Italian Review of Legal History

PREMIÈRE DAME: WILMA VISCARDINI DONÀ, EUROLAWYER*

FIRST LADY: WILMA VISCARDINI DONÀ, EUROLAWYER

Alessandro Rosanò
Università degli Studi di Parma

Abstract English: The paper aims at shedding some light on the life of Wilma Viscardini Donà, who was the first woman to be hired as adviser at the Legal Service of the European Commission, where she worked between the beginning of the Sixties and the beginning of the Seventies. The paper focuses on her time at the European Commission and the most important dossiers she worked on. Furthermore, it deals with her career as a lawyer litigating Community law cases.

Keywords: Wilma Viscardini Donà; Legal History of European Law; European integration; Legal Service of the European Commission; Eurolawyer.

Abstract Italiano: L'articolo si propone di fare luce sulla vita di Wilma Viscardini Donà, che è stata la prima donna a essere assunta come consulente giuridico presso il Servizio giuridico della Commissione europea, dove lavorò tra l'inizio degli anni Sessanta e l'inizio degli anni Settanta. L'articolo si concentra sul periodo trascorso alla Commissione e sui più importanti dossier di cui si occupò. Inoltre, affronta la sua carriera di avvocato specializzato in cause di diritto comunitario.

Parole chiave: Wilma Viscardini Donà; Storia giuridica del diritto europeo; Integrazione europea; Servizio giuridico della Commissione europea; Eurolawyer

1. Introduction

In recent years[1], a new sensibility has emerged among scholars – historians and political scientists, first[2], and lawyers later[3] – which has led to the development of

* This paper is part of the PRIN 2022 Rediscovering European Integration through Legal Storytelling (Project Code: E53D2300662 0006).

[1] Remarks already made in Rosanò, 2023, pp. 64-68 are summed up here.

[2] See, *ex multis*, Davies, Rasmussen, 2012, pp. 305 ss.; Davies, 2013, pp. 1337 ss.; Rasmussen, 2014, pp. 136 ss.

[3] For instance, Grilli, 2009 e Arena, 2019, pp. 1017 ss.

❖ Italian Review of Legal History, 10/2 (2024), n. 8, pagg. 307-325
❖ https://riviste.unimi.it/index.php/irlh/index
❖ ISSN 2464-8914 – DOI 10.54103/2464-8914/27623.

Legal History of European Law studies, aimed at giving an account of the events of the European integration process, following an approach not limited to the analysis of the most recent normative and jurisprudential data[4]. One can now speak of a trend, which is hallmarked by the fact that stories, events and cases from the (distant and near) past that have defined EU law are being analysed and recounted, taking specific account of the context in which they arose[5].

Results are not lacking. It should be noted how a significant contribution to this type of approach can come from the study of the lives, deeds and ideas of men and women who took part, in various guises, in the European integration process. In general terms, this is nothing new as over the years, legal biography studies have gained more and more importance. As it is renowned, the term "legal biography" refers to studies that provide an understanding of how the experiences of individuals and the context in which they have operated have had an impact on their ideas in the legal field and possibly on the law making process[6]. As it was stated, «legal biography creates an access point for scholars in other disciplines and for ordinary people into the life and development of the law» and, by offering an in-depth study of a person's life and works, can provide information on law and legal structures, while at the same time capturing the attention of the listener/reader, even if he/she is not (or not yet) a lawyer[7]. And again, with specific regard to the Legal History of European Law, «examining the lives and deeds of the individuals who have contributed to the European integration process may prove fruitful to comprehend litigation strategies, judicial decision-making, and the drawing of legal opinions as well as to better grasp questions of agency, causality, and interconnection»[8].

A number of studies have been devoted to the so-called Eurolawyers, meaning «jurisconsults-diplomats, corporate lawyers, EU institutions' legal advisers, "politicians of the law", institution-builders, academics, etc» who contributed to the development of the European integration process[9]. Thus, the stories of the jurists who played a part in the European integration process spark interest.

It should be borne in mind that in most cases, they were men. As Jean Monnet put it in its *Memoirs*, «rien n'est possible sans les hommes»[10]. And again, with regard to

---

[4] Rasmussen, 2021, p. 924.

[5] Davies, Nicola, 2017, p. 2.

[6] Bajon, Barnes, Whewell, 2021, p. 127.

[7] Barnes, MacMillan, Vogenauer, 2020, p. 116. On this topic, White, 1995, pp. 716 ss. and Sugarman, 2015, pp. 7 ss.

[8] Arena, Rosanò, 2022, p. 7.

[9] The definition provided here can be found in Vauchez, 2015, p. 8. In contrast, Pavone, 2022, pp. 13-14 embraces a narrower notion of Eurolawyer, speaking of «a vanguard of lesser-known attorneys who kept their feet in their home states and sought to change the behavior of local courts». On the same topic, see also Stein, 1981, pp. 1 ss. and Bernier, 2012, pp. 399 ss.

[10] Monnet, 1976, p. 360. On Jean Monnet's life, see Fontaine, 1988; Duchêne, 1994;

the European Coal and Steel Community (ECSC) and the will to set up a true body of Community officers in order to underline the ECSC permanent and supranational nature,[11] he stated «c'est dans cet esprit que nous recherchâmes les hommes les plus écoutés dans leur milieu. De proche en proche, leurs noms parvenaient jusqu'à nous»[12].

When the European Economic Community (EEC) was established and he was chosen as President of the Commission, Walter Hallstein[13] wanted the EEC administration to be heavily structured and hierarchical, consistently with the German model of administrative organisation[14]. According to Hallstein, the EEC administration should have been «a great administration, whose senior officials would command equal status with the very top ranks of the national administration»[15]. In this case just like in the ECSC's, it was a single personality that took care of the administrative organisation and the selection of the personnel, and in both cases, the choices fell on men[16].

Then, the question begs to be asked: what about women? Just as the stories of the men who contributed to the European integration process in various roles have been told, so should those of the women.

