COVID-19 AND THE CRISIS OF REPRESENTATIVE DEMOCRACY IN ITALY

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1. INTRODUCTION: THE WORSENING OF THE REPRESENTATIVE DEMOCRACY CRISIS IN ITALY DURING THE HEALTH EMERGENCY

The health emergency that Italy has been facing since the first months of 2020 shed light on the crisis of representative democracy and the free parliamentary mandate which was not a novelty for the Italian legal system but has been definitely exacerbated by the pandemic[1]. A side effect of this crisis is the increasing weakness of the national Parliament not only when exercising the legislative function, but also the control function vis-à-vis the Government.

With regard to the first aspect, the most evident indicator is the gradual loss of importance of parliamentary laws in favor of sources of law produced by the Government such as law decrees and administrative orders. These last ones have been frequently used not only as an alternative but also as instruments to amend or update previous laws without issuing another law, and this trend has been confirmed in the management of the pandemic[2].

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[1] See, among others, M. Luciani, «Il paradigma della rappresentanza di fronte alla crisi del rappresentato», en N. Zanon y F. Biondi (eds.), *Percorsi e vicende attuali della rappresentanza e della responsabilità politica* (pp. 109-117), Giuffré, 2001, p. 117.

[2] Cfr. S. Panizza, «Materiale per uno studio del rapporto tra Parlamento e Governo a partire dalla produzione normativa e dalle modalità del suo aggiornamento», *Diritti fondamentali*, 1, 27.03.2020, pp. 1-15. Disponible en *https://www.dirittifondamentali.it*; P. Caretti, «I

With regard to the second aspect, the weakness of the Parliament in the exercise of the control function is evident if considering the misuse of the law decrees by the Government especially in emergency time[3]. Just think about the practice, frequently followed during the pandemic, to repeal a law decree, while in the process of being converted by the Parliament, by a successive law decree not yet converted, with the consequence to frustrate *de facto* any parliamentary control[4]. Both the aspects having the final consequence to further weaken the role exercised by the national Parliament as democratically elected body representing the people.

Similar considerations apply to the subnational level. During the pandemic, the national Government's measures had a predominant position against regional and municipal ones; at the same time, the power of subnational institutions —if any— has been in the hands of regional Presidents and Mayors, without almost any involvement of regional and municipal representative assemblies.

This, in accordance with a trend frequently followed at subnational level to leave the trickiest questions to be solved by the executive institutions with the assemblies being mostly cut off from the debate (this happens for example in the special regions, if considering financial issues).

The chapter analyses these phenomena, first, at national and, secondly, at regional/municipal level with the final aim to single out the main challenges the Italian representative democracy system must face in the near future.

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riflessi della pandemia sul sistema delle fonti, sulla forma di governo e sulla forma di stato», *Osservatoriosullefonti.it*, fascicolo speciale «Le fonti normative nella gestione dell'emergenza COVID», 2020, pp. 295-299. Disponible en *https://osservatoriosullefonti.it*; U. DE SIERVO, Rappresentanza politica e ruolo della legge. *Osservatoriosullefonti.it*, 3/2012, pp. 1-8. Disponible en *https://osservatoriosullefonti.it*; F. MEOLA (2019). «Governare per decreto. Sistema delle fonti e forma di governo alla ricerca della rappresentanza perduta», *Rivista AIC*, 3, 1-29. Disponible en *https://www.rivistaaic.it/it*.

[3] On the control function of the Parliament, in general, see N. LUPO, «L'attività parlamentare in tempi di Coronavirus», *Forum Quad. Cost.*, 2/2020, pp. 135 ss. On the misuse of the law decrees see M. CARTABIA, «Il Governo "signore delle fonti"»?, en M. CARTABIA, E. LAMARQUE y P. TANZARELLA (a cura di), *Gli atti normativi del Governo tra Corte Costituzionale e Giudici. Atti del convegno annuale dell'Associazione «Gruppo di Pisa»* (pp. IX-XIII), Università degli Studi Milano-Bicocca, Giappichelli, 2011.

[4] G. L. CONTI, «La crisi dello "Stato moderno" e l'emergenza pandemica: appunti sul ruolo delle Camere nella lotta contro il Coronavirus», *Osservatoriosullefonti.it*, 1/2010, p. 521. Disponible en *https://osservatoriosullefonti.it*.

