competition announcement, an illustration of the university's refusal to recognize that these *lettori* had already earned the right of *tempo indeterminato*. By introducing a *bando*, and forcing the teachers to compete for the jobs they had previously held, the university administration had effectively fired them. The contracts which they held were, therefore, not recognized as being open-ended. In this case, the Italian courts had preserved the principle of *tempo indeterminato*.

RECLASSIFICATION AND RETROSPECTIVE CORRECTION

From the foreigners' perspective, the problem with the 1995 law was that while former *lettori* won *tempo indeterminato*, they lost on other fronts, including the right to maternity leave and just remuneration. In effect, DPR 236 provided the *lettori* with *tempo indeterminato*, but also reduced the teachers' duties and pay. Again, the issue of status was used retrospectively as a means of determining earnings. The net result of this decree was that teachers throughout Italy were forced to work longer hours for less pay and lower status. As a result of the 1995 law, the *lettori* were reclassified as technicians. In their defence, they argued that this move was intended to undermine their acquired rights that should provide them with greater economic security.

On 29 November 1995, the agency that represents and negotiates on behalf of public administration bodies (known as ARAN), the trade unions and government representatives designed a draft agreement for a University Sector National Contract. Together, these agencies drew up a contract which the teachers argued was designed without their consultation. One British teacher in Rome claimed that she sent four public warnings to the trade union, insisting that it reject the proposed national contract. The union signed it regardless.[14]

Discussions with a former Confederazione Generale Italiana del Lavoro (GCIL) representative in Verona revealed that the majority of the teachers had left the union, believing that it no longer represented their interests. There was a genuine sense that none of the academic unions represented the foreign teachers who were the weakest party of all –

especially since they did not vote and carried little political influence. In March 1996, the final national contract was signed by all parties, including government ministries, academic representative bodies and the trade unions. Under Article 51, Part Three, the ARAN document described the teachers' status as '*Esperti e collaboratori linguistici*', which fell under the category of 'administrative and non-teaching personnel/ staff'. The teachers new technical identity was recorded under Point 1 which stressed the use of language laboratories in their didactic function.

With the appearance of the draft contract, the teachers started lobbying the European Parliament again. During the months of December and January 1995–96, more than 130 letters and petitions from foreign teachers were sent. These ranged from one to two pages in length and were remarkably similar in content and language, indicating a coordinated effort. One central theme appeared consistently in the letters and petitions examined: concern over work conditions and pay. For the most part, this concern was limited to salary levels, which varied widely. A British teacher in Siena wrote to David Petrie on 23 December 1995 insisting that the new contract foresaw a reduction in gross salary and would be considered as a part-time contract. What is more, this contract prevented her from working elsewhere. The sense that this contract was imposed on the teachers was recorded by others. A British woman in Parma wrote to David Petrie on 22 December 1995 and described being 'pressurized' into signing a national contract. What is more, she added, working conditions had deteriorated. With the new contracts, her salary and conditions passed from 300 hours a year for 1,300,000 lire a month to 790 hours for 1,600,000 lire.

The change in status recorded in the new law and contract was considered to be a threat to the teachers' earnings. The attempt to create another category was another means of 'declassifying' or 'demoting' the teachers to the same level as 'technicians'. One British teacher at the University of Brescia described this change as demoting him 'on a par with janitors and clerical workers'.[15] There was also a sense that the Italian state and not just the university system was at fault. Many petitioners blamed the state for introducing laws retrospectively, charging that the Italian government was thereby attempting to 'sidestep' the consequences of the ECJ rulings.

What is more, the ARAN contract was especially controversial because it was the first time in 50 years that any nationally negotiated contract had brought about a deterioration in local conditions! One British teacher living in Bologna noted that the attempt to declassify the teachers was actually based more on the physical conditions in which the foreign staff worked than the actual content of their jobs. The fact that

some courses were taught in rooms with language labs was used to legitimate the new technical title of 'linguistic experts' and undermine claims to equal treatment under EC law.

