Essays and Articles

The study focuses on the nature and functioning of lobbying in Italy with the aim of placing it in the existing legal framework and suggesting possible solutions to complete this framework.

This paper explains the participation of pressure groups within legislative decision-making processes from a regulatory standpoint. The basic idea is that in some circumstances the (poor) quality of rules can provide a perverse incentive directly promoting illicit behaviour. In particular, this work analyses the case of "Tempa Rossa", with the aim to shed light on the so-called "corruptibility" of rules, i.e. the corruption risks that may affect both regulation and the decision-making process. In this perspective, some scholars and international organisations have recommended introducing regulatory reforms having the goal of enacting laws and other forms of regulation encouraging compliance rather than transgression.

The paper examines the lobbying phenomenon in the light of Italian national legislation concerning public contracts. In particular, the main aim of this paper is to understand how lobbying has been addressed within the legislation on "débat public", enacted by article 22 of legislative decree no. 50/2016 and regulation no. 76/2018. In this perspecti-

ve, the analysis highlights the main critical issues of the new legislation, proposing a different developmental hypothesis, based on the "disjointed" application of directive principles and criteria, enacted by article 1, paragraph 1, letters ppp) and qqq), enabling Act no. 11/2016. In this context, the author also examines whether or not these directive principles and criteria entail a violation of the prohibition of "gold-plating".

In modern parliamentary democracies voting is the main participation tool. Data about voter turnout during the recent Italian elections highlights a participation crisis linked to the phenomenon of abstention. Firstly, this paper examines the causes of the crisis of representative democracy and the new frontiers of popular participation (developing, in particular, an alternative viewpoint about lobbying *linked to e-democracy). Secondly, it analyzes the role that lobbies' activity should have in this context. The final research goal is to offer an alternative vision of* lobbying *based on the potential it could have in the era of market and institutional globalization.*

The absence of a direct regulation of lobbying in the national context has encouraged the emergence of the idea that lobbying corresponds to corruption. Adopting the view that this idea is unfounded, the article argues that the quality of regulation, rather than its quantity, is the most efficient tool to prevent corruption. However, the fact that the National Anti-Corruption Authority may be subject to the pressure of lobbies raises serious questions about its role.

The article analyses the evolution of a set of regional legislative attempts – some recently approved and implemented (Lombardy, Calabria and Puglia regions) and others already enacted years ago (Tuscany, Abruzzo and Molise regions) – to regulate the representation of interests, or lobbying. Such regional experiences are a testing ground for understanding the process of "administrativization" of lobbying regulation, through which traditional mechanisms of regulating the representation of interests tend to meld with recent developments in anti-corruption and transparency legislation. Despite attempts undertaken by regional legislators and examples of the increasing quality of these regulatory systems, significant limits remain in terms of implementation.

In the context of an increasing interest of Italian legal scholars for lobbying as a research field, this paper aims to analyze the associations of local authorities, which are considered as a special category of pressure group. In particular, the role played by ANCI (National Association of Italian Municipalities) and UPI (Union of Italian Provinces) within the State's policy-making process are examined. This the paper focuses on the inner workings of the Conference of State, Cities and Local Governments. The case study shows that local government pressure groups have been progressively included in State institutions. This fact marks a substantial difference from other types of pressure groups, which have not been granted such recognition. Although the inclusion in State institutions of pressure group representatives is the bedrock on which an effective governance mechanism of central-local relationship has been built, there is a major critical issue: the real level of representation of pressure groups is uncertain, as there are no legal rules which can guarantee it. Yet this model is evaluated as a useful prototype for future general regulation of lobbying.

The need to regulate lobbying groups appears and disappears cyclically from the Italian legislative landscape and from scholars' agenda, without ever reaching a final and definitive landing place. The lack of a specific discipline increases the perception of a phenomenon located on the border of legality, with potentially pathological misuse of public decisions. This issue assumes atypical and more marked characteristics when it is related to public spending on health care, where it is advantageous to ensure that lobbies play an effective and transparent role. The aim of this paper is to provide strike a difficult balance between lobbying, transparency and public procurement in a sector (healthcare) entailing specific challenges.

