ADMINISTRATIVE JUSTICE IN ITALY

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This essay describes the organization of administrative courts in Italy, as a set of courts distinguished from ordinary courts that deal with civil and commercial cases. Since the 19th century Italy has adopted a dual system of jurisdiction, and has never abandoned the traditional criterion according to which ordinary jurisdiction and administrative jurisdiction are established: this criterion, having regard to the entitlement claimed by the plaintiff, is unique to Italy and, leaving aside its distinctiveness, it is quite enigmatic and difficult to apply in practice. Reference is made to the procedure followed before administrative courts, a procedure recently updated through the enactment of the Code of Administrative Procedure.

Keywords: Regional Administrative Tribunals; Council of State; subjective rights; legitimate interests; Code of administrative procedure.

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Table of contents

1. Introduction

To offer a simple, yet comprehensive picture of administrative justice in Italy is not an easy task: administrative courts have existed in Italy since the second half of the 19th century, that is, since the unification of the nation and the establishment of the Kingdom of Italy in 1861.[1] Certainly, it is not possible to summarize in an essay the changes that administrative justice has experienced in more than a century, even though it has been argued that the present state of administrative justice is the product of a progressive 'stratification' that has contributed to the development of a system in which nothing is destroyed and any new components pile up on top of the old ones.[2]

This essay will concentrate on the present organization of Italian administrative courts and on the legal sources that – in this author's opinion – are the most significant ones and that can outline the basic features of Italian administrative justice for the benefit of the reader unfamiliar with the Italian legal system.

2. Administrative Justice Through the Lens of the Italian Constitution

The Constitution of the Italian Republic (enacted at the end of 1947 and entered into force on 1 January 1948) contains a number of principles governing administrative justice. According to Article 103, sec. 1, 'The Council of State and the other bodies of judicial administration have jurisdiction over the protection of legitimate rights before the public administration and, in particular matters laid out by law, also of subjective rights.' The official translation into English[3] of the constitutional rule at hand is not completely accurate, insofar as it mentions the 'protection of legitimate rights': a better, more faithful translation would make reference to 'legitimate interests' (*interessi legittimi*, in Italian) as the counterpart of 'subjective rights' (*diritti soggettivi*). The distinction between two different forms of entitlement that every individual can claim against a public entity is at the base of the institutional arrangement of jurisdiction in Italy: in fact Italy has adopted a dual system of jurisdiction, according to which – at least in principle – subjective rights can be enforced by ordinary courts, while legitimate interests must be claimed before administrative courts. The distinction between the two forms of entitlement just

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1 For an historical overview, see e.g. B.G. Mattarella, *Administrative law in Italy: An historical sketch*, Rivista trimestrale di diritto pubblico 1009–1053 (2010); F.G. Scoca, *Administrative Justice in Italy: Origins and Evolution*, 1 Italian J. of Pub. L. 118–161 (2009).

2 F. Patroni Griffi, *Una giustizia amministrativa in perenne trasformazione: profili storico-evolutivi e prospettive*, Rivista trimestrale di diritto e procedura civile 115–142, at 117 (2016).

3 The English version of all the articles of the Italian Constitution cited in this essay is the one that is published on the website of the Senate of the Republic, available at <https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf >, accessed June 2016.

mentioned will be elucidated further on in this essay. For now, it is worth mentioning that the category of 'legitimate interests' is unique to the Italian legal system,[4] which makes it difficult to explain in languages other than Italian what 'legitimate interests' are about, and probably also accounts for the reasons why the official translation into English of the constitutional rules having a bearing on the administration of justice at large rely on different concepts. This is the case, for instance, of Article 103, mentioned above, but most of all of Article 24, which enshrines the right of access to courts in providing that,"Anyone may bring cases before a court of law in order to protect their rights under civil and administrative law." The reference to the 'rights under … administrative law' is an elegant way to avoid mentioning the 'legitimate interests' that appear in the Italian text of the rule.[5]

