

TABLE OF CONTENTS AND ABSTRACTS

Essays and Articles

The Application of Anti-corruption Legislation in Regions and Local Authorities: Unitary Disciplines and Organizational Autonomy (p. 349)

Francesco Merloni

The article describes the trend of recent anti-corruption legislation aiming to impose uniform solutions for the entire administrative system and then focuses on the solutions adopted in practice. On the one hand, the uncertainty of state legislation, which appears at times, is attenuated only by local-level involvement via agreements with regional and local authorities for the establishment of compliance programs to implement the new measures. On the other hand, there are different situations ranging from impositions that impair local authorities' organizational autonomy to the adoption of national rules, open to a virtuous differentiation (enhancement of administrative impartiality). The conclusions put forward hypotheses of reconciliation between unitary and differentiation needs via reforms even at the Constitutional level.

The New Code of Conduct and the Strengthening of Public Officials' Impartiality (p. 377)

Enrico Carloni

Anti-Corruption Act no. 190 of 2012 amends Article 54 of Decree no. 165 of 2001 and redefines the Italian legislation on Codes of Conduct. On this basis, the Italian Government adopted a new Code of Conduct, with Presidential Decree no. 62 of 2013, which defines the minimum duties of public officials, and which each administration needs to accommodate with specific codes. The emerging system aims to strengthen officials' impar-

tiality, and this goal is linked to Constitutional provisions that affirm the principles of exclusivity in the service of the nation, loyalty and diligence, impartiality and accountability. The new model, in which the violation of the duties contained in codes is a “source of disciplinary responsibility”, is in contrast with the idea of a complete “privatization” of the employment relationship and confirms the recent trend towards reassessing the special nature of public employment.

Regulating Access to External Mandates for Public Employees as per Law No. 190/2012: The Evolution of the System and Application Problems for Local Authorities (p. 409)

Benedetto Ponti

The provisions introduced by the 2012 Anti-Corruption Act include the strengthening of rules concerning civil servants’ access to external assignments. The exclusiveness of civil servants’ service, in order to protect administrative impartiality, is intensified by making it mandatory and explicit to conduct analytical evaluations of the potential conflicts of interest activated by such assignments. Moreover, the law requires public administrations to draw up a catalogue of proscribed assignments. The text, in addition to analyzing these measures, identifies problems that could ensue from a poorly governed and overly differentiated application of these new measures at the regional and local levels.

Right to Transparency and Judicial Protection (p. 425)

Marco Magri

Recent anti-corruption legislation, in terms of administrative transparency (most recently Legislative Decree no. 33 of 2013) aims to enact the concept of total accessibility through the recognition of apparently “new” subjective situations: “anybody’s” rights strengthened by a right to “civic access” to data, information and administrative documents that are required to be published. A more in-depth investigation, however, reveals that nothing has changed with respect to the established right to access administrative documents, whereas the protection of subjective rights to use available information and disputes about the right of access to personal data are globally devolved, as “breach of duty of transparency” issues, to administrative jurisdiction. This seems not to comply with the principles laid down by the Constitutional Court in its judgment no. 204 of 2004.

About Certain “Regularities” in Constitutional Jurisprudence after the Reform of Title V (p. 453)

Simone Calzolaio

This paper examines some of the regularities to be found in Constitutional jurisprudence after the reform of Title V of the Constitution, in particular as concerns the high level of conflict between State and Regions, the notions of autonomy and internal sovereignty, and legislative competence for regional public employment. The review leads to the finding that the connections among these jurisprudential regularities reveal an expansion of State supremacy in the relationship with the Regions.

The De-Legitimization of the Political Class in Italian Regions (p. 477)

Maurizio Cerruto

The article examines how and to what extent the regional political class in Italy has undergone a process of de-legitimization. The topic will be addressed by focusing on two different dimensions: the cost of regional institutions and the behaviour of corrupt local politicians. In particular, the text deals with the costs of the number of both regional councillors and the size of their earnings and of council group funding, the reform that has led to the reduction in posts and allowances. The text also reconstructs events leading to the scandals that have affected, and partly engulfed, three regional administrations: Sicily, Lazio and Lombardy. In the conclusion the author argues that the crisis of legitimacy of the political regional class has had an impact on the same regional institutions in terms of the loss of credibility and trust by citizens.

Notes and Comments

Political Crisis, Dissolution of Regional Assemblies and Early Elections in Lazio and Lombardy: A Comparative Analysis (p. 509)

Daniele Coduti

The essay deals with the crisis of regional government in Lazio and Lombardy, which led to the calling of early elections in 2013. The analysis underlines the similarities and differences between the two political crises, their critical aspects and their consequences.

Dissolution of the Regional Council and Elections: the Case of Molise (p. 535)

Michele Della Morte, Bruno De Maria

The article analyzes the institutional situation of the Molise Region after the dissolution of the regional council. The call for new elections at the beginning of 2013 and the inauguration of new organs have had an effect on the course of the adoption of the new statute. The deferral of its entry into force reflects the problems of implementation of constitutional reforms that have affected Title V of the Constitution. In this sense, the Molise case offers an opportunity to assess the critical features of the regionalist transformation of Italy's legal system.

The Management of Local Health Agencies after the Balduzzi Reform (p. 551)

Edoardo Nicola Fragale

Significant changes have been introduced by the Balduzzi decree concerning procedures for appointing managers in the public health sector. In an attempt to curb the politicization of appointments in local health agencies, which often overflows even to lower management levels, the decree introduces different forms of power proceduralisation. This tool is used to a greater degree for appointments in complex structures, where discretionary power is controlled by selection through comparative procedures, that could raise new doubts about related jurisdiction; it is used to a lesser degree for the top-management positions, where confidence remains the main criterion for choosing managers.

Common Goods and Public Services: Social Utility and Democratic Management (p. 583)

Nicola Giannelli

Management of commons is a key matter of public policy. A community must avoid over- and under-exploitation of commons. But first of all political debate should focus on defining the nature and boundaries of commons as goods that pursue the fundamental common goals of a community. In order to protect them the community can confer a special legal status to to commons. Many public services that defend basic rights and the dignity of human beings should be considered as commons, and citizens

should be called to participate in pertinent decision-making. Management of these services is a responsibility of the state, local authorities, self-administration bodies or non-profit private institutions, at different levels of governance. But public goals need to be safeguarded via participatory decision-making. In this field economic performance will not be the main value in the public regulation regime, but it can be achieved when governance involves citizens that are both users and payers of these services.

Regional Observatory

Local Government and Citizen's Welfare: The Avoidable Costs of Fragmentation (p. 617)

Sabrina Iommi

Readings and Highlights

E. Álvarez Conde, A. García-Moncó, R. Tur Ausina, *Derecho Autonómico*, Madrid, Tecnos, 2013 (p. 643)

Sabrina Ragone