

CONTRIBUTI DI DIRITTO AMMINISTRATIVO

I CLASSICI

Collana diretta da

F.G. Scoca, G. Corso

M. D'Orsogna, L. Giani, M. Immordino, A. Police, M.A. Sandulli, M. Spasiano

DAL DIRITTO DELL'EMERGENZA AL DIRITTO DEL RISCHIO

a cura di

Loredana Giani Marina D'Orsogna Aristide Police

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2

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VINICIO BRIGANTE

ADMINISTRATIVE RESILIENCE, URBAN REGENERATION,
LONG-TERM RECOVERY AND ADAPTABILITY BETWEEN
ORDINARINESS AND EMERGENCY: A BENCHMARKING
BETWEEN THE KŌBE AND L'AQUILA EARTHQUAKES

SUMMARY: 1. Administrative resilience: investigation perspective in absence of unambiguous definition. – 2. Building national resilience: the virtuous case of the recovery process of Kōbe after the Great Hanshin-Awaji earthquake in 1995. – 3. Administrative law and emergency into Italian law: the necessity as a source of law and the derogations from the public procurement framework in relation to the earthquake of the Abruzzo region in 2009. – 3.1 A short historical perspective of the Italian administrative management of emergency. – 3.2 The post-earthquake rebuilding in Abruzzo, between courtroom and exemptions to the public procurement Code. – 4. Conclusive remarks.

1. Administrative resilience: investigation perspective in absence of unambiguous definition

The issue of administrative resilience has been deeply analysed by the European and American academics of public law in recent years, since it is assumed that it is possible to summarise under a single category both the state of emergency and the predisposition of a stronger precautionary institutional framework based on the scientific knowledge¹.

The topic investigated in this paper concerns the role of administrative law, in relation to administrative measures and decisions, in response to linked social-ecological change, related only to natural disasters, such as Kōbe and L'Aquila earthquakes.

The term resilience was borrowed by human sciences in recent years; it was originally, coined by an eminent Scottish engineer to describe the strength and ductility of steel beams².

¹ In this regard it is nodal the contribution of the French scholars, for all see S. PLAUD, *Principe de précaution et progrès scientifique*, in *Ethics and economics* (2010).

² W.J.M. RANKINE, *A manual of civil engineering*, Griffin Publications, London, 1867, a resilient steel beam survives the application of a force by resisting it with strength (rigidity) and absorbing it with deformation (ductility); in a different direction, R.

At the end of the 1990s the term “resilience” made the transitions from the so-called exact sciences to social field, such as law, thanks to the work of economist³ and geographers⁴.

The law scholar’s attention to resilience is quite recent; given that the term is alien to the legal field, it has been difficult to find a definition of the term that would be universally accepted. Furthermore, in many legal systems, as in the Italian one – in which, too, the quantity of legislation promulgated annually is also extremely high – the term resilience is undefined and it appears rarely in the national legislation⁵.

For these reasons, there is no definition of resilience commonly accepted by legal practitioners, but there are several studies founded on the general legal principles, based on the assumption that “there may be tension between the law and its expectations of certainty, and resilience with its emphasis upon flexible responses to risks and uncertainties⁶”.

DJALANTE, C. HOLLEY and F. TOMALLA, *Adaptive governance and managing resilience to natural hazards*, in 2 *International Journal of Disaster Risk Science* (2011), 3, “the concept of resilience was originally developed in the field of ecology” and A. MCASLAN, *The concept of resilience. Understanding its origins, meaning and utility*, in *Torrens Resilience Institute Paper* (2010), states that there is no evidence of resilience being used by scholarly work until T. TREDGOLD, *On the transvers strenght of timber*, in *Philosophical Magazine: a Journal of Theoretical, Experimental and Applied Science* (1818), introduced the term to describe a property of timber, and to explain why some types of wood were able to accommodate sudden and severe loads without breaking; for an investigation into the meaning and the uses of the term resilience, see D.E. Alexander, *Resilience and disaster risk reduction: an etymological journey*, in *Nat. Hazards Syst. Sci.* (2013), 2707-2716.

