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## Changes in Italian Regional and Local Government: The Case of Education

### ABSTRACT

This paper makes some reflections on the education provided by Italian schools. The problems analysed are largely due to the fact that this public service is delivered through a dispersed decision-making process involving many institutional bodies other than the State, in a galaxy of responsibilities and competences, without the necessary coordination. This has a negative impact on the operation of the school system, weakening its effectiveness and slowing down its overall development.

**KEYWORDS:** regions, provinces, municipalities, education, schools, autonomy, fiscal federalism, Italy

### I. PUBLIC SERVICES IN ITALY; BETWEEN TERRITORIAL DECENTRALISATION AND ECONOMIC CRISIS

Over the last ten years, the Italian Parliament has paid particular attention to public services with economic relevance, especially to the ‘local’ ones, and to their management. A complex process of reform started in 2008, aimed at promoting competition, freedom of establishment and respect for the EU rules on providing services.

More recently, the Parliament has delegated power to Government to review the regulation of local public services of general economic interest, in the context of the public administration reform undertaken in 2015.<sup>1</sup> The Consolidated Law on these services (which is under approval) introduces ‘general and systematic provisions’ for the local public services sector, by revising the current chaotic and fragmentary regulatory framework.<sup>2</sup>

The legislation on the management of ‘public utilities’ (e.g. water service, waste management, gas distribution) has always been characterised by the difficult search for a satisfactory compromise between two opposite visions of public intervention. On the

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<sup>1</sup> Law no. 124 2015. *Deleghe al Governo in materia di riorganizzazione delle amministrazioni pubbliche.*

<sup>2</sup> G. Citroni, A. Lippi and S. Profeti, Local public services in Italy: Still fragmentation, in H. Wollman, I. Koprić and G. Maréou (eds), *Public and Social Services in Europe. From Public and Municipal to Private Sector Provision* (Palgrave Macmillan UK, London, 2016, 103–117) 103, [https://doi.org/10.1057/978-1-137-57499-2\\_8](https://doi.org/10.1057/978-1-137-57499-2_8)

one hand, there is a traditional political-cultural approach contrary to the liberalisation of public services and supporting their direct management by monopolistic local public companies (so-called ‘municipal socialism’). On the other hand, the drive to create a more competitive market has progressively increased – also on the basis of the European rules – admitting only a framework legislation and the supervision of truly independent regulatory and control authorities, in order to provide better quality local services at more reasonable costs for society and users.

Another important innovation characterising the Italian local public services policy in recent years is its link with spending review initiatives. Strongly restrictive decisions on public finances, undertaken to deal with the effects of the serious economic crisis, have particularly affected the broad sector of publicly-controlled companies, the role and functions of which have been largely reformed in order to reduce their number and make their work more transparent. Public participation companies, which have been widely used by territorial authorities, have often produced situations of indebtedness, mismanagement, waste and inefficiencies, repeatedly highlighted by the Court of Auditors.

However, a structured intervention has so far not affected the ‘non-economic’ public services, the nature of which is essentially national (as they are related to needs felt by the whole community) but at the same time they have a natural multilevel dimension, in a country characterised by deep political decentralisation. The concrete provision on these services implies, in fact, a coordinated exercise of competences, conferred not only to the State but also to the existing territorial authorities.

Health care, social assistance and education (pillars of the welfare State of European tradition) are the most important public services having such a characteristic. Their critical aspects depend today only in part on the effects of the economic crisis and of the national policies undertaken over the last decade to contain public deficits, but they also seem linked to some unresolved knots of Italian regionalism and to the complex dynamics of territorial decentralisation.

In the light of these prospects, this contribution intends to carry out some reflections on the education public service provided by schools, which has been heavily affected by the cuts made in recent years, leading Italy to the lowest positions among member States of the OECD and the European Union with regard to the percentage of public spending on education.<sup>3</sup> In the past twenty years, the continuous decline in investment in this field has contributed significantly to aggravating the various problems affecting education in Italy for a long time.

<sup>3</sup> OECD Indicators, in *Education at a Glance* (OECD Publishing, Paris, 2016), <https://doi.org/10.1787/eag-2016-en> (Last accessed: 14 July 2017) 222. See also Eurostat press release, 22 March 2016, <http://ec.europa.eu/eurostat/documents/2995521/7214399/2-22032016-BP-EN.pdf/596b9daa-b9d6-415d-b85a-b41174488728> (Last accessed: 14 July 2017) 22.

The problems of this public service, however, are also due to the fact – as we will demonstrate in the following pages – that education is delivered through a ‘widespread’ decision making-process involving many institutional bodies other than the State in a ‘galaxy’ of responsibilities and competences, without the necessary coordination. This has a negative impact on the operating of the school system, weakening its effectiveness and slowing down its overall development.

As we will see, education has lost its original ‘national’ connotation, due to increasingly assuming, over the last two decades, a ‘decentralised’ character and a ‘multilevel’ articulation, as the result of the progressive involvement in this sector of the territorial authorities, as well as of the educational institutions. Nevertheless, this process has been achieved in a fragmented and haphazard regulatory framework, through reforms often lacking in coherence and overall strategic vision.

In order to understand the changes in education policies, it should first be noted that the Italian Constitution devotes articles 33 and 34 to education, which is considered one of the objectives pursued by the State to improve and enhance the living conditions of citizens, promoting the overall growth of society.

Education is configured as a ‘public service’:<sup>4</sup> the State’s duty is both to ‘lay down general rules for education’ and to provide this service to citizens through the establishment of ‘State schools of all branches and grades’.