Thus, the purpose of this paper is to shed some light on the life of Wilma Viscardini Donà, who was the first woman to be hired as adviser at the Legal Service of the European Commission, where she worked between the Sixties and the beginning of the Seventies. Therefore, after providing some information regarding Ms Viscardini Donà's studies and her early career experiences, the paper focuses on her time at the European Commission and the most important dossiers she worked on. After that, the paper deals with her career as a lawyer litigating Community law cases. Finally, some words are devoted to the role of women in European institutions. In this way, the paper highlights how Ms Viscardini Donà, being a Eurolawyer, contributed to the Legal Service and the development of some key notions, such as that of measures having an equivalent effect, and how she played a role as a lawyer in disseminating knowledge of Community / EU law in Italian courtrooms.

Brown Wells, 2011. For an analysis focusing on Monnet's approach towards European integration, see Su, 2009, pp. 29 ss. and Mioche, 2012, pp. 143 ss.

[11] Historical Archives of the European Union, CEAB 12-77, *Statut du Personnel CECA: Observations sur le projet de Statut*, 9. On this topic, Conrad, 1989 and Isoni, 2006, pp. 271 ss.

[12] Monnet, 1976, pp. 285-292.

[13] On Walter Hallstein, see Loth, Wallace, Wessels, 1998.

[14] On the different models of administrative organisation and the European integration process, see Cassese, 1987.

[15] Nöel, 1992, pp. 150 ss.

[16] As Ms Viscardini Donà told me, at the time when she began working at the European Commission, women were hired just as secretaries. Among the officers at the Legal Service there was just another woman, working at the linguistic revision service (interview with Ms Wilma Viscardini Donà, 22 February 2024).

2. Before Brussels: from Rovigo to Luxembourg

Wilma Viscardini was born on 10 September 1934 in Occhiobello, a very small town in the northern Italian region of Veneto[17]. Being the daughter of a notary, it does not come as a surprise that she developed a certain interest for legal matters. Thus, she studied Law at the University of Padova, not so far from home, and graduated in 1956, discussing a thesis on the criminal liability of ministers. After that, she began her career as a trainee lawyer in the town of Rovigo and in a short time, passed the bar exam and became a lawyer.

As much as this story may not sound that original when compared to the stories of many other law practitioners, one should look at it considering how different the social context of sixty years ago was from today's. At the University, she was just one of no more than ten girls studying Law and when she passed the bar, she became the first woman to enrol at the Rovigo Bar Association.

As she graduated in 1956, she did not have the opportunity to deal with Community law at the University. As she recalled, no particular attention was devoted to this new legal creature either at the University or by the public opinion. However, after the establishment of the EEC in 1957 and thanks to the encounter with some people of her age – first of all, her future husband, Gaetano Donà, who would become head of division at the Secretariat General of the European Commission[18] –, she became curious of this new reality. During her traineeship period, she attended the course of *Hautes études européennes* in Strasbourg, where she discussed a thesis on the Court of Justice of the ECSC's case law under the supervision of Professor Jean de Soto and obtained a diploma in European studies.

As her interest in the matter was growing, she decided to move to Brussels and see whether it was possible to get a job at the Legal Service of the newly established Commission of the EEC.

At the time, the Legal Service of the EEC was run by Michel Gaudet. Some years before, he had been hired by Monnet from the *Conseil d'État*, on the advice of then Advocate General Maurice Lagrange[19], and after working at the Legal

---

[17] Where not otherwise indicated, information was obtained as part of an interview with Ms Wilma Viscardini Donà, which took place on 22 February 2024 at her law firm in Padova.

[18] See Historical Archives of the European Union, *Entretien avec Gaetano Donà par Antonio Varsori et Veronica Scognamiglio à Padova le 21 janvier 2004*, available at https://archives.eui.eu/en/files/transcript/16027.pdf?d=inline.

[19] As Gaudet recalled it, he met Monnet «en septembre 1952, lorsque Maurice Lagrange, mon collègue au Conseil d'Etat, m'a appelé - j'étais à la campagne en vacances - pour me dire, "Jean Monnet veut vous voir". Après la fin de toutes les négociations sur le plan Schuman, sachant que Maurice Lagrange allait entrer à la Cour de Justice, Monnet cherchait un autre juriste français pour faire partie de l'équipe juridique de la Haute Autorité (…) La rencontre de Monnet est entièrement dûe à l'amitié que j'avais avec

Service of the ECSC, in 1958, he had become the director of the EEC branch of the Common Legal Service of the three European Executives[20]. The first time he met Wilma Viscardini and found out that she wanted to work at the Legal Service, he did not completely understand what she meant and his answer was: «Mademoiselle, nous n'avons plus besoin de secrétaires». When she replied that she wanted to work at the Legal Service not as a secretary, but as an adviser, he was shocked.

At the beginning, she had no luck and was not hired there. Nevertheless, she had gotten word of a vacancy at the Eurostat. They needed someone that would review the Institute's publications, who would also be responsible for keeping up correspondence with readers. In addition to perfect knowledge of Italian and French, a previous editorial experience was required, which she had because, for a number of years, she had worked for *Il Resto del Carlino* and was also registered, at the time, in the Register of *giornalisti pubblicisti*. She was hired as an officer after an interview and the selection of all the applications and worked there for a year since June 1959.

A few years later, after her transfer to Brussels in 1960, she passed the selection process at the Legal Service. This time, Michel Gaudet was more serious and told her: «Madame[21], vous êtes la première femme: ça dépendra de vous s'il y en aura une deuxiéme»[22].

3. Working at the Legal Service of the European Commission: A brave new world

It has been said that the Legal Service, the Press and Communication Service and the Secretariat General of the European Commission provide «an administrative, political, and public relations power base of enormous skill and intellectual ability»[23].

