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ABSTRACTS

THE ACTION FOR THE DECLARATION OF NULLITY OF AN ADMINISTRATIVE ACT

by Enrico Follieri

Having highlighted that in administrative law procedure, as in current procedural law, the principle of the atypical nature of the right of action is based on the need to protect subjective legal situations, it is argued that the Code of administrative law procedure has had to take into consideration (also) typical actions both because the Code governs disputes where one of the parties is an institutional power and it is therefore necessary to define the judge's decisional powers in respect of the executive, and also because in substantive law subjective rights exist but no lawful interests.

The action for the declaration of nullity of an administrative act may be brought before an ordinary judge or before an administrative law judge, except in the case of exclusive jurisdiction, and the discipline before the two judges is presented analytically, emphasizing the typical nature of the action before the administrative law judge and outlining the differentiated rules of nullity for terms of impugnement depending on the parties involved in the process. As a result, doubts of constitutionality have been raised in relation to the parameters of due process (article 111 of the Constitution), and it is argued that the other features of the nullity of an administrative act reflect the absolute nullity established in the Civil Code for contracts.

THE RIGHT TO MARRIAGE AND THE CONSTITUTIONAL IDEA OF "FAMILY"

by Antonio Ruggeri

The first aim of the paper is to highlight how the constitutional model of family is able to emerge not only from the text of the Italian Constitution, but also from the provisions provided by other (external) Charters of fundamental rights, like the European Charter of fundamental rights and the European Convention for the protection of human rights and fundamental freedoms.

The paper goes on in the attempt to demonstrate that our Constitution is not neutral or silent with regard to the choice of a particular definition or model of family. By contrast, a careful reading of the relevant provisions of our Constitution shows how the latter endorses a specific cultural model of family confirmed by a very ancient tradition (which has been recalled by the Constitutional Court itself, in the

well-known decision n. 138/2010). Tradition, the above mentioned one, not only characterized by a stable relationship between two persons of different sex, but also founded on the marriage's institution.

The paper then analyses some contradictions in the relevant case law of the European Court of human rights, in particular those decisions in which, on the one hand, the Strasbourg judges make reference to the national legislation in order to identify the characteristic of "family" and, on the other hand, recognize also to the same sex relationship the right to a "familiar and private life".

It is also criticized the recent decision n. 4184 of 2012 of the Court of Cassation (the highest judicial authority) in which the Italian judges have manipulated the case law of the European Court of human rights, by declaring that the latter would have said that the task to define the nature of family would have been left directly and exclusively to the national legislation, whereas, as it has been anticipated, the above said definition is first of all connected to the provision of Italian Constitution.

Finally, the paper underlines as the above mentioned interpretative approach, shared also by a part of the scholarship, seems able, as final result, to deprive the Constitution of its prescriptive value towards the legislative power, because the latter would be the exclusive authority competent to define what should be meant by the term "family".

DUE PROCESS IN THE LAGELY AND GLOBAL ORDER: INTRODUCTORY REMARKS ON THE STRATEGIES OF JUSTIFICATION ABOUT THE PRINCIPLE

by Alberto Zito

The paper analyzes the different meanings of the due process applied to administrative proceedings, demonstrating that the guarantee of participation is its most relevant profile. Furthermore it examines the studies in which the relevance of this principle in global decisional processes is analyzed. It proposes a reconstruction meant to demonstrate how the participative principle, as a result of the equal dignity among individuals, can constitute an element for (democratically) legitimating public decisions.

CONSTITUTIONAL ISSUES ABOUT SICILIAN PUBLIC PROCUREMENT LAW

by Marco Mazzamuto

Before of EU regulations and competition principles, it is today more and more difficult to justify a persistent role of Regions in legislative power beyond the competence of the State. In public procurement Italian Constitutional Court has progressively reduced such role for the benefit of the state legislative power, also with regard to Regions, such as Sicily, which enjoy "special" autonomy.

Regions are trying to counter this trend, persisting in the approval of regional laws which differ in certain respects from the state law, often just to safeguard local interests opposing free market or just to reaffirm the importance of regional public authorities even in the absence of a genuine public interest justifying different rules.

ENVIRONMENTAL LAW IN THE BRAZILIAN LEGAL ORDER

by Raquel Dias da Silveira

This paper reflects a summary of the main aspects of environmental law and environmental protection in Brazil, based on an analysis of art. 225 of the Constitution, which incorporated the principles of the Stockholm Declaration and the Declaration of Rio de Janeiro. Analyzing the protection administrative, civil

and criminal environment, the study focuses on discussions around the new Forest Code pending in Congress. The proposed new Code provides for the suspension and fines amnesty from deforestation in areas of permanent preservation of rural land for purposes of social interest (eg agriculture and livestock), through the Programme for the Environment. In addition to the Programme for the Environment, other changes in Brazilian legislation are seen as a setback for environmentalists. The controversial bill before Congress, if approved, depends, however, the presidential approval.

**THE SOCIAL RIGHTS OF NON-CITIZENS:
HEALTH, SOCIAL ASSISTANCE AND EDUCATION**

by Giuseppe Chiara

Starting from the examination of the regulations on immigration, the essay describes the latest developments of constitutional case law with reference to the recognition of some important social rights to not citizens.

Particular attention is paid to the study both of the variety of the parameters used in judging constitutional legitimacy, with significant openings to the principles of the CEDU, and to the argumentations developed starting from the text of the new Title V of the Constitution to involve the intergovernment bodies in the determination of the social policy intended for not citizens too.

**SOME REMARKS UPON THE LEGISLATIVE POWER
IN LABOUR LAW BETWEEN STATE AND SICILIAN REGION**

by Luciana De Grazia

The article investigates which consequences had the reform of Title V, second part of the Italian Constitution, on the legislative power allocation between State and Sicilian Region in labour law matter, with a particular regard to the recent development of the case law of the constitutional Court.