

Abstract

The challenge of urban peripheries:
the right to housing as an urban integration strategy

by Judith Gifreu Font

This article explores the evolution of urban peripheries in Spain and the role of housing in this phenomenon. At first, the growth of the urban periphery of large cities responds to the migratory activity, which accommodates the thousands of residents from other parts of the country in degraded and poorly consolidated neighborhoods, with blocks of flats of low constructive quality and few equipment and public services. But at the end of the 20th century, with the real estate boom, a new generation of peripheries emerged, with a different meaning from the first. It is no longer about self-construction spaces or housing polygons. This new arrangement of the urban outskirts welcomes urban development projects that adopt an urban dispersion strategy typical of the diffuse city model, with a low-density residential plot and strong land consumption and quality single-family housing for a high-income population. With this new periphery, suburban growth patterns undergo a profound change: living in the periphery is no longer synonymous with marginal urbanization, but a symbol of success.

Abstract

New possibilities for judicial decision-making in Brazil:
an approximation with the common law system

by Estefânia Maria de Queiroz Barboza

This article analyzes the new interpretation and application of law introduced by the centrality of human and fundamental rights in the second half of the twentieth century, which led the preponderance of the judiciary in moral and political decisions of the State to assume the role of *judge-made-law*, which is traditional to Common Law systems. When the law is interpreted, the rule only exists in practice; therefore, legal security can no longer be found in written texts. This work also advocates the use of the doctrine of *stare decisis*, which, in turn, is compatible with Dworkin's model of law as integrity, for the guarantee of legal certainty, predictability and stability of judgments. For this reason, the work brings the systems of civil law and common law within the constitutional jurisdiction, particularly in the constitutional review based on human or fundamental rights. To support the thesis, the work indicates that the material fundamentality of human rights has moral content and serves as a bellwether for *judicial review* in both systems, whether implied or not in a written constitutional document.

Additionally, from the study of Dworkin's "law as integrity", this work concludes that it is possible to adopt the doctrine of *stare decisis* and apply the value of integrity in adjudication in the Brazilian Constitutional Jurisdiction, which will ensure consistency, stability, predictability and judicial security of its decisions.

Abstract

Santi Romano protagonist of the public law school of Palermo

by Gaetano Armao

This brief essay recalls, in the one hundred years of the publication of the "*Legal order*" of Santi Romano, the strong links between the great scholar and the school of public law of the University of Palermo, founded by Vittorio Emanuele Orlando, who accompanied the first steps in legal education and scientific research.

Abstract

Remedies for violations of rights of access.

The hypothesis of the introduction of a conditional jurisdiction system.

by Marco Calabrò

This paper starts from the consideration that – despite the recent enhancement of the principle of transparency that has affected the Italian legal system, as well as the (apparently) incontrovertible limits imposed on the exercise of the several rights of access (documental, civic and generalized) – still today there are numerous cases in which the citizen is illegitimately denied or deferred his right of access to documents and information held by the public administration. The relevance of the underlying interests (pursuant to article 29, paragraph 2-bis of Law 241/1990, the right of access pertains to the essential levels of benefits and services referred to the article 117, paragraph 2, letter m) of the Italian Constitution), has therefore long led the Italian legislator to introduce a special jurisdictional proceeding, inspired by the criterions of simplicity and speed. Starting from these premises, the paper – after a brief examination of the main characteristics of the special proceeding aimed at protecting the rights of access and of some of its limits in terms of effectiveness – focuses at first, critically, on the choice of the Italian legislator to extend *tout court* the aforementioned special proceeding also to the rights of access more recently introduced (civic and generalized), despite the deep differences (in terms of assumptions and purposes) existing between these new rights and the right of access ex artt. 22 and ss., L.n. 241/1990. The critical issues that emerge from the point of view of jurisdictional protection lead, then, to the examination of the degree of

effectiveness that can be found in the models of alternative dispute resolution remedies to protect rights of access, included in the Italian legal system. With this in mind, the contribution aims to bring out the advantages, for the citizen injured in his rights of access to administrative documents, in using non-judicial remedies, in terms of effectiveness, cost and speed. In the light of the results, the author concludes illustrating, *de iure condendo*, the benefits deriving from the possible introduction of a situation of conditional jurisdiction (to a previous experiment of an administrative remedy) in the particular context of the protection of rights of access.

Abstract

The national anti-corruption authority: food for thought in light of changes to the code of public contracts

by Niccolò Maria D'Alessandro

The present work is initially aimed at illustrating the main functions attributed by the legislator to the National Anti-corruption Authority in the recent code of public contracts.

Subsequently, particular attention will be dedicated to the cd. ANAC's pre-litigation function, which – as we will have to observe – raises many doubts with a view to deflation of the dispute. In fact, among the various legislative measures following the entry into force of the new code of public contracts referred to in Legislative Decree no. 50/2016 to the ANAC was given an important – perhaps excessive – jurisdictional (para) function that contrasts with art. 102, paragraph 2 of the Constitution, which makes it possible for the same to act in court if he sees an irregularity in the public procedure.

Abstract

Competitive telematic procedures and system malfunction

by Paolo Provenzano

Abstract: In the broader context of the digitization process for the administrative action, this essay critically examines the problems encountered in competitive telematic procedures in case of system malfunction.

Abstract

The enhancement of great cultural attractors between institutional co-operation dynamics and sustainable tourism models. Cultural heritage functions and management models: the government of a territory and the Pompei case

by Gianpiero Zinzi

This article analyses the importance and advisability of the enhancement of historical-architectural cultural assets held by a territory, with regard to the public-private forms of partnerships offered by legislation. The analysis is the setting for the Pompei site restoration example, while pointing out the necessity of updated forms of co-operation with private entities or individuals, aimed at heritage development and at *care*, not simply *tutelage*, of public goods, in a vision based on the equilibrium between the ability of the national or local administration to identify a cultural patrimony and deal with its management, protecting its identity, and with the participation of the population. For without a good public administration and a sound private dimension education – so without shared values– this is not to be conceived as possible.

Abstract

The citizen cultural heritage between art bonus and sponsorship

by Serenella Pieroni

The essay deals with the involvement of the citizens in projects of restoration of cultural goods. Starting from the national law about “art bonus” and sponsorships, the analysis continues checking how the city of Perugia achieved the collaborative “ratio” of the law, thanks to concrete and opportune initiatives.