FEDERICO SPANTIGATI

Open the windows: to go to the Parliament to look outside

The plurality of interests operating in the contemporary society interferes even in the effectiveness of law. Consequently new leanings, different from the classical ones, are necessary to build a new "juridical regulation" consistent with the contemporary pluralistic society.

On this basis, the "Ritorno al diritto: I valori della convivenza" review, which is presented in the essay, deals with the foundation of the new law in the contemporary society. In this contest the author underlines that while in the past the Parliament expressed the "general will" of the society, today it is just a balcony from which to observe the show of the society itself.

MARIO MIDIRI

Parliamentary rules and practices: politicians' expectations

The 1993 majoritarian reform of the electoral law changed Parliament's life: the significance of parliamentary precedents has diminished; new instruments are being requested to regulate the political conflict. The goals are two: the guarantee of the Government programme performance and the assignment of institutional resources to the opposition. However, the two Chambers are still organized in groups, thus the two electoral party coalitions not having recognition in Parliament.

The present debate shows two different perspectives: the first one underlines the political process being autonomous and spontaneous; the second one claims reforms to help the rationalization of the institutional system.

GIULIA PILI

The "Constitution of the defence" and the defence of the Constitution. The political control on the use of the Armed Forces

The 9/11th occurrence along with the geopolitical balance characterizing the bipolar system aftermath have undoubtedly played a pivotal role in the necessity of reshaping a new concept of defence and State security. In addition, the multifaceted aspects of the military use of force, as well as the management of crisis and the new role played by United Nation and Euro-Atlantic institutions, have significantly affected the way whereby scholarship has investigated the national defence phenomenon. In fact, its analysis must take the so-called "constitution of defence" and other practices into account. All above considered, the essay focuses on the political control exerted on military system. In so doing, the author firstly canvasses the stricto sensu political control exercised by State and international bodies. Secondly, the author draws attention to the political control as broadly understood. In a nutshell, she uses the political control category as a gauge to assess the procedures performed in case of military intervention decision-making process.

GIAN CESARE ROMAGNOLI

The Italian bill on personal savings protection and cooperative credit

The essay deals with the protection of personal savings, one of the problems most widely felt in Italy after the defaults of Cirio and Parmalat corporations. The Italian Parliament has recently passed the Bill no. 262/2005 especially aimed at protecting non institutional investors from several interest conflicts (e.g. between investment banking and investment trading, which arise from savings allocation in the financial markets). The paper is divided into two parts. The first, which is more general, analyses the adequacy of the new law to its manyfold targets. Here the paper concludes that the new law is a good step forward even though some important problems as the interest conflicts between bank shareholders and other credit customers or between financial intermediaries external auditors and clients remain to be faced. The second part of the paper investigates whether cooperative banking may give a specific contribution to non institutional investors, vìs a vìs the rest of the banking system, in terms of transparency and credibility of the Italian financial institutions. Here the author concludes that the indulgence to less asymmetric information in order to maintain the cooperative banking peculiarities of solidarity and localism may be discouraged by the growing competition by different models of banking.

FORTUNATO LAZZARO

Juridical science and analysis contributions to the application of RIA in Italy

Starting from the analysis of law 8 march 1999, no. 50 as well as first and second italian premier directives on Regulatory Impact Analysis (RIA), the Author first of all underlines that one of the Public Administrations most involved in RIA is Justice Administration because of the litigation risk that regulation can originate. He points out the problematic aspects of the relation between RIA analyst and Public Administration as well as the need of precise definition of the tasks of the analyst most of all in the cases the RIA is entrusted to external subjects. In the author's opinion, the RIA "consulting contract" requires the obligation to get a result, i.e. to guarantee the implementation of the RIA process. Consequently, it is up to the judge to consider if the contractual obligation has been fulfilled. The Regulatory Impact Analysis has to be studied even referring to the relations between political and administrative power because it can be a Prime Minister's instrument of guiding the political-economic actions of each Administration.

In case the RIA is implemented on the initiative of Parliament, it can be used by the Government to control parliamentary initiatives and it can also be used by the Opposition to control acts presented by the Government.

FRANCESCO FONDERICO

Some aspects of the environmental competences of Italian local autonomies

In the 1970s Italian Communes had responsibility for many administrative functions in the environmental field. Most of those functions were assigned by subsequent legislation to the Regions and Provinces or rather to the State. That was due both to the increased size and complexity of ecological matters and to technical and organizational inefficiency of most of italian municipalities. That legislative trend has been recently confirmed even though the constitutional reform of 2001 has strengthened the Communes' role. For instance, the recent so called "consolidated environmental act" (i.e. the legislative decree no. 152/2006) has assigned to the Regions the competences in the field of reclamation of contaminates sites that previously belonged to the Communes and to the Ministry of Environment the sole competence for environmental damage. However, the regulations in force are not consistent with the principle of subsidiarity sanctioned by the constitutional reform of 2001.

NICOLA GRECO, PAOLA BIONDINI

The water regulation in Italy: integration of quality and quantity, concourse of uses, risk and remedies definition

The legislative decree no. 152/1999, driven by the European system, has primarily repealed the law no. 319/1976, aiming at the safeguard of water quality, and has completed the system of rules, represented by the soil protection and water management acts.

The consequent regulatory system is based on two pillars: the water protection plan, which is under the competence of the Regions, and the basin plan, which is under the competence of the basin Authority. Both plans contain provisions and measures to ensure the balance of the water budget drawn up by the basin Authority.

The Constitutional Court has recognised the legitimacy of the legislative decree 152/99 even though the constitutional reform of 2001 has modified the legislative competences of State and Regions.