

GIOVANNI BAROZZI REGGIANI

ABSTRACT

Renewable Sources – Go-to Areas – Permissions – Simplification – RePowerEU

This paper moves from an analysis of the regulatory framework (introduced by Legislative Decree no. 199/2021, subsequently amended by Decree-Laws nos. 17 and 50/2022) concerning the power of the Regions to identify “suitable areas” for the construction of energy production plants powered by renewable sources. This is done in order to carry out a general analysis regarding the relationship between the principle of maximum diffusion of said energy sources and other constitutionally relevant values and interests – in particular, landscape-environmental ones – that come to interface with this principle. This will be followed by an assessment of how the balancing between these principles and interests has been achieved in the specific normative discipline analyzed.

GIAN DOMENICO COMPORTI

ABSTRACT

*Energy – environment – sustainable development
courage to administer – administrative procedure – scarcity*

The words of the title, indicating three key concepts of current public policies for the revitalisation and support of social and economic issues, are analyzed in a metaphorical key of the ingredients necessary for a good administration, by way of essentially procedural, of the challenges posed to humanity by the repeated crises that lay bare the scarcity of material and cultural resources available for its evolution.

DAMIANO FUSCHI

ABSTRACT

*Animal protection – animal law – environmental protection
Constitutionalizing nature’s law – Constitutionalizing animal’s law
fundamental rights*

The article explores the path followed, since ancient times, to enhance the legal protection of animals. After the description of the evolution of the concept of animal from the ancient Greeks to present day, the work describes how the concept of animal protection has evolved and has become a constitutional value. The Author then focuses on the German system of animal protection, to underline the main concept of the constitutional animal protection since Germany is one of the leading States in the world in the affirmation of this constitutional value. The evolution of the concept of animal protection is analyzed with a legal comparison between Italy and Germany because the Italian constitutional reform that introduces the value of animal protection in the Italian Constitution occurred 20 years after the German one

ENERGIE RINNOVABILI

ABSTRACT

*Renewable energy – local opposition – NIMBY – information
public participation compensatory measures – Renewable Energy Communities*

This article explores the issue of local opposition to renewable energy projects in Italy focusing on possible remedies for this problem. After having analysed the main protagonists of the protests and their motivations, the article tries to identify tools and strategies to create a greater consensus around these infrastructures. Alongside the role played by correct information, the need to involve local communities in decision-making processes is emphasized: in this regard, this study examines the Public Debate procedure, recently introduced in our legal system. The article also engages with compensatory measures in favour of the areas where renewable energy projects are located. Lastly, attention is paid to Renewable Energy Communities, an innovative instrument that brings together citizens and other local actors to produce their own energy, generating a substantial added value in terms of local acceptance of renewables.

MATTEO RICCARDI – PAOLA MARTINO

ABSTRACT

*Criminal settlement – environmental crimes
restorative justice – diversion procedure – corporate liability*

The Italian environmental criminal law combines a traditional afflictive and punitive approach, by the provision of a wide set of offences and sanctions, with a most recent restorative approach, based upon some legal instruments aimed to ensure a quick and effective restoration of the environment in case of negative consequences deriving from the offence.

The actual model of protection of the environment is a ‘criminal stair’ that ranges from administrative offences of the Environmental Code to ‘ecocrimes’ introduced in the Criminal Code by the legislative reform of the Law No. 68 of 2015, that shows two opposite trends in the management of the environmental ‘deviance’.

In this context, as an instrument of restorative justice, the ‘criminal settlement procedure’ (CSP) provided by the Section Sixth-bis of the Environmental Code has the potential to revolutionize the traditional concept of criminal justice and represents a new model of environmental prosecution legislation through means of voluntary collaboration, that requires the offender to comply with some ‘criminal obligations’ in return of a non-prosecution agreement.

BENEDETTA MINUCCI

ABSTRACT

Renewable energy – energy communities – collective self-consumption

The aim of this paper is to highlight the need for a response to climate-threatening emergencies.

It is well known that the EU has long been committed to finding solutions in all areas that directly and/or indirectly have a negative impact on the environment.

These include the Directive n. 2011/2018/UE (RED II) aimed at extending the scope of the RED Directive on the promotion of the use of energy from renewable sources. It focuses on the transport, buildings and industry sectors and gives citizens an increasingly important role in achieving national and European objectives: first and foremost, as

conscious consumers, but above all by actively involving them in the development of projects for the exploitation of renewable sources.

The directive has been transposed in Italy with the d.lgs. n.199 that continues the simplification of the bureaucratic process aimed at recovering the strong delay accumulated to unblock investments and to install new renewable plants.

It should be pointed out that the Italian adaptation legislation does not show particular deviations from the EU text. However, the effectiveness of simplifications depends on the ability to move to implementation as soon as possible.

WLADIMIRO TROISE MANGONI

ABSTRACT

*Electric power generating plants – Renewable sources – Authorization procedure Territorial and environmental prejudice – Compensation measures
Agreements between Municipalities and private companies*

The paper addresses the general issue of the construction of electric power generating plants from renewable sources. In the authorization procedure for these plants, the issue concerning the decision of fixing compensation measures for the territorial and environmental prejudice that the construction of these plants can cause often arises. The problematic issues dealt with in the paper relate to the characteristics that the compensation measures must have and the validity of agreements between municipalities and private companies, in order to define the said compensation measures.

LUCA BELVISO

ABSTRACT

*Biodiversity – forests – Natura 2000 network – Special Protection Areas
conservation measure – impact assessment*

The decision here analysed concerns a case of excessive deforestation by Slovakia within certain SPAs designated for the conservation of the capercaillie habitat. The Commission's complaints – which center on the violation of the Habitats and Birds Directives, especially their provisions dealing with Member States' obligations to adopt

conservation measures and to subject certain plans and projects to impact assessment – allow to examine these norms in the light of the European institution’ most recent clarifications, and then to focus on the specific aspects of the decision to grasp the European Court’s rigorous approach in interpreting the rules set out to protect biodiversity. In this context, faced with the tendency of some Member States to put the socio-economic interests before those related to the conservation of ecosystems, the Court of Justice becomes a key player in the protection of biodiversity, representing an important guardian of European rules and a significant barrier to national excesses.

ANNA MARIA DI CHIO

ABSTRACT

*Contaminated sites – obligations of intervention by the former site operator
site qualification – mayoral ordinance power
notions of unforeseeability and urgency*

The judgment under review provides a valuable opportunity to reflect on the tools available to public administrations to cope with situations of environmental danger and in particular on the mayor’s exercise of the power of extra ordinem ordinance, as provided for in Articles 50 and 54 D.Lgs. n. 267/2000, following reports from private individuals regarding the aforementioned dangers.