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## WELCOME TO THE NEW NEWSLETTER OF ISSIRFA



The new newsletter of the Institute, which has been totally renewed, is available online from 28 December 2017.

Because of the restructuring, this issue reports on the activities carried out in the second and third four-month periods of 2017.

Users can follow the information on past and future events, conferences and workshops that the Institute has organized or participated in. There are also updates on activities and research work under way as well as on publications and all the most recent news on public law and in particular on regional law and federalism.

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**News from the “ISSIRFA” website:** in the “Library” section the heading “List of new acquisitions” presents all the new books and articles entered into the catalogue between 9 June 2017 and 4 December 2017.

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# *Individualism and requests for greater autonomy in 2017: the Spanish and Italian cases.*

*Interview with the Director of ISSIRFA, Prof. Stelio Mangiameli  
CNR Almanac of Science / n° 12 of 6 December 2017*



From the political-institutional standpoint, the event of the year, at least as regards Europe, was undoubtedly the Catalanian crisis. The referendum promoted by the Barcelona authorities, the harsh response by Madrid, the exile of Catalanian leader, Carlos Puigdemont, produced a storm that extended well beyond the Iberian borders and ran into the autonomist winds blowing in several countries from Corsica to Scotland, while in Northern Italy, two Regions called for a referendum to expand their margins of autonomy. The Catalanian event took on the value of a paradigm of an unsolved legal-statehood issue: what is the value of a majority vote at the local level claiming secession or independence?

“Regarding general law and in particular Spanish law it has no value”, says Stelio Mangiameli, professor of Constitutional Law and director of ISSIRFA-CNR, the Institute of studies on regional federal systems and local governments. “Three years ago the attempt to hold a consultative referendum was declared illegitimate by the Spanish Constitutional Court, hence sizing it down to being an informal consultation. The Spanish constitutional system, as is obvious for a unitary State, does not contemplate the possibility of secession: consequently the central Government cannot accept negotiations on that matter. Article 2 of the Spanish Constitution declares the indissoluble unity of the Spanish Nation which is the common and indivisible homeland of all Spaniards, but it guarantees the right to self-government of the nationalities and regions of which it is composed and solidarity among them all”.

These are precisely the same principles as those laid down in the Italian Constitution which, in Article 5, states: “The Republic is one and indivisible. It recognizes and promotes local autonomies”. Decentralization and autonomy are fundamental principles that are dealt with in other articles of the Charter such as Article 114 and 118, but they are subject to the unity of the State. “No negotiation for secession can be admitted between a State and a regional community: in Spain the possibility of obtaining greater autonomy requires an amendment of the statutes and provisions of the Constitution and cannot be achieved through a referendum. Consulting the population has a political meaning, if any, as occurred with the referendums held in

Lombardy and Veneto”, Prof. Mangiameli went on to say.

The decision by Barcelona is not justified not even in terms of international law, even though this aspect is not spelled out clearly. “International law concerns the relationships between States, not their internal affairs, therefore it cannot legitimize a secession”, specifies further the Director of ISSIRFA-CNR, “even though one cannot rule out that, in case of a de facto, albeit illegitimate, separation, the new entity would be admitted into the International Community. The European Union, through the Commission, pointed out that a new State of Catalonia, if any, would not be included in the EU because the European order is regulated by the constitutional legality of its Member States”.

A conflict, that should in any case be avoided, would be the only way for Catalonia to achieve total and full autonomy. After all, this is what has always happened throughout history where local communities and territories absorbed into larger political and state realities decide to rise in order to acquire or reinstate their independence. In the Catalanian case, however, one cannot apply the principle of self determination of peoples which is part of international customary law that posits the right of an oppressed people to secede from a tyrannical State: an extreme form of defence from those that are defined ‘gross violations’ of human rights”, points out the Constitutional law expert.

