

Abstract

Conscious participation and due planning process

by Patrizia Marzaro

Zoning and urban planning are ideal frameworks for experimenting and applying the principles and techniques of democratic participation. In this respect, zoning and urban planning can serve as remedies for the broadening crisis of representative democracy and the democratic deficit of administrative decisions. Regional legislations on land-use planning confirm the importance of participatory democracy. The most advanced pieces of legislation in the field resonate with the constitutional imperative to foster participation and with the principle of administrative due process, as recently explored also by the Italian Constitutional Court.

Abstract

The administrative functions relating to hunting

by Fabrizio Fracchia e Pasquale Pantalone

The article aims at analyzing the peculiar administrative functions relating to hunting, taking into account, on one hand, the complex distribution of these functions between State and regions and, on the other hand, their strict connection with the subject matter of the protection of both the environment and the ecosystem.

Abstract

Participation and Land-use planning: the Tuscan Experience

by Clemente Pio Santacroce

The paper offers a reading of the current Tuscan legislation on participation (also civic) in the formation of the territorial and urban planning tools, after explaining the reasons that led to identify the legislative experience of the Tuscany Region as a specific and privileged subject of study and analysis. The work focuses on the particular genesis of the principle of participation in the Tuscan regional law no. 65/2014, to then come to deal with those procedural and organizational tools put in place by the Tuscan legislator in order to favor the affirmation of a general principle of participatory land-use planning.

Abstract

Urban sustainability: guidelines to determine a territorial balance in order to foster productive activities. A glance at Matera European Capital of Culture.

by Giovanna Iacovone

The present study starts its considerations from the relationship between tourism economy and business. As it is well known that the productive sectors are able to trigger relevant synergies within the territory offers, the present work raises the question of the possible transformations, of urban territories, thanks to a sustainable logic that these connections are able to motivate. In this direction, through the examination of the existing regulatory system and its technical instruments, it is enhanced the role of the dialogue between the centre and the peripheries that involves the economic and urbanistic spheres. It is also meant to catch the sectoralities and contradictions that do not always seem to go in the designated direction. In this perspective, the city of Matera is worthy of consideration, since as the European Capital of Culture during the year 2019 had coped with important needs for change that have been set in motion by the increase in tourist flows and commercial activities that has affected the city.

Abstract

The contribution of public access to environmental information on safeguard of the public heritage.

by Giovanna Pizzanelli

This article analyzes the key role of public access to information in modern environmental governance. Guaranteed by the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, by Directive 2003/4/EC and by legislative-decree n. 195/2005, the right of Access to environmental information has a substantial impact on how individuals can act as environmental stewards and public bodies can protect the environment. In particular, information disclosure provisions can help to minimize the information asymmetry between the State and its citizens. In doing so, individuals are empowered in their role as environmental stewards, able to effectively participate in environmental decision-making procedures and to exert “bottom-up” pressure on the State and private entities in their role as consumers and investors. However, the historical evolution of the right to access environmental information today is confronted with the reform of Italian legislation on transparency. Therefore, a reflection is needed on the interaction between the special forms of access coexisting in the Italian legal system, with specific reference to environmental information, and the generalized civic access introduced by the legislative-decree n. 97/2016 (so-called Italian Freedom of Information Act). In conclusion the essay focuses on the fact that right to access information, as it belongs to the corpus of human rights, is a precondition for a good environmental administration.

Abstract

Urban land regularization and immediate application of law 13.465/17 in the Federal District of Brazil.

by Pablo Cunha Malheiros, Ilton Norberto Robl Filho

Law no. 13.465 of 2017, approved by the Brazilian National Congress, regulates urban land regularization, concretizing the fundamental right to housing, the promotion of the good of all and the urban policy established in the Brazilian Federal Constitution of 1988. This article defends the immediate applicability of this law to subnational entities (States, Federal District and Municipalities), due to the model of cooperative federalism adopted by the Federal Constitution of 1988 and the proper interpretation of its article 24, emphasizing the incidence of this law in the Federal District. The methodology employed favors the use of specialized legal literature and the jurisprudence of the Supreme Court, which is the arbitrator for excellence of disputes and conflicts between federative entities.

Abstract

Piersanti Mattarella, the administrative reforms and southernism

by Gaetano Armao

The article reconstructs, forty years after the killing, the figure of Piersanti Mattarella, leading the regional budget from 1971 until 1978 and then President of the Sicilian Region until the tragic epilogue of the political-administrative experience. In particular, the reforms introduced in the Sicilian regional system starting from the accounting ones, to those of the administration and regional planning are examined.

Abstract

The regional differentiation process on the basis of art. 116, third paragraph, of the Constitution: the nature of the functions and the constitutional constraints

by Rossana Caridà

The article analyzes the consequences, on an administrative level, which could arise if the process of implementing differentiated regionalism was completed. In order to guarantee the principle of continuity of administrative action, at the service of the provision of social benefits, as well as the principle of

solidarity and social cohesion, the differentiation process needs to be well structured especially at the administrative level and that the distribution of competences and functions between the central power and the “differentiated” regions is clarified. In fact, unjustified disparities in the territory should be avoided which could endanger the principle of economic and social unity.

