Legal manifestations of emergency in national Euro-crisis law: the case of Italy.

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In the social sciences the term "emergency" (*emergenza*, *urgence*, etc.) is used - not necessarily in a technical sense - to indicate sudden situations of difficulty or danger, which tend to be transient in nature (although not necessarily brief), and which involve a crisis of the institutions operating within a given social structure.[1]

In the same vein, in legal terms, the idea of a "state of emergency" suggests, generally, a) the existence of factual circumstances, of special gravity for a certain community, producing such crisis, and b) consequent legal manifestations in the behaviour of institutions, sometimes as mere distorting epiphenomena of the impact of the crisis, sometimes as formalized recognition of the phenomenon and provision of specific correctional effects to guarantee the maintenance of a given legal system.[2]

The two mentioned forms of legal manifestations are surely different; they have, nonetheless, some aspects in common. They tend to create *derogations* (more or less extensive and more or less incisive) to the ordinary allocation of responsibilities, competences, powers between public authorities; moreover, they tend to be explicated, in particular, in a varied/altered use of the relevant *sources* of law.

It has been highlighted already in the past, in the context of general reflections on the concept of "emergency", that the variety and the complexity of economic crises (as well as their difficult distinction from political or social ones) make it difficult to indicate what substantial measures can be typically used to address them.[3]

When dealing with the current, multifaceted European crisis,[4] given the magnitude of the

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The paper draws on my Country report for the EUI project *Constitutional Change through Euro Crisis Law. Country Reports on the impact of crisis Instruments on the legal structures of the EU Member States*, available at the website http://eurocrisislaw.eui.eu/italy/. Thanks are due to Prof. Giuseppe Martinico and Dr. Francesco Paniccià for their precious comments on an early version.

1 According to the definition by A. Pizzorusso, Emergenza (Stato di), in Enciclopedia delle Scienze sociali, Roma, 1993, Istituto dell'Enciclopedia italiana, vol. III, ad vocem, pp. 551-559.

2 See on the difference between a «normalized» and an always present «innovative» dimension of emergency G. de Vergottini, Necessità, costituzione materiale e disciplina dell'emergenza. In margine al pensiero di Costantino Mortati, in M. Galizia (ed.) Forme di stato e forme di governo: nuovi studi sul pensiero di Costantino Mortati, Giuffrè, Milano, 2007, 475, at pp. 476 et seq..

3 See again A. Pizzorusso, Emergenza (Stato di) , op. cit., at p. 559.

4 See A. Menéndez, The Existential Crisis of the European Union, in 14 German Law Journal, 2013, pp. 453-526, in particular at 453: «the European Union is not undergoing one crisis, but is instead suffering several simultaneous, interrelated, and intertwined crises - crises, which are global, not exclusively European. Put differently, the subprime crisis turned the economic, financial, fiscal, macroeconomic, and political structure weaknesses of the Western socio-economic order into at least five major crises».

phenomenon, the observer is in fact faced by a vast congeries of interventions, of various nature. Interestingly, the clearest signs are for now at the formal level.

It can be noted first of all that the recognition of a “state of emergency” and the envision of the consequent legal effects (optimal or not, efficient or not) were in large part centralized at the EU level,[5] and could be studied precisely through the lenses of the *extra-ordinem* nature of the measures, their provided derogations, a varied use of sources.[6]

At the national level, in my view, we can primarily find relevant legal epiphenomena of emergency: the first impression one receives is the struggle of Member States to comply, in critical situations, with what we generally intend here as Euro-crisis law measures. There is no formal recognition of a “state of emergency” at this level; but there are evident traces of the same idea of exceptionality and derogatory nature, and the same distorted use of sources.

To substantiate my claim, I selected one the most relevant examples for the Italian case in the last years: the much discussed, still ongoing process of reform of the constitutional system of territorial decentralization of the Republic.

