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POSSIBLE PARALLELS IN VARIABLE GEOMETRY

Introduction.— The topic of regionalization and of the region continues to be relevant active and has its roots anchored in solid traditions regarding the problem of organization/planning of the territory (Scarpelli e Spinelli 1994, Vallega1984).

The search for the identification of the region and for its classification, along with the consequent outcome of territorial distribution, has been combined with the act of organizing nation states that enrich the applicative fallouts regarding the search for boundaries adequate to administrative targets.

An investigation of these two aspects is the aim of this research. It departs from a consideration of the renewed importance that regional politics has acquired in the European Union and unpacks similarities between the development of territorial cooperation, pertinent to cohesion politics at the European level, and steps regarding the territorial rearrangement that is taking place in Italy.

The elaboration of a model of economical politics under the dictat of equity and efficiency is indeed contingent to financial aspects both at a European and state level.

The problem of the distribution of competencies is further complicated the need to find a way to adapt the above-mentioned model with respect to administrative uniformity. Such

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administrative uniformity does not coincide with regional uniformity in a geographical sense and, consequently, the criterion principle of distributive justice is compromised.

A way to solve this impasse could be to opt for ad hoc solutions that result from the application of the principle of the cohesion, thereby allowing the usage of the “local government” strategy in a reality featured by regional polycentrism. Such a strategy, regardless of the extension of the territory and of the managed resources, consists of recognizing the “necessity of comparison between the peoples and the institutions, in a free game of the most diverse aggregations of interests” (Lo Monaco, 1982, pp.16).

Indeed, it is noteworthy that in order to pursue the objectives of equity and balanced development of regions, as is the case at a European scale, and lacking expertise in terms of planning, the principle of territorial cohesion, inlaid in the Treaty of Lisbon 2007, has been developed regardless.

The principle of cohesion makes overcoming the administrative divisions possible as regards the problems that can be better managed together rather than separately (COM (2014) 284 final).

It is then possible to say that territorial administrative reorganization can be achieved through a planning strategy for which, in Europe, the Macro-Regions provide a very interesting, applicative example.

In the same way, at the Italian level, such principles of cohesion seem to be the guiding principle in approaching the territorial reorganization both through the intercommunal associationism and through the simplification of the levels of government on the territory.

Thus, the term “variable geometry” can be adopted at both levels and used to identify the process of recognizing institutional responsibilities without fiscal (tax) increases.

The analysis of what it is happening to the macro-regional dimension in Europe, and of the territorial rearrangement in Italy, is used here as an exemplary case with which to evaluate the application of the principle of cohesion to the territorial dimension in re-designing space with the aim of optimizing public resources.

Who does what .— The goal of this paper is to contribute a structured analysis regarding the criteria of distributing functions between territorial entities as well as to the unified vision of the federal republic, thereby adding supranational insights.

The term variable geometry stems from the phenomenon of the territorialistic swerve in politics for regional development (areas designed by territorial terms, integrated projects, etc).

As Sturani points out (Sturani, 2013), the hypothesis of identifying forms of an absolute geographical rationality as a standard for the rearrangement of the partitions is faded, and even if the assertion “the function forms the organ” (Lamarck, 1809) remains true, the evidence of the facts shows a plurality of effective solutions that are incongruent with the optimal deterministic mesh of repartition. However exploring all the aspects that this topic involves is no easy task. A response to why such a debate is currently so important relies on the analysis of different solutions addressed to pointing out the most efficient and effective systems adopted. Moreover, this response should highlight the best practices implemented in the different territories regarding the aspect of the governance; and also look at the debate connected to the aspect of the territorial repartition of the competences that is cohesively connected to the aspect of the public expense. This last issues is a very delicate aspect to which the legal certainty has to be ensured and consequently the certainty of population and territory.

In the vision of the European Union aspects of governance and of the repartition of the competences are connected to the theme of federalism. Adopting a classic metaphor that considers the region as an ‘organism’ it is possible to recognize that we are in the presence of a body that can be broken down in multi-levels, each endowed with several apparatuses of specific functions with a degree of functional autonomy. Each apparatus, thus, must recognize the others with which it shares the final task of organization in various levels and that, once accomplished, has an overall accumulative autonomy. Such accumulative autonomy needs continuous sharing and legitimation nourished by democratic processes.

This consideration, therefore, constantly pushes for a multi-level or multi-scale analyses to be considered within the observations made at the European scale, where this is much more pertinent since the Union exerts the function of directing public funds from member States in terms of regional politics.

Therefore, observing European practices for territorial cooperation that have become the starting mechanism for varied geographies, becomes in and of itself a privileged indicator to compare the outcomes in Italy following the implementation of regional policies, thereby allowing for the identification of parallels.

