

Soil Consumption and Urban Regeneration

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1. *Urban regeneration as a strategic alternative to soil consumption*

There is an increasing awareness, not only at the legal level, that the recognition of the value of soil as an environmental matrix is essential to ensure sustainable urban and territorial growth. Soil consumption represents one of the most serious dimensions of the problem of anthropogenic pressure on natural resources¹ and intersects the issue of the diffuse or infinite city, better known as “urban sprawl”, denounced by numerous scholars who agree on the need for urban planning aimed at development without quantitative growth, characterized by a priority need for quality².

These circumstances have closely linked land use, recovery and other urban experiences to rethink the city. There are several ways to approach the study of regeneration but, undoubtedly, its first impact can be traced in relation to the containment of soil consumption and this research perspective is at the basis of this paper.

This reconstructive path brings out a strong integration between soil protection and urban planning, first of all, contextualized in the context of European strategies dedicated to soil protection, which, even in the absence of legislative acts binding conditions, make it possible to identify a hierarchy of actions aimed to combat soil sealing and, specifically, consisting in its limitation, mitigation and compensation. So, urban regeneration has captured social, economic and legal scholarship as a strategic alternative to soil consumption at the

¹ See the judgment of the Italian Constitutional Court 16 July 2019, no. 179.

² E. SALZANO, *L'urbanistica dal piano alla pianificazione*, in *Rivista trimestrale*, 1985, 4.

crossroads between “right to the city” and “new generation” of urban planning.

The right to the city was theorized for the first time by Henry Lefebvre³ a century after Marx’s work *Das Kapital*⁴, considered the key text of Marxism and one of the main for Marxist philosophy to which the French sociologist remained firmly anchored even when he focused on the meaning of the formula “*droit à la ville*” in his *Espace et politique*⁵ referring to workers removed from urban centers⁶.

With reference to the above-mentioned new generation of urban planning, taking a cue from the Italian experience, it is useful to recall the analysis proposed by Campos Venuti who identifies three phases or moments⁷.

The first is the one following the entry into force of the Italian general urban planning law, which extends until the beginning of the Sixties and aims to coordinate the reconstruction actions following the Second World War with poor results mainly due to the derogation regime of the emergency⁸. The second is that of the rationalization of urban expansion of which the “Bridge Law” is an expression⁹, through which the Italian legislator has encouraged the formation of general regulatory plans and also codified urban standards¹⁰. The third phase of urban planning for projects and programmes is characterized by the consensual dimension of choices and by objectives of recovery, redevelopment and reuse, including the integrated programmes of intervention.

³ H. LEFEBVRE, *Le droit à la ville*, Paris, 1968.

⁴ K. MARX, *Das Kapital*, Hamburg, 1867.

⁵ H. LEFEBVRE, *Espace et politique. Le droit à la ville II*, Paris, 1972.

⁶ «It is thinking of these inhabitants of the suburbs, it is thinking of their segregation, their isolation, that I speak in a book of Right to the City», 121. See also J.B. AUBY, *Droit de la ville. Du fonctionnement juridique des villes au droit de la Ville*, Paris, 2013, 272, for the definition of “right to the city” as «*droit à un accès minimal aux services reandus par les villes, qu’il s’agisse des prestations qu’elles offrent ou des protections qu’elles assurent*».

⁷ G. CAMPOS VENUTI, *La terza generazione dell’urbanistica*, Milan, 1990.

⁸ Especially the application of the reconstruction plans paralyzed the planning system outlined by Law 17 August 1942, no. 1150. Cf. C. BEVILACQUA – F. SALVIA – N. GULLO, *Manuale di diritto urbanistico*, IV ed., Padua, 2021, 77 ff.

⁹ Law 6 August 1967, no. 765.

¹⁰ See Decree of the Minister for Public Works, in agreement with the Minister of the Interior, of 2 April 1968, no. 1444.

Such programmes, created with the aim of redeveloping the urban, building and environmental fabric, offer a vision of what has been defined as “cumulative decay”¹¹ to underline the need to undertake integrated actions to achieve smart and sustainable cities.

The 2030 Agenda for Sustainable Development, two decades later, allows to highlight that it is not possible, without fair and rational planning, to ensure the sustainability of urbanization processes¹². This entails an inclusive urban design and the capacity for participation and integrated human settlement planning and management, a provision of universal access to safe, inclusive and accessible, green and public spaces, the development of positive economic, social and environmental relations among urban, peri-urban and rural areas, a restoration of degraded soils in order to preserve and promote ecosystem functions and services¹³.

The protection of natural soils is also considered by the 2030 Agenda in relation to food security and sustainable agriculture, human health and in relation to the sustainability of production and consumption patterns¹⁴. The importance to enhance the coordination of urban and rural development strategies and programmes to apply an integrated approach to sustainable urbanization is further confirmed by the New Urban Agenda¹⁵ adopted at the United Nations Conference on Hous-

¹¹ F. INDOVINA, *Periferie 1, Organismi in evoluzione*, in *Equilibri*, 2006, 341. The integrated intervention programmes were affected by a declaration of unconstitutionality (19 October 1992, no. 393) of art. 16 Law 17 February 1992, no. 179.

¹² The reference is intended to be made, in particular, to Goal 11 «Sustainable Cities and communities». Cf. J.M. KLOPP, D.L. PETRETTA, *The urban sustainable development goal: Indicators, complexity and the politics of measuring cities*, in *Cities*, 63, 2017, 92 ff.

¹³ On the role of soils as providers of vital ecosystem services, C. ARIAS NAVARRO, R. BARITZ, A. JONES (eds.), *The state of soils in Europe. Fully evidenced, spatially organised assessment of the pressures driving soil degradation*, Publications Office of the European Union, 2024, 18 ff. On the legislative role in safeguarding and enhancing ecosystem services, G. BEAUSSONIE, *La qualification juridique des services écosystémiques*, in *Droit et Ville*, 2017, 119 ff. On characteristics, composition, functions and ecosystem services of soils, F. DE LEONARDIS, *Il suolo come “infrastruttura ambientale” e il ruolo dei rifiuti organici per la sua tutela*, in this *Journal*, 2022, 42 ff.

¹⁴ Cf. SDGs 2.4, 3.9 and 12.4.

¹⁵ On the origins, evolution and role of urban agendas, E. CARLONI, *Città intelligenti e agenda urbana: le città del futuro, il futuro delle città*, in *Munus*, 2016, 263.

ing and Sustainable Urban Development (Habitat III)¹⁶ with the aim to exploit urban dynamism as a driving factor for sustainable development¹⁷.

The New Urban Agenda embraces a vision of compact cities, which develop along sustainable public transport axes, where inhabitants can exercise their right to the city; a vision of cities for all «referring to the equal use and enjoyment of cities and human settlements, seeking to promote inclusivity and ensure that all inhabitants, of present and future generations, without discrimination of any kind, are able to inhabit and produce just, safe, healthy, accessible, affordable, resilient and sustainable cities and human settlements to foster prosperity and quality of life for all»¹⁸.

The promotion of balanced territorial development, having regard to a “sustainable urbanization”¹⁹, passes through integrated territorial and urban planning systems based on the principles of equitable, efficient and sustainable use of natural resources and the prevention of urban expansion²⁰, in such a way as to promote security and social inclusion²¹.