As well known, the historical heritage of profound fragmentation of the pre-unified Italian peninsula, and the influence of the French-Napoleonic model of decentralized local administration, shaped the strong role traditionally attached to Italian municipalities (*Comuni*) and to the Provinces as superordinate territorial authorities.[7] These latter already existed in some pre-unitary states, and were adopted in their actual nature directly from the French system by the Kingdom of Sardinia already in 1859,[8] then applied also in the Lombardo-Venetian and, by the interim dictators during the unification process, in the other southern and central territories.[9] To cut a very long story short,[10]

5 See for a similar reflection U. Beck, German Europe, Polity Press, 2013, especially at p. 27: «In dealing with the threat to the euro and the European Union, the relevant players are effectively *negotiating about an exceptional situation whose ramifications are no longer confined to individual nation-states. Instead we are facing a 'transnational emergency'*, which can be exploited in various ways (legitimated by either democratic or technocratic means) by a variety of players, including national politicians, the unelected representatives of European institutions such as the ECB, social movements, or even the managers of powerful financial organizations» (emphasis added).

6 For space constraints, we can only refer here to the interesting analysis by E. Chiti, P.G. Teixeira, The constitutional implications of the European responses to the financial and public debt crisis, in 50 Common Market Law Review, 2013, pp. 683-708, and G. Martinico, EU Crisis and Constitutional Mutations: A Review Article, Sant'Anna Legal Studies Research Paper n. 3/2014, available at the website http://stals.sssup.it/files/martinico%20crisis.pdf; and on the formal point in particular, by C. Kilpatrick, Abnormal Legal Sources in the EU Sovereign Debt Crisis, paper presented at the Academy of European Law specialized course, 30 June - 11 July 2014, European University Institute, Florence.

7 See the comparative analysis by L. Vandelli, Poteri Locali: le origini nella Francia rivoluzionaria, le prospettive nell'Europa delle regioni, Il Mulino, Bologna, 1990, and recently M. Mazza, Federalismo, regionalismo e decentramento nella prospettiva della comparazione tra i sistemi di amministrazione (o governo) locale, in 4 Istituzioni del federalismo 2012, pp. 829-856.

8 With the so called Decreto Rattazzi, legge 23 ottobre 1859 n. 3702 del Regno di Sardegna.

9 See for details A. Sandulli, G. Vesperini, L'organizzazione dello Stato unitario, in 1 Rivista trimestrale di diritto pubblico, 2011, 47, in particular at p. 58.

10 See for a comprehensive study F. Fabrizzi, La Provincia. Analisi dell'ente locale più discusso, Jovene, Napoli, 2012.

the coexistence of *Comuni* and *Province* was generally restated by the *Legge sull'amministrazione comunale e provinciale* of the 20th March 1865; and confirmed, decades later, by the Republican Constitution of 1948. This latter in fact not only included a cardinal Article 5 on the principles of autonomy and decentralization; but, in its *Titolo quinto* dedicated to the territorial organization of the State, added to *Comuni* and *Province* new entities with legislative and administrative powers, the *Regions*, modelled on the old compartments used for statistical purposes in the Kingdom.[11]

The Provinces, already in the preliminary debate and the preparatory works of the Constituent Assembly, were meant to disappear with the introduction of the Regions:[12] but an inertial solution prevailed in the drafting of the Constitution, then in 1970 when the ordinary Regions actually came into existing,[13] and later in all the rounds of constitutional reform occurred,[14] and left the Provinces together with municipalities and Regions alive, despite a general, repeated debate at the political level on the middle layer's substantial futility.[15]

It is interesting to measure the impact of Euro-crisis law measures against this background.

The letter addressed by the then-President of the ECB Jean-Claude Trichet and his designated successor, then a member of the Executive Board of the ECB, Mario Draghi, to the President of the Italian Council of Ministers on 5th August 2011 - prodrome of the conditioned application of the Securities Markets Programme (SMP) to Italy in 2011 and 2012 with the purchase of 102,8 billions of euro of Italian bonds[16] - explicitly emphasized, in fact, among the other things, the «need for a strong commitment to abolish or merge some intermediate levels of administration (such as

11 For several reasons, both theoretical and contingent: see for comprehensive accounts, *ex multis*, the pioneering studies of A. Amorth, Il problema della struttura dello Stato in Italia. Federalismo, regionalismo, autonomismo, Marzoranti, Como-Milano, 1945, and G. Ambrosini, L'ordinamento regionale. La riforma regionale nella Costituzione italiana, Zanichelli, Bologna, 1957, and the recent summary by A. D'Atena, Diritto regionale, Giappichelli, Torino, 2013, pp. 9 et seq.. In the literature in English, see now S. Mangiameli (ed.), Italian Regionalism: Between Unitary Traditions and Federal Processes. Investigating Italy's Form of State, Springer, 2014.