As far as the Legal Service, this is certainly true as it is up to this Service to ensure that EU legislation is in accordance with the Treaties and to advise the Commission on its powers[24]. Therefore, as it was said, «a favourable opinion from the Legal Service […] is a clear political advantage»[25]. Thus, the Legal Service

---

Maurice Lagrange. Ayant travaillé avec moi au Conseil, il a dit un jour a Monnet: "Si vous cherchez quelqu'un, parmi les possibles, voyez Michel Gaudet"» (see Historical Archives of the European Union, *Michel Gaudet. Entretien avec François Duchêne, Paris le 15 avril 1988*, available at https://archives.eui.eu/en/oral_history/INT500).

[20] Rasmussen, 2012, pp. 377 ss. and Bailleux, 2013, pp. 359 ss.

[21] She had married in the meantime.

[22] The second woman to join the Legal Service was Marie José Jonczy, in 1966. Thus, one may say that Ms Viscardini Donà passed the sort of test that Gaudet had subjected her to.

[23] Spence, 1997, p. 110.

[24] See Stevens, Stevens, 2001.

[25] Spence, 1997, p. 114.

has always played a technical role and at the same time, although indirectly, a political one.

Then, when she joined the Service, Wilma Viscardini Donà had quite a responsibility on herself[26]. Not only she was responsible for giving opinions on draft legislation, for supporting, for the legal aspects, the representatives of the Commission in discussing the proposals of that legislation, and for representing and defending the Commission before the European Court of Justice (ECJ), just like any other member of the Legal Service: She also had the responsibility deriving from Gaudet's words.

Being part of the team dealing with external relations that was headed by Alberto Sciolla-Lagrange, a former Italian judge, her first task concerned the relationship with Greece. Greece's application on 8 June 1959 had introduced the question whether the European Communities wanted to expand in the Mediterranean area. There was some reluctance at the time, because of some issues related to the Greek situation – mainly, the Greek-Turkish relations after the Turkish invasion in Cyprus and the weakness of the Greek economy – and of some other issues regarding the consequences that admitting Greece to the European Communities would have on the future applications of other countries – mainly Spain and Portugal[27].

The Greek government was aware of those problems as well as of the political and economic isolation that non-participation in the European integration process would have determined[28]. That is why at the beginning, it opted for an association agreement with the EEC. The agreement was signed on 9 July 1961 and came into force on I November 1962, but the negotiations proved difficult over issues such as the common agricultural policy and the free movement of goods. However, as Ms Viscardini Donà recalls, that was an amazing dossier to begin with, as it gave her the opportunity to have a general overview of many of the most relevant Community issues[29].

After that, she joined the team dealing with the free movement of goods; thus, she began to work on some of the key notions of Community law, whose meaning was still not clear, at the time. One may think of charges having equivalent effect to customs duties, measures having equivalent effect to quantitative restrictions, technical barriers and the exceptions to the rules regarding these matters.

Today, these concepts pose no issues, as they have been clarified by the ECJ in its case law. Back in the days, however, they were like empty boxes that

---

[26] As Ms Viscardini Donà put it, the Legal Service's opinion was considered by the Commission as a sort of Bible (Historical Archives of the European Union, *Entretien avec Wilma Viscardini par Antonio Varsori et Veronica Scognamiglio à Padova le 25 février 2004*, available at https://archives.eui.eu/en/oral_history/INT780).

[27] Papastratis, 2005, p. 299.

[28] *Ivi*, p. 295.

[29] *Entretien avec Wilma Viscardini par Antonio Varsori et Veronica Scognamiglio à Padova le 25 février 2004*.

needed to be filled. The fervour regarding these topics is confirmed by an article Ms Viscardini Donà published on the *Revue du Marché Commun* in 1973, where she highlighted how difficult it was to define the concept of measures having an effect equivalent compared to the one of quantitative restrictions, the former embracing a number of different cases. Provided that it should have been regarded as a residual concept covering all the situations that could not be qualified as quantitative restrictions, the concept should have been defined in the light of a case-by-case approach. The analysis should have focused on the effect spreading from the measure, rather than its nature or its object, in order to understand whether it could restrict intra-Community trade. In this regard, it was not necessary to prove an actual impact on intra-Community trade, as a mere potential one was considered enough[30].

Previously, Ms Viscardini Donà had had the opportunity to represent the Commission before the ECJ in two cases.

The first one (*International Fruit Company*) concerned the above-mentioned notion of measures having an effect equivalent compared to the one of quantitative restrictions. The Commission advanced the idea that measures having an equivalent effect should be regarded as measures that, although introduced under different names or by means of other procedures, would result in affecting trade just like quantitative restrictions. However, while with regard to quantitative restrictions such an effect is direct, in the case of measures having equivalent effect it is indirect, arising from the fact that imports or exports become more difficult or costly in comparison with the marketing of the domestic product. These difficulties may be absolute or relative, but it is the potential effect of the measures that must be taken into consideration[31]. In that case, the ECJ did not provide any definition of the concept of measures having an equivalent effect; however, one can see in the definition provided by the Commission some resemblance with the one that would have been elaborated by the ECJ in *Dassonville*[32].

The second case (*Marimex*) concerned the notion of charges having equivalent effect to customs duties. The Commission stated that the concept of charges having equivalent effect was not applicable to the fees for services rendered by some administrative authorities in the veterinary inspection field. However, according to the Commission, when the service is carried out exclusively in the

---

[30] Viscardini Doná, 1973, pp. 224 ss.

[31] See the Observations submitted by the Commission of the European Communities in ECJ 15 December 1971, joined cases 51 to 54/71, *International Fruit Company and Others v Produktschap voor Groenten en fruit*.

[32] ECJ 11 July 1974, 8/74, *Dassonville*. As it is renowned, the Court held that «all trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade are to be considered as measures having an effect equivalent to quantitative restrictions».

public interest to protection of public health and the quality of national livestock – as it was the case of the veterinary inspections on the imported goods – it is not qualifiable as a service and the charges imposed cannot be regarded as a payment for that service, as they are charges having equivalent effect to customs duties. The Court shared that view. The prohibition of customs duties and charges having equivalent effect refers to all charges demanded on the occasion or by reason of importation which are imposed specifically on imported products and not on similar domestic products, altering their cost price, and does not admit any distinction according to the aim pursued by the charges[33].