One way to make the dual system of jurisdiction (the jurisdiction of ordinary courts and the jurisdiction of administrative courts) more understandable, circumventing the complex distinction between 'subjective rights' and 'legitimate interests', is to emphasize an important point: the fact that a public entity or administration is a party to a case does not mean that the court having jurisdiction over the case itself is always an administrative court, since jurisdiction is determined by the entitlement claimed by the plaintiff. As the Italian Constitutional Court has clarified in several judgments, the mere fact that the public administration is involved in a judicial proceeding is not sufficient to establish the jurisdiction of administrative courts; by the same token, a generic element of public interest in a case does not imply necessarily that the case at stake would fall within the jurisdiction of administrative courts.[6]

Going back to the constitutional rules establishing administrative justice, Article 103 indicates the structure of administrative courts, mentioning the Council of State and 'other bodies of judicial administration': at present, these are the Regional Administrative Tribunals (henceforth, TARs), established in 1971 as administrative courts of first instance. There are twenty TARs, one for every Region. Each TAR sits in the capital city of the Region; the most populated Regions have 'detached divisions' of the local TAR.[7]

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[4] The concept of 'legitimate interests' appears in the Spanish Constitution of 1978, too, but in the context of the rules governing the so-called *recurso de amparo*, namely, the constitutional complaint that individuals can lodge with the Constitutional Court claiming the violation of fundamental rights and liberties (see Art. 162, sec. 1b) of the Spanish Constitution). Apparently, the concept has not been developed any further, neither has it had any practical applications: G. Leone, Elementi di diritto processuale amministrativo 37 (3d ed., Cedam, 2014).

[5] The Italian text reads, 'Tutti possono agire in giudizio per la tutela dei propri diritti e interessi legittimi.'

[6] See, for instance, judgments No. 204 of 2004 and No. 191 of 2006. All the decisions issued by the Constitutional Court can be read (only in Italian) on the official website of the Court, available at http://www.cortecostituzionale.it, accessed June 2016.

[7] The establishment of Regional Administrative Tribunals (Statute No. 1034 of 1971) implemented the provision of Article 125 of the Constitution, according to which, "Administrative tribunals of the first instance shall be established in the Region, in accordance with the rules established by the law of the Republic. Sections may be established in places other than the regional capital."

The Council of State (sitting in Rome) acts as appellate court for the judgments issued by the TARs. Therefore, the Council of State can be considered the supreme administrative judicature, even though it cannot be qualified as a supreme court in absolute terms. In fact, according to Article 111, sec. 8 of the Constitution, 'Appeals to the Court of Cassation against decisions of the Council of State and the Court of Accounts are permitted only for reasons of jurisdiction', which means that against the judgments issued by the Council of State there is yet another avenue of appeal to the Court of Cassation, although limited to a single ground of appeal, namely, lack of jurisdiction. Consequently, the Court of Cassation, which is the final court of appeal for civil and criminal cases, is also entrusted with the power to settle the conflicts of jurisdiction arising between ordinary courts and administrative courts.

Article 103 of the Italian Constitution (at sec. 2) contemplates another administrative court as well, the Court of Accounts, and provides that, 'The Court of Accounts has jurisdiction in matters of public accounts and in other matters laid out by law.' The Council of State and the Court of Accounts share a common feature, that is, they are multifaceted bodies, as it is made clear by yet another constitutional rule, Article 100, insofar as it states that

> The Council of State is a legal-administrative consultative body and it oversees the administration of justice.
>
> The Court of Accounts exercises preventive control over the legitimacy of Government measures, and also ex-post auditing of the administration of the State Budget. It participates, in the cases and ways established by law, in auditing the financial management of the entities receiving regular budgetary support from the State. It reports directly to Parliament on the results of audits performed.
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> The law ensures the independence from the Government of the two bodies and of their members.

Both the Council of State and the Court of Accounts consist of a number of divisions, some of which perform exclusively judicial functions. In particular, out of the seven divisions that operate within the Council of State, four are entrusted with the power of appellate review. As far as the Court of Accounts in its capacity as a judicial body is concerned, it is comprised of regional divisions acting as courts of first instance, and central divisions (sitting in Rome) acting as appellate courts.

Finally, it is necessary to emphasize the constitutional rule that closes the circle, so to say, of the fundamental principles granting judicial protection against the authoritative powers of public bodies. According to Article 113,

> The judicial safeguarding of rights and legitimate interests before the bodies of ordinary or administrative justice is always permitted against acts of the public administration.