2. THE (WEAK) ROLE OF THE ITALIAN PARLIAMENT IN THE MANAGEMENT OF THE HEALTH CRISIS

It is interesting to observe how some terms, even technical ones, gradually become so common that they seem to have always been in everyone's daily vocabulary. This is the case with words such as pandemic, droplet or mask, rarely used in the past and nowadays very popular all over the world.

The same applies in Italy when considering legal terms such as the acronym d.P.C.M., which stands for decree issued by the President of the Council of Ministers and has been used so much by the Government to introduce emergency measures against the pandemic in its first phase that, at that time, even school-aged children referred to it in their everyday chats.

Since January 2020, the management of the health emergency in Italy has been in fact the exclusive competence of the national Government which introduced directly or by means of its administrative structure (such as the Civil Protection Department), a set of measures restricting constitutional freedoms in the name of necessary pandemic control.

At first, the emergency has been managed by the Government by means of two legal instruments: namely, the special orders of the Health Minister (vested with this power according to article 32 of the law 833/1978), and the special orders of the Head of the Civil Protection Department. Both are administrative acts which must comply with a series of limits, being entitled to derogate from the laws in force, while respecting the general principle of the legal system. In the past, these orders have been the main tool the Government used to deal with the emergencies, while the law decrees have been used for managing the economic consequences of the crisis (this happened, for example, in 2009 with the earthquake of L'Aquila or in 2018 with the Morandi bridge collapse in Genova[5]).

At a later stage, the health emergency has been dealt with according to an unprecedented scheme. First, the Government issued successive law decrees (adopted according to article 77 of the Constitution in cases of «necessity and urgency») which needed to be converted into law by the Parliament in a short term (60 days) in order not to lose effectiveness from the outset. In these decrees specific reference was made to the above-mentioned acts, namely the d.P.C.M., as the instruments

[5] A. Cardone, «La crisi del sistema delle fonti di protezione civile», *Osservatoriosullefonti.it*, fascicolo speciale «Le fonti normative nella gestione dell'emergenza COVID», 2020, pp. 313-350. Disponible en *https://osservatoriosullefonti.it*.

which the President of the Council of Ministers had to issue afterwards to give implementation to the provisions of the law decrees themselves. In this respect, these law decrees had therefore a dual role: they were at the same time sources of law directly regulating the emergency, as well as sources of law regulating other sources of law[6].

Part of the Italian scientific community, as well as some of the media, doubt the constitutional legitimacy of this practice.

The Italian Constitution lacks a specific provision offering constitutional coverage to cases of internal emergency such as the one which has occurred with COVID-19; the only article which relates to emergency is article 78 which however refers to the state of war and is therefore not applicable to the current situation[7]. At the same time, there is not an organic legislation which deals with the matter, as the Codice di Protezione Civile (Code of Civil Protection, it is the legislative decree n. 1 of 2018) regulates the procedure for declaring the state of emergency, but it does not specifically define the powers that the Government can exercise under a state of emergency. Article 24 of this Code does not even provide for any prior legitimacy control of the declaration of emergency, so that the President of the Council of Ministers exercises an extremely discretionary power[8].

Therefore, the Italian legal system lacks a general regulation clarifying whether and to what extent a national institution —and if so, which one— can deliberate on restricting personal freedoms in the event of an internal emergency such as the COVID one.

Despite this, part of the literature has noticed that the procedure followed by the Government in managing the emergency, as described above, was —from a strictly formal point of view— legitimate[9]. According to the previously mentioned article 77 of the Constitution, the Government has the power to issue law decrees in extraordinary cases of «necessity and urgency»: no doubt that this is the case. Furthermore, it was the law decrees issued by the Government acting as law maker, and immediately after converted into a parliamentary law, that

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[6] G. Mobilio, «Il decreto-legge alla prova delle vere emergenze», *Osservatoriosullefonti.it*, fascicolo speciale «Le fonti normative nella gestione dell'emergenza COVID», 2020, p. 357, Disponible en *https://osservatoriosullefonti.it*.

[7] P. Caretti, «La "crisi" della legge parlamentare», *Osservatoriosullefonti.it*, 1/2010, pp. 1-10. Disponible en *https://osservatoriosullefonti.it*.

[8] D. Trabucco y C. Della Giustina, «Sulla possibile proroga dello stato di emergenza», *Diritti fondamentali*, 1-4, 14.07.2019. Disponible en *https://www.dirittifondamentali.it*.

