

From Marx to Market: Lawyers, European Law, and the Contentious Transformation of the Port of Genoa

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What happens when international courts are asked to tackle local political controversies and their judgments subsequently spark contentious resistance? In the European Union (EU), scholars have posited that the politicization of the often-liberalizing rulings of the European Court of Justice (ECJ) provokes Euroscepticism and non-compliance. In contrast, I argue that contentious politics may also produce permissive conditions for Europeanist cause lawyers to promote awareness of EU law and mobilize support for liberalization. To unpack this claim, I conduct an intensive case study of perhaps the most explosive controversy in Italy to generate litigation before the ECJ: The 1991 “Port of Genoa” case, where the public monopoly rights of a centuries-old dockworkers’ union were challenged. Leveraging interviews, court and newspaper records, public opinion data, and litigation statistics, I trace how — despite dockworkers’ vigorous resistance — a pair of entrepreneurial lawyers liberalized Italy’s largest port by combining strategic litigation with a public relations campaign to mobilize a compliance constituency. I conclude with insights the case study offers into the contemporary politics of transnational legal governance.

Of all transnational legal orders (Halliday & Shaffer 2015), the European Union (EU) represents an exemplary process of “integration through law” (Kelemen 2011). The conventional view is that the construction of a liberalized common market and a “supranational constitution” (Stone Sweet & Brunell 1998) in Europe can be largely attributed to the “quiet” collaborations of national courts and the European

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Court of Justice (ECJ). In this view, national courts availed themselves of supranational rules to strike down national laws obstructing competition and trade. At the same time, the ECJ advanced European integration through a jurisprudence cloaked in incrementalism and apolitical legal garb.

In Burley and Mattli's evocative terminology, "law functions both as mask and shield," defining "a purportedly "neutral" zone in which it is possible to reach outcomes that would be impossible to achieve in the political arena" (Burley & Mattli 1993: 72–73). Miguel Maduro – a former Advocate General at the ECJ – traces how a liberal European "economic constitution" was constructed incrementally via the yawn-inducing regulation of the shape of wine bottles and the amount of dry matter in loaves (Maduro 1998: 62–63). Weiler characterizes this approach as a "less visible constitutional mutation" through which "the erosion of the limits to Community competences took place"— a "quiet revolution" (Weiler 1991: 2453; Weiler 1994). And Vauchez traces how under "the auspices of a disinterested exchange in the service of the law of Europe" a loose network of lawyers, national judges, and Eurocrats elaborated and promoted the ECJ's judgments (Vauchez 2015: 115). In this view, integration through law reifies the "autonomy and ahistoricity of the law" (Ibid: 57) so as to "banish" it from the politics of the public sphere (Vauchez 2008: 130).

It is thus of little wonder that the increasing politicization of EU law over the past three decades has been repeatedly tied to Eurosceptic backlash. For Hooghe and Marks, European integration has transitioned from being driven by an elite "permissive consensus" to being resisted by the "constraining dissensus" of popular politics (Hooghe & Marks 2009). For others tracing "sustained resistance" against the ECJ's authority (Pollack 2013: 127–1275), a political climate of growing Euroscepticism has empowered domestic supreme courts to increasingly revolt against the European Court (Rasmussen 2007; Bobek 2014; Madsen et al. 2017; Hoffmann 2018). And for Alter (2000), the politicization of ECJ decisions risks prompting governments to restrict or rebel against the ECJ's jurisdiction. That a cornerstone of the 2016 "Brexit" campaign was the claim that the ECJ had "overconstitutionalized" the EU and encroached upon the political sovereignty of national parliaments (Blauberger & Schmidt 2017) bolsters these conclusions.

While generally compelling, the claim that technocratic silence helps protect the ECJ's authority neglects an important fact: To enforce a new field of rules like

EU law, that field must be known and perceived as useful by actors on the ground. By forging European rules behind a technocratic mask, the ECJ's "quiet revolution" has perhaps proven too quiet, with the unintended consequence of rendering EU law opaque to many local actors who could otherwise enforce it. For example, a recent survey found that three fifths of domestic judges did not know how to refer a case concerning the interpretation of EU law to the ECJ (Directorate General for Internal Policies 2011: 5; see also Pavone 2018). In this light, while public controversy may entrench Euroscepticism, it may also promote what Marc Galanter termed "the radiating effect of courts," embedding transnational rules within "the normative orderings indigenous to the various social locations" under their jurisdiction (Galanter 1983: 118).

But what tips the scales in favor of one outcome over the other? This proves to be a question of general consequence, since the contentious politics of liberal expertise and popular "counterexpertise" have proliferated alongside globalization and its transnational institutional management beyond Europe (Fischer 2000; Miller 2004).

The Argument and Case Study Design

In this article, I analyze the contentious entanglement of European law and local knowledge via an in-depth case study of one of the most salient political controversies in Italy to involve the ECJ's judicial authority: The 1991/1992 "Port of Genoa" case that transformed Italian port law and liberalized dockwork in the country's largest port. I do so by drawing upon political sociologies of transformative events and sociolegal theories of legal mobilization. By integrating these literatures, we can better understand how lived experience is reshaped by the controversies that international court judgments spark, along with the key role that lawyers play in the process.

Contentious politics and their "eventful temporalities" (Brubaker 1994; Sewell 1996; Beissinger 2002) represent "critical junctures" where "the structural [...] influences on political action are significantly relaxed for a relatively short period," opening opportunities to broker enduring social change (Capoccia & Kelemen 2007: 343). When it comes to strategic litigation and court judgments, "politicizing" events entail two crucial shifts. First, politicization shifts the venue of argument and

contestation, namely from the courtroom to the public sphere (Perju 2008: 49). This expands the web of actors involved in debate from a small network of legal professionals to an expansive web of associations, citizens, journalists, and politicians (Schmitter 1969: 166). Second, politicization constitutes a shift in discourse, from an institutionalized, technocratic debate to a more malleable public debate that incorporates the historical and cultural symbology of “local knowledge” (Geertz 1983). In turn, the public salience of legal rules and court judgments increases (Zürn 2014: 48–50; Hooghe & Marks 2013), sparking contestation and mobilization outside the courtroom.

Given a context with relatively diffuse support for Europeanization, a politicizing event can thus generate “permissive conditions” (Soifer 2012) for entrepreneurial “cause lawyers” (Sarat & Scheingold 2006) to transform local practices via transnational law, even in light of contentious resistance. Eventful temporalities constitute periods of “thickened history” (Beissinger 2002: 27) where the density and unpredictability of social interactions unsettle habits and identities previously taken for granted. As a result, politicizing events generate public demand for “frames” that can serve as “schemata for interpretation” (Goffman 1974: 21; Snow & Benford 1988) to make sense of the changes underway. These frames can in turn transform the objectives, expectations, and loyalties of individuals in the public sphere (Schmitter 1969: 166). Provided that Europeanist cause lawyers — whom Vauchez (2015) aptly terms “Eurolawyers” — mobilize quickly and promote themselves as “interpretive mediators” (Fischer 2000: 80), Eurosceptic counterframes can be preempted by liberalizing pro-EU frames, and a legacy of compliance becomes more likely. In such instances, it is actually resistance to EU law that risks backfiring by marginalizing its proponents and increasing awareness of the transformative potential of EU rules.

This outcome, however, hinges on Eurolawyers not being “passive actors simply responding to externally-imposed legal opportunities but instead play[ing] a role creating their own legal opportunities” (Vanhala 2012: 525). Drawing on studies of legal mobilization (ex. McCann 1994; Vanhala 2012; 2018; Conant 2002; Conant et al. 2017; Cichowski 2007; 2016; Kelemen 2006, 2011), we can theorize why lawyers may be particularly effective at leveraging EU law to broker social change. As prototypical “repeat players” (Galanter 1974) in the European legal field (Vauchez & De Witte 2013), Eurolawyers’ “greater legal expertise and experience in

transnational activism” (Cichowski 2016: 895) enables them to venue shop by “shifting their efforts up to the transnational (i.e. EU) level” (Soennecken 2016: 305). While converting a salient local controversy into a supranational dispute subject to a more favorable “legal opportunity structure” (Hilson 2002; Vanhala 2012), Eurolawyers can simultaneously pivot to mobilizing the local press to anticipate and “amplif[y] the impact of judicial decisions” (ex. Hamlin 2016: 458). By being the first to frame how their claims are legitimated by the law, Eurolawyers can steer public controversy towards compliance, rallying resource-rich common market actors to their cause (Conant 2002; Borzel 2006; Conant et al. 2017) and tipping local public opinion against those resisting liberalization. In short, it is the “boundary” position (Liu 2006: 681) of Eurolawyers — part insiders of the EU legal field, part members of their local community — that facilitates their efforts to mobilize “compliance constituencies” (Alter 2014: 19) and harness transnational law to broker contentious social change.

To surface these dynamics, I follow Nicola & Davies (2017) by conducting an intensive case study — of the liberalization of dockwork on the Port of Genoa following a pathbreaking ECJ judgment — to evaluate the proposed argument. There are two reasons behind this case selection. First, the “Port of Genoa” case has been wholly neglected by sociolegal scholars in Europe. The primary reason is that because the case did not represent a “turning point” in the content of EU law (Vauchez 2017), its importance lay out of sight of most formal doctrinal analyses. Yet at the social level, the case is of exceptional importance, transforming a city and profoundly reconfiguring social and labor relations on Italian ports. Second, “Port of Genoa” constitutes a “least likely” case for compliance. Building on the extensive social science scholarship on case selection (ex. Gerring 2007; Gerring & Cojocaru 2016), for our purposes a “least likely” case is one where we would expect an ECJ judgment to provoke backlash and non-compliance. This allows us to then probe the conditions that enabled the opposite, puzzling outcome to occur.

Indeed, at first glance the “Port of Genoa” case seemed destined to entrench resistance to European law and the ECJ’s authority. In Genoa, dockworkers had benefitted from a *de facto* monopoly over port labor for nearly seven centuries. In local folklore, they symbolized Genoa’s political tradition of Marxist politics, manifested working class solidarity, and served as custodians of local history. By

challenging what dockworkers perceived as their “divine right”¹ to control port labor, EU law stood to strike at the heart of Genoa’s local culture and politics. Hence when the ECJ ruled that their’ state-sanctioned monopoly rights violated economic competition, Genoa’s dockworkers contentiously rebelled for nearly a year. Yet the “Port of Genoa” case arguably became the single most transformative liberalizing intervention in Italy via the application of EU law. After 1992, no attentive citizen or Genoese lawyer worth his salt could doubt the existence of EU law, and the ECJ’s judgment was broadly perceived as rescuing the nation’s largest port from the brink of bankruptcy. Why was the ECJ’s intervention perceived so positively, rather than as an attack on Genoa’s working class identity?

To answer, I make use of process tracing methods for within-case analysis (see Collier 2011; Beach & Pedersen 2013; Bennett & Checkel 2015). By ‘process tracing’, I mean “the analysis of evidence on processes, sequences, and conjunctures of events within a case” to understand how they “generated the outcome of interest” (Bennett & Checkel 2015: 6–7). In particular, I draw upon Pouilot’s (2007; 2015) approach by retracing the socially-embedded practices (strategic litigation, framing in the local press, on-the-ground protests, etc.) that led to the Port of Genoa’s contentious transformation. Throughout, I place greater focus on ‘protagonists’, such as strategic entrepreneurs (a pair of Eurolawyers) and those resisting their efforts (the dockworkers). That is, although in October and November 2016 I conducted 29 semi-structured interviews with a diverse set of Genoese legal professionals (20 lawyers, 7 judges, and 10 law professors), “the aim [was] not to draw a representative sample...but to draw a sample that includes the most important political players who have participated in the political events being studied” (Tansey 2007: 765).

