



Associazione Lettori di Lingua Straniera in Italia
Association of Foreign Lecturers in Italy

"Equal citizens, equal rights, equal treatment"

NON-ENFORCEMENT OF EUROPEAN LAW

AN ALLSI NEWSLETTER - MARCH 2007

THE PENSIONER, THE JURIST, THE POLITICIANS, THE COMMISSION &
THE JUDGE

BETRAYAL BY COURT AND COMMISSION

On 26 January 2006 European Court of Justice Advocate General **Poiarés Maduro** concluded that the ECJ should impose a daily fine of EUR 265.000 on Italy for its failure to uphold its Treaty obligations with regard to the foreign lecturers in its universities, the so-called *lettori*. However, the ECJ on 18 July 2006, (C-119/04) while confirming that Italy had once again been in breach of its obligations refused to impose a penalty, stating that the Court “does not have sufficient information” to conclude that the breach persisted.

Mrs **Katherine Wells**, a 74-year-old British former *lettore* at Milan University, does have the information. And so does ALLSI .

Professor Sir **Neil MacCormick** Q.C., Regius Professor of Public Law and the Law of Nations at the University of Edinburgh and Member of the European Parliament 1999-2004, commented in a communication entitled “Betrayal by Court and Commission”:



“It is a scandal that Italy has been yet again found in breach of its Community obligations to a group of European citizens, but yet again suffers no sanction. What trust can we citizens place in our rights under the treaties if a cosy club of commission, court and member state can agree that wrong has been done yet fail to ensure the wrong is righted. The Commission in this case failed to put forward a sufficient case to show that Italy's default continued up to the time of the hearing. Did the Commission really try to win its case? If the Court needed further evidence from the Commission, why did it not direct the Commission to adduce such evidence before proceeding to final judgment?”



British MEP and former Conservative Minister **Sir Robert Atkins** said he was “**appalled**” when he first heard the facts of the case .

Irish MEP **Proinsias De Rossa** described the decision as “**extraordinary**” and “**not a glorious day for the Court.**”



David Martin MEP, who first received a petition from the *lettori* on 9 February 1993, said: “**If your rights have been wronged and you cannot get justice, then it undermines the whole legal system.**”



After 7 years of litigation, in one case, Mrs **Katherine Wells** has received partial redress for pay arrears on wages. Meanwhile other arrears remain to date unpaid with a detrimental knock-on effect on her pension, which is currently €290 per month. Mrs Katherine Wells, now 74, wrote to the Commission on 4 December 2006 to say “**I fear that, without the effective political intervention of the Commission, I shall never receive full redress and that this situation will be replicated for many other *lettori* in the same situation.**”

Officials working under Commissioner **Vladimir Špidla** replied to Mrs Wells on 18 January 2007, referring her back to the national jurisdiction, where Mrs Wells and hundreds of her colleagues have been litigating since 1985.

At a law seminar held at the **University of Trento** on 13 February 2007, ALLSI chair, **David Petrie**, had the opportunity to ask **Ninon Colneric**, one of the 13 Judges in the Grand Chamber who adjudicated in case C-119/04, if she had a message for Mrs Wells.



The following are among the comments **Judge Colneric** made in Trento:



- “The problem of that case in the end was the enforcement proceedings, linked to procedural rules [...] that the Court has to apply. And that’s very much [...] a French tradition I often thought it highly difficult to accept.”
- “So the Court is linked to what is put forward by the parties. It cannot do its own research on what happened even if you see that something has gone seriously wrong. You are stuck, you are confined to the pattern of arguments put forward by the parties.”
- “In that case, the Commission had not challenged that material in detail. That’s why we had to proceed from the basis of what the Italian state had said. Our hands were in a certain sense bound by these procedural rules.”
- “The Court has to have the courage to change its procedural rules and if you compare it with the rules of French administrative law, you see that in French administrative law things have developed. The Court in that sense is like immigrants: it’s very very hard to change the basic procedure of the Court. The litigants must have been very, very disappointed.”

Vladimir Špidla, the European Commissioner responsible for free movement, provides the following mission statement on his official website: **“I believe that to maintain the European social model we have to preserve our core values of social justice, equality, respect for rights and dignity for every individual.”**

ALLSI shares those core values even if our members do not enjoy them.

ALLSI has asked Commissioner **Vladimir Špidla** for a meeting to discuss the way forward, following the “disappointment” the litigants felt after the unsatisfactory outcome of case C-119/04, in which Italy was found guilty yet again but not guilty enough to be punished either for the past or for the ongoing illegal discrimination being suffered by Mrs Wells and hundreds of her colleagues.

Commissioner Vladimir Špidla

Romano Prodi

Prime Minister of Italy &
former President of
the European Commission



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www.allsi.org Tel & Fax +39 045 8003408

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