12 Both the discussions in the context of the *Ministero per la Costituente*, established with decreto luogotenenziale 31 luglio 1945, n. 435, and in the *Commissione dei settantacinque* within the Constituent Assembly were in this sense: see F. Fabrizzi, La Provincia: storia istituzionale dell'ente locale più discusso. Dalla riforma Crispi all'Assemblea Costituente, in Federalismi.it. Rivista di diritto pubblico italiano, comunitario e comparato, n. 12/2008, available at the webpage http://goo.gl/ipCTT8.

13 See for instance the rejected proposal of the Partito Repubblicano Italiano in 1977 "Soppressione dell'ente autonomo territoriale provincia: modifica degli articoli 114, 118, 119, 128, 132, 133 e della VIII disposizione di attuazione della Costituzione; abrogazione dell'articolo 129 della Costituzione", based explicitly on «a chain of negative findings on the institutional and administrative role of the province».

14 For instance, all the bicameral committees convened to draft organic reforms of the Italian Constitution (the Commissione Bozzi of 1983, the Commissione De Mita/Iotti of 1992, the Commissione D'Alema of 1997) critically discussed the actual role and the very existence of the Provinces, but with no results: see F. Fabrizzi, La Provincia: storia istituzionale dell'ente locale più discusso. Dall'Assemblea costituente ad oggi, in Federalismi.it. Rivista di diritto pubblico italiano, comunitario e comparato, n. 23/2008, available at the webpage http://goo.gl/HQWsQ2.

15 Again at the end of June 2010, a proposal to abolish the Provinces with less than 220.000 inhabitants made its way in a draft of the Decree-Law n. 78/2010, but then disappeared from the official text; in July 2011, a new constitutional bill for their suppression (XVI Legislatura, AC n. 1990-1836-1989-2264-2579-A/R) was rejected.

16 The largest quota among all the Eurozone members: see the details provided by the European Central Bank at its webpage http://www.ecb.europa.eu/press/pr/date/2013/html/pr130221_1.en.html.

provinces)».[17]

The inertia of decades was, actually, broken by the supranational (co)action.

But this conversion was not the most surprising part of the story. As well known, a “technical” Government of so called “national commitment” led by Prof. Mario Monti, with clear pro-European traits and a coherent mandate to solve the critical Italian situation,[18] replaced in late 2011 the resigned Berlusconi IV government: an adherence to the supranational *desiderata* could be in this situation taken for granted.

In one of its first interventions, the Decree-law n. 201/2011 containing various «(U)rgent measures for growth, fairness and consolidation of public accounts»,[19] the new Government tried to comply with these (and other) suggestions of the ECB's letter: and it dictated *inter alia* the transformation of Provinces in institutions with mere functions of direction and coordination of the municipalities, governed by a council and a president expressed by the municipalities themselves, and devoid of a collegiate executive and ultimately of autonomy.

From our perspective, the most relevant aspect is in the choice of the formal measure used, at least originally, to implement the reform.

Decree-laws are, in fact, in the Italian legal system, legislative acts of a temporary nature having the force of law, adopted directly by the Government in «extraordinary cases of necessity and urgency» pursuant to Art. 77 of the Constitution of the Italian Republic, with a postponed necessary intervention of the Parliament that must convert them into a formal Law within 60 days from the publication. They are therefore sources of law specifically designed for extraordinary cases, to be suddenly addressed with immediate normative interventions; the physiology then would be a subsequent ratification by the legislature.

