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DOTTORATO DI RICERCA IN DIRITTO PUBBLICO

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TESI DI DOTTORATO

**IL FEDERALISMO FISCALE IN ITALIA
TRA AUTONOMIA E CONVERGENZA EUROPEA**

Abstract in lingua inglese

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Abstract

Doubtless the theme of the fiscal federalism (whose meaning is analysed in the first part of the thesis) is the focus of a vivacious political-institutional debate, concerning a general reform of State legal system.

Main theme of the debate, as one of the principal reasons leading to the fiscal decentralisation, is a strong need for fiscal autonomy, in order to change current tendency for regional and local corporate Bodies towards a sensitive increase of revenues against a significant decrease of current state transfers. Fiscal autonomy means the possibility for sub-central government to decide which tax to apply, and therefore the entity of the charging. A wider fiscal autonomy aiming at achieving a degree of differentiation in the levels of expense is a necessary condition for a more articulated public sector, which makes it more efficient and together more democrat and pluralist. Responsibility of different levels of government assures at the same time a wider transparency of the decisional process so much to national level as on the regional and local plan.

Second part of the thesis is focused on the different theories of public finance and on the impact of fiscal decentralisation.

Third part analyses the impact of fiscal decentralisation in the European law.

Fourth part is focused on the essential evolution of the finance of Territorial Corporate Bodies. The process of fiscal federalism in Italy happened through the adoption of some reform provisions which pursued to strengthening self-government system in the autonomous territorial Corporate Bodies, reducing the derived nature characterizing their financial system for long time.

Legislative decree n. 56 of 2000 has contributed to decentralize functions and expenses and entrance responsibility, so modifying the role of different government levels and, therefore, favouring a footstep towards fiscal federalism. But the meaningful datum is represented by the approval of the constitutional law which has modified the Title V of the second part of the Constitution. The new constitutional norms on Region and local Corporate Bodies (art. 119) prefigure a model of financial autonomy which rotates around two fundamental principles: regional *self-determination* and *equalization* of the available resources, held by mechanisms able

to maintain and to safeguard anyway the solidarity between Regions. Such principles in fact find in the text of the reform a balancing.

The changes of local Corporate Bodies financial system happened both on the plan of the ordinary legislation and on the consitutional plan and are connected with the innovations aiming at strengthening the role and the institutional condition of Municipalities, Provinces and Regions, in a process towards a “federal Republic” that can be completed only with the financial autonomy of territorial corporate Bodies. Institutional and fiscal federalism are strictly connected. It must be said that, from the standpoint of the method, implementing article 119 within the framework of the new Title V of the Constitution calls for a deep transformation of the State, perhaps the most radical one in decades. It means committing a vast number of regions and local authorities to be able to rigorously manage resources, increase the efficiency and productivity of their facilities for providing services, assess performance, and adopt policies capable of fostering ability, merit, quality and productivity. It means in substance putting in place an essential tool to attain the revolution of the institutional and administrative system which has often been announced in the past (and to some degree commenced) but which has never been fully achieved up to now.

Also because the question of fiscal federalism, and so the allocation of resources among different levels of government, raises a constitutional issue of paramount importance that goes to the very heart of the form of State because it concerns the relationship between central and local politics, the common need to have resources to fund public services and above all the guarantee that all citizens can enjoy their civil and social rights equally.

Article 119 of the Constitution and hence Italian fiscal federalism is to be implemented through delegated legislation whereby parliament entrusts the national government – through Law No. 42 of 5 May 2009 – “*Delegation to the government in the matter of fiscal federalism further to article 119 of the Constitution*” –, that is analysed in the fifth part of the thesis.

The implementation of fiscal federalism, in a difficult balance between self-determination and equalization, is the challenge for the entrusted legislator: it is clear that a federal system which does not also incorporate fiscal federalism will not be very effective.