

MASSIMO SEVERO GIANNINI

From statism to pluralism

This is a transcription of a lesson taken by Massimo Severo Giannini in 1979, at Rome University. Giannini analyzed the topic starting from an historical and theoretical point of view, in particular with regard to the specific conception of the State which characterizes Italian statism such as German legal doctrines. Later, statism has been affected by an institutional approach (Santi Romano) which will prepare for pluralism. Pluralism, on the other hand, was strictly connected to the international legal order. Giannini argued that pluralism implies a deep change in State sovereignty and – in doing so – anticipates the idea of globalization of law.

ROCCO CIFARELLI

The annual competition act: the role of political institutions and the economic crisis

The article analyzes the annual law on competition, which has been recently introduced in the Italian legislation with the purpose of «removing regulatory barriers, whether legal or administrative, to open the markets, promoting the development of competition and ensuring the consumer protection». It also discusses the role of competition agencies, which need to be able to respond quickly to changing priorities and to display a degree of pragmatism in recognizing when other policies may over-ride competition policy. Lastly, the article analyzes the law in terms of allocating legislative powers between central and local government in relation to the new «public function» of competition protection.

CRISTINA FASONE

The Italian Parliament after Lisbon, waiting for the appro-

val of a new law on the relationship with the European Union

The article focuses on the effects of the Treaty of Lisbon on the Italian Parliament, in terms of strengthening of its oversight function over the Executive and of opportunity to influence the European decision-making processes. The main argument is that the Italian Parliament can fully exploit the new powers provided by the Treaties only if it is able to update properly its rules of procedure and the law on the relationship between the Italian legal order and the European Union (Law no. 11/2005). So far the Italian Parliament has only marginally modified law no. 11/2005 and both Houses have adopted experimental and provisional internal procedures instead of modifying their rules. Even though the Treaty of Lisbon directly concerns national Parliaments' involvement in the so-called "ascending phase" of the EU decision-making, this reform indirectly affects also how the descending phase is conceived, its effectiveness and timeliness. Finally, the bills aiming at replacing law no. 11/2005 are analysed and the strategic importance for Parliament of less famous procedures, compared to the early warning mechanism – such as the simplified revision procedures – is underlined.

ELENA GRIGLIO

The role of the regional Council of Lombardia in the renewed Standing orders: towards a redefinition of the regional form of government?

The essay analyses the functions of the Council of the Region Lombardia as disciplined by the new Standing order approved in June 2009 in order to verify if the reform could be interpreted as a response to the crisis of the Italian regional legislative assemblies. After having underlined the originality of the new discipline from the organisational and functional point of view, the essay focuses on the exam of the powers assigned to the Council in the exercise of the representative, legislative, control functions as well as in the definition of the political direction. This investigation reveals that the Standing order of 2009 can be undoubtedly interpreted as an attempt to counterbalance the presidential trend started after the constitutional reform of 2001 and the statutory reform of 2008. In the contemporary institutional and political order, though, strengthening the role of regional Councils doesn't strictly mean attributing more powers to these legislative assemblies but rather requires a general rethinking of their role in a more performative and interactive way.

BARBARA NERI

The regulatory impact analysis on administrative rules of the independent administrative authorities

This paper takes into consideration the way and the extent to which the independent administrative authorities have introduced the regulatory impact analysis (Air), with particular reference to administrative rules. After the examination of their features, an analysis of Air is carried out, explaining not only the direct effects that it can produce (concerning the verification of the impact of regulation and therefore its assessment), but also its indirect consequences (that is, the strengthening of mechanisms for protection of procedural and participatory guarantees). Then, by means of an inductive approach, starting from the examination of the acts submitted to Air by the authorities, their distinguishing features are identified in order to understand better their nature. Finally, acknowledging the strong differentiation among authorities in the extent of application of such tool, the focus shifts on the reasons of its only partial implementation, arguing that there is no correlation between the interest in the use of Air and the nature of the regulator, because government and ministerial administrations normally do perform Air, even if in unsatisfactory forms. The reluctance to use it is due to the distance between regulator and citizens, who are the indirect recipients of regulatory measures.

PAOLO SCARLATTI

Codification and nomography in Jeremy Bentham

Codification and nomography represent two constant referent points in Bentham's legal theory. In fact, Bentham's contribution on the idea of radical reform through a complete codification, as well as through a radical improvement on the form of legislation, deals with fundamental issues of constitutional law. Certainty and quality of law, legislator's language and the role of democratic participation and control over political powers are just few of the main contents which rise from Bentham's theory of law.

Furthermore, codification and nomography, which characterize the core of his research on constitutional securities, brought Bentham's ideas to be a fundamental reference to the growing Anglo-American doctrine of legal realism.