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Editorial

The Title V of the Constitution, the Regions and local government reform (p. 7)

Francesco Merloni

Essays and Articles

For the Republic of autonomies after the Pandemic, in Europe (p. 29)

Andrea Morrone

The purpose of the essay is to identify a list of problems of the Italian Republic of the Autonomies. Among these, in particular, we focus on: the relationship between Constitutional Law and Practice; the “constitutional design” and legislative implementation; the role of Constitutional Theory and Constitutional Jurisprudence; the dialectic between Pluralism and Unity in the Federal or Regional State; the relationship between Globalization and Localization; the function of the “Meridionalismo”, the so-called “Northern Question” and the “regionalism differenziato”; the constitutional constraints represented by the Human Rights protection, the new Budget Law and the control of Public Debt, the European constraints that increase the powers of the member states and reduce those of the Regions and Local Autonomies. Only by considering the problems is it possible to have, after the pandemic and in the context of the European Federalizing Process, an understanding of the regionalism and municipalism’s real needs.

Twenty years after the constitutional revision of Title V: a balance sheet with an eye to the future (p. 77)

Annamaria Poggi

Already the day after its entry into force, Title V was placed under a very critical lens by many commentators. Over time, the problematic findings have multiplied and with the pandemic they almost exploded. For a year now, not a day has passed that some commentators have not in-

voked the revision of Title V, in the sense of a drastic reduction in the weight and role of the Regions and local authorities in our country for a renewed “strong” role of the State. This work would like to try some answers, with a view to adhering to the very values of regionalism as embodied in the Constitution, mainly to art. 1 (democracy) and 5 (unity of the Republic and autonomy of local communities). In this perspective, the main innovations introduced in Title V will be examined, attempting a judgment of “surrender”.

A check-up for Italian regionalism (p. 107)

Fulvio Cortese

In Italy, Regions and local autonomies are constantly at the centre of very heated debates. The author suggests, first of all, the overcoming of some ambiguities, which constitute the wrong assumption of public and political opinion; it also highlights some structural limits of the interpretative tendencies to which those ambiguities have given rise; in conclusion, it looks at the change of horizon that the State must undertake in order to attribute a positive and efficient function to regionalism.

Twenty years after Title V, the non-application of the objectives of federalism (p. 127)

Gianmario Demuro

The reform of Title V had as its main objective that of overcoming "centralism" in Italy by designing local and regional autonomies structured around instrument of governments which, through the stability of legislature, could achieve regulated competition between regional territories and experiment with efficient democracies at the level closest to the citizens' evaluation of the political capacity of administrators. In particular, fiscal federalism has not been realized, thus preventing the construction of a mature regional democracy of territorial responsibility. The article discusses the reasons for the failure to realize a democracy of territorial equalization and proposes some solutions for the covenantal reconstruction of the new regional democracy.

The constituent bodies of the Republic "in search of a role: the "new" article 114, twenty years later (p. 139)

Enrico Carloni

Twenty years after the constitutional reform, the paper analyses the present role and, therefore, the "place" of the "actors" of the Republic of autonomies listed in art. 114 of the Constitution. A change of role often matured as a consequence of the developments in legislation and constitutional jurisprudence. The resulting image is decidedly different from that still formally inscribed in the constitutional text. Moreover, it seems to deny the main consequences that the doctrine had drawn from the textual tenor of the 2001 reform: the principle of equal-ordination; the equal dignity; the affirmation of the role of the Regions as bodies of general and residual legislation; the idea of administrative functions which are usually of the municipalities; the same articulation of administrative functions based on the principle of subsidiarity. In this loss of a formal role, local authorities seem to be looking for their role and relocation in a different system.

The case of the Provinces is emblematic of a failed constitutional design (p. 159)

Gian Candido de Martin

The expectations for the strengthening of local autonomies, that had been raised in 2001 by the reform of the "Titolo V", have been progressively betrayed by the enactment of erratic and confusing legislation, mainly concerning provincial institutions as well as wide-area functions and having a very problematic impact both on Municipalities and ordinary/special Regions. To emerge from this swamp, the autonomist polycentric design enshrined in the Constitution should be finally taken seriously and implemented consistently, with full respect for the principle of subsidiarity, starting from the organic clarification of the fundamental functions of local authorities.

Regions and parity democracy: “the first shall be the last” (twenty years after the reform of Article 117 of the Italian Constitution) (p. 185)

Tania Groppi

The article examines the impact of the introduction of art. 117, paragraph 7, in particular regarding the equal access of women and men to elected offices. Despite the twenty years that have passed since the reform and the adoption of multiple regional and state regulations, the gender gap in political representation remains much wider at the regional level than at the state or local level. After presenting the legislation and some data on the presence of women in regional institutions, the article questions the measures to be taken, deeming it necessary to move to real positive actions favouring the historically under-represented sex, which are considered consistent with the constitutional text.

The role of Regions in the implementation of horizontal subsidiarity: stages, interpretations and problems (p. 215)

Daniele Donati

Twenty years after its constitutionalisation, the essay analyses how the principle of horizontal subsidiarity has been interpreted and implemented by the Regions. As potential leaders of this process, they have been limited by the ambiguity in how the statutory framework is set out and the imprecision of legal definitions contained therein. As a result, they adopted some innovative features and have shown many hesitations in adopting proper features in response to State legislation. The essay is thus structured chronologically and compares the differentiated regional approaches, also considering the most relevant jurisprudence. At the same time, the discussion is an opportunity to analyse some fundamental interpretations and to assess the potential of a principle that has always been controversial.

Regional Observatory

The Regions between economic government and job creation: social consultation and European resources in Emilia-Romagna «Pacts for Labour» (p. 245)

Enrico Verdolini

This paper aims to study the measures adopted by Emilia-Romagna Region concerning economic government and job creation, in particular, «Pacts for Labour». The «Pact for Labour» (2015) is a planning document about economic targets signed by the Region and social partners following the economic crisis of 2008. More recently, the «Pact for Labour and climate» (2020) combines economic matters and environmental targets. The first issue is to identify the Regions role in economic government and job creation. How to classify the practice of the «Pacts» from a legal perspective? The text of art. 117 of the Italian constitution and constitutional jurisprudence help draw a picture, but they are insufficient to conclude. Therefore, it is necessary to use labour law categories, particularly «social consultation», to answer the question of the Pact's nature and understand the range of action of these instruments.