

Regulatory Inclusiveness and Territorial equipment

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# INCLUSIVE CITIES AND REGIONS *TERRITOIRES INCLUSIFS*

14° Biennale of European Towns and Town Planners, Naples

Edited by  
Marichela Sepe

## **#Parallel Workshop**



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# INCLUSIVE CITIES AND REGIONS/TERRITOIRES INCLUSIFS

Edited by Marichela Sepe

## Contents

### Foreword

- 1 *Inclusive Places and People*

### Introductions

- 3 The policies of inclusion and the advocacy of urban civilization  
*Michele Talia*
- 5 Inclusion dilemmas  
*Francesco Domenico Moccia*
- 7 From Migration and Inclusion to Inclusive cities and Regions  
*Giuseppe De Luca*

### Keynote speeches

- 9 Inclusivity in an adaptive planning system  
*Janet Askew*
- 11 ECTP-CEU's vision on inclusive cities and regions – territoires inclusifs  
*Markus Hedorfer*
- 13 Regulatory Inclusiveness and Territorial equipment  
*Carolina Giaimo*
- 15 Regional strategies for territorial cohesion (OP 5. Europe closer to citizens)  
*Bruno Discepolo*
- 18 Social housing and benefits in Austria: an approach in creating inclusive and just settlements  
*Gerhard Vittinghoff*
- 19 HOUSING CRISIS – after 1980's settlements reconversion and 2024 simplification  
*João Teixeira*

## **I PART - Parallel Workshops**

- 21** 1. Regional issues and regional disparity
- 81** 2. Metropolitan or city proposals
- 115** 3. Urban regeneration and Public Spaces
- 331** 4. Migration and cultural inclusion
- 357** 5. Cultural heritage
- 425** 6. Resilience and adaptation
- 511** 7. New economic approaches, such as the circular economy
- 525** 8. IT and the use of artificial intelligence in planning
- 561** 9. Ports, airports and other infrastructures
- 585** 10. Underground space

## **II PART - Special Workshops**

- 599** About Spatial Inclusivity. A perspective from URBinLAB, Lisbon
- 611** Enhancing urban regeneration and spatial justice with Nature-Based Solution
- 637** Inclusive public spaces for water cities facing climate change
- 661** "Italian UNESCO Chairs' vision and actions
- 673** A Transdisciplinary Approach to Placemaking and Inclusivity: COST Action Dynamics of Placemaking
- 687** Inclusive city Ecosystems
- 699** Youthbanism: for a New Generation of Urbanistsz
- 705** Fragile geographies.
- 727** Green Oasis for the 15 minutes city model
- 747** Making/unmaking urban circular economies with 'otherness'
- 761** Public space for inclusive cities: the Biennial of Public Space
- 779** Universal accessibility and university education, the knowledge network
- 791** Findings and Evidences from the PNRR project RETURN
- 807** River Contracts as voluntary and negotiated planning tools

## I PART

### Parallel Workshops

#### 1. REGIONAL ISSUES AND REGIONAL DISPARITY

*Coordinator:* Laura Fregolent

*Co-coordinator:* Valeria Lingua and Donato Di Ludovico

*Discussant:* Géza Salamin

*Co-discussant:* Maurizio Carta

- 22** Population concentration. Quantitative characterization by concentration indexes  
*Ricardo Alvira*
- 24** Weak Demand Areas in Italy. A mapping method according to the decree Transport Ministerial Decree n. 157/2018  
*Vito Martelliano, Carmelo Antonuccio*
- 26** Basilicata Climate Adaptation Strategy: The Province of Potenza contribution to EU Mission on Adaptation to CC  
*Alessandro Attolico, Rosalia Smaldone, Francesco Scorza, Rachele Vanessa Gatto, Simone Corrado*
- 28** Local Development in the Inner Areas. The Dominance of Tourism in SNAI Framework Programme Agreements  
*Francesco Conti*
- 30** Cultural Ecosystem Services and Community Engagement. The experience of Madonie Inner Area  
*Annalisa Giampino, Filippo Schilleci, Stefania Crobe*
- 32** From Patrick Geddes to the territorialist approach: the genealogy of inclusive planning  
*Federico Diodato*
- 34** Collaborative maintenance of housing quality for social, cultural and economic innovation in marginalised areas  
*Katia Fabbicatti, Michela Di Palo, Eleonora Petroni*
- 36** "Ecopolitan areas" as post-metropolitan model towards the ecological transition  
*Sandro Fabbro, Claudia Faraone*
- 38** Early school leaving and family risk factor  
*Melania Verde, Grazia Falzarano*
- 40** Territorial regeneration in non-metropolitan urban regions: a proposal for definition, strategies and tools of interventions  
*Giulia Fini, Marcello Modica*
- 42** Regeneration of fragile territories through the reactivation of local communities: a review of Italian best practices  
*Valeria Lingua, Valeria Francioli*
- 44** New actors and infrastructures for the Economic & Spatial inclusion and innovation within the European Research Area. A mapping in Italy and in Veneto Region  
*Vito Garramone, Carlo Federico Dall'Omo, Francesco Musco*
- 46** Exploring Tourism Ecosystem in planning practice  
*Rachele Vanessa Gatto, Simone Corrado, Giovanna Andrulli, Carmen Ligrani, Maria Teresa Ferrarese, Teresa Palladino, Francesca Perrone, Francesco Scorza*
- 48** Inter-municipal plan for an inner area. An experiment for fourteen municipalities in Garfagnana, Tuscany  
*Benedetta Biaggini, Giannino Biaggini, Riccardo Luca Breschi, Andrea Giraldi*
- 50** Insular regions and MaaS concept. Assessing spatial accessibility in Sardinia (Italy)  
*Mara Ladu, Ginevra Balletto, Tanja Congiu, Gianfranco Fancello*
- 52** Observing the youth housing crisis  
*Mariella Annese, Maria Raffaella Lamacchia, Nicola Martinelli*
- 54** The Territorial Plan (PTAV) of Forli-Cesena. A navigation map to generate system policies  
*Martina Massari, Valentina Orioli, Altea Panebianco*
- 56** Fight regional disparities by regulating the practice of collaborative housing. An approach to counteract speculative dynamics in the territories  
*Margherita Meta*



