

LUISS

Libera Università Internazionale degli Studi Sociali Guido Carli

Dottorato di Ricerca in
Diritto degli affari
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LE COOPERATIVE E L'INTEGRAZIONE EUROPEA

Coordinatore
Chiar. Mo Prof. Gustavo Visentini

Tutor
*Chiar. Mo Prof. Luigi Filippo
Paolucci*

Dottoranda
Vincenzina Contarino

The aim of my doctoral thesis is to analyze the problem of Compatibility of tax regulations (in force) in our country in the field of co-operative societies with the constraints imposed by Community law for the protection of competition and the market, particularly with regard to the rules of “state aid”, prohibiting the adoption of public measures, including tax, that results in a competitive advantage for certain undertakings.

The subject is highly topical given that in this matter has recently been debated by:

- The European Commission, with a request for clarification about the Italian Government (and not only, as it is preceded with a similar query in Spain and France);
- The Supreme Court of Cassation, which by subsequent orders in accordance with Article. 234 EC, expressly returned to the Court of Justice of the EC.

This study is of a core importance especially with regards to the approach that the Commission has given to its *Communication*, arguing essentially that there is no difference between cooperatives and non, and if it were, it would end up questioning any possibility to grant them tax benefits (beyond the size), thus ignoring the added value that historically inspired and accompanied each of our legislative developments in this area. Through study and research, I have shown how the system of taxation in the Italian co-operative sector has developed standards of principles that go back directly to the will of the Constituent of 1948.

The rules on the subject (of which a detailed chronological reconstruction of content is provided) have always been the tool to promote and foster the development of this form society, up to more recent times, with the reform of 2003.

Through a comparison of different corporate models, it is therefore clear that the legislator has only tried to compensate for a number of disadvantages that cooperative have than lucrative companies. The promotion of cooperatives cannot even be said to

be contrary to the principle of free competition established in the EC Treaty, the protection of which is the main concern of the state aid system and this confirmation was sought through the analysis of regulations and the relevant legal guidelines.

All the work was developed keeping in mind the essence of the problem for the Italian system, especially since it has a direct influence on the ability to invest in the cooperative *model* in order to create new jobs, finance innovation (especially in the South, which is where I come from) allowing people to preserve an heritage of great value for future generations.