Furthermore, Ms Viscardini Donà represented the European Commission in *Fratelli Variola*, another case on charges having equivalent effect, which however is best renowned for a different reason. This is where the ECJ, following its ruling in *Commission v Italy34*, confirmed that a legislative measure under national law which reproduces the text of a directly applicable rule of Community law cannot in any way affect such direct applicability, or the Court's jurisdiction under the Treaty[35]. In this regard, the European Commission stressed that «the practice of reproducing the text of directly applicable Community rules in instruments of internal law creates confusion even if the national legislature did not intend to exclude the direct and independent application of Community Regulations. National courts no longer know which rule to follow, that of the Community Regulation or that of the corresponding national legislation. Even if it were a question of rules whose texts are identical, the choice of one rather than the other would not be without importance: (a) the date of entry into force could be different; (b) a preliminary interpretation of the Community rules by the Court would no longer be necessary»[36].

Ms Viscardini Donà also had to deal with issues related to the common agricultural policy, as confirmed by another case where she represented the Commission before the ECJ[37].

One of the most interesting things regarding these cases is that, apart from the legal one, the main conundrum the Legal Service had to tackle concerned what the ECJ would have thought of… a woman representing the Commission. With regard to the *International Fruit Company*, before the hearing took place, there was a meeting of some senior officers, who wondered whether it would have been a good idea to let a woman do that job[38]. In the end, the Legal Service

---

[33] ECJ 14 December 1972, 29/72, *Marimex v Amministrazione delle finanze dello Stato*.

[34] ECJ 7 February 1973, 39/72, *Commission v Italy*.

[35] ECJ 10 October 1973, 34/73, *Fratelli Variola Spa v Amministrazione delle finanze dello Stato*.

[36] See the Observations submitted by the Commission of the European Communities in *Fratelli Variola Spa v Amministrazione delle finanze dello Stato*, p. 987.

[37] ECJ 21 March 1972, 82/71, *S.A.I.L.*.

[38] *Entretien avec Wilma Viscardini par Antonio Varsori et Veronica Scognamiglio à Padova le 25 février 2004*.

decided that as she had followed the dossier until that moment, there was no reason to substitute Ms Viscardini Donà with someone else – meaning, a man – for the purpose of a hearing. On its behalf – and not unexpectedly –, the Court did not show any reaction and in truth, adhered to the Commission's reasoning.

Other than that, there were some gender issues in the Legal Service. As Ms Viscardini Donà recalls, once Gaudet favoured another candidate for a promotion on the basis that he was a family man and even some secretaries were not at ease working with a woman officer. However, in due time, she obtained the promotion she deserved[39] and for what concerns the secretaries, it was just a matter of isolated occurrences.

4. Après le déluge: life after the Luxembourg Compromise

The approval of the Treaties of Rome had been a success, especially if one thinks of how the European Defence Community and the European Political Community projects had ended[40]. The establishment of the EEC was meant to reach a balance between «rapid trade expansion [and] more selective and more easily adjustable forms of protection»[41]. Then, one may agree with those who think that European integration was not the offshoot of some federalist political ideal; rather, it was the «outcome of rational choices by national leaders»[42] in order to reach a balance between «unsustainable protectionism and no-holds-barred liberalization»[43] and set a large market capable of becoming a place of economic modernization[44].

One may also agree that over time, different objectives have been identified for European integration and their importance has varied. Economic safety, commercial liberalisation, national security, the development of common legal, social and political norms, the protection of democracy have played a significant role in giving meaning to the integration process[45].

Notwithstanding this, in the Fifties, very little had been done in order to define the political purposes of the newly established Communities and mostly, of the EEC. Despite its economic functions, some looked at it as a way to achieve a federal Europe. However, this required a common political will from the Member States[46]. As the Empty Chair Crisis and the Luxembourg Compromise proved, the reality was quite different.

---

[39] Ms Viscardini Donà had started at a A8 level and when she left, in 1973, she had achieved a A4 level (see *Entretien avec Wilma Viscardini par Antonio Varsori et Veronica Scognamiglio à Padova le 25 février 2004*).

[40] On the topic, see Fursdon, 1980; Griffiths, 1994; Ruane, 2000.

[41] Milward, Sørensen, 1993, pp. 6, 9.

[42] Moravcsik, 1998, p. 3.

[43] Sebesta, 2016, p. 356.

[44] Curli, 2003, p. 1.

[45] Milward, 2014, pp. 43-45.

[46] Loth, 2017, pp. 27-28.

De Gaulle was able to stop the route towards more supranationalism[47], signifying the lack of political will from national political leaders to achieve a deeper European integration. It was a sort of political stop imposed upon the legal revolution that had started a few years before with the *Van Gend en Loos* and *Costa / ENEL* judgments[48], which led to Walter Hallstein premature resignation from the presidency of the Commission and more importantly, to a loss of enthusiasm and a stagnation in the European integration process.

Suddenly, the fervour was gone and in the subsequent years, the EEC was seen as a ship without captain and the European Commission as a weak executive that was set to become a sort of international secretariat at the service of the Council – meaning, at the service of the Member States[49].

One can only imagine how the officers working at the European Commission and more specifically, at the Legal Service, might had felt, as they had provided a decisive contribution to the doctrines of direct effect and of primacy of Community law adopted by the ECJ in *Van Gend en Loos* and *Costa / ENEL* and to the development of a constitutional practice of European law[50].

As Ms Viscardini Donà recalls, the officers working at the European Commission felt disheartened and disenchanted, as they had to cope with the idea that a form of political community was far from being achieved and the dream of a federal Europe remained just that. In the coming years, they saw their work change, not in terms of actual tasks, but in terms of general purpose, as they went from working to achieve a higher and noble target to business as usual in the framework of an international organization that seemed to have lost its momentum.