TABLE 1
RELEVANT ITALIAN AND EC LAWS

1948	Italian Constitution adopted. Article 36 states: 'All workers have the right to remuneration proportionate to the quantity and quality of their work, and in any case sufficient to provide a free and dignified existence for themselves and their families.'
1980	Decree 382 introduced. New professional categories created by means of a new education act and presidential decree. One of these categories was the class of *lettori*. According to Article 28 of DPR 382, foreign nationals could now be admitted into the university system as temporary teaching staff for a maximum of six years.
1989	Ministry of the University and Scientific and Technological Research created. Establishes greater coordination between teaching, research, and government policies. European Court of Justice Case (C-33/88) *Pillar Allué and Carmel Coonan* v. *University of Venice*. European Court ruled that *tempo indeterminato* should apply. The Treaty of Rome did not rule out the possibility of member states applying certain measures in order to assure proper management of their universities. It noted that these decisions could affect other EC nationals, but stated that member states should still abide by the principle of proportionality to achieve the desired end. Under point 21, the Allué ruling noted that there was a clash between EC law and Italian law since only non-Italians seemed to be affected by such time-limited contracts.
1993	European Court of Justice Case (C-259/91) *Pillar Allué* v. *University of Venice* (Allué II). ECJ ruled it was illegal to issue time-limited contracts to non-Italian nationals except under certain circumstances.
1994	Italian universities granted greater autonomy.
1995	New decree passed after Allué II. DPR 236 converts provisions of Allué into Italian law and annuls DPR 382, which had created the *lettori* category.

ANALYSIS

There was an important distinction to be made between the demands of the *lettori* and the accusations raised against them. The lawyer representing the teachers in Rome provided an historical analysis in which he argued that previous oversights within the university system had led the *lettori* to take on certain duties. The universities had failed

to provide clear job descriptions and were ultimately responsible for hiring the *lettori* in the first place. Since the *lettori* assumed the duties of the professors under DPR 382, this lawyer claimed that they were seen as a 'threat' to the institution. He reasoned that there was a neat distinction between being considered professors and having the same treatment and privileges. In his view, the accusation that the foreigners wanted to become professors was widespread and malicious. It was the only instrument available to deny the legal claims made by the *lettori*, he protested. Instead, he argued that because the *lettori* performed similar functions to the professors, they should have equal treatment (not equal status) and that the main legal issues for consideration were the teachers' length of term and economic remuneration based on past injustices. For the professorate, however, there was a genuine belief that the *lettori* problem had challenged the status of the Italian university system and was nothing short of an attack on the prestige of the institution.

Until the late 1980s, relations between the *lettori* and their professorate were amicable, but the budgetary struggles in 1988–89 and the change in law in 1994 brought the conflict between these two groups to a head. The *lettori* had occupied precarious positions within the university system; the reason why they were the first to be affected was because they were non-tenured. Employed under DPR 382 because they were mother-tongue speakers, it should be recorded that during the early battles, the *lettori* were not discriminated against because they were British, French or German, say. The *lettori* were primarily victimized because they were outsiders battling against a chauvinistic system which did not recognize their rights alongside those of Italian nationals. As the first Allué ruling establishes, the *lettori* problem was essentially a structural problem.

The issues of protectedness and exclusion pose a significant challenge to the European institutions and their claims to champion the legacy of the Treaty of Rome. While there were many elements of Italian society that were simply closed to the foreign teachers, there is an interesting caveat to this problem which Burton Clark mentions in his analysis of the guild-like university system. Clark argues that the Italian university, with its centralized administration, is protected by both the state bureaucracy and its most-favoured subjects – the professors who derive their power from the *concorsi*. Although the use of peer-controlled entrance exams has historically been defended as a means of avoiding far-reaching clientelism and is commonplace in other university systems, academic faculty members in Italy receive considerable state protection and are, in many ways, clients of the state. It is this sympathetic relationship to the centre of political authority that gives licence to the professorate and

allows faculty to maintain their traditions of peer control and limited accountability at the expense of outsiders.

This phenomenon of structural protection recalls Polanyi's discussion of disgruntled labour guilds witnessing the fall of mercantilism. In the context of modern Italy, the degree to which the university-guilds were prepared to resist the forces of marketization is illustrated by the frequent violations of national rulings and the outright rejection of ECJ decisions that admitted foreigners into their system. As the 1996 Nascimbene Report records, by 1995, the Italian state was technically in compliance with EC law, while Italian public institutions repeatedly defied ECJ rulings and mandates without punishment from the European institutions. It is important to note that as a result of the 1994 reforms, universities enjoyed greater control over resources and could still, indirectly, privilege Italian citizens over foreigners.

Functionaries at the European Commission who were working on the *lettori* problem were forced to consider this dilemma. For the Commission, it was uncertain whether there was a clear case of discrimination, in so far as non-Italians were receiving less money as part of an orchestrated effort on the university's part, or if jobs were reduced and responsibilities altered as a result of economic demands. Indeed, cautious legal observers noted the difficulties of proving causality and were reluctant to conclude that the Commission was investigating violations of Article 48 of the Treaty of Rome, since there was no way of demonstrating that Italians of the same status had received preferential treatment over the non-Italian *lettori*. By definition, the *lettori* were non-Italian.