At the same time, purposive interview sampling risks producing biased inferences if interviewees exaggerate the role they played in a given social process (Berry 2002, 680). Following the dictum to “trust but verify” (Moravcsik 2014), I “triangulate” (Arksey & Knight 1999: 21–32) amongst the interviewees themselves and supplement their claims with official court documents, historical newspaper records, statistics of local court cases referred to the ECJ, and public opinion data. Triangulation not only increases confidence in the inferences drawn, but it also “embed[s] practices in their social context” by helping us “restore the intersubjective

¹ Imarisio, Marco. 2009. “Morto Batini, il “camallo” che sfidava la storia.” *Corriere della Sera*, April 24, pg. 21.

meanings that are bound up in them” (Pouilot 2015: 243). This follows a set of “best practices” amongst process tracers, namely to “consider the potential bias of evidentiary sources” by “being relentless in gathering diverse and relevant evidence” (Bennett & Checkel 2015: 21). For instance, in reconstructing how Eurolawyers framed their strategic litigation campaign (and how Genoese dockworkers reacted), I rely on records from both local and national newspapers spanning the ideological spectrum (from labor-friendly outlets like *Il Lavoro* and *La Repubblica* to more neoliberal papers like *Il Sole-24 Ore* and *Il Giornale*, to those with extensive local knowledge, like Genoa’s *Il Secolo XIX*). Correlatively, court records — particularly the pleadings made before local judges and the ECJ — provide us with an evidentiary trail of facts and official legal claims. To be sure, the polyvalent nature of contentious events like “Port of Genoa” means that archival sources will suggest distinct historical narratives. Nevertheless, triangulation helps guard against the “dangers of selection bias” by avoiding an artificially “unproblematic “Historical Record”” (Lustick 1996: 616). When we further incorporate public opinion data and litigation statistics, we stand a good chance of contextualizing the practices that transformed the Port of Genoa and overcame contentious resistance to liberalization.

That being said, process tracing is not meant to produce a comprehensive historical account. Rather, it comprises a theoretically guided analysis of the historical record to surface key patterns and mechanisms that may illuminate comparable cases of interest. To thus derive “analytically general insights” (Pouilot 2015: 239), I conclude by suggesting the lessons that the “Port of Genoa” case offers for the study of transnational legal governance.

The “Port of Genoa” Case

Critical Antecedents: Crisis, Monopoly, and Gridlock

1992 was always supposed to be Genoa’s new beginning. But it was not supposed to happen contentiously via EU law – it was supposed to happen festively via Christopher Columbus.

The timing could not have been better: The year coincided with Columbus’ 500th anniversary, and the city was hosting the World Expo. For the occasion, a massive urban renewal project was commissioned. Renzo Piano — the city’s most famous architect — was tasked with rebuilding the abandoned warehouses on the

old port's docks and constructing Europe's largest aquarium. As William Weaver chronicled in *The New York Times*, "It is not just another world's fair... The old focus of the city would be restored; Genoa's heart would beat again."²

Figure 1. The setting: Genoa's industrial port as seen from the medieval lighthouse, the "Lanterna"



Notes: Author photo, 2016

Yet for over a century, what propelled Genoa into rivalry with Marseille and Barcelona over the control of Mediterranean trade was not the old port, but the industrial port just to its west: Some 25 kilometers' worth of cranes, containers, heaps of coal and steel, gigantic ships, and internal highways and railways spanning from the city's medieval lighthouse, the "Lanterna," westward to the town of Voltri. And it was in this setting that, while Expo festivities unfolded on the old port, a clash between the liberalizing logics of EU competition law and the protectionist actions of local labor politics ensued.

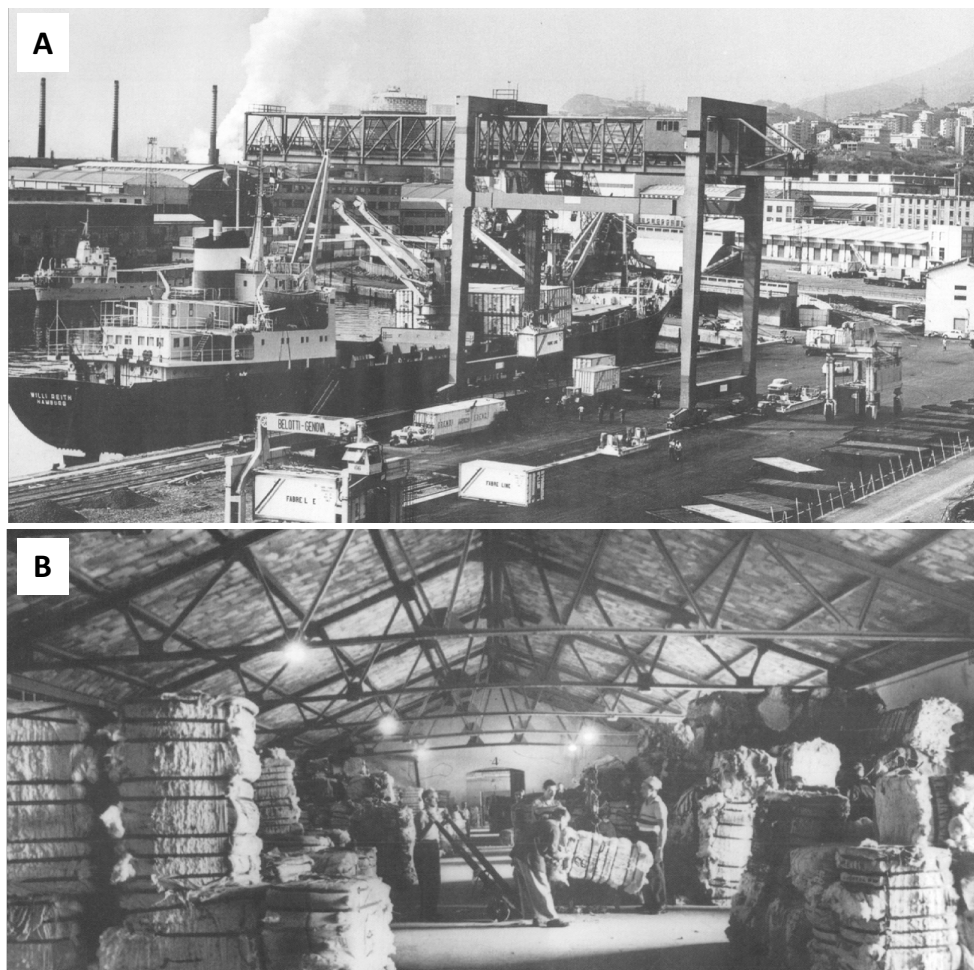
The "critical antecedents"³ of the "Port of Genoa" case were the decline of the industrial port and the political gridlock that frustrated efforts to restore competitiveness. After all, life had not always been difficult on Genoa's docks. From the 1950s through the early 1970s, the port witnessed remarkable expansion, and it became one of the motors of the post-war "economic miracle" in Italy (Ginsborg 2003: 210–253). With its geographically favored location at the southern tip of the "industrial triangle" comprising Turin and Milan, demand for imports from these

² Weaver, William. 1992. "Genoa Holds an Expo, Too." *The New York Times*, June 7, 1992, pg. 8.

³ On "critical antecedents" and historical explanation, see Slater and Simmons (2009: 889).

industrial hinterlands fueled the port's economic boom. From 1950 through 1973, total loaded and unloaded goods increased by 669% (from 8.3 to 61.5 million tons) (Comune di Genova 2003: 145). Growth was driven primarily by the energy sector – particularly imports of coal and oil – alongside steel destined for Lombardy's steelworks industry (Ibid: 12; 22). Growth in traded goods went hand-in-hand with important innovations. For example, Genoa was the first Mediterranean port to invest in the infrastructure necessary for the shipping and handling of containers, and in 1971 only Rotterdam surpassed Genoa in common-market container traffic (Ibid: 13). Burgeoning employment was another spillover effect: From 1950 to 1964, the number of dockworkers grew by 168% (from 3,000 to 8,059) (Musso 2008: 21).

Figure 2. Motor of the postwar economic miracle: [A] The “Ponte Libia” container terminal, the first in the Mediterranean, 1969; [B] Genoese dockworkers, 1960s



Notes: Source: Comune di Genova (2003: 20; 315).

Yet the tide would soon turn against Genoa. The global recession and stagflation of the 1970s marked the beginnings of economic decline. From 1973 through 1990, the port witnessed a drop in loaded and unloaded goods traffic of 29.6% (from 61.5 to 43.6 million tons) (Comune di Genova 2003: 145). As *La Repubblica* lamented in 1991, “to write about the woes of Genova has almost become a literary genre.”⁴ Even more worrying was the ensuing political response, characterized by gridlock both at the *Consorzio Autonomo del Porto* (CAP) — the state authority responsible since 1903 for the port’s management (Musso 2008: 18) — and in the National Parliament. At the CAP, the port crisis became such a “hot potato” that when longtime President Giuseppe Dagnino’s mandate concluded in 1981, nobody wanted to serve as his replacement, forcing Dagnino to reluctantly stay (Ibid: 45). In Parliament, the mantra of “port reform” became an empty political non-starter: From the 1970s through 1991, some ten different drafts of port reform legislation were drawn up, but none got past the drawing board.⁵ As the president of the national union of port operators decried in 1991, “the knots wrought by over 40 years of non-government... cannot be combed away... years of statements and debates over port reform... were sterile from the start.”⁶

What were the sources of long-term decline in Genoa, and why was their resolution so politically intractable? There is no doubt that Genoa’s economic crisis was driven in part by external macroeconomic forces. In particular, the shift to services and finance underlying postwar globalization has created new “geographies of centrality” and “hierarchies of cities,” wherein “a multiplicity of formerly important manufacturing centers and port cities have lost functions and are in decline” (Sassen 1994: 4–5). This analysis emerged frequently in the Italian press: “It’s the case of a city that has departed the industrial age without entering the postindustrial age.”⁷

Yet there is also one critical cause of the decline of Genoa’s competitiveness that is innate to local labor history and that explains why a solution proved politically intractable: The statist and monopolistic organization of dockwork. In particular,

⁴ Bozzo, Gianni Baget. 1991. “Il Primato di Genova.” *La Repubblica*, May 24.

