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Essays and Articles

This essay deals with some of the underlying motives of the renewed interest of legal theorists in urban studies. Since their early appearance in human history, cities have been a form of association for common living the political dimension of which is both intrinsic and impossible to explain away through theoretical reduction. This peculiarity is not denied, but enhanced by the global character of the contemporary age, in which cities are a secure, and maybe ultimate, stronghold of territoriality, and hence an arena for the distribution of claims and privileges. Accordingly, their role in giving concrete reality to law (a feature this form of social control is losing in other areas) and scope to its assessment from the point of view of principles of justice (both inside and outside the urban area) is paramount and worth studying. A call for a new commitment to territorial governance, the development of new legal (participatory) instruments for urban planning, an enhanced coordination between local public bodies and a new urban agenda for Europe are among the most important consequences of this approach.

Cities are realities with a very high potential legal impact, of which law scholars just partially take note. The article underlines legal relationships that local authorities develop with citizens and communities for the recovery and reuse of urban assets and spaces. These relationships are listed in five distinct models, which are analyzed in terms of legal characteristics, differences, relationships between these experiences and statute law and, finally, the disciplinary regime to be adopted for dispute resolution. At the end of the essay, the author re-starts from the beginning and asks if cities can be a legal concept distinct from the well-known, from the point of view of the administrative law scholar, concept of municipality.

The paper discusses the existence and the function of procedural participation and duties to state reasons with respect to general administrative acts. The overall system of the Italian Administrative Procedure Act (l. n. 241/1990) is mainly conceived for the regulation of single-case measures; therefore, the exceptions provided for by articles 3, 13 and 24 do not seem to prevent those principles' application to general administrative activity. The analysis of case-law also shows that the general effects of rule-making decisions, as well as the absence of direct violations of people's rights, cannot justify the exclusion of the application of procedural guarantees to general decision-making. The conceptual symmetry between the legal qualification of the act and its procedural discipline does not, in this case, occur due to the need to offer immediate protection to individuals in relation to the damages caused by single-case provisions.

Notes and Comments

This paper deals with the topic of historical town into the relations between cultural values and commercial interests. Firstly, the paper will deal with the problem of the notion of historical centre and the question about the applicable law; secondly, the theme of fair cooperation between territorial public subjects in the activity of protection and valorize of historical value; lastly, this paper will deals with the restrictions to commercial competition and the relation with the principle of proportionality, which establishes punctual features about the measures adopted by the public authority to protect and enhance the historical value.

This comparative law study tackles an issue of national law which deals both with the power to withdraw administrative acts and with the law governing public contracts (i.e. public works and concessions). In par-

ticular, the study concerns the issue, often addressed in Italy, of the consequences on public contracts of the withdrawal (i.e. revocation) by the public authority of administrative acts preceding the conclusion of those contracts. First, the study focuses on the power to withdraw administrative acts in Italian and French law and shows how these powers are not entirely similar. Second, the study focuses on the impact on public works and concessions of the exercise of this power by the public authority. Lastly, the study questions the influential role that EU law plays in the convergence of national laws and practices in the field of public contracts.

The rules of the strengthened law, which ranks as an ordinary law, are considered intermediate rules providing benchmarks for constitutional review, because they contain coordination constraints. Strengthened law is thus an appropriate tool for obliging local authorities to observe special limits on indebtedness, within its competence.

Readings and Highlights