³ A.A. BATABYAL, *The concept of resilience: retrospect and prospect*, in 3 *Environ. Dev. Econ.* (1998), 235-239.

⁴ W.N. ADGER, *Social and ecological resilience: are they related?*, in 24 *Prog. Hum. Geog.* (2000), 347-364.

⁵ By way of example, the subsection no. 974 of the law 28 December 2015, no. 208, which regulates the annual establishment of the State budget (the so-called Italian financial Act or Stability law), established an extraordinary programme for urban renewal and safety in the suburbs, for the implementation of plans for urban decorum to improve regional security and the ability to achieve urban resilience. The lack of a definition is supported by references to the creation of new models of a metropolitan social-welfare.

⁶ B.M. HUTTER, *Risk, Resilience, Inequality and Environmental Law*, Elgar, Cheltenham, 2017, Preface, X; B.H. WALTER and D. SALT, *Resilience thinking: sustaining ecosystem and people in a changing world*, Washington University Press, Washington, 2006, “Law and resilience relate to each other in two distinct ways. The first aspect has been described how law influences the resilience of social-ecological systems. The other aspect refers to the resilience of law itself: how legal concepts,

Resilience has multiple definitions, but the present paper takes as its reference the one developed by the International Strategy for Disaster Reduction of the United Nations, which by coincidence took place exactly in Kōbe, in January 2005, according to which “resilience is the capacity of a system, community or society potentially exposed to hazards to adapt, by resisting or changing in order to reach and maintain an acceptable level of functioning and structure. This is determined by the degree to which the social system is capable of organizing itself to increase this capacity for learning from past disaster for better future protection and to improve risk reduction measures⁷”.

More accurately, administrative resilience is the capacity of a system to react to shocks by adapting its organizational structure and by generating new pathways.

The issue investigated in this paper is not only directed to study traditional themes of administrative law, such as administrative decisions or the public management of the emergency, but from a different perspective it draws attention to the existing tensions between efficiency and persistence, constancy and change, predictability and unpredictability⁸.

Administrative resilience is a crucial variable determining how societies adapt and transform in response to related social-ecological change⁹.

The purpose of the present work is to investigate the regional resilience in response to natural disasters. In particular, it deals with two earthquakes that occurred in L’Aquila in 2009 and in Kōbe in 1995, in order to evaluate the impact of the so-called resilient factor that underpins the administrative measures adopted and to take account of any potential findings.

The two territories taken as a benchmark are located in areas with a high seismic activity, in which adaptive capacity becomes a fundamental requirement in order to be less vulnerable and increase the so-called adaptive resilience.

principles, and processes persist in the face of change, and how law maintains its structure or adapts to new circumstances”.

⁷ World conference on disaster reduction, *Hyogo framework for action 2005-2015: building the resilience for Nations and Communities to Disaster* (2005), 4, available for consultation on the website www.unisdr.org/wcdr.

⁸ For more on this issue, see L.S. GUNDERSON, *Resilience, flexibility and adaptive management: antidotes for spurious certitude?*, in *Ecology and Society* (1999), 7.

⁹ D. ARMITAGE, *Resilience and administrative law*, in *Ecology and Society* (2013), 11.

This concept – developed by scholars¹⁰ – is related to the ability of a system to adjust its organizational structure in order to minimize the impact of the unexpected and harmful events.

One more specification should be conducted about the term ‘adaptability’, which appears in the title of the relation too, and the differences with the idea of ‘adaption’.

Adaptability shows the capacity of a legal system to combine experience and knowledge, in order to influence and improve the resilient factor¹¹, while adaptation refers to a short-term analysis closely linked to the stage of emergency.