Cultural promotion is carried out by guaranteeing freedom of teaching, free access to school education without discrimination, free compulsory education<sup>5</sup> and recognising the right of pupils lacking financial resources to receive education.

There is no State monopoly on education, as the right of private individuals or organisations to set up school institutions (and to obtain parity recognition, according to the legal requirements) is guaranteed.<sup>6</sup>

However, it is up to the State to specify the content of education and the outline of the complex organization specifically aimed at providing this service to citizens.

In this respect, the Constitution of 1948 does not seem to mark a significant discontinuity with regard to the pre-republican period, in which education was intended to be a primary State function, the school system had essentially a national character and schools operated as peripheral administrations of the Ministry for Public Education.

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<sup>4</sup> C. Marzuoli, *Istruzione: libertà e servizio pubblico*, in C. Marzuoli (ed.), *Istruzione e servizio pubblico* (Il Mulino, Bologna, 2003) 11.

<sup>5</sup> Education is compulsory for ten years (from the age of 6 to 16). After the eight-year first cycle of education, the final two years of compulsory education can be undertaken at a State upper secondary school or in a three or four-year vocational education and training course, under the specific competence of the regions

<sup>6</sup> This study does not cover the aspects related to Universities and to private education; in the latter respect, we limit ourselves to observe that private schools must not lead to any costs for the State. Publicly subsidised schools (*scuole paritarie*) can issue certifications with the same legal value as those of State schools.

## II. ON EDUCATION AND TERRITORIAL DECENTRALISATION IN ITALY

The Italian educational system continued to be characterised by an accentuated national centralization until almost the end of the 1990s, unlike the prevailing trends in Europe. Processes of deep transformation of the public education service have long been in place in many EU countries, to better address new socio-cultural demands and to ensure an adequate quality of study. This has also led to a progressive deconcentration of ministerial administrative structures, to the recognition of significant spaces of autonomy to schools and of a stronger role in education to territorial authorities.

Traditional Italian local authorities – municipalities and provinces – already existing in the Kingdom of Italy, kept on assuming, in the new republican legal order, instrumental administrative competences in education-related matters (it was up to them to bear the costs of building maintenance and operating schools).

Focusing on school education – which represents the subject of this study – it is worth mentioning that this public service should have been put in a deeply changed territorial organisational system, based on promoting autonomy and decentralisation (according to Article 5 of the Constitution) and on the presence of a new, important level of government, in addition to the traditional local authorities.

The 1948 Italian Constitution, with an innovative solution in the comparative panorama, provided in fact for the creation of an intermediate territorial authority, the ‘region’, which was recognized with a legislative power, only in some matters strictly listed and in accordance with the fundamental principles laid down in State legislation (in line with the logic of the so-called ‘shared’ legislative power).<sup>7</sup>

The Constituent Assembly considered it preferable not to include relevant aspects of education in the matters indicated in Article 117, deciding that regions should have only had competence in educational assistance, as well as in vocational education and training (which does not provide a diploma, but only a ‘qualification’), in order to promote access to work, in close connection with territorial development policies. Moreover, Article 118 of the Constitution granted administrative competences to regions, which had to exercise them by means of delegation to municipalities and provinces.

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<sup>7</sup> In this study we are taking only ordinary regions into account, but it should be remembered that in Italy there are five regions with a special form of autonomy, the competencies of which have been regulated through constitutional laws. With regard to education, different powers have been foreseen in the statutes of special autonomous regions, which were created in the period between 1946 and 1950 (Sicily, Sardinia, Aosta Valley, Trentino Alto-Adige and, in 1963, Friuli Venezia Giulia). Sicily and the provinces of Trent and Bolzano have been granted broad autonomy concerning primary schools, whereas Aosta Valley and the two provinces of Trentino Alto-Adige also have competences in the field of language, related to didactic programmes as well.

Regions were concretely established only in 1970 (with a delay of more than twenty years after the entry into force of the Constitution) and, in the first phase of their activity, they did not contribute to public education system in a very significant manner. For this reason, the traditional vision of education as a primary State function and the configuration of the school system as an essential part of central and peripheral national administration seemed to be confirmed.

A significant turnaround took place in the second half of the 1990s, in a context marked by profound political and institutional changes, when a season of wide reforms of the State administration began, giving concrete effect to the principles of autonomy and decentralisation, formally enshrined in the Constitution but in practice never fully implemented.

The redefinition of the role of peripheral authorities was made between 1997 and 1998, through several legislative delegations to the Government which, without modifying the Constitution, should have allowed the implementation of a kind of 'administrative federalism', with the transfer of administrative functions from the State to local authorities (in the perspective of overcoming the excessive centralisation of the bureaucratic machine), with the reorganisation of the national and peripheral apparatus, forms of deregulation and normative simplification.

The aim was to implement an ambitious reform of the State structure, in accordance with the principle of subsidiarity. Shifting the exercise of the functions to the periphery and limiting the role of the State to some specifically enumerated tasks concerning national interests, the architecture of the administrative system was reversed. The centralised logic – also in education – was abandoned, replaced by a vision considering region and local authorities as the most appropriate subjects for carrying out regulatory tasks in numerous fields.

In the framework of the administrative reforms, educational institutions were granted legal personality. Thanks to a conferral of autonomy (administrative, didactic, and in the field of research),<sup>8</sup> educational institutions are no longer part of the State (as State schools) nor of the regions (the schools for vocational education) and they became the backbone of the educational system, able to relate more effectively, as autonomous legal bodies, to territorial authorities and to the world of production.

