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TESI DI DOTTORATO IN DISCIPLINE GIURIDICHE INTERNAZIONALISTICHE ED EUROPEE

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TITOLO DELLA TESI: Il contributo dei fondi europei alla digitalizzazione della PA, tra innovazione, efficienza e coesione: il caso della sanità

ABSTRACT DELLA TESI:

Through the ngeu temporary instrument, it was possible to provide the union with the economic means necessary for the new green and digital development. the italian government has developed the national recovery and resilience plan (pnrr), an investment and reform plan launched to address the consequences of the crisis caused by the covid-19 pandemic. pnrr mission 6 is dedicated to healthcare; a significant portion of the funds allocated to this mission will be earmarked for the digitalization of the healthcare system and the national health service (in italian acronymous: ssn). given that, according to italian constitution article 114, the national legal system recognizes the exclusive competence of the regions in health matters, acknowledging their direct responsibility for the implementation and expenses to achieve the health objectives of the country, a significant issue that has arisen is the “southern question”.

Particular attention must be dedicated to healthcare digitalization tools, with a necessary consideration for the use of artificial intelligence, an area still sparking considerable debate.

As part of its digital strategy, the eu aims to regulate artificial intelligence (ia) to ensure better conditions for the development and use of this innovative technology; the proposed regulation on artificial intelligence assumes, therefore, significant importance from a dual perspective. firstly, it is intended to fill the regulatory gap between eu and third countries highlighted by the commission. secondly, it aims to ensure the development and deployment of reliable artificial intelligence systems within the european union, operating in accordance with ethical principles and the rights of individuals.

However, while the eu is facilitating and promoting the use and availability of ai in the health sector in europe via the digital single market, it is unclear whether it can provide the concomitant patient's right protection. ai-driven technologies are slowly transforming the health sector and will likely change the health professional- patient relationship and affect patient's rights. potential hazardous effects associated with ai such as discrimination, diminished privacy and opaque decision-making are exacerbated in the context of health and may threaten the protection of core patient's rights and the interconnected principals of autonomy, human dignity, and trust. this is due to the vulnerability and dependency of patients when they need healthcare, the potentially life- threatening effects of inaccurate or dysfunctional ai technology used in the health environment, and the problems arising from the nature of ai, such as lack of transparency and the reliance on enormous amounts of personal (health) data.

At this point, it is easy to wonder how the italian regions will manage to align with the activities of the european union. the situation of the italian national health service (ssc) is already significantly complicated. introducing the possibility of artificial intelligence into the system would likely further widen the gap between the italian national health service and those of other eu member states because the italian situation appears immature and unprepared to undertake the path of digitalization and the integration of artificial intelligence into an already territorially discriminated context.

The proposal for the ai act will establish obligations to providers and users of high-risk ai systems. for providers developing and placing such systems on the union market, this proposal will create legal certainty and ensure the absence of obstacles to cross-border provision of ai-related services and products. for businesses utilizing ai, it will foster trust among their customers, and for national public administrations, this proposal will promote public trust in the use of ai and strengthen enforcement mechanisms.

The proposed research project aims, firstly, to investigate whether the european union's goal of standardizing digitalization activities across the european territory could serve as a new tool for european cohesion in the perspective of protecting individual citizens from potential discrimination. specifically, it aims to explore whether the digitalization of healthcare can be an instrument for european cohesion and the protection of individual citizen's right to health, as well as public health. secondly, the research aims to examine how this objective can be pursued by italian regions, ensuring the avoidance of the risk of becoming a new cause of territorial discrimination against citizens of regions economically weaker.

Given recent events, considering the european legislation regarding ai, this research project will focus on the analysis of how the use of ai as a healthcare digitalization tool will be implemented in the italian national healthcare system. it will be necessary to compare it with legal systems which present a different distribution of competences, and which are in a more advanced stage of development compared to the whole of italy and specifically to the south. the usa and china seem to be in a position of objective advantage; however, europe, albeit starting later, appears to have all the resources to recover, and this will be possible by acting in a coordinated manner between european institutions and member states.

For the development of the project, research conducted in locations outside of italy will be useful and necessary; this from two perspectives: firstly, regarding the theoretical phase, it will be necessary to identify how legal systems will regulate the relationship between digitization, ai, and

fundamental rights; secondly, in the practical phase, to determine how european funds allocated for this purpose will be utilized.