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**IACL Roundtable on “Environment, Climate Change and  
Constitutionalism”**

**Ankara, 20-21 October 2022**

**“Rule of Law, Welfare State and Environmental State”**

**The changes in the environmental protection in Italy: the impact on  
economic and social rights**

**1. Introduction. The purpose of this speech**

This speech aims at analyzing the recent changes in the matter of environmental protection in Italy and its consequences.

These changes fit into the European Union’s context of an evolution of the approach to environment which has influenced national environmental regulations and policies.

Italy, in compliance with its European obligations, has launched a process of reforms aimed at strengthening environmental protection.

On one side, the Italian Government, with the implementation of the National Recovery and Resilience Plan, which is part of the Next Generation EU program, has started an ecological transition.

On the other side, in 2022 the Italian Parliament approved a constitutional reform that introduced an express reference to the protection of the environment, biodiversity and ecosystems, also in the interest of future generations, and an additional limit to the exercise of economic activities, that cannot take place if they cause damage to the environment.

So, the purpose of this speech is to examine the following topics.

First: the impact of the European Union's evolution in the approach to environment and the National Recovery and Resilience Plan on the effective protection of the environment and on Italian policies (not only environmental, but also economic and social).

Second: the consequences of the Italian constitutional reform of 2022. In particular, the following consequences will be examined:

- the concrete effects on the protection of the environment
- the effects on the actions of the legislator, of the public administration and of the Constitutional Court regarding the balance between environmental protection and other constitutional values.

However, before addressing these issues, it is necessary to examine, briefly, two additional aspects in order to understand the context that led Italy to start a reform process in the matter of environment.

First aspect: the evolution of the role of the European Union in protecting the environment and its impact on the regulation and policies at the state level.

Second aspect: the role of the jurisprudence of the Italian Constitutional Court in attributing constitutional relevance to environmental protection, even in the absence, until 2022, of an express constitutional provision on this matter.

## **2. First aspect: The evolution of the role of the European Union in protecting the environment and its impact on the regulation and policies at the state level**

The European Union has gradually become aware of the need for interventions aimed at protecting the environment.

Thus, there has been an evolution of the provisions of the European Treaties which now include environmental policy among the fundamental objectives of the European Union and foresee a commitment of the Member States to guarantee a "high level" of environmental protection. Moreover, the Treaties attribute an important role to the principle of integration between the various policies (environmental, economic and social) and the principle of sustainable development (in the perspective of economic, social and environmental development). Lastly, the Treaty of Lisbon, which came in force in late 2009, reinforced the Union's commitment to guaranteeing environmental protection and stressed the need for integration between environmental policies and all other policies, in particular with a view to promoting sustainable development. The principle of sustainable development was reinforced by the Treaty of Lisbon, and now it is no longer regarded as limited to the market and economic activities, but rather it is now considered in the perspective of economic, social and environmental development.

Furthermore, the European Union, especially with the "Green Deal" and Next Generation EU programmes, has recently taken on a new perspective with respect to traditional environmental policies as defined by the Treaties. There was a progressive strengthening of an ecological vision of environmental issues, aimed at ensuring greater protection of ecological elements (climate, ecosystems, biodiversity, etc.) and sustainable development; this principle should be the basis of any European policy, including economic ones. The goal of the Green Deal, in fact, should be to integrate environmental, economic and social policies. This for the purpose of guaranteeing the well-being not only of citizens but also of future generations who must be able to

satisfy their needs. This in the awareness that the excessive deterioration of the environment endangers not only the well-being but also the survival of individuals.

It is important to take into account the European evolution in protecting the environment; this is because the European Union's primary and secondary law — but also its soft law acts — and the European actions have a strong impact on the regulation and policies at the state level.

First of all, each Member State, respecting the principle of integration, in drawing up its own environmental policies, must take into account the “high standards” of environmental protection and integrate these policies with all the others, guaranteeing the principle of sustainable development.

Furthermore, a new approach to the environment which aimed at ensuring greater protection of ecological elements and sustainable development is imposed on Member States by the “Green Deal”.

On the other hand, national environmental policies are influenced by European funding. Various programs aimed at protecting the environment have been funded by the European Union. In this regard, the importance of the EU Next Generation program and its impact on the environmental, economic and social policies of the Member States is evident.

Therefore, it is necessary that the recent reforms introduced in Italy must be implemented while also taking into consideration the European context.

### **3. Second aspect: The role of the jurisprudence of the Italian Constitutional Court in attributing constitutional relevance to environmental protection**

Even in the light of the European evolution in considering the environment issue, in Italy the protection of the environment has gradually assumed a constitutional importance thanks to the jurisprudence of the Constitutional Court.