Going beyond the idea that the State should be considered the only subject with competences in the educational public sector, a 'polycentric' system started to become clear, in which territorial authorities are asked to assume responsibilities of public relevance and general interest, on the basis of the principle of subsidiarity.

The administrative powers of local authorities have been progressively extended. Municipalities and provinces continue to provide construction, operating utilities and

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<sup>8</sup> Law no. 59 art. 21 1997. *Delega al Governo per il conferimento di funzioni e compiti alle regioni ed enti locali, per la riforma della Pubblica Amministrazione e per la semplificazione amministrativa.*

maintenance of buildings, but the implementing rules of 'administrative federalism' have assigned them additional competences, previously carried out by the State, in the field of education.<sup>9</sup>

Provinces (in relation to secondary education) and municipalities (for the other grades)<sup>10</sup> have assumed several tasks concerning creation, aggregation and suppression of schools, according to the programming tools. They have to develop an organisational plan for the network of educational institutions, oversee school bodies at territorial level and suspend classes in serious and urgent cases. Furthermore, local authorities, also in agreement with school institutions, engage in initiatives related to adult education, and provide educational and professional guidance services as well as organisational support services (transport, school canteen), paying particular attention to students with disabilities and developing measures for preventing early-school leaving and promoting health education.

Regions have been mainly endowed with administrative functions concerning the planning of integrated vocational education and training, as well as of educational networks (within the limits of the available human and financial resources), on the basis of provincial plans and of local authority proposals. Moreover, it is up to the regions to plan school building interventions, to fix the school calendar, and to grant contributions (which may be added to those set out at national level) to private schools.

The State has residual functions related to the determination of criteria and parameters for the organisation of the educational system, to its evaluation, to the determination and allocation of financial resources charged to the national budget, and to the recruitment and assignment of staff. The State has competences in supporting school activities and with regard to relations with regional administrations, local authorities, universities and training agencies.

The public service of education must therefore be provided through a coordinated exercise of functions by all territorial authorities of the Republic (regions, municipalities and provinces, together with metropolitan cities, as we will see later), in a system which has found a new constitutional enshrinement, by means of the major revision of 2001.

A new season of Italian regionalism started with the entry into force of constitutional law no. 3 of 2001, which amended the entire Title V of the second part of the 1948 text, devoted to the territorial organization of the Republic. Following federalist suggestions, regions, municipalities, provinces and metropolitan cities were recognised as constitutive elements of the Republic, along with the State, and a new articulation of powers regarding the different territorial levels of government was defined.

In respect of the legislative function, the new Article 117 of the Constitution expressly mentions the matters of 'exclusive' competence of the State and, in a

<sup>9</sup> Legislative Decree no. 11 1998. *Conferimento di funzioni e compiti amministrativi dello Stato e agli enti locali, in attuazione del capo I della legge 15 marzo 1997, n. 59.*

<sup>10</sup> Law no. 23 1996. *Norme per l'edilizia scolastica.*

subsequent list, those in which regions – as in the past – can legislate, in accordance with general rules laid down by national laws (in the framework of ‘shared’ competence). A residual legislative power is reserved for regions (and State intervention is formally precluded).

Compared with the previous constitutional framework, which – as mentioned above – did not foresee any regional competence in education and a mere shared competence with regard to vocational education and training, as well as for school assistance, the reform introduced some significant innovations.

‘Education’ is a matter which shall be considered through different types of competences.

The State has exclusive legislative power only for the definition of ‘general provisions on education’ (Article 117, point *n*); namely, national laws have to establish the limits and the content of the autonomy of school institutions, the fundamental objectives of the educational process, the general organisation of education (which means compulsory schooling, State exams and the recognition of diplomas and educational qualifications within the EU).

In addition, the ‘determination of the basic level of benefits relating to civil and social rights to be guaranteed throughout the national territory’ (Article 117, point *m*) is exclusively up to the State.

Since the right to education is included among these entitlements, the State determines the minimum benefits that the school system ‘managed’ by regions must ensure (i.e. establishing the quantitative and qualitative standards of the organisation, and activities and costs of the educational process).

National laws must finally establish the ‘fundamental principles’ to be followed by regions in the shared matter of ‘education’, respecting the school autonomy.

Moreover, when considering that ‘vocational education and training’ as well as ‘educational assistance’ have become ‘exclusive’ regional competences (as they are residual, according to Article 117, paragraph 3), it cannot be denied that the innovations introduced by the reform seem remarkable and appropriate to allow sub-national authorities to intervene more incisively in their respective territories.

Regarding administrative functions, the new Article 118 of the Constitution establishes that they are normally attributed to municipalities, unless they are recognised at a higher territorial level, up to the State, pursuant to the principles of subsidiarity, differentiation and proportionality, to ensure their uniform implementation.

In this way, constitutional coverage has been given to the comprehensive – and not completely straightforward – strategy of intervention begun in 1997, aimed at redefining administrative competences including in the field of education.

Finally, it should be noted that the constitutional reform of 2001 enshrined a new system of public education, in which the promotion of institutional pluralism concerns both territorial authorities and educational institutions.



In fact, the autonomy originally recognised by the Constitution only for universities was extended to schools, as a guarantee of these latter *vis-à-vis* the State and territorial authorities.

Following this configuration of the education public service in the new institutional framework, the transition from a State school to a 'spread and integrated model', actively involving regions and local authorities, would have been achieved. The network organisation is characterised by a polycentric but systematic structure, 'ruled by the principle of unity in differentiation'.<sup>11</sup> In fact, it is up to State to identify and assert national interests, but adequate spaces of autonomy must be granted at the same time to regions, local authorities and – of course – to educational institutions.