It is particularly interesting to underline the origins of a functional region as the consequence of the administrative region as well as the contemporary manifestation of the actors involved with their various competencies. The points of interest, and which will be analyzed throughout its evolutionary process, are the following: the competency at the European scale in the task of accomplishing a rebalancing; the need to identify territorial areas uniform and comparable; and the institutional recognition of possible costs by member States to assure the convergence between functional and administrative elements in addition to the understanding and sharing of such actions in the midst of the States membership.

Historical regional comparison. - The community strategy sought to decrease the regional disparities that arose in the 1970s with the institution of the European Regional Development Fund. From this perspective, it is possible to underline the first historical correspondence between the European actions of regional involvement and the Italian normative of execution of the regions with ordinary statute from 1970 till 1977. In this period the growing regional European policies, based on the coordination of the regional politics of member States, began to take on additional characteristics with respect to the distribution of equal national aid.

Furthermore, it is clear that the outcomes of the structural policy marked by the Fund Reform of 1988 (a reform needed since the first stages of the expansion process) finds parallels and correspondence to decisions taken at the European level and the territorial fallout in Italy.

This was simultaneous to the development of the process of variable geometries stemming from the Regulation CEE 2088/85 as well, concerning also the so-called Mediterranean Integrated Programs (PIM) commitment to the improvement of socio-economical infrastructures in the Mediterranean regions.

The three resulting community structural Funds (The European Fund of Regional Development FESR, The European Social Fund FSE, The European Fund for Agriculture Orientation and Guaranty FEOGA) were all three jointly committed to the funding of the PIM. Thus, the reform of 1988 can be considered the practical implementation of the European Single Act of 1986. Indeed, through such acts, the task of re-equilibrating becomes relevant at the European level: the regional disparities became an impediment to the realization of the European internal market as well as an impediment to economic integration itself.

The tasks of re-equilibrating and equalization are therefore two concurrent functions of super-national and national competence.

In Europe, these competencies promote action and require attention at a regional level. Thus, this is the time for a “Europe of regions” and the relevance of the role of the acquired autonomies, even if with some differences, is emphasized both by the European Council and within the European community. This reference to the “European Chart of the Local autonomy”, signed in Strasburg on 15 October 1985, and established in Italy with law n. 439 on 30 December 1989, affirms “...the right and the effective capability for the local communities to regulate and administrate”. This process continued with the assignment of the Maastricht Treaty of the Committee of the Regions, settled in 1994, and with the adoption of the principle of subsidiarity that sets the attribution of functions. Interest in the promotion of the regional level (or standard) continued through the preliminary project of the Convention on Inter-Territorial Cooperation of the Collectivity or Territorial Authorities (subject to the attention of the Committee of the Ministers from the permanent Conference of the local and regional powers of Europe with Resolution n.248 of 17 March 1993) and also with the project about the European Chart of the regional autonomy, approved by the House of Regions of the Congress of the local and regional powers on 4 June 1997 (Fois, 2004). These acts are reflected by the European community with the Common Declaration of the Council of the Commission, the European Parliament’s decision on 19 June 1984 concerning the need to affiliate Regions to the decisional process of the community (G.U.C.E. n.C.326 of 19.12.1988, p.289 ff.), as well as with the Stoiber-Gomes report, “Regions and Cities, pillars of Europe”, adopted by the Regions’ Committee on 10 April 1997. (Fois, 2004 p.3).

The meaning and extent of the term region in Europe are defined in Article 1, subparagraph 1, of the Statute of the Assembly of the Region of Europe (ARE) established in Basel on 4 December 1996: “the region is the territorial public authority (or entity) at the next lower level of the State, the region is endowed of politic self-government”. Thus, the region is considered the entity endowed to represent the population belonging to said specified territorial area. This could, therefore, be interpreted as meaning that it is impossible to accomplish integration without the removal of imbalances which appear in particular areas where coordinated, ad hoc policies are needed. Yet, such territorial areas (i.e. regions) receive funds and are managed precisely because of the mentioned legitimation expressed through and by their ability to legislate.

Therefore, at a regional level, the role of expressed local action and the recognition of this indivisibility from the same or higher levels exists. The expression of indivisibility and thus also of autonomy (from the Greek atomos, meaning indivisible) within a union is already established with the launch Interreg program on territorial cooperation, a European community initiative started in the 1990s.