[9] P. Bonetti, «La Costituzione regge l'emergenza sanitaria: dalla pandemia del coronavirus spunti per attuarla diversamente», *Osservatoriosullefonti.it*, 2/2020, pp. 689-739. Disponible en *https://osservatoriosullefonti.it*; R. Cherchi y A. Deffenu, «Fonti e provvedimenti dell'emergenza sanitaria covid-19: prime riflessioni», *Diritti regionali. Rivista di diritto delle autonomie territoriali*, 1/2020, pp. 656 ss.

introduced restrictions on citizens' freedom, while the d.P.C.M. only specified their scope[10].

Nevertheless, what clearly emerges from the scheme adopted is the weak role of the Parliament, limited in fact to the approval of the laws of conversion of the law decrees which have been gradually presented by the Government to the Chambers to authorize the various d.P.C.M.

Somehow trying to overcome this habit, since its establishment the Government of Mario Draghi has used preferentially and exclusively the law decrees to introduce emergency measures, abandoning the procedure based on d.P.C.M.

On the one hand, the need to cope with the advance of the pandemic requires the use of streamlined instruments able to provide effective responses as soon as possible[11]. On the other, however, the marginalization of the national representative assembly raises many doubts as to its compatibility with the basic principles of democracy. Just think about the necessary compliance of any measure affecting freedoms and rights with the principle of the rule of law and the principle of legality.

It is questionable whether a way out of this dilemma can be found.

Part of the doctrine argues that the restrictions to personal freedom should have been carried out from the beginning only through the law decrees which, even if they are Government issued instruments, are at least a normative act having the same binding force of parliamentary laws. On the contrary, the d.P.C.M. (as well as the administrative orders) are secondary legal sources not to be converted by the Parliament (as it happens for the law decrees) and not to be emanated from the President of the Republic. In other words, they are acts not controlled in any way, either by the Parliament, or by the President of the Republic, or by any other institution of the Republic[12].

To this regard, the exclusive use of the law decree by the President of the Council of Ministers Draghi to introduce the emergency measures has been well received.

At the same time, however, also the law decrees are legal instruments very much criticized in the past for their abuse by the Government that resorted to them even in cases when «necessary and urgency» were questionable. Not to mention the fact that their continuous suc-

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[10] U. de Siervo, «Rappresentanza politica e ruolo della legge», *Osservatoriosullefonti.it*, 3/2012, pp. 1-8. Disponible en *https://osservatoriosullefonti.it*.

[11] N. Lupo, «L'attività parlamentare in tempi di Coronavirus», *Forum Quad. Cost*., 2/2020, pp. 135 ss.

[12] F. Clementi, «Quando l'emergenza restringe le libertà meglio un decreto legge che un dpcm», *Il Sole 24Ore*, 13.03.2020. G. Stegher, «In considerazione dell'emergenza sanitaria: Governo e Parlamento al banco di prova del COVID-19», *Nomos. Le attualità del diritto*, 1/2020, pp. 1-55. Disponible en *https://www.nomos-leattualitaneldiritto.it*.

cession over time could create great legal uncertainty. Furthermore, their use in the early stage of the emergency as dual sources of law «of production» and «on the production» (of other sources of law i.e. the d.P.C.M.) is as well subject to criticism, going far beyond their goal as originally intended by the Constitution[13]. Finally, the above-mentioned circumstance that the law decrees adopted during the emergency had often the side effect to put in place a complex relationship among the sources of law involved needs to be considered. This happens particularly when a law decree has been repealed during its process of conversion and this was done by a successive law decree not yet converted, in this way nullifying the control function of the Parliament.

More recently, attempts to find an equilibrium among the powers of the various state institutions, involved in managing the pandemic, have been made.

The Parliament itself, increasingly aware of its removal from the decision-making process, asked for an intervention in order to get involved somehow in the actions to protect public health. At the same time, it asked the Government to prefer the law decrees to the Civil Protection orders or the d.P.C.M., with the aim to be able to exercise its control function during the conversion process (cfr. the motion 1-000348 approved on May 2020). As mentioned, following this request, at least implicitly, the Draghi Government moved away from the d.P.C.M. model, using successive law decrees to regulate the matter.

In the meantime, the law decree n. 19 of 2020 has provided that the Government must submit an informative to the Chambers in order to explain and clarify the terms of the d.P.C.M. which it intends to adopt. This was a positive step forward, but still it has proven to be a highly critical solution. Just think about the circumstances that the Government has often presented the informative to the Parliament shortly before, or even after, the publication of the d.P.C.M., thus nullifying any potential parliamentary action.

