ITALY

A. The endless varieties of the Italian Judiciary…

Ever so enthusiastic …

From 1953 to 2009: 1007 out of 6620 preliminary references are from Italian Courts: 103 Corte di Cassazione; 1 Corte Costituzionale; 63 Consiglio di Stato; 840 – other courts and tribunals.

…perhaps too enthusiastic..

From 1953 to 2009: 44 out 132 inadmissible references are from Italian courts (judgment and orders).

C- Definition of “Court and Tribunal”- ‘Court of Last resort’

The Italian Constitutional Court changes its mind: This Court, despite its peculiar function of constitutionality review, is to be considered as a court for the purposes of Article 267 TFEU; in particular as a court of last resort Judgment no.102/08 and order no.103/08.

a) Constitutional review and application of EU law;

b) The requirements of ‘manifestly ill founded” and “immateriality’;

c) “Institutional balance’ proceedings only? See Order No. 100/09

d) The Reference that never was.: the ‘same sex’ marriage judgment 138 of 2010.

D- “when it considers necessary”


b) as to avoid consolidation of ‘messy’ case law:

b.1) ‘messy CJEU case law’ - Corte di Cassazione Order. 2994/2010 and n. 2993/2010 on gambling.

b.2) ‘messy’ national case law – the El Didri litigation:

Case C-61/11 PPU, Hassen El Dridi, alias Karim Soufi- 28 April 2011

Consiglio di Stato – judgments nn. 7-8 of 2011

E Good or Bad EU Courts?

Lucchini again! Tribunale di Roma Judgment 7168/2008 of the 21 of March 2011