- 58** Settlement sustainability in less developed regions, a priority for regional balanced development. In providing a RBM framework for evaluating spatial plans  
*Samaneh Niazkhani, Esfandiar Zebardast, Angela Million*
- 60** Regional regeneration in disaster-affected areas  
*Giulia Pasetti, Donato Di Ludovico*
- 62** Soil sealing as ecosystem services' inhibitor. Processing of satellite data for coastal zone analysis  
*Annunziata Palermo, Lucia Chieffallo, Natalia Rispoli*
- 64** A gender issue in the urban policy  
*Lucia Saganeiti, Lorena Fiorini*
- 66** Flexible geography or instability? Changing spaces in Hungarian spatial planning  
*Géza Salamin, Márton Péti*
- 68** Building alliances for territorial rebalancing processes. A case study in Val d'Agri  
*Stefania Oppido, Valeria Catanese, Giuseppe Pace, Maria Scalisi, Gabriella Esposito*
- 70** Basilicata Climate Adaptation Strategy: A GEODESIGN Experimental Approach  
*Francesco Scorza, Rachele Vanessa Gatto, Simone Corrado*
- 72** Macro-territorial disparities analysis with a data-driven approach  
*Alessandro Seravalli, Davide Magurno, Mirko Gregorelli*
- 74** Regional foresight for an inclusive local decision making  
*Rosaria Trovato*
- 76** "España puede" and "Italia domani" against social fragmentation. Territorial planning approach's similarities and differences  
*Annunziata Palermo, Maria Columna Gracia Gómez, Gaetano Tucci, Lucia Chieffallo*
- 78** Exploring innovative strategies and approaches arising from EU funds, mechanisms and tools to counter regional and local disparities  
*Rodrigo Vielmo Moura*

## Parallel Workshops

### 2. METROPOLITAN OR CITY PROPOSALS

*Coordinator: Martin Reents*

*Co-coordinator: Gianfranco Fiora Fiora, Carlo Gerundo*

*Discussant: Kent Håkull*

*Co-Discussant: Douglas Gordon*

- 82** Planning an eco-neighbourhood in Attica  
*Despina Amolohiti, Dimelli Despina*
- 84** Urban study of the Central Axis of Petržalka  
*authors: Bohumil Kováč, Karol Görner, Lucia Štefancová, Michal Czafík  
collaboration: L. Benček, Z. Kováč, Š. Hromada*
- 86** Territorial analysis tools for the construction of the Strategic Plan for Sustainable Development of Sappada - IT  
*Alessandro Massarente, Alessandro Tessari, Karla Cavallari*
- 88** Identifying and mapping proximity of services for students: a case study in the university city of Bologna  
*Silvia Bartolucci, Elisa Conticelli, Angela Santangelo*
- 90** The Search for planning a Global South metropolis: The Case of the 2014 São Paulo Master Plan, Brazil  
*Eduardo Alberto Cuscé Nobre*
- 92** Debt as Spatial Practice  
*Antonio di Campli*
- 94** LABMET - Metropolitan Innovation Laboratory of the Metropolitan City of Cagliari  
*Nicolò Fenu, Isabella Ligia, Paolo Mereu*
- 96** Urban and peri-urban agriculture (UPA): from benefits to planning. Results from EFUA H2020 project  
*Claudia Cassatella, Enrico Gottero*
- 98** APRIPISTA: Sustainable Urban Mobility Plan of Gagnano  
*Maria Somma, Andrea Graziano, Danny van Beusekom, Luca Zampieron, Teresa Abagnale, Aniello D'Auria*

- 100** Integrating Mobility Infrastructure, a European Topic. URBACT RiConnect network. Rethinking infrastructure for better metropolises  
*Joan Caba, Anna Majoral, Judith Recio and Mikel Berra, Noemí Martínez, Stela Salinas, Elena Argelich, Roland Krebs, Rosa Rull*
- 102** Territorial approach to river restoration: an investigation into multi-governance  
*Chiara Marasà*
- 104** City and health through improved school routes  
*Carmen Mota, Susana Aznar*
- 106** ITI/SUD tools and inclusivity. Urban regeneration in the Municipality of Piraeus  
*Emmanouela Tsagaki-Rekleitou*
- 108** Urban air mobility. From sectoral infrastructure to an integrated vision towards improved inclusion  
*Carlo Valorani, Maria Elisabetta Cattaruzza*
- 110** Right to the city through urban entropy and enthalpy. Life and death of the city  
*Fernando Visedo Manzanares*
- 112** The transformation of the coal and steel region  
*Ondrej Vyslouzil, Pavel Rihak, Vaclav Palicka*
- 114** Wheelchair sharing system – a place for people with difficulties walking in Portugal’s mobility public policies  
*Joana Coimbra, Paulo Silva*
- 118** Protected Areas and urban regeneration. An ÉcoQuartier in the Calanques National Park’s Adhesion Area  
*Laura Ricci, Alessandra Addressi*
- 120** Territories of reconstruction. New paradigms for the regeneration in Central Italy 2016  
*Francesco Alberti*
- 122** Campo Laudato si’ Caserta. Masterplan for the restoration and urban regeneration of the former Macricco area  
*Alvisi Kirimoto*
- 124** Urban exploration as a co-narration practice: the case of “Per Luoghi Comuni: Ex-Qualcosa” in San Giovanni a Teduccio, East Naples  
*Giorgia Arillotta, Sabrina Sacco, Piero Zizzania*
- 126** Green and Blue Infrastructure and Urban Planning  
*Alessandra Barresi*
- 128** Mobility for Urban Public Space. A study case between Naples and Barcelona  
*Adriana Bernieri*
- 130** Performing collective action for cultural urban regeneration projects. Early notes from a Barad and Schechner diffractive analysis  
*Vittoria Biasiucci, Maria Patrizia Vittoria*
- 132** Urban Regeneration and the Role of the Private Sector  
*Sveva Bocchini*
- 134** Designing with time. Chrono-urbanism and some of its declinations  
*Chiara Bocchino*
- 136** ROME: Capital of the CIPS  
*Francesco Bonanni*
- 138** Development games in the neglected urban areas  
*Aleksandra Jadach-Sepiolo, Maciej Borsa*

## Parallel Workshops

### 3. URBAN REGENERATION AND PUBLIC SPACES

*Coordinator: Marichela Sepe*

- 116** Inclusive governance for water areas and coastal landscapes. Participatory planning in the Phlegraean Fields”  
*Antonio Acierno, Alessandra Pagliano, Ivan Pistone*