The perspective chosen in this paper aims to analyse the impact of the administrative decision in a prolonged period in order to evaluate the effects on the economic recovery and the urban regeneration¹².

2. Building national resilience: the virtuous case of the recovery process of Kōbe after the Great Hanshin-Awaji earthquake in 1995

Historically, Japan has suffered damage due to a number of large-scale natural disasters related to its geographical features and Japanese regions have always coexisted with significant external pressures often leading to environmental calamities.

The response of the Kōbe administration to the violent earthquake that hit the district of Hanshin, on 17th January 1995 causing serious damage to a wide area, most of which was recorded in the region of Kansai, represents an excellent example of reaction to unforeseeable events.

¹⁰ See R. MARTIN, *Regional economic resilience, hysteresis and recessionary shocks*, in 12 *Journal of Economic Geography*, 1-32; J. SIMMIE and R. MARTIN, *The economic resilience of regions: towards an evolutionary approach*, in 3 *Journal of Regions, Economy and Society* (2010), 27-43, “adaptive resilience involves the possibility of a structural adjustment in reaction to shock and has also been defined as evolutionary resilience in relation to its ability to conduct the system to a bounce forward that involves an evolution rather than a simple recovery of previous functions”; L. LAZZARETTI and P. COOK, Introduction to the special issue ‘the resilient city’, in 3 *City, Culture and Society* (2015), 47-49, adaptive resilience may explain the evolution of the system clarifying the attitude of some regions to renew and develop, designing a sustainable future.

¹¹ B.H. WALTER, C.S. HOLLING, S.R. CARPENTER and A. KINZIG, *Resilience, adaptability and transformability in social - ecological systems*, in *Ecology and Society* (2004), 5-6.

¹² With regard to the issue investigated, see R. ANGELINI and R. D’ONOFRIO, *Comunicazione e partecipazione per il governo del territorio*, Franco Angeli, Milano, 2015, 276-338, for an analysis of the experience of the housing policy in Abruzzo region.

This case study is considered as a turning point for a critical revision of the concept of the management of the emergency in administrative law, which for the first time was not restricted to the phase of need, but concerned the phases of reconstruction and economic recovery too¹³.

Shortly after the disaster, the local authority claimed that “it was necessary to build a disaster-safe model city where citizens can live and work in a safe and secure manner through the swift recovery of the urban infrastructure, civic life and urban development to create a new Kōbe that will become a civic-minded creative city¹⁴”, an ideological manifestation of the view of resilience.

The first measure adopted concerned the institution of the “Great Hanshin-Awaji Earthquake Public Reconstruction Fund”, set up and managed jointly by the City of Kōbe and the Hyōgo Prefecture, to provide financial support to citizens and companies.

This fund possessed public legal subjectivity and it was earmarked both for specific tasks, such as reconstruction of houses and assistance to small companies, and for general ones, such as the direction and the coordination of the recovery phase.

Alongside this institutionalized recovery, jointly managed by two local authorities, there was also an own-initiative of several NPOs organizations.

The entire program of administrative resilience, apart from the actors involved, was under the political direction of the ‘Earthquake Recovery Headquarters’ headed by the mayor, that identified three steps for the recovery, namely: relief, recovery and new development.

At an early stage, in 1996, Kōbe Municipality issued an interesting administrative measure in which it decided to promote the construction of permanent factories to be rented in order to allow a quick recovery of the region¹⁵.

A peculiar circumstance concerned the phenomenon called *Machizukuri*; the term indicates organizations formed by residents, private agencies and public bodies with an interest in the field of

¹³ On this issue, see S. OLIVA and L. LAZZARETTI, *Adaptation, adaptability and resilience: the recovery of Kobe after the Great Hanshin Earthquake of 1995*, in *European Planning Studies* (2017), 67-87.

¹⁴ Vv. AA., *Comprehensive strategy for recovery from the Great Hanshin-Awaji earthquake*, curated by City of Kobe, 2010.