That is why, in 1973, Ms Viscardini Donà decided to leave Brussels and the European Commission, as too much had changed, not for the better, and too much seemed to be lost. However, she thought that, if a top-down approach had not worked for the cause of a politically united Europe, maybe a bottom-up one would be a good alternative. To be more precise, she deemed that it was necessary to spread the word about what was happening in Brussels and Luxembourg and how Community law could work as a tool to favour competition, economic development and justice. She recalls that Alberto Trabucchi – who at the time was serving as Advocate General at the ECJ – strongly supported this idea.

Thus, she went back to Padova, the city where she graduated, and started her own law firm, focusing on matters related to the application of Community law. In this way, she has had the opportunity to appear again before the ECJ,

---

[47] Bajon, 2009, p. 106.

[48] See Rasmussen, 2008, pp. 77 ss.; Stein, 1981, pp. 1 ss.; Alter, 2003.

[49] Jouan, 2016, pp. 19-21. Also on the Empty Chair Crisis and the Luxembourg Compromise, see Camps, 1966; Newhouse, 1968; Loth, 2001.

[50] See Vauchez, 2010, pp. 108 ss.

discussing more than forty cases over the years. Some of them were quite important. For instance, she represented the plaintiff in the action that led to the preliminary reference in *Donà*, which is considered one of the cases making up the backbone of sport law in Europe[51]. In *Donà*, the ECJ was asked whether football players enjoyed the right to work as employees or to provide a service anywhere in the Community, as provided under the EEC Treaty. Furthermore, the Court was asked whether this prevented the application of contrary rules drawn up by a sporting federation competent to control football on the territory of a Member State.

As Ms Viscardini Donà pointed out before the ECJ, sport, as originally conceived, tends to give men pure inner delight in that it allows them to step out of the mandatory daily activities of life into a free choice of movements and rules. Professional sports are not practiced for pure personal satisfaction, but as a real, regularly paid occupation. If the term 'amateur sport' is pleonastic, the term 'professional sport' is contradictory because sport that is practiced for profit no longer fulfills its proper purposes and is actually distorted in its nature. Professional sport has in common with sport *tout court* the fact that technically it is practiced in the same way, but otherwise it does not differ at all from any other occupational activity[52].

The Court ruled that the practice of sport is subject to Community law in so far as it constitutes an economic activity and that this applies to the activities of professional or semi-professional football players, as they are remunerated[53]. This does not prevent the adoption of rules or of a practice excluding foreign players from participating in certain matches for reasons which are not of an economic nature – think, for example, matches between national teams from different countries[54]. However, the restrictions on the scope of the provisions governing freedom to provide services must remain limited[55]. Following the *Donà* judgment, as she stated lately, the Italian Football Federation had to open its borders to foreign players. A few years later, thanks precisely to that ruling, Juventus could hire Michel Platini[56].

More than one of her cases focused on the free movement of goods and the common agricultural policy. For instance, one of her earliest cases concerned criminal proceedings brought before the Pretore of Padova against Mr Tasca for

---

[51] For an introduction to the topic, see Weatherill, 2007; Tognon, 2009; Anderson, 2013; Bastianon, 2015; Duval, Van Rompuy, 2016.

[52] Memoria, 26 April 1976, available in the *Dossier de procédure original: affaire 13/76* (see https://archives.eui.eu/en/fonds/256973?item=CJUE.01.01-02.03.03.07-1807).

[53] ECJ 14 July 1976, 13/76, *Donà*, para 12.

[54] *Ivi*, para 14.

[55] *Ivi*, para 15. For a comment, see Picchio Forlati, 1976, pp. 745 ss. and Trabucchi, 1976, pp. 1649 ss.

[56] Bocci, 2023.

having – among other things – infringed Article 14 of the Decreto Legislativo No 896 of 15 September 1947 in conjunction with Order No 39/74. In a nutshell, Mr Tasca had sold caster sugar at a price higher than the one fixed by the competent national authority. Ms Viscardini Donà argued that Italian legislation was incompatible with Community law. As a matter of fact, in *Galli*, the ECJ had already ruled that a national system which, by freezing prices and subjecting their alteration to administrative authorization, had the effect of modifying price formation as provided for within the framework of the common organization of the markets in the context of the common agricultural policy was incompatible with Regulation No 120/67 of the Council of 13 June 1967 on the common organization of the market in cereals and Regulation No 136/66 of the Council of 22 September 1966 on the establishment of a common organization of the market in oils and fats[57]. Then, the same approach should have applied to Regulation No 1009/67 of the Council of 18 December 1967 on the common organization of the market in sugar.

Some questions were referred to the ECJ for a preliminary ruling and the Court held that the unilateral fixing by a Member State of maximum prices for the sale of sugar was incompatible with Regulation No 1009/67 as it jeopardized the objectives and the functioning of the common organization of the market in sugar. Furthermore, a maximum price, in any event in so far as it applies to imported products, constitutes a measure having an effect equivalent to a quantitative restriction, especially when it is fixed at such a low level that dealers wishing to import the product in question into the Member State concerned can do so only at a loss[58].

In *Co-Frutta v Amministrazione delle finanze dello Stato*, a case where she represented an Italian cooperative engaged in the ripening of bananas, the Court held that the charging of a tax on the consumption of bananas was inconsistent with the free movement of goods. Indeed, the tax applied to imported, tropical fruits, whose production was significantly limited in Italy due to climatic reasons, therefore favouring the protection of domestic production of other fruits, typically grown in Italy[59]. On the very same day, the ECJ ruled that «by imposing and maintaining in force a tax on the consumption of fresh bananas which is applicable to bananas from other Member States, and in particular to bananas from the French overseas departments, the Italian Republic has failed to fulfil its obligations under the second paragraph of Article 95 of the EEC Treaty»[60].

---

[57] ECJ 23 January 1975, 31/74, *Galli*.

[58] ECJ 26 February 1976, 65/75, *Tasca*.