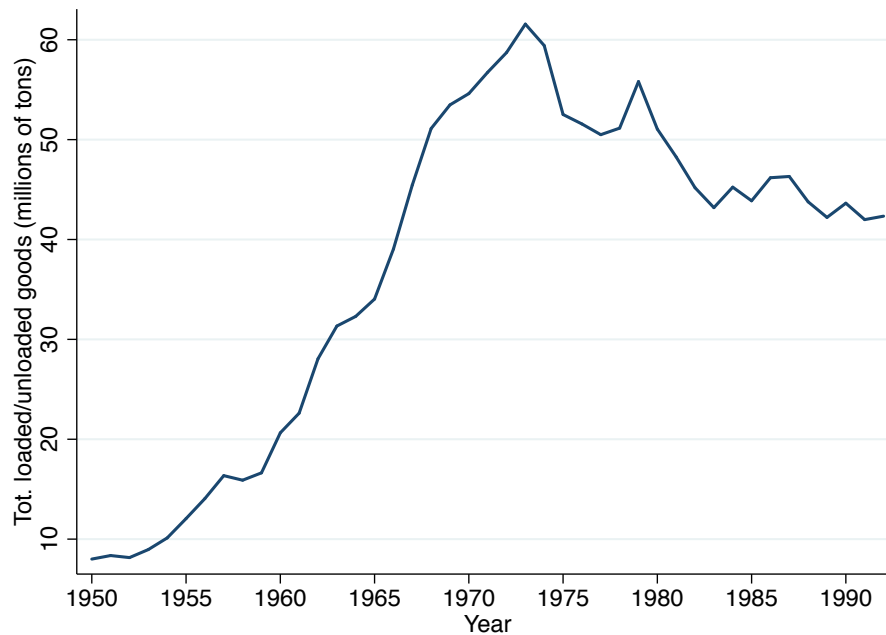
⁵ Dardani, Bruno. 1991. “Alla Camera la legge antimonopoli.” *Il Sole-24 ore*, July 25, pg. 10.

⁶ Dardani, Bruno. 1991. “Gli Utenti all’attacco.” *Il Sole-24 ore*, July 25, pg. 10.

⁷ Bozzo, “Il Primato di Genova.” *Supra* fn. 5.

“the perfect example”⁸ was the state-sanctioned labor union, the *Compagnia Unica Lavoratori Merci Varie* (CULMV, or “exclusive labor company for various goods”).

Figure 3. From boom to bust: Total loaded & unloaded goods in the Port of Genoa, 1950-1992



Notes: Source: Comune di Genova (2003: 144).

A “utopia that would make Marx proud”

The CULMV’s roots run deep through Genoa’s history. The statute founding its progenitor dates back to 1340 (Costamagna 1965). Known in Genoese dialect as *camalli*, dockworkers became the objects of folklore and served as the oft-romanticized vehicles of the city’s history. Residents were well aware of how “the port and the entire city depended upon the *camalli*... sooner or later, all needed to settle their debts with them: The Republic of Genoa, the French, the Savoy, the Kingdom of Italy, the fascist regime, the second and the third Republic” (Musso 2017: 20;23). “For seven hundred years” – one journalist concludes – only the *camalli*

⁸ Ibid.

and a few privileged others could “live the perfume and mystery of the sea.”⁹ The CULMV’s leaders (or “console”) were similarly hailed as protagonists in Genoese historiography, imbuing their labor union with Weberian “charismatic authority” (Weber 2013: 1111–1123). In particular, the “console” from 1984 through 2009, Paride Batini, became a “romantic symbol” (Marchesiello 2010: 153) “legendary for his intransigence and for his epic look. Jeans, dark turtleneck, Eskimo–style coat, a slender build and the air of an American actor.”¹⁰

With time, the CULMV’s *de facto* monopoly was recognized *de jure* by Article 110 of the 1946 Italian Navigation Code.¹¹ Yet the primary source of the CULMV’s power derived from a legacy of working class radical politics. The union’s members — whose meeting hall was adorned with portraits of Marx, Lenin, and Guido Rossa — had organized one of Italy’s first major labor strikes in 1900 (Musso 2008: 18). Batini himself had been dubbed “the last communist” by prominent politicians and as Genoa’s Mao Tse Tung by the local press.¹² It thus did not take long for the *camalli* and “their striped shirts... [to become] a symbol, a postcard of “Red” Genova:” A fraternal order whose *lingua franca* remains a thick Genoese dialect (Musso 2008: 17) and whose collective pride lies in having “played a decisive role in the history of [Italy].” As one of the *camalli*’s retired old guard explained in an interview, “It’s true, here we are all communists. We know how to give life a sense of purpose.”¹³

Sense of purpose, indeed! For at its apex, the CULMV had so much economic and political power that it could exercise decisive influence over national politics. Consider the “events of Genoa” of 1960. Giuseppe Giacomini — a Genoese lawyer whom we will return to shortly — was twelve years old when in 1960 the *camalli* took to the streets to oppose Prime Minister Tambroni’s decision to allow the neofascist *Movimento Sociale Italiano* (MSI) party to hold its national congress in Genoa (Benna & Compagnino 2005). The protests culminated in a “revolutionary moment” that destabilized the conservative parliamentary coalition and brought down the

⁹ Cevasco, Francesco. 2009. “Tra i finti docks dove i camalli sono quasi spariti.” *Corriere della Sera*, November 8, pg. 35.

¹⁰ Imarisio, “Morto Batini,” supra fn 2.

¹¹ Under Article 110 of the Navigation code, the loading, unloading, shipment, storage, and movement of materials goods within the port was reserved to dockwork companies whose members must (under Articles 152 and 156 of the Regulation on Maritime Navigation) also be of Italian nationality. See: Regio Decreto 30 marzo 1942, no. 327.

¹² Ibid.

¹³ Cevasco, “Tra i finti docks,” supra fn. 10.

Tambroni government (Musso 2008:17). Giacomini recalls: “Some people died. The dockworkers were very driven. They waited for the police cars... The police jeeps would drive up at high speed, the *camalli* would wait for them, with metal hooks, they hooked them from below as they sped by, and they overturned them!... they were difficult people to control.”¹⁴

The CULMV leveraged its monopoly and reputation as “difficult people to control” to its bargaining advantage. Special “Genoa–model” cranes had to be developed with seating for two workers instead of one, because the CULMV “imposed the presence of a number of laborers [for a given task] that was double that of other ports.”¹⁵ Shipments of liquid, which are less labor–intensive to handle than dry goods, were charged as if they were dried goods. When it would rain, “all work would be halted, in the Port of Genoa. And [the *camalli*] were paid all the same.”¹⁶ CULMV dockworkers were paid 172% more per shift than the average worker at other Italian ports, and their shift was capped at six hours instead of eight.¹⁷ And CULMV membership was strictly limited to Italian nationals.¹⁸

While for some communist politicians and working class Genoese the CUMLV represented a sort of “utopia that would make Marx proud,”¹⁹ its bargaining victories exacerbated Genoa’s competitive disadvantage in the common market. Even left–wing newspapers lamented how the CULMV’s “monopoly of dockwork at above–market rates” had “caused the Port to miss out on the transport of containers.”²⁰ As Alessandro Vaccaro – the president of Genoa’s bar association – recalls, “there were shippers... who preferred to dock in Rotterdam and then proceed [south] by land rather than to come to Genova, which was more expensive.”²¹ Local journalists claimed that efforts to open dockwork to outside

¹⁴ Interview with Giuseppe Giacomini, Conte & Giacomini Studio Legale in Genoa, November 2nd, 2016 (in–person).

¹⁵ Interview with Alessandro Vaccaro, President of the Genoa Bar Association, November 2nd, 2016 (in–person).

¹⁶ Interview with Giuseppe Giacomini, supra fn. 15.

¹⁷ Conte, Giuseppe, and Giacomini, Giuseppe. 1990. “Memoria a sensi dell’art. 20 del protocollo sullo statuto della Corte di Giustizia C.E.E.” September 20, Genoa, IT: Pg. 4.

¹⁸ See: Case C–179/90, *Merci Convenzionali Porto di Genova v Siderurgica Gabrielli* [1991], ECR I–5889, at 5925.

¹⁹ Interview with Giuseppe Giacomini, supra fn. 15.

²⁰ Bozzo, “Il Primato di Genova.” Supra fn. 5.

²¹ Interview with Alessandro Vaccaro, supra fn. 16. Indeed, some estimated that in the early 1990s, 40% of goods destined for northern Italy were unloaded in northern European ports. See: Vernice, Franco. 1992. “Genova, Resa dei Conti Sul Fronte del Porto.” *La Repubblica*, October 11.

competition — long a request of shippers²² — might allow the “Port of Genoa to really breathe in the air of renewal and rebirth.”²³ The socialist president of the CAP — Rinaldo Magnani — similarly stressed that “Genoa has thus remained the only port where, due to a total opposition by the CULMV, any experiment [for reform] has drowned before even being attempted.”²⁴ Even the latest draft reform bill in Parliament included provisions for “an immediate elimination of the monopoly of dockwork.”²⁵ This rendered opposition by the CULMV all the more exasperating: Having repeatedly demonstrated their capacity to project their pugnacious political influence, “nothing and no one [was] able to break this monopoly.”²⁶

By the early 1990s, the Port’s economic situation became unsustainable: In 1991 it lost tens of billions of lire [millions of dollars] in revenue due to a decline of 200,000 tons of transported goods. In spite of multi-year state subsidies of over a thousand billion lire [\$800.5 million],²⁷ the Port was on the brink of bankruptcy.²⁸ In just a couple of decades, the Port of Genoa had degenerated from motor of the postwar economic miracle into “the voice of the national debt.”²⁹

The Turn to Europe and the Invention of “Port of Genoa”

It was in this historical moment that two Eurolawyers — Giuseppe Conte and Giuseppe Giacomini — decided to turn to Europe. Conte, an established civil lawyer, believed that European rules could produce innovative solutions to disputes that would be foreclosed under national law. A fluent French and Spanish speaker, he held connections to Brussels, particularly a close friendship with Enrico Traversa, then a young lawyer at the EU Commission who would later lead its legal service. Giacomini was a younger criminal lawyer, who “in one of those contingencies of life” began collaborating with Conte on cases that intersected between their areas of

²² Valentino, Piero. 1991. “Gli Industriali Alla Riconquista del Porto di Genova.” *La Repubblica*, May 25.

²³ Valentino, Piero. 1991. “Pace d’Agosto a Genova tra Porto e Camalli.” *La Repubblica*, August 25.

²⁴ Dardani, Bruno. 1991. “I camalli sono un caso nazionale,” Magnani chiede aiuto al Governo.” *Il Sole-24 ore*, 13 June, pg. 10.

²⁵ Dardani, “Alla Camera la legge antimonopoli.” *Supra* fn. 6.

²⁶ Bozzo, “Il Primato di Genova.” *Supra* fn. 5.

²⁷ For the exchange rate and lire-dollar conversion, see the Bank of Italy’s annual exchange rate calculator: <http://cambi.bancaditalia.it/cambi/cambi.do?lingua=it&to=cambiSSAForm>

²⁸ Valentino, “Gli Industriali alla Riconquista,” *supra* fn. 23; Valentino, “Pace d’Agosto,” *supra* fn. 24.

²⁹ Bozzo, “Il Primato di Genova.” *Supra* fn. 5.

practice. Giacomini was captivated by how his senior colleague “had a way of confronting juridical issues that was completely different from mine and that of all the lawyers that I knew,” such that learning European law signified a “Copernican revolution” for his professional and personal identity. A strong supporter of European integration who drew inspiration from political documents like the 1941 Ventotene Manifesto, Giacomini sought to complement Conte’s “cultural passion” for EU law with a pragmatic “business sense” — namely that expertise in EU law could offer a comparative advantage in a legal services market saturated with domestically-oriented practitioners.³⁰

Indeed, by 1990 the duo had already pioneered multiple references to the ECJ from Genoese courts — the first being the 1982 *Luisi and Carbone* case³¹ aimed at liberalizing capital flows in Europe. The purpose was to collaborate “in the creation of this new system [of EU law] via national jurisdictions...and through that genius institution, that truly supreme chapel of quality that the ECJ has always been.” A “provincial approach” to the resolution of social problems, Conte and Giacomini believed, often led to political paralysis and stagnation, leaving EU law as “the only path forward.”³² In a leitmotif that characterizes cause lawyering generally, Conte and Giacomini knew that judges might well “act when elected officials won’t” (Frymer 2003).