¹⁵ S. OLIVA and L. LAZZARETTI, *Adaptation, adaptability and resilience*, quoted, 79, “This was the first large-scale factories-to-rent scheme sponsored by the public sector in Japan. As well as the construction of factories to rent, the government decided to build a number of facilities to support firm business”.

recovery, a kind of public-private partnership that acted also as an interface with city planning consultant¹⁶.

The more righteous aspect of the Kōbe recovery experience concerned the long-term recovery and adaptability and the corresponding impact of law and administrative decision; the earthquake became the pretext for a total rethink of urban development.

A renovated urban approach was boosted in order to revitalize the local economy, through the improvement of the creative sector, as demonstrated by the redesign of the harbour, also with a tourist-oriented vision.

Furthermore, by an act of the central government, two projects were adopted with the establishment of a low-tax regime, namely Project for Kobe Medical Industrial City and Kobe Robot Technology Project.

These projects helped the promotion of the development of new sectors in Kobe, such as the medical industry which, in turn, was closely linked to the idea of revitalizing the port area.

The development of the medical industry is the most significant example of a long-term recovery; it illustrates about how a catastrophic event can be a roadmap to develop new sectors or to implement the technology tools in order to prevent future calamities¹⁷.

As a conclusion of this part of the investigation, it can be useful to draw some final thoughts.

First of all, in building a resilient city model the short-term actions in response to the disaster can be a way to tackle the emergency at the first stage, but they are not enough, since it is necessary to have a long-term policy jointly managed by the public administrations, the public-private entities and the citizens. It is required that the administrative measures

¹⁶ In a most general sense on this issue, see N. EVANS, *Machi-zukuri as a new paradigm in Japanese urban planning: reality or myth?*, in *Japan Forum* (2002), 443-464, "The concept of machi-zukuri (community/neighbourhood planning) has become widely used in recent years, both within the field of urban planning and in more general usage. It is seen as a radical departure from the conventional centralized, top-down, civil engineering approach of Japanese urban planning (toshi-keikaku), or even as playing an important role in the regeneration of Japanese civil society over this period"; C. HEIN, *Toshibeikaku and Machizukuri in Japanese Urban Planning. The Reconstruction of Inner City Neighborhoods in Kōbe*, in *Japanstudien* (2002), 221-252.

¹⁷ S. OLIVA and L. LAZZARETTI, *Adaptation, adaptability and resilience*, quoted, 82, "From a technological standpoint, Kobe was the testing ground for anti-seismic technologies and initiated large-scale applications of innovative technologies of based isolation, driving Japan towards a leadership position in such industry. The Great Hanshin Earthquake was an opportunity for rethinking the image of the city and make it more competitive."

look beyond the initial stage of emergency and lay the foundations for a rapid recovery.

Secondly, the close cooperation between citizens and institutions and a shared decision-making policy can make regions more solid, and also promote a process of adaptation and adaptability in order to create a resilient city.

The core issue in order to constitute a resilient factor is the foresight of the public policies and an informed cooperation between the actors involved in various ways in the recovery process.

In order to conclude this first part of the investigation, a few words should be spent on the “*Basic Act for National Resilience Contributing to Preventing and Mitigating Disasters for Developing Resilience in the Lives of the Citizenry*”, Act no. 95, issued by the Japanese Government on 11th December 2013, but which came into effect only on 1st April 2016.

This interesting legal measure aims to lay down the minimal coordinates with regard to resilience at national level, without defining it.

This act is made up of five Chapters and several different articles and it is preceded by a short preamble, in which it is underlined that it is one of the fundamental responsibilities of the national Government to ensure the safety and health of the citizens and to set priorities and take proper measure in advance, with the aim of building national land and regions which are highly resilient to large-scale natural disaster.

In order to achieve these objectives it is important to share information, make preparations for large-scale natural disasters even at normal times, and utilize the most advanced technologies and equipment based on new technological innovation.

