**6. The principles of Italian constitutional order:
the economic relationships**

**1. Ownership right(s)**

**1.1 Ownership in general. Private property**

The right of ownership is regulated by both the Constitution and the Civil Code. In broad terms, according to article 42 of the Constitution, property may be either public or private. “Economic goods” belong to the State, to public entities or to private individuals. Private property is recognized and guaranteed by the law, which determines the ways it is acquired, enjoyed and the relevant limitations, in order to ensure its social functions and to make it accessible to all. Owned goods may be expropriated, in the situations provided for by the law, for reasons of general interest, provided that appropriate compensation is granted. The Constitution demands the legislator to set out (by means of ordinary laws) the rules and limits of legitimate and testamentary inheritance and the rights of the State in matters of inheritance.

In the light of the above, if may be inferred that:

* ordinary laws may not limit or affect individuals’ ownership rights, but it may only regulate/limit the ways it is acquired and enjoyed
* expropriation may not occur to deprive an individual of his/her ownership rights and to grant those to another individual: expropriation may be only aimed at ensuring achievement of public goals (public interest)

As regards the regulation contained in the Civil Code, the following norms should be taken into consideration.

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| *ownership: art. 832 of the Civil Code**The owner has the right to enjoy and dispose of things fully and exclusively, within the limits and in compliance with the obligations set out by the law* |

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| *ownership: art. 834 of the Civil Code**No one may be deprived of ownership unless for public interest reasons, provided that: (i) such reasons are acknowledged in accordance with the law; and (ii) adequate compensation is paid to the person to whom expropriation is addressed.* |

In the light of the above, it should be noted that:

* ideally, ownership is regarded as a “tool” to promote / increase social welfare, not as something which is enjoyed by the owner only;
* owned goods should be dynamically “oriented” to production / trade, they should not just statically held by the owner;
* soil / natural resources should be exploited for production purposes in accordance with the social needs and public interest;
* production should be organized in accordance with the need to harmonize social relationships;
* minor undertakings should be encouraged: special care is taken for agricultural businesses (in particular those managing small pieces of land). Limitations may be imposed to the extension of land owned.

**1.2 Public Property**

Articles 41 to 47 of the Italian Constitution set out general principles regulating public property. In addition, important rules are also set out by articles 822 and following of the Civil Code. In general terms, depending on each individual case, public property may be owned by the State, a Region, a Municipality or by other public body. The general category of “public property” encompasses “*beni demaniali*” and “*beni patrimoniali*".

* “*Beni demaniali*” are properties which are held as directly connected to a general or public interest or need of the community (*e.g*., beaches, rivers, works connected to national security and defense, roads, highways, real estate properties with a national historical or archeological interest, etc.). Save for a few exceptions, “*beni demaniali*” may not be owned by private individuals. In certain cases (*e.g*., beaches, rivers and the like), public properties may be only owned by the State (in other words, in such cases, they may be neither owned by private individuals not by any public entity other than the State). In general terms, irrespective of the identity of the relevant owner, “*beni demaniali*” may not be disposed of by the relevant owner and may not form the object of any *ad rem* rights in favor of any third parties, unless in accordance with the rules set out by ordinary laws in force.
* “*Beni patrimoniali*” are properties which, by nature, are owned by public entities, but are not directly subjected to a general-interest limitation or constraint (for instance, real estate properties hosting public offices). “*Beni patrimoniali*” may be either “*indisponibili*” (in such case, the relevant owner may not dispose of such properties, nor create any rights in favor of third parties) or “*disponibili*” (if no such limitation is in place: in such case, the applicable legal regime overlaps with the one applicable to private property).

All of them are generally set to meet a public/general need or interest and may not be diverted from their public destination. As mentioned, in certain cases, public property may not be disposed of (“*beni patrimoniali indisponibili*”).

It should be also noted that, under Art. 9 of the Constitution, *“The Republic promotes the development of* ***culture and scientific and technical research****. It safeguards the natural landscape and the historical and art heritage of the nation”.* This is an additional source of constraints to which public properties may be subject.