

NICOLA GRECO

**Environmental Standards: a Sounding Tool for the New Law**

The matter of environmental standards is at the limit between the law and the praxis and it is strongly fed from the objective involvement of elements and references constituted by scientific data and mathematical formulas also in the primary legislation. The field of environmental legislation and correlated praxis constitutes evidence of such a phenomenon, so it is possible to draw from it general and evolutionary features.

Several environmental laws contain technical rules and standards or refer the production of technical rules and standards to procedures not always formally guaranteed.

Also the distinction between technical "rules" and "standards" is an object of attention, not yet systematic and still devoid of an univocal result.

The study turns to consider the mentioned problematic aspects both in the European legal system and in the Italian one, not ignoring the constitutional aspects, besides underlined by the Italian Constitutional Court in some sporadic but meaningful circumstances.

One more time, the main issue seems to be that of the law sources system and of its crisis, seconded by, not only apparently, that one of experts and scientists role in the formulation and implementation of both juridical rules and praxis constituting "formal regulation".

MARTINA GHELARDUCCI

**Suggestions and Contributions of the International Legal System to the Birth and the Elaboration of the Category of Technical Regulation and Standards**

The aim of the paper is to analyse the aspects related to the legal status of technical regulations and standards, their obligatory effects, the qualified bodies and the modalities related to their creation and adoption at interna-

tional level. In order to define this huge juridical phenomenon, the paper starts from a classification of these regulations and standards according to their statutory force. This distinction is then applied to the international environmental law. Within this system, the paper discusses the main juridical sources and the international decision-making process leading to the framing (formazione) of the technical regulations and standards. What transpires from the above is the problem of bringing together the actual connection between a huge technical normative production and the current government needs for granting a more flexible and rapid environmental risk regulation. In particular, two problems deserve careful scrutiny: the potential risk of scientific data's political manipulation and the deficit of public participation within the international decision-making process. The paper further underlines the actual influence that an unconditioned technocracy can have on government policies for the eco-management, on international disputes resolutions and, more generally, on the international standards setting system. Finally, the analysis of this hectic technical frame is enriched with reference to the growing importance of the International Standardisation Organization (ISO) and the relative production of harmonised standards - above all, the family of ISO 14.000 related to environmental risks management and control.

PAOLA BIONDINI

### Evolution, Substance and Perspectives of Technical Rules and Standards in the European Legal System

European legal system is largely constituted by rules with a techno-scientific content. Technical have been since the beginning European rules for the construction of internal market and technical again are several rules setting many European politics, between them stand out environmental politics.

If traditionally European institutions found the reason on which their acts and actions are based on techno-scientific data and elements, even for strengthening their legitimation, the evidence of the relativity and unneutrality of science and technique has led to crisis a system like that and has raised doubts about transparency and reliability of European institutions.

The European Union is answering all that with a sequence of actions directing towards a better system of production of technical rules and standards. A system founded on excellent, independent, impartial and transparent technical advices but in which evaluations concerning values and inte-

rests are left to the political and administrative liability of competent public bodies. Notwithstanding the progress achieved by the European legal system, the problems of definition and implementation of technical rules and standards do not seem to have found a definitive solution.

ANTONIO IANNUZZI

### Characterization of Technical Regulation in the Italian Legal System. The Environmental Matter as Field of Analysis and Verification

The essay analyses the Italian production system of technical regulations and standards. It comes out that there is a complex legal frame similar to a double helix model that connects "mandatory" technical regulations with "optional" technical standards. The author focuses mostly on technical regulations and he maintains that the governance of technical issues is more and more shifted at the level of European Union. In Italian legal system -- though there is a natural trend of technique towards uniformity -- there is an increasing risk of fragmentation of the activity of setting technical regulation among the State and the Regions, the cause being that the principle of technical coordination seems to have been set aside. The fact that technical standards and regulations are resorted to in environmental law provides us with a way to test on the field the results of this analysis. Environmental issues go beyond national borders and involve hard sciences at a high degree -- therefore they give the opportunity of testing technical standards and regulations on the front of the most pressing problem for global society.