

ABSTRACTS OF ARTICLES

VINCENZO CAIANIELLO, *Law drafting in the Constitutional Court's decisions*

Substantial drafting concerns laws clearness and conformity to their aims. So defined, this is a fundamental subject in the Italian Constitutional Court's decisions, which has dealt with it using the "reasonableness-unreasonableness" principle.

The essay analyses a series of cases where the Constitutional Court has dealt with this matter firstly, the cases where the constitutionality sentence dealt with Government's drafting of consolidation acts; then the cases where the Court considered the clearness of regional acts which referred to European Community legal order; secondly the cases where the Court declared the unconstitutionality of laws which contained clerical errors, maintaining that they form part of the so called "lack of clearness". Finally the author examines the important sentence where, for the first time, it has been declared the admissibility of the "ignorance of the penal law" when the laws present some objective and serious difficulties of interpretation.

VINCENZO DE VERGOTTINI, *Guarantees and regulatory powers*

According to a common opinion, the most recent lawmaker's choices would have led to the overcoming of the State's leading role in economy both as managing subject and as public enterprises' owner.

Institution of several independent Authorities should be a guarantee of a wide deregulation process, which is the indispensable basis for the State's withdrawal and for the assignation of new scopes to private subjects through enterprises' transfer.

Considering that many important reforms have been actually realised in crucial sectors, nevertheless having ascribed to the Authorities a regulating power in sectors pertaining to them (from public works to communications, energy, data saving, competition ...) requires that they're able to exercise various nature and deepness controls on people and enterprises subjected to their jurisdiction.

So, even if it could seem a paradox, after having eliminated the administrative apparatus typical of traditional ministerial administration, dependent on Government, new apparatus have been created, easier, modern and independent of Government and Parliament; which, since they exercise a power, must be subjected to jurisdictional power.

It follows the necessity that independent authorities' acts and actions, very powerful and insufficiently controlled, are submitted to a more direct and easier judicial control for a better and real protection of citizens and enterprises.

SERGIO LARICCIA, *New dimensions of institutions and right in a world without limits*

The author considers globalization and human rights' international and supernational tutelage dwelling upon the following aspects.

New dimensions of men and women rights in the contemporary societies. From the rule of law to the State of rights. Rights statutes elimination's risk. Rights tutelage and free trading. Relation among national, international e supernational dimension. Dignity, freedom and justice protection.

Civil liberties. Political, economic, social and cultural rights; minorities and people rights; right to peace, to environment, to individual and people development; right to common heritage of mankind (spatial, maritime, natural and cultural); right to children's autonomous development; right to privacy; right to freedom in Information Society. Human and civil rights.

The Universal Declaration of human rights; international Treaties on civil and political rights and on economic, social and cultural rights. People right to peace and development. European Convention of human rights. Some goals for the future.

PIERGIORGIO MARIUZZO, *Law drafting from proceedings regulation to substantial rules*

The introduction in Italy of A.I.R. (Regulatory Impact Analysis) gave the opportunity of enforcing discipline to practices of legislative offices, crossing traditional formal border.

STEFANO SEPE, *Identity and "Sense of State" of civil servants in Italy*

The essay deals with the historical evolution of the role of public bureaucracies in Italy through the analysis of the "Sense of State" of civil servants.

The author focuses the attention on four phases where a different way of being civil servant develops. The research underlines also the evolution of the relationship between the high bureaucracy level and the political power.

On this matter the analysis shows the progressive loss of identity of civil servants and the progressive subjection to the political power. Only through a stranger sense of responsibility of the civil servants Public Administrations operate in a better way and could be really at the service of the citizens.

CARLO PAPPAGALLO, *Recent events in the State management in Italy*

Italian lawmaker, with the decree n. 29/1993, tried to state strongly the distinction between politics and administration. But that model has not been realized mostly because there were not real and effective systems for the evaluation of the results reached by administrative managers: those systems could have represented a balance-point between guarantees requested by public managers and Government's right to have his political program carried out.

In the last years spoil system's mechanisms have been then introduced and consequently it could be developed a new form of submission of high bureaucracy to political power or a new form of exchange "safety-power".

FORTUNATO LAZZARO, *The "enjoinment of the house" in the democracy of interests*

The "enjoinment of the house" looks like a neutral object of exchange with a compensation, but the question related to leases falls within social conflicts and links up with constitutional level values.

The "fire rent" law of 1978 had been completely elaborated in the parliamentary sphere where it had been tried to overcome social conflicts related to leases; directly involving in the debate the exponents of the implicated interests, even outside of traditional parliamentary channels.

The following lawmaker's attempt (law n. 359 of 1992) was to assign to the exponents of the implicated interest the direct regulation of conflict: that with the intention of realizing equality among the parties even in application of precise European Community rules. That attempt was not understood and fully realized by the exponents of the interests in conflict: therefore now the risk is that, pushed by market opening introduced by the European Community, interests follow again the code's contractual model and not the values, even constitutional, which the question related to leases should be inspired to. Such probable trend will require inevitably a new bond system in the lease relation, that would mean the defeat of "democracy of interests".

FILIPPO LUBRANO, *Prospects of the Scuola superiore della pubblica amministrazione*

The article deals preliminary with the problem of "education" of civil servants and its importance for a better execution of the administrative function by examining the lines followed in the past by italian legal system.

Further, the essay evaluates the problem of concurrence of activity between the Scuola superiore della pubblica amministrazione and other educational structures and, therefore, of the relationship among such structures. In addition, also the role of the Scuola superiore della pubblica amministrazione as institution of "high culture" and its possible educational role in an international environment is being examined.