[59] ECJ 7 May 1987, 193/85, *Co-Frutta v Amministrazione delle finanze dello Stato*. The paramount importance of the *Co-Frutta* judgment was that the Court – following the innovative thesis suggested by Ms Viscardini Donà – ruled that Article 95 applied also to third countries' products released for free circulation in the Community after the customs duties had been paid.

[60] ECJ 7 May 1987, 184/85, *Commission v Italy*, para 15.

Thus, Italian law was not consistent with Community law. However, notwithstanding those judgments, in subsequent years, Italian customs authorities persisted in demanding the tax to be paid. That is why Ms Viscardini Donà came up with an idea to help her client. When the custom authority of Aosta required the payment of the tax, she was there and replied that no tax was due because of what the ECJ had ruled. As the Director General of the Aosta Customs Authority did not share her view, she went right away to the Pretore of Aosta, who issued a provisional order requiring the Customs Authority to let the bananas through. The tax should not be paid but pending trial on the merits, a bank surety bond should be provided by Ms Viscardini Donà's client. On the very same day, Ms Viscardini Donà went back to the Customs Authority with the Pretore's order and the surety bond. Bananas cleared through customs and suddenly, all bananas imported to Italy began to cross customs in Aosta.

In another case, where she represented the owner of an intensive beef cattle farm, the Court ruled that under Community rules governing the extensification and conversion of production, the Member States, when determining the conditions for the granting of aid for extensification of beef and veal production, are not allowed to exclude certain categories of undertakings, such as intensive livestock farms. In this regard, the Court underlined that under the relevant rules, the Member States' authority extends only to the practical application of the aid scheme, meaning to its adaptation to local situations, and more particularly to the specific conditions for reducing production[61].

In recent years, she has continued to practice law, assisted mainly by her son Gabriele. The legal issues she has dealt with are diverse and include *inter alia* a pension scheme for members of the European Parliament[62], the Association Convention between the EEC and the African States and Madagascar associated with the Community (so-called Yaoundé Convention)[63], financial aid concerning special premiums for male cattle and extensification payments[64] and competition law. Regarding precisely the latter aspect, it is worth mentioning that she has represented an Italian undertaking before the General Court and the ECJ in the so-called *Rebar* cartel saga[65]. The legal conundrum concerns the re-adoption by the European Commission of decisions imposing fines on undertakings for violating Article 101 TFEU following the annulment of those decisions by the above-mentioned Courts on procedural grounds and a possible violation of the *ne bis in idem* principle[66]. The European Commission's decisions were annulled twice[67].

---

[61] ECJ 14 January 1993, 190/91, *Lante v Regione Veneto*.
[62] ECJ 29 April 2004, C-470/00 P, *Parliament v Ripa di Meana and Others*.
[63] ECJ 29 April 2010, C-102/09, *Camar*.
[64] ECJ 24 June 2010, C-375/08, *Pontini and Others.*
[65] For an introduction, see Salmini Sturli, 2019.
[66] See Wils, 2021.
[67] As far as Ms Viscardini Donà's client is concerned, see General Court 25 October 2007,

A third decision was adopted imposing a significantly lower fine[68]. However, the saga is not over yet as the undertakings – including the one represented by Ms Viscardini Donà – have brought annulment actions against the Commission's third decision[69].

Finally, it is worth mentioning that Ms Viscardini Donà taught European Law and International Trade Law at the University of Padova, first at the Department of Political Science, then at the Department of Agriculture, from 1974 to 1999.

In recent years, she has also engaged in dissemination activities, so as to enable the public, in general, and younger people, in particular, to understand what the European Union is and how it works. In this regard, she edited a book, titled *Conoscere meglio l'Europa*[70].

5. Conclusion

Once, Albert Einstein said that it is harder to crack prejudice than an atom. Over the years, the European Union has tried to bridge the gender divide and some important results have been achieved in terms of both regulations[71] and job opportunities.

Looking at the available data regarding the staff of EU institutions, one may say that many things have changed over time. Today, women outnumber men. More than 55% of the European Commission's staff are women[72] and in 2019 a woman was elected President of the European Commission for the first time. The very same year, a woman was chosen as President of the European Central Bank, which was a first too. This looks promising; however, there are reasons to believe that a lot still needs to be done as no woman has ever been President of the European Council, nor of the ECJ, nor of the European Court of Auditors and just in three cases a woman was chosen as President of the European Parliament.

Over time, there has been an escalation of economic arguments for gender equality and it has been spread the idea that gender equality may significantly

---

T-94/03, *Ferriere Nord v Commission* and ECJ 21 September 2017, C-88/15 P, *Ferriere Nord v Commission*.

[68] Commission Decision of 4 July 2019 relating to a proceeding under Article 65 of the ECSC Treaty (Case AT.37956).

[69] General Court 9 November 2022, T-655/19, *Ferriera Valsabbia and Valsabbia Investimenti v Commission*; 9 November 2022, T-656/19, *Alfa Acciai v Commission*; 9 November 2022, T-657/19, *Feralpi v Commission*; 9 November 2022, T-667/19, *Ferriere Nord v Commission*. See also cases C-29/23 P *Ferriera Valsabbia and Valsabbia Investimenti v Commission* and C-31/23 P *Ferriere Nord v Commission*, both pending before the ECJ.

[70] Viscardini Donà, 2022.

[71] For an introduction to the topic, see Ellis, Watson, 2012; Muir, de Witte, 2017, pp. 133 ss.; Mulder, 2017.

[72] <https://data.europa.eu/data/datasets/european-commission-statistical-bulletin-hr?locale=en>accessed 9 May 2024.

contribute to economic growth[73]. Looking at what Wilma Viscardini Donà and other women[74] did, one may say that this argument does not sound completely right because it tells just a part of the truth and likely not the most important one. Gender equality must be promoted not simply because it is economically profitable, but because it is politically and legally fair.

In this regard, one may think of something that happened to Ms Viscardini Donà. In 1969, Michel Gaudet left the European Commission. However, she kept in touch with him and when she won her first case before the ECJ, she sent him a letter. Gaudet replied, congratulating her for the outcome and telling that thinking of her, he looked with trust at the choice made by one of his daughters to become a judge[75].