Nonetheless, the practical use of Decree-Laws has been trivialized with dubious tendencies to a large employment by the Government, to circumvent the ordinary legislative procedure, to their inhomogeneous content, to their reiteration.[20] For all these cases, the Italian *Corte costituzionale* has

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17 See the full text, as revealed at the time by the Italian main newspaper, the Corriere della Sera, at the webpage http://www.corriere.it/economia/11_settembre_29/trichet_draghi_italiano_405e2be2-ea59-11e0-ae06-4da866778017.shtml.

18 In itself seen by some observes as evidence of a state of exception, given the particularly active role of the President of the Republic in such appointment: see for an early reflection on the point A. Ruggeri, Art. 94 della Costituzione vivente: 'Il Governo deve avere la fiducia dei mercati' (nota minima a commento della nascita del Governo Monti), in Federalismi.it. Rivista di diritto pubblico italiano, comunitario e comparato, n. 23/2011, available at the webpage http://goo.gl/l0spCn.

19 Decreto-legge 6 dicembre 2011, n. 201 - Disposizioni urgenti per la crescita, l'equita' e il consolidamento dei conti pubblici. (11G0247) (GU n.284 del 6-12-2011 - Suppl. Ordinario n. 251).

20 For recent general reconstructions see, *ex multis*, A. Celotto, L'“abuso” del decreto-legge, CEDAM, Padova, 1997; A. Simoncini (ed.) L’emergenza infinita. La decretazione d’urgenza in Italia, EUM, Macerata, 2006; on the most recent trends R. Calvano, La decretazione d'urgenza nella stagione delle larghe intese, in Rivista AIC - Associazione Italiana dei Costituzionalisti, n. 3/2014, available at the webpage http://goo.gl/fFyNDG; A. Simoncini, E. Longo, Dal decreto-legge alla legge di conversione: dal controllo potenziale al sindacato effettivo di costituzionalità, in

often underlined the political discretionary dimension involved in the (though questionable) practices,[21] and has rarely struck down legislative measures for mere reasons of formal choice and misuse of the source and lack of the relevant criteria.[22]

The Decree-law n. 201/2011 had a different fate. It was challenged - in its relevant parts, and together with the Decree-law n. 95/2012 (which set the basis for the reorganization of the Provinces' territorial constituencies) – autonomously and directly by a series of Regions before the *Corte costituzionale*. The two Decrees were actually converted into Laws by the legislature; and their norms could surely be considered, as suggested by the various appellants, as running against the various aspects of the concept of autonomy of territorial entities, ranging from the respect of their core competences to the principle of loyal cooperation also in the context of a radical reform.

But the Court's intervention (judgment n. 220/2013) explicitly left untouched the «merits of the choices made by the legislature». It pointed precisely, and only, to the abnormality of the source of law employed.[23] The urgency invoked by the Government for the employment of a Decree-law was confronted by the judges with the explicit aim of an organic constitutional reform of the territorial organization of the Republic. This latter could be linked to the short-term necessity of immediate revenue savings;[24] but it inherently requires longer-term implementation processes, with the need of

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Rivista AIC - Associazione Italiana dei Costituzionalisti, n. 3/2014, available at the webpage http://goo.gl/EIKixc.

21 See for instance Corte Costituzionale 23 maggio 2007, n. 171, at par. 4 of the *Considerato in diritto*: «E' sulla base di siffatti presupposti che questa Corte, con giurisprudenza costante dal 1995 (sentenza n. 29 del 1995), ha affermato che l'esistenza dei requisiti della straordinarietà del caso di necessità e d'urgenza può essere oggetto di scrutinio di costituzionalità. *Tuttavia, nell'affermare l'esistenza del suindicato proprio compito, è stata ed è consapevole che il suo esercizio non sostituisce e non si sovrappone a quello iniziale del Governo e a quello successivo del Parlamento in sede di conversione – in cui le valutazioni politiche potrebbero essere prevalenti – ma deve svolgersi su un piano diverso*, con la funzione di preservare l'assetto delle fonti normative e, con esso, il rispetto dei valori a tutela dei quali detto compito è predisposto» (emphasis added).

