

## Abstract

### Suburbs and urban security

by Giuseppe Tropea

This essay will focus on the evolution of the notion “urban security”, from a purely sociological concept to a new one entered into our regional and national legislation. The analysis of the latter, and the related jurisprudence that was born from, both administrative and Constitutional Court, will allow us to evaluate the fortunes of “urban security” in our system. It was linked to centralist public policies, that often – but not always – were not under scrutiny, then it has been declined as a “minor public safety”, undermining the expansive potential of the concept and betraying the principles of vertical and horizontal subsidiarity in that field. This brought some consequences also on the way the issues connected to the insecurity of suburbs have been addressed, thus avoiding to link the theme of urban security with that of urban regeneration. Therefore, an unacceptable detachment came out between the public policies over the last years of the Italian legislature and the dominant thought of sociologists and urban planners, as well as with respect to good practice at local level. Recent legislative measures seem to go in a different direction, supporting a renewed, albeit cautious, optimism.

## Abstract

### Trascendencia e improcedencia del Estado Federal para España<sup>38</sup>

by José Luis Martínez López-Muñiz

To qualify a state as a federal state is something far-reaching. Beyond the discussions about its meaning, the notion of the federal state keeps an essential ground and content, full of very important political consequences, even though some of its natural elements may have been applied to some unitary states with a more or less decentralized framework. Transforming the current unitary Spanish state in a federal state, like some people demand, would have therefore strong effects. Several political, sociological, historical and law facts work against the real possibility or convenience of such a so important change.

## Abstract

### The in house providing at the achievement of the codification

by Annalisa Giusti

The paper analyses the evolution of the issue of the “in house providing”, in the aftermath of the two new Italian regulations about public contracts and affiliated public companies. It is an itinerary that starts from the judgments of the Court of Justice of the European Union, analyzes the Italian jurisprudence and ends with the examination of the recent Italian rules. The paper aims to prove if leaving the right case law of the past can be (finally) given to the public administrations new instruments to do efficient choices, to use efficiently their resources avoiding unlawful “escapes from the market”.

## Abstract

### Regional peoples, principle of self-determination and indivisibility of the Republic

by Daniele Trabucco

The paper analyze the relationship between the principle of self-determination of peoples and the Constitution in force and its regional repercussions law. In particular it seeks to show that the absolute nature of the principle of the indivisibility of the Republic precludes the entry, in our legal system, the principle of self-determination.

#### Abstract

Authorities and contract. Comments about the regulation heteronomy of the Italian Communications Authority

by Ida Perna

The regulatory action made by the Independent Administrative Authorities represents, today, one of the most important ways to conform the freedom of contract to certain principles. In fact, the regulatory measures adopted by the Authorities, including those characterized by a singular and concrete content, integrate relevant sources of heteronomous law, such as to constitute a teleological constraint for individuals that regulate their own interests themselves. The contract between two people becomes a general interest pact, useful to protect the market competitiveness and the stakeholders. This paper will first analyse the complex regulatory action made by the Authorities and its influence on contract, and then verify the results of research in the specific sector of telecommunications. The argumentative itinerary mapped out aims, firstly, to emphasize the failure of private autonomy in the realization of competitive conditions in the market and a fair and balanced development, secondly, to emphasize the need for rules and corrective actions by the Authorities. At the same time, however, it underlines the need to preserve the balance in the relationship between the regulatory power of the Authorities and the private autonomy, ensuring the involvement of citizens in the regulatory proceedings and respecting principles of proportionality and reasonableness.

#### Abstract

Unsettled Layout of Legal Personality and Functional Autonomy of Public Bodies: the Institutions in charge of High Education in the fields of Music, Art and Dance (AFAM)

by Vinicio Brigante

The essay deals with the evolution of Italian legislation on musical, artistic and dance education. The Author focus on the issue of administrative autonomy in this subject matter after the fall of Fascist regime and underline the impact of the Italian Constitution of 1948 on the legislative framework. It is then described the reforming process of 1994-1999 which enhanced the administrative autonomy and the subsidiarity principle. Lastly, it is outlined the legal regime of these institution through a comparison with the principle of the principle of "Functional" Administrative Autonomy that is constitutionally granted in Italy to Universities to conclude that there is a Limited Functional Administrative Autonomy for these institutions. The Author conclude its analysis with some critical observations on law n. 107 of 2015.

#### Abstract

Extraordinary and Temporary Management of Undertakings in charge of Health Services Supply Officially Recognized by the National Health System

by Marcello Di Francesco Torregrossa

This essay deals with recent evolution of the Italian legislative framework on extraordinary and temporary management of Undertakings and Bodies which supply Health Services and are Officially Recognized by the National Health System which have concluded conventions with Bodies of the National Health System to Supply Health Services under the framework of Legislative Decree n. 502 of 1992 (art. 8 quindies d.lgs. n. 502/1992). The focus is on the effects on these kind of undertaking of legislation which aims at preventing and repressing bribery enhancing the role of the Autorità Nazionale Anticorruzione (ANAC), that is the National authority to contrast corruption. The limitation of freedom of organization and action of private undertakings seems justified by the need to protect the integrity of public goods and funds involved in the activities of these specific kind of undertakings.

#### Abstract

The Reform of the State Forestry Corp. Some observations on the edge of the Opinion of the Council of State of May, 12th 2016

by Valerio Torano

The Legislative decree No. 177 of 2016 reformed some aspects of the Administrative Functions of Public Order and of the Administrative Bodies dedicated to perform it. This recent normative act, determined – among other important intervention - the incorporation of the State Forestry Corp within the Carabinieri Corp (Arma dei Carabinieri). The Council of State pronounced a consultative opinion on the scheme of the legislative decree under review and underlined some critical aspects of this reform on the side of administrative organization, associate management of instrumental services and on the side of labour law regarding this specific kind of civil servants. These observation seems to mantain high relevance in the present moment and the essay deepens the anlysis of these critical aspects.