

## **ABSTRACT**

My research aims to investigate the underlying principles and application profiles of the discipline of D. Lgs. n. 198, December 20, 2009, relating to action for the efficiency of public administrations and concessionaires of public services, pursuant to art. 4 of the Law of 4 March 2009, n. 15, better known as <<Brunetta reform>>, as part of an overall review of the system of assessment of the facilities and employees of public authorities, in order to optimize productivity and to enhance the results achieved.

The collective public action, in fact, is conceived as a tool for external control of the type of judicial review brought against public authorities and concessionaires of public services, which deviate from the standards of quality, cost and timeliness of administrative broader meaning.

This should help to ensure a high performance of public facilities and to stimulate a constant responsibility of the operators, also because of the maximum publicity that features its judgment.

Therefore, investigating the legal framework and the critical issues of collective public, which is neither a class action nor, strictly speaking, popular action, much less a mere associative action, can not be ignored by analysis of the principle of good performance of the pa and the instruments provided by the legislature for its full realization in the context of a process of corporatization of the public sector.

However, starting from an analysis of the principles of solidarity and subsidiarity - in relation to which it is possible to find the constitutional basis of collective action aimed broad sense - through a quick scan of the various historical phases that have determined and influenced the development, deepen the theme of progressive legal recognition of interest super - individual not related to the sphere of the individual, but inherent in the status of belonging to a social and economic groups in need of protection as it expanded.

The class actions, in fact, arise and develop in a market economy in which the provocation consumption, the mass media and the use of new information technologies leads to a depersonalization of business negotiations.

In other words, in a social and economic context characterized by globalization and consumption of information, access to credit and finance virtual, the persuasiveness of advertising media, the rapid evolution of information systems and technology, there is ever more intensely need to identify rules and safeguards that ensure adequate levels of fairness, balance and ethics in business practices and in the use of public goods and services also.

The traditional regulatory tissue at one point was decrepit and inadequate: the actions used singuli are unfit to effectively protect the interests adversely affected by events plurioffensivi: the defense of the rights of class requires aggregation forms that avoid isolation, because the subject in loneliness inevitably pours in a situation of weakness and asymmetry of information and economical than interlocutors strong and often difficult to reach.

Social formations, delegated by their nature to generate and encourage a natural solidarity among participants, are called to take - or rather rediscovered - a leading role in defending the interests of the class.

In this regard, our Constitution is as timely as ever. In particular, the article 2 of the Constitution requires the fulfillment of the duties of political, economic and social reference not only to the individual but also to the social formations in which the individual realizes his personality. Articles 41, 42 and 43 of the Constitution pose as insurmountable outer limits and to economic initiative to the enjoyment of private property and pursuit of the business, the social utility, security, freedom and human dignity.

Last but not least, the art. 118 deserves attention. It, enshrining the principle of subsidiarity cd. horizontal, requires the public sector to promote the autonomous initiatives of citizens, individually and combined, for the performance of activities of general interest.

The leitmotif is always one and only one: the social interest in the forms of social order, the social function, the general interest.

It should, in particular, to check the status of implementation of the principle of horizontal subsidiarity in which more than ten years after its constitutionalization is likely to remain practically unrealized, when in fact his promotion would allow the government to lighten the weight of too many financial responsibilities.

Of course, to achieve fully supportive subsidiarity is necessary to provide tools for listening, consultation and dialogue with public authorities and between public bodies, so as to trigger assurance processes and the protection of basic rights to three hundred and sixty degrees.

In this context, it enhanced the function of connection and stimulation of the class action public, whose experiment, having as a goal the result of a good administration, is not so much the 'punishment' of public authorities who take non-compliant or inefficient, as rather to eliminate dysfunctions and inefficiencies for the good of the community in its entirety.

The class action, therefore, as a moment of stress and an instrument of control over the timing of the performance, transparency, effectiveness and cost fairness of the administrative and compliance with the standards of quality and cost of services provided, as identified in the respective service cards.

Moreover, more than twenty years in our system you will find many of the reorganization of the administrative reforms as a whole.

The direction of change, taking into account, inter alia, guidelines for improving the efficiency of public administrations across Europe, dictated by the Organization for Economic Cooperation and Development (OECD), a public administration that is to do better and costs less, but above all that it is capable of responding to the needs of complex social realities, fragmented and in flux.

The public administration is now called upon to face significant challenges, first of all, to anticipate the needs of citizens, maintaining an active and proactive attitude that allows the identification and solution of problems.

You have to know how to 'listen' needs to overcome the widespread belief that public organizations are distant and incapable.

Unfortunately, to date the Public Sector continues to be perceived as the weak link of the 'Italian system': too expensive, inefficient, often opaque, and sometimes unfair. It's time to abandon the logic of opposition public interests - private interests, and look to collective action like a view collaborative, aiming to establish virtuous mechanisms of correction and improvement of the civil service, even taking into account the instrumental resources, financial and human resources available.

The class action, therefore, as an instrument of control in order to eliminate administrative problems sometimes fueled by superficiality and behaviors of professional inadequacy, no longer tolerable also because of the loss of credibility and that cause the country's economic competitiveness in the European and international scene.

It is therefore necessary that the public administration, especially in an environment full of uncertainties, rediscover and recover its primary role and unfailing reconciliation between the selfish impulses in defense of the general interest of the community, in the name of a genuine rule of law.

Make a reform of the public sector is certainly a difficult task, especially if the economic and human resources available are becoming less and less and less destined to the implementation of the primary sectors such as culture and health care, which also represent the true litmus test of the quality of life of a country.

It's not possible to have a public administration more efficient and less expansive, if you continue to support an economic policy of linear cuts and undifferentiated, which effectively undermines selective mechanisms and reward individual performance and organization.

In the absence of typical mechanisms of the market, the measurement of costs and benefits achieved passes through the standardization of values such as responsibility, merit, transparency and rewarding, both individual and organizational, which are assumed capable of raising the minimum standards of quality of services provided and to produce real benefits to the management of public affairs.

This applies not only to the economically significant activities undertaken by the public or by concessionaires of public services, but also for the activities of provision of content for purely charitable.

Hence the prediction of an instrument capable of judicial action right into the mesh organization of government.

Finally, it is only right a comparison of public and collective action than those referred to the Consumer Code, in order to clarify the legal autonomy with respect to similar or parallel events, despite not having the claim, in this context, to analyze in describe a complex institution such as that of collective action common law.