- 140** Urban regeneration and public space between the gaps of the dense city  
*Francesca Calace, Stefania Assenti*
- 142** Reclaiming Public space. The role of Cultural Heritage sites in Urban transformation  
*Greta Caliendo*
- 144** (how to) Draw a process. An Architectural storytelling of a social innovation case  
*Arianna Camellato*
- 146** "From the edge to the castle: sustainable mobility and connections of the third millennium" Municipality of Falconara Marittima - Ancona - Italy. The winning project of the two-stage design competition and drafting of the technical and economic feasibility study  
*Massimo Canesin, Omero Bassotti*
- 148** EMPaThY Spaces: creative ecosystem for a transfeminist city  
*Francesca Carion, Gaia Del Giudice, Marta Moracci, Federica Morra, Maria Scalisi, Livia Russo, Stefania Oppido, Stefania Ragozino, Gabriella Esposito de Vita*
- 150** IN.KIOSTRO. A Community Hub in the former St. Michael's Cloister in Anacapri  
*Maria Cerreta, Laura Di Tommaso*
- 152** The "Villa del Sole" project. A green area without greenery anymore...  
*Teresa Cilona*
- 154** Tricase Porto | Hub of sea and land  
*F.Cofano, A. Montinaro, L. Beccarisi, S. Giammaruco, G.Coppola, P. Portaluri, V. Calabrese, C. Carluccio, A. Giammaruco, L. Sodano, A. De Nitto, F. Tinella,, P. Durante, Sara Sicuro*
- 156** Sport as a tool for urban and social regeneration.The story of the project: CivitaSnova  
*Marta Cognigni, Davide Allegri*
- 158** Towards a city of good dwelling  
*Paolo Colarossi, Francesco Colarossi, Sharon Anna Somma*
- 160** Inclusive Public City pilot project. Co-generative experimentations for design innovation  
*Angela Colucci, Anna Schellino, Antonella Cuppari*
- 162** Integrated design for urban and public space regeneration in the territories of Southern Italy  
*Chiara Corazziere, Vincenzo Gioffrè*
- 164** Urban public space at multiple risk.The Neapolitan case study of Via Caracciolo  
*Candida Cuturi, Marichela Sepe*
- 166** Urban production processes and the role of public space as a connective tissue: the case of Brandoa and Alfornelos, Lisbon  
*Maria Manuela da Fonte, Filipa Serpa, Ariana Marques*
- 168** Exploring the role of inclusion in railway hubs: a literature review over the last decade.  
*Ludovica Dangelo, Marika Fior*
- 170** The Playgrounds and the City. Towards the Reconstruction of Urban Life  
*Felice De Silva, Manuela Antoniciello*
- 172** Environmental Recovery and Urban Regeneration of the areas of significant national interest at the time of the PNRR. The commissioning of the Bagnoli-Coroglio area  
*Viviana Di Capua*
- 174** Designing cities for seniors: a vision of inclusivity. A Case Study in Vizille, France  
*Cecilia Di Marco*
- 176** Mouro's Fountain square renewal. A nature-based solution public space  
*María Fandiño Iglesias*
- 178** 'FUTURA': A Strategic Masterplan for Salsomaggiore Terme  
*Emilio Faroldi, Maria Pilar Vettori*

- 180** Urban Regeneration in Italy: Unraveling the Legal Patchwork – Navigating Diverse Laws and Shaping a Unified Future  
*Annamaria Felli, Francesco Zullo, Chiara Cattani, Cristina Montaldi, Emilio Marziali, Gianni Di Pietro*
- 182** An Ecosystem-Service based approach for Spatial Planning: Strategies for the city of Varese  
*Federico Ghirardelli, Silvia Ronchi, Stefano Salata, Beatrice Mosso, Andrea Arcidiacono, Laura Pogliani*
- 184** Designing Inclusion. Redefining paradigms, categories, and methods  
*Santiago Gomes, Javier Fernández Castro*
- 186** How much public space has my city got to offer?  
*Luciano G. Alfaya, Patricia Muniz-Nunez*
- 188** Regenerate collective spaces in social housing. A research and a case study in Metropolitan Area of Naples  
*Claudia De Biase, Giuseppe Guida, Chiara Bocchino, Antonetta Napolitano*
- 190** Future-proof community centres and its transformative role in large housing estates  
*Thomas Helfen*
- 192** Large Mine Sites Regeneration from the Perspective of Gender Health Perception. A case study of Xishan, Taiyuan, Shanxi Province, China  
*Zhizhong Hong, Ester Higuera García*
- 194** Improving the Livability of Contemporary Cities. The Role of Sports Infrastructure in Urban Regeneration  
*Ilva Hoxhaj*
- 196** Regeneration of disused areas: towards a new generation  
*Rosaria Iodice*
- 198** Development games in the neglected urban areas  
*Aleksandra Jadach-Sepiolo, Maciej Borsa*
- 200** Regeneration of Abandoned Transportation Landscapes within GI Framework for Sustainable, Inclusive and Resilient European Cities  
*Bilge Kobak*
- 202** Gewerbehöfe, an enduring legacy in Berlin. Unveiling the GoWest project  
*Christoph Kohl*
- 204** Delivering inclusivity and climate justice in our cities. TEK-Technology Entertainment and Knowledge District in Bologna  
*Stefania Anghinelli, Serena Girani, Chiara Introzzi, Sara Lodrini*
- 206** Urban Regeneration in the Contemporary Compact City  
*Enrico Losardo, Irene Poli*
- 208** From gray to green infrastructure. Rethinking the Lecco's waterfront  
*Nerantzia Tzortzi, Maria Stella Lux, Aurora Bosia*
- 210** Urban walks as a cognitive tool at the service of urban plans and for the promotion of sustainability in Catania  
*Gaetano Giovanni Daniele Manuele*
- 212** Religious Archaeology. New opportunities for urban attractiveness  
*Andrea Marcuccetti*
- 214** The railway line as territorial activation tool  
*Immacolata Paciolla, Amelia Laura Maris Ile, Ivan Negri, Danila Della Monica, Gianfranca Mastroianni*
- 216** "Il Borgo di Francesco", a biophilic design case study  
*Guglielmo Minervino, Antonio Caperna, Stefano Serafini, Bonaventura Poppiti*
- 218** Enhancement of urban green, the establishment of urban gardens and the recovery of abandoned land  
*Giovanni Misasi, Teresa Pandolfi, Domenico Passarelli*
- 220** Post-socialist New Belgrade blocks as a potential for inclusive territory  
*Nikola Mitrović*
- 222** Experimental governance and urban fragilities: Making cities through social-health therapies  
*Walter Molinaro*

