

Abstract

Reflections on protection of the cultural identity of the circus
in the light of the animal welfare

by Domenico Siclari

This paper analyzes the contribution of the multi-level system for the protection of animals. In realizing a condition of well-being for animals, one focuses, especially, on the contributions of European law, where it provides in the determination of this spectacular typology that belongs to the common cultural heritage. And in which the use of animals becomes an identifying element of the same and therefore to be protected.

The use of specific electronic tools (building information modeling)
in public contracts

by Marco Tiberii

The aim of the study is to analyse the influence of new electronic means and the possibilities arising from their use in the context of public contracts.

In particular, the paper focuses on building information modeling, a new technology at the service of the construction sector.

Through the analysis of the Italian legislation, we understand the spaces of compulsory and optional use of the same, as well as the problems that arise in the context of public contracts, from the design phase to the executive phase.

Beyond Representative Democracy? Popular Sovereignty and Referendum
in the United Kingdom, in Spain, and in France

by Luciana De Grazia

In this paper the author elaborates on reflections about the role of the referendum in the British legal system, well-known to be characterized by a representative democracy, with the intent to examine the evolution of this institute. It is also a comparative study which examines the effects of the consultative referendum in the Spanish legal system and the characteristics and the effects of the legislative referendum in the French legal system in order to identify the analogies and the differences among these referendum.

Landscaped assets, sensitive interests and homologation of the legal regime

by Edoardo Giardino

The protection of landscaping has been the subject of legislative reforms in the light of social changes.

This protection must be ensured through a proper weighting of the many interests that are opposed.

The legislature considered it necessary to approve the discipline of sensitive interests, including the environment and the landscape, in order to empower and simplify administrative action.

In particular, the legislature changed the discipline of the services conference and provided for art. 17 *encore* of Act 241 of 1990 (Silence between public administrations and between public administrations and operators of public goods or services), which, in contrast to the *assent* silence governed by art. 20 of Act 241 of 1990, applies “even to cases where the acquisition of absentees, concerts or anything but named of administrations responsible for environmental, landscape-territorial protection, cultural heritage and the health of the citizens, for the adoption of regulatory and administrative measures that are the responsibility of public administrations.

The application of silence also to ‘sensitive’ interests does not, in fact, lead to a weakening of their safeguards, but improves the way they are protected.

The building of worship between religious freedom and protection of the territory: the Lombardy case

by Roberto Leonardi

The theme of the localization of places of worship has acquired over time a growing relevance also from the legal point of view, accompanied by a complexity of its discipline, as demonstrated by the copious administrative and constitutional jurisprudence that has formed on the subject. Certainly the theme, and also from this its complexity, substantially affects the rights of equality, the protection of the different ideological, cultural and religious identities of individuals and groups, guaranteed by the Constitution that with art. 8 introduced in our legal system the idea of pluralism, intended to guarantee the different religious identities, while, at the same time, the art. 19 of the Constitution has sanctioned the right to profess one’s faith freely and to exercise the cult in public or in private. The availability of buildings and places of worship to be used for the celebration of rites is, therefore, a necessary element to effectively ensure not only the individual, but also the communities of practitioners the free exercise of their creed. At the same time, the discipline for the construction of these buildings, in the exercise of the competences on the government of the territory, is a task to which the administration cannot escape with the criticali-

ties that we will try to highlight by referring, for the cheapness of the research, only to the Lombard regional discipline.

The repeal of humanitarian protection in law 132/2018
and the constitutional right to asylum

by Carla Negri

The article analyzes the humanitarian protection news contained in the law 132/2018. The changes introduced pose some interpretive problems on the temporal effects of the repeal of humanitarian protection and their impact on the right to asylum under article 10.3 of the Italian Constitution. The paper focuses, in particular, on the relationship between humanitarian protection and the right to asylum, highlighting the need for the intervention of the Italian Constitutional Court, in order to participate in the construction of a common European right of asylum.

About the italian ‘short blanket’ syndrome in the application of rebalancing financial rules by the competent municipal authority: from the economic crisis in the Constitution to the ‘accounting’ administrative model’s inadequacy

by Francesco Siciliano

The work is about the contradiction between the italian Constitutional reform in the 2012 – introducing the principle of balanced budget, as a necessary effort to improve the efficiency and effectiveness of public administration against the economic crisis – and the research of the optimum legal solution to reinforce the commitment to finally reduce the hugely public debt, as it was accumulated over a long time ago.

In this way, the ‘short blanket’ syndrome depicts, by the author, the evidence of an ‘accounting’ administrative model’s inadequacy in Italy at municipal’s governance level, where, nowadays, the public administration is not really able to satisfy citizens’ fundamental needs or credits, because of the duty of setting aside money to rebalance public debt.

The result is a silent struggle between the restrictings rules of european legislative framework, transposed in italian Constitution and in its implementig laws to remove public debt and an Italian framework, apparently in compliance with overnational rules, but actually derogatory in order to application of rebalancing rules by the competent municipal authorities (artt. 243-*bis* e 243-*quater*, T.U.E.L), with the aim to find much public money to satisfy citizen’s needs and rights by extending timeline to write off public debt.

So the ‘short blanket’ syndrome is increasingly checked by Italian Constitutional Court and Court of Auditors, also taking care of potential damages for future generations.

In this way, legal uncertainty grows up day by day and, over all, the administrative model doesn't receive any benefit or any definitive solution, that could be found, by the author, only at European and state governance levels.

An introduction to the study of business networks
as a development model for internal areas

by Luca Di Salvatore

The essay aims at investigating if business networks and, in particular, the network contract, may constitute an effective business cooperation pattern for the regeneration of "territorial capital" present in internal areas. The analysis of the issues related to internal areas and of the main characteristics of business networks shows that the reticular entrepreneurial cooperation can contribute to the development of those territories, that are characterized by conditions of infrastructural and socio-economic disadvantage, but are also endowed with resources and natural and human capital, in which depopulation and abandonment of traditional small business are registered.

The European Capitals of Culture initiative:
substantive aspects and critical profiles

by Giulia Torta

The paper analyzes the substantive aspects and critical profiles of the "European Capitals of Culture" initiative, examining the theme of promoting culture at European level and the problems connected with the management and organization of the event-year at national level. The reflection on the theme is developed through an analytical path that postulates the assimilation of the "European Capitals of Culture" initiative to the "Major Events" [legislation]. Noting the absence of a discipline, the paper attempts to highlight the pros and cons associated with the introduction into the Italian regulatory system of any special discipline on the subject, intended to offset a European and national regulatory landscape that is severely lacking.

Mandatory vaccinations: The Constitutional Court deliberates on State vs Regions responsibilities. Remarks concerning decision no. 137/2019

by Fulvia Passananti

This study analyzes the issues underlying Decision no. 137/2019 of the Constitutional Court.

Article 1, paragraph 1, of Law no. 27 of the Regione Puglia of June 19, 2018, provides that only vaccinated healthcare professionals can enter specific hospital wards. According to the Judges, the Regione Puglia did not impose mandatory vaccinations but rather just a procedural step for healthcare professionals. This law therefore falls within healthcare procedures and not within the fundamental principles of healthcare protection.

The Constitutional Court has consequently given ample jurisdiction over matters of immunization-policy to the Regions. At the same time, however, Decision no. 137/2019 is controversial because of the interplay between legal and medical jargons that gives rise to confusion between recommended and mandatory vaccinations.

Finally, this study focuses on the possibility for the Regions to legislate on mandatory healthcare treatments with specific laws in a given territory.