All these concepts have been taken into account and specified in

¹⁶ The Conference was held in Quito, Ecuador, on 20 October 2016, and recorded the highest number of attendees in the history of the UN (over 45.000 people). It was endorsed by the United Nations General Assembly at its sixty-eighth plenary meeting of the seventy-first session on 23 December 2016.

¹⁷ On the capacity of NUA to outline an alternative model for rethinking cities and urbanization, G. GARDINI, *Alla ricerca della “città giusta”. La rigenerazione come metodo di pianificazione urbana*, in *Federalismi.it*, no. 24/2020, 44 ff.; F. SAITTA, *Il «diritto alla città»: l'attualità di una tesi antica*, in *Dir. società*, 2020, 395 ff.

¹⁸ NUA, § 11. See D. HARVEY, *The right to the city*, in *New Left Review*, 53, 2008, 23: «the question of what kind of city we want cannot be divorced from that of what kind of social ties, relationship to nature, lifestyles, technologies and aesthetic values we desire». Cf. also M. BRENNER – P. MARCUSE – M. MAYER (eds.), *Cities for People, not for Profit. Critical Urban Theory and the Right to the City*, London, 2012; P. TYLER – C. WARNOCK – A. PROVINS – B. LANZ, *Valuing the Benefits of Urban Regeneration*, in *Urban Studies*, 50(1), 2013, 169 ff.

¹⁹ NUA, §§ 82, 88, 131, 136, 165, 167 and 171.

²⁰ NUA, § 98. This perspective is also enhanced by M. MORENO LINDE, *La rinaturalizzazione della città: strategie, regolamentazione e conflitti*, in *Riv. trim. dir. pubbl.*, 2024, 686 ff.

²¹ Cf. N. DEMPSEY – G. BRAMLEY – S. POWER – C. BROWN, *The social dimension of sustainable development. Defining urban social sustainability*, in *Sustainable Development*, 19(5), 2011, 289 ff.

relation to urban regeneration by the Toledo Declaration²² which emphasizes the need to undertake integrated actions to achieve a smarter, more sustainable and inclusive urban development²³.

The integrated approach requires, first of all, the adoption of a holistic vision²⁴. Following the Declaration, this means replacing the usual sector or one-dimensional approaches with new transversal ones and implies the consideration of the city as a whole²⁵. Given that the main future challenge for urban policies is to be able to provide convergent answers with an equal level of efficiency to the environmental, social and economic questions raised in cities, it is recognized that such an holistic approach means thinking and working «on all the dimensions of sustainability (economic, social, cultural and environmental) at the same time, in such a way that the actions undertaken in each of them will have a positive effect on the others or at least avoid them contradicting one another or having a negative effect on the others».

On the basis of these premises, which are fundamental for understanding the innovative scope of regeneration processes, especially if compared to other forms of urban recovery and building restructuring experimented over the years, it is not wrong to look at urban regeneration as a strategic alternative to soil consumption. Through a set of actions aimed at improving the quality of the existing, soil sealing is prevented according a means-end relationship where regeneration is the means and the protection of this environmental matrix is the end, albeit not exclu-

²² Toledo Informal Ministerial Meeting on Urban Development Declaration (22 June 2010).

²³ Cf. L. GIANI – M. D'ORSOGNA, *Diritto alla città e rigenerazione urbana. esperimenti di resilienza*, in *Scritti in onore di Eugenio Picozza*, vol. III, Naples, 2020, 2019, and L. DI GIOVANNI, *Rigenerazione integrata europea e rigenerazione urbana nazionale: due modi diversi di intendere la trasformazione del territorio?*, in *DPCE online*, no. 1/2023, 85 ff.

²⁴ The need for a multi-level and holistic approach to address interconnected crises at global level was also highlighted in the Opinion of the European Economic and Social Committee *Towards a Global Green Deal: harmonizing global frameworks for climate change, biodiversity and sustainable development* (C/2024/5362 of 17 September 2024).

²⁵ «Strategies and actions should be unitary, and address the whole complexity of urban development, taking into account the role of each part of the city in the whole structure» (p. 5).

sive²⁶. In fact, the concept of urban regeneration is polysemous²⁷ as an expression of the multidimensional character of sustainability.

2. *Soil protection in the European Framework. The need for a strategic approach*

The expression soil consumption has been conceived, within the European Framework, in terms of sealing of greenfield land or “soil sealing”, not to be confused with the occupation of land or “land take”. The latter concept refers to an extension of areas with urban functions, including the provision of public parks or the use of private green areas²⁸, which does not necessarily imply the sealing of greenfield land²⁹.

In this perspective, soil protection is first of all configurable as an issue pertaining to environmental policy, but the versatility of content of the environment and the protection that can be granted to its individual

²⁶ On the difficult coexistence between environmental protection and growing tendency towards the anthropization and urbanization, E. PICOZZA, *La necessità della ricomposizione di saperi per affrontare la crisi ambientale*, in *RQDA*, no. 1, 2024, 16 ff.; A.G. PIETROSANTI, *Consumo di risorse naturali non rinnovabili. Tra diritti della natura, bilanciamento di interessi e tutela giurisdizionale*, Naples, 2023.

²⁷ Cf. C. COUCH – C. FRASER – S. PERCY (eds.), *Urban regeneration in Europe*, Blackwell, 2003; P. ROBERTS – H. SYKES (eds.), *Urban Regeneration. A Handbook*, London, 2000.

²⁸ See the in-depth studies conducted under the aegis of the European Commission by G. PROKOP – H. JOBSTMANN – A. SCHÖNBauer, *Report on best practices for limiting soil sealing and mitigating its effects in EU-27: final report*, 2011, and C. GARDI – P. PANAGOS – C. BOSCO – D. DE BROGNIEZ, *Land take and food security: assessment of land take on the agricultural production in Europe*, in *J. Environ. Plan. Manag.*, 58(5), 2015, 898 ff.

²⁹ While soil sealing is more directly attributable to the concept of “land cover” and the environmental sphere, land take can be compared to that of “land use” (cf. FAO, *Land evaluation: towards a revised framework*, 2007) and ascribed to the territorial government. On these two expressions, P. CARPENTIERI, *Il “consumo” del territorio e le sue limitazioni. La “rigenerazione urbana”*, in *Federalismi.it*, no. 1/2020, 14; L. DE LUCIA, *Il contenimento del consumo di suolo e il futuro della pianificazione urbanistica e territoriale*, in G. DE GIORGI CEZZI – P.L. PORTALURI (eds.), *La coesione politico territoriale*, in L. FERRARA – D. SORACE (eds.), *A 150 anni dall'unificazione amministrativa italiana*, Florence, 2016, 310. On the definition of “soil” see, lastly, the Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Environmental Delegated Act, the EU Taxonomy Climate Delegated Act and the EU Taxonomy Disclosures Delegated Act (C/2025/1373 of 5 March 2025).

components requires overcoming sectoral approaches that would denote little effectiveness.

The safeguard of soil is transversal and presupposes integrated actions as emerges since the European Soil Charter adopted by the Council of Europe in 1972, by virtue of which it is possible to enhance the soil existence value, being this environmental matrix «one of humanity's most precious assets, a limited resource which is easily destroyed», the interdisciplinary approach to ensure its wise use and conservation and the centrality of rational planning. This means that the competent authorities must not only consider immediate needs but also ensure long-term conservation of natural soils increasing or, at least, maintaining their capacity of producing ecosystemic services.