22 This created a paradoxical convergence with the practice of the Fascist period, when a formal law, the Legge 31 gennaio 1926, n. 100, expliticly provided for the exclusion of judicial review on the criteria of necessity and urgency, as "political questions": see M. Benvenuti, Alle origini dei decreti-legge. Saggio sulla decretazione governativa di urgenza e sulla sua genealogia nell'ordinamento giuridico dell'Italia prefascista, in Scritti in onore di Claudio Rossano, Jovene, Napoli, 2013, I, pp. 21-79.

23 See Corte Costituzionale 19 luglio 2013, n. 220, at par. 12.1 of the *Considerato in diritto*: «Dalla disposizione sopra riportata non risulta chiaro se l'urgenza del provvedere – anche e soprattutto in relazione alla finalità di risparmio, esplicitamente posta a base del decreto-legge, come pure del rinvio – sia meglio soddisfatta dall'immediata applicazione delle norme dello stesso decreto oppure, al contrario, dal differimento nel tempo della loro efficacia operativa. Tale ambiguità conferma la *palese inadeguatezza dello strumento del decreto-legge a realizzare una riforma organica e di sistema*, che non solo trova le sue motivazioni in esigenze manifestatesi da non breve periodo, ma *richiede processi attuativi necessariamente protratti nel tempo, tali da poter rendere indispensabili sospensioni di efficacia, rinvii e sistematizzazioni progressive, che mal si conciliano con l'immediatezza di effetti connaturata al decreto-legge*, secondo il disegno costituzionale.
Le considerazioni che precedono non entrano nel merito delle scelte compiute dal legislatore e non portano alla conclusione che sull'ordinamento degli enti locali si possa intervenire solo con legge costituzionale – indispensabile solo se si intenda sopprimere uno degli enti previsti dall'art. 114 Cost., o comunque si voglia togliere allo stesso la garanzia costituzionale – ma, più limitatamente, che non sia utilizzabile un atto normativo, come il decreto-legge, per introdurre nuovi assetti ordinamentali che superino i limiti di misure meramente organizzative» (emphasis added).

24 Doubts were in any case raised by local scholars, like M. Massa, Come non si devono riformare le province, in 5-6 Le Regioni, 2013, pp. 1168-1184; 5, and S. Staiano, Il DDL Delrio: considerazioni sul merito e sul metodo, in Federalismi.it. Rivista di diritto pubblico italiano, comunitario e comparato, n. 1/2014, available at the webpage

«suspension of effectiveness, referrals and progressive systematizations»,[25] all ultimately difficult to reconcile with the immediacy of effects typical of the Decree-law according to the constitutional design. Moreover, the constitutional requirement, in Article 133, of an «initiative» of the interested *Comuni* (municipalities) for the modification of the Provinces' territorial constituencies was found to be radically breached by the same use of a Decree-law as relevant source, with a clear statement of «logical and legal incompatibility».[26]

The distort use of a specific source was therefore sanctioned with the declaration of constitutional illegitimacy of the norms. The *Corte* highlighted, in doing so, the split between the transient nature of the Decree-laws and the salience of an organic constitutional reform; and, implicitly, the difference between the preordained *urgency* inherent in the employment of Decree-laws and the extraordinary situation of *emergency* that the reform tried to face.[27]

The story did not end there.

In the meantime, another governmental Decree-Law, n. 188/2012,[28] was issued, to identify the new territorial constituencies of the Provinces: but it was never converted into law by the Parliament, and therefore its effects definitively decayed. A legislative bill to regulate the "second-order" elections of the Provinces' organs was also presented by the Government (in May 2012):[29] but, also in this case, the parliamentary approval never came.

The annulment of the relevant parts of the Decree-laws n. 201/2011 and n. 95/2012 by the *Corte costituzionale* led to a further stratification and complication of measures on the same treated matters.

In fact, in the same week of the hearing of the *Corte*, whose results were anticipated by a press release, the Council of Ministers deliberated the approval of a constitutional bill, consisting of only three articles, intended to radically eliminate the Provinces from the Italian constitutional

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http://goo.gl/uVwUyD, and by the national Court of Auditors: see Corte dei Conti - Sezione delle autonomie, Audizione sul d.d.l. Città metropolitane, Province, Unioni e fusioni di Comuni A.C. 1542, Commissione Affari costituzionali, 6 novembre 2013.