The act under investigation has a programmatic nature because it establishes the minimum requirements and clarifies the responsibility of the National Government concerning the promotion of initiatives aiming to achieve the goal of making Japan more resilient to natural disasters that may exert a considerable impact on the lives of the national economy too.

The main points of this document are prevention and mitigation, swift recovery by promoting measures concerning National Resilience in a comprehensive and systematic manner.

The articles no. 3 and 4 provide for a policy coordination between the National and the Local Government.

The article no. 5 is very interesting because it states that business entities and citizens must develop their understanding of and interest in

the significance of National Resilience, by introducing a provision that involves also private parties in the recovery phase.

The chapter no. 4 of this Act contains a provision that has an impact on the Japanese public organizational framework, because of the establishment of the National Resilience Promotion Headquarters in the Cabinet Office, which shall take charge of affairs concerning the preparation of a draft of the Fundamental Plan for Resilience¹⁸.

This Act has not yet received application, but it shows clearly how to build a resilient system, which is not limited to the short-term recovery but it must be equipped for an organized regeneration, starting with the urban aspects of the recovery.

3. Administrative law and emergency into Italian law: the necessity as a source of law and the derogations from the public procurement framework in relation to the earthquake of the Abruzzo region in 2009

Before dealing with the events concerning the management of the emergency after the earthquake that affected the Abruzzo region in 2009, it is appropriate to make a few brief comments about the conditions and the limits faced by the public administration on the occasion of an unforeseeable event within the Italian legal framework.

3.1 A short historical perspective of the Italian administrative management of emergency

The so-called law of the emergency represents a form of public

¹⁸ In accordance with the article 17 of the Basic Act, "In preparing a draft of the Fundamental Plan for National Resilience, the Headquarters must have the Vulnerability Assessment results verified and decides the order of priority for measures concerning National Resilience to be implemented intensively in light of the public need, objectivity, fairness and reasonableness, while ensuring the transparency of the process of preparing the draft. When intending to prepare a draft of the Fundamental Plan for National Resilience, the Headquarters must hear the opinions of prefectures, municipalities, people with academic backgrounds and people who have a close relationship with the promotion of measures concerning National Resilience, in advance". Furthermore, in accordance with the Act, "Vulnerability Assessment shall be conducted in a comprehensive and objective manner based on scientific knowledge, while envisaging the worst events that might ever happen and shall be conducted for each sector".

action, to deal with exceptional situations that cannot be dealt with the ordinary powers usually held by the public administrations¹⁹.

In civil law jurisdictions, such as the Italian one, in which administrative powers are accorded by law, there might be a problem of compatibility between the exceptional nature of these measures and the constitutional principles.

Generally, these exceptional and derogatory powers are legitimated by the presence of particular conditions which are the exceptional nature of the events, the lack of effectiveness of the ordinary tools to deal with the unexpected and the effectiveness limited in time.

However, the administrations have been interpreting the notion of emergency extensively²⁰ in recent years, bringing up problems of potential infringement of the constitutional principles. Specifically, there is a potential conflict between the emergency measures and the rule of law on the one hand and the separation of powers on the other one.

After the violent earthquake that hit Messina and Reggio Calabria in 1908 and the related impossibility of using ordinary powers, the Italian government was faced for the first time with a theory that assessed the necessity as a source of law²¹.

The word “emergency”, instead of “necessity” and “urgency”, appeared in the law 24 February 1992, no. 225, which established the National Civil Protection Office, holder of tasks aimed to protect life, settlements and environment against damages resulting from natural hazards.

According to this law, the Council of Ministers shall indicate the duration and the spatial extent in order to enable the public administrations to issue such orders derogating from ordinary law (only

¹⁹ A. FIORITTO, *L'amministrazione dell'emergenza tra autorità e garanzie*, Bologna, Il Mulino, 2008.

