Abstract

"Sovereign Choices".
Some Critical Remarks on the Wightman Judgment of the Court of Justice

by Giuseppe Martinico

On 10 December 2018 the CJEU delivered the Wightman judgment where, among other things, it recognized the revocability of the notification ex Art. 50 TEU, confirming, this way, more or less what Advocate General Campos Sánchez-Bordona had suggested in his Opinion. This piece is divided into two parts. In the first part of the article I shall comment upon the idea of legal integration presented by the CJEU in this judgment and in so doing I shall represent the EU as a complex legal system. In the second part of the article, I shall offer a critical view of the legal reasoning of the Court.

Sovereign (dis)order: Brexit and the Wightman ruling

by Costanza Margiotta

This article offers a reading of the recent *Wightman* case ruling of the Court of Justice of the European Union on the revocation of a notification of an intention to withdraw from the EU under Article 50 TEU. The relevant aspects of this opinion show the ambiguity of the European Court on Brexit: on the one hand, the consecration of the sovereignty of the Member State, and on the other, the statement of EU as an ever closer Union. Both principles have, in the opinion of the author, the same aim: the safeguard of European Union. The Court with *Wightman* gives the first interpretation of art. 50 TEU on withdraw and, giving a constitutional interpretation of European Law, offers the opportunity to look again at the relation between secession and constitutional law. Giving to UK the right of revocation of the will of exit from EU, the Court offers also the opportunity to analyse the relation between secession and democracy and between democracy and majoritarianism.

The Belgian Federalism in Times of Transition and the Charter for Flanders:
Toward New Forms of Asymmetry?

by Matteo Monti

The aim of this paper is to analyse the new forms of asymmetry which the enacting of the Charter For Flanders in the Belgian scenario could lead to. The Belgian federalism is already considered as one of the most asymmetric federalism in the world. The Charter for Flanders could be the herald of two new forms of asymmetry: the asymmetry in subnational constitutions and the asymmetry in

fundamental rights. The paper shall analyse these types of asymmetry in federal systems and in the Belgian scenario in particular and then consider the problems and the possible evolution of the Charter for Flanders. In doing so, Section II shall study the asymmetry in subnational constitutions, while Section III shall focus on the asymmetry in fundamental rights. Finally, Section IV shall explore the possible evolution of the Charter for Flanders and its possible impact on the Belgian federalism, taking into consideration the political space of action for its enacting and the consequences this could cause. From this point of view, it has to be remembered that even though the Charter of Flanders currently cannot be considered as a fully fledged constitution – given the lack of power of the subnational units – it could represent the next step of the evolution of the Belgian federalism.

Public management and administrative law: a necessary dialogue for planning

by Angela Cassia Costaldello e João Pedro Ruppert Krubniki

The present article aims to analyze the historical formation of the administrative management models set in Brazil and to acknowledge the legal principles of the current managerial model, in order to elaborate contributions on its suitability to the contemporary Public Administration, instigating the formulation of instruments that allow this suitability, especially the planning. It is put at stake the suitability of the current managerial model to the Public Administration, throughout the analysis of political influences that undermine the public management models in the country's history. Assuming that the correct exercise of the administrative function is linked to the faithful execution of its legal precepts, the bureaucratic maturation of management models is sough in order to dispel it from political and electoral interests. Thus, the current scenario of the country, where the institutional solidity is being questioned, poses a great importance to contextualize the present article, given that Brazil has been experiencing successive discontinuity of governmental programs, demonstrating the political liabilities to which the Public Administration is subordinated.

International profiles of the fight against corruption, with particular reference to the service sector: the determining role of Soft Law

by Susanna Quadri

Since the 70s of the last century, the globalization of organized crime caused by the opening of the markets has boosted the phenomenon of international corruption. Its diffusion in the developing countries hinders the free competition of Western companies and inhibits economic progress and the democratization of the aforementioned countries. This applies above all to services (in particular

energy, as evidenced by various proceedings in progress) and, in general, to the procurement and public contracting sectors.

These circumstances have pushed the international community to the adoption of enforcement tools against corruption at the international level, previously exclusively of domestic law.

After briefly reviewing the international legal instruments to fight international corruption, the paper will focus on the objectives of the same, mainly oriented to restore the trust between companies and institutions, including through the *Soft Law* instrument.

Nomofilachia, Uniform Application of Law and Functions of the Court of Auditors

by Fabrizio Fracchia e Pasquale Pantalone

The essay deals with the uniform interpretation of national legislation given to the Court of Auditors and it shows the specificities of this within this jurisdictional complex. It seems particularly relevant the specific characteristic that it involves not only the exercise of the jurisdictional function, but also the control and consultive functions performed by such a special judge.

The Envirnomental Protection in the Italian Constitution

by Antonio Ignazio Arena

This essay concerns the environmental protection in the Italian Constitution. Still today environmental problems are often neglected at the institutional level and the awareness of the link between democracy and "protection of nature" is not full. The main environmental problems have a global dimension, but this can not mean the absence of individual states' responsibility. The environmental policies and the principle of substantive equality are strictly connected: the greater the inequality, the lower the protection of the environment.