- 224** Does the design of public spaces foster spatial inclusion?  
A survey on six roman squares  
*Francesca Paola Mondelli*
- 226** Art and culture to rediscover the city's spaces, between identity and memory. Outside the school, to re-appropriate the territory by exploring the city through its monuments and squares  
*Letizia Montalbano, Graziella Zizzo*
- 228** Territorial Regeneration of Mondeggi country estate.  
A project of inclusivity and regeneration  
*Laura Nanni*
- 230** Territorial sustainable regeneration: a case study  
*Claudia De Biase, Giada Limongi, Antonetta Napolitano*
- 232** PINQuA | RInaTA Paolo VI - Integrated Proposal for the regeneration and naturalization of the Paolo VI suburb of Taranto. The renovation and re-naturalization of Piazza della Liberazione  
*Simona Sasso, Francesca E. Nesca*
- 234** My Neighbourhood, My Street. Promoting active participation of citizens in the management of public spaces in Vila Nova de Gaia  
*Cristiana Nóbrega, Margarida Rocha, Catarina Pydzinska Azevedo*
- 236** The role of public space in the relationship between museum and contemporary city: the case of Barcelona  
*Manuel Orabona*
- 238** Exploring the potential of the 15-minute city model in the eastern neighbourhoods of Naples  
*Maria Federica Palestino, Stefano Cuntò*
- 240** Co-design public spaces of proximity The case of Rome's former fair  
*Livia Papagni, Leonardo Perna, Manuele Sun, Elena Tablò*
- 242** Towards a child-friendly city barriers to urban independence for children aged 7-10  
*Beata Patuszyńska*
- 244** Design for inclusivity. Guidelines for inclusive public space design  
*Luca Vandini, Annalaura Ciampi, Monica Malori, Enrica Perotti*
- 246** Reclaim and Exploring New Energy Scenarios for Eastern European Landscapes  
*Nicola Petaccia*
- 248** Integrating expertise in the circular urban project  
*Marina Rigillo, Libera Amenta, Anna Attademo, Sara Piccirillo, Rosaria Iodice, Federica Paragliola*
- 250** Completion and upgrade of the market and office complex within the framework of the Coordinated Plan for the improvement of the Tamburi district in the city of Taranto  
*Simona Sasso, Vincenzo Piccolo, Mariana Recchia*
- 252** Sustainable regeneration of public spaces for social inclusion in the western part of Santa Maria Capua Vetere  
*Antonio Acierno, Ivan Pistone*
- 254** Urban Planning and Design Journals in Europe. A new season?  
*Marco Mareggi, Laura Pogliani*
- 256** Inclusivity and public lighting of public spaces at night  
*Antonella Radicchi, Dietrich Henckel*
- 258** Integrating Equitable Climate Adaptation into Green Urban Regeneration. Infrastructural spaces as Inclusive and Nature-based Commons  
*Alessandro Raffa, Annalisa Percoco*
- 260** Redevelopment and upgrade of existing sports facilities within the framework of the Coordinated Plan for the improvement of the Tamburi district  
*Simona Sasso, Vincenzo Piccolo, Mariana Recchia*
- 262** Urban co-existence. Luigi Cosenza's ex Regional Milk Factory and Cupa Perillo's communities  
*Lorenzo Renzullo*
- 264** The street: walking and staying  
*Leonardo Rignanese*
- 266** Stories of proximity and collective spaces. Design History and urban regeneration of the 'Torrevecchia' neighbourhood in Rome  
*Flavio Graviglia, Aurora Riviezzo*

- 268** Environment, landscape, territory and community. Community Projects and River Contracts: taking care of the commons  
*Paola Rizzuto, Ferdinando Verardi, Antonio Leone, Domenico Passarelli*
- 270** The radical inclusivity of the pattern language approach  
*Yodan Rofé*
- 272** Making Place. Exploring potentials and limitations of temporary urbanism in Hong Kong  
*Francesco Rossini*
- 274** Living in the City in the Third Age  
*Maria Argenti, Anna Bruna Menghini, Francesca Sarno*
- 276** STEP UP - Walkability for Women in Milan. A Data-driven Approach to Assess the Level of Walkability for Women  
*Rawad Choubassi, Lamia Abdelfattah, Andrea Gorrini, Federico Messa, Lily Scarponi, Catalina Valenzuela, Gerardo Carpentieri, Carmen Guida, Valerio Martinelli, Tonia Stiuso, Floriana Zucaro, Florencia Natalia Andreola, Laura Da Re, Azzurra Muzzonigro, Carlos Cañas, Eleonora Gargiulo, Jim Walker*
- 278** Associations and Community Planning Processes: a case study  
*Alfredo Pensabene, Marco Picone, Valeria Scavone*
- 280** PINQuA: integrated actions to increase spatial and social cohesion in Taranto's Paolo VI neighbourhood  
*Simona Sasso, Federica Mitrangolo, Antonio Angelini, Alessandro Sangermano, Angelo Semidai, Francesca Nesca*
- 282** The DE-Sign Urban Lab. The pilot case of the City of Cosenza and energy efficiency as a driver for social inclusion, resilience and integrated urban regeneration  
*Domenico Passarelli, Ferdinando Verardi, Ilaria Bertini, Ilaria Sergi, Maria Anna Segreto, Guido Maurizio Urbani*
- 284** Urban regeneration and inclusive public spaces. A project for the new urban park in San Lorenzo Village in L'Aquila  
*Camilla Sette*
- 286** Controversial multi-actor urban regeneration practices: The case of the historic centre of Palermo  
*Vincenzo Todaro, Salvatore Siringo*
- 288** GREENERize Post Industrial Landscape. From the industrial city to the urban ecosystem  
*Luisa Smeragliuolo Perrotta, Nahuel Garcia Pastor*
- 290** (In)effectiveness of planning: which perspective for Pietralata?  
*Sharon Anna Somma, Romina D'Ascanio, Ana Luiza Milanese, Anna Laura Palazzo*
- 292** The project of a pedestrian network for a city on a human scale. Reggio Calabria no longer unsustainable  
*Domenico Passarelli, Francesco Suraci, Antonio Macchione*
- 294** Revitalizing urban spaces. A synergistic approach between school spaces and the city  
*Nicola Martinelli, Roberta Tenerelli*
- 296** A green line for the FS Torre Annunziata – Cannello. Regeneration of the territory through a linear park  
*Anna Terracciano*
- 298** Slow Urban Planning. Improvising a performative urbanism or a social reanimation of the abandoned city of Tribsees!  
*Ton Matton*
- 300** The Convivialità Urbana Award  
*Grazia Torre, Chiara Franchetti*
- 302** City space and children's skills. New uses of urban space in the Noce neighborhood of Palermo  
*Ferdinando Trapani*
- 304** Student Housing as a driver of Urban Regeneration. The case of Libertà district in Bari  
*Giovanna Mangialardi, Nicola Martinelli, Angelica Triggiano*
- 306** How will we live together?  
*Davide Tumiati*
- 308** An inclusive and breathing intergenerational city. New green spaces on the underground area of the Ferrovie Nord in Busto Arsizio  
*Michele Ugolini, Caterina Gallizioli, Beatrice Basile, Francesca Ripamonti, Francesco Occhiuto, Maria Maddalena Reggio, Amanzio Farris*