The essence of soil as an environmental matrix, and the need to acknowledge an interdisciplinary approach, also emerges from the proposal for a Framework Directive elaborated by the Commission in 2006³⁰ which, although attracted within the environmental matters, reveals a strategic approach analogously identifiable through other European acts and documents, starting with those that have made reference to the result of achieving by 2050 zero net soil consumption³¹ and, above all, have dictated Guidelines on good practices to limit, mitigate and compensate soil consumption³² acceding a strategic approach ordered on a hierarchical level.

The priority is limiting soil consumption by encouraging the reuse, redevelopment or regeneration, or the exploitation of soils of less environmental value, then it is necessary to estimate the ecological cost of

³⁰ Cf. G.F. CARTEI, *Il problema giuridico del consumo di suolo*, in *Riv. it. dir. pubbl. com.*, 2014, 1262.

³¹ Roadmap to a Resource Efficient Europe, COM(2011) 571 of 20 September 2011. The goal of zero net soil consumption by 2050 is also included in the Seventh Environment Action Programme (decision no. 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 “Living well, within the limits of our planet”). The protection and restoration of soil is one of the priority thematic objectives – reduction of greenhouse gas emissions, adaptation to climate change, environmentally sound growth, zero pollution, protection and restoration of biodiversity, reduction of the main environmental and climate pressures related to production and consumption – of the Eighth Programme (decision 2022/591 of the European Parliament and of the Council of 6 April 2022 on a General Union Environment Action Programme to 2030).

³² SWD(2012) 101 final/2.

plans and programmes, as well as projects suitable for determining soil sealing, also to identify appropriate measures to compensate its effects. The strategy is modelled on the principles now set out in art. 191 TFEU which, in fact, refers to a «prudent and rational use of natural resources» such as soil.

A thematic strategy for the protection of this resource, therefore, cannot disregard compliance with the aforementioned principles, within which the actions of limitation, mitigation and compensation are based. These principles and the related actions ensure a high level of protection to soil which, pursuant to art. 37 of the Charter of Fundamental Rights of the European Union and art. 3 TEU, together with the principle of integration also enunciated by art. 11 TFEU, represent a necessary complement for sustainable development.

In this perspective, the planning function proves to be essential to ensure rational territorial management, oriented towards the functional redevelopment of existing structures within a publicly directed path able to enhance an integrated vision of the interventions and the contribution of public and private subjects, capable of increasing the attractiveness of places and triggering forms of collaboration aimed at improving the quality of life with the implementation of services and territorial strategic functions.

This approach is supported by the Soil Strategy to 2030³³, an integral part of the implementation of the European Green Deal³⁴, on the basis

³³ EU Soil Strategy for 2030 – Reaping the benefits of healthy soils for people, food, nature and climate, COM(2021) 699 final of 11 November 2021.

³⁴ COM(2019) 640 of 11 December 2019. Cf. D. BEVILACQUA, *Il green new deal*, Milan, 2024; D. BEVILACQUA – E. CHITI, *Green deal. Come costruire una nuova Europa*, Bologna, 2024. This Strategy is closely linked to other environmental policies including the CAP, the Zero Pollution and Circular Economy Action Plans, the “Fit for 55” package, the “Farm to Fork” strategy and those on chemicals, biodiversity, climate change adaptation, bioeconomy and forests. Cf. E.M. ALVAREZ GONZALEZ, *La sostenibilità ambientale del territorio. Conflitto di interessi e governo multilivello*, in *Riv. trim., dir. pubbl.*, 2024, 659. In this scenario, E. CHITI, *In motu. L’Unione Europea e la trasformazione della costruzione giuridica della sostenibilità*, in *La riforma costituzionale in materia di tutela dell’ambiente*, Naples, 2022, speaks of “ecological primacy”. Cf. also A. MOLITERNI, *Il Green Deal europeo e le sfide per il diritto dell’ambiente*, in *RQDA*, no. 1, 2021. For the description of Green Deal as pillar of the EU economic model which contributes to create political, institutional and social dynamics in favour of sustainability and integration, A. BONGARDT – F. TORRES, *The European Green Deal: More than an Exit*

of which it was drawn up the Proposal for a Directive on Soil Monitoring and Resilience³⁵. The institutional approach responds to a “hierarchy” of actions, according to the sequence already mentioned above: limiting, mitigating and compensating – in this order – soil consumption, in the awareness that «when we seal soil to build on top, we are losing irreversibly all its key ecosystem services, exposing cities to higher flood peaks and more intense heat island effects» and also that soil formation is so slow that prudent use is necessary; so prioritizing the circular use of land over greenfield development will limit the pressure from soil sealing and land take³⁶.

Hence, there is a need to apply a hierarchy in land planning: (i) *Avoid*: avoid additional land take and sealing as much as possible; (ii) *Reuse*: if land take or sealing cannot be avoided, it is better to reuse land that is already taken or sealed; (iii) *Minimise*: if it is not possible to avoid land take or sealing, and to reuse land, minimise the environmental impact; (iv) *Compensate*: if the above-mentioned measures cannot be pursued³⁷.

Given the difficulties regarding actions of compensation and the costs, often unsustainable, connected to recovery interventions, it is appropriate to focus on mitigation³⁸. There are numerous examples of

Strategy to the Pandemic Crisis, a Building Block of a Sustainable European Economic Model, in *JCMS*, 60(1), 2022, 170 ff.

³⁵ Proposal for a Directive of the European Parliament and of the Council on Soil Monitoring and Resilience – Soil Monitoring Law, COM(2023) 416 final of 5 July 2023. See also the Opinion of the European Economic and Social Committee on the Soil Monitoring Law (C/2024/887 of 6 February 2024). On the above-mentioned Proposal, D. PALAZZO, *Tutela e valorizzazione dei servizi ecosistemici, potere amministrativo e analisi economica del diritto*, in *Dir. amm.*, 2025, 445 ff. The most evident feature of the proposal, according to what is stated in the motivational part, lies in the gradualness, proportionality and flexibility of the commitments requested.

³⁶ To the point of recognizing, as part of the development of the Soil Health Law, the Commission’s commitment to «assess the need and potential for legally binding provisions for a “passport for excavated soil”, and provide guidance, based on Member States’ experiences, to put in place such a system».

³⁷ On the expected co-benefits of (climate change mitigation and) land degradation neutrality associated with restoration measures over time, see also the Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation EU 2022/869.

³⁸ It is worth noting that the so called Soil Monitoring Law, under article 11 entitled “land take mitigation principles”, provides that «Member States shall ensure that the

mitigation measures, including the use of highly permeable materials and surfaces, rainwater harvesting and the creation of green infrastructure.

It is worth, from this specific point of view, mentioning the jurisprudential address that offered a renewed vision of the parts of the territory intended for agricultural greenery. It was noted that the agricultural classification operated by the urban planning tool also has conservative value, constituting natural soil the “lung” of the urban settlement and thus assuming the function of decongesting and containing urban expansion³⁹. The agricultural destination is not necessarily placed in the interest of agriculture, but it can be preordained to meet additional needs such as maintaining ecological corridors among building zones to compensate for the effects of urban expansion and ensuring citizens shares of environmental and naturalistic values to improve the conditions of livability in the territories⁴⁰.

