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Editorial

Essays and Articles

The author analyses the recent constitutional reform on environmental protection, focusing both on the effects that may arise from the revision intervention and on the omissions and gaps that remain to be filled. In particular, from the first point of view, both the confirmatory elements of the consolidated achievements of the constitutional jurisprudence are highlighted, as well as the new elements for potential future developments. From the second point of view, the author dwells on the need for a more detailed discipline at the constitutional level, which has remained unsatisfactory for the moment.

Thanks to its imperative/transformative force, the ecological transition paves the way to an eco-design experience aimed to shape the law (and legal space-time) fit for the net-zero age, both in terms of capability to carry out structural changes and to ensure justice in transitions, along the new coordinates outlined by the transformative resilience paradigm (art. 2, Reg. 2021/241/EU). It's a constitutional eco-design experience, which shapes the EU constitutional framework, by promoting both an ecological primacy which moves us away from the more traditional sustainable development perspective together wits anthropocentric footprint; and

an idea of justice "in action", nourished by a political (trasformative) vision for the future. Based on these new coordinates, the Green deal reshapes the law and economy relationship and the ways in which the law governs the economy, leading to an eco-nomos and an eco-nomy fit for the net-zero age.

The Shape of the Environment. A Route Between Constitutional Policy and ECHR Legal Constraints (p. 851)
Marta Ferrara

The paper analyses the Italian constitutional amendment made by constitutional law No. 1/2022, which introduces environmental protection as one of the constitutional principles (Art. 9 of the Italian constitution). Specifically, the study is based on the ECHR's case law on environmental issues and aims to demonstrate two main topics: the "uselessness" of the reform in a world related to environmental protection – which can be considered actual in the Italian legal system even before the constitutional amendment –, and the difficulty in considering enforceable before a court the intergenerational clause added to the art. 9 of the Italian constitution.

The Reform of Articles 9 and 41 of the Constitution From the Perspective of the State-Regions Relationship (p. 875)
Giuseppe Marazzita

The contribution addresses the question of the impact of the recent reform of articles 9 and 41 of the Italian constitution introduced by constitutional law No. 1/2022. In particular, the paper aims to analyse the division of legislative powers between the State and the Regions in the field concerned by the constitutional amendment. For a rational answer to the question, it is necessary to examine how this division in environmental protection was resolved by the constitutional jurisprudence of the first phase (1970-2000) and the second phase (2001-2021). Subsequently, it will be possible to assess the normative impact of the individual provisions introduced in the amended constitutional text with particular reference to the headings that express constitutional values that

are already established (environment and ecosystems), in the process of being affirmed (biodiversity and the interest of future generations) or entirely new (protection of animals).

Within the context of the doctrinal debate on the reform of art. 9 and 41 of the Italian constitution, the essay proposes an interpretation of the revision aimed at highlighting the emergence in the constitution of the principle of integration of European derivation and the "new" public interest in "ecological integrity" of the country, already focused on the past by doctrine. Such recognition would have repercussions both on the organisational and the procedural level, which are highlighted in the contribution with particular reference to local government duties.

This work addresses the social inequalities generated by depopulation in access to public services. It proposes the complete digitalisation of public administration in scarcely populated environments as a measure that can help promote equal opportunities. This result could be achieved by betting on the constitution of small intelligent municipalities in which, thanks to new technologies, current public services can be improved, and access to new digital public services can be guaranteed. This digital transformation in terms of public services not only helps to reduce the negative effects produced by depopulation, but it could mean taking a further step in terms of the social rights of citizens since public services and benefits will be able to be customised based on user preferences or even be provided proactively.

The 40th anniversary of the legislation of March 2nd 1982, n. 82, establishing the decentralised organisational model in France is a significant opportunity to question the effectiveness of a reform that has inaugurated a long legislative path marked by federalism. This regulatory framework has recently been enriched by the loi «3DS» on differentiation and simplification – two terms whose scope has not been clarified by the legislator, nor from constitutional jurisprudence – which would seem to contribute significantly to the déconcentration rather than to the original intent of the décentralisation. In this sense, over the last three decades, there has been a strengthening of the role of regional préfets, real representatives of the state, with powers on the economic and strategic direction of territorial development through the instruments of contract programming. Therefore, with specific regard to the relations between State and Regions, the analysis will focus on the French legal system, which is worthy of attention in several aspects, starting with the contractual planning activity that is poorly practiced in the Italian legal system.

Thirty years after Law No. 537/1993 established the evaluation boards in Italian universities, the present contribution aims to reconstruct the normative framework that has marked the progressive development and enrichment of their role to highlight their contribution to the university system. The investigation examines the different functions gradually attributed to the evaluation boards by the national legislation, the ministry of education and the universities based on the provisions of their statutes and by-laws. The intention is to understand not only the current complex dimension of the role of the evaluation boards but also to verify whether or not there is continuity with the original function attributed to these bodies.

With the ASADE ruling, issued on July 14th 2022 (C-436/20), the European Court of Justice further clarified the scope of application of articles 74, 75, 76 and 77 of directive 2014/24/EU concerning the award of public procurement contracts relating to social and other specific services. Following the principle already outlined in the Spezzino (C-113/13) and Casta (C-50/14) cases, the decision recognises the broad discretion of member states in the organisation of services of general interest. In particular, the ECJ confirmed the compatibility with EU law of national measures reflecting the choice of local administrations to pursue goals that are not strictly competitive but functional to ensure social rights and efficient use of resources by allowing the active involvement of NGOs in the management of health and social services through reserved procedures.