- 310** Urban regeneration as a paradigm of public city project: experimentation of an intervention model  
*Marilù Vaccaro*
- 312** ParticipatiOn Wheels. A playful tool for urban participatory planning  
*Eirini Vallindra, Georgia Manousogiannaki*
- 314** Social Return on Investment (SROI) applications on urban planning for conscious decision-making. The VARCITIES project approach  
*Elisa-Elena Vasiliu, Sara Biancifiori, Adriano Bisello*
- 316** The regeneration of semi-confined public spaces in disadvantaged contexts for social inclusion and the well-being of children  
*Anna Rita Villano, Donatella Diano, Katia Fabbri*
- 318** How to do urban regeneration with certification protocols for a more inclusive sustainable urban district  
*Marco Volpatti, Elena Mazzola, Marta Carla Bottero, Adriano Bisello*
- 320** Multiple benefits analysis to support urban regeneration. A practical tool to support project implementation and acceptance  
*Irene Bertolami, Marco Volpatti, Adriano Bisello*
- 322** Quarter at the former Flower Market Berlin  
*Ulrike Böhm, Katja Benfer, Cyrus Zahiri*
- 324** Shaping the inclusive participatory processes for urban transformation. Grunwaldzka Avenue Development Study, Gdańsk, Poland  
*Piotr Lorens*
- 326** ESG principles and urban regeneration. A framework for sustainable cities  
*Antonio Bocca, Lorenzo Massimiano*
- 327** Innovative practices for sustainable development of resistant communities  
*Emanuela Coppola, Gaia Del Giudice, Eleonora Giovane di Girasole*

- 328** Social enterprises as activators of innovation processes. The case of Liberitutti in Barriera di Milano, Torino  
*Daniele Caccherano, Erika Mattarella, Elena Camilla Pede, Flaviano Zandonai*
- 329** The Participatory GIS as a tool to support decision-making processes  
*Simona Stella, Massimo Clemente*

### **Parallel Workshops**

## **4. MIGRATION AND CULTURAL INCLUSION**

*Coordinator: Angela Barbanente*

*Co-coordinator: Gilda Berruti*

*Discussant: Marçel Pidalà*

- 332** A realistic geography of the presence of migrants in the city of Naples: shop owners and street vendors  
*Antonia Arena*
- 334** Cidade de acolhimento\_host city  
*Ana Bordalo, José Carvalho, Vitor Alves*
- 336** The gender gap in participatory processes: exploring the River Agreement as a tool for investigation  
*Elisa Caruso*
- 338** The cross-border urban space. Urban forms and territorial identities in European cross-border cities  
*Fabiola Cristalli*
- 340** From formal to informal in the border city. Miserabilia. The tax-selective formalism crumbles  
*Silvia Dalzero*
- 342** Designing the city of poor  
*Andrea Di Giovanni*
- 344** Neo-Population: A Potential Remedy for the Depopulation Crisis in Inner Regions  
*Diksha Dody*

- 346** Intersecting Rights: Immigrants in Urban Realities  
*Maryam Karimi, Grazia Concilio, Aliaksandra Rameika, Giorgia Trasciani*
- 348** Migration, Social Transformations and Impact on Urban Attractiveness: Riace as a Model of Inclusive Urban Planning  
*Silvia Paldino, Ferdinando Verardi*
- 350** Mental Mapping for New Urban Perspectives  
*Sanja Platisa*
- 352** The inclusion of migrants through gastronomic and cultural markets  
*Manuel Sanches*
- 354** Embracing social and cultural Diversity in Eleusis: Exploring Possible Composite Tourism experiences After the ECOC 2021 title  
*Panagiota Tsolakaki, Sofia Avgerinou Kolonias*
- 356** Scenario's planning participative workshop as tools for inclusive policies for inhabitants and citizens  
*Andrea Marçel Pidalà*
- 364** Assessing the reuse compatibility of cultural heritage for the built environment regeneration  
*Francesca Ciampa, Stefania De Medici*
- 366** Unveiling Urban Narratives. The "Pop Up City" project in the city of Formia, Italy  
*Diana Ciufo*
- 368** Visual Sensitivity: towards more culturally-inclusive planning approaches  
*Jessica Comino*
- 370** BNB-COMMON. "Bnbificazione" of cities  
*Silvia Dalzero*
- 372** The Future of Post Extractive Mining Ruins  
*René Davids*
- 374** Forms and signs of the city drawing (aesthetic lexie)  
*Andrea Donelli*
- 376** Approaching "Athenian Modernism" with sensitivity in the linear park of Fokionos Negri Street  
*Georgina Eleftheraki*
- 378** Cultural accessibility to overcome physical, cognitive and sensorial barriers  
*Maurizio Francesco Errigo, Irene Poli*
- 380** Coastal heritage for adaptive and inclusive strategies. The case of the Trabocchi Coast along the mid-Adriatic  
*Lia Fedele, Angelica Nanni*
- 382** Effects of religious practices on the urban planning through time on the case of Rome and Christianity  
*Daria Fontana*
- 384** Participatory incubator of cultural initiatives within a local development strategy for the "Sicani" area in Sicily  
*Alejandro Gana-Núñez, Vincenzo Todaro*

## **Parallel Workshops**

### **5. CULTURAL HERITAGE**

*Coordinator: Maria Somma*

*Co-cordinator: Carlo Gerundo*

*Discussant: Martin Baloga*

- 358** PINQuA: the conversion of an abandoned Palazzo into student housing to regenerate a portion of Taranto's Città Vecchia  
*Simona Sasso, Giovanni Carbotti, Antonio Angelini*
- 360** Historic Urban Landscape and Cultural Diversities  
*Mariarosaria Angrisano, Ferdinando Verardi*
- 362** Restoration and enhancement of the Historic Gardens of the Monumental Complex of the ex-Monastery of Saints Severino and Sossio in Naples  
*Alessandro Seravalli, Paola Caselli*



- 386** Mapping the Intangible: an interdisciplinary exploration of transhumance cultural landscape  
*Ilaria Gesualdi, Mariacristina Mona*
- 388** Local development and the regeneration of the historic architectural heritage: case studies of historic buildings in Taranto  
*Simona Sasso, Vincenzo Piccolo, Cristina Giannico*
- 390** Visualizing Cities: Making Cultural Heritage Inclusive  
*Kristin Love Huffman, Andrea Giordano*
- 392** Resilience as a cultural heritage value. Planning scenarios for the Libarna archaeological site  
*Michela Benente, Ombretta Caldarice, Benedetta Giudice, Irene Ruiz Bazán*
- 394** The Historic Town as vector of the urban development  
*Sofia Avgerinou Kolonias, Alvaro Gómez-Ferrer Bayo*
- 396** Recreating agricultural production to restore a heritage landscape. The Reine's Vineyard WHS (Turin, Italy)  
*Claudia Cassatella, Enrico Gottero*
- 398** Historic infrastructure and urban regeneration. Bottom-up approach for an identity-inclusive city  
*Paola N. Imbesi*
- 400** Food Plants Consumed and Grown in Salvador, Brazil  
*Isabel Maria Madaleno*
- 402** Tecniche Sapiienti Suite. Mapping the legacy of Italian women designers  
*Claudia Mattogno*
- 404** BARIUM. A new model of knowledge and preservation of the city  
*Nicola Cavallera, Dario Monsellato, Nicolò Montuori, Francesco Paolo Protomastro*
- 406** Landscape design as an extension of welfare  
*Marco Patruno*
- 408** Cultural heritage as an interpretative framework to address new global challenges  
*Thomas Pepino*
- 410** Cultural Heritage and UN Agenda 2030 Territorialization through Innovative Inclusive Tourism Strategies  
*Gabriella Pultrone*
- 412** The Cultural Heritage of Cordoba and Naples boost Climate and Social sustainability actions  
*Rosa Romano, Marika Fior, Gaia Redaelli*
- 414** Cultural heritage as a tool of resilience and adaptation in minor historic centers planning strategies  
*Fiammetta Fanizza, Francesco Rotondo*
- 416** Sicani: where marginality meets cultural heritage through the place-based approach  
*Desiree Saladino*
- 418** Policy and regeneration of Italian historic villages  
*Camilla Salve, Alessandra Tosone, Donato di Ludovico*
- 420** The new archaeological park of Liternum as a booster for urban regeneration  
*Francesco Stefano Sammarco, Anna Terracciano*
- 422** From the International Documents for the Protection of Cultural Heritage to the project lines of Integrated Restoration of historical settlements  
*Caterina Sergi*