In light of the port’s economic crisis, the duo thus began to read up on EU case law relating to public monopolies, abuse of dominant market position, and freedom of establishment. Such principles of antitrust law were altogether novel in Italy: Until October of 1990,³³ competition law was absent from the corpus of Italian law. Yet thanks to their research and previous lawyering experience before the ECJ, the duo knew that antitrust rules were a cornerstone of EU law. Specifically, under Article 86 of the Treaty of Rome, “any abuse by one or more undertakings of a dominant position within the common market... shall be prohibited.”³⁴ Furthermore, under Article 90, “Member States shall neither enact nor maintain in force any

³⁰ Giuseppe Giacomini, Conte & Giacomini Studio Legale in Genoa, October 24 and 26, 2017 (via phone). Note that this combination of Euro-enthusiasm and self-interested pragmatism lies at the core of Vauchez’ conceptualization of the “Eurolawyer” (Vauchez 2015: 112–113).

³¹ Case C-286/82, *Luisi and Carbone v Ministero del Tesoro* [1984], ECR 377.

³² Interview with Giuseppe Giacomini, *supra* fn. 31.

³³ See: Legge No. 287 del 10 Ottobre 1990, “Norme per la tutela della concorrenza e del mercato.”

³⁴ Treaty Establishing the European Economic Community, 25 March, 1957.

measure contrary to the rules” laid down in Article 86, even “in the case of public undertakings and undertakings to which Member States grant special or exclusive rights.”³⁵

“In these conditions,” Giacomini recalls in an interview, “my partner and I... had asked ourselves... if, given a ship... adorned with cranes that could load and unload shipments, it could possibly still be legitimate to mandate the services of the CULMV.” The idea for a preliminary reference to the ECJ was born, yet two difficulties remained. First, Conte and Giacomini had to identify a dispute vividly evidencing the conflicts between EU competition law and local labor practices. Second, they had to find a client willing to take on the most powerful labor union in the city. “In a very politically tense situation,” Giacomini underscores, “we couldn’t find a client willing to raise this issue. They were all scared to raise this issue!”³⁶

The historical conjuncture that offered an opportunity for the Eurolawyers to exercise their agency emerged in 1988 with a ship named *Wallaroo*. The vessel was carrying a consignment of 5.5 tons of steel worth six billion lire (\$4.6 million) from Hamburg, Germany, destined to an Italian steelworks company — *Siderurgica Gabrielli S.p.A.* — based in Padova. *Wallaroo* docked in the Port of Genoa on December 22nd, 1988, and although it was adorned with four cranes and its own crew, it was prevented by *Merci Convenzionali S.p.A.* (one of the public companies comprising the CAP) from unloading the steel on its own. But the *coup de grace* came in early 1989, when the CULMV engaged in a series of strike actions. For three months the steel lay frozen on Genoa’s docks. And *Siderurgica Gabrielli*, to whom the steel was due, sued.³⁷

The foregoing facts suggest a rather typical origin of a legal dispute. But the reality is that the suit’s stage directors had been Conte and Giacomini all along. Given widespread reticence to take on the CULMV, the pair of Eurolawyers (i) lodged the suit at their own risk, and (ii) devised an ingenious way to “sue” the *camalli* without actually suing them. First, consider the choreography of the suit, which Giacomini recalls in great detail:

³⁵ Ibid.

³⁶ Interview with Giuseppe Giacomini, *supra* fn. 15.

³⁷ For documentation of the foregoing facts, see: Tribunale di Genova, Ordinanza nella causa civile, *Merci Convenzionali Porto di Genova S.p.A. contro Siderurgica Gabrielli S.p.A.* (Dimundo, relatore), 28 May 1990, at pgs. 1–3.

We found a legal case that has a characteristic that has never been written about, but it's really important... we couldn't find a client willing to raise this issue... so we invented the case... we asked Siderurgica Gabrielli to authorize us to raise the legal case at our own risk, as lawyers. That is, not only did we lack a client paying us, but we bore the risk!

We constructed it in the following way. The ship, Wallaroo, arrives... we asked the company *Merci Convenzionali*, one of the constitutive public companies in the Consortium [the CAP], to unload the ship... to realize this, it was obliged to turn to the CULMV. But the CULMV was on strike! So *Merci Convenzionali* told us: "No, you have to wait because the ship can't be unloaded, because only the *camalli* can do so, and they're on strike." We replied, "No problem! We can unload on our own, because we are adorned with our own cranes." "You can't do that," they retorted. And so a lawsuit before the Tribunal of Genova was born.³⁸

Temporally, the Eurolawyers had raised their suit at the perfect time: A moment when, even as the Port was walking the plank towards bankruptcy, the *camalli* were engaging in yet another series of disruptive strike actions. But Conte and Giacomini made another highly consequential strategic decision: They sued *Merci Convenzionali* – i.e., the state-run port authority — rather than the dockworkers. Why? First, the Eurolawyers knew that *Merci* would be supportive of efforts to involve the European Court: Just a couple of years prior in a dispute between *Merci* and the CULMV concerning a series of unpaid bills, *Merci* had suggested that national law sanctioning the *camalli*'s monopoly contrasted with the Treaty of Rome.³⁹ Indeed, once the dispute came before the Tribunal of Genoa, *Merci*'s only defense was that its hands were tied by Article 110 of the Navigation Code.⁴⁰ Its lawyers ultimately endorsed Conte and Giacomini's thesis that the Code violated the Treaty of Rome and that a preliminary reference to the ECJ would be desirable.⁴¹ And even the Italian state's legal service declined to defend a domestic law that, after all, had been the subject of countless reform efforts in Parliament.⁴²

³⁸ Interview with Giuseppe Giacomini, *supra* fn. 15.

³⁹ "CULMV "torna" a Settembre." *Corriere Mercantile*, July 10, 1991.

⁴⁰ Filippo Schiaffini, the director of *Merci*, even proclaimed in September 1991 that "the breaking of the monopoly of port dockworkers unions is an enormous advantage for port companies like ours." See: Minella, Massimo. 1991. "Porto aperto ai non-cittadini." *Il Lavoro*, 20 September, pg. 10.

⁴¹ Tribunale di Genova, *supra* fn. 38, at pgs. 6–7.

⁴² "Monopolio in banchina, ultimo atto." *Il Secolo XIX*, July 10.

Second, Conte and Giacomini exploited a favorable legal opportunity structure at the supranational level. They knew that if the *camalli* could be excluded as a party to the domestic dispute, the ECJ's rules of procedure would preclude them from defending themselves in Luxembourg. "This was our own ingenious invention, it must be said," Giacomini confides with a grin; For when the CULMV "became aware that there had been a preliminary reference to the ECJ that concerned it... it couldn't intervene before the European judges!"⁴³ Suing the Port Authority, in short, ensured that all the parties to the suit agreed on the desirability of a liberalizing European intervention by the ECJ. Further, regardless of which party would be interviewed by the local press, the opinion expressed would support a pro-European framing.

With both parties agreeing that the ECJ's intervention would be desirable, the final obstacle to engaging the European Court was the President of the Tribunal of Genoa: Antonino Dimundo. A short man with a "vivacious" character, Dimundo was clearly tickled by the idea of challenging the CULMV. But he, too, was understandably reticent of the consequences for local politics and his professional reputation. So when Conte and Giacomini proposed a draft reference to the ECJ, Dimundo retorted: "I don't know this area of law. I understand what you are asking of me. Make no mistake, counsel, don't make me make a bad impression!" The Eurolawyers' response was to stress their linked fate and the potential career benefits for all concerned: "Mr. President," Giacomini replied, "I have no incentive to have you make a bad impression, because I, too am building my future in this way."⁴⁴

Framing for Liberalization: Eurolawyers and Diffuse Support

Despite his initial reticence, Dimundo collaborated, submitting a preliminary reference to the ECJ on May 28th, 1990 (under the procedure established by Article 177 of the Treaty of Rome). At this point, Conte and Giacomini expanded their role beyond that of litigators: They became interpretive mediators in the public sphere. In-between their trips to Luxembourg to argue the case, they vigorously engaged the local press via a "very deliberate media strategy" to lay the groundwork for the reception of the ECJ's decision: "Our strategy was legally well-founded," Giacomini recalls, "but it was so new that it wouldn't have been understood at first glance... [so

⁴³ Interview with Giuseppe Giacomini, *supra* fn. 15.

⁴⁴ Interview with Giuseppe Giacomini, *supra* fn. 31.

through] multiple interviews with Genoese journalists, I tried to explain in simple, clear, and correct terms what the goal of our actions were... [given] the impact this lawsuit would have on public opinion... it was indispensable to work to prepare things ahead of time, and to accompany them after this legal action, which was... charged with cultural, sociological, and political meaning.”⁴⁵ In other words, while — as we will see — Genoa was a context with diffuse support for European integration, it was not a foregone conclusion that a decision reconfiguring longstanding labor relations would be welcomed. By getting ahead of the forthcoming blitzkrieg of news through a media-savvy framing campaign, Conte and Giacomini decreased the probability that the eventful temporality to come would prompt shock, confusion, and interpretive frames resisting liberalization under EU law.

This was no straightforward task. Even seasoned journalists had a difficult time understanding the technocratic procedures and abstract logics of EU law. Some journalists incorrectly described the ECJ’s Advocate General — an ECJ judge who offers a preliminary opinion — as a member of the European Community’s “public ministry,” thereby conjuring up images of an intrusive bureaucracy.⁴⁶ Others erroneously claimed that the Advocate General’s opinion was “binding” rather than advisory.⁴⁷ And even interested parties, like the CEOs of shipping companies, confessed unawareness of EU principles like direct effect and supremacy, generating confusion as to whether the ECJ’s ruling “would be binding in Italy” (Musso 2008: 60).

In this context of scarce knowledge of EU law, the seeds a Eurosceptic framing were certainly germinating. “In Italy and in Genoa in particular,” journalists warned, “these mechanisms of the EEC still strike us as mysterious. And they are perceived with suspicion.”⁴⁸ Indeed, ominous portrayals of European power politics — “What is circling around the EEC Court? What interests and forces are at play? And to what ends?”⁴⁹ — and of an asymmetric war pitting Europe’s forces against

⁴⁵ Giuseppe Giacomini, Conte & Giacomini Studio Legale in Genoa, October 26, 2017 (via phone).

⁴⁶ See: “Il pubblico ministero Cee.” *Il Giornale*, 20 September, 1991; “Culmv alla sbarra.” *Corriere Mercantile*, September 19, 1991; Carozzi, Giorgio. 1991. “Eurosberla per Batini e l’organizzazione portuale.” *Il Secolo XIX*, 20 September 1991, pg. 11.

⁴⁷ Minella, “Porto Aperto,” supra fn. 41; Carozzi, “Eurosberla per Batini,” supra fn. 47.

⁴⁸ Malatto, Costantino. 1991. “Cannonate Europee contro la CULMV.” *Il Lavoro*, July 31

⁴⁹ “Monopolio in banchina,” supra fn. 43.

those of a measly labor union — “European cannonballs against the CULMV”⁵⁰ read one headline — were beginning to emerge.