This proves that there is not a single solution to combat soil consumption and, in this perspective, Environmental Impact Assessment and Strategic Environmental Assessment can play a crucial role to achieve such a goal⁴¹.

following principles are respected in case of land take: (a) avoid or reduce as much as technically and economically possible the loss of the capacity of the soil to provide multiple ecosystem services, including food production, by: (i) reducing the area affected by the land take to the extent possible and (ii) selecting areas where the loss of ecosystem services would be minimized and (iii) performing the land take in a way that minimizes the negative impact on soil; (b) compensate as much as possible the loss of soil capacity to provide multiple ecosystem services».

³⁹ Cf. Regional Administrative Tribunal of Lombardy, Milan, II, 13 May 2019, no. 1065, following Regional Administrative Tribunal of Aosta Valley, I, 2 November 2011, no. 73. On the interest in urban green areas in the context of administrative and urban planning and on the insufficiency of standards with respect to the new environmental challenges, G. MARI, *Il verde urbano pubblico e la pubblicizzazione del verde private*, in *Riv. giur. edil.*, 1, 2018, 39 ff. In the opinion of M.C. ROMANO, *The Notion of Green Heritage and Integrated Programs of Sustainable Urban Regeneration. The Interplay Between General/Public and Individual Interests*, in F. DAL FALCO (ed.), *Beyond the Garden. Sustainable and Inclusive Green Urban Spaces*, Cham, 2024, the right to green spaces is part of the right to the city.

⁴⁰ Cf., *ex multis*, Council of State, II, 12 April 2021, no. 2935, 6 October 2020, no. 5917, 31 August 2020, no. 5313, and, more recently, the judgments of Regional Administrative Tribunal of Lombardy: Milan, IV, 22 May 2025, no. 1819; Brescia, II, 4 February 2025, no. 76.

⁴¹ Following the recent Commission Notice *Technical guidance on applying the “do no*

Especially the SEA, having as its object the assessment of the environmental impact of plans and programmes, could constitute the axis around which the readings at different scales of the soil are realigned⁴². In the preliminary phase of planning or programming activities, the interest in containing land use can intervene as indicator for directing strategies of territorial government towards the best solution in terms of protection of a resource that produces ecosystem services⁴³, in accordance with the principles of adequacy and sustainable development in a solidarity dimension related to intergenerational equity⁴⁴.

The recognition of the environmental value of the soil becomes the pivot around which to manage the development of the entire administrative function of urban planning⁴⁵. In this sense, there is a general interest in territorial rebalancing⁴⁶.

So, it was found that the regional level may be the one, structurally, more effective in countering the phenomenon of soil consumption, having the possibility to place *ab externo* limits on local urban planning⁴⁷. In this scenario, a further tool with a strategic vocation eligible for stemming

significant harm” principle under the Social Climate Fund Regulation (C/2025/1596 of 25 March 2025), EIA and SEA can help assess the likelihood of significant harm to one of the six environmental objectives defined by the Taxonomy Regulation and demonstrate the compliance with the DNSH principle, among other things, minimising land occupation and use, loss of urban green spaces and soil sealing at the stage of programme or project design, for example by using existing building space more efficiently to provide high-quality housing, reactivating vacant, underused or unused areas and prioritizing the use of brownfield land over virgin land, land recycling and nature-based solutions.

⁴² Cf. E. BOSCOLO, *Oltre il territorio: il suolo quale matrice ambientale e bene comune*, in *Urb. app.*, 2014, 146, and *Id.*, *Ambiente nell'urbano e nell'extraurbano. Tecniche urbanistiche di tutela degli ecosistemi*, in *RQDA*, no. 1, 2024, 164. L. CASINI, *L'equilibrio degli interessi nel governo del territorio*, Milan, 2005, 72, dwells on the significant SEA repercussions on planning procedures and on the balance of interests in the territorial governance.

⁴³ Cf. Constitutional Court no. 179/2019.

⁴⁴ Cf. P. LOMBARDI, *Ambiente e generazioni future: la dimensione temporale della solidarietà*, in *Federalismi.it*, no. 1/2023, 86 ff.

⁴⁵ Cf. P. CHIRULLI, *Urbanistica e interessi differenziati: dalle tutele parallele alla pianificazione integrata*, in *Dir. amm.*, 2015, 108.

⁴⁶ G. PAGLIARI, *Governo del territorio e consumo del suolo. Riflessioni sulle prospettive della pianificazione urbanistica*, in *Scritti per Franco Gaetano Scoca*, vol. IV, Naples, 2020, 3804.

⁴⁷ On the overcoming of the “intangibility” of the municipal function of urban planning, *ex multis*, Constitutional Court 28 October 2021, no. 202. See also P.L. PORTALURI, *Contro il prossimalismo nel governo del territorio*, in this *Journal*, 2021, 81 ff.

soil consumption is the landscape plan which, compared to other territorial planning instruments, boasts a situation of prevalence, within the Italian legal system, ensured to it by art. 145, para. 3, Legislative Decree no. 42/2004.

This was confirmed also by the Constitutional Court's ruling of 10 March 2017, no. 50, that recognized the constitutional legitimacy of regional provisions on urban plans with both structural and operational components⁴⁸. Specifically, the Court stated that the articulation of the municipal plan on the "binomial structural plan-operational plan" makes it possible not to adopt immediate punctual decisions⁴⁹ and to progressively modulate the prescriptiveness of urban planning choices as the conditions propitious for concrete implementation mature⁵⁰.

This argumentative path leads to an administration for objectives which can trigger new forms of urban development focused on circular economy and social inclusion⁵¹. This approach can be enhanced in light of the funds made available by the National Recovery and Resilience Plan for the implementation of regeneration projects, integrated urban plans and initiatives ascribable to the Innovative Programme for Quality of Living.

⁴⁸ Cf. A. BARTOLINI, *Piano regolatore generale: cronaca di una morte annunciata e sulle prove di una sua reincarnazione*, in *Scritti in onore di Eugenio Piccozza*, cit., 1787.

⁴⁹ Cf. P. STELLA RICHTER, *Diritto urbanistico*, VII ed., Milan, 2022, 15 ff.

⁵⁰ Cf. S. CIVITARESE MATTEUCCI – P. URBANI, *Diritto urbanistico. Organizzazione e rapporti*, VIII ed., Turin, 2023, 149 ff. For F. CANGELLI, *Piani strategici e piani urbanistici. Metodi di governo del territorio a confronto*, Turin, 2012, 169, what appears authentically strategic is the combination and succession of the two planning acts, the concerted methods of their elaboration and, above all, the provision of mechanisms for verifying the implementation of choices. Cf. also S. AMOROSINO, *L'effettività delle regolazioni del territorio al tempo dell'urbanistica "liquida"*, in G. CORSO – M. IMMORDINO (eds.), *Studi in onore di Filippo Salvia (Atti del Convegno Quale piano per il futuro dell'urbanistica?, Palermo, 30 novembre 2021)*, Naples, 2022, 23.

⁵¹ This perspective has been emphasized by L. RICCI, *La triade "rigenerazione, ambiente e consumo" nel "modello circolare"*, in *RQDA*, no. 2, 2023. For a framing, F. DE LEONARDIS, *Lo Stato ecologico. Approccio sistemico, economia, poteri pubblici e mercato*, Turin, 2023.