Reading those words, it is highly unlikely that Ms Viscardini Donà thought of how economically profitable her choice to join the Legal Service of the European Commission had been. In truth, it looks more likely that she thought that she had done the right thing and one can say that for her part, she was able to crack a prejudice.

Bibliography

Alter K.J., 2003: *Establishing the Supremacy of European Law: The Making of an International Rule of Law in Europe*, Oxford, Oxford University Press.

Anderson J. (ed.), 2013: *Leading Cases in Sports Law*, The Hague, Springer.

Arena A., 2019: *From an Unpaid Electricity Bill to the Primacy of EU Law: Gian Galeazzo Stendardi and the Making of Costa v. ENEL*, in "European Journal of International Law", 3, pp. 1017 ss.

Arena A., Rosanò A., 2022: *Nicola Catalano (1910-1984): Eurolawyer Extraordinaire*, HEC 2022/05 Working Paper, p. 7.

Bajon P., 2010: *The European Commissioners and the Empty Chair Crisis of 1965-66*, in "Journal of European Integration History", 1, p. 106.

Bajon P., Barnes V., Whewell E., 2021: *Global legal biography*, in "Comparative Legal History", 2, p. 127.

Bailleux J., *Michel Gaudet, a law entrepreneur: The role of the legal service of the European executives in the invention of EC Law*, in "Common Market Law Review", 2, 2013: pp. 359 ss.

Barnes V., MacMillan C., Vogenauer S., 2020: *On Legal Biography*, in "The Journal of Legal History", 2, p. 116.

[73] For an introduction to the topic in relation to the EU, see Elomäki, 2015, pp. 288 ss.

[74] Just to name a few, one may think of Louise Weiss (see Saint-Ouen, 1997, pp. 53-77) and Simone Veil (see Veil, 2007).

[75] *Entretien avec Wilma Viscardini par Antonio Varsori et Veronica Scognamiglio à Padova le 25 février 2004*.

Bastianon S., 2015: *La sentenza Bosman vent'anni dopo. Aspetti giuridico-economici della sentenza che ha cambiato il calcio professionistico europeo*, Torino, G. Giappichelli editore.

Bernier A., 2012: *Constructing and Legitimating: Transnational Jurist Networks and the Making of a Constitutional Practice of European Law, 1950-70*, in "Contemporary European History", 3, pp. 399 ss.

Bocci M.G., 2023: *Wilma Viscardini: «Io da euro-avvocato ho fatto giocare Platini»*, in "Il Gazzettino.it", 12 aprile 2023.

Brown Wells S., 2011: *Jean Monnet. Unconventional Statesman*, Boulder, Lynne Rienner.

Camps M., 1966: *European Unification in the Sixties. From the Veto to the Crisis*, New York, McGraw Hill.

Cassese S., 1987: *Divided Powers: European Administration and National Administrations*, in S. Cassese (ed.), *The European Administration*, Brussels, International Institute of Administrative Science.

Conrad Y., 1989: *Jean Monnet et les débuts de la function publique européenne. La Haute Authorité de la CECA (1952-1953)*, Louvain-la-Neuve, CIACO.

Curli B., 2003: *Grande mercato e diritti sociali nell'Europa del Novecento*, in "Memoria e Ricerca", 1, p. 1.

Davies B., 2013: *Why EU Legal History Matters – A Historian's Response*, in "American University International Law Review", 5, p. 1337 ss.

Davies B., Nicola F., 2017: *Introduction to EU Law Stories. Contextual and Critical Histories in European Jurisprudence*, in B. Davies, F. Nicola (eds.), *EU Law Stories. Contextual and Critical Histories of European Jurisprudence*, Cambridge, Cambridge University Press, p. 2.

Davies B., Rasmussen M., 2012: *Towards a New History of European Law*, in "Contemporary European History", 3, p. 305 ss.

Duchêne F., 1994: *Jean Monnet. The First Statesman of Interdependence*, New York, Norton, 1994.

Duval A., Van Rompuy B., 2016: *The Legacy of Bosman. Revisiting the Relationship between EU Law and Sport*, The Hague, Springer.

Ellis E., Watson P., 2012: *EU Anti-Discrimination Law*, Oxford, Oxford University Press.

Elomäki A., 2015: *The economic case for gender equality in the European Union: Selling gender equality to decision-makers and neoliberalism to women's organizations*, in "European Journal of Women's Studies", 3, pp. 288 ss.

Fontaine P., 1988: *Jean Monnet. L'inspirateur*, Paris, Jacques Grancher.

Fursdon E., 1980: *The European Defence Community. A History*, London, Palgrave Macmillan.

Griffiths R.T., 1994: *Europe's First Constitution: The European Political Community, 1952-1954*, in S. Martin (ed.), *The Construction of Europe. Essays in Honour of*

Emile Noël, Dordrecht, Springer.

Grilli A., 2009: *Le origini del diritto comunitario*, Bologna, Il Mulino.

Isoni A., 2006: *L'Alta Autorità del carbone e dell'acciaio. Alle origini di una istituzione pubblica*, Roma, Argo, pp. 271 ss.

Jouan Q., *Narratives of European Integration in Times of Crisis: Images of Europe in the 1970s*, in "Journal of European Integration History", 1, 2016: pp. 19-21.

Loth W. (ed), 2001: *Crises and Compromises: The European Project 1963-1969*, Baden Baden-Bruxelles, Nomos Verlag-Bruylant.

Loth W., 2017: *60 Years ago: The Foundation of EEC and EAEC as Crisis Management*, in "Journal of European Integration History", 1, pp. 27-28.

Loth W., Wallace W., Wessels W. (eds.), 1998: *Walter Hallstein. The Forgotten European?*, London, Palgrave Macmillan.

Milward A.S., 2014: *Politics and Purposes in Fifty Years of European Integration*, in "Journal of European Integration History", 1, pp. 43-45.