Although urgency legitimizes massive Government intervention, it is entirely legitimate to question the scope of which the compression of individual freedoms can reach without the active involvement of the representative body. As a matter of fact, the state of emergency is not *per se* sufficient to avoid the fundamental principles of the Italian legal system such as the principle of democracy and the principle of separation of powers. Therefore, questions such as: «where is the limit, to what extent can the Government —albeit on the basis

[13] G. Mobilio, «Il decreto-legge alla prova delle vere emergenze», *Osservatoriosullefonti.it*, fascicolo speciale «Le fonti normative nella gestione dell'emergenza COVID», 2020, p. 357. Disponible en *https://osservatoriosullefonti.it*.

of democratic legitimacy— set aside Parliament and act alone?» are still up to date.

Certainly, it is not easy finding alternative solutions in this context, but there is perhaps an aspect to be considered: the need to provide a detailed justification for government decrees. Perhaps, it would not completely solve the problem of Parliament's exclusion, but at least it would introduce an element of transparency into the system in accordance with the principles of adequacy, proportionality and gradualness of the measures that citizens would certainly appreciate in the normally chaotic situations in which they often find themselves. Not to mention the fact that the Government has often recall the scientific opinion of the *Comitato tecnico-scientifico* to support its decisions, without explaining the details of that opinion and above all without having the Parliament the possibility to discuss on the achievement of this body.

Furthermore, as many of the d.P.C.M. issued during the Conte Government have been open to criticism under various profiles, going sometimes beyond their powers as described in the respective law decrees (if considering for example the period of validity of the measures or the types of measures adopted), it would have been extremely appreciated if the decrees would have stuck more to the provisions authorizing them[14]. On the contrary, what happened in the practice was the need to issue *ex post* law decrees authorizing measures adopted in previous *ultra vires* d.P.C.M., that poses serious doubts of legitimacy. The Government somehow aware of the illegitimacy of this practice tried to put a stop with the law decree 19/2020 which introduced a very detailed and exhaustive list of measures which the d.P.C.M. could adopt, again trying a subsequent regularization of the topic.

Other than that, something that could help for a concrete involvement of the Parliament would be avoiding the misuse of law decrees as mentioned before, having the Chambers the possibility to effectively control and amend the law decrees in the conversion process.

Finally, an organic emergency legislation clearly indicating who has the power to do what would be equally useful, even if at this stage still utopic[15]. In sum, the system of the sources of law adopted so far to manage the pandemic in Italy seems compatible with the constitutional order in place, but it is certainly based on the centralization of power in the hands of the Government, posing serious doubts with regard to the

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[14] A. Cardone, «La crisi del sistema delle fonti di protezione civile», *Osservatoriosullefonti.it*, fascicolo speciale «Le fonti normative nella gestione dell'emergenza COVID», 2020, p. 327. Disponible en *https://osservatoriosullefonti.it*.

[15] G. de Minico, «Costituzionalizziamo l'emergenza?», *Osservatoriosullefonti.it*, fascicolo speciale «Le fonti normative nella gestione dell'emergenza COVID», 2020, pp. 541-564.

relationship between the institutions of the Republic and the democracy of the entire process.

3. THE (WEAK) ROLE OF REGIONAL AND MUNICIPAL ASSEMBLIES IN THE MANAGEMENT OF THE HEALTH CRISIS

Therefore, the management of the pandemic crisis in Italy has been almost an exclusive competence of the central Government with a residual role of the Parliament.

When the subnational level comes under the magnifying glass, the predominant position of the national Government measures against regional and municipal ones is as well evident. This is manifested mainly in the rule of prevalence of state provisions in case of conflict with regional/municipal ones; furthermore, regional and local provisions have not a wide-ranging spectrum, but can only be enacted to face specific, territorially limited situations[16].

To give an overview, we can consider Regions and Municipalities together, as the legal foundation of the emergency management is for the most part common to them.

Since the constitutional reform of 2001, health protection is a shared competence between State and Regions (art. 117 Const.). This means that the State sets the fundamental principles and goals of the health system and allocates national funds to the Regions, while these last ones are responsible for organising and delivering health care on their territory. Municipalities are responsible to deliver health services at local level.

Regional presidents have the power to issue ordinances in the field of civil protection whenever an emergency in health matters occurs (according to Law 833/1978 introducing the National Health System —NHS— and the above-mentioned Code of Civil Protection). The same can be said if considering Municipalities. As a rule, Mayors have the power to issue urgent and necessary ordinances having effect for their respective territories in case of local sanitary or public health emergency (according to, other than the abovementioned NHS Law, the legislative decree 267/2000 - so called TUEL)[17].