Such judicial protection may not be excluded or limited to particular kinds of appeal or for particular categories of acts.

The law determines which judicial bodies are empowered to annul acts of public administration in the cases and with the consequences provided for by the law itself.

3. The Code of Administrative Procedure

At present, the most important legal source of the rules governing administrative justice is the Code of Administrative Procedure (hereinafter, CPA): it is the youngest Italian code, since it entered into force in September 2010.[8] The enactment of the CPA satisfied the need for a complete restatement of the many rules that shape the procedure before administrative courts.[9] These rules were scattered over a variety of sources, some of which dated back to the beginning of the 20th century. Coordination and consistency were lacking, also because legislators were used to adding new rules oblivious to the fact that they were at odds with old ones. Furthermore, important principles ensuing from the case law of the Italian Constitutional Court and the Court of Cassation, as well as of the European Court of Justice, did not fit in well with the hodgepodge of legislation in force. Dissatisfaction with the current state of administrative justice was widespread in legal circles, and so was the call for a thorough reform aimed at modernizing a multitude of outdated and disorganized procedures. The increasing interference of public law in the lives of citizens made it essential to guarantee an efficient and effective protection of individual rights and interests before the courts in charge of scrutinizing the lawfulness of administrative action. Procedures before administrative courts had to conform to the principles of due process and the reasonable length of judicial proceedings, both enshrined in the Constitution.

One feature showing the modernity of the CPA can be found in the fact that the Code is quite short, at least in comparison with other codes in force and, in particular, with the Code of Civil Procedure,[10] which is the closest 'term of reference' for administrative procedure. In fact, not only does the CPA refer to specific rules of the Code of Civil Procedure, but its structure makes it clear that the procedure before

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[8] The CPA was enacted by a statutory instrument (*decreto legislativo*) passed on 2 July 2010. Since then, it has been amended a few times. An updated version of the CPA (in Italian) can be found on the institutional website of the administrative courts, available at <https://www.giustizia-amministrativa.it/cdsintra/cdsintra/Codiceamministrativo/index.html>, accessed June 2016.

[9] A. Quaranta-V. Lopilato (a cura di), *Il processo amministrativo – Commentario al D. Lgs. 104/2010* (Giuffrè Editore, 2011); A. Pajno, Il codice del processo amministrativo ed il superamento del sistema della giustizia amministrativa. Una introduzione al Libro I, Diritto processuale amministrativo 100–132 (2011); A. Travi, Prime considerazioni sul Codice del processo amministrativo: fra luci e ombre, Il Corriere giuridico 1125–1128 (2010).

[10] The CPA is comprised of 137 articles, followed by three appendices, while the Code of Civil Procedure contains 840 articles, to which one must add a set of regulations for the implementation of the Code itself and, most of all, a multitude of procedural rules included in special statutes.

administrative courts is, to a large extent, a 'variation on a theme' of the procedure followed by ordinary courts in dealing with civil and commercial cases.[11]

The first three articles of the CPA are devoted to the 'General principles' of administrative justice. Article 1, under the heading 'Effectiveness', provides that administrative justice shall guarantee full and fruitful judicial protection, according to the principles of the Italian Constitution and the law of the European Union. Article 2 is devoted to due process, insofar as it states that administrative proceedings shall abide by the principle of the equality of arms, pledging to enforce the right to be heard and the other rights enshrined in Article 111 of the Constitution.[12] The second section of Article 2 is very interesting, since it provides for a duty of cooperation between the court and the parties so as to safeguard the reasonable length of proceedings. Finally, Article 3 announces that any judgments and orders issued by administrative courts shall include an opinion in which the reasons for the decision arrived at are explained.[13] The same Article also lays down an innovative principle, that is, the principle providing that all the documents of the proceeding, whether they are court orders or pleadings and motions submitted by the parties, shall be concise and written in a synthetic and clear language. This principle, which finds its first official recognition in the CPA itself, is becoming more and more influential, well beyond the boundaries of administrative procedure. As a matter of fact, from 2012 on the case law of the Court of Cassation, followed by the case law of a few inferior courts, has repeatedly upheld the doctrine according to which concise pleadings (as well as concise court judgments and orders) are instrumental in reducing the length of proceedings, since 'the general canon of clarity and brevity in any written documents of judicial proceedings is one of the pillars of due process … and is consistent with the guarantees laid down by Article 6 of the European Convention on Human Rights (my translation)'.[14] This is a remarkable example of 'cross-fertilization' of administrative and civil procedure.[15]