Among other things the right of a local majority to secede or acquire greater autonomy would open up the risk of never-ending local fragmentation. And since the territories that make these claims are the richer ones, the principle of solidarity on which human communities are based would be undermined. “But there are exceptions where the domestic order contemplates the division of a part of the State: the United Kingdom granted this possibility to Scotland through the 2014 referendum, whose outcome was however negative; the 1706 treaty of the Union posed a very special and totally different historic and institutional condition”, concluded Mangiameli. “In the absence of a similar political will that provides legal foundation, there is no justification for a unilateral act. The granting of greater autonomy finds different responses in the various legal orders in the Spanish case and also in the Italian case – as recalled by the requests lodged by Veneto, Emilia Romagna and Lombardy – the Constitution envisages that local government be enhanced”.

Concerning the initiatives of the Italian Regions for the implementation of Article 116, paragraph 3, you will find the text of the [Hearing of our Director Stelio Mangiameli on the fact finding mission of the Parliamentary Committee on Regional Affairs of 29 November 2017 on the “Studies and interventions”](#) page that presents the scientific contribution of ISSIRFA-CNR.



## *RECENT ACTIVITIES*

## METROPOLITAN TOWNS AND PROVINCES IN THE REGIONAL SYSTEM

Stelio Mangiameli presented a monographic report on the topical issue of metropolitan towns and provinces in the regional system at the meeting of the Interregional Legislative Observatory (Oli) held on 28 September 2017 at the offices of the Tuscany Region in Rome.



As is well known, the Interregional Legislative Observatory (Oli) was set up in 1979 as a liaison body connecting the legislative offices of the Councils with the Regional Governments and the Autonomous Provinces. It enables the legislative offices to constantly interact on common and topical issues on the agenda of the Regions and Autonomous Provinces. For this purpose the activities of the Oli are linked also with the offices of the Chamber of Deputies, the Senate, the Government, the Universities and research centres, the Interregional Centre for studies and documentation (Cinsedo) and, also the institutes for legal studies of CNR.

[The report is available in audio-video format on the Oli website.](#)



## IMMIGRATION, MARGINALIZATION, INTEGRATION

Stelio Mangiameli gave a presentation entitled “Europe and the Humanitarian Crisis” at the Conference on “**Immigration, marginalization, integration**” organized by the “Tor Vergata” University of Rome held on 15-16 June 2017 at the Società Geografica Italiana – Palazzetto Mattei, Villa Celimontana in Rome.



The problems posed by immigration and related marginalization issues, that are so evident in Europe at the present time, prompted the need for some reflection on these aspects with special emphasis on the philosophical and historic-legal aspects, international, European and navigation law.

The discussions held contributed various standpoints each of which offered insights on how to deal with such an important challenge for the present and future of our society.



On 6-7 November Stelio Mangiameli presented the report “Broad Functions: Fundamental State Functions and Functions attributed to the Regions” at the National Workshop on “The “governance” of the Provinces and reorganization of local government in light of the experience accrued by the implementation of Act 56/14” held at the Sant’Anna School in Pisa. The workshop, addressed to the administrators of Provinces and Municipalities, was part of the activities that ANCI and UPI are carrying out for the implementation of the agreement with the Ministry of the Interior and was a moment of reflection on the implementation of Act 56/14 in order to verify the potential and limits of the reform of local government and offer suggestions on any possible amendments.

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## *INTERNATIONAL ACTIVITIES*



On 23 May Stelio Mangiameli was invited to speak about “constitutionalism and fundamental criminal guarantees” at the workshop on criminal law organized by the Faculdade Damas da Instrução Cristã, Recife, Brazil.



Andrea Filippetti was Visiting Scholar at the Centre d'Économie de la Sorbonne, Paris-Sorbonne University in 2017.



On 5 May Gabriella Saputelli, with her paper on “The European Union, the Member States and the Lex Mercatoria”, was invited to speak at the XV biennial international Conference of the European Union Studies Association that took place in Miami from 4 to 6 May 2017.