## **Parallel Workshops**

### **6. RESILIENCE AND ADAPTATION**

*Coordinator: Claudia Cassatella*

*Co-coordinator: Emanuela Coppola*

*Discussant: Domenico Passarelli*

*Co-discussant: Massimo Sargolini*

- 426** Magna Græcia 2049. An example of Ecological Transition process to build a spatial, social and economic resilient inclusion  
*William Marco Aiello*
- 428** #Manilva Plan n'2030 towards a Local Urban Agenda  
*n'UNDO.org*

- 430** A new methodology for multi-sector and harmonized urban and energy planning in small and medium-sized cities  
*Alice Borsari, Adriano Bisello*
- 432** Climate Justice and Spatial Planning  
*Richard Blyth*
- 434** A contribution to assess urban open spaces under the point of view of urban heat islands  
*Marzia Lai, Alessandra Casu*
- 436** Urban strategic projects towards resilient climateproof towns: some proposals for Lisbon waterfront  
*Alessandra Casu, Guglielmo Ricciardi, Ilenia Zaccagna*
- 438** Increasing climate resilience through participatory adaptive planning  
*Lucia Chieffallo, Annunziata Palermo*
- 440** Aniene. The other river. From climate adaptation actions to urban regeneration: the making of an Environmental Centrality  
*Laura Di Fiandra, Marika Fior, Paolo Galuzzi*
- 442** Boosting the local energy transition. The Living Lab of León (Spain)  
*Alejandra Duarte Montes, Miguel Fernández-Maroto, Juan Luis de las Rivas*
- 444** A simulation-based tool for environmentally hazard-conscious urban design  
*Federico Eugeni, Gennaro Zanfardino, Donato Di Ludovico*
- 446** A new terraced waterfront on the Mar Piccolo within the framework of the Coordinated Plan for the improvement of the Tamburi district in the city of Taranto  
*Simona Sasso, Vincenzo Piccolo, Valentina Falcone*
- 448** Regeneration and redesign of public spaces within the framework of the Coordinated Plan for the improvement of the Tamburi district in the city of Taranto  
*Simona Sasso, Vincenzo Piccolo, Valentina Falcone*
- 450** Regi Lagni and hydraulic mitigation works. Adaptation and new uses in the regeneration project for the S. Sossio basin in Marigliano (NA)  
*Anna Terracciano, Giovanna Ferramosca*
- 452** From the “Intelligent Buildings” program to the new “Intelligent Cities” urban design methodology  
*G. Tiziana Gallo*
- 454** Evaluating Urban Walkability. A Thermal Comfort Based Approach  
*Alessandro Pedrazzoli, Simone Grasso, Giulia Ceccarelli, Marianna Zuretti, Dante Presicce, Rawad Choubassi*
- 456** Digital Seascapes: Can we use digital technologies for engaging coastal communities in building marine citizenship?  
*Ashita Gupta, Katharine Willis*
- 458** Integrating Human-Centric Care and Accessibility: Designing Inclusive Residential Spaces for Special Children in Economically Underdeveloped Regions of China  
*Zhouyan He*
- 460** Sustainable reconstruction of the Ahr valley in Rhineland-Palatinate, Germany  
*Svenja Knuffke, Lutz Kraemer-Heid*
- 462** Mapping deficit areas for adaptation planning. Insights from flood protection ecosystem service in an Italian case study  
*Alessandra Longo, Linda Zardo, Davide Longato*
- 464** Policies, Strategies, and Projects for Sustainable Urban Regeneration. A comparative analysis of France and Germany  
*Laura Ricci, Carmela Mariano, Marsia Marino*
- 466** A participatory approach to increase urban resilience while addressing seismic vulnerability in six Adriatic-Ionian countries  
*Giulia Marzani, Angela Santangelo, Simona Tondelli*
- 468** Renewable Energy Communities: a strategy for energy transition. The Municipality of Rome’s experience  
*Fabiana Cambiaso, Giuseppe Milano*

- 470** Taranto Green Belt: building a resilient city through the re-naturalization of public areas and the enhancement of local environmental assets  
*Simona Sasso, Federica Mitrangolo, Alessandro Sangermano, Simone Marchesi*
- 472** The Barrow Blueway. A Spatial Plan for Sustainable Tourism Development  
*Helen Mulhall*
- 474** The evolving spatial practices, in physical and virtual public spaces, among Arab Druze women in Israel: increased risk and reflexivity amidst the COVID-19 crisis  
*Sally Nabwani Kawass, Efrat Eizenberg, Yosef Jabareen*
- 476** Land use transformations and the new ecological values: from conflict to innovation  
*Olga Giovanna Paparusso*
- 478** Heat waves and Urban Adaptation: the potential of public amenities as climate shelters  
*Elena Camilla Pede, Luca Staricco*
- 480** Data-driven planning research methodologies to guide the trajectories of urban and territorial transitions, fostering heightened resilience and sustainability  
*Francesca Moraci, Carmelina Bevilacqua, Pasquale Pizzimenti*
- 482** The Community Engaged-Research for the Transitions to Inclusive and Just Cities. Reflections from an experience in Canada  
*Elisa Privitera*
- 484** The scales of territory  
*reversAs\**
- 486** The new Urban Forest in Tamburi: a Phytoremediation project at the core of Coordinated Plan for the regeneration of the district  
*Simona Sasso, Mariana Recchia*
- 488** Enhancing Climate Resilience. The Metropolitan Perspective in Italian spatial planning system  
*Vittoria Ridolfi, Filippo Magni*
- 490** Voluntary planning as a key approach for climate responsive measures  
*Luigi Santopietro, Filomena Pietrapertosa, Monica Salvia, Francesco Scorza*
- 492** Resilience processes in mountain areas: the innovative experience in the Ligurian Alps  
*Federica Corrado, Gemma Santoro*
- 494** Restoration of the Aragonian walls and Seafront promenade: projects between past and future in Taranto  
*Simona Sasso, Vincenzo Piccolo, Cristina Giannico*
- 496** Identification of suitable sites for Green Hydrogen Production from petroleum wastewater  
*Rossella Scorzelli, Shiva Rahmani, Michela Delfino, Francesco Scorza, Beniamino Murgante*
- 498** Risk-oriented knowledge of urban settlements towards climate adaptation  
*Antonio Sferratore, Sara Verde, Maria Fabrizia Clemente, Mario Losasso*
- 500** Overcoming contamination in urban context. Phytoremediation in the Metropolitan area of Milan  
*Maria Chiara Pastore, Claudia Parenti, Lucia Ludovici, Laura Sibani*
- 502** Urban networks and environmental resilience. The role of fractal urban aggregate  
*Ferdinando Verardi*
- 504** Beyond the conflict. Planning a logistics area with an OOO approach  
*Mattia Bertin, Eugenia Vincenti*
- 506** Urban Climate Change. Mitigation, Adaptation, and Disaster Risk Reduction – a Review on their joint use for Spatial Resilience  
*Silvio Cristiano, Carlo Pisano*