Interreg supports interregional and trans-boundary projects with the scope of promoting dialogue between European Union regions and Countries and their neighbors. Furthermore, Interreg also contributes to the alignment and bringing together of these groups. Accordingly, the expression of variable geometry also serves an integrative functionality. In Italy, this consists of the Law 142 “Regulations of local autonomy”, from the 1990s, from which a new stage of decentralization became evident. Following the financial crisis, regional dynamics played an important role with the adoption of the Maastricht Treaty, a crisis linked to the acquisition of convergence criteria.

In Italy policies for monetary devaluation were impossible in order to meet the parameters set by the Maastricht Treaty, a heavy burden of public debt forced Italy to rely on regional competencies, offices, personnel, following the conclusion of the extraordinary intervention in the South and with the creation of regulation for underdeveloped areas with Law 488 of 1992.

The regional approach adopted in Italy is what gives it the force to confront the problems of European integration and the problems connected to processes of internationalization since,

in terms of competitiveness, it is now counterproductive to continue with protectionist policies.

The legislative reference can be found in the Bassanini regulations regarding the administrative federalism on unchanged constitution: Laws n. 59 and n. 127 of 1997. Legislations that, as mentioned, were about alleviating the state budget from financial charges that could create an obstacle to the convergence criteria invalidating the entry in the single currency politic.

Therefore, the new international economic asset produces a change in terms of the role of the State within a new international order, underlining the function as negotiator for all national interests as well as for subsidiaries, or even substitutes where conflicts with previous arrangements with local governments, key actors for political development may arise. The compliance of these decisions is similar to what has been experiences in other European countries (Bonaverò, Dansero 2000).

Within this frame, the design for Negotiated Planning was based on the orientation of community guidelines that indicated a bottom up approach and within geographical specifications of interventions or solutions to public policy dysfunction/failures, for the structural remediation of unequal territories.

The activities of Negotiated Planning have been implemented with the Law 662 in 1996 (further recognized as a financial law in 1997). Through the design of the Negotiated Planning, the new areal concepts were imagined as regards the territorial pacts. The final breakthrough of this process occurred with constitutional Law n.1 in 1999 and Law n.3 in 2001, "Changes to Title V of the Second Part of the Constitution". The key point of regional autonomy is that the legislative authority, through the changes established in Title V, becomes substantially equated to that of the State; furthermore representing a temporal adjustment to the regulations and the achievement of administrative federalism. Another related task, and still being organized, is the concept of fiscal federalism which would bring about the harmonization of public budgets, the coordination of public finance and the tributary system. This task will be discussed below in Section "*The crisis disrupts parallelism*" in the paper.

III Millennium.— The new millennium, at the European scale, brought about a changing international environment marked by important commitments of enlargement. Consequently, the European Union needs to be given the appropriate tools in order to be able to reorder the parameters of the concept of disequilibrium so that it can effectively deal with the new global challenges, whether economical, environmental, social or geopolitical. Here we specifically refer to the Treaty of Nice and afterwards to the treaty that later instituted a Constitution for Europe in 2004, signed but not ratified, and the Treaty of Lisbon in 2007. The key emerging issue is that through these documents, territorial cohesion became a fundamental target for the European Union. The Treaty of Lisbon foresees the collaboration of all levels of government in Europe as well as the expressed recognition of the principle of regional and local autonomy of the member states of the European Union, and a greater involvement of the local and regional levels as part of the principle of subsidiarity. A first and obvious consideration is that in order to change the rules it is essential to enter into agreement through the accomplishment of treaties (*mutatis mutandis*, the constitutional law).

With the Treaty of Lisbon, territorial cohesion became part of the primary right of the Union and it has forced community institutions and member states to put this into practice. At this point it is possible to highlight the evolution of the territorial competences at the European scale: from a first phase of coordination of the territorial policies of the States members, to a rebalancing up to the point of cohesion whose core is a competency on equity.

As with the initial experiments with Interreg, and with the establishment of the variable geometry, so with the territorial cohesion, a new form of analysis of the territory was added that corresponded to the Macro Region, a form that arose with the rescaling of the post-globalized economy. The finality of this process is achieved through the review of the European budget and with the new planning for the period 2014-2020. Thus, macro-regional strategies are expressions of an evolution of regional policy that is suitable to promoting a local development capable of surpassing the boundaries between member states because of its efficiency and encouragement of large spaces and functional regions united over specific problems. These experiences are: the strategy for the region of the Baltic Sea (EUSBSR) carried out in 2009; and the strategy for the Danube region (EUSDR) in June 2011.

