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LONG ABSTRACT

URBAN MOBILITY AND ROLE OF PUBLIC ADMINISTRATION: A MATCH FOR THE DIGITAL CITY?

The "digital city" - or "Smart City" - is a kaleidoscopic and multilevel concept, which can be interpreted in a composite and versatile way. Indeed, if technological interoperability and the interconnection of systems undoubtedly play a central role in the evolution of the urban context, it is also of primary importance to recognize and implement a cohesive value framework – and a specific role of the public power – in order to support urban regeneration in terms of inclusiveness and diversity.
The role of public administration in the realisation of these intelligent urban contexts is often questioned: the local authorities, as the "guardians" of the city, acquire a sort of added value, especially in the definition and implementation of the "territorial services", like, for example, the sustainable mobility.
In this regard, also with reference to the "smart mobility", the public administration is not called upon to organise an offer of services on the market to remove the obstacles that prevent substantial equality, but to "mediate" between different private initiatives, allowing the needs arising from society to express themselves in the best possible way, with the aim of including, enhancing human capital and promoting economic development and quality of life in the city.
The approach and "stance" of the public power for the realisation of the Smart City act according to two different models/approaches: (i) according to the American one, the realization of the "city" follows a *bottom-up* process in which there is a "substantial retreat" of the public authorities' power (indeed, the same are rather called upon to promote a regulatory framework favourable to new technologies entering the market for building up the Smart city, with a view to simplifying administrative burdens but above all to ensuring legal certainty); (ii) the second one, on the other hand, is different and is inspired by greater consultation between the various levels of government and economic operators for the urban development, which often enjoy considerable public funding. In a nutshell, this model is based on a *top-down* identification of the measures to be adopted in order to achieve a high level of efficiency and innovation.
The European Member States - although they seem to prefer "soft law" interventions for the implementation of cities - actually seem to use legal tools typical of the "top-down" approach, where the public administration directs and organises the smart growth.
For example, the Catalunya Public administrations seems to favour the use of new technologies and infrastructures to create a model of a "self-sufficient city" made up of productive neighbourhoods on a human scale and speed, within a hyper-connected zero-emission metropolitan area. In particular, the Municipality of Barcelona (*rectius* the Metropolitan City of Barcelona, set up with the Law No. 31/2010) has developed since 2016 an integrated model of "robustness" (*i.e.* the ability of a system to continue to function properly under a wide range of operating conditions; it is a different concept from "smartness", which mainly refers to digital evolutions concerning smart city infrastructures and services) based on climate and social resilience and activated through an "open source" municipal platform for information management and risk analysis.
This is the context of the so called "*Plan de Mobilitat Urbana de Barcelona, PMU, Ajuntamento de Barcelona*", 2013-2018, drafted by the local authority Agencìa de Ecologia Urbana de Barcellona, which is deeply transforming the Catalonian city - from an urban space perspective - by streamlining it into 500 super blocks called "Supermanzanas", aimed at changing the experience of classical urban life by integrating climate mitigation and adaptation, social inclusion and economic development objectives (through the

realization of more space for pedestrians, channelling traffic, including public services, to outdoor areas, benefiting air quality and acoustic comfort, and applying urban "IoT" for monitoring, control and management of public initiatives).
A similar approach may also be found in the Italian case.
Although the Italian legislative framework does not provide for a definition of Smart City in legal terms, also due to the lack of precise regulatory indications, it is nevertheless possible to isolate some of its "typical" features, and namely: (i) the use of technology and innovation; (ii) the generation of initiatives both from public and private sides (enhancing the so called "horizontal subsidiarity" referred to in Article 118 of the Italian Constitution); (iii) the logic of "sharing" (through the communion of a factor, a space, a service, a technology or a set of information). With reference to the local services, the Italian legislator seems to prefer a "smartness" approach (rather then the "robustness" one), also in drafting those plans aimed at managing traffic and public mobility. In this regard, it is explanatory the so-called *Piano Urbano del Traffico*, provided by Legislative Decree No. 285/1992, aimed at improving traffic conditions and road safety, reducing noise and air pollution and saving energy, in accordance with the urban planning instruments in force and with transport plans, respecting environmental values (art. 36, paragraph 4, of the above-mentioned Legislative Decree). The local authorities are *de facto* encouraged to use new technological systems capable of guaranteeing citizens an optimal and, above all, "sustainable" level of vehicle management.
In conclusion, the empirical legal data related to the implementation of a smart mobility in the new city's model show: (i) a general (unintentional?) use of a hybrid model between the *top-down* one and the *bottom-up* approach to the matter; (ii) the preference for a "light" regulation, mostly aimed at guaranteeing the public interests/conditions of safety, urban order and *decorum* instead of a deep rethinking of urban spaces; (iii) a "partial" awareness by the respective legislators (in this regard the provisions set forth in the respective "PNRR" or EU Resilience Plans are remarkable) that the effective realization of the Smart cities goes through the implementation of the so called "strategic planning" of the urban communities, *i.e.* that process through which it is possible to build a relational network between the public and private actors representing local society in order to identify the possibilities for development and to define together the objectives and long-term strategies for the transformation of the city as a whole.
This said, the jurist's research cannot therefore disregard the correct delimitation of the role, and powers, that public institutions should assume in the context of the Smart City, also in its specific declination in the smart mobility serving citizens.