On 12 and 13 October 2017, Andrea Filippetti, with his paper titled “Diversity, regional autonomy and local public services in European regions”, and Gabriella Saputelli, with her paper titled “Principle of equality and social care policies in the Italian regional system between autonomy and centralization”, were invited to speak at the [IACFS Annual Conference](#).



## *COURSES, LECTURES & PAPERS*



- **Paolo Colasante** started the Course on Comparative Constitutional Law (6 CFU) at Angelicum, the Pontifical University of St. Thomas Aquinas in Rome.
- **Laura Ronchetti** became a member of the Project "Comprehending European Citizenship and Immigration Law" of the Sapienza University of Rome - Erasmus+ Programme – Jean Monnet Activities Teaching and Research: Modules, Chairs and Centres of Excellence 2017.

· **Antonino Iacoviello** participated in the Conference on “[Local Governments and the European Union. Sources, Institutions, Rights](#)”, promoted by the Journal “Regional Rights” held in Rome at the Roma Tre University, Department of Political Sciences on 20 September 2017, with a paper on the issue “Participation of local governments in the ascending phase of the European decision-making process: the organizational models of Italian Regions”.

· **Clelia Lo Savio** presented the paper “Policies and national and regional legislation on mountain territories” which presented the results of the research project “Analysis of the legislation on mountain territories” at the Conference “[Research on Italian Mountains](#)” held in Rome at the Sala monumentale of the Presidency of the Council of Ministers.



· In June 2017, **Andrea Filippetti** was invited to talk about [the relationships between universities and industry in Italian regions](#) at the workshop “Moving knowledge into action: exploring the micro-foundations of an innovation ecosystem”, held at the University of Padua.

· **Fabrizio Tuzi** was invited to present his book [“Public Administration: the transition from being self-centred to competition”](#), held at the Bruno Leoni Institute in Milan – Policy Breakfast.

· **Clelia Lo Savio** participated as speaker in the workshop [“National strategy for the Green Economy”](#) held within the framework of the Public Administration Forum on 23 May 2017.

· **Gabriella Saputelli** took part to the workshop [“First lesson on European Constitutional Law – Markets and International Economic Constitution”](#) at the University of Urbino on Monday 18 September 2017, with a contribution on the issue “The EU and sources for the regulation of international markets after the world crisis” and published her paper [“The Evolution and Evaluation of EU Citizenship in the EU Federalizing Process”](#), in the news section of POLITEIA, XXXIII, 127, 2017.

· **Andrea Filippetti** was invited as keynote speaker at the [iBegin Conference 2017 - International Business, Economic Geography and Innovation](#), Venice, December 2017.

· **Andrea Filippetti** published the working paper on Management Birkbeck, Department of Management BWPMA 1701, [“Why Does Social Capital Increase Government Performance? The Role of Local Elections across Italian Municipalities”](#) and the paper [“The impact of internationalization on innovation at country level. The role of absorptive capacity”](#) in the Cambridge Journal of Economics, 41 (2), together with Marion Frenz and Grazia Ietto-Gillies.

· **Chiara Cavallaro**, Massimo Arnone, [“The challenge of an approach to development in Italian Regions based on local networks”](#), in print for LaborEst no. 14/2017\_13, Journal of the Economic-evaluation Laboratory of the University of Mediterranean Studies of Reggio Calabria.

· **Fabrizio Tuzi** published the paper [“The condition of local public transport in Italy: joint responsibility of the State, Regions and Local Governments”](#) in the Journal of the Economics and Politics of Transport, no. 3, Art. 4.

· **Gabriella Saputelli** published the paper [“The Italian Regional State and the division of powers on manufacturing activities and economic development: devolution versus centralization”](#), on [www.federalismi.it](http://www.federalismi.it), no. 222017.

· **Chiara Cavallaro**, Francesca Proia, [“Networks of a solidarity-based economy: resilient communities”](#), in [Proceedings of the IPSAPA Conference 2015 \(Naples\)](#) in print.

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