

When legal institutions are subject to the continuous evolution of judgement decisions and the implementation of higher-level regulations imposes relevant changes, it is customary to invoke the participation of the government because setting out the specific rules to refer to.

However, as happened in the field of liberalizations, not always the intrusion of the legislature seems to be resolving or clarifying and, indeed, when excessively sporadic and schizophrenic becomes counter-productive, since it does not lead to an improvement of the system and, simultaneously, undermining the certainties of economic operators.

In the above context, the judicial system should promote and encourage the Public Administrations to reach the aim of predetermination of public choices to make know the rules that the Authorities will follow to determinate their future behaviors.

It should be stressed that this direction has already been taken by the legislature with numerous reform measures, due to the laws dictated in the field of anti-corruption (Decree Law 190/2012) or transparency (Legislative Decree. N. 33/2013 where the so-called “civic access” has been definitely established); these interventions, like many others, fall within the scope and the final aim of defining an effective “Predetermination of administrative decisions” because the Administration have to establish evaluation criteria in advance, make known mode of action, behavior and more and more modes and operating times of power, not absolutely and unconditionally discretionary in its way of appear, but inspired and conformed to discretionary decisions made in upstream and with general planning decisions, on the basis of which will be taken single administrative measures and acts.

By reason of that, it disappears and fades the traditional distinction that existed between authorization and concession regimes regimes.

This is the starting point but also the arrival point, that is reached by this job that identifies, in the progressive establishment and the gradual emergence of partial choices, an effective tool in ensuring the smooth performance and an impartial administration.