

LAUDATIO:
PROF. LORENZO MARTÍN-RETORTILLO

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ONE of the major merits of the European Public Law Organization has been the establishment of a stable network of public lawyers, which since more than twenty years has been giving a special opportunity for discussing common issues, launching new researches, exchanging scientific experiences.

The Organization, unique in our field, is a natural place for Professor Martín-Retortillo, our Lorenzo: a leading public lawyer in his own jurisdiction, but also a great expert on many other legal orders and on European Union law; open to the circulation of national experiences, interested in the process of legal integration.

Since the beginning of our Group, Lorenzo has been a member particularly active: rapporteur, promoter of new researches, tutor of young students, bridge among the generations of scholars.

The Spanish academic career of Lorenzo will be presented more in detail by other colleagues. On my part, I wish to remind of the youthful period spent in Italy, at the Collegio di Spagna in Bologna. Years that - as told by Lorenzo - have been personally happy and fruitful for his studies. Then, under the guidance of Professor García de Enterría, the academic flourishing and the teaching at the Universities of Valladolid, Salamanca and Zaragoza; and finally the chair of Administrative Law at the Universidad Complutense in Madrid.

Lorenzo has been the Master of many young scholars, who are now reputed as brilliant legal scientists (some of them are members of our Group). He has guided and reviewed countless essays, books, articles. A fine example of his commitment is the book *Del derecho administrativo de nuestro tiempo*, published in Argentina in 1996.

Due to his academic reputation and to his great balance, Lorenzo has been elected as first President of the recently founded Spanish Association

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of Professors of Administrative Law and as member of the Real Academia de Jurisprudencia y Legislación.

As said already, other colleagues will present his career more in detail. In this *laudatio*, I consider three main points as worth stressing: 1) the contribution of Lorenzo to the democratic recovery of Spain; 2) the interest in the circulation and interconnection of legal ideas and principles among the various legal orders; 3) his studies on the fundamental rights and his initiatives for giving them effectiveness.

After the end of the Franco's era, Lorenzo was elected as Senator and became a member of the Senate's Constitutional Committee, charged with the drafting of the new Constitution. Also on that occasion, in spite of his political position, Lorenzo was "a professor in the Senate", giving a not biased contribution to the parliamentary proceedings by using his profound knowledge of the European post-war Constitutions and of the jurisprudence of the leading Constitutional Courts. It is a pleasure for me, as an Italian lawyer, to remind that Lorenzo has openly recognized the Italian Constitution of 1948 as "a decisive example" for the new democratic Constitution of Spain.

As relevant legacies of this political-institutional period, I must quote, at least, the two essays on *The Dawn of Democracy* (1979) and *Materials for the new Constitution* (1984).

After concluding this experience, Lorenzo came back to his engagements as academic researcher and teacher. For non-Spanish lawyers, his major contribution is a peculiar interpretation of the interconnection of the legal orders. At first glance, this method seems a simple variation of the comparative approach. But after a better consideration, it is not correct to consider this method as a form of legal comparison. In Lorenzo's researches, the legal orders are not facing each other, as separated and conflicting orders, as in the tradition of comparative law; but as permeable systems, strictly interrelated through the circulation of legal ideas and institutes. A legal order cannot ever be considered as a closed and autonomous one; even with regard to the sources of law, which as a tradition is a strictly national matter. Obviously, the openness of the legal orders to a mutual interference is much deeper in the framework of the European Union. That is why Lorenzo in the last two decades has devoted much of his scientific attention to European law.

In short, his studies are exemplary of a new legal method that moves from the legal comparison towards the understanding of composite legal orders, marked by interconnection.

The third and final point I wish to stress is the study of the fundamental rights; an interest which becomes central in his studies of the last two decades.

The list of his scientific works on the matter is really stunning. Lorenzo has supported the Convention elaborating the new European Charter, and has given a very innovative interpretation of the Charter even in the dark period between the Treaty of Nice and the entry into force of the Lisbon Treaty; and, moreover, of the mutual effect of the Charter and the Rome Convention on Human Rights. Lorenzo is interested both in giving legal relevance to fundamental rights and providing them with an effective protection. This is particularly important in the European Union, where the discussion on the matter is lively, but the achievements quite poor, also in the jurisprudence of the Court of Justice. An unexpected confirmation of the dictum “much ado about nothing”.

Even if Lorenzo is fully caught up in these issues, he has maintained a critical approach. In a few words, Lorenzo is not “a fundamentalist of fundamental rights”.

Typical of his approach is the very recent study on the jurisprudence of the Strasbourg Court relating to the parties connected to the Basque organization ETA. There, Lorenzo develops more precisely than in the past the idea that fundamental rights are not unrestricted, but, as rights, limited by other values; first of all, the respect for other people’s rights. Not by chance Lorenzo uses as introduction to his book a quotation by Sebastian Castillo, written at the end of the seventeenth century after the Calvinist violences in Geneva: “killing a person is not defending a doctrine, but simply killing a person”.

Time constraints do not allow for a complete review of a scientist so rich and profound. In any case, I am really proud that the Organization has honored Lorenzo, a true European, a Master of law, a friend.