

MARCELLO CLARICH, MANUALE DI DIRITTO
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Italian doctrine has provided, and continues to provide on a regular basis, numerous manuals on *Diritto amministrativo* (Administrative Law) to the scholars of this branch of Law, always keeping that country at the forefront when it comes to the teaching of a subject traditionally shaped around a more or less homogenous and recurring structure. Some of these manuals possess great quality and importance for all European administrative doctrine, such as the *Principi di diritto amministrativo* by Santi Romano (1912) or *Corso di diritto amministrativo* by Zanobini (1957), or they enjoy considerable editorial and doctrinal success, which is the case of the recent edition of the *Manuale di Diritto Amministrativo* by Mazzarolli, Pericu, Romano, Roversi Monaco, Scoca, or the manuals by Bodda, Giannini, Sandulli and, most recently, by Sorace, Corso, Cerulli Irelli, Rossi, among many others, and especially, that of our recently departed colleague, Elio Casetta, so meticulously revised and updated by his most esteemed and brilliant pupil, Professor Fabrizio Fracchia. For this reason, it is a virtue of Professor Marcello Clarich to have contributed to this cast of great didactic works a creation that is not simply just another book, but rather one with its own personality and originality in a field where being original is already a struggle.

Clarich's *Manuale di diritto amministrativo* offers us a panoramic view of Italian administrative law in its current state, following an evolution that, for many reasons, has stirred the foundation of the Italian public Administration's activity and organization, yet with the ease of a manual guided by a clearly defined didactic objective.

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Clarich not only hits the mark in the choice of topics discussed in the book, combining the subjects typically addressed by his predecessors with brilliant references to other newer topics in which he demonstrates a special understanding and aptitude, such as, for instance, the case regarding independent authorities or public corporations, discussed in section three of the book, but also in the very clear and educational structuring of the book itself.

Thus, one of the noteworthy features of this book, from the first reading, is its status as an expository work with an obvious didactic vocation, easily identifiable starting from its structure. In this way, the author structures the book in four clearly differentiated sections.

The first section is aimed at providing an introduction to administrative law and an analysis of its origins. He sets forth a general framework of Italian administrative law and of its purpose of regulating public administrations. Already in this first section we find an interesting contribution -- the discussion of the sources of administrative law, a subject commonly addressed in Italy by constitutionalists.

The second section, which outlines the book's chief theoretical contributions, analyzes the operational aspects. The author thus devotes one part of the book to the "active Administration" and to the Administration's functioning. In this way, the theory of the administrative act and administrative procedure overrides the analysis of organizational issues, which, too, is out of the ordinary. Therefore, this second section of the book addresses all the topics referring to the administrative act, its effectiveness and invalidity, the subjects and general principles of administrative activity, as well as the ways of controlling the activity, the act and administrative management, and the proprietary responsibility of the Administration.

As the author himself acknowledges, the third section is perhaps his book's most relevant or novel, referring to the organizational matters and the fundamental and basic aspects of administrative law that some authors discuss within the special

section, since these organizational matters are analyzed once the reader is already familiar with the Administration's operational aspects. This section addresses the organizational structure of the various local authorities and logistical administrations, with special attention paid to public corporations and independent regulating bodies. It is also worth highlighting that this section also includes the study of public services, to which a specific chapter, chapter 9, is devoted, likewise starting with a discussion of the general interest services in European law. The book scores yet again when addressing this topic in such detail and so directly. And, in my opinion, aspects of special administrative law are approached with similar acuity, since personnel, public goods, contracts, and public finance issues are in fact general subjects of administrative law. Thus, even though the author himself acknowledges that he seeks to offer an organic and synthetic explanation of general administrative law, he includes these subjects that traditionally have been dealt with as specialties.

Lastly, as could not be otherwise, the fourth section is devoted to the system of administrative justice. A single chapter sets forth everything relating to the challenge of the administrative act, both judicially and before the Administration itself by means of administrative appeals, thus bestowing on the administrative act's challenge a combined and uniform approach, versus the traditional distinction of the analysis of the act's challenge via the administrative route, on the one hand, and of its review by the courts, on the other hand.

There are so many other valuable virtues and aspects of this *Manuale* that merit special attention, in addition to the book's structural originality.

Thus, among these virtues, we call attention to the fact that in the entire book's sections there is a continued reference and adaptation to European regulation. As the author himself states in the book's *premesse* (introduction): "*il diritto amministrativo è ormai compenetrato nel diritto europeo e da esso trae continuamente linfa innovativa*" (administrative law has now penetrated into European law and continuously draws innovative lymph from the latter). Indeed, we believe that no manual on administrative law written

in this day and age can ignore the guidelines of European law, given its increasing influence, in recent years especially, not only on industry regulations but also on general institutions (service directives, administrative hiring, economics, etc.). Furthermore, the author has managed to tie these European contributions to the Italian constitutional perspective, citing numerous references to Italian case law and legislation.

The manual's obvious didactic or educational focus is also perceived both in the structure and the methodology used, and in the ease and clarity of the discourse. Throughout the entire book the author provides many applied examples of the legislation discussed. Of note are the citations in the margins containing explanatory titles and phrases that guide the reader through the chapter quickly and effectively, also serving to highlight the fundamental ideas addressed. Graphemic resources, which greatly enhance the understanding and assimilation of the contents, are expertly employed.

Likewise worth emphasizing is the use of the case law references to support the arguments put forward, with regard to the methodology followed. We believe that the inclusion of multiple case law references, as examples and for clarification, used comprehensively in all the chapters, is yet another added value of the book.

We also observe that didactic zeal in the bibliographic references. The bibliography is not limited to the classic list of published works. Interestingly, the author makes a distinction between the book's bibliographic references and those to be consulted for the further study of the topics discussed, to which he devotes a specific paragraph, in turn divided and organized into thematic sections to supply the reader with helpful and rich study material in each relevant specific area of interest, including, among those interests, recommendations for books and manuals to prepare for tenders and government exams for entry into the public Administration. Furthermore, it includes bibliographic references to foreign manuals for those who wish to carry out a comparative study of the subject. Bibliographic references which will be extremely useful for those readers and users of this book –

university and post-graduate students, researchers or professionals– who view it as a first step in the research in the field of administrative law or who wish to gain an initial understanding of the other European contributions to doctrine in general.

Lastly, I would like to commend Professor Clarich for writing, on his own, a manual on administrative law in this day and age, an accomplishment worthy of praise given the broad field of study and the staggering amount of regulatory modifications that have been enacted, the current knowledge of which demands extensive effort and dedication, revealing a great familiarity with today's reality.

If we add to that the fact that, as the author assures, each of the book's chapters has already been tested on his students, we can then conclude that we have in our hands a magnificent manual that is sure to become an indispensable, up-to-date tool for university students as well as for those who approach the study of Italian administrative law from the outside, and for jurists and Administration professionals or those dealing with the Administration who need a well-structured foundational manual, written clearly and brimming with current regulatory references.