²⁰ In this regard, in a non-exhaustive manner, see F. SALVIA, *Il diritto amministrativo e l'emergenza derivante da cause e fattori interni all'amministrazione*, in 4 *Dir. amm.* (2005), 764, who referred to a gradual dilation of the notion of emergency and D. DELLA PORTA and A. VANNUCCI, *Corruzione politica e amministrazione pubblica. Risorse, meccanismi, attori*, Il Mulino, Bologna, 1994, 66-73, the presence of the so-called emergency culture caused an extension of the notion of emergency; S. STAIANO, *Brevi note su un ossimoro: l'emergenza stabilizzata*, in *Giurisprudenza costituzionale e principi fondamentali. Alla ricerca del nucleo duro delle Costituzioni*, curated by S. Staiano, Giappichelli, Torino, 2006, 64, notes that the continued use of the emergency measures leads to a contradiction in terms, that is the stabilized emergency.

²¹ S. ROMANO, *Sui decreti legge e lo stato di assedio in occasione del terremoto di Messina e Reggio Calabria*, in *Riv. dir. pubbl.*, 1909, I, then in *Scritti Minori*, 1950.

temporarily and respecting the principle of proportionality), but in compliance with the principles of the Constitution and, more generally, with the principles that supervise the Italian legal system.

It is appropriate to clarify that these orders, enacted in exceptional situations, do not have legal force but are administrative measures.

As outlined in the preamble, the word “resilience” is almost completely absent in the Italian legal framework, but the natural disasters occurring over the years have had an impact on the organization of the public administration, as shown by the institution of the National Civil Protection Office. In other words, within Italian law there is a lack of the so-called culture of prevention and, on the contrary it is highly developed the culture of emergency.

The risk linked to a broad interpretation of the notion of emergency is to create an alternative course of action of the public administration, in which the citizens are not protected²².

In this regard, some Italian scholars noted that there is an abuse of the emergency powers²³, a circumstance that entails the risk that the state of emergency can become normalcy²⁴.

Among the many problems raised by these themes, in the following paragraph will be analysed issues related to the derogations from the Italian public procurement Code and to the controversy which emerged after the earthquake that affected Abruzzo in 2009.

3.2 The rebuilding post-earthquake in Abruzzo, between courtroom and exemptions to the public procurement Code

The public management of the emergencies may involve several derogations to traditional models, to tackle the state of emergency with efficiency.

On 6 April 2009, after that a major earthquake hit Abruzzo, the Council of the Ministers urgently adopted a decree in which was stated the risk of impairment of the best interests of the population was stated.

²² V. CERULLI IRELLI, *Principio di legalità e poteri straordinari dell'amministrazione*, in *Dir. pubbl.* (2007), 377, with regard to the orders of the National Civil Protection Office, there is a risk of creating an administrative legal system parallel to the ordinary one.

²³ D. DIMA, *Uso e abuso degli strumenti emergenziali. Alcune (ulteriori) distorsioni in tempo di crisi*, in *federalismi.it* (2014).

²⁴ U. BECK, *La società del rischio. Verso una seconda modernità*, Carocci, Roma, 2000, 31.

Furthermore, this decree provided the involvement of the operating structures belonging to the National Civil Protection Office to deal with the emergency and named the head of the National Civil Protection Office as Commissioner-Delegate for the adoption of any necessary measure in order to ensure primary health care services.

On 28 April 2009, the decree-law no. 39 was issued in order to implement urgent measures for the population and to start the reconstruction phase, to which it is necessary to dedicate a few words.

The notion of a reconstruction plan within Italian law is contained in the legislative decree no. 154, issued on 1st March 1945, designed for recovery after the war.

Originally, the objectives pursued by reconstruction plans were the implementation of the most urgently needed works and to avoid that the rebuilding would undermine the rational future development of the city. These plans have public nature but also pursue private targets, such as the rebuilding of the private building stock, but with constitutional importance as shown by the right to housing.