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[11] According to the explanatory report accompanying the statutory instrument by which the CPA was enacted, the source of the fundamental principles governing procedure at large is the Code of Civil Procedure, which implies that the CPA, in spite of its autonomy, must adhere to the same principles, unless the particular features of a litigation between a private individual and a public entity require a departure from those principles.

[12] Article 111 of the Italian Constitution reads: 'Jurisdiction is implemented through due process regulated by law. All court trials are conducted with adversary proceedings and the parties are entitled to equal conditions before an impartial judge in third party position. The law provides for the reasonable duration of trials.'

[13] It must be emphasized that this rule reflects the constitutional principle according to which, 'All judicial decisions shall include a statement of reasons' (Art. 111, sec. 6).

[14] Court of Cassation, judgment No. 34 of January 5, 2016, with reference to the relevant court's case law, inaugurated by judgment No. 11199 of 4 July 2012. Specific limits to the length of both pleadings and judgments have been established by the statutes on the implementation of E-justice.

[15] On the relationship between the efficiency of judicial procedures and the huge amount of paperwork that civil cases involve as a rule, see e.g. B. Capponi, *Sulla 'ragionevole brevità' degli atti processuale civili,,* Rivista trimestrale di diritto e procedura civile 1075–1091 (2014); G. Finocchiaro, *Il principio di sinteticità nel processo civile,* Rivista di diritto processuale 853–869 (2013).

4. Legitimate Interests

Mention has been made already of the fact that the jurisdiction of administrative courts comes into play when the entitlement claimed by the plaintiff against a public entity can be qualified as 'legitimate interests', while the judicial enforcement of 'subjective rights' falls in principle within the jurisdiction of ordinary courts. The distinction between the two forms of entitlement is very elusive, and the lack of a normative definition of the mysterious 'legitimate interests' does not help. Rivers of ink have flowed from the pens of scholars in an attempt to clarify the concept, and over time different schools of thought have prevailed.[16] In light of that, and also keeping in mind that for Italian legal professionals interested in deciding whether to lodge a case with an ordinary court or an administrative court an elementary but useful rule of thumb is to browse through the case law of the Court of Cassation in its capacity as the final judge in charge of settling conflicts of jurisdiction, this author has decided to keep things simple, relying on what can be inferred from Article 7 of the CPA. According to this rule, legitimate interests may arise every time a public entity exercises (or fails to exercise) an authoritative power affecting individuals. Since public authorities cannot act capriciously, individuals are entitled to expect that the action taken by public authorities is consistent with the rules and the principles governing the exercise of the powers bestowed on them: when such expectation is not satisfied, it is possible to turn to administrative courts and ask for redress. Redress means in principle that the administrative act affecting the claimant, once found unlawful, shall be annulled by the court. It must be emphasized, though, that the court may also award damages to the claimant. The possibility to receive monetary compensation for the harm caused by unlawful acts performed by public bodies in violation of the claimant's legitimate interests is a new feature of administrative justice. Disregarding the traditional approach that limited the availability of damages only when the harm suffered by the claimant resulted from the infringement of his subjective rights perpetrated by a public authority, a groundbreaking judgment issued by the Court of Cassation in 1999 inaugurated the doctrine according to which even the violation of legitimate interests can be restored by an award of damages.[17] Subsequently, this

