

Roma, 13 luglio 2022  
Prot. n. 214/2022 FS-stm

To the attention of Commissioner Nicolas Schmit,  
Commissioner for Jobs and Social Rights  
[CAB-SCHMIT-ARCHIVES@ec.europa.eu](mailto:CAB-SCHMIT-ARCHIVES@ec.europa.eu)  
European Commission  
Directorate-General for Employment,  
Social Affairs and Inclusion  
Labour Mobility: Free Movement of Workers, EURES  
Rue de la Loi / Wetstraat 200 - 1049 Brussels  
Belgium

**Subject: Update on infringement Proceedings No. 2021.4055 opened by the European Commission against Italy for non-implementation of the Ruling in CJEU Case C-119/04**

Dear Commissioner Schmit,

I am writing to give you an update on the question of the mother-tongue *Lettori* language teachers in the Italian universities. Unfortunately, since 23 September 2021 when the European Commission announced the opening of infringement procedure INFR 2021/4055 against Italy, with regard to the reconstruction of the careers of the *Lettori* in the Italian universities, basically no progress has been made

As you know, Art. 11 of Law 167 of 2017, with the objective of closing EU Pilot Case 2079/11/EMPL, had recognized the right of the *Lettori* to the reconstruction of their careers *ab origine* up to the present day according to the economic parameter of the salary of the confirmed part-time University Researcher, safeguarding the recognition of more favorable parameters. Unfortunately Interministerial Decree n. 765, which was meant to apply that law, was only issued after almost 2 years, on 16 August 2019, and incredibly it required the individual *Lettori* to give up their acquired rights to their adjusted past salaries and pension benefits in order to then receive the recognition of the economic parameter of the confirmed part-time University Researcher, but only from the date of the signing of the new contract in their university. Obviously such an unacceptable condition was met with the opposition of all the representative trade unions – CGIL, CISL, UIL, SNALS e FGU – and indeed it seems that those contracts have been signed by some unions and *Lettori* only in 3 small Universities (Molise, Sannio, Tuscia), regarding perhaps fewer than a total of 10 *Lettori*.

We have recently learned from a letter of the Ministry and Research of 7 June (protocol n. 7683 to the General Directors of the universities, CODAU) that the European Commission has asked the Italian authorities to transmit within 3 months from the 5 May "additional information with details of the funds distributed and those necessary to be supplemented by the universities, the number of ex-*Lettori* involved and the number of ex-*Lettori* who, as of

Il Segretario Generale

*that date, have not obtained the payment of the arrears due for the reconstruction of their careers in line with the ruling of the Court of Justice of the European Union”.*

Only on 20 May, with letter protocol n. 6895, did the Ministry write to the Rectors of the Italian universities asking to be provided by 31 May (i.e. within just 7 working days!) with the information regarding the ongoing *Lettori* litigations in their universities. In particular the Ministry asked if the Universities had signed the local university contracts according to Decree n. 765 of 2019 (with the renunciation of the *Lettori*'s past acquired rights in exchange for the recognition of the new economic treatment of part-time researcher, but excluding the more favorable parameters provided for under Law n. 63/2004, for the future), or if alternatively the universities had undertaken the reconstruction of the careers of the *Lettori* according to the “authentic interpretation” given to Law 63 of 2004 by Art. 26 of Law 240 of 2010 (the “Gelmini Law”), that is the reconstruction of careers only up to 1995!

In its subsequent letter to the CODAU on 7 June, the Ministry extended the deadline for the sending of the requested information to the 15 June and wrote: *“Every University must then proceed with the quantification of the amounts paid or to be paid to each Lettore according to the provisions of Art. 1, paragraph 1, D.L. 2/2004 (as interpreted by Art. 26, paragraph 3, Law 240/2010), or to the more favorable treatment due to judicial rulings res judicata, or instead to the adoption of the local contract according to the model defined by the Ministerial Decree of 16 August 2019, n. 765”.*

So, in summary, the Ministry has asked for information from the universities with regard to 2 possible hypotheses for the solution to the *Lettori* dispute, both in clear contrast with the ruling of the Court of Justice of the European Union in case C-212/99:

- 1) the signing and the application of the local university contract according to Decree n. 765/2019 with the renunciation on the part of the *Lettori* of their prior acquired rights in exchange for the future recognition of the new economic treatment of the confirmed part-time university researcher after the signing of the new contract;
- 2) the application of Art. 26 of Law 240/2010 (“Gelmini Law”) with career reconstruction for the *Lettori* only up to 1995.

Therefore it seems quite clear, in our opinion, that the Italian authorities are continuing to act so as to try once again to evade application of European case law, starting with the CJEU ruling in case C-212/99, and in so doing they continue to postpone any solution for as long as possible.

It is now 21 years since the CJEU ruling in case C-212/99 on 26.06.2001. It is now 18 years since Law 63 of 2004, a law recognized as acceptable for the application of CJUE ruling in case C-212/99 by the CJEU ruling in case C-119/04 of 18.07.2006. Unfortunately, as you well know, that law has never been implemented in the Italian universities. Now almost 5 years have passed since the Italian parliament's approval of Law 167 of 2017, which was meant to finally implement the CJEU ruling in case C-212/99.

To bring closure to the ongoing litigation, to prevent future litigation and to close the infringement procedure initiated against Italy, the rulings of the European Union Court of Justice must finally be applied, with the reconstruction *ab origine* of the professional careers of the *Lettori* according to the economic parameter of the confirmed part-time university researcher, save more favorable treatment, for salary, seniority and corresponding social security contributions, with the full recognition of the right to payment of all arrears starting from the first employment contract stipulated.

Rev. Martin Luther King, Jr. said that "*A right delayed is a right denied*". At this point we believe unfortunately that the time has arrived for the Commission to advance the infringement procedure 2021.4055 to the **reasoned opinion** stage.

In conclusion, thanks once again to you, Commissioner Schmit, and to all of the Commission for your attention to the issue of the *Lettori*.

As always, please feel free to share our considerations with the Italian authorities.

Yours faithfully,

Secretary General  
Francesco Sinopoli