Currently Italy is interested in starting a Macro-Regional Strategy Adriatic-Ionic and a Strategy for the Alpine Macro-Region. The variable geometry is then applied to macro areas where new processes of governance are being experimented with as well as new cooperation networks. These themes refer back to the issues of recognizing regional and macro-regional competencies resulting from the processes of rescaling for the management of funds. The adaptations carried out both by the Community bodies and in the Committee Of the Regions (CdR), a committee that is involved throughout the entire legislative process, respond to this impulse to recognize competency and legitimization. Furthermore, the CdR has the right to bring challenge these in the Court of Justice of the European Union.

The crisis disrupts parallelism .— Italy is currently at a standstill: as seen in many previous studies (see Footnote belowⁱ) of the current state of implementation of the territorial rearrangement that began with Law n.42 in 2009 and that is nowadays being implemented through a path towards fiscal federalism, it can also be seen in the context of strained public finance. Such problems were further increased due to the economic crisis in 2008. The difficulties inherent to such a process, were capped with Law n. 56 in 2014, when it became clear that constitutional precepts were not implemented, the regulatory framework was disjointed, a lack of coordination and the adoption of anti-crisis measures that, because of their influence on the financing made available to local entities, in practice caused a distortion to their model of autonomy. In parallel, while avoiding an underestimation of the reports regarding speculative events in several regional councils, the fact that many regions developed advanced policies both regarding the implementation of the European normative and the politics of local development have to be taken into account. Thanks to European incentives, those entities have consolidated and created a necessity for their level of government in order to support the function of the ordinament in its overall aspects (Mangiameli, 2012). Thus, the uncontested importance of the regional role within Italian territorial organization is missing when putting fiscal federalism into practice . Such an issue takes on a renewed significance exactly with the occurrence of the economic crisis and it underlines the problem of regional heterogeneity that is an impediment to the initiation of a

path towards fiscal federalism and an impediment to a true governance through which economic repartition can be achieved.

The topic of inequality is always relevant as it attests to the incapability shown by the State in executing a function to establish regional equality. This incapability is related to a lack of acceptance of reflections stemming from studies on the regionalization; indeed, there is no correspondence between the current regional area and the elementary levels of homogeneity from a geographical point of view – neither in terms of physical distribution of the population nor in economic terms. Moreover, the incomparable density in terms of urban distribution and integration of the city-countryside relationship must be mentioned. Furthermore, another aspect that contributes to the stickiness of the process of rearrangement, is associated to these poor results: that of the failure of the decrease of state spending in response to a transfer of functions to other territorial entities (Mangiameli, 2012).

Considering the consequences of parallelism and the paths traced from a European scale in terms of policies of cohesion and budget, there are some possible pathways forward.

In Europe the issue of the crisis has declined together with the lack of stability caused by member states with high public debts in the Eurozone. The first response was with the Fiscal Compact: the Resolution of the European Council on 25 March 2011, with the modification of Art. 136, the Treaty on the Functioning of the European Union (TFUE), and the establishment of the mechanism of stability that member states can activate in defense of stability itself. On 2 February 2012 the Treaty on the Mechanism of Stability (TMES) was established and that followed the Treaty on Stability and on Coordination and Governance in the Economic and Monetary Union (TSCG) which pointed to the need for and obligation of member states to maintain a balanced budget (*pareggio di bilancio*) as well as the need for them to establish national mechanisms to deal with cases of significant deviances from European targets.

The reassurance of balanced accounts goes alongside to launch of the European Strategy which has underlined the need for integration of public and private resources and of their finalization to the territories.

The principle for a balanced budget places the pact of stability as a limitation to the principle of territorial cohesion and thus to the pact of equity, but the opposite can be also true.

The insertion of the golden rule (i.e. balanced budget) within the Italian Constitution, constitutional Law n.1/2012, and its extension to the budgets of the territorial divisions, reaffirms the importance of realizing a structure which is more responsive to the processes of European integration and to the international economic system. The issue is with developing an effective horizontal equalization launched with the federalist reforms that have granted legislative power to the regions. The regions could then assume a direct responsibility in equalization matters together with the State stating virtuous processes of competition. Such re-scaling could be rewarding for the regions able to achieve the best results. The State would remain the grantor of internal cohesion.

The regions had important roles as workshops of federalism and they could exploit the regional imbalances as drivers of growth in a cohesive vision for regional development taking into account macro-regional strategies with equalizing and promotional functions. Such an inner strengthening of cooperative federalism would be profitable to the State as it expresses its function of negotiation in international settings in defense of national interests and accomplishes a re-composition of the parallelism grounded on a logic of scales of the territorial power. Such logic cannot be divided from considerations on amplitude (or extent) and since these considerations are the ones that sustain the effective contribution of the territorial validity for equilibration and for development with respect to the criteria of subsidiarity, adequacy and differentiation. (Art. 118 Cost, introduced with the 1st Const. n.3/2001).

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