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Claudia Tubertini

Essays and Articles

About the Destiny of the “Wide Area Tasks” in the Perspective of a Constitutional Reform of the V Title (p. 215)

Francesco Merloni

After the final adoption of Act n. 56 of 2014 and the Bill on Constitutional Reform adopted by the Renzi Government a list of administrative tasks called “wide area tasks” has been confirmed. That confirmation can be seen as a good choice, even though the tasks are attributed to a completely transformed second level of local government, which continues to be called “Province”. The new provinces are transformed into local authorities not directly elected but completely controlled by the municipalities included in the territory of the province. That solution, even though problematic from the constitutional point of view, can be considered a good basis to reinforce the intermediate level of government.

The Territory between Efficiency and Development: the Provinces Reform and the Wide Area Politics (p. 251)

Lorenzo Ciapetti

Italian Law n. 56 as of 7 April 2014 introduces a local governmental framework centered on a renewed role of metropolitan cities, municipalities and association of municipalities. This reform is introduced pending the reform of the Italian Constitution aiming, among other things, to abolish the provincial level of government. The Law recasts Italian provinces as “territorial authorities of greater areas” not elected directly, but does not shed light on which functions actually define the government of “greater areas” in Italy, nor which functions could support appropriate development policies in non metropolitan areas. This article bridges the perspective of territorial development with the new local government framework and looks at experiences in some European countries and at the case of Emilia-Romagna Region to formulate policy recommendations on the scale and cost efficiency of Italian second-tier level of government.

The Scapegoat. The Province in the Evolution of the Italian Political System (p. 285)

Carlo Baccetti

This article deals with the Province in the Italian political system and the reason for recent transformation. For decades, the Province has been a resource available to parties, to multiply elective offices and as a step of political careers. Since the Nineties, the multiplication of the number of Provinces has meant that they would become quickly the scapegoat to be charged, in the eyes of the public, with the greater responsibility of the uncontrolled «costs of politics». This has led to their transformation into entities of second degree, without a political class “of their own”, waiting to abolish them definitively.

The Provinces Abolition in Sicily: a half-serious Report about a Revolution in Progress (p. 319)

Riccardo Ursi

While on a national level the debate about the destiny of Provinces was still ongoing, Sicily Region decided to abolish its Provinces and to replace them with liberi Consorzi comunali and with Città metropolitane. Nevertheless, the precise definition of the new two authorities' functions is devolved upon the future legislation and the modalities for the rearrangement of services, staff and resources remain uncertain. As a consequence, there is a grounded suspicion that nothing will change and the revolution will result in keeping the situation unaltered.

The constitutive Itinerary of the Metropolitan Cities: a newborn local Authority (p. 333)

Pierpaolo Forte

The work reviews some common motives and some differentiated features of aggregations between territorial entities, considering legislative interventions that promote and encourage the mergers between local authorities as measures of deployment of the principle of article 5 of the Italian Constitution, not just within the borders of the Italian Republic, but in the context of its membership of the European Union. This suggests a supportive approach to Italian Law 56/2014, also in the topic where it finds

more constitutional limits like the internal organization of the metropolitan city, as provided by article 114 of the Italian Constitution. Appealing to the principle of effectiveness, the paper proposes to consider Law 56/2014 as a reasonable substitute intervention, justified by more than two decades of substantial inertia, and yet as a supersession clause, as it calls local communities to final decisions. The current operation consists in the progressive solidification of a true local authority, which aims to be faced immediately, focusing on the work on the Metropolitan Statute, a complex route that requires the active participation of all government and legislation levels of the Republic, as well as some European instruments.

The claimed Strengthening of Provincial Administration in Spain in the 2013 Reform (p. 361)

Juana Morcillo Moreno

In the heat of the debate on whether Provinces should be maintained as a territorial organization in Spain, Act No. 27/2013, of December 27, for the Rationalization and Sustainability of the Local Administration, has boosted – at least theoretically – the most significant institution at that decentralization level: the Diputaciones provinciales. Thus, they have seen an increase in their coordination and supervision powers over the municipalities, in some cases at the expense of the latter. However, the success or failure of this reform will greatly depend on how it is implemented. In this respect, the budget of the Diputaciones should be reinforced; there is also some uncertainty as to the awaited reform of the election system and, finally, the interpretation of some ambiguous provisions in the Act should be favorable to the municipalities.

The Legal System of Rights in a Decentralized State: the Case of Spain (p. 393)

Paloma Requejo Rodríguez

This article addresses the legal system of rights in a decentralized State such as the Spanish autonomist State, in which the abstract definition of rights in the Spanish Constitution must be integrated with other provisions of primary law, organic laws and ordinary laws, that have the function of implementing and developing the Constitution. The complexity of this legal

system may be increased by the inclusion of new rights in the Statutes of the Autonomous Communities, local authorities which, together with the State, provinces and municipalities, make up Spain's territorial framework. The Constitutional Court, through its case law, becomes crucial to understanding the role of State law and the Comunidades Autónomas in a matter as sensitive to citizenry such as the regulation of their own rights.

Notes and Comments

State of Autonomies vs. Government of Bureaucracy: Glancing up (p. 411)

Luigi Viola

This piece of writing picks up a previous article by Roberto Bin, already published in the Magazine, and adopts a perspective from the bottom, that is to say it covers a real problem in administrative law. In this perspective, the fact that the executive political bodies do not intervene on the duration of administrative proceedings (which would be continuously supervised and adapted to the actual needs of the proceedings themselves) represents one of the many profiles of Italian crisis, allowing the administrative corruption increase and making it difficult for the citizen to obtain protection from the judges.

Regional Observatory

The Regional Elections in Piedmont, between Crisis and Scandals (p. 419)

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The Fusion of Valsamoggia Municipalities. The Constituent Assembly for the Setting of the Statute and the Elective Municipalities (p. 465)

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