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[16] Some basic readings are G. Greco, *Il rapporto amministrativo e le vicende della posizione del cittadino,* Diritto amministrativo 585–626 (2014); F. Trimarchi Banfi, *L'interesse legittimo: teoria e prassi* Diritto processuale amministrativo 1005–1020 (2013); A. Falzea, *Gli interessi legittimi e le situazioni giuridiche soggettive*, Rivista di diritto civile 679–688 (2000); B. Sordi, *Interesse legittimo*, Enciclopedia del diritto, Annali 709–729 (II, 2, Giuffrè Editore 2008); F.G. Scoca, *Attualità dell'interesse legittimo?,* Diritto processuale amministrativo 379–418 (2011); F.G. Scoca, *Interessi protetti (diritto amministrativo)*, Enciclopedia giuridica Treccani 1–28 (XIX, Istituto della Enciclopedia Italiana 1990); E. Cannada-Bartoli, *Interesse (diritto amministrativo)*, Enciclopedia del diritto 1–28 (XXII, Giuffrè Editore 1972).

[17] Judgment of the Court of Cassation (sitting *en banc*) no. 500 of July 22, 1999. On the topic of the availability of an action for damages brought against a public entity for the infringement of legitimate interests, *ex multis*, see C. Volpe, *La tutela risarcitoria innanzi al giudice amministrativo: in particolare, l'influenza del diritto europeo,* Giustamm.it (Issue No. 10), 6 (2013), available at <https://www.giustamm.it>;

doctrine was incorporated into some pieces of legislation and eventually it became a general principle specifically stated by the CPA, in Article 7, sec. 4.

5. The Jurisdiction of Administrative Courts

According to a well-established distinction, the jurisdiction of administrative courts embraces different powers.[18] First of all, administrative courts have a general power to review the lawfulness of any administrative acts that are allegedly affected by lack of competence, violation of the law or excess of power. In Italian, this general power that an administrative court can exercise is defined as *giurisdizione generale di legittimità* (general jurisdiction as to the lawfulness of the administrative action). Only the so-called 'political acts', namely, the decisions made by the Government exercising political powers, cannot be reviewed by administrative courts. The administrative act, once found unlawful, is declared null and void.

In exceptional cases, administrative courts have the authority to scrutinize the merits of administrative acts as well (*giurisdizione di merito*). In the context of administrative jurisdiction, the word 'merits' alludes to the opportunity and usefulness of the action taken by a public entity: insofar as this type of review is allowed by specific statutory provisions, the court can not only declare the act under scrutiny null and void, but it can also issue a decision that will replace such act.

Finally, administrative courts have been granted in particular matters a jurisdiction called 'exclusive' (*giurisdizione esclusiva*): while, as a rule, subjective rights are only actionable in front of ordinary courts, as regards certain matters administrative courts are in charge of the judicial protection of both subjective rights and legitimate interests. This peculiar type of jurisdiction is called 'exclusive' because it excludes the case from the jurisdiction of ordinary courts.

6. The Procedure before Administrative Courts: Some Basic Notions

It is not possible to concentrate in a single paragraph the contents of a whole code, namely, the CPA; at the same time, it seems pointless to offer the reader

H. Simonetti, *La parabola del* risarcimento per lesione degli interessi legittimi. dalla negazione alla marginalità, Il foro amministrativo T.A.R. 731–752 (2013); F.D. Busnelli, *La responsabilità per esercizio illegittimo della funzione amministrativa vista con gli occhiali del civilista,* Diritto amministrativo 531–565 (2012); A. Fiorillo, *La natura giuridica della responsabilità della pubblica amministrazione per lesione degli interessi legittimi prima e dopo il Codice del processo amministrativo,* Giurisprudenza italiana 602–607 (2012); M. Franzoni, I danni da lesione di diritti e di interessi, La responsabilità civile 725–734 (2011); D. Sorace, *La responsabilità risarcitoria della pubbliche amministrazioni per lesione di interessi legittimi dopo dieci anni*, Diritto amministrativo 397–411 (2009); F.G. Scoca, *Divagazioni su giurisdizione e azione risarcitoria nei confronti della pubblica amministrazione,* Diritto processuale amministrativo 1–13 (2008).