Although the Commission understood the possibility for ambivalence on the part of the offending institutions, it did not react quickly and, in spite of the infringement procedures, the *lettori* maintained that Italian universities continued to discriminate against EU nationals from other countries for an additional three years. During this time, as David Petrie lobbied the European Parliament, the Commission questioned the value of the Parliament's advocacy on behalf of the *lettori*. Representatives from both the Italian universities and the Commission reported in interview that the parliamentary resolutions had no coercive power behind them; one Commission official remarked that 'political action' did not establish legal certainty of discrimination. As the Commission slowly considered the charges made by the *lettori*, more European citizens saw their basic rights violated.

While the Parliament emerges from this story as a defender of its representatives, some of the Commission's charges against its fellow institution should be noted. The overall effectiveness of the Parliament

in the *lettori* struggle raises practical questions about the extent to which European citizens can ensure that their rights are protected through representative bodies. The *lettori* problem demonstrates that European citizens can get a hearing, their grievances can be discussed, but local institutions may still ignore parliamentary resolutions and even ECJ rulings. For students of European integration, one of the most instructive lessons of the *lettori* episode is that states may be brought into legal conformity, while sub-national actors reject the rulings from Luxembourg and frustrate their implementation at the local level.

CONCLUSION

The *lettori* problem demonstrates the practical and legal difficulties of ensuring freedom of movement in the European Union. In this case study, the normalization of EC laws regarding freedom of movement takes place against the backdrop of a complicated and conflictual process of integration that involves local, national and supranational institutions. In the course of this political contest, European citizens were often exposed to the arbitrary decisions of non-compliant universities. From the above analysis, one might conclude that the *lettori* problem poses a threat not only for the Italian state and its university system, but for the European Union itself. Italy is one of the founding member states of the European Union and yet 40 years after the Community was created, on its very soil, we are confronted with an episode that challenges the very ideal of European unity.

This documentary study of the *lettori* problem records that non-Italian citizens have historically been discriminated against by the Italian state and university system and that their suffering accelerated during periods of economic crisis. Since DPR 382 was annulled in 1995, even though sub-national actors continue to defy ECJ rulings, it is difficult to establish *causal* proof of current discriminatory practices by the Italian state against foreign nationals. Nonetheless, the fact that non-Italians have been repeatedly victimized in a system closely protected by a bureaucratic state suggests that there are institutional patterns of prejudice working against the goals of integration.

The resistance of academic institutions to expand and incorporate the *lettori* on a par with Italian workers recalls the struggles that Polanyi describes in his brief analysis of the contest between guild and market systems in the nineteenth century. The repeated violation of ECJ rulings by some universities suggests a degree of sensitivity to external pressures that requires serious consideration for students of European integration. At the theoretical level, the discriminatory practices documented above

challenge the functionalist school of integration which, in the words of theorist Ernest Haas (1968: 157), sought to 'break down the clustering of affections'. In this study, national ideologies and local identities have not been weakened by the forces of economic integration and the physical assimilation of non-Italians in a traditionally Italian workplace. Rather, Polanyi's belief that economic integration promotes social division offers greater explanatory weight for the universities' reaction to the European institutions and rejection of the *lettori*. In this case, the patterns of exclusion and peer selection that Clark associates with the university-guild play an important role as sources of academic protection to the detriment of outsiders.

At the level of the state, one can discern some notable integrationist gains, not least the fact that the Italian government was urged to change the 1980 educational law in order to comply with the European Court of Justice. Indeed, the European Court rulings are having an influence and even the fact that the authorities have tried to reclassify the *lettori* and continue to rely on inventive terminology to describe their activities indicates that the Italian state has modified its behaviour in response to European pressure.

At the institutional level, the record is less than encouraging. Some universities did mend their ways in response to the second Allué decision, but their actions were limited to specific issues such as *tempo indeterminato*. Other concerns, including the change in the teachers' status and subsequent reduction of salaries, are not covered by these judicial rulings and, in the meantime, local actors may try to subvert the spirit of the Treaty of Rome. Their efforts will further test the degree to which the Italian state is subject to external constraints imposed through the EU institutions. For the *lettori*, however, these constant challenges are of purely academic interest. In the words of one subject, each time they win, they lose. As this article documents, previous legal victories for the *lettori* have historically preceded new legal battles on different fronts.