3. *Urban regeneration and National Recovery and Resilience Plan. A tool to combat poverty*

Urban regeneration seems to be the privileged channel for proposing environmental sustainability policies, at least apparently representing the response of the territories to the urgencies caused by the climate, ecological and energy emergencies⁵². The so called fourth-generation regional urban planning laws, in Italy, were introduced to combat the consumption of new soil⁵³. It would be, however, reductive to understand regeneration as a mere alternative to the consumption of a natural resource.

In a book of few years ago, poverty was lucidly described as a condition of hardship and inequality, as well as of deprivation or serious impairment of fundamental rights⁵⁴, given that material needs are accompanied by further levels of vulnerability linked to social, cultural and existential factors conceivable as indicators of poverty⁵⁵. The idea underlying the NRRP regarding urban regeneration⁵⁶ seems to presuppose precisely a similar concept of poverty⁵⁷.

The impression is that of being in the presence not of an end, of a result to be achieved, but of a means aimed at countering situations of disparity or inequality, that is, conditions of poverty. This is the goal implied by Mission 5, Component 2, NRRP in providing substantial public investments for urban regeneration.

The investment in urban regeneration projects⁵⁸ expressly aims to reduce situations of marginalization and social degradation. In fact, the municipalities benefiting from the funding⁵⁹ are those with the highest

⁵² Cf. M. CALABRÒ – L. PERGOLIZZI, *The promotion of energy transition in view of urban regeneration: towards a perspective of sustainability*, in C. GAMBARDILLA (ed.), *World heritage and design for health*, Rome, 2021, 54 ff.

⁵³ Cf. P. STELLA RICHTER (ed.), *Verso le leggi regionali di quarta generazione*, Milan, 2019.

⁵⁴ C. FRANCHINI, *L'intervento pubblico di contrasto alla povertà*, Naples, 2021, 47.

⁵⁵ C. FRANCHINI, *L'intervento pubblico di contrasto alla povertà*, cit., 33.

⁵⁶ Cf. A. GIUSTI, *La rigenerazione urbana come strategia di ripresa e resilienza*, in *Munus*, 2021, 329 ff.; M.R. SPASIANO, *Riflessioni in tema di rigenerazione urbana*, in *Riv. giur. urb.*, 2022, 394 ff.

⁵⁷ See also M. DUGATO, *L'intervento pubblico per l'inclusione, la coesione, l'innovazione e la sostenibilità ed il ruolo del servizio pubblico locale nel Piano nazionale di ripresa e resilienza*, in *Munus*, 2022, 10.

⁵⁸ NRRP, M5C2-I2.1.

⁵⁹ With Decree of 30 December 2021 of the Minister of the Interior and the

index of social and material vulnerability (ISMV) and the resources have been destined at the realization of maintenance, recovery and re-functionalization of public areas and buildings, including the demolition of illegal works; the improvement of urban quality with particular reference to the development of social and cultural, educational and didactic services, or the promotion of cultural and sports activities; the sustainable mobility⁶⁰.

Regarding the integrated urban plans, pursuant to art. 21 Law Decree 6 November 2021, no. 152, converted with amendments by Law 29 December 2021, no. 233, the investment⁶¹ is dedicated to the suburbs of metropolitan cities⁶². The goal is to transform vulnerable territories into smart and sustainable cities⁶³ by limiting soil consumption, in accordance with the principle Do Not Significant Harm (DNSH)⁶⁴, and promoting the improvement of urban quality, accessi-

following Interdepartmental Decree of 4 April 2022, more than two thousands works were admitted to financing. The beneficiaries of the contribution are municipalities with a population of more than 15.000 inhabitants (which are not provincial capitals), provincial capitals and metropolitan cities. It was also established, by art. 28 Decree Law 1 March 2022, no. 17, converted with modification by Law 27 April 2022, no. 34, the funding of additional Eur 905 million to exhaust the ranking of applications submitted.

⁶⁰ After the revision of the NRRP, endorsed by the ECOFIN Council on 8 December 2023, the financial envelope of the investment is currently of Eur 2 billion. The final target has also been subject to change and provides for at least 1.080 urban regeneration projects covering at least one million square meters of surface area to be completed by June 2026.

⁶¹ NRRP, M5C2-I2.2.

⁶² The Decree of 22 April 2022 of the Minister of the Interior in agreement with the Minister of Economy and Finance, subject to subsequent supplementary and amending decrees, selected 31 Integrated Urban Plans financeable.

⁶³ See, with particular regard to operations of redevelopment of the internal and external suburbs aimed at stemming the “opulent consumption of parts of the city” and at “mending” the relationship among city centers and said areas, B. SECCHI, *Cucire e legare*, in Id., *Un progetto per l'urbanistica*, Turin, 1989, 29, and R. PIANO, *Il rammendo delle periferie*, in *Ilsole24ore.it*, 2014 (26 January). This perspective has been enhanced also by C. NAPOLITANO, *Un “terzo paesaggio” per le periferie: abbandono, rammendo, pianificazione*, in this *Journal*, 2020, 499 ff.

⁶⁴ See art. 17 Regulation (EU) 2020/852 – so called EU Taxonomy Regulation – of the European Parliament and of the Council of 18 June 2020, on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088. On the consequences of the application of the DNSH principle in the context of measures implementing the recovery and resilience plans, M. DELSIGNORE,

bility and the social fabric, also through cultural and sports services⁶⁵. A planning synergy is envisaged, in metropolitan areas, among the main municipalities and smaller neighboring municipalities with the aim of mending urban and peri-urban fabric and filling infrastructure and mobility deficits.

As stated in the Sixth Report of the Italian Government on the state of implementation of the NRRP, following the restructuring of funding⁶⁶, the target on the completion of integrated planning actions in metropolitan cities has also been subject to change and provides that at least three hundred integrated planning projects in all fourteen metropolitan cities will be completed by June 2026, in at least one of the following three dimensions: (i) maintenance for the reuse and reactivation of existing public areas and public building structures; (ii) improvement of the quality of urban aesthetics and the social and environmental fabric, also through the renovation of public buildings; (iii) improvement of the environmental quality and digital profile of urban areas through support for digital technologies and technologies with lower CO2 emissions.

Therefore, the spaces of urban regeneration are mainly those of the public city and its services. It is not superfluous to recall, within the investment in integrated urban plans, the sub-investment for financing

Il principio DNSH e la lotta al greenwashing, in *Federalismi.it*, no. 27/2024, 72 ff. For A. BARTOLINI, *Green Deal europeo e il c.d. principio DNSH*, in *Federalismi.it*, no. 15/2024, 51 ff., DNSH is not a principle but a selection criterion between significant and non-significant harm, without expansive force, being a conditionality for the disbursement of European funds with particular regard to the NRRP. For a jurisprudential application, Council of State, VI, 23 December 2024, no. 10317; Regional Administrative Tribunal of Sicily, Palermo, II, 26 June 2025, no. 1437. On the connections amongst suburbs and environmental issues, F. FRACCHIA, *Periferie e sostenibilità ambientale*, in M. IMMORDINO – G. DE GIORGI CEZZI – N. GULLO – M. BROCCA (eds.), *Periferie e diritto fondamentali*, Naples, 2020, 267 ff.

⁶⁵ In such a perspective, the restoration of Artemio Franchi Stadium of Florence was not considered by EU Commission qualifiable as an intervention of urban regeneration (cf. Regional Administrative Tribunal of Lazio, Rome, *I-ter*, 24 November 2023, no. 17472, confirmed by Council of State, IV, 26 November 2024, no. 4105).

