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La gestione del demanio marittimo per finalità turistico-ricreative nel quadro dei principi del diritto dell'Unione Europea

The Management of Maritime Public Domain for Tourism and Recreation Purposes in the Framework of Principles of European Union Law

According to the European Commission, the rules on right of establishment (Article 49 of the European Union Treaty and Directive 2006/123(EC) on services in the internal market) are in conflict with the preference granted to the outgoing concession-holder who applies for renewal of its title, with respect to those who file new applications under Article 37, second paragraph of the Navigation Code, also reflected in the rules of the Friuli-Venezia Giulia Region (the so called "continuity right") and the automatic renewal, every six years and for each further expiration date of the concession, as provided for by Article 1, paragraph 2 of Law Decree No. 400 of October 5, 1993, converted into Law No. 494 of December 4, 1993.

The conflict with European Union Law, also assessable from the competition policy point of view and the rules on procurement procedures, was partially resolved with the enactment of Law Decree No. 194 of December 30, 2009 and of Law No. 25 of February 26, 2010. The end of the dispute, still pending between the Commission and the Italian Government, will require solutions which, in compliance with European Union Law will also allow to protect the position of the present concession-holders and the investments they made.