- 507** Human approach for the third millennium  
*Maria Lodovica Delendi*
- 508** Urban forestry project in L'Aquila: urban regeneration and green reconnection  
*Chiara Di Dato*
- 509** Supporting Critical Entities Resilience to natural risks through urban planning  
*Veronica Gazzola*

### **Parallel Workshops**

## **7. NEW ECONOMIC APPROACHES, SUCH AS THE CIRCULAR ECONOMY**

*Coordinator: Luc-Émile Bouche-Florin*

*Co-Coordinator: Alessandro Sgobbo*

*Discussant: Vít Řezáč*

- 512** PROPELing a Social Cooperative into a Positive Energy District  
*Nicolas Caballero, Irene Bertolami, Elisa Vasiliu, Giovanni Dalle Nogare, Adriano Bisello*
- 514** Exploring transition to Circular Economy: a collaborative design approach for innovative urban hubs for waste management  
*Chiara Castellano Federica Paragliola, Maria Fabrizia Clemente, Ermina Attaianese, Marina Rigillo*
- 516** Circular Economy strategies for Adaptive Reuse of Borgo San Leonardo in Carlentini  
*Carla Di Giorgio, Maria Rita Pinto, Pasquale De Toro*
- 518** Inclusive approaches for circular soil management and territorial restoration in marginalized areas  
*Elena Ferraioli*
- 520** Governance and management of European rural development policies: new perspectives for the circular economy in Sardinia  
*Anna Maria Colavitti, Virginia Onnis and Sergio Serra*
- 522** Sustainable Urban Energy Communities. A model for eco-social regeneration of Mediterranean metropolis  
*Alessandro Sgobbo*

### **Parallel Workshops**

## **8. IT AND THE USE OF ARTIFICIAL INTELLIGENCE IN PLANNING**

*Coordinator: Adriano Bisello*

*Co-coordinator: Michele Grimaldi*

*Discussant: José María Ezquiaga*

- 526** Generative Urban Design (GUD): Towards the Post-Urban Project  
*Fabio Andreassi, Fabio Naselli, Cinzia Barbara Bellone*
- 528** Inclusiveness and participation: artificial intelligence as a planning tool  
*Monica Buonocore*
- 530** App for an inclusive P.E.B.A. Crowdmapping architectural barriers with an IT tool  
*Francesco Carbone, Maria Venditti*
- 532** Community validation in generative-AI mapping. The pilot project fAIr by OSM and Microsoft in Uganda, Tanzania, Kenya and Nigeria  
*Chiara Centanaro, Emanuele Sommariva*
- 534** Beyond Boundaries: GeoAI for Informed Urban and Territorial Decision-Making  
*Simone Corrado, Francesco Scorza*
- 536** Alternative Public Space. A Community-Driven Future  
*Mustapha El Moussaoui*
- 538** Cities and New Science: Challenges and Opportunities of AI in Planning  
*Paolo Fusero, Maura Mantelli, Lorenzo Massimiano*

- 540** Digital platforms for urban issues and governance: dilemmas and challenges. An overview  
*Vito Garramone*
- 542** Addressing urban retail in data models. Measuring change in a dynamic activity that impacts urban life  
*Barros Guerton, Javier*
- 544** Eco-Fusion: Bridging Architecture and Nature in Urban Design  
*Panagiota Koulali, Anastasios Tellios*
- 546** Cybernetic Urbanism: Digital Twins on Artificial Neural Network  
*Angelica Rocco*
- 548** The Regional Digital Twin as support for innovative multi-risk planning  
*Sara Sacco, Federico Eugeni, Donato Di Ludovico*
- 550** Beyond Data Extractivism: Convivial Approach in AI-Enhanced Urban Planning  
*Sabrina Sacco*
- 552** Augmented reality as an innovative tool for citizen participation in planning: Results of the 5G-CityVisAR research project  
*Lars Sievers, Eva Reinecke e Frank Othengrafen*
- 554** Algorithms based on the Casual Loop Diagram to identify problems supporting the urban regeneration process  
*Marco Volpatti, Marta Carla Bottero, Adriano Bisello*
- 556** Informative city modeling and augmented reality: the City Augmented Reality for the Environment-CARE project  
*Ida Zingariello, Romano Fistola*
- 558** A “phigital ecomuseum” of the territorial heritage for the House of Emerging Technologies of Campobasso (MolisCTE)  
*Luciano De Bonis, Giovanni Ottaviano*
- 559** AI approach of emotion detection for multi-risk analysis in urban context  
*Vittorio Miraglia, Barbara Cardone, Ferdinando Di Martino*

## **Parallel Workshops**

### **9. PORTS, AIRPORTS AND OTHER INFRASTRUCTURES**

*Coordinator: Angel Burov*

*Co-coordinator: Eleonora Giovene*

*Discussant: Lidiia Chyzhevska*

*Co-discussant: Massimo Clemente*

- 562** An Alternative Sustainable Future for Vlora: An Integrated Decision-Support System for a Green Smart Port City  
*Giuditta Mikhail, Gaetano Tortorella, Andrea Paglialonga, Giuseppe D’Aniello, Massimo Savino, Maria Cerreta*
- 564** City-Port interface planning. An integrated approach applied to Brindisi  
*Giuseppe Ciciriello, Francesca Calace*
- 566** Port heritage enhancement for sustainable development: the case of Naples, Salerno and Castellammare port cities  
*Massimo Clemente, Gaia Daldanise, Benedetta Ettore, Eleonora Giovene di Girasole*
- 568** Integrating UAV Infrastructures in Urban and Rural Landscapes: A Framework for Sustainable and Inclusive Development  
*Stefano Cunietti, Chiara Sammarco, Ilaria Ferrando, Domenico Sguerso*
- 570** Integration between land-use and climate action for port cities. The case study of Port of Hamburg  
*Irina Di Ruocco*
- 572** The culture of integration for the sustainable development of port cities. The case of Livorno as a national best practice  
*Massimo Clemente, Benedetta Ettore*
- 574** Exploring unrevealed land-maritime borders in the Eastern Mediterranean through infrastructures  
*Carlotta Giordani*
- 576** Between protection and land development: evaluation of a strategy  
*Federica Isola, Federica Leone*