One of the problems found was the fragmentation of the legislative moves, as demonstrated by the law no. 77 of 24 June 2009, which provided for a splitting of the reconstructive plan, in accordance with a specific urban strategy²⁵.

The division of the recovery zone caused many differences, in terms of decision-making procedures and in respect of the time limit for completion of the works.

On the other hand, the ordinance issued by the Commissioner-Delegate on 9 March 2010 contained two different areas of action, complementary to each other.

The first one was directed to the creation of associative forms on the territory for the coordination and integration of measures and operations.

The second one aimed to operate a quick economic recovery of the areas in order to facilitate the return of the citizens to their homes.

²⁵ On this issue, see L. GIANI, *La presunta configurazione privatistica degli interventi di ricostruzione in caso di calamità naturali e la deroga alla disciplina del codice dei contratti. Alcuni spunti di riflessione tratti dall'esperienza aquilana*, in *Rivista amministrativa degli appalti* (2012), 283; in order to evaluate the risks associated to these kind of exemptions, see J. SCHULTZ and T. SØREIDE, *Corruption in emergency procurement*, in 4 *Anticorruption resource center* (2006), 3, "opportunities to engage in corruption are particularly high in emergency contexts, where controls are weak, funding levels and media pressure are high, and staff turnover is rapid. Despite the obvious risks, the humanitarian community rarely discusses corruption directly or openly".

The reconstruction of the houses had an impact on the organisational framework with the establishment of a dedicated office, the *U.R.S.A. (Ufficio speciale per la ricostruzione de L'Aquila)*.

One of the special features of the reconstruction plan was the coordination between local authorities and entities responsible for the protection of cultural goods (the so-called *Sovrintendenza*), to preserve the cultural heritage that was not affected by the earthquake and for an accurate recreation of the devastated historic centres of the area.

The most striking innovation is considered to be the establishment of a technological database called Open Data Reconstruction, to make the scientific and technical data available to the institutions; this instrument had facilitated the decision-making process by creating a link between science and administrative law.

A peculiar circumstance is laid down by the article no. 3 of the law no. 77 of 24 June 2009 that provided for a compensation granted for the rebuilding, required by law, which has a private nature and therefore is excluded from the public procurement framework and from the principles for the protection of competition.

Furthermore, the decree law no. 201 of 2011 has explicitly provided for further exceptions from the public procurement code, a circumstance that raised doubts of compatibility with the European framework.

In addition to this regulatory fragmentation, a lot of legal disputes have been recorded, resolved by the Regional Administrative Courts about all kinds of topics linked to the urban recovery, including disputes linked to works delay²⁶.

Prior to concluding with a few final reflections, it is interesting that two governmental acts issued by an interministerial committee provide money for the recovery in order to implement infrastructure for the smart-cities, something completely new for the Italian legal framework in regard to the management of the emergency.

4. *Conclusive remarks*

The issues investigated in this paper allows the examinations of several important aspects of administrative law, such as administrative

²⁶ By way of example, see the judgement decided by T.A.R. Molise, Sez. I, 30 May 2013, no. 357, in *Foro amm. T.A.R. (2013)*, 1657, in *Foro amm. T.A.R. (2013)*, 1657 on the compensation for the delay of the rebuilding.

decision, the public management of emergency, the limits to the exceptions to the public procurement legal framework.

In absence of a specific legal provision that organically addresses the so-called administrative resilience, it is considered appropriate to develop this issue through studies and analysis of events and case-study.

One of the central points of this analysis is the recognition of the necessity that the resilient factor must be sought through the cooperation between the private and the public sector.

Moreover, the administrative decision must think beyond the emergency and has to draw up the initials conditions for the recovery.

A decisive support may originate from scientific evidence but the ultimate responsibility remains within the hands of the institutions, and in particular of the local authorities.

The two cases that were investigated have showed what is needed to build a resilient city, going beyond the emergency and acting during ordinariness.