The role of lobbies in European decision-making has always been analyzed by scholars and professionals. On the one hand, they have attempted to highlight the fundamental differences separating European lobbies from the experience of more consolidated Anglo-Saxon lobbying*; on the other hand, they have aimed to emphasize the specificities of European lobbies in relation to the complex European institutional architecture and the wide range of interests represented within it and which have made Brussels a world* lobbying *capital. Although lobbies continue to be considered a dysfunctional element of European democracy and the main cause of the lack of transparency in decision-making, their role as information channels is now recognized. This is specifically relevant for institutions which, like the European ones, are characterized by an endemic remoteness from citizens. The conspicuous presence of lobbies has prompted European institutions to embark on a path on transparency which is currently one of the most advanced and constantly evolving tools for regulating pressure groups.*

tioned reform. The latter, having granted regions ample discretionary power in the definition of the rules governing the system, has promoted the creation of differentiated regional models. The paper also examines legislative decree no. 229 of 1999, which undertook a "re-centralization" of health, and the constitutional reform of 2001, following which constitutional jurisprudence clearly identified in the principle of loyal collaboration between the State and the regions the instrument for attaining a fair balance between the need for uniformity in protection of the right to health and differentiated organizational models. Finally, the text addresses how the debate reignited after some regions requested greater autonomy pursuant to art. 116, paragraph 3, of the Constitution.

After forty years, the Italian reform of psychiatric services still holds an important lesson for the regulation of public services. That reform focused on the relationship between service organization and the rights of the individual. The topic was addressed with full awareness of the fact that the right to health involves not only the right to be treated, but also other individual rights, first of all respect for individuals' dignity. The issue thus took on a general dimension, highlighting the relationship between a public service and the idea of society that it expresses. The reforms that have affected the national health service in the last thirty years have paid attention mainly, if not exclusively, to the efficiency aspect, focusing solely on the economic sustainability of services. This has made us lose sight of the political component underlying any choice of public service organization and today risks hiding its consequences.

Notes and Comments

The European Lex fiscalis*, developed after the 2011-2013 sovereign debt crisis, marks, directly and indirectly, a clear break with the evolution of*

continental States' administrative system of the economy. The E.U. fiscal compact has led to a change in the legal paradigm of good administration based on the economic rule of containing public spending rather than administrative organization functionality. The revision of the Italian Constitution in 2012 recorded this change. The prevalence of budgetary interests over other public interests leads to a redefinition of the concept of public administration efficiency that art. 97 of the Constitution ties to cost savings and the obligation to link functionality to public debt sustainability. The article seeks to shed light on the fact that the constitutional amendment implies both greater responsibility for political choices in the use of public resources and a natural propensity for administrative action towards legalism.

The work aims to examine the relationship between the protection of the landscape and the socio-economic development of local territories, on the basis of an integration between territorial policies and a conception of the landscape as a local development resource and factor. Insights in this direction come mainly from the European Landscape Convention (Florence, 20 October 2000), which identifies the landscape as a "widespread", "integrated" and "multifunctional" concept. With reference to Italian law, the code of cultural heritage and landscape (Legislative Decree 22 January 2004, no.42) provides a set of minimal elements, while the most useful and interesting ideas need to be derived from state, regional and special laws. This article aims to stimulate the debate on both the academic and institutional level, focusing on conceptual aspects (the notion of landscape and its classification as a common good), organizational profiles (center-periphery relationships, the role of local populations), and functional aspects (the adoption of consensual and not only authoritative administrative decision-making processes).

Cultural heritage conservation, which involves the constant availability of public resources, the implementation of objectives expressed in the Code of Cultural Heritage, and the involvement of local authorities, can be materially implemented through charitable donations by private agents (persons and businesses) motivated by tax deductibility mechanisms, on the basis of cooperation between the public and the private sectors. Patronage corresponds to donors offering cash contributions without the receiving public authority's having to offer anything in return. The ways in which this may occur are defined by law in various normative sources, in a context of limited public resources. The ensuing debate has identified new patronage and sponsorship opportunities; a revival of patronage according to an accessible and convenient approach, in support of the preservation of cultural heritage, is promoted by Law decree no. 83 of May 31, 2014 (converted into Law No. 106 of 29 July 2014, with some subsequent amendments), which introduced the Art Bonus and provided for a relevant tax credit for cash donations in favour of cultural heritage and culture development. The article examines selected aspects of patronage in the Spanish system and provides a comparative perspective as regards financial participation of private individuals and companies in projects for the conservation and enhancement of cultural heritage.

Regional Observatory