- 578** Plan of the Tourist Port Network of Sardinia  
*Italo Meloni, Massimiliano Ponti, Giuliana Caruso, Massimiliano Mongelli*
- 580** Strategies, functional taxonomy, and typologies for planning city-port interaction areas. The complex relationship between city and port: towards integrated planning  
*Carmen Mariano, Maria Racioppi*
- 582** The role of railways toward sustainable and cohesive territories. An integrated approach for the territorial impact assessment  
*Mario Tartaglia, Serena Martini, Chiara Ravagnan, Chiara Amato*

## **Parallel Workshops**

### **10. UNDERGROUND SPACE**

*Coordinator: Bjorn Bonello*

*Co-Coordinator: Markus Hedorfer*

*Discussant: Elizabeth Reynolds*

- 586** VCHM – Venice Central Hub Mestre. Think deep to create metropolitan cohesion  
*Gianfranco Gramola, Markus Hedorfer, Matteo Montagner, Donatella Schiuma, Roberto Misceo*
- 588** Landscape of disruption. Outcome of telluric actions in the territory of Rome  
*Ilaria Maurelli*
- 590** Underground Built Heritage as catalyser of urban regeneration. Case-studies in the Naples Metropolitan area  
*Giuseppe Pace, Gabriella Esposito, Luisa Fatigati*
- 592** It's getting crowded: Managing underground resource utilization through a network perspective  
*Katrin Pakizer, Fabienne Sierra*
- 594** Including all the layers – making better places from the (under) ground up  
*Elizabeth Reynolds*
- 596** Potential of public underground car park reconversions in European cities  
*Rosina Vinyes- Ballbé*



# Regulatory Inclusiveness and Territorial equipment

Carolina Giaimo\*

In Italy, the construction of a social welfare-system based not on the resolution of emergencies but on promoting people's wellbeing and skills as an engine of development and employment and a factor of social inclusion, has distant roots, dating back to the end of the 19th century. However, these notes make specific reference to the recent phase, following the turn of the 2000s.

## About welfare and Essential Levels of Services

Among the innovative contents envisaged by the reform of the Italian Constitution in 2001, there are the Essential Levels of Services (ELS) that are connected to civil and social rights and must be guaranteed throughout the national territory. The constitutional reform had assigned the State the task of defining them, as a matter of exclusive competence. It is well known that this content has remained unimplemented for almost 20 years.

It was only in 2019 that the Minister - of that time - for Regional Affairs and Autonomies resumed this topic by drafting a bill on the implementation of differentiated regionalism to which we must give credit for having conditioned access to the differentiated legislative autonomy of the Italian regions to 3 questions: the identification of the ELS; the determination of standard-costs and requirements; the regulation of the equalisation-fund for regions with tax revenues that are unable to ensure the ELS in practice.

In the current legislature, it has once again become a topical issue brought to the political scene's-attention because it is connected to the definition of the differentiated legislative autonomy of the regions: among the transferable subjects there is territorial government. The allocation of functions over which autonomy is to be exercised requires establishing which services and benefits are to be offered throughout the country to

guarantee the same social and civil rights of citizens throughout the national territory. This means that if the State defines an ELS, then it must also guarantee municipalities, provinces, metropolitan cities and regions sufficient resources to provide them.

The ELS are based on a Technical Report which identifies also the 'territorial government' within which are identified, among others: the National Building Code (Dpr 380/2001); the urban planning law and the sectorial laws that have an impact on spatial planning; and also the Decree 1444/1968 - on urban standards.

Based on this Report, in January 2024, the Senate has approved a draft bill proposed by the government concerning *Dispositions for the implementation of the differentiated autonomy of ordinary statute regions*: a measure that is now being examined by the Chamber of Deputies. So if, on the one hand, the draft bill defines the general principles for the attribution to ordinary statute regions of further particular forms and conditions of autonomy, specifying that the process must take place 'in respect of national unity and to remove discrimination and disparities in access to essential services on the territory'; on the other hand, it says that the attribution of further functions, relating to matters connected with civil and social rights will be subject to the determination of the ELS including those related to the fundamental functions of local authorities. The fact that this draft bill attributes the nature of 'essential services' to both 'services concerning civil and social rights' and 'fundamental functions of local authorities', generates a series of possible dangerous misunderstandings in the application of these provisions because the ELS, instead of being transformed into resources destined for the implementation of interventions to contrast urban and territorial gaps and disparities to the benefit of families and activities, it will be aimed at the distribution of resources to cover the costs of the functions exercised by the authorities.

## The INU proposal

The importance of recognising in the ELS those minimum endowments that in Italy we call 'urban standards' since 1968, is also recognised by the INU and is an important content of the proposal for a law of principles for the territorial government, relaunched with the Bologna Congress in 2022, which has activated a sort of 'work-site' for the finalisation of a proposal.

What connections there may be between ELS and a fundamental activity of territorial government that, like planning, has as its central goal the public and general interest, starting with the relations with the regulation of services defined by urban planning standards?

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Writing the law of principles on territorial government and planning is the correct regulatory context to affirm that the minimum endowment of urban standards responds to the recognition of a minimum essential level.

It is well known that DM 1444/68 still defines minimum quantities of public spaces and equipment to be allocated for the entire national territory for parks, playground and sport, education, parking and facilities of common interest. It means that the urban standards are, therefore, a spatial prerequisite for the endowment of public space and the provision of public services. In that case, it is however a necessary but not sufficient condition for the realisation (and the proper functioning) of quality urban environments and for offering citizens the guarantee of the right to equal social dignity envisaged by the Constitution. The INU proposal i) confirms, after more than fifty years of validity of Decree 1444, the symbolic, political, technical and cultural value of this norm as a milestone for spatial planning; ii) revisits and updates the matter of urban standards; c) confirm the need to pursue social equity and the guarantee of the provision of spaces for the supply of public services throughout the national territory via minimum and mandatory urban and territorial endowments, which find their primary basis in the exclusive competence of the State regarding the determination of the ELS.

The quantity of public land regulated in municipal plans constitutes, therefore, 'only' the vital premise for the concrete provision of services and the implementation of public policies. The endowment of a quantitative reserve of public areas represents the fundamental minimum basic guarantee that is placed at the beginning of a complex process aimed at satisfying collective and social needs but does not absolve the public actor from its responsibility of formulating and implementing planning and management policies.