Milward A.S., Sørensen V., 1993: *Interdependence or integration? A national choice*, in A.S. Milward et al, *The Frontier of National Sovereignty: History and Theory 1945-1992*, London, Routledge, pp. 6, 9.

Mioche P., 2012: *Jean Monnet, businessman avant l'Europe*, in "Journal of European Integration History", 2, pp. 143 ss.

Monnet J., 1976 : *Mémoires*, Paris, Artheme Fayard, p. 360.

Moravcsik A., 1998: *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, London, Routledge, p. 3.

Muir E., de Witte B., 2017: *The Procedural and Institutional Dimension of EU Anti-discrimination Law*, in L.S. Rossi, F. Casolari (eds.), *The Principle of Equality in EU Law*, Cham, Springer, pp. 133 ss.

Mulder J., 2017: *EU Non-Discrimination Law in the Courts. Approaches to Sex and Sexualities Discrimination in EU Law*, Oxford, Bloomsbury.

Newhouse J., 1968: *Collision in Brussels. The Common Market Crisis of 30 June 1965*, London, Faber and Faber.

Nöel E., 1992: *Témoignage: L'Administration de la Communauté Européenne dans la Rétrospection d'un Ancien Haut Fonctionnaire*, in "Jahrbuch für Europäische Verwaltungsgeschichte", 1-2, pp. 150 ss.

Papastratis P., 2005: *Opening the gates to the enlargement. The debate on the entry of Greece*, in A. Landuyt, D. Pasquinucci (ed.), *Gli allargamenti della CEE/UE. 1961-2004*, Bologna, Il Mulino, pp. 295, 299.

Pavone T., 2022: *The Ghostwriters: Lawyers and the Politics behind the Judicial Construction of Europe*, Cambridge, Cambridge University Press, p. 13-14.

Picchio Forlati L., 1976: *Discriminazioni nel settore sportivo e Comunità europee*, in "Rivista di diritto internazionale", pp. 745 ss.

Rasmussen M., 2008: *The Origins of a Legal Revolution – The Early History of the European Court of Justice*, in "Journal of European Integration History", 1, pp. 77 ss.

Rasmussen M., 2012: *Establishing a Constitutional Practice of European Law: The History of the Legal Service of the European Executive, 1952-1965*, in "Contemporary European History", 3, pp. 377 ss.

Rasmussen M., 2014: *Revolutionizing European law: A history of the Van Gend en Loos judgment*, in "International Journal of Constitutional Law", 1, pp. 136 ss.

Rasmussen M., 2021: *Towards Legal History of European Law*, in "European Papers", 2, p. 924.

Rosanò A., 2023: *Storie per giuristi: lo storytelling quale strumento per l'insegnamento delle materie giuridiche e il caso della Legal History of European Law*, in R. Calvo (ed.), *Sapere e pensiero critico. Per un'idea di Università*, Torino, G. Giappichelli editore, pp. 64-68.

Ruane K., 2000: *The Rise and Fall of the European Defence Community. Anglo-American Relations and the Crisis of European Defence, 1950-55*, London, Palgrave Macmillan.

Saint-Ouen F., 1997: *Les grandes figures de la construction européenne*, Genève, Georg, pp. 53-77.

Salmini Sturli E., 2019: *The Ne Bis in Idem Principle as a Limit to the Resumption of Competition Proceedings: An Analysis of the Rebar Cartel Saga*, in "European Papers", 2, pp. 523 ss.

Sebesta L., 2016: *Italy's Choice of Europe and the Challenges of Modernization*, in "Journal of European Integration History", 2, p. 356.

Spence D., 1997: *Structure, Functions and Procedures in the Commission*, in G. Edwards, D. Spence (eds.), *The European Commission*, 2nd edn, Harlow, Cartermill Publishing, pp. 110, 114.

Stein E., 1981: *Lawyers, Judges, and the Making of a Transnational Constitution*, in "American Journal of International Law", 1, pp. 1 ss.

Stevens A., Stevens H., 2001: *Brussels Bureaucrats? The Administration of the European Union*, London, Palgrave Macmillan.

Su H., 2009: *Jean Monnet's Grand Design for Europe and its Criticism*, in "Journal of European Integration History", 1, pp. 29 ss.

Sugarman D., 2015: *From Legal Biography to Legal Life Writing: Broadening Conceptions of Legal History and Sociolegal Scholarship*, in "Journal of Law and Society", 1, pp. 7 ss.

Tognon J. (ed.), 2009: *Diritto comunitario dello sport*, Torino, G. Giappichelli editore.

Trabucchi A., 1976: *Le limitazioni all'ingaggio dei giocatori stranieri e la libera circolazione dei lavoratori nella Comunità europea*, in "Giurisprudenza italiana",

pp. 1649 ss.

Vauchez A., 2010: *The Making of the European Union's Constitutional Foundations: The Brokering Role of Legal Entrepreneurs and Networks*, in W. Kaiser, B. Leucht, M. Gehler (eds.), *Transnational Networks in Regional Integration. Governing Europe 1945–83*, London, Palgrave Macmillan, pp. 108 ss.

Vauchez A., 2015: *Brokering Europe: Eurolawyers and the Making of a Transnational Polity*, Cambridge, Cambridge University Press, p. 8.

Veil S., 2007: *Une vie*, Paris, Stock.

Viscardini Doná W., 1973: *Les mesures d'effet équivalant à des restrictions quantitatives*, in "Revue du Marché Commun", pp. 224 ss.

Viscardini Donà W. (ed.), 2022: *Conoscere meglio l'Europa*, Padova, Cleup.

Weatherill S., 2007: *European Sports Law. Collected Papers*, 2nd edn, The Hague, Springer.

White G.E.,1995: *The Renaissance of Judicial Biography*, in "Reviews in American History", 4, pp. 716 ss.

Wils W., 2021: *Re-adoption by the European Commission of Cartel Decisions Annulled on Procedural Grounds by the EU Courts*, in "Concurrences", 3, pp. 63 ss.