

# TABLE OF CONTENTS AND ABSTRACTS

## Essays and Articles

### Multilevel Governance in Asylum Seeker and Refugee Reception Policies in Italy (p. 5)

*Francesca Campomori*

*Reception measures for asylum seekers and refugees as defined by law no. 142/2015 imply a high degree of cooperation among levels of government. The actual implementation of this law reveals conflicts between the national government, which aims to distribute asylum seekers in all territories, and some municipalities which try to resist such decisions. Even at the local level, public and private actors do not always cooperate and display a complex variety of approaches reflecting civil society's array of positions of towards refugees and specific measures promoted by local governments. This paper analyses the multilevel governance dynamics in the specific case of reception policies for asylum seekers and refugees after the so called "refugee crisis" and the introduction of new rules as established by the so-called Salvini decree (n. 113/2018).*

### Social Services and Immigration (p. 21)

*Annalisa Gualdani*

*The essay focuses on access to welfare services by immigrants. First, the text describes the evolution of the concept of citizenship and how, along with the lack of public resources, it influences the supply of social services in favour of foreigners. The analysis then examines the set of provisions regulating the conditions and the constraints established by the Italian legal system in order to extend welfare services to immigrants. The conclusion of the investigation shows that the insurmountable limit set by the Italian welfare system is represented by the need to safeguard fundamental rights, the intangible nucleus of which is identified with the services arising from Article 117, para. 2, letter m, of the Constitution, which must be guaranteed indistinctly to both citizens and foreigners, in light of the principle of equality.*

**Immigrants' Right to Health (p. 45)**

*Cecilia Corsi*

*The essay aims to establish a detailed framework of the legislation and the case-law concerning the protection of non-citizens' health. After having described the guarantees granted to immigrants legally residing in our territory, the text addresses issues concerning the treatment of irregular foreigners. Special attention is devoted to the relationship between health protection and the power of the State to regulate foreigners' entry, and expulsion. The essay ends by highlighting the importance of measures necessary to allow immigrants to genuinely exercise their right to health.*

**New Inhabitants' Housing Rights (p. 77)**

*Paola Capriotti*

*What opportunities are offered to non-EU citizens in order to achieve housing autonomy? This article attempts to describe the current interpretative status of housing rights, especially in light of the evolution of the stance of the Constitutional Court, recently engaged in verifying the legitimacy of long-residence requirements in order to achieve access to housing support measures. Such requirement exert inevitable impacts on foreigners and exacerbates an already complex situation, featuring scarcity of public housing and rent market discrimination, which recent housing support policies certainly do not simplify.*

**Integration of Immigrants and Access to Housing: A Double Challenge for the Spanish Administration (p. 99)**

*María Antonia Arias Martínez*

*Legislators in Spanish autonomous communities have enacted a number of actions to address the housing crisis that affects mainly the most vulnerable social groups, including the immigrant population. Appropriate accommodation is essential for the development of the latter's life projects and for its integration in the host society. This article undertakes an analysis of the solutions provided by legislators to deal with this twofold issue and reaches the conclusion that such actions have limited*

*practical effectiveness. Even though a large part of autonomous community norms as regards housing exert a strong social impact, their subsequent development requires compliance with conditions that become administrative barriers which immigrants find hard to overcome.*

**Maritime Rescue Obligation, Coast Guard Functions and “Delegated” Refoulement: On the Powers of the Minister for the Interior (p. 149)**

*Marco Magri*

*The article examines recent directives adopted by the Minister of the Interior in the field of border policing and recommending that the administrative bodies responsible for maritime search and rescue operations, including the Navy, consider the transit of NGO vessels, carrying migrants (mainly refugees and asylum seekers) rescued in the high seas, as a “non-innocent passage” in Italian territorial waters. According to the Minister’s orders, the assignment of a place of safety by Italian authorities under the International Convention on Maritime Search and Rescue (the so-called SAR Convention) requires an NGO ship not to have entered an “SAR zone” other than that of Italian responsibility and then intentionally enter the latter, thus circumventing the operational indications or, in any case, evading the jurisdiction of the country responsible for the search and rescue. The analysis raises a set of questions, especially as regards domestic law, with reference to the competence of the Minister of the Interior to regulate, by means “directive” acts, the search and rescue activities of the Coast Guard.*

**Social Co-operatives, Third Sector Reform and Regional Legal Provisions: An Evolving Legal Form? (p. 181)**

*Alceste Santuari*

*According to the Italian Constitution of 1948, the 1991 Social Co-operatives Act acknowledges social co-operatives as the legal and organisational form whereby to pursue social goals by carrying out services of general interest. Over the years, regional governments have enacted specific legal provisions concerning social co-operatives. The recent Third Sector Organisations and Social Enterprises Reform Acts have also included a set of provisions concerning social co-operatives, especial-*

*ly with reference to their relationships with local authorities. The article aims at testing whether the current legal framework relating to social co-operatives is capable of promoting their development and a wider engagement in the provision of services of general interest.*

### **Notes and Comments**

About “Social Housing”: Social Right to Housing or Right to Social Housing? (p. 207)

*Alvise Vittorio Alessandro Divari*

*The global financial crisis of 2007-2008 placed the right to housing, or social housing, at the centre of an important debate. Social rights, including the right to housing, are complex and difficult to define in both the Italian and the European contexts. The text provides an overview of legislative sources and doctrines, describes a set of proposals based on an analysis of critical features of the material Constitution and widespread practices in Italy.*

### **Regional Observatory**

Development and Critical Features of the Implementing Decree System of the Trentino-Alto Adige/Südtirol Region’s Statute (p. 231)

*Gabriele Giovannetti*

### **Readings and Highlights**

The Italian Healthcare System and Its New Challenges. Reflections on the Book by C. BOTTARI, *Profili innovativi del sistema sanitario*, Torino, 2018 (p. 269)

*Claudia Tubertini*