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Essays and Articles

Suspicion and Participation: The Dual Nature of the Transparency Principle (p. 657)

Marco Bombardelli

Decree No. n. 33/2013 regulates the principle of administrative transparency and contains several provisions relating to the public administration's duty to publish documents, information and data. The new legislative regime highlights the twofold nature of this principle and these obligations. On the one hand, in fact, they are considered as a barrier to the risks of corruption and mismanagement, and thus addressed from a viewpoint stressing suspicion towards public administration. On the other hand, they are considered as a form of support for an open, service-oriented administration, engaged in satisfying the community's needs, and thus addressed from a viewpoint emphasizing participation and mutual trust between citizens and the administration. These two approaches are compatible, but so different from one another that it is of crucial importance to highlight the distinction.

The Obligation to Disseminate Information and Legislative Decree No. 33/2013 According to the Constitutional Model Interpretation of Public Administration (p. 687)

Paola Marsocci

The notion of publicity and that of transparency applied to public administrations' activities continue to be plagued by an uncertain legal status. The author feels that it is possible to ground the public administration's responsibility to render accessible any information that is not legitimately subject to secrecy or confidentiality in the constitutionally sanctioned in-

terpretation of administration. Legislative Decree no. 33/2013 contributes to the completion of a reform plan which has helped achieve, not without difficulty, a normative definition of the link between public control of the circulation of administrative information, on the one hand, and, on the other, individual and collective responsibility. In her conclusions the author identifies Articles 2 and 21 of the Constitution as the foundation of “new” knowledge claims as regulated by Decree no. 33/2013.

The Transparency Code and the New System of Public Data Knowability (p. 725)

Annamaria Bonomo

Legislative Decree no. 33/2013 is the final stage of a long process that has entailed the abandonment of the “accessibility” system, in which access to information was subordinated to a motivated request by legitimate private subjects (restricted entitlement to access), in favour of a new system based on “availability”, in which public authorities play an active role in spreading information by publishing (usually employing on-line tools) all data subject to mandatory disclosure under current legislation. The article analyzes the changes introduced by the “transparency decree”, highlighting its positive features as regards the removal of restrictions concerning subjective legitimacy to the knowability of public data; but critical features are also identified, as regards lack of non-partisan monitoring that could ensure accuracy, truthfulness and reliability of public information.

Open Government: What Else? (p. 753)

Laura Sartori

The text offers a sociological perspective on Open Government, an emerging paradigm in public governance increasingly addressed by politicians, administrators and citizens. Decree no. 33/2013 fits perfectly into this framework because it deals with topics such as transparency and openness. The first part of the article describes transparency, participation and collaboration as the fundamental principles of the new paradigm and explores the roots of open culture. The central part touches upon Opengov measurement issues and the adequacy of existing indicators tailored to the Italian case. It ends emphasizing the topic’s complexity and a set of key points that need to be addressed in order to implement the Open Government paradigm.

The Development of the Local Economy through Culture and Tourism, and the Coordination of Public Powers (p. 777)

Cesare Pinelli

The author seeks to demonstrate the existence of a wide gap between the opportunities that environment and art are likely to offer for Italian growth, especially as concerns the development of tourism, and the little attention paid to this perspective by Italian policy-makers. To this end, the author focuses on the causes of this gap, including poor administrative practices and a conservative view of cultural resources. Finally, the article identifies potential remedies and proposals aimed at achieving a fine-tuned policy on such grounds.

Notes and Comments

Mayors' Ordinances Determined by Exceptional and Urgent Circumstances in the Field of Road Traffic in Order to Protect Health and Physical Integrity (p. 793)

Piera Maria Perpetua Vipiana

The article, after illustrating the typological variability of the ordinances concerning vehicular traffic, examines those determined by exceptional and urgent circumstances, particularly those enacted by mayors. The analysis is performed on the basis of case law and legislation, which provide both a general framework and a variety of special regulations. It then discusses the assumptions and requirements of such ordinances, the power to adopt them, procedural profiles, motivation, content, and publicity, as well as their review by administrative judges. Finally, some thoughts are outlined about the role of the power to adopt ordinances in the area in question and in relation to ordinary powers.

Subsidiarity in the Regionalization of the Stability Pact and the Strengthening of the Control and Incentive System (p. 823)

Flavio Guella

The contribution, in describing reform measures concerning the internal stability pact for local authorities in Italy, aims to identify in their economic bases an interpretive key for evaluating both their unitary rationale and their consistency and compatibility with the more general "fiscal fed-

eralism". In this way the methods of dynamic coordination are structured around the central issue of setting targets on balances, systematizing on this basis incentive and verification systems that have been enacted over time (up to the latest trends in goal "personalization" according to virtuosity parameters or via regionalization of pact – and the strengthening of controls).

Recent Trends Concerning the Involvement of Regions and Autonomous Provinces in European Law-Making (p. 857)

Ivan Ingravallo

Law No. 234/2012 has modified the legal framework governing the relations between the Italian and the European legal systems. The recent law enhances the contribution of Regions and Autonomous Provinces to the definition of EU law – especially as concerns the role of Regions and Autonomous Provinces in the ascending stage of creation of European law – thus confirming a trend that also involves the European Treaties. Hitherto the practices adopted by Regions and Autonomous Provinces in this area does not appear relevant. The legislative reform of 2012 should – it is hoped – represent a turnaround and usher in a renewed interest for the participation of Regions and Autonomous Provinces in EU decision-making processes.

"Intermediate" Local Government in Hungary (p. 879)

Mauro Mazza

The article examines the structure of local government at the provincial level (counties) in Hungarian law. This structure has been amended several times during the historical evolution of Hungarian legal system. From the Communist era to the post-1989 transition, the institutional characteristics of the counties were innovated in many of their organizational, functional and financial aspects, as well as in the context of their relationships with other bodies and authorities of the State. The new Fundamental Law of 2012 and the organic law on local government adopted in implementation of the Constitution are partially in continuity with the local government legislation enacted during the post-socialist transition phase.

Regional Observatory

2012 Report on Legislation in Tuscany: Lights and Shadows among Representation, Participation and Evaluation (p. 907)

Raffaele Libertini, Pietro Mercatali, Francesco Romano

The “Unbearable Lightness” of the Appeals against Regional Election Results: The 2010 Voting Round and the Lack of Protection for a Legal Good of Uncertain Nature (p. 925)

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Internal Stability Pact: Regionalization Profiles in Emilia-Romagna (p. 953)

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