

ABSTRACT

The replacement power in the implementation of European law.

First of all, the purpose of this thesis is to analyze the instruments adopted by the Member States of European Union in order to avoid the liability related to breaches of European law caused by internal constitutional bodies institutions, in particular, at levels of local government.

Actually, the work focuses on the constitutional and legislative framework for a specific instrument, the replacement power, exercised by the Government in order to replace the lower level of government's activity because of its inertia.

The way of exercise of such power varies from State to State and its use is next to the inertia of territorial entity and, in the most cases, it works only after a sentence of the Court of Justice.

The second chapter of this work relates to the issues related to the difficulties and problems caused by the European integration on the legislative competence of Italian Regions and the normative evolution of the Regions in their role of implementation the European law, directives and regulations, in Italian legal system.

Moreover, this part aims at studying in depth the real function of replacement power in its potential role of control exerted on the Regions and other levels of government.

The third chapter analyzes Constitutional Italian legal system after the 2001's reform which has allowed the Regions to play a new role in the exertion of legislative power and a deeper role in the implementation of European law. Actually, 2001's reform acknowledges to the Regions a constitutional guarantee.

The Article 117, par. 5, and 120, par. 2, Const. appear as the basic rules of this work. These rules give access, indeed, to the replacement power in case of default of Italian Regions.

The paper analyzes the different doctrinal views on the replacement legislation and administrative relating to the different hypothesis of art. 117, par. 5, and 120, par. 2.

The work concludes with a consideration: the role of Italian Regions in the implementation of European law is still weak. This because of the role of the state legislative power that has not actually changed in respect of the precedent asset.

The State is continuing to intervene through the adoption of decrees in order to implement European law before the action of Regions.