Against this legal background, after the very first phase of the emergency the national Government intervened with a set of special

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[16] E. Alber, E. Arban, P. Colasante, A. Dirri y F. Palermo, «Facing the Pandemic: Italy's Functional "Health Federalism" and Dysfunctional Cooperation», en N. Steytler (ed.), *Comparative Federalism and COVID-19: Combatting the Pandemic*, Routledge, 2022, pp. 15-32.

[17] P. Sabbioni, «Art. 50 e 54 TUEL», en C. Napoli y N. Pignatelli (a cura di), *Codice degli enti locali*, Roma, Feltrinelli, 2019, pp. 304 ss.

provisions with the aim to better define the scope of regional and local authorities in managing the pandemic (law decrees n. 6/2020, n. 9/2020, n. 19/2020 and n. 33/2020). The first to be released, the law decree n. 6/2020, gave an unlimited delegation to Regions (and Municipalities) to issue ordinances in case of health emergency pending the DPCM. Instead of clarifying the picture, it helped make it even more chaotic[18]. On the contrary, the subsequent set of provisions seemed to make things clearer, *de facto* limiting subnational intervention. First, they clarified that it is the national Government to get the general supervision of the emergency management. Regional and municipal ordinances have effect only pending the adoption of a d.P.C.M., and when in contrast with national measures are to be considered unlawful. Furthermore, they can be adopted only in case of escalation in the health risk of the regional/local territory and in case they further strengthen the restrictive measures already introduced at national level.

In other words, unlike the very general power to issue ordinances recognized respectively to Regional Presidents and Mayors by the abovementioned Law on NHS, Code of Civil Protection and TUEL, these decrees limited in time and content the regional and municipal intervention. These measures do not explicitly clarify which should be the relationship between municipal ordinances and regional ones, even if it is reasonable to conclude that municipal ordinances in contrast with regional ordinances are to be considered unlawful[19].

In practice, in the first phase, the national Government took decisions on the emergency mainly without consulting the Regions and many of them issued presidential ordinances even going beyond the restrictive measures adopted at national level (see, among others, the ordinance issued by Marche Region on the 25th of February 2020 to close all schools[20]). Some of these ordinances have been suspended by regional administrative courts on the appeal of the Government, others with the same content have not. Regional ordinances have been issued also to isolate red zones from the rest of the regional territory. The same can be said if considering Municipalities: Mayors often issued ordinances even going beyond their powers, with the consequence of

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[18] V. di Capua, «Il nemico invisibile. La battaglia contro il COVID-19 divisa tra Stato e Regioni». *Federalismi.it*, Osservatorio emergenza COVID, 20.05.2020. Disponible en *https://www.federalismi.it*.

[19] N. Pignatelli, «La specialità delle ordinanze dei Sindaci nell'emergenza sanitaria nazionale: un potere "inesauribile"», *Diritti Regionali*, 2, 2020, pp. 1-19. Disponible en *https://www.dirittiregionali.it/2020/06/10/la-specialita-delle-ordinanze-dei-sindaci-nellemergenza-sanitaria-nazionale-un-potere-inesauribile*; G. Alberico, «Le ordinanze contingibili e urgenti nella gestione dell'emergenza sanitaria: il ruolo dei Sindaci nella disciplina del D.L. 33/2020», *Diritti fondamentali*, pp. 1-9, 1.06.2020. Disponible en *https://www.dirittifondamentali.it*.

[20] G. di Cosimo y G. Menegus, «La gestione dell'emergenza *Coronavirus* tra Stato e Regioni: il caso Marche», *Biolaw Journal*, 2/2020, pp. 1-7. Disponible en *https://www.biodiritto.org/Pubblicazioni/BioLaw-Journal*.

worsen the relationship with the State and increase the uncertainty in the legal framework.

This period was therefore characterized, on the one hand, by a war-like relationship between Regions/local authorities and State, and on the other hand, by a lack of coordination among national and regional/local actors. Consequently, it became extremely difficult for the population to distinguish between the measures taken at different governmental levels. The principle of loyal cooperation between Regions and State has not been successfully implemented, and this is proved by the fact that the «Permanent Conference for the relations among state, regions and autonomous provinces» —the consultative body of regional presidents, the presidents of the autonomous provinces of Trento and Bolzano, and the Prime Minister or competent regional and national ministers— met even less frequently than usual[21].