In this regard, it should be underlined that, before the recent reform of 2022 — which included an express reference to environmental protection in the Italian Constitution — in the absence of specific constitutional references, environmental protection has been positivized by the Constitutional Court.

In fact, the consolidated constitutional jurisprudence has regarded the environment as a "primary constitutional value" that must be guaranteed by balancing it with other constitutional values.

In reality, in Italy, the legislator, the administrations and the judges — namely the subjects called to carry out a balance of values — have often made economic interests prevail over environmental ones. If this approach was already questionable in the past, now a number of elements — such as the more ecological perspective of the European Union and the constitutional reform of 2022 — make it unacceptable.

#### **4. Well, I will now analyze the Italians reforms aimed at strengthening environmental protection**

Italy, in the European and national context examined above, has launched a process of reforms aimed at strengthening environmental protection.

On the one hand, the Italian Government, with the implementation of the National Recovery and Resilience Plan has started the ecological transition, laying the foundations for a strong commitment to address the environmental/ecological issues. In this regard, it should be stressed that Mission 2 of this Plan, dedicated to "Green

revolution and ecological transition", is the one that, in compliance with European guidelines, is destined to have more funds if compared to the others missions.

On the other hand, an important change in approach to environmental/ecological issues took place in Italy with the recent approval by Italian Parliament of constitutional law no. 1 of 2022 implementing "Amendments to Articles 9 and 41 of the Constitution regarding environmental protection". This law introduced protection of the environment among the fundamental principles of the Italian legal system. Protection of the environment which was originally mentioned in the Constitution for the sole purpose of distributing the legislative competences between the State and Regions even though — as mentioned above — it has been positivized by the Constitutional Court. The recent constitutional law — through the amendment of article 9 — has instead included in the Constitution an express reference to the protection of the environment, biodiversity and ecosystems, also in the interest of future generations. Furthermore, the amendment to article 41 specifies that business activities must not be harmful, among other things, to the environment.

## **5. The consequences of the Italian reforms on the matter of environmental protection: the impact on economic and social rights**

So, it is important to reflect on the consequences of the Italian reforms on the matter of environmental protection. It is evident that the start of the ecological transition, on the one hand, and the constitutional amendment, on the other hand, are destined to influence the decisions of public powers.

In this regard, it should be said that the reforms of environmental protection in Italy must be read in the light of the new European approach in this matter. In particular, as mentioned above, at the level of the European Union, the idea of an economic-social model has been strengthened. Economic development must be balanced with

the need for an improvement in the quality of life of people, also in relation to environmental protection. More specifically, the Green Deal is aimed at strengthening the ecological elements and — as mentioned above — integrate environmental, economic and social policies.

Therefore, it can be said that this changes, at both the national and European levels, on environmental matters, impose a paradigm shift by public powers. A paradigm shift which should lead to consequences not only for the environment.

First consequence: the Italian policies should be aimed at strengthening the environmental protection, in an intergenerational perspective, and at ensuring a greater protection of ecological elements. Environmental policies that should be more integrated, if compared to the past, with economic policies and social policies. In other words, the ecological issue should be destined to influence the legislator and the public administration also in the shaping of economic and social policy.

Second consequence: the State's intervention should aim at ensuring a balanced economic growth that respects the environment. In fact, economic policies should be inspired by the principle of sustainable development. Moreover, sustainable development should be achieved, by the legislator and public administration alike, through a new approach that aims to combine economic, environmental and social sustainability.

Third consequence, that comes from the inclusion of environmental protection as a fundamental principle of the Italian Constitution: the legislator, public administration and the Constitutional Court should consider this protection as a priority value in balancing different interests (the interest in protecting the environment with other constitutional values). This does not mean that this value must prevail on other values but rather that environmental protection must be taken into consideration as a priority when defining other policies (including economic and social ones). From this

point of view, economic values should no longer — as it often happened in the past in Italy— prevail over environmental protection. Environmental protection that should be aimed at guaranteeing the equality and dignity of the individual and the well-being of citizens and that of future generations.

## **6. Conclusions**

In conclusion to this speech, it is important to underline that in Italy, in line with the evolution of the European Union on environmental protection, the premises for a strong change have been laid.

However, the reforms are too recent to assess the actual impact; impact which will depend on the future actions taken by the public powers called upon to implement these reforms.

This will be the challenge of the future: taking concrete actions to preserve the ecosystem and the biosphere. This in order to guarantee sustainable development that does not consider only the quantitative data but also the qualitative ones, focusing on the need to guarantee the equality and dignity of the individual, also through greater protection of rights social.