### III. SOME PROBLEMATIC ASPECTS OF THE PUBLIC SERVICE EDUCATION

The aim of both promoting institutional pluralism and allowing the full implementation of the principle of autonomy explains the downsizing of the State role in education and the extension of that of regions. These latter authorities have been called to perform a planning and organisational function, acting as 'operation control centres' of the different activities carried out by several subjects (municipalities, provinces, schools, regional directorates of the Minister for Education), operating in their respective territories, in the framework of the educational process.

In the past few years, however, some tendencies, in a certain sense opposite to the spirit of the reform, have progressively emerged, pushing towards what has been described as 'the comeback of centralisation',<sup>12</sup> which has partly called into question the new distribution of responsibilities among the State, regions and local authorities.

Before turning our attention to such a problematic development, it should be noted that a critical aspect of education in Italy (compared with the experience of other countries) continues to be that of overlegislation layered over the years, which is very complicated, patchy and not easy to read. Moreover, a recent law (which was highly criticised) reforming the educational system has contributed to this normative hypertrophy.<sup>13</sup>

<sup>11</sup> A. M. Sandulli, Istruzione, in S. Cassese (ed.), *Dizionario di diritto pubblico* (Giuffrè, Milano, 2006) 3312.

<sup>12</sup> A. M. Sandulli, *Il Sistema nazionale di istruzione* (Il Mulino, Bologna, 2003) 89; E. Longo, *Fine di una materia. Spunti ricostruttivi e note critiche sul fragile decentramento dell'istruzione* (ISSIRFA, May 2015), <http://www.issirfa.cnr.it/erik-longo-fine-di-una-materia-spunti-ricostruttivi-e-note-critiche-sul-fragile-decentramento-dell-istruzione-maggio-2015.html> (Last accessed: 14 July 2017).

<sup>13</sup> Law no. 107 2015. *Riforma del Sistema nazionale di istruzione e formazione e delega per il riordino delle disposizioni legislative vigenti*.



The multiplicity of national rules almost never express a long-term strategic vision of education and they are often drafted without adequate cooperation with all territorial authorities and full respect for their autonomy (as well as for that of school institutions), thus allowing the central government to maintain a strong role in educational processes.

This was certainly triggered by the complexity of the constitutional provisions on education, which soon revealed the difficulty of a precise delimitation of the field of intervention reserved for the State and the regions. This issue has contributed to increasing the already high level of litigation before the Constitutional Court.

The constitutional judge had to bring the fragmented competences on education into a framework characterised by 'a complex intertwining in the same matter of general rules, fundamental principles, regional laws and administrative acts'.<sup>14</sup> Regional autonomy has not always been strengthened, as the Constitutional Court has often given priority to the guarantee of national interests (which cannot be 'split' into a plurality of regional disciplines). The constitutional jurisprudence did not really slow down the State's tendency to undermine regional competences progressively (including those that should be regarded as 'exclusive' to the subnational authorities, such as education, vocational training and school assistance).

In the years following the reform, the national legislator has profoundly changed the education system and, with the aim of containing public spending, has intervened several times on planning and recruiting teaching staff, rarely considering regions as necessary interlocutors, despite their having specific responsibilities in the field of education.

In order to integrate regional vocational training in ensuring that young people complete their compulsory schooling, State legislation has further weakened the autonomy of sub-national authorities.

Legal disputes before the Constitutional Court have increased even more. The constitutional judge has frequently pointed out the importance of identifying an appropriate institutional forum for coordinating the exercise of State and regional legislative powers.

The main reason for so many disputes between the two institutional levels is the persistent absence of an effective forum for consultation, composition and harmonization of the various interests involved. The existence of such a forum would be really necessary to allow the effective implementation of the legislation at the different territorial levels and notably to preventing disputes which can only be resolved afterwards, before the Constitutional Court.

The existence of a constructive relationship between State and regions cannot be declared in the current Italian Parliament, despite many efforts made, in 2006

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<sup>14</sup> Italian Constitutional Court Decision no. 13 2004.

and 2016, to amend the Constitution. The Senate is still waiting to be transformed definitively into a real Chamber of territorial representation, overcoming the atypical Italian 'perfect bicameralism'.

A true dialogue between the different levels of government cannot take place effectively, not even within the existing intergovernmental Conferences (one between the State and the regions and the other one between the State and the local authorities), because this form of relationship does not allow regions to become appropriately involved in national legislative processes and to contribute to the other State functions.

The poor implementation of the principle of loyal cooperation has further weakened the role of regions, but it should be remembered that these latter have only been able to operate in smaller legislative spaces compared to those formally set out in the new Title V of the second part of the Constitution.

The possibility introduced in 2001 by Article 116, c. 3 of the Constitution has not even been applied so far. This provision makes it possible for the regions to have 'additional forms and special conditions of autonomy', concerning matters falling within the shared legislative competence and some field of State exclusive competence specifically listed, among which is education. The mechanism should open the Italian constitutional system up to the so-called 'asymmetric regionalism' (following the Spanish model). However, the financial support for any new regional activity seems to be the real problem, as it is not clear whether the costs should be entirely covered by territorial authorities, or if regions can rely on higher State economic transfers.

The financial aspect has indeed a key importance in the concrete provision of education services.

Regions have exercised their powers by adopting sometimes relatively innovative choices (that have not always resisted the Constitutional Court's intervention), also by trying in certain cases to involve local authorities and the school institutions in their respective territory themselves.