At the time of writing, the *lettori* were making their case before the national governments of the EU members. Having urged the British Department of Trade and Industry to investigate their charges of discrimination,[16] the *lettori* then obtained the ear of the German President of the EU's educational ministers, Madame Edelgard Bulmahn. In anticipation of a Council decision that would compel the Italian universities to comply with EC law, the *lettori* were encouraged by Bulmahn's promise to raise the matter in the next ministerial round and her personal declaration, saying, 'it is an important point for me'.[17] Whether Bulmahn manages to persuade the other ministers to adopt a decision against the Italian universities remains to be seen.

As the contest between the European Commission and Italian universities continues into its seventh year, the fact that semi-autonomous institutions persistently ignore provisions of the EEC Treaty and ECJ rulings raises questions about the Commission's powers of investigation and ability to enforce EC law at the local level. For the European Commission, establishing that the *lettori* are still being victimized as a result of their non-Italian nationality remains a particularly laborious task. As Professor Bruno Nascimbene commented, 'it is like proving sexual discrimination – it exists but proving it is a considerable undertaking'.[18]

NOTES

To protect the anonymity of *lettori,* professors, students and other private citizens, the author has concealed the names of subjects interviewed. Initials are used to acknowledge the sources that were critical to this study without revealing the identity of the persons cited.

1. P.B., personal interview, Florence, 19 March 1996.
2. C.C., personal interview, Florence, 19 March 1996.
3. Letter to Sir Jack Stewart Clark, MEP (undated) (in author's possession).
4. R.H., personal interview, Verona, 2 February 1996.
5. N.F., personal interview, Verona, 2 February 1996.
6. A.R., telephone interview, Verona, 2 February 1996.
7. Ibid.
8. P.B., personal interview, Florence, 19 March 1996.
9. 'All workers have the right to remuneration proportionate to the quantity and quality of their work, and in any case sufficient to provide a free and dignified existence for themselves and their families.' (Cappelletti 1967: 288.)
10. See European Court Reports, *'Pillar Allué and Carmel Coonan* v. *University of Venice* (Case 33/88)', *ECR* 1989/1591. Luxembourg: Court of Justice of the European Communities.
11. Perdibon, D., personal interview, Venice, 20 March 1996.
12. See 'Concorsi Pubblici', *Gazzettino*, 24 November 1995.
13. I.M., personal interview, Naples, 18 March 1996.
14. G.A., personal interview, Rome, 16 March 1996.
15. Letter dated 13 December 1995 (in author's possession).
16. See Carvel, J. (1998): 'Tongue tied but fighting back', *The Guardian Higher Education Supplement*, 8 September 1998.
17. See McMahon, H. (1999): 'Press Release: Foreign Language Lecturers in Italy Win Ministerial Backing', Brussels, European Parliament, 26 January 1999.
18. Bruno Nascimbene, personal interview, Milan, 13 March 1996.

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The Domestic Politics of Spanish European Economic Policy, 1986–94

RICHARD YOUNGS

This article analyses the role played by domestic political considerations in the evolution of Spanish European economic policy between 1986 and 1994. The article finds that the European policies of the Partido Socialista Obrero Español (PSOE) government, particularly those related to Economic and Monetary Union (EMU), shifted over the early 1990s, coming to accord greater priority to short-term national interests. EMU engendered a more politicized domestic debate in Spain, as domestic actors reacted against the sacrifices required by convergence-related reforms, at just the moment when the government's policy-making autonomy was significantly curtailed. The article concludes, however, by analysing a number of ways in which the influence of domestic politics remained limited.

Spain's progress towards meeting the EMU convergence criteria was a tortuous one. Comprehensive structural reform has only recently been initiated. The People's Party (Partido Popular or PP) government was propelled towards EMU's 1999 starting line in large part by the 1996–97 Europe-wide economic recovery. Over the 1990s, there have been clear limits on the domestic tensions which both the PSOE and PP governments have been willing to incur in order to meet European commitments. This is indicative of a more measured Spanish enthusiasm for European integration, seen across a number of policy areas, than was evident in the 1980s. This article traces the roots of these phenomena. It records the shift in the socialist government's European policy over the early 1990s and, in particular, as the focus of attention moved from the single market to EMU. It notes that the period after the Maastricht Treaty witnessed the emergence of more politicized debate on European issues in Spain. The article analyses the role played by domestic political factors in conditioning the subtle shift in the government's positions on European economic issues. To this end, it separates out two relevant variables: first, the way in which the domestic policy-making context

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