Abstract

Public budget and intergenerational equity

by Vanessa Manzetti

The theme of the relationship between public budget and intergenerational equity inevitably involves a multiplicity of economic, sociological and legal profiles, which find in the theme of duties towards future generations, rather than rights of future generations, an extremely interesting aspect. However, the complexity and interdisciplinary nature of the subject makes it necessary to circumscribe the boundaries of research, analyzing whether and how the principles and rules governing the so-called budget law are also an expression of the principle of intergenerational equity. In order to do this, in the present work, it was deemed necessary to proceed following three different investigation plans (one consequential to the other): that of verifying if it is possible to trace in the constitution a principle of intergenerational equity from an economic-financial point of view; that of verifying if and how the constitutional jurisprudence supports the emergence of such principle; that, finally, of verifying how the accounting normative instrumentation prepared by the legislator allows to make the principle of intergenerational equity effective, guaranteeing it.

Abstract

The ownership of the Italian gold reserves

by Giovanni Pesce

Moving from an analysis of the recent bills which provide that the Italian gold reserves shall be deemed to be owned by the State, the Article discusses the legal issues concerning the ownership of the Italian gold reserves. After reviewing, also in historical terms, the main elements which lead to identify the Bank of Italy as the legal entity which holds the reserves and manages them in order to guarantee monetary stability, the Article starts with a reflection on the meaning of “public goods”, and suggests to frame legal issues concerning the ownership of the gold reserves within the concept of the public goods. The Article emphasizes the value of the autonomy of the Bank of Italy and its independence in relations with the Treasury, and argues in favour of a dialogue on an equal footing between the independent Bank and the political realm. The Author further argues that that the general interest underlying the management of the gold reserves cannot but be coincident with that of the State. This means that both the State and the Bank of Italy have the task to pursue the general interest of monetary stability, and, in order to comply with the current framework of the European Treaties, shall make available the gold reserve to the European Central Bank.

Abstract

Once upon a time the free and independent nature of academic knowledge

by Beatrice Rabai

This paper aims to outline the profound changes taking place in the Italian university system, in order to verify whether (also making use of the results of sociology and economic studies in terms of extrinsic and intrinsic motivation of the individual) the evaluation model of teaching and scientific research is functional to maintain particular professionalism of university teachers to which art. 33 of the Constitution entrusts the development and transmission of knowledge in a pluralistic society.

Abstract

Transparent information in personal data processing by the public administration

by Simone Franca

The present article deals with a particular aspect linked to the compliance with the GDPR from the perspective of the public administration, i.e. the information to be provided in relation to any processing of personal data. The article is divided into three parts. The first part attempts to reconstruct the evolution that has led from fairness to transparency as a guiding principle in the processing of personal data. In the second part, the constituent elements of the concept of transparency are identified in the light of a broader reflection, taking into account the concept of transparency in administrative, banking and EU law. In the third part, the information obligations enshrined in the GDPR are examined in depth, taking into account both certain specific processing operations carried out by public administrations (such as the processing of personal data in the context of scientific research) and the profiles inherent to the justiciability of these obligations. The analysis shows how the new elements contained in the GDPR can lead to the design of compliance with information obligations as part of a collaborative relationship between citizens and public administration

Abstract

Observations concerning the theory of invalidity of administrative acts in Spain and Italy

by Alberto Picón Arranz

The theory of the invalidity of administrative acts is one of the subjects that generates most debate among the specialized doctrine. Throughout this article we will try, analyzing the Spanish and Italian doctrine, to defend a theory of invalidity that starts from the absolute separation between validity and efficacy. We will analyze the term “non-existence” by considering its real meaning at present and, we will end with an analysis of the two invalidating categories contemplated by the Spanish and Italian legislators: nullity and annulability.

Abstract

Waste management between European and Italian legislation. The “(thermo)valorization” in the hierarchy of waste management systems

by Cristiano Bevilacqua

The article deals with the issue of waste management, which is going through a delicate phase in Italy, especially with regard to the location of incinerators, also due to the presence of a regulatory framework for waste management which is too complex and contradictory. Even the recent European jurisprudence pronounced on the “Sblocca Italia Decree”, which favors waste incineration / co-incineration systems, contributes to increasing uncertainties since on the one hand it supports an elastic conception of the principle of waste hierarchy, seen as a principle discretionally adaptable to the needs of Member states ; on the other hand, it reiterates the preventive nature of environmental assessments and the need for incineration planning to undergo a strategic environmental assessment in relation to the significant effects that may affect the environment. It is therefore necessary to proceed to a new rationalization of the national system by effectively recovering the general principles of European matrix set to protect the environment, compared to the sectoral ones introduced by state legislation, with a view to the circular economy recalled by the recent “European circular economy Package” asking Member States to take measures to avoid waste production by encouraging the creation of systems that promote waste reuse activities and discouraging the use of their incineration.