Regional laws often went further than the traditional matters of school assistance and guaranteeing right to of education, promoting interventions for the supply of goods and services in order to facilitate access to educational activities (by providing textbooks, canteen, transport and residential services or scholarships). Some regions have offered 'school vouchers' for total or partial coverage of tuition fees.

The efficient exercise of the new competences related to planning the development of the educational system and its territorial organisation has been quite difficult, since it required a transfer of adequate financial resources from the State.

In this respect, it must be noted that the implementation of the constitutional reform of 2001 should also have affected the so-called 'fiscal federalism', which was intended to reshape the economic relations between State and territorial authorities, as well as to overcome the resulting financial system, by giving a greater revenue and spending autonomy to municipalities, provinces, metropolitan cities and regions.

This process started in 2009,<sup>15</sup> but it is still in progress, because of the overlapping multiple normative interventions, the implementation of which has not been facilitated by the economic crisis. In order to tackle this latter, the Governments that have followed have assumed decisions related to public finance characterised by a centralistic logic, reducing the economic resources for territorial authorities and bringing some contradictory elements into the so-called ‘federalist process’.

As part of the public debt reduction measures, the State has drastically cut funding allocated to schools, frustrating in practice the innovative potential of the education system. In addition, financial transfers due to territorial authorities have not been provided, undermining the exercise of the competences envisaged in the Constitution or attributed to them later, by means of the decentralisation of social policies. It should also be recalled that budgetary constraints have also penalised the best-performing territorial authorities.

This has strongly affected the overall planning capacity of regions, preventing these authorities from meeting the different educational needs in an effective manner.

Social and territorial inequalities have increased. What is particularly marked is the disadvantage of the southern regions and the islands, where there is the highest concentration of families suffering social exclusion and the child poverty rate is much higher than in the rest of the country (40% of children in poverty live in the South, 44.7% on the Islands, 10% in the Northwest, and 13.2% in the Centre). If we consider other information, such as belonging to an ethnic minority or being of foreign origin (which require further specific educational services, aimed at promoting linguistic knowledge and integration), it appears that students without Italian citizenship (9% of all pupils) are mainly concentrated in large and small urban areas of central-northern Italy and the effort to integrate them, culturally and socially, has not yet been sufficient.

Staff management is one of the most important elements of planning and it still remains firmly in the hands of the national legislator. All school staff are in fact employed by the State, which allocates teachers and personnel of different typologies to schools through the regional educational offices (peripheral structures of the Minister of Education, University and Research). This prevents regions from developing more flexible didactic recruitment models, streamlining school institution network, scheduling the educational offer and responding more effectively to increasing and evolving demands.

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<sup>15</sup> Law no. 42 2009. *Delega al Governo in materia di federalismo fiscale, in attuazione dell’articolo 199 della Costituzione.*

## IV. ON THE TERRITORIAL GOVERNANCE OF THE EDUCATION SYSTEM

Overcoming the centralised management of the Italian education system, which we have just been outlining, is the outcome of a still incomplete process, which is moving forward slowly, partly because of resistance from the national administration, as well as of the paralysing disputes between State and the regions, relating to the exercise of their respective competences.

With regard to this last aspect, it should be remembered that in 2006, a political confrontation between the State and regions started, in order to fully implement the constitutional rules on education; a draft agreement was reached in 2010,<sup>16</sup> which however has so far not been signed by both the Ministry responsible for Education and the Ministry for Economic Affairs.

A (re)definition, agreed with the State, of regional autonomy also seems necessary in relation to vocational training. This sector should in fact be considered as an exclusive competence of the regions, but these latter have failed to develop genuinely innovative models, due to the many constraints imposed by national legislation.

It is difficult to argue that regions have really been able to build a 'territorial education system': this would require efficient school network (and vocational training) planning, which in turn implies the development of comprehensive integration of labour policies, European programmes and school support interventions. Moreover, a real 'educational federalism' needs adequate forms of coordination of responsibilities and cooperation among all the stakeholders involved in planning and managing the public service in question.

After all, with the purpose of creating the necessary conditions for ensuring this development, the national legislation should have accompanied the transfer of competencies to the periphery – since the start in the 1990s of the decentralisation of administrative functions – with the allocation of adequate financial resources to territorial authorities.

It should be remembered in this regard that the regional and local finance system for a long time had an essentially derived nature, as the territorial authorities were limited to managing special-purpose State transfers, which were fixed each year at national level. Such a system did not allow territorial autonomies to put effective financial planning in place and did not encourage them to become more responsible and best-performing as regards budgetary management.

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<sup>16</sup> A. Poggi, L'accordo Stato-Regioni in materia di istruzione e le prospettive del federalismo fiscale per la scuola, (2010) 33 (3) *Programma Education FGA Working Paper*, [http://win.gildavenezia.it/docs/Archivio/2010/magg2010/Poggi\\_federalismo-fiscale\\_scuola.pdf](http://win.gildavenezia.it/docs/Archivio/2010/magg2010/Poggi_federalismo-fiscale_scuola.pdf) (Last accessed: 14 July 2017).

The financial autonomy of local and regional authorities has strengthened over time, but the dynamics of so-called ‘fiscal federalism’, aiming at implementing Article 119 of the Constitution only started in 2009. The task of redefining relations between centre and periphery was given to Government through a wide legislative delegation, in order to overcome the derivative financial system and attribute a greater revenue and spending autonomy to territorial authorities.