25 See Corte Costituzionale 19 luglio 2013, n. 220, at par. 12.1 of the *Considerato in diritto*, *supra*.

26 *Ibidem*, at par. 12.2: «Emerge dalle precedenti considerazioni che *esiste una incompatibilità logica e giuridica – che va al di là dello specifico oggetto dell'odierno scrutinio di costituzionalità – tra il decreto-legge, che presuppone che si verifichino casi straordinari di necessità e urgenza, e la necessaria iniziativa dei Comuni,* che certamente non può identificarsi con le suddette situazioni di fatto, se non altro perché l'iniziativa non può che essere frutto di una maturazione e di una concertazione tra enti non suscettibile di assumere la veste della straordinarietà, ma piuttosto quella dell'esercizio ordinario di una facoltà prevista dalla Costituzione, in relazione a bisogni e interessi già manifestatisi nelle popolazioni locali» (emphasis added).

27 See for an analysis of the two dimensions R. Bin, Il nodo delle province, and G. Di Cosimo, Come non si deve usare il decreto legge, in 5-6 Le Regioni, 2013, at pp. 899-912 and pp. 1163-1167 respectively.

28 Decreto-legge 5 novembre 2012, n. 188. Disposizioni urgenti in materia di Province e Citta' metropolitane (12G0210) (GU n.259 del 6-11-2012).

29 Disegno di legge "Modalità di elezione del Consiglio provinciale e del Presidente della Provincia, a norma dell'articolo 23, commi 16 e 17, del decreto-legge 6 dicembre 2011, n. 201, convertito, con modificazioni, dalla legge 22 dicembre 2011, n. 214" (5210).

architecture.[30]

Moreover, new *interim* measures were considered necessary to consolidate, after the *Corte*'s intervention, the effects of the other, non-annulled parts of the Decree-laws n. 201/2011 and n. 95/2012. Thus, the Decree-law n. 93/2013 (devoted to «Urgent provisions for civil security and to combat gender-based violence, as well as on the subject of civil protection and commissioned administration of the Provinces»:[31] a case study of inhomogeneous Decree) confirmed the intervened dissolution of the organs of the (still existing) Provinces, the nomination of Government's Commissioners, the efficacy of these latters' acts; the Law n. 147/2013 provided the same effects for those Provinces whose organs had natural expiration or early termination between 1st January and 30th June 2014.

A new Law n. 56/2014 was then recently approved, establishing the new *Città metropolitane* already envisioned in the constitutional reform of 2001 and dictating the discipline of the new *Unioni di Comuni* ("unions of municipalities"). There is a clear overlapping of competences between these new layers of territorial government and the Provinces; in fact, the Law n. 56/2014 also aims at establishing the current legal framework of the Provinces, until they will be in force, by transforming them in second-level authorities, with no directly elected organs but composed of representatives of the relative municipalities.

There is a clear, and commendable, tendency towards optimization and expenditure restraint, for instance with regard of the emoluments of a whole layer of local representatives (Article 1, paragraph 84 of the Law explicitly provides for the non remunerated nature of the political appointments at the Provinces' level).

Critical formal issues are nonetheless evident, again.

Apart from the still existent doubts of constitutionality on the merits of the reform as supposed intrusion in the space of autonomy of a local authority, not touched and not solved by the *Corte Costituzionale* n. 220/2013, the first, tangible aspect is in the structure of the Law n. 56/2014, composed of a single Article 1, 151 (*sic*) internal paragraphs and an attachment. In this sense, emergency is here visible in the paroxystic use of an already infamous Italian drafting technique, aimed at a streamlining of the time of approval in the Parliament, but surely detrimental for the legislative quality.[32]

30 Disegno di legge costituzionale: "Abolizione delle province" (1543), presented on the 20th August 2013 at the Camera dei Deputati: see the text at the webpage of the lower house of the Parliament http://www.camera.it/_dati/leg17/lavori/stampati/pdf/17PDL0009060.pdf.