So Conte and Giacomini mobilized the local press to promote clarity, explain how EU law could overcome bottlenecks to reform, and preemptively frame the predicted ECJ judgment as an opportunity for a Genoese rebirth. In their rhetoric, they tapped pre-existing efforts by local newspapers and by the national shippers’ association to “sensitize public opinion” to “confront the real problems” of the port and “liberate [it] from ideological clashes” (Musso 2017: 159). The Eurolawyers described to journalists their strategy and goals: Their objective had always been “to raise an international lawsuit [and] force the Genoese judiciary to pronounce itself,”⁵¹ namely by convincing the city tribunal “to delegate the judgment to the Court of Luxembourg.”⁵² In speeches before local civil associations they emphasized that “what the national legislator has been incapable of doing will be done by the European Court,” for once “the ruling is read out it will enter into force, and it will be immediately binding... rendering inapplicable any law that contrasts with it.”⁵³ Confident of their mastery of EU law and their intuitions vis-a-vis the ECJ’s decision-making — they made it clear that they had never lost a case before the ECJ — they presciently predicted the result: “Article 110 on the port reserves will no longer exist,” and the CULMV and the CAP will be forced into negotiations compliant with the ECJ’s ruling.⁵⁴

Giacomini even preemptively rebutted the inevitable protests of the dockworkers. While the CUMLV was unlikely to be persuaded via rhetoric alone, the logic was that “if you expect bad news with substantial advance notice, you can begin to prepare yourself...and when it arrives you’re probably better able to deal with it.”⁵⁵ To soften the forthcoming blow, he underscored to labor-friendly newspapers that it was national law, and not dockworkers — who had merely made the most of the domestic legal regime — that was under challenge.⁵⁶ And he emphasized that “the dockworkers have nothing to fear, and they know it. They’re undoubtedly capable as professionals, so in the free market they surely won’t have

⁵⁰ Malatto, “Cannonate Europee,” supra fn. 49.

⁵¹ Carozzi, “Eurosberla per Batini,” supra fn. 47.

⁵² “Monopolio in banchina,” supra fn. 43.

⁵³ “Porto, imminente la decisione CEE.” *Il Giornale*, October 4, 1991, pg. 22.

⁵⁴ Ibid.

⁵⁵ Giuseppe Giacomini, Conte & Giacomini Studio Legale in Genoa, October 26, 2017 (via phone).

⁵⁶ Minella, Massimo. 1991. ““Imputata la legge, non Batini.”” *Il Lavoro*, 11 December.

any problems.”⁵⁷ Indeed, even though Giacomini is adamant that he sympathized with the dockworkers’ politics, ‘from Marx to market’ would have been an appropriate slogan for his framing campaign.⁵⁸

The result of these agenda-setting efforts, where Giacomini was often the only party to the suit quoted in newspaper coverage, was that when the ECJ delivered its judgment on December 10th, 1991, most local observers had seen it coming, and some were even able to interpret it as if they had attended a crash course on European law.

The decision — which crystallized the argument proposed by Conte and Giacomini and broadly endorsed by *Merci Convenzionali*, the ECJ’s Advocate General, and the European Commission’s legal service — held that Article 90 of the Treaty of Rome “precludes rules of a Member State which confer on an undertaking established in that State the exclusive right to organize dockwork and require it for that purpose to have recourse to a dock-work company formed exclusively of national workers.”⁵⁹ In so doing, the Court underscored Europe’s interest in the dispute by emphasizing that the Port of Genoa “may be regarded as constituting a substantial part of the common market;” And it added that a public dockwork union was not part of those “services of general economic interest” allowed some flexibility vis-à-vis the application of EU competition rules under Article 90.2.⁶⁰ Legally, the decision was an important, if not revolutionary, application of the ECJ’s existing case law on common market matters. This, after all, was the reason why Conte and Giacomini had been confidently predicting the outcome in the press. But the sociopolitical consequences are hard to overstate: “In one instant,” Giacomini recalls, “Article 110 became illegitimate.”⁶¹

The consensus in the local and national press was that the ruling was at once path-breaking and thoroughly expected. A “Eurorevolution” that was “predictable” and “generated no surprises,” even as it was “certainly resounding,” wrote Genoa’s leading newspaper, *Il Secolo XIX*.⁶² “A “historic” ruling,” noted journalists at the left-

⁵⁷ Minella, Massimo. 1991. “Una rivoluzione targata Cee.” *Il Lavoro*, September 21, pg. 8.

⁵⁸ Interview with Giuseppe Giacomini, supra fn. 15.

⁵⁹ Case C-179/90, supra fn. 19, at operative part, par. 1.

⁶⁰ Ibid., at par. 15; operative part, par. 3.

⁶¹ Interview with Giuseppe Giacomini, supra fn. 15.

⁶² Carozzi, Giorgio. 1991. “In porto finisce il monopolio.” *Il Secolo XIX*, December 11; Carozzi, Giorgio. 1991. “Falla Cee picconate al buio.” *Il Secolo XIX*, December 11, pg. 11.

wing *Il Lavoro*, “but also a ruling we largely anticipated.”⁶³ Leading Eurolawyers throughout Italy — like Fausto Capelli in Milan⁶⁴ — published their own elucidations and pushed for the rapid implementation of the ECJ decision, a strategy mimicked by representatives of the European Commission.⁶⁵ Should anyone have any remaining questions, Conte and Giacomini wrote their own synthesis of the ruling⁶⁶ and once again made themselves available to the press. “Why is this judgment so important?” — Giacomini rhetorically inquired during an interview the day after the ECJ’s ruling — “Because I’ve not yet had a minute to stop talking to journalists.”⁶⁷

Yet even if the pair of Eurolawyers and their colleagues played an important role in preparing the field for the reception of the ECJ’s ruling, simply diffusing EU legal knowledge did not ensure that the judgment would be welcomed. In this light, what proved crucial was the fact that the distributional effects of the ECJ’s ruling were concentrated within a social context broadly supportive of a European intervention. Four forms of complementary evidence underscore the presence and impact of local support for Europeanization. First, the parties and concrete interests implicated by the ECJ’s judgment publicly welcomed the intervention with varying degrees of enthusiasm. For all concerned, the ECJ had bolstered legal certainty and provided a blueprint for reform. The Vice-President of the *Confindustria* — the national employers’ association — underscored that the ECJ ruling “has the virtue of pushing away all the uncertainties and perplexities... that conditioned political behavior working to reform the Italian port sector.”⁶⁸ Leading shippers hailed the ruling as “clarifying the rules of the game, which had been costly and confused.”⁶⁹ CAP President Magnani told the press that “the judgment is positive”⁷⁰ and that “Genoa now has a unique opportunity to return to being an essential tool... at the

⁶³ Minella, Massimo. 1991. “Ecco le picconate della Cee.” *Il Lavoro*, 11 December.

⁶⁴ Capelli, Fausto. 1991. “Porti, alt Cee al monopolio dei camalli.” *Il Giornale*, December 11.

⁶⁵ Dardani, Bruno. 1991. “Bangemann “presenta” a Genova il piano Cee per la politica del mare.” *Il Sole-24 ore*, December 14, pg. 10.

⁶⁶ Conte, Giuseppe, and Giuseppe Giacomini. 1991. “Stop Europeo al monopolio nei porti.” *Italia Oggi*, December 11, pg. 12.

⁶⁷ Minella, ““Imputata la legge,”” supra fn. 57.

⁶⁸ Dardani, Bruno. 1991. “Linea dura degli utenti portuali.” *Il Sole-24 ore*, December 18, pg. 10.

⁶⁹ Razzi, Massimo. 1991. “Il buio oltre la banchina.” *Il Lavoro*, December 12.

⁷⁰ Carozzi, Giorgio. 1991. “Batini: “Era ora!”” *Il Secolo XIX*, 13 December.

service of the economy of the EEC.”⁷¹ Even the “console” of the *camalli* — Paride Batini — did not attack the ECJ’s judgment: “It’s about time!” he declared, the “game will now be played in the open.”⁷² The fact that a diverse set of interested local actors interpreted the ECJ’s ruling as ‘clarifying’ the rules of the game is suggestive of how pro-European framings were assuaging the gap between the liberalizing logics of EU law and the protectionist logics of local practice.

Second, newspapers of all political orientations equally cast the ECJ’s ruling in a broadly positive light. From the left, *La Repubblica* argued that “the preliminary ruling is essential” for “the most ancient heart of Genoese production [to] return to being the biggest industry of the city.”⁷³ From the center-right, *Il Sole-24 ore* hailed the ruling as “ten extremely cogent and clear pages that reply to all the questions that for years have hung over the inefficiency of Italian ports.”⁷⁴ And Genoa’s *Il Secolo XIX* described general sentiment as hopeful that the “EEC judgment might translate itself into a clarifying driving force” of reform, since “the monopoly was misused. Today, it sounds like old language devoid of content, a social and economic anachronism.”⁷⁵

Third, a diffuse form of support for Europeanization extended to the broader public as well. Public opinion surveys confirm that Italians’ trust in Europe in the early 1990s was also present in Genoa, and did not decline in the months following the ECJ’s ruling. Specifically, Eurobarometer surveys taken as the “Port of Genoa” case unfolded suggest that approximately 7 out of 10 residents in Liguria deemed membership in the EEC to be “a good thing.”

Fourth and relatedly, everyday citizens interviewed in the streets of Genoa displayed remarkable awareness of the lawsuit and welcomed the ECJ’s ruling. “We asked dozens of people... about their opinion of the judgment of the European Court of Justice,” *Il Secolo XIX* reported; “Almost all those asked agreed to reply, and they often did so with an awareness of the lawsuit... on the merits, the general opinion is that this revolution can be a singular opportunity for rebirth, for the economy of the

⁷¹ Dardani, Bruno. 1991. “Bangemann “presenta” a Genova il piano Cee per la politica del mare.” *Il Sole-24 ore*, December 14, pg. 10.

⁷² Carozzi, “Batini,” supra fn. 71.

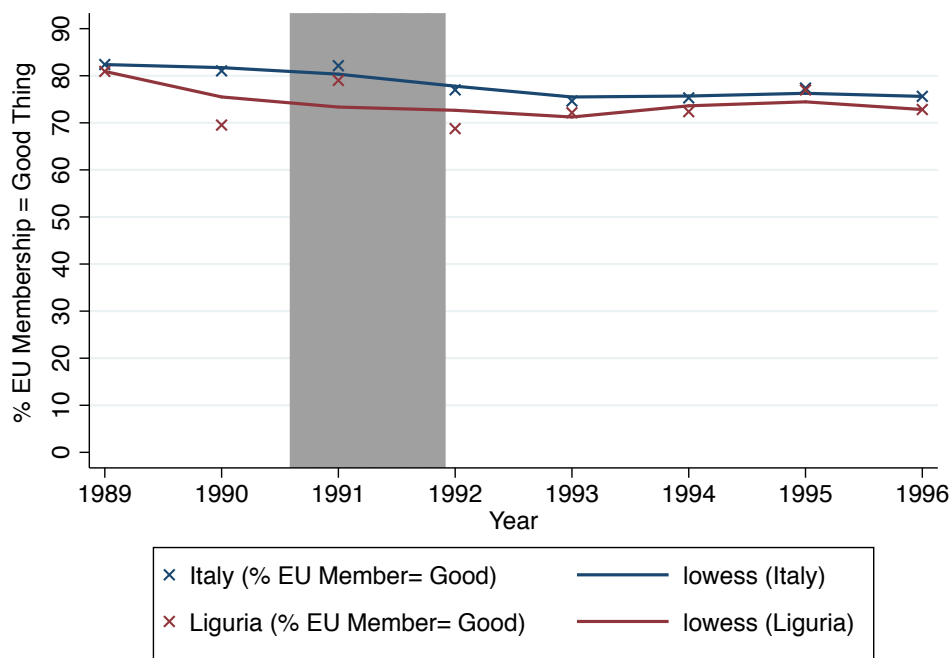
⁷³ Valentino, Piero. 1992. “Alt alla Concorrenza nel Porto di Genova.” *La Repubblica*, April 19.

