

**RESEARCH PROJECT OF THE BARI UNIT -
MODEL B**

Year 2005 - prot. 2005127580_001

**Multilevel governance and economic policy making:
inquiring into the economic sovereignty**

Description of the research programme

The development of the research will articulate on more levels.

1) The proposed research will have to depart from a recognition of the theses (kind the most meaningful) concerning the numerous profiles, problematic and not, regarding, also diachronically, the political trend (juridical nature, exercise, etc.), for then to specifically focus itself on the profile regarding the economy. Such recognition contemplates to the characterization, from a side, of the subjects and of the organs that have participated to the definition and the realization of the economic goals which all the public activities have been directed, and, from the other, of the procedures, of the actions, in short, of the tools, to such end used. So reconstructed the antecedent framework to the deep transformations determined by the processes of europeization and globalization (as well as of "glocalization") of the economy, it will proceed to an analysis directed to the verification than "survives" of the precedent models and tools of economy governance, and therefore to test, on the testing bench of these transformations, the conceptual category of the political trend, eventually in the plurality of its hypothesis, to verify if the concept, elaborate in the age of the sovereign national states, can preserve, even though partially, one validity of its or if, instead, is destined to a contingent margination or to a real cancellation by the group of the constitutive and "living" themes of the constitutional law.

2) The "phenomenons" above quoted, in fact, have conducted (relatively knowingly) to a multiplication of the levels of governance and to the fragmentation of the centers appointed to assume decisions, with strong de-potentiating, in the time and in the space, of the state primary normative production, but also, in general, besides with more limited range decidedly, of the public normative production in strict sense. As it is told in the base of scientific departure of this research, they base themselves on the actual role of the State and on its relationship with the territorial and functional autonomies, and they seem to imply the overcoming of the dimension of the State-nation which stings of reference of the political trial and place of synthesis of the values of (and of the rights recognized in) a date social community, to everything advantage of a multilevel organization of the policy making. It will be necessary, therefore, to investigate in order to the real distribution, allocation and possible reassembling of the economic political trend in the actual political-juridical space.

3) The adhesion of Italy to the European Community, as it is known, has, for a verse, determined the attribution of remarkable the European Central Bank as it regards the monetary politics), and, for the other, a meaningful transfer of the powers of individualization and definition of the general goals in the sector of the economy. Such powers, in fact, result, from a side, absorbed by the intergovernmental method and, from the other, strongly limited by the objective crystallized in the primary community law, first of all the competitive principle (now formally inserted also in the

new art. 117 of the Italian Constitution) and the c.d.'s criteria "pact of stability". It will be, therefore, further objective of the present research to locate: a) the effects of the application of the competitive principle and its necessary guardianship in the national system, also to the purpose to point out its possible conflicts with the social imprinting of the republican Constitution; b) the actual range, as paradigmatic actions of economic political trend, of the laws of budget and financial, to the light of the rigid community criteria - only now partially "flexibilized" - of the already quoted pact of stability.

4) Then, with regard to the pushes toward a greater autonomy of the local communities towards the central powers, it is certainly necessary to begin from the recent changes of the Title V, Part II, of the Constitution, brought by the laws of constitutional revision nn. 1 of 2001 the 1999 and 3 (besides, somehow, already "anticipated", at least under some profiles and to unchanged Constitution, from the cc.dd. "Bassanini's laws" and from the relative legislative decrees of realization). The constitutional "formal" framework that derives would seem - it is possible, in fact, as it will be seen, to foster some doubts - also it to meaningfully erode the spaces of manoeuvre of the State in the determination (also) of the economic politics. Objective of such profile of the research will be that to verify the configuration of relationships State-regions in their concrete carrying out in comparison to the normative forecasts, without neglecting, obviously, but rather holding in the maximum regard, the numerous pronouncements of the constitutional Court provoked by relationships characterized by remarkable conflicts, at least partly due to the novelty of the constitutional framework of reference. The Court, in fact, interpreting the new constitutional dispositions has in the facts determined the real meaning, sometimes also very different from that one possible to draw from their textual way, ending, so, to practice a decisive role in the definition of the spheres of competence of State and Regions. Symbolic of the relief that constitutional jurisprudence assumes in order to the definition of the matter of the "an" and of the "quantum" of lost sovereignty from the State to the Regions provoked by these constitutional reforms, it can be considered, for example, the sentence n. 303 of 2003, in matter of infrastructures and productive installations, that individualizes in the principle of "vertical" subsidiarity provided in the art. 118 Cost. a «dynamic mechanism», able, in determined cases, to justify «a derogation to the normal division of the competences». When this derogation applies, the administrative functions attracted to the State to satisfy unitary demands, drag, for the principle of legality, also the exercise of the corresponding legislative function, that so passes from the regional level to the state level, leaving this out of consideration about the rigid nominal subdivision for subject provided in the art. 117 Cost. From this point of view, it will be necessary to verify if the limit of the national interest, formally expunged by the new Title V Cost. (but again proposed now by the proposal of constitutional reform A.S. 2254-B, approved in first reading by Chamber and Senate), could however find other ways of entry in the constitutional system of the relationships State-regions, with particular reference to the discipline of the economy. Particularly it will need to investigate, if (and in what terms), besides the "flexible" principle of subsidiarity (when this operates upward), other clauses (for example, art. 120, alinea 2 and art. 117, alinea 2, Cost.) of the new Title V can

apparently offer the possibility to the State of recovering shares of economy sovereignty given to the system of the autonomies. In the light of the developed observations, it seems opportune that this profile of the research reaches, then, also the resolution of problems set by the action of state of economy governance such as the independent authorities. These authorities, as known, are in charge, in a way fundamentally exclusive, of functions of regulation and guarantee in sensible sectors (also and mainly) of the economy. The constitutional reform has however escaped from the exclusive legislation of the State (and has therefore submitted to the concurrent or residual legislative and regulation determination of the Regions,) the discipline of subjects which the independent authorities were put at the head, setting thus remarkable doubts in order to the division of competences between these authorities and the Regions.

5) The erosion of the ability of the State to provide for realizing in concrete the goals which to direct its own activity in economic sphere is accentuated by a further element from whose investigation the present research cannot escape: the constitutionalization of the principle of "horizontal" subsidiarity, that should characterize the upsetting of the perspective of the relationships not (only and not) so much between State and "private", how much more on the whole between "public bodies" and "private initiative". Beyond the real range of the innovation (also very discussed) to attach to the art. 118, alinea 4, Cost., the investigation will have to attend to verify the real sphere of application of the principle in matter and its participation in fixing a new economic and social constitutional model.

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