⁶⁶ After the NRRP revision, the financial envelope of the investment passes from Eur 2.493.790.000 to about Eur 900.000.000. The interventions may provide for the participation of the third sector and private investments to the extent of a maximum of 25%.

projects aimed at overcoming illegal settlements to combat the exploitation of workers in agriculture⁶⁷. Furthermore, as part of the fund managed by the European Investment Bank, the establishment of a thematic fund for urban regeneration⁶⁸ has been envisaged for promoting the implementation of long-term interventions with the ultimate goal, again, of promoting social inclusion and combating various forms of vulnerability.

The investment in the Innovative Programme for Quality of Living⁶⁹, already provided by art. 1, para. 437, Law 27 December 2019, no. 160, worth a total of Eur 2.8 billion, aims to carry out solidarity housing and urban regeneration interventions, reducing housing difficulties, redeveloping degraded areas and focusing on sustainability and green innovation⁷⁰. So, the Programme focuses on the improvement of life quality, the promotion of social cohesion, the densification to stem the consumption of new soil and for the development of smart, inclusive and sustainable cities⁷¹.

The mere physical dimension of the intervention is overcome. Rather, there is a need to create (or recreate) social housing infrastructures, being the regeneration a tool for reducing situations of marginalization and degradation with a view to promoting inclusion and cohesion and overcoming disparities among people and territories.

On the basis of the Sectoral Strategic Guidelines relating to Social

⁶⁷ The measure originates from the three-year Plan against illegal hiring adopted in 2020 on the basis of a broad participatory process, which saw the involvement of regions, local authorities, social partners and the third sector. The resources of the sub-investment, amounting to Eur 200.000.000, have been divided amongst thirty-seven municipalities, in eleven regions, with Decree of 29 March 2022 of the Minister of Labor and Social Policies.

⁶⁸ Of an amount equal to Eur 272.000.000.

⁶⁹ NRRP, M5C2-I2.3.

⁷⁰ The Decree of 16 September 2020 of the Minister of Infrastructure and Transport defined terms, contents and methods of the proposals processed in the following two years, in particular ordinary projects (no. 151) and pilot projects (no. 8), i.e. interventions for public housing with a high strategic impact on the national territory.

⁷¹ On urban regeneration and smart cities, G. DELLE CAVE, *Rigenerare per ripartire: la "città intelligente" nel prisma delle riqualificazioni e delle rigenerazioni urbanistiche*, in *Dir. econ.*, 2023, 353 ff., and, with particular regard to the horizontal subsidiarity principle (see *infra*), G. URBANO, *Le "Città intelligenti" alla luce del principio di sussidiarietà*, in *Ist. federalismo*, no. 2, 2019, 463 ff.

Infrastructures drawn up by *Cassa Depositi e Prestiti*, in the part dedicated to housing infrastructures, it is recognized that the increase in situations of socio-economic hardship and the evolution of housing demand profiles presuppose, on the one hand, the strengthening of the supply of social housing at controlled rents and, on the other, the development of housing solutions to meet the needs of rapidly growing socio-demographic categories (out-of-town students, young workers, highly mobile workers, etc.), to be included in broader urban regeneration processes with the scope to transform vulnerable territories into smart and sustainable urban contexts.

In the financing work, the resources reserve for the Southern Regions was taken into account, so as the obligation to finance at least one proposal for each region. Overall, about 40% of the equal resources⁷² were allocated to the South for a total amount of Eur 1.13 billion. At the end of March 2025⁷³, 30% of the projects were in the pre-execution phase⁷⁴ and 70% in the execution/testing phase⁷⁵, for a potential total of 13.996 housing units and 9.639.691 square meters of public spaces⁷⁶. Also from this point of view, it emerges that limiting the erosion of natural soil does not exclude the possibilities of development but requires rethinking its features within an inclusive dimension based on the constitutional principles of solidarity and substantial equality.

It can be grasped the identity value of urban regeneration processes⁷⁷, even more accentuated with reference to microregeneration⁷⁸, i.e.

⁷² Fifty-seven ordinary projects and three pilot projects.

⁷³ According to the Government's Sixth Report on the state of implementation of the NRRP (2025, March 31).

⁷⁴ 4.828 housing units.

⁷⁵ 9.142 housing units.

⁷⁶ In order to minimise the risk of not achieving the objective of the measure, the Administration is considering the possibility of excluding some projects from the scope of the NRRP, at the same time asking for a remodulation of the physical target and the financial allocation of the investment.

⁷⁷ Cf. A. ANGIULI, *Rigenerazione identitaria e semplificazione nel governo del territorio*, in *Studi in memoria di Antonio Romano Tassone*, vol. I, Naples, 2017, 43.

⁷⁸ Cf. R. DIPACE, *Le politiche di rigenerazione dei territori tra interventi legislativi e pratiche locali*, in *Ist. federalismo*, no. 3, 2017, 631; A. GIUSTI, *La rigenerazione urbana. Temi, questioni e approcci nell'urbanistica di nuova generazione*, Naples, 2018, 65.

regeneration from below⁷⁹ or by civic initiative⁸⁰. Such experiences lead to questioning the possibility of a new model⁸¹ of shared administration focusing on a new conception of participation for the overcoming of inequalities that denote conditions of poverty.

4. *Towards a new model of shared administration*

What has just been outlined is a form of participation in public life that can be framed according to the coordinates of civic autonomy and proximity⁸². It can start innovative ways of training future local administrators and is linked to forms of democracy complementary to the representative one, functional to general interests and hinged on the concept of proximity theorized in France⁸³.

Although this is not the place to explore shared administration in depth, as it is of greatest relevance to urban commons⁸⁴, the theme deserves attention for at least two reasons.

The first is connected to the circumstance that, as recognized by a consolidated jurisprudence, the urban planning function does not only pertain to the interest in the orderly building development of the territory but is also aimed at the balanced realization of a plurality of

⁷⁹ Cf. F. CUSANO, *La rigenerazione urbana dal basso, tra teoria e prassi*, in *Riv. giur. edil.*, 5, 2024, 377.

⁸⁰ Cf. F. GIGLIONI, *Il valore della rigenerazione urbana di iniziativa civica*, in *Il Riformista*, no. 382 of 25 June 2024, 7.

⁸¹ Compared to those of the administration by administrative acts, public agreements and according to private law.

⁸² On the origins and developments of the principle of proximity as an evolution of the principle of subsidiarity, also in relation to the notion of “commons”, V. PEPE, *La democrazia di prossimità nella comparazione giuridica*, Naples, 2015, 95 ff.

⁸³ Cf. P. ROSANVALLON, *La legittimità democratica. Imparzialità, riflessività, prossimità*, Turin, 2015. On the coexistence of numerous forms of democracy, not to be confused with the concept of pluralistic democracy, L. BOBBIO, *I governi locali nelle democrazie contemporanee*, Rome-Bari, 2004.