⁷⁴ Dardani, Bruno. 1991. “La Corte di Lussemburgo spazza il monopolio del lavoro nei porti.” *Il Sole-24 ore*, December 11.

⁷⁵ Carozzi, “Batini,” supra fn. 71.

port, and thus for the entire city.” Interview excerpts suggest as much: “It’s a marvelous thing,” declared the director of a public medical clinic; “I’m very favorable about the EEC ruling,” a high school teacher responded; “I agree with the EEC judgment. The politics of the monopoly are unjust,” noted the commander of the city firefighters; “We don’t look too good, us Genoese, when it’s the EEC that has to tidy things up for us,” added the president of a retirement home; “In any case, this news has given me new faith in the future of our port.”⁷⁶

Figure 4. Percent of Italians & Ligurians believing that EEC membership is a “good thing,” 1989-1996. The grey shading denotes the dates from lodging of ECJ proceedings to judgement



Notes: Source: Eurobarometer (1989-1996).

As *Il Secolo XIX* titled its story based on the street-surveys of Genoese citizens, people on the ground were not only “judging the judgment” of the ECJ, but simultaneously “rediscovering traditions” — visions of past port-driven trade on the one hand, and longstanding labor politics on the other hand. In so doing, they weaved the abstract logic of the ECJ’s judgment — which, to be transposable and

⁷⁶ Carozzi, Giorgio. 1991. “Caro, vecchio porto.” *Il Secolo XIX*, 12 December.

bolster the autonomy of EU law, treated the CUMLV as if it were any other public labor union, and Genoa's port as any other economically important port — within the fabric of local knowledge. This integration rendered the ECJ's ruling meaningful, incorporating it within the long shadow of lived experience even as it signified an eventful rupture with it.⁷⁷ In other words, even as the 'distant' nature of EU law was perceived as the key to the speedy technocratic resolution of a local political quagmire, the "relocalization" (Miller 2004: 83) of the decision converted it back into useful knowledge meaningful to local practice.

Crucially, the public consensus in favor of compliance bore the feedback effect of strengthening the hand and ambitions of the resource-rich common market actors that had been unsuccessfully seeking port reform. Conte and Giacomini underscored how the "great interest" and "broad breath that [the ECJ ruling] has found in the people will help them know our work" and support a liberal blueprint for "the future of port management."⁷⁸ Instead of opting for the fallback option of backdoor interest-group bargaining, the President of the Genoa's port authority audaciously called on the Italian Parliament to enact an "urgent government law" transforming all public dockworkers' unions into "companies operating in a regime of free competition."⁷⁹ The representative of local shipping companies, Ugo Serra, similarly claimed a mandate in the broadest possible terms: "The winner isn't us, but rather the law and the principles of the free market."⁸⁰ Indeed, some thirty shipping and transport associations would likely have foregone launching a political campaign entitled "Genoa, Europe's Port" if they doubted that the public would be receptive to their efforts.⁸¹ And Genoa's social-democratic mayor, Romano Merlo, would certainly not have forcefully declared that "the judgment of Luxembourg should auspiciously bring newfound serenity and new opportunities to... the Port of Genoa" if his base of center-left voters did not generally side with the European Court.⁸²

⁷⁷ This conclusion parallels the theory of cultural integration and change in Sahlins (1981) and Sewell (1996).

⁷⁸ Minella, "Imputata la legge," supra fn. 57.

⁷⁹ Nepitelli, Barbara. 1991. "Stop Europeo al monopolio nei porti." *Italia Oggi*, December 11, pg. 12.

⁸⁰ Ibid.

⁸¹ Valentino, Piero. 1992. "La Guerra del Porto Deve Finire." *La Repubblica*, July 5.

⁸² Mattei, Elio. 1991. "Genova, regole di mercato anche per i "camalli."" *Avanti!*, December 14, pg. 22.

In short, local diffuse support facilitated the entrenchment of Euroenthusiastic frames, reinforced the hand of the concrete interests seeking reform, and marginalized the grumblings of many dockworkers. In fact, the CUMLV was reduced to trying to turn the ECJ's judgment against shippers — by defining them as the “true” monopolists — rather than challenging it outright.⁸³ But when such delayed counter-framings gained little traction, the *camalli* resorted to their repertoire of contentious politics, with stark unintended consequences.

From Contention to Compliance

Having lost control of the way the ECJ decision was being framed in Genoa's public sphere, dockworkers decided to flex their muscles and make their displeasure clear. In March of 1992, they sent a shot over the bow by organizing a brief strike that shut down all trade in and out of the industrial port.⁸⁴ Yet as dockworkers grew intransigent, import-export and shipping companies began to test the post-“Port of Genoa” waters.

First, in April an association of shippers cited the “many damages that they incur from the *ancien regime*'s monopoly” in a request that the European Commission lodge an infringement proceeding against the Italian state for failing to disband public dockworking unions.⁸⁵ Second, some shipping operators sought revenge for past defeats. None was more audacious than Bruno Musso, the CEO of *Tarros*. In 1970, Musso had attempted to dock his ship, *Vento di Tramontana*, on his own, but “the CULMV threateningly surrounded him and his attempt failed.”⁸⁶ Musso had since transferred his activities to the nearby Port of La Spezia, and the ECJ's ruling was an irresistible opportunity “to return for a do-over.”⁸⁷ So in June he dispatched his fleet of ships for Genova and attempted to dock them with his own employees. Yet via “episodes of intimidation and violence”⁸⁸ — including a dockworker's attempt to hit Musso over the head with a large log (Musso 2017: 187) — the *camalli* once

⁸³ Carozzi, “Batini,” supra fn. 71.

⁸⁴ “Genova, l'Europa non va a Camallo.” *La Repubblica*, March 6, 1992.

⁸⁵ Valentino, “Alt alla Concorrenza,” supra fn. 74.

⁸⁶ Valentino, Piero. 1992. “Genova, da La Spezia un attacco ai camalli.” *La Repubblica*, June 14.

⁸⁷ Ibid.

⁸⁸ Arcuri, Camillo. 1992. “Il fronte del porto in azione, nave bloccata.” *Corriere della Sera*, 18 June, pg.

again created a physical barrier that disrupted the ships' entry. Within the span of just over a week three of Musso's vessels were forced to turn around.⁸⁹

Despite such initial victories, the juridical winds were not in the dockworkers' favor, particularly given the positive framing of the ECJ judgment in the public sphere. With national politics disrupted by the *Mani Pulite* ("Clean Hands") anti-corruption investigations in Milan and Parliament characteristically slow to revise the Italian Navigation Code, a "government of judges" arose to vigorously enforce the new legal regime.⁹⁰ So when the CULMV sued Musso before the justice of the peace of Genoa — as Musso had strategically hoped⁹¹ — their plan backfired. Not only did Musso summon Conte and Giacomini⁹² to argue his case, but the duo proved victorious once again, as the labor judge, Alvaro Vigotti, "recognized Musso's right to [employ his own dockworkers]... Musso can do so because — the judge declared — the ruling of the ECJ in Luxembourg against port monopolies is valid, even in the absence of national antitrust legislation."⁹³ Importantly, the fact that local public opinion was clearly supportive of complying with the ECJ's judgment might have nudged judges into applying EU law despite being sympathetic to the dockworkers' cause. As Giacomini recalls, "that was truly a cultural moment, a cultural turn... Because even judges who leaned left politically... applied [EU] law! Even if they didn't like it very much."⁹⁴

Having lost in the court of public opinion and in actual court, dockworkers resorted to an extreme, last-ditch effort to force the CAP to dilute the implementation of the ECJ's ruling. For 80 grueling days from late August into early November of 1992, the CULMV orchestrated a strike that shut down the nation's largest port.⁹⁵ Such radical action may have been cathartic, but with time it backfired spectacularly. If the broad Genoese public was already on the side of those calling for liberalization, dockworkers might have still hoped for solidarity from sympathetic members of the working class. But when it comes to port labor, freezing dockwork

⁸⁹ Valentino, Piero. 1992. "Porto di Genova, Tregua Tra Camalli e Armatori." *La Repubblica*, July 1.

⁹⁰ Valentino, "La Guerra del Porto," supra fn. 82.

⁹¹ Arcuri, "Il fronte del porto," supra fn. 89.

⁹² Whose legal expenses in "Port of Genoa" he later financed with the support of the national shippers' association, the *Confitarma* (Musso 2008: 58).

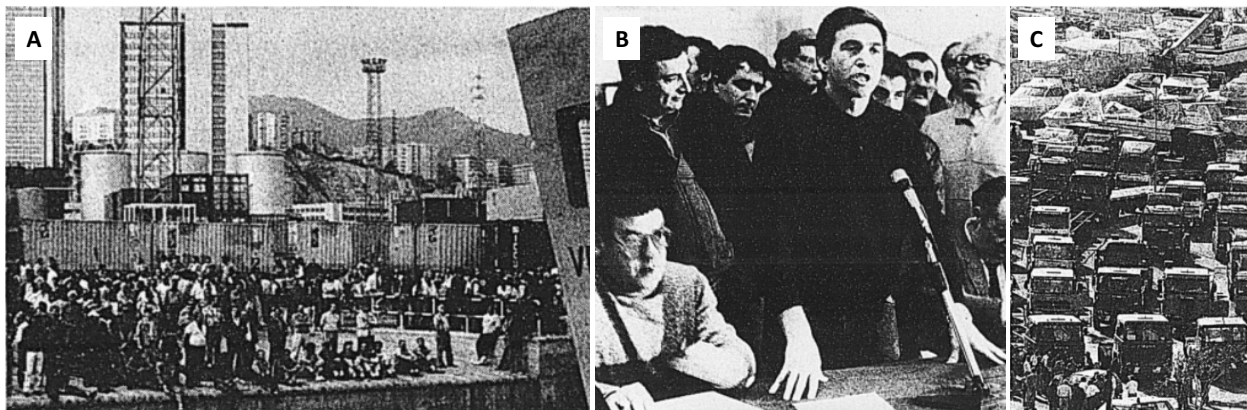
⁹³ Il Pretore da Ragione a Musso." *La Repubblica*, July 21, 1992.

⁹⁴ Interview with Giuseppe Giacomini, supra fn. 15.

