

Court Sentences Take Center Stage

Judith Harris (March 11, 2015)



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The decision generating the most heat is a Milan Cassations high court ruling March 10 that ratifies the suffered decision by an Appeals court last July to acquit former Premier Silvio Berlusconi of involvement in prostitution with a minor, the notorious Kharima el Mahroug, better known in the Anglo press as Ruby Heartstealer. Prosecutor Edoardo Scardaccione had challenged that lower court's decision. The Cassations ruling, issued at midnight after ten hours of discussion, puts a definitive end to the accusations that, back in May 2010, Berlusconi knew Ruby's real identity, knew that she was underage and had pressured Milan police to release her. The new ruling also overturns his earliest conviction to a seven-year prison sentence. Berlusconi is hardly off the hook despite this; he still faces other and newer judiciary investigations into the company he kept at parties he hosted.

Curiously, if the Berlusconi case is the one generating the most heat, other decisions seem likely to have more far-reaching consequences. The first is that the Regional Administrative Tribunal (TAR) of Lazio has just annulled a ruling made Oct. 31, 2014, by Rome Prefect Giuseppe Pecoraro to cancel transcriptions onto Italian civic records of marriages celebrated outside of Italy by gay couples. Pecoraro's decision had been justified by a note sent by Interior Minister Angelino Alfano Oct. 7 asking the nation's police prefects to "formally invite the mayors to withdraw" registrations of gay marriages in city records offices, and to "annul the illegitimate acts that had been perpetrated." These registrations had been honored selectively by diverse city administrations, beginning with Rome.

In this week's decision, the Lazio Region administrative tribunal judges seemed to be seeking a way out of the Italian legal prohibition against same-sex marriages. They declared that the present laws in Italy do not consent gay marriage, which means that same-sex marriages cannot be transcribed onto civil records. However, only the "ordinary judiciary authority" and not a cabinet minister or police prefect can order annulled the transcription of overseas same-sex marriages. In short, same sex registrations can still slip through the cracks.

The TAR ruling implicitly reflects a decision by the Cassations high court Feb. 9 that gay marriage "within our judicial system...is not foreseen among the legislative hypotheses of conjugal unions." However, "an urgent intervention by the legislature" is necessary in recognition of the constitution Article 2 which protects the rights of individuals, including as it concerns the rights and duties within "affective relations of the couple." And this week the government reportedly agreed to present a document later this month to the United Nations in which it agrees to recognize same-sex unions.

The LGBT associations are skeptical. "If the Italian government is really about to make promises to the UN on egalitarian marriage, they ought to tell this to the country formally," says Aurelio Mancuso, president of Equality Italia, quoted in ANSA news agency March 9. Last October Premier Matteo Renzi was already calling Germany's same sex law "a good point for meditation." "We'll wait for the facts," was the comment this week from Flavio Romani, Arcigay president. Will such a drastic change, which many Catholics here will resent, happen soon? Probably not, but change is in the winds, and doors are being pushed open a crack.

The second court ruling with far-reaching consequences actually was delivered last April 9, when a sentence decreed that assisted fertilization was legitimate. Passage of the hotly contested law, revised 33 times, was one of Italy's most difficult in history. But as a result, this March 9 - almost one year after the bill was passed - a 47-year-old woman who had been trying for a baby for 15 years successfully delivered twins, a boy and a girl, after artificial insemination with the donation of ovuli. The slightly premature births took place in the Alma Res Fertility Clinic in Rome. Mother and babies - and father too - are reportedly in excellent condition. Further parliamentary hearings are due next month to extend the possibilities to other situations.

If these are two steps forward, some will view the decision of a court in Livorno (Leghorn to the old-fashioned) as a step backward. During a hard-fought soccer game Dec. 3, 2011, between Verona, one of the centers of rightist Northern League populism, and Livorno, with its solidly leftist tradition, fans from the rival teams began yelling at each other. Banners waved, insults flew ("Fascists" was one), as the Che Guevara T-shirts faced off against the greens of the Lega. Feeling insulted, the Veronesi hoisted their arms in the Fascist salute, which happens to be a crime under Italian law. This



week, however, a Livorno court ruled that no crime had been committed because the Verona fans were simply making an “affirmation of their identity.” The Fascist salute is now legal, if only in the Leghorn stadium.

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