[18] See Article 7 CPA, which distinguishes among three forms of the authority bestowed on administrative courts.

a detailed description of a procedure that, like most judicial procedures in any legal system, can be understood only from within.[19]

With a good measure of approximation, one may say that administrative procedure mirrors the procedure followed before ordinary courts in charge of civil and commercial cases. Both procedures share common principles, such as the principles of party initiative and party prosecution. In spite of that, a few particular features of administrative procedure depend on the fact that in the introductory pleading the plaintiff does not have to state a cause of action, since the relief he seeks against the defendant-public entity is (at least in principle) the annulment of the administrative act that he claims has adversely affected his legitimate interests. Furthermore, even though the principle of equality of arms permeates the whole proceeding, there is all the same a certain asymmetry between the parties. For instance, often the evidence that would be relevant for the disposition of the case is in the exclusive possession of the defendant-public entity. Therefore, the general rule providing that the court may rely only on evidence offered by both parties is mitigated by the so-called 'method of acquisition' according to which the court, even on its own motion, can order the defendant-public entity to make available to the court any documents or any other sources of information relevant for the decision of the case and in possession of the public entity.

The proceeding develops along an introductory stage, followed by the proof-taking stage. The CPA lays down analytical rules on the taking of evidence and on evidence itself. Evidence (including the testimony of witnesses or experts) is essentially documentary.

A variety of interim measures can be granted by administrative courts: interim measures are particularly important and popular. In fact, the length of administrative proceedings can be such that, absent provisional relief, the final judgment, even though it finds for the plaintiff, would not benefit him.

After the closing statements by the parties, the court issues its judgment. Judgments rendered by the TARs as courts of first instance are subject to appeal to the Council of State. Against appellate judgments a further appeal to the Court of Cassation can be brought, but only for lack of jurisdiction. The CPA provides for

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[19] To this author's knowledge, no references in English are available on the subject of administrative procedure in Italy. For those who are familiar with Italian, here is an essential bibliography: CE Gallo, Manuale di giustizia amministrativa (7th ed., Giappichelli Editore 2014); F.G. Scoca (a cura di), Giustizia amministrativa, (6th ed., Giappichelli ed. 2014); A. Travi, Lezioni di giustizia amministrativa (11th ed., Giappichelli Editore, 2014); A. Sandulli (a cura di), Diritto processuale amministrativo (2nd ed., Giuffrè Editore, 2013); M. Sanino, Le impugnazioni nel processo amministrativo (Giappichelli Editore, 2012); R. Dipace, *L'annullamento tra tradizione e innovazione: la problematica flessibilità dei poteri del giudice amministrativo*, Diritto processuale amministrativo 1273–1397 (2012); F. Merusi, *Il codice del giusto processo amministrativo,* Diritto processuale amministrativo 1–24 (2011); A. Pajno, *Il codice del processo amministrativo ed il superamento del sistema della giustizia amministrativa. Una introduzione al Libro I,* Diritto processuale amministrativo 100–132 (2011).

other, particular forms of appeal, known as 'revocation' (*revocazione*) and 'third party opposition' (*opposizione di terzo*).

It is worth mentioning a special preceding that can be commenced for the enforcement of a judgment that the public administration has failed to comply with (*giudizio di ottemperanza*). The noteworthy feature of this proceeding is the power of the court to substitute its judgment for the action that the administrative entity was expected to perform or to appoint, as an alternative, an 'officer *ad acta*' in charge to act in lieu of the defaulting entity.[20]

7. Ordinary Courts and Public Entities

Public entities can be summoned to appear before an ordinary court when the plaintiff alleges that an administrative act has adversely affected his subjective rights.[21] That being the case, it is necessary to draw attention to the strict limits that the powers of ordinary courts are faced with if they find for the plaintiff. To find for the plaintiff means to ascertain that the administrative act did harm the plaintiff's subjective rights since it was unlawful. The court, though, cannot declare the act null and void, it can only disregard it, and decide the case as if the act had never existed. A further limit concerns the type of judgment ordinary courts can issue: a public entity can only be ordered to pay damages to the winning plaintiff.[22]

Particular categories of disputes fall within the jurisdiction of ordinary courts. This is the case, first of all, of labor disputes concerning public servants,[23] as well as some other less significant matters, such as disputes arising out of the exacting of administrative sanctions.