⁹⁵ Minella, Massimo. 1992. "La Pace e' Arrivata in Porto, I Camalli Tornano al Lavoro." *La Repubblica*, November 7.

for months threatens the jobs of all workers dependent on the logistic chain of the free movement of goods. Notably, in October truck drivers – who decried how the *camalli*'s “arrogance” was placing their own livelihoods were in jeopardy⁹⁶ – spread the shutdown to the city itself by protesting in the streets for three days, calling for the abolishment of the CULMV's monopoly and blocking traffic.⁹⁷ Other port laborers followed suit, threatening to indefinitely suspend their services and to block any ship attempting to enter or leave the port, lest the CUMLV continue its strike.⁹⁸ The police were dispatched to “avoid a confrontation,” for in late October “*camalli* and truckers clashed with their fists. Insults, shoving... a few days later tensions escalated” anew.⁹⁹

Figure 5. [A] Dock workers blocking the arrival of one of Bruno Musso's ships, June 26, 1992; [B] Paride Batini addressing CULMV workers during their 80-day strike, October 16, 1992; [C] Truckers protesting the CULMV's strike in Genoa's city center, October 14, 1992



Notes: Source: *Corriere della Sera*.

In short, rather than rallying the working class, the *camalli*'s contentious resistance splintered it instead. And as contention diffused to the city streets and impacted the lives of citizens with no direct ties to the Port — one interviewee recalls

⁹⁶ Grondona, Daniela. 1992. “Genova invasa da autotreni per la protesta anticamalli.” *Corriere della Sera*, 14 October, pg. 14.

⁹⁷ Minella, Massimo. 1992. “Genova in Ginocchio, Camalli e Camionisti Assediano La Città’.” *La Repubblica*, October 15; Razzi, Massimo. 1992. “I Camalli in Mare Aperto.” *La Repubblica*, November 29.

⁹⁸ Ibid.

⁹⁹ Minella, “La Pace,” supra fn. 96.

dumpsters being set on fire throughout the city¹⁰⁰ — public calls to end the “war” on Genoa’s docks by privatizing port labor grew in strength.¹⁰¹ This was no longer perceived as a conflict between the righteous working class and self-serving economic interests — a clash the *camalli* had won in the past. This was now a case of all of Genoa rallying against the perceived “arrogance” of a monopoly endangering the public good.

Eventually, Batini and the CULMV acquiesced, ending the strike and joining the negotiating table on November, 7th, 1992. Perhaps the tipping point proved to be the promise of a 9.2 billion lire (\$7.5 million) payment from CAP President Magnani.¹⁰² Perhaps it was the fact that the Port had reached a point of no return: In response to the strike *Maersk* — a Finnish shipping line — temporarily transferred its operations to Livorno, and the Taiwanese *Yang Ming Line* threatened to abandon Genoa altogether, taking 60,000 containers’ worth of annual traffic along with it.¹⁰³ In any case, the outcome was unavoidable: The CULMV had sustained nearly a year’s worth of bad press, alienated public opinion, and turned natural working class allies — like truckers — against it. In just over a year, the CUMLV’s symbology as the custodian of local history and champion of the working class had been significantly disenchanting.

November 1992 thus marked the transition from contestation to the entrenchment of EU law, culminating in the 1994 reform¹⁰⁴ of the Italian Navigation Code after “two nightmare years... [when] every two months... the text would change” (Musso 2017: 187). Eventually, the reform finalized the privatization of the Port of Genoa along the model of an Anglo-Saxon port authority (Carbone & Munari 1994). In line with North European ports like Rotterdam, private shipping operators were allowed to compete for control of specialized sections of the Port (Musso 2017: 147). Similarly, dockworkers from across Europe were allowed to organize into their own unions and compete with the CUMLV over the provision of labor.

Yet legislative reform and the transformation of port management was just the tip of the iceberg, for “Port of Genoa” had become a modular repertoire of legal

¹⁰⁰ Interview with Gerolamo Taccogna, University of Genoa, October 28, 2016 (in-person).

¹⁰¹ Valentino, “La Guerra del Porto,” supra fn. 82.

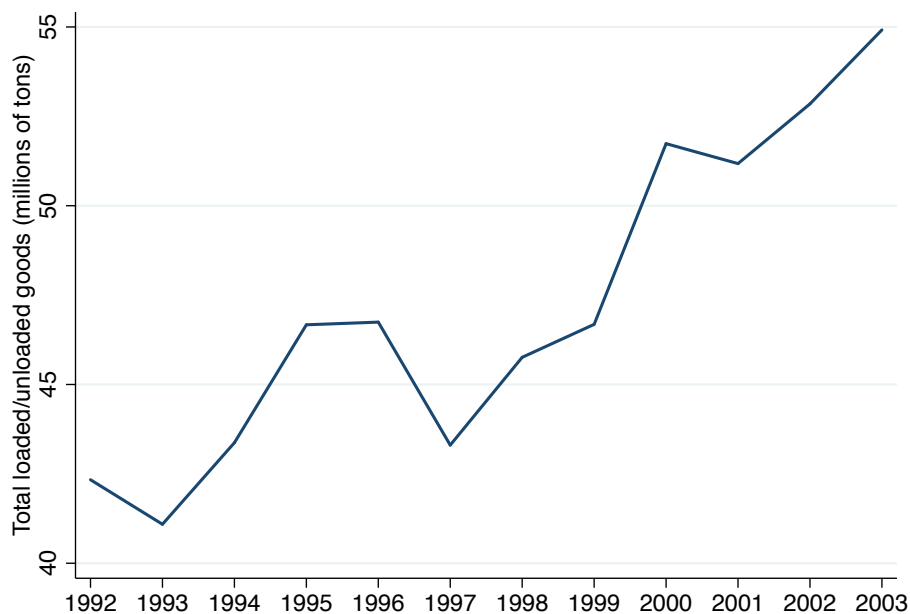
¹⁰² Minella, “La Pace,” supra fn. 96.

¹⁰³ Minella, “Genova in Ginocchio,” supra fn. 98.

¹⁰⁴ See: Legge 28 gennaio 1994, no. 84, “Riordino della legislazione in materia portuale.”

mobilization. A key reason is that its positive public framing combined with the fact that it proved to be a relatively successful intervention. In the decade following the ECJ's ruling from 1992 to 2003, the port experienced an increase in traffic of 30% (from 42.3 million to 54.9 million tons of goods) (Comune di Genova 2003: 145). A city council report underscored how the port had “exited from the long and dark tunnel of the recession and its “numbers” had returned to being those of a great European port” (Ibid: 13). In 1994 Genoa surpassed Marseille in container traffic and beat all Mediterranean competitors in passenger traffic.¹⁰⁵ By 1997 even left-wing newspapers were lauding the “brilliant results” of privatization,¹⁰⁶ and by 2001 the port had grown to directly or indirectly employ 35% of the city's working population and to comprise 11% of its GDP.¹⁰⁷ And with revenues on the increase, the late 1990s witnessed the much-needed “transformation and technological updating of the port infrastructure” (Comune di Genova 2003: 14).

Figure 6. Signs of recovery: Total loaded & unloaded goods in the Port of Genoa, 1992-2003



Notes: Source: Comune di Genova (2003: 145).

¹⁰⁵ Minella, Massimo. 1994. “Il Porto di Genova Risorge, Traffici Record Nel 1994.” *La Repubblica*, December 14.

¹⁰⁶ Minella, Massimo. 1997. “Genova, Prima nel Mediterraneo.” *La Repubblica*, April 1.

¹⁰⁷ Lampani, Aldo. 2001. “Un Genovese su Tre Lavora sui Moli.” *La Repubblica*, February 3.

To be sure, the tide did not raise all boats, as the dockworkers bore the brunt of the distributional consequences of legal and social change. With their monopoly rights gone, the advent of competition from foreign service providers, and the Port authority investing in new technologies that replaced manpower with machine power, membership suffered: In just four years from 1991 to 1995, the CULMV's numbers plummeted from 1,497 to 689 (Musso 2008: 46). And when their legendary "console" – Paride Batini – passed away in 2009, journalists realized that, in fact, *all* of "the *camalli* have nearly disappeared."¹⁰⁸

If the port's modest economic recovery assuaged lingering skepticisms vis-à-vis Europeanization, the crash course in European law-in-action courtesy of "Port of Genoa" made clear to local legal practitioners that the ECJ's case law was indispensable to professional practice. Unsurprisingly, Giacomini is adamant that EU law only became a reality in Genoa after he and Conte had pioneered the lawsuit: "'Port of Genoa' is so well-known that it certainly drew the attention even of those lawyers who didn't even know that EU law existed... If we hadn't existed, Conte and Giacomini, EU law would have arrived here with at least a decade of delay."¹⁰⁹ But we need not take Giacomini's word for it: In interviews with a wide array of legal practitioners — such as a maritime lawyer,¹¹⁰ competition lawyer,¹¹¹ family lawyer,¹¹² labor judge,¹¹³ and an administrative lawyer¹¹⁴ — all stressed the fact that the lawsuit "transformed a city"¹¹⁵ and persuaded them to take EU law seriously. The president of Genoa's bar association recalls that despite having never dealt with EU law, he and his colleagues were fully aware of the lawsuit's importance: "Its importance was immediately understood because... for a Genoese... the port is the heart of the city... Newspapers debated it, because there were historical

¹⁰⁸ Cevasco, "Tra i finti docks," supra fn. 10.

¹⁰⁹ Interview with Giuseppe Giacomini, supra fn. 31.

¹¹⁰ Interview with Pierangelo Celle, Studio Legale Turci & University of Genoa, 19 October, 2016 (in-person).

¹¹¹ Interview with Francesco Munari, Munari Giudici Maniglio Panfilii Associati & University of Genoa, October 24, 2016 (in-person).

¹¹² Interview with Alberto Figone, Studio Figone, October 27, 2016, 4PM (in-person).

¹¹³ Interview with Marcello Basilico, Tribunale di Genova, 18 October, 2016 (in-person).

¹¹⁴ Interview with Roberto Damonte, Studio Legale Damonte, October 28, 2016 (in-person).

¹¹⁵ Interview with Gerolamo Taccogna, supra fn. 101.

precedents everyone knew about... and [the camalli's monopolistic abuses] were known to everyone. They held the port back.”¹¹⁶

Furthermore, interviewees agree that “Port of Genoa” became a blueprint of legal mobilization, diffusing knowledge of the EU’s reference procedure and creating opportunities to clarify and enforce EU free movement and competition rules on the city’s docks. Consider the representative views of two Genoese lawyers – Gerolamo Taccogna, who teaches and practices administrative law, and Andrea La Mattina, who teaches and practices competition law:

“The ruling of the Court of Justice transformed a city... then there were preliminary references in the wake of that judgment... The problematics of the port first and most completely taught the judges of the Tribunal of Genoa how to do these things. And once you know how, you also have more occasions to do so.”¹¹⁷

“When talking about preliminary references, undoubtedly the so-called “Port of Genoa” ruling played an important and driving role... It transformed the Italian approach to port law. Other important preliminary references always dealt with the same sector... that is, a whole series of further precisions that were fundamental and all originated from Genoa.”¹¹⁸

Indeed, as lawyers began to incorporate and exchange EU legal knowledge – often by seeking preliminary references before Genoese judges – some jurists even discerned a new field of law – “Genoese EU competition law” – whose practice was spatio-temporally bound to the city in the post-“Port of Genoa” era.¹¹⁹ That interviewees would recognize such a hybrid legal field as coherent is a testament to the ECJ judgment’s “radiating effect” and the ways that EU law had been incorporated in the professional “social ordering that is indigenous” to Genoa (Galanter 1983: 129).

Statistics of preliminary reference activity corroborate lawyers’ perceptions that the “Port of Genoa” case contributed to the local entrenchment of the EU legal

¹¹⁶ Interview with Alessandro Vaccaro, *supra* fn. 16.

¹¹⁷ Interview with Gerolamo Taccogna, *supra* fn. 101.