31 Decreto-legge 14 agosto 2013, n. 93 Disposizioni urgenti in materia di sicurezza e per il contrasto della violenza di genere, nonche' in tema di protezione civile e di commissariamento delle province (13G00141) (Gazzetta Ufficiale n.191 del 16-8-2013), convertito con modificazioni dalla L. 15 ottobre 2013, n. 119 (in G.U. 15/10/2013, n. 242).

32 And therefore for the prerogatives of the Parliament and for the certainty of the law: see on these points, *ex multis*, A. Pisaneschi, Fondamento costituzionale del potere di emendamento, limiti di coerenza e questione di fiducia, in 2

Secondly, perplexity comes from the technique of the Law n. 56/2014 to rule with a continuous reference to the «(P)ending» of the «reform of Title V of Part II of the Constitution and of its implementing rules (...)» (Article 1, paragraphs 5 and 51), and therefore also to the aforementioned constitutional bill of radical suppression of the Provinces. Not only the approval of such reform is on both a legal and political plane uncertain at the current stage. But it has been also argued that the entire Law becomes, in this way, a disproportionate intervention - in the form of an organic reform - simply to make a new round of elections of Provinces' representatives impossible, again with no contextual clear fundamental choices about the overall structure of local government.[33]

To conclude briefly, in this episode we can see how a reform of evident constitutional significance for the Italian Republic has been undertaken with clear distortions of the relevant sources of law.
A whole range of pathologies in the employment of sources is detectable, all intervening, all of a sudden, in matters historically difficult to amend:[34] patent misuse of Decree-laws, not converted or inhomogeneous ones, withdrawn governmental bills, repeated *interim* measures to block elections, unconstitutional drafting style of organic reforms, with dubious formal *renvois* to uncertain constitutional amendments still to be approved.
The origin of all this in a letter by central bankers to the head of a national executive – a soft law measure[35] or a prodrome of the future «Partnerships for Growth, Jobs and Competitiveness», in form of contractual arrangements, discussed at the European Council of 19-20 December 2013 in Brussels?[36] - is just a detail that lets us further wonder on a multilevel phenomenology of emergency measures.

Diritto e società, 1988, pp. 203-258; M. Ainis, La legge oscura. Come e perchè non funziona, Laterza, Roma-Bari, 1997, p. 4; G.U. Rescigno, L'atto normativo, Zanichelli, Bologna, 1998, pp. 139 et seq.; N. Lupo, Emendamenti, maxi-emendamenti e questione di fiducia nelle legislature del maggioritario, in E. Gianfrancesco, N. Lupo, (eds.) Le regole del diritto parlamentare nella dialettica tra maggioranza e opposizione, LUISS University Press, Roma, 2007, pp. 41 et seq.; G. Piccirilli, L'emendamento nel processo di decisione parlamentare, CEDAM, Padova, 2009, especially pp. 223 et seq..

33 See in this sense F. Giglioni, La riforma del governo di area vasta tra eterogenesi dei fini e aspettative autonomistiche, in Federalismi.it. Rivista di diritto pubblico italiano, comunitario e comparato, n. 1/2014, available at the webpage http://goo.gl/OaM02G.

34 See also F. Fabrizzi, Il caos normativo in materia di province, in Federalismi.it. Rivista di diritto pubblico italiano, comunitario e comparato, n. 1/2014, available at the webpage http://goo.gl/UiE7vi.

35 As always existed in European integration history, also in rather relevant sectors: see, also for theoretical reconstructions on the concept and reflections on the transformation of soft into hard law, the classic studies of K.C. Wellens, G.M. Borchart, Soft Law in European Community Law, in 14 European Law Review 1989, pp. 267-321; F. Snyder, Soft Law and Institutional Practice in theEuropean Community, in S. Martin (ed.) The Construction of Europe: Essays in Honour of Emile Noël, Kluwer Academic Publishers, Dordrecht, pp. 197-225; D.M. Trubek, P. Cottrell, M. Nance, "Soft Law", "Hard Law", and European Integration: Toward a Theory of Hybridity, in J. Scott, G. de Bùrca (eds.) New Governance and Constitutionalism in Europe and the US, Oxford, Hart, 2006, pp. 65-94.

36 See the conclusions of the Council available at the webpage http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/140245.pdf, at paragraphs 30/37.