Notwithstanding the fact that from the law decree 6/2020 onwards the power to issue ordinances at regional and local level has been gradually remodulated with the final aim to guarantee the organic emergency management and, above all, the coordinating role of the Government, the abovementioned law decrees did not completely solve all the legal and operational incongruencies, still present. Despite the efforts, the principle of loyal cooperation which should permeate the State-Regions relationship has not been successfully implemented, and an adequate level of coordination among the measures at different levels is still missing with conflicts still present (see for example the decision of the Constitutional Court to suspend the efficacy of the regional law n. 11/2020 of Valle d'Aosta which introduced less restrictive measures compared to the national ones).

The Government of Mario Draghi *de facto* reaffirmed the coordinating role of the State, especially with respect to the organisation of the vaccination campaign. Nonetheless, even if within the guidelines set up at national level, Regions often moved independently choosing how to organize the vaccination campaign in terms of age groups to be vaccinated first, giving rise also to criticism from different points of view[22].

At the same time, the President of the Council of Ministers recognized the importance of Regions and Municipalities in order to tailor solutions to the territorial needs and called on them to take up responsibilities, for example when delegating to Presidents of Regions having a high positive rate (250 on 100.000 inhabitants) the decision to close schools.

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[21] F. Cortese, «Stato e Regioni alla prova del coronavirus», *Le Regioni*, 1/2020, pp. 3-10.

[22] Just think at the decision of some Regions to open up to young people in specific Open Days which led also to many critics after some cases of disease resulting from the use of AstraZeneca vaccine.

Regardless of their effective *room of manouvre*, if we look at the role plaid by subnational institutions in this emergency what strikes more is the shift of power from representative assemblies to monocratic actors (although they are directly elected).

Regional presidents and Mayors became *de facto* the only actors able to counter the President of the Council of Minister's monopoly, often politicizing their choices in search for media consent.

At regional level, it is a phenomenon started after the constitutional reform of the end of the '90 (constitutional law 1/99) where regional presidents got relevant powers once attributed to the regional assemblies as well as direct legitimation based on popular vote. This growing importance of the so called «regional governors» coincided with the gradual collapse of the party system started with Tangentopoli[23]. Similarly, Mayors got more powers according to the abovementioned TUEL, the legislative decree on local authorities[24].

In the most recent years, this trend grew in importance supported by the media that recognized regional and local leaders as fully responsible for the intermediate level of government, gaining a national and sometimes even international visibility. The management of COVID-19 confirms this tendency: what is done at national level is replicated at regional and local level.

Restrictions to personal freedoms and rights have been implemented mainly by means of legal acts produced by the presidencies without any participation of assemblies, and this strengthens the doubts on the democracy of the entire process.

4. CONCLUDING THOUGHTS

The outbreak of COVID-19 clearly pointed to the need for a clearer regulative framework as to a coordinated, unified management of emergencies throughout the Italian territory.

If one can agree that urgency justifies massive Government intervention at all levels, this has nonetheless a strong impact not to be underestimated. On the one hand, there are consequences on the system of the sources of law, with secondary legislation derogating, for long periods of time, to entire bodies of law; on the other hand, this prac-

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[23] F. Musella, «The Italian Governors from the Constitutional reform to the crisis of regionalism», en F. Tanács-Mandák (ed.), *Identity crisis in Italy*, Budapest, Dialóg Campus, 2019, pp. 37-50.

[24] V. di Capua, «Il nemico invisibile. La battaglia contro il COVID-19 divisa tra Stato e Regioni», *Federalismi.it*, Osservatorio emergenza COVID, 20.05.2020. Disponible en *https://www.federalismi.it*.

tice has an impact on the Italian form of government leaving aside the polycentric structure designed by the 1948 Constitution[25].

More broadly, the health emergency has revealed the main weaknesses of the Italian regional system: the crisis of representative democracy even at subnational level, the unclear division of powers between the centre and the Regions; the weak intergovernmental relations; and the high degree of asymmetry in powers, administrative capacity and political strength among the Regions[26].

For sure, among the legacies of the pandemic in Italy, a better balance among the state institutions should not be neglected by the future political agenda.

[25] D. Trabucco y C. Della Giustina, «Sulla possibile proroga dello stato di emergenza», *Diritti fondamentali*, pp. 1-4, 14.07.2019. Disponible en *https://www.dirittifondamentali.it*.

[26] F. Clementi, «Quando l'emergenza restringe le libertà meglio un decreto legge che un dpcm», *Il Sole 24Ore*, 13.03.2020.