¹¹⁸ Interview with Andrea La Mattina, Bonelli Erede Pappalardo & University of Genoa, November 14, 2016 (in-person).

¹¹⁹ Interview with Enrico Vergani, Studio Legale Garbarino Vergani & University of Genoa, October 27, 2016 (in-person).

field. In the decade following “Port of Genoa” (1992–2002), Genoese courts referred 64 preliminary references to the ECJ, or five times the number (n=12) that they had submitted from 1957 to 1991. Furthermore, 78% (n=50) of these references dealt with those EU rules at the heart of “Port of Genoa” (namely EU laws regulating the free movement of goods and services and promoting economic competition). Some of the most important cases in this period witnessed the return of the protagonists of the “Port of Genoa” saga. For example, Conte and Giacomini were once again on the attack in the 1993/1994 *Corsica Ferries* case¹²⁰ concerning the freedom to provide maritime transport services, and Alvaro Vigotti — the labor judge who enforced the ECJ’s ruling against the *camalli* — was the referring judge in the pathbreaking 2003/2006 *Traghetti del Mediterraneo* case¹²¹ regarding state aids and state’s liability for breaches of EU law. Importantly, however, EU legal practice was no longer a personal affair, as 77% of all references in the decade following “Port of Genoa” were pioneered by lawyers other than Conte and Giacomini. As one maritime lawyer emphasizes, with time EU law became “a lived reality, and not just an exam one took at the university.”¹²²

Unsurprisingly, the most reliable supporters of the Europeanization of legal practice were the judges at the Tribunal of Genoa, who had witnessed their president collaborate with Conte and Giacomini in the “Port of Genoa” case. One judge in particular — Michele Marchesiello — became a reliable ally:¹²³ To “measure oneself” with the ECJ was “prestigious,” “pique[d] his curiosity, and also energize[d] him,” he recalls.¹²⁴ Crediting Eurolawyers like Conte and Giacomini for “opening the prospective” of dialoguing with the ECJ, Marchesiello even wrote a book about globalization and port law featuring “Port of Genoa” as a case where “the European Court of Justice had to intervene to awaken Italian ports — Genoa’s first and foremost — from their sleep,” thereby promoting a “dramatically inevitable” “transformation” (Marchesiello 2010: 165–166). And before retiring, Marchesiello played an important role in “transmitting” his passion for EU law to his colleagues.¹²⁵ In the

¹²⁰ Case C–18/93, *Corsica Ferries Italia Srl v. Corpo dei Piloti del Porto di Genova* [1994], ECR I–1812.

¹²¹ Case C–173/03, *Traghetti del Mediterraneo SpA v. Repubblica Italiana* [2006]. ECR I–5177.

¹²² Interview with Pierangelo Celle, supra fn. 111.

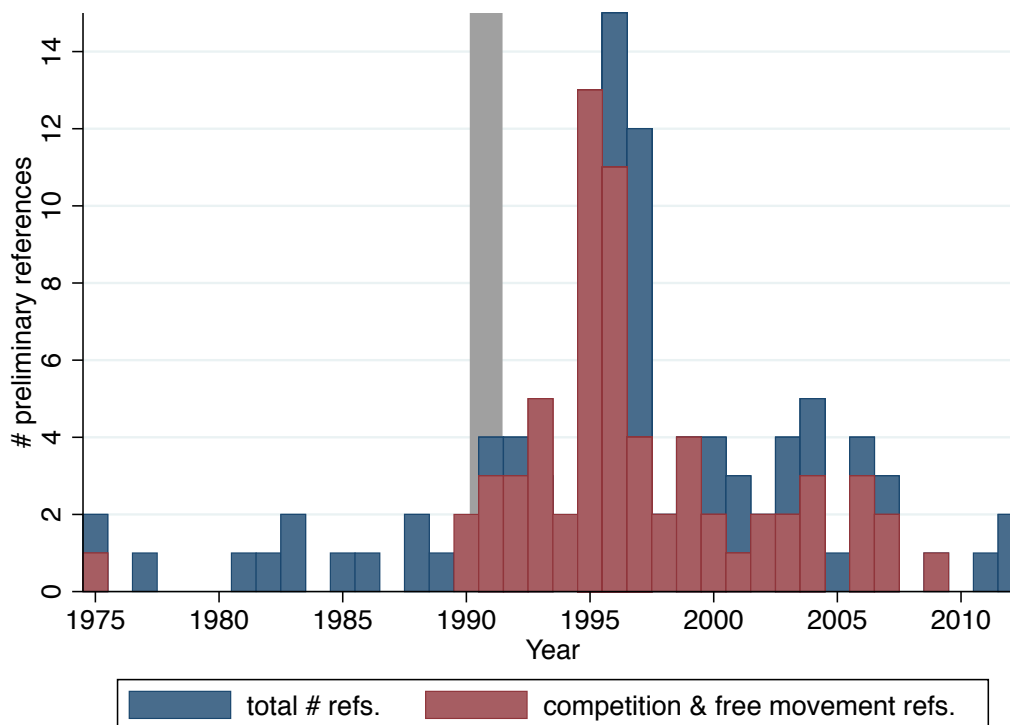
¹²³ Interview with Paolo Canepa, Studio Legale Roppo Canepa, November 3, 2017 (in-person).

¹²⁴ Interview with Michele Marchesiello, ex-judge at the Tribunal of Genoa, November 10, 2016 (in-person).

¹²⁵ Interview with Lorenza Calcagno, Tribunal of Genoa, November 8, 2016 (in-person).

two decades following “Port of Genoa,” the Tribunal’s judges submitted 60 references to the ECJ. To put this in perspective, that is more than *twice* the number issued by any other Italian civil court of first instance during the *entire* 60-year span of the Treaty of Rome.¹²⁶

Figure 7. Mobilizing EU law: Preliminary references to the ECJ from Genoese courts, 1975-2013. The grey shading denotes the dates spanning ECJ proceedings in “Port of Genoa”



Notes: Source: Kelemen & Pavone (2016).

Genoa, in short, became one of southern Europe’s leading laboratories for privatization and the liberalization of labor, alongside the Europeanization of legal practice. In the words of an EU law professor and Genoese lawyer, local law firms became “trendy” when they “surface[d] EU-law related questions,” and the tribunal

¹²⁶ From 1964 to 2013, the second-most referring lower civil court is the Tribunal of Milan, with 29 references.

referred cases to the ECJ “with great frequency... [for] the judges were happy, as it were, to serve as the ECJ’s *prima donna*.”¹²⁷

Conclusion

The contentious transformation of the Port of Genoa from what some deemed a Marxist utopia into a privatized site for competition in Europe’s common market is an exemplary case of the ways transnational economic governance via law is negotiated on the ground. In particular, the case sheds light on the politics of resistance and implementation of international court rulings, on how transnational markets are constructed by lawyers, and on the wellsprings of governance capacity for polities like the EU.

First, “Port of Genoa” demonstrates that even when European integration and the judgements of the ECJ are politicized, a legacy of non-compliance and Euroscepticism is not destiny. This assumption is captured by Alter (2000: 512)’s concern that “once litigants are stung by an undesirable ECJ ruling, they may hesitate to raise ambiguous cases in the future,” sparking a “negative feedback loop.” To wit: There is no doubt that the ECJ’s “Port of Genoa” decision very much “stung” dockworkers, who mobilized to resist compliance; So why did a ‘positive feedback loop’ emerge instead of a process of disintegration?

This article demonstrates that while backlash against ECJ rulings concerning social and labor rights may be growing in frequency, — as highlighted by analyses of the pathbreaking *Viking* and *Laval* cases (ex. Joerges & Roedl 2008; Kelemen & Schmidt 2011; Lindseth 2017) — under certain conditions European legal integration is sometimes *advanced* precisely when EU law *is locally politicized*. Politicizing events have a particular transformative potential because the rapid sequencing of events, the structural relaxation of constraints upon individual agency, and the mutability of identities and cultural frames renders social relations malleable. Hence while contentious resistance of an international court’s ruling raises the stakes of implementation, it also foment local awareness of a body of legal rules that would otherwise be little known, illuminating its relevance, salience, and transformative potential. Provided that local “interpretive mediators” (Fischer 2000) mobilize early

¹²⁷ Interview with Francesco Munari, *supra* fn. 112.

to promote compliance, subsequent resistance may unintentionally marginalize itself and rally social actors around the very body of rules being resisted.

It is in this light that local lawyers specializing in international law are uniquely placed to exploit incongruences between transnational economic law and on-the-ground social practice. Their mediatory position endows them with a first-mover advantage, enabling them to mobilize their technical expertise to construct disputes serving as vehicles for international litigation while simultaneously leveraging their local knowledge to frame these interventions as beneficial to the community. While the role of such legal entrepreneurs has been noted before, — for example, in Alter’s (2016) analysis of Rewe supermarkets’ in-house legal counsel, Gert Meier, and his efforts to liberalize the free movement of goods in the *Cassis de Dijon* case — their role as interpretive mediators has not been sufficiently explored. Indeed, Meier’s position as in-house counsel may well have limited his ability to publicize his agenda in the local public sphere, suggesting a novel take on why *Cassis*’ principle of “mutual recognition” proved “an intellectual breakthrough but a colossal market failure” (Weiler 2005: 49).¹²⁸

Second, “Port of Genoa” is emblematic of how the diffuse, patch-worked construction of liberal markets in polities like the EU works. Contrary to the claims of Eurosceptic parties like the UK Independence Party, the French National Front, or the Italian Northern League, the EU’s “infrastructure power” (Mann 1984) does not lie in the top-down might of a bloated ‘superstate’ (Kelemen and Pavone 2018). After all, the EU lacks a military, an independent tax system, and a large bureaucracy. Similarly, the ‘quiet’, incrementalist forging of technocratic rules for Europe’s common market ECJ (Vauchez 2015) are not self-implementing. Indeed, the translation into practice of liberalizing EU rules usually occurs because local networks of lawyers, judges, and allies in civil society mobilize to promote a European intervention (see Stone Sweet 2004; Borzel 2006; Cichowski 2007). As a result, the ‘Eurolawyer’ on the ground is as much of an architect of regional economic integration as the judge at the ECJ.

Indeed, this ‘weak’ form of decentralized economic governance can sometimes reveal itself to be a distinct strength (Vauchez 2008; Kelemen 2009). International courts like the ECJ lack the local knowledge necessary to time and appropriately frame a costly intervention, which increases the probability of

¹²⁸ I am thankful to an anonymous reviewer for raising this pertinent example.

backlash. By relying on the initiative of allies in the local bar, transformative ECJ judgments are more likely to be solicited at the right time and to be perceived as responsive to community needs. On the docks of Genoa, the remarkable result was the fact that a ‘foreign’ court’s ruling admonishing a longstanding history of working class politics was positively received, eventually forcing a 700-year-old labor union to succumb to liberalization.

This analysis opens up avenues for future research in an age where the number of Eurolawyers is on the rise (Kelemen 2011; Vauchez 2015) even as Eurosceptic parties and populist sympathies are increasingly challenging elites’ liberal consensus (Hooghe & Marks 2009). What happens when local Eurolawyers must act in a context where diffuse support for Europeanization is missing? To what extent does such a configuration temper or obstruct their entrepreneurial framing strategies? The answer would shed light on the dynamics of economic governance in transnational legal orders whose legitimacy in the age of Trump and ‘Brexit’ is increasingly being called into question.

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