⁸⁴ Cf. G.A. PRIMERANO, *L'amministrazione condivisa dei “beni comuni” urbani*, in G. CORSO – F.G. SCOCA – A. RUGGERI – G. VERDE (eds.), *Scritti in onore di Maria Immordino*, vol. III, Naples, 2022, 3012 ff., and, *amplius*, ID., *Il consumo di suolo e la rigenerazione urbana. La salvaguardia di una matrice ambientale mediante uno strumento di sviluppo sostenibile*, Naples, 2022, 313 ff.

different public interests that are grounded in constitutional values⁸⁵. In fact, the meaning of the planning principle lies in the need for an integrated vision of a given portion of territory large enough to be able to allocate to it all the functions that by their nature require to find a place there⁸⁶.

Such perspective was substantially introduced by the well-known pronouncement of the Council of State on Cortina d'Ampezzo's town plan⁸⁷, which has expressly recognized that the urban planning function is not only instrumental in ensuring a coordinated regulation of land construction but is aimed at the overall and harmonious territorial development, as well as at achieving economic and social purposes of the local community, in implementation of constitutionally protected values.

In this perspective, coming to the second reason, the right to the city is strengthened⁸⁸ and, at the same time, the right of the city changes⁸⁹, starting from the way in which its spaces are governed and the identification of the legal principles of reference⁹⁰.

It is significant that the Leipzig Charter entitled «The transformative power of cities for the common good», if compared to the previous version which helped to define the concept of integrated urban development

⁸⁵ Cf., *ex multis*, Constitutional Court 10 February 2023, no. 17.

⁸⁶ Cf. Constitutional Court 4 July 2024, no. 119. On the recent constitutional jurisprudence, with particular regard to the autonomy of local authorities in the exercise of competences and the reservation of administrative procedure within the territorial government, P. MARZARO, *La funzione di pianificazione urbanistica tra garanzia dell'autonomia comunale e riserva di procedimento*, in *Riv. giur. urb.*, 2024, 241 ff.

⁸⁷ Council of State, IV, 10 May 2012, no. 2710, commented by P. URBANI, *Conformazione dei suoli e finalità economico-sociali*, in *Urb. app.*, 2013, 64 ff.

⁸⁸ Cf. F. SAITTA, *Sul «diritto alla città» come catalogo di pretese, doveri, responsabilità: appunti per una declinazione moderna di un concetto antico*, in *Munus*, 2024, 461 ff. See also D. HARVEY, *The right to the city*, cit.: «the right to the city is far more than the individual liberty to access urban resources: it is a right to change ourselves by changing the city», i.e. «a common rather than an individual right since this transformation inevitably depends upon the exercise of a collective power to reshape the processes of urbanisation».

⁸⁹ Cf. E. FONTANARI – G. PIPERATA (eds.), *Agenda Re-Cycle. Proposte per reinventare la città*, Bologna, 2017; P. CHIRULLI – C. IAIONE (eds.), *La co-città. Diritto urbano e politiche pubbliche per i beni comuni e la rigenerazione urbana*, Naples, 2018.

⁹⁰ Cf. J.B. AUBY, *La città, nuova frontiera del diritto amministrativo?* (trad. by C. SILVANO of *La ville, nouvelle frontière du droit administratif* ?), in *AJDA*, no. 15, 2017, 853 ff.), in *Riv. giur. urb.*, 2019, 14 ff.

guiding actions such as the approval of the European Urban Agenda, better known as Amsterdam Pact⁹¹, focuses on disparities exacerbated by the Covid-19 pandemic crisis and supports the principles of multi-level integrated territorial governance and shared participation and creation, which are linked to the principles that underpin EU cohesion policy. This has translated into the threefold dimension of European cities – just, green and productive – that can be deduced from the new version of the above-mentioned Charter and into the definitive affirmation of the following key principles for good urban governance: a) Urban policy for the common good; b) Integrated approach; c) Participation and co-creation; d) Multi-level governance; e) Place-based approach.

In Italy, a particular attention shall be paid to the horizontal subsidiarity *ex art.* 118, para. 4⁹², to be read in conjunction with art. 117, para. 6, of the Constitution. These rules have ensured constitutional coverage⁹³ for the regulations on collaboration among citizens and administration for the care and regeneration of urban commons⁹⁴, in which it is rooted in the idea that it is possible to change and reinvent cities through alternative democratic mechanisms aimed at the revitalization of degraded goods and spaces.

Although the category of commons does not have a solid regulatory basis⁹⁵, the enhancement of micro-interventions, subject of

⁹¹ Cf. E. DE SANTIAGO RODRÍGUEZ, *The development process of the Urban Agenda of the EU: from the Toledo Declaration to the Pact of Amsterdam*, in *Territory of Research on Settlements and Environment*, 18, 1/2017, 23 ff.; B.G. FIELD – J.P.R. BAKKER, *The evolution of the European Union's Urban Agenda and the morphology of the Pact of Amsterdam*, in *Journal of Urban Regeneration & Renewal*, 15, 2021, 24 ff.

⁹² On the reconstruction of horizontal subsidiarity in terms of public-private integration and not as a rigid alternative, A. D'ATENA, *Costituzione e principio di sussidiarietà*, in *Quad. cost.*, 2001, 13 ff. See also V. CERULLI IRELLI, *Sussidiarietà – dir. amm.*, in *Enc. giur.*, agg., vol. XII, Rome, 2004.

⁹³ Cf. *amplius* D. DE PRETIS, *Principi costituzionali e amministrazione condivisa*, in G. ARENA – M. BOMBARDELLI (eds.), *L'amministrazione condivisa*, University of Trent, 2022, 38 ff.

⁹⁴ Cf. F. DI LASCIO – F. GIGLIONI (eds.), *La rigenerazione di beni e spazi urbani. Contributo al diritto delle città*, Bologna, 2017.

⁹⁵ In Italy, several regional laws qualify the soil as a commons. If taken literally, affecting the status of real estate ownership, a similar qualification would lend itself to significant critical profiles. This consideration is based on a coordinated reading of art. 42, para. 2, and 117, para. 2, letter l), Const., according to which the reservation of

collaboration agreements aimed at solving problems of general interest⁹⁶, allows the participation of active citizens in new development phenomena⁹⁷. This kind of regeneration is based on the principles of mutual trust and good faith, publicity and transparency to ensure impartiality and wide inclusion in interventions, shared responsibilities for the achievement of useful and measurable results. All this always in compliance with the sustainability of the interventions and the proportionality, adequacy and differentiation of the actions according to the context to be regenerated.

The local regulations could not in any case assign to collaboration

the law regarding the contents and limits to the right of property has a state character, and in the light of the principle of formal equality pursuant to art. 3, para. 1, Const. in conjunction with art. 117, para. 2, letter m), Const. which delegates to the state legislator the determination of essential levels of services relating (also) to civil rights, such as the right to property, to be ensured uniformly throughout the national territory.

⁹⁶ Cf. G. ARENA, *Introduzione all'amministrazione condivisa*, in *Studi parl. pol. cost.*, 117-118, 1997, 29 ff., which focuses on the “alliance” between citizens and public administrations for purposes of general interest. Citizens actively contribute to the solution of problems concerning urban assets and spaces, i.e. they are personally committed to the implementation of the agreements. The phrase “city as a commons” proposed by S.R. FOSTER – C. IAIONE, *The city as a commons*, in *Yale Law & Policy Review*, 34(2), 2016, 287, gives a good idea of such attempts that require new forms of development involving State-Apparatus and Community-State. See also C. IAIONE, *The Co-City. Sharing, collaborating, cooperating, commoning in the city*, in *American Journal of Economics and Sociology*, 75(2), 2016, 415 ff., with regard to the creation of a regulatory and institutional framework based on polycentric urban management aimed at promoting policies concerning the commons. On the application of the concept of polycentrism to urban governance, V. OSTROM – C.M. TIEBOUT – R. WARREN, *The Organization of Government in Metropolitan Areas: a Theoretical Inquiry*, in *American Political Science Review*, 55(4), 1961, 831 ff. This concept was later taken up by E. OSTROM, *Beyond Markets and States: Polycentric Governance of Complex Economic Systems*, in *American Economic Review*, 100(3), 2010, 641 ff., with regard to the governance of commons on which, widely, E. OSTROM, *Governing the Commons. The Evolution of Institution for Collective Action*, Cambridge, 1990.

