

Health protection and health organization

In our legal system, the right to health is configured as a complex subjective legal position, assuming a double value: on the one hand, it is the right to performance and as such financially conditioned by the possibility for the State and Regions to resort to debt to cover the costs; on the other hand, it is the fundamental social right of the individual and the interest of the community.

The qualification of the right to health as a fundamental right imposes on the State precise organizational duties aimed not only at regulating and controlling the provision of health services, but also at guaranteeing the primary good (i.e. health) within a framework of full protection of the individual. in his development as a human person and in the interest of the whole community.

The corollary of public duty in guaranteeing good health is the presence of an operational administration, which provides for the planning, regulation and uniform delivery of health services and services throughout the national territory. Therefore, in order for the right to health to be effective, the organizational and economic skills of the administration responsible for its satisfaction are required. Unfortunately, for almost more than a decade, the organization of the health system has been considered solely from the point of view of production efficiency on the assumption that an overly expensive administration was unable to provide quantitatively and qualitatively acceptable health services.

As is well known, the need to correct inappropriate use of public resources has initiated a path to reform the health model envisaged by law no. 833/1978 established the NHS, paving the way for quasi-market logics teleologically oriented towards achieving efficiency and economic sustainability of health services. This has resulted in a spasmodic attempt to reconcile health care with budgetary needs and the financial sustainability of health.

In implementing this balance, however, the needs relating to the balance of public finance have assumed a preponderant weight that generates a significant disinvestment in healthcare.

The events related to the Covid-19 epidemic have clearly shown us the limits and shortcomings of a health model now aimed at marginalizing the meaning of health as an enforceable social right connected to the inviolable dignity of the human person.

In light of the current national and supranational regulatory framework of reference and the most recent jurisprudential approaches, the research project aims to start a reflection on the current organizational structure of our NHS in order to outline some suggestions for the future so as to understand not so much "what", but above all "how" eventually to provide for its reform.

The development of the project will make it possible to analyze the equality dimension of the right to health and the organizational repercussions that derive from it; an issue that involves the Regions and the organization of regional health systems. In this perspective, the research will examine the State-Regions relationship in health to understand whether it is appropriate to reduce public commitment, encouraging a reasonable differentiation capable of ensuring the effectiveness of the right to health throughout the national territory or whether, instead, it is necessary to rethink regionalism in favor of the re-centralization of state competences.

From this point of view, the rereading, in light of the subsidiarity principle, of the position of private health care within the NHS and the institutions governing the public-private relationship will be fundamental.

It is believed that the research project, carried out in a multidisciplinary perspective (constitutional and administrative law), is consistent with the chosen Measure (Doctorates for the PA) since it is aimed at the integrated development of the following knowledge and skills: 1) reconstruct and interpret the legal framework of reference, national and supranational (including the secondary rules and the instructions of a technical / applicative nature that necessarily integrate this regulatory framework); 2) participate in the government, organization and strategic management of public administrations (both at national, regional and local level) through the implementation of innovative strategies strongly oriented towards users and the effectiveness of the actions implemented, as well as the enhancement of resources.

It is also believed that the research program can provide an important contribution to promoting the process of social inclusion in the field of health services.

In line with the proposed research program, the PhD student recipient of the scholarship will carry out an intense study and scientific research activity at the Department of Political and Legal Sciences of the University, which will also include participation in the cycle of doctoral lessons, conferences and seminars. In addition, the doctoral student will carry out a research period abroad and will perfect his doctoral course at the subject (company / organization) involved.

Finally, with a view to enhancing the research results, the student can disseminate the results of his / her ongoing research by participating in the Student Conference (organized annually by the Doctoral Course in Political Sciences at the University of Messina) and publishing in journals national and international scientific studies and in the series of the Department of Political and Legal Sciences (Editoriale Scientifica).