8. Administrative Remedies

The landscape of Italian administrative justice would not be complete if mention were not made of the administrative remedies that individuals who claim to have

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[20] A. Travi, *Giudizio di ottemperanza*, Enciclopedia Treccani – Diritto Online (2013), available at <http://www.treccani.it/enciclopedia/giudizio-di-ottemperanza_(Diritto-on-line)>, accessed June 2016; M. Asprone, L. Cilmi, *L'esecuzione della sentenza del giudice amministrativo nei paesi europei: giudizio di ottemperanza in Italia, l'astreinte in Francia e lo Zwangsgeld in Germania*, Amministrativ@mente (2013), available at <http://www.amministrativamente.com/article/view/10031>, accessed June 2016; M. Antonioli, *Spigolature sul nuovo giudizio di ottemperanza,* Diritto processuale amministrativo 1291–1320 (2011).

[21] On the criterion upon which the dual system of jurisdiction rests, see above, para. 4.

[22] G. Leone, Elementi di diritto processuale amministrativo 413–420 (3d ed., Cedam 2014); C.E. Gallo, Manuale di giustizia amministrativa 19–32 (7th ed., Giappichelli Editore, 2014); S. Tassone I poteri del giudice ordinario nei confronti della pubblica amministrazione, in R. Caranta (a cura di), Il nuovo processo amministrativo 73–112 (Zanichelli Editore 2011).

[23] L. Galantino, Diritto del lavoro pubblico (6th ed., Giappichelli Editore, 2014), 311–318; E.A. Apicella, *Lineamenti del pubblico impiego "privatizzato"* (Giuffrè Editore, 2012); P. Sandulli-A.M. Socci, La disciplina processuale del lavoro privato, pubblico e previdenziale 485–555 (2nd ed., Giuffrè Editore 2010).

been aggrieved by the activity of public bodies can resort to, sometimes before turning to a court (whether administrative or ordinary), other times as an alternative to judicial protection.[24]

Even though these remedies can proceed faster and are cheaper than a court case, they are not very popular, since they are handled within the apparatus of the public administration and the general belief is that bureaucrats tend to stick together and rarely overturn a decision issued by their peers.

9. Final Remarks

It should be time to draw some conclusions from what has been written on the topic of administrative justice in Italy. Well aware that this paper is merely descriptive, this author feels that, being a scholar in civil procedure with limited expertise in administrative procedure, any conclusions she could venture could sound arbitrary. Therefore, she has decided to close by submitting to the reader the questions that periodically recur in the literature addressing the topic of the present state of Italian justice at large[25] and that occasionally reach new heights in the political and institutional debates. Does it still make any sense to have a dual system of jurisdiction? Is a controversy opposing a private individual to a public entity so peculiar as to justify the existence of a special set of administrative courts, or is the weight of history the only reason that accounts for maintaining a separate system of courts whose operation overlaps to a large extent the operation of ordinary courts? Obviously, these are difficult questions. The non-committal approach chosen by this author advises her to say that any answers would be premature.

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Capponi B. *Sulla 'ragionevole brevità' degli atti processuale civili*, LXVIII Rivista trimestrale di diritto e procedura civile 1075–1091 (2014).

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[24] A. Carbone, *Il ricorso straordinario al Presidente della Repubblica come rimedio giustiziale alternativo alla giurisdizione,* Diritto processuale amministrativo 54–107 (2015); C.E. Gallo, Manuale di giustizia amministrativa 1–18 (7th ed., Giappichelli Editore 2014).

[25] See, e.g., A. Police, *Administrative Justice in Italy: Myths and Reality*, Italian J. of Public L. 34–59 (2015); L. Ferrara, *Attualità del giudice amministrativo e unificazione delle giurisdizioni: annotazioni brevi,* Questione giustizia (Issue 3, 2015), available at <http://questionegiustizia.it/rivista/2015>, accessed June 2016; *A. Travi, Luci ed ombre nella tutela dei diritti davanti al giudice amministrativo*, Questione giustizia (Issue 3, 2015), available at <http://questionegiustizia.it/rivista/2015>, accessed June 2016; R. Villata, *Giustizia amministrativa e giurisdizione unica,* Rivista di diritto processuale 285–297 (2014).

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