⁹⁷ On the connection between right to the city and participation in urban planning, M. CALABRÒ, *Participatory urban regeneration models: the inclusive dimension of sustainability*, in this *Journal*, 2024, 5 ff. More generally, P. MARZARO, *Partecipazione consapevole e giusto procedimento di pianificazione*, in this *Journal*, 2020, 5 ff.; C.P. SANTACROCE, *Prender parte al governo del territorio e prendersi cura del territorio, ovvero della rigenerazione urbana presa sul serio*, in *Riv. giur. urb.*, 2021, 511 ff.; A. SIMONATI, *La partecipazione dei privati al governo del territorio nella legislazione regionale: fra tradizione e sperimentazione, per una nuova urbanistica “reticolare”*, in *Riv. giur. edil.*, 3, 2016, 267 ff.

agreements a substitute function for administrative activities. Understanding citizens as co-administrators of urban commons must not favor practices that evade the rules of public evidence or deprive local authorities of the ownership of their tasks towards the urban environment, i.e. the involvement of active citizenship always takes place in an integrative way in accordance with the subsidiary logic of micro-regeneration.

The rationale of microregeneration goes back to the genesis of the *droit à la ville* as a right that translates into the exercise of collective power over the urbanization process. In this scenario, the regulatory source gives weight back to the public decision-maker and feeds a channel of shared administration, alternative to that of profit and the market⁹⁸, centered on the figure of the “new citizen”⁹⁹ whose actions go beyond the individual dimension of interests and project the singularity of acting in a broader context that it blends duties of solidarity and the value of individual existence¹⁰⁰.

5. *Concluding remarks*

With a view to combat the consumption of soil as a limited, substantially non-renewable resource, producer of ecosystem services, the centrality of urban regeneration has been highlighted from the beginning with the caveat that this phenomenon does not have only environmental implications but intersects the further economic and social dimensions of sustainability.

The issues of soil consumption and urban regeneration pose complex issues that bring together different areas relevant to law, from the environment to urban planning, from agriculture to landscape. The concepts of sustainable development, regenerative capacity of ecosystems and resources, protection of biodiversity, safeguard of ecosystem services

⁹⁸ Constitutional Court 26 June 2020, no. 131.

⁹⁹ Cf. F. BENVENUTI, *Il nuovo cittadino. Tra libertà garantita e libertà attiva*, Venice, 1994, 90, with particular regard to the solidarity duties typical of the community life.

¹⁰⁰ As pointed out by E. PICOZZA, *Alcune riflessioni critiche sulle relazioni tra beni culturali e beni comuni*, in *Scritti per Franco Gaetano Scoca*, cit., 4084, solidarity is firstly a feeling of belonging to a certain community from which derives the voluntary submission to duties and obligations of participation and management.

are all suitable for restoring the image of the containment of soil consumption as an interest which precedes and accompanies the satisfaction of interests that concern the whole territory¹⁰¹.

The real challenge is to create a system focused on the soil existence value and to place urban regeneration within a path under public direction that knows how to encourage the integrated perspective of the interventions and the contribution of public and private entities, capable to increase the attractiveness of places and trigger forms of collaboration with the aim of increasing life quality through the implementation of territorial strategic services and functions. Urban regeneration is much more than a tool to combat further consumption of greenfield land, having a broader scope comparable to the principles of solidarity and substantial equality.

On the basis of such an integrated vision, the ultimate goal is to ensure a favorable context for the full development of the human personality, the social purposes enunciated by the economic Constitution, the distribution of benefits in a scenario of intergenerational equity. The commitment set out in the NRRP regarding the approval of a law based on the principles of reuse, urban regeneration and limitation of soil consumption¹⁰², declinations of the principle of resilience that finds its place within the Regulation (EU) 2021/241¹⁰³, denotes the breadth of “territorial government”, matter to which the future legislative intervention is attributable.

The European Union has long identified an objective of territorial integration that goes hand in hand with the classic commercial one and certainly the resources made available to Member States by the Next Generation EU are helping to outline operational models united by the design integration of economic programming and urban planning tools. It is a decisive step towards a broader conception of the territory than that

¹⁰¹ In this perspective, it is worth mentioning the Law 28 June 2016, no. 132, which established the National Network System for the Protection of the Environment (SNPA) of which ISPRA – the Italian Institute for Environmental Protection and Research – and regional agencies and autonomous provinces for environmental protection are part. Cf. lastly SNPA, *Consumo di suolo, dinamiche territoriali e servizi ecosistemici*, Ed. 2025, *Report ambientali SNPA*, no. 46/2025.

¹⁰² NRRP, p. 81.

¹⁰³ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021, establishing the Recovery and Resilience Facility.

concerning the regulation of built environment¹⁰⁴ which aims to achieve a balance among population, economy and territory¹⁰⁵, vertical and horizontal subsidiarity, in accordance with principles of loyal cooperation and social inclusion.

¹⁰⁴ Cf. G. MIELE, *La pianificazione urbanistica*, in *La pianificazione urbanistica (Atti del VII Convegno di studi di Scienza dell'amministrazione, Varenna-Villa Monastero, 14-17 settembre 1961)*, Milan, 1962, 35.

¹⁰⁵ Cf. F. BENVENUTI, *Gli elementi giuridici della pianificazione territoriale in Italia*, in *Pianificazione territoriale e provinciale (Atti del Convegno internazionale, Passo della Mendola, settembre 1955)*, Trent, 1956, also in *Scritti giuridici*, vol. II, Milan, 2006, 1455 ff.

Abstract

The paper investigates the link between soil consumption and urban regeneration, which represents a strategic alternative to it, taking position at the crossroads between right to the city and next-generation urban planning. The recognition of the importance of this environmental matrix for the production of ecosystem services, in this perspective, intersects the economic and social value of sound territorial management that the different institutional levels, also as a result of new participatory processes involving citizens, must ensure for the main purpose of countering multiple situations of marginalization and degradation denoting conditions of poverty.

Consumo di suolo e rigenerazione urbana

Il contributo indaga il legame fra il consumo di suolo e la rigenerazione urbana, che ne rappresenta un'alternativa strategica e si colloca al crocevia tra diritto alla città e urbanistica di nuova generazione. Il riconoscimento dell'importanza di tale matrice ambientale per la produzione di servizi ecosistemici, in quest'ottica, intercetta il valore economico e sociale della sana gestione territoriale che i diversi livelli istituzionali, anche per effetto di nuovi processi partecipativi che coinvolgono la cittadinanza, devono assicurare al precipuo scopo di contrastare plurime situazioni di emarginazione e degrado che denotano condizioni di povertà.