

THE STATE-REGION CONFERENCE THROUGH THEORY AND CURRENT PRACTICE IN THE LIGHT OF CONSTITUTIONAL LAW CASE

ABSTRACT

After ten years from the reform of Constitution's Title V our legal system didn't find yet a definitive balance about the general set-up of relationships between government's different levels.

The forecast of shared decision-making models and of shared procedures, in contrast to the strict separation of competence, marked the beginning of cooperative regionalism, that force the predisposition of concerted procedure between State, regions and local authorities.

From this point of view, played an important rule both the constitutional law case, that used systematically the "loyal cooperation" canon, especially about the distribution of legislative competences, and the public legislation when has often requested the reaching of consent with regions.

In particular, from the analysis of Court constitutional's law case is deduced that the cooperation hasn't only a role of guarantee concerning inferior territorial levels, when these take part in public decisional procedures, but has also a compensative role for the functions removed from regions and reassigned to the State for the reaching of unitary interests.

This law case, especially to pass the rigidity of the system's distribution of competence – produced by the enumeration for blocks of subjects and by the disappearance of flexible clauses, like the limit of national interest – ruled the possibility for the State to interfere also in matter of regional competence to realized unitary interests, on condition that public law prefigures administrative shared procedures whit regions.

The "interference or competition of subjects", the "trasversality" and the "involvement of subsidiarity" are interpretative canons that set out a role's centralization, and define a handover from "subjects" to "politics".

The growing requirement of cooperation between government's different levels didn't find realizations in institutional connection mechanisms, considered the absence of a Federal Chamber and the failure to implement the connection in the Parliamentary Committees, provided for by constitutional law n. 3/2001, but found answer only in the Conference's system, made up of the State-region Conference, the State-town Conference and The Unified Conference.

In view of the systematic demand of cooperation's models, and the compensative role of cooperation in the constitutional law case, you must value the replaceability of participation's regions in the legislative function, with intersubjective fitting systems made up of the representatives of the State and Region Executive power, like the three Conferences.

The comparative analysis' results show the variety of the cooperation's contents, and its implementation mode, but also prove that in these legal systems never fail tools that guarantee the States' participation in the Federal Legislative power.

Also the analysis of the structure and operating mechanisms of the State-regions Conference prove that it's not admissible an exchange between the democratic participation in the Public Institutions and the participation of the representatives' executive power in the Conferences, both the hierarchical inspiration, and for informality of organism's working, produced by the absence of a finished regulation on its operation.

In particular, in the Conference, regions don't outweigh, also because the decision-making models in Conference, as agreements or advices, have a modest collaborative charge, especially when the participation of the Regions' Governors is following an exception of the distribution of legislative competences, because these models give the definitive appreciation on region's participation to the State power.

Otherwise, the reform of the Title V, based on the article 114 of the Constitution, provides for equal relations between the State and Regions, that requires the collaboration of find implementation through bilateral instruments.

On the other hand, in the constitutional law case the Conferences become the main collaboration tool in the intersubjective relationships, and also the current practice show the growth of the Conferences' political role, that can influence government decisions, even through the consultation activity.

For these reasons, the judgement on the suitability of the Conferences to synthesize all the cooperation's needs, is disputed in the doctrine, and also assume centrality in the general order of the intersubjective fitting.

The Conference seems to be an appropriate place for negotiation of State and regions' shared wills, for the common objectives' definition and for the determination of political planning acts', because these are activities that must be conducted by the executive power; otherwise the Conference is not adequate to legitimate the compensative role, that the cooperation has in the Court constitutional's law case.

In these cases, the removal of regional's attributions requires an involvement of the regions in the procedure for the formation of law, that could be implemented by a Federal Chamber, formed by regions' representatives, that might coexist with decision-making models adopted by the executive power in Conferences.