In view of the limited space available, we cannot analyse in detail the elements characterising the regional and local fiscal system; we will limit ourselves to remembering that this latter is now based (after the abolition of the traditional State transfers) on the tax revenue of territorial authorities and resources received from the State as elements of financial equalisation, which should enable autonomous regional and local bodies to support all expenses related to their competences, or at least of those that are considered as ‘fundamental’ by national legislation.

Fiscal federalism has been, however, an ongoing process, the intermittent implementation of which has been affected by the worsening of the economy. The many regional and local financial reform rules have repeatedly been amended; they have often not been introduced in order to improve the system’s functionality, but just for the need for fiscal consolidation, in the light of European constraints. This has significantly reduced the scale of reform, introducing some substantive elements of ‘centralisation’ related to control over revenue and spending decisions.

The complex financial equalisation system (put into operation in 2015, in an economic context still marked by the effects of the crisis and different than that in which the fiscal federalism law was approved) is now being completed – the conclusion of this process is planned for 2021 – and it is clear that it has not been able to guarantee up until now that all territorial authorities will receive adequate financial resources.

The Italian Court of Auditors has recently highlighted the challenges of ‘a still incomplete system, both in the definition of an appropriate mechanism of fiscal accountability and in the allocation of resources’.

The finance system of regional and local authorities is still far from the expectations of efficiency and autonomy; more importantly, the fiscal capacity and the equalisation flows do not allow territorial authorities to cover all the costs of fundamental functions. This situation calls for some further reflections related to the specific subject of our study.

Local authorities play a strategic role in the provision of education services; furthermore, they can relate more directly to schools.

As a consequence of the limited economic resources and public finance constraints, the provision of services no longer seems to be strictly associated with citizens’ rights, but it appears to be more related to budgetary needs.

This is reflected by the growing number of municipalities – especially in southern Italy and on the islands – which have been forced to reduce services significantly

(or to increase prices considerably) for young children, foreign pupils, students with disabilities or to cut back school canteen services, the provision of free schoolbooks, etc.

As we have already noted, the equalisation system for ensuring the essential levels of benefits and reducing territorial inequalities has yet to be consolidated. It should however be remembered that the efficiency and cost-effectiveness of public services do not seem to be helped by the problem of Italian municipal fragmentation.<sup>17</sup> On average, municipalities in Italy have 8,048 inhabitants and are small in size; these territorial authorities had to adapt in recent decades to the not always linear reforms of their competencies and being forced to reconfigure how they provide public services. Small municipalities in particular find it difficult to programme and manage their fundamental functions.

Inter-communal coordination is still feeble and it usually has an informal structure, due to both strong localism and the weak role played by regions.

European policies, however, pay even greater attention to urban areas and demand regions to develop a strong capacity for planning and coordinating territorially integrated interventions, also in order to bridge the still relevant divide between cities and rural areas.

Since the beginning of the 1990s, the Italian Parliament has tried to remedy the excessive fragmentation of local authorities, by establishing some limits for the creation of new municipalities and strengthening forms of association in public services management (in the field of education too).

State and regional funding have been provided to stimulate forms of cooperation, such as consortia and unions of municipalities, using instruments such as conventions and programme agreements.

However, these initiatives have not yet produced the expected results, also because of a complex and constantly evolving process of reorganisation of the tasks of local authorities. In recent years, national laws have in fact intervened several times (within the framework of an 'exclusive' legislative State competence for local authorities) in order to regulate the vertical distribution of powers on the basis of priorities often founded on the economic emergency and with the aim of reducing the costs of politics rather than on the will to improve decentralisation.

The most recent reform of local authorities is considered by many as an expression of a 'recentralising' logic, too. In 2014, new rules regarding municipal merger and union were adopted;<sup>18</sup> ten metropolitan cities were introduced into the system (which replaced just as many provinces), as new local authorities of large urban areas, with planning and territorial management functions. The remaining provinces have been transformed into second-tier 'large area' territorial authorities, bestowed with 'fundamental functions' in

<sup>17</sup> L. Vandelli, *Il sistema delle autonomie locali* (Il Mulino, Bologna, 2015) 72.

<sup>18</sup> Law no. 56 2014. *Disposizioni sulle città metropolitane, sulle province, sulle unioni e fusioni di comuni*.

some specific fields; their organisation was expressively classified as ‘transitional’, while waiting for a constitutional reform in order to decide their concrete future.

The law also set out a difficult process for reorganising the ‘non-fundamental’ functions of provinces; regions have accomplished this procedure through specific laws, sometimes by making divergent choices.

In the field of education, the law indicated ‘provincial school network planning’ among the fundamental administrative functions of provinces, ‘without prejudice to regional planning’ and ‘school building management’. The linguistic formulas used did not, however, make it clear whether the new bodies cover services and activities previously carried out by the provinces in the context of ‘public education’ (a function that metropolitan cities have in fact inherited from the old provincial authorities). This applies, for instance, to school transport, especially with regard to students with disabilities: some regions considered such a service as a ‘non-fundamental’ task of the provinces, thus deciding to assume it directly or to delegate its exercise to municipalities, but often without allocating the resources necessary to cover the related costs to them.

As the Italian Court of Auditors has recently observed, provinces live in ‘an objective condition of uncertainty which affects their constitutional prerogatives’;<sup>19</sup> this is due to the fact that the reorganisation of the local government system took place in a climate of great vagueness about the fate of provinces,<sup>20</sup> while awaiting their definitive abolition, foreseen in the constitutional revision law of 2016, which was then rejected by the people in a referendum.

In such a chaotic context, it is not always possible to identify accurately the responsibilities of regional and local authorities, so administrative courts have sometimes had to intervene in order to define the areas of competence better in the territorial governance of education.

The different ‘fragments’ of education, at the various levels, do not always fit together in a rational manner; it would therefore be very opportune to provide structured and sound forms of inter-institutional collaboration, especially by reference to the most problematic aspects facing schools.

In this regard, a clear example is represented by school buildings, the multilevel governance of which involves State, regions and local authorities, directly affecting the quality of the education system.

Italian school buildings have unfortunately now assumed the characteristic of a real ‘national emergency’. Recent surveys have highlighted that 65% of school buildings

<sup>19</sup> Corte dei Conti, Sezione delle Autonomie, *Audizione sulla finanza delle Province e delle Città metropolitane presso la Commissione Parlamentare per l’attuazione del federalismo fiscale*, 23 February 2017, 4.

<sup>20</sup> C. Pinelli, Gli enti di area vasta nella riforma del governo locale di livello intermedio, (2015) (3) *Istituzioni del Federalismo*, 578; R. Cheli, L’attuazione della legge Delrio a due anni dall’approvazione. Verso quale direzione?, (2016) (2) *Istituzioni del Federalismo*, 506.



were built before the entry into force of the anti-seismic legislation introduced in 1974 and only 9.6% between 1991 and 2015.<sup>21</sup> Only about a third of educational institutions possess all the necessary technical certifications and more than half are in seismic areas. Attention should moreover be drawn to the fact that Italy is one of the most endangered Mediterranean countries, due to the frequency of earthquakes that have historically affected its territory and the intensity that some of them have achieved.

With regard to school buildings, the shared responsibilities and executive powers between the various territorial authorities requires a strategic planning mentality and effective coordination, to avoid overlapping tasks, and allow timely building maintenance (over the last three years, 117 school buildings have collapsed).

Almost all educational facilities are owned by local authorities (municipalities and provinces); their slim budget is affected by the costs of construction, maintenance and the regular operation of schools.

The state provides support funding to regions which, on the basis of multiannual planning, allocates these funds to municipal and provincial administrations that have applied for them. This means that local authorities hold administrative functions in school buildings but, having regard to their difficult budgetary situation, they can actually only intervene after the allocation of resources from the State and their consequent distribution by the region.

Moreover, we must consider that the interventions have long been funded (discontinuously and with resources that have become increasingly inadequate compared to the real needs) in response to emergencies rather than on the basis of an effective programming logic, which would have first demanded the launch of the school building registry, envisaged since 1996.

The registration of school buildings only started in Italy in 2016; it has been associated with extraordinary plans for school safety operations in seismic risk areas and above all with the allocation of national resources for coordinating and implementing school building rehabilitation interventions. Attempts have been made to provide for more direct funding mechanisms, to allow a prompt start of the already planned works; moreover, as requested by territorial authorities for some time, school building interventions have been excluded from the Italian Domestic Stability Pact.

More importantly, a coordinated and joint action among the national Government, regions and local authorities, inspired by a programming logic and a culture of systematic prevention, has been finally accomplished.

Such a consideration should not lead to disregarding the role of the schools themselves. Education governance also requires effective forms of dialogue, confrontation and close cooperation between territorial autonomies and school institutions.

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<sup>21</sup> Legambiente (2016), *Ecosistema Scuola. XVII Rapporto di Legambiente sulla qualità dell'edilizia scolastica, delle strutture e dei servizi*, 15.

Even if it is envisaged by national legislation, synergic integration has still to become established in Italy, as the relationship between local authorities and schools is, for the moment, largely characterised by an excessively bureaucratic attitude (which fuels disputes before regional administrative courts).

On the one hand, local authorities continue to see themselves as mere ‘providers’ of support services; furthermore, they relate to educational institutions in a hierarchical logic, without being able to stimulate innovative processes.

On the other hand, schools have long developed a relationship of resigned functional ‘dependence’ on local authorities, as regards funds and facilities (canteen, transportation, buildings maintenance, sports installations) without being able to elaborate and develop, in those subjects, really useful educational projects for the development of local communities, sharing experiences and skills to face the challenges of ever-evolving educational needs.

Over the years, local government initiatives aimed at broadening the educational offer (by, *inter alia*, financing musical, sports, environmental and cultural activities,) have increased, but co-planning between schools and territorial authorities remains episodic and non-systematic.

Moreover, schools still have great difficulty in building autonomously inter-institutional networks and developing associative forms for carrying out their tasks more effectively and positively affecting territorial education programming.

Encouraging signs seem to come from the agreements signed in recent years between schools, municipalities and regional school offices, designed to define strategies and ways of managing educational policies, encouraging constructive collaboration to improve school services, enrich the educational offer and support territorial development.

Despite the innovative stimuli deriving from such positive interactions, it should be noted, however, that national legislation still continues to consider school autonomy in mainly administrative terms (rather than enhancing didactic, organisational, experimental and research aspects) and to see educational institutions as national peripheral administrations, subjected to many strict constraints imposed by the State.

The role of school managers, who are responsible for both managing financial and instrumental resources and for the outcome of the service, has been only partially ‘debureaucratised’ over the years. They still remain state officials, with a managerial qualification; their task has been reformed according to a managerial logic and a business-oriented approach. In this way, school governance remains less sensitive to confrontation, dialogue with their territory and innovation, focusing instead on the results and the cost-effectiveness of the services provided to school market ‘clients’ rather than being based on educational needs of ‘students’ and on the quality of didactic activities.

As we have highlighted above, the territorial governance of education public service requires a synergic and effective involvement of all institutional levels in defining the objectives to be pursued and in assuming coordinated choices, based on a global knowledge of the needs and of the resources available.

The close link between the problems of education in Italy and the challenges of territorial decentralization are now stimulating some reflection.

In April 2016, after two years of intense parliamentary debate, a constitutional law was approved;<sup>22</sup> its main purpose was to renew the institutional architecture, achieving a new balance between both the two Assemblies and the different territorial levels of government.

Among the many objectives of the reform was to strengthen the principle of autonomy, redefine the relations between State and regions and make a radical modification of the legislative function distribution criteria. The system of local authorities was simplified and the elimination of the provincial level of government was confirmed.

Unlike the 2001 constitutional law and the 2006 revision effort – both marked by a strong ‘federalist’ impetus – the 2016 reform was approved in a context of deep crisis and delegitimisation of territorial authorities. During the last years, these latter have been affected by national policies of extreme restriction on the side of public spending, also favoured by the emotional reaction of the public opinion, following numerous judicial investigations concerning cases of corruption and wasted resources, which occurred at all peripheral levels of government (but concerning regions in particular). The outcry focused not only on the low political morality of local administrators, but also – in the opinion of many people – on an inadequate and ineffective articulation of national controls over them.

The regional system appeared overall weakened in the draft constitutional reform.

Provinces were abolished *tout court*, without reconfiguring the system of local authorities and creating great differences between metropolitan cities and the rest of the territory in each region – especially in the largest of them – which would have been deprived of an authority of ‘large area’ fit to manage functions of supra-municipal interest (such as urban planning, waste and environmental management, transport, technical assistance to municipalities, etc.) that cannot be fragmented at the lowest institutional level nor centralized at the regional one.

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<sup>22</sup> In April 2016, the Italian Parliament approved a Constitutional Law concerning ‘Provisions for overcoming equal bicameralism, reducing the number of Members of Parliament, limiting the operating costs of the institutions, the suppression of the CNEL and the revision of Title V of Part II of the Constitution’, <http://www.gazzettaufficiale.it/eli/id/2016/04/15/16A03075/sg> (Last accessed: 14 July 2017). A constitutional referendum was held on 4th December 2016 and 59.11% of voters rejected this reform.

In the meantime, some problems related to the new metropolitan cities have emerged, as these authorities are still lacking both the essential funding for their proper functioning, and in an adequate political visibility (also for the indirect mechanism for the election of their mayors until now).

In short, the declared intention to open a new virtuous phase of Italian regionalism was disavowed by a logic of (re)centralization, expressed not only by the definitive abolition of provinces but also by the new distribution of legislative powers between the State and regions, which was destined – according to the proponents of the reform – to reduce institutional conflicts and disputes before the Constitutional Court.

The shared legislative power was eliminated, with the consequent expansion of State exclusive competence and the concept of national interest was (re)introduced, as a prerequisite for the activation of a ‘supremacy clause’ in favour of the central level.

The subject of our study helps us to test the effects of such provisions on local government autonomy.

Article 117 Const. was redrafted by indicating the areas of exclusive State competence, while the regional ones were partly listed, partly to be drawn pursuant to a residual clause.

Matters of shared legislative competence were mainly attributed to the State, in order to rule out regional laws completely. National competences included the establishment of ‘general and common provisions on education’, rules on ‘vocational education and training’, in addition to those on the education system. The decision to allow regions to legislate in those strategic fields eventually, in the future, was left solely to the State.

The residual clause, however, enabled regional laws to regulate matters not expressly reserved to the State, some of which were explicitly mentioned: these included the organisation of training – but no longer vocational education – school services and the promotion of the right to study (while continuing to respect the autonomy of school institutions).

The compensation for such a general diminution seemed modest. Under the new Article 116, co. 3, additional competences could have been attributed to regions ‘by a national law, even at their request, after consultation with the local authorities’, as is indeed foreseen even now. However, this would only have been possible for regions with a balanced budget and, in the educational field, strictly for ‘vocational education and training’.

The ‘centralising’ animus of the reform emerged especially from Article 117, co. 4 of the revised Constitution, which stated that ‘upon the Government’s proposal, national law may intervene in matters not reserved to exclusive legislation when so requested by the maintenance of legal or economic unity or by the protection of the legal or economic unit of the Republic, or the protection of the national interest’.

Such a formula, improperly defined as a ‘supremacy clause’ (and ironically renamed a ‘vampire clause’), was however not combined with those procedural safeguards that, in other constitutional systems – one thinks, for instance, of *Konkurrierende Gesetzgebung* in the Federal Republic of Germany – are aimed at avoiding arbitrary and indiscriminate use.<sup>23</sup> A breach would have been opened for possible national strong constraints on peripheral policies and a further limitation of regional autonomy.

## V. CONCLUDING CONSIDERATIONS

Schools in Italy are a key driver of socio-economic growth but, compared to what happens in other European countries, there is a tendency to ‘centralise’ decision-making process as if such institutions should still be considered as state peripheral articulations, destined to guarantee a generic right to education, in a homogeneous manner across the national territory.

In other national systems characterised by a strong administrative and political decentralisation, a distribution of competences aimed at enhancing peripheral level has not generated, a push to the ‘fragmentation’ of education into a multiplicity of local subsystems. The culture of autonomy seems instead to have impelled the positive development of coordinating forms, both vertical (between national and peripheral level) and horizontal (between local authorities and educational institutions).

The development lines of the regional and local system in Italy have never been elaborated until today as part of a project shared by all political forces; for this reason, decentralisation has not grown on a basis of incremental dynamics, as in the case of almost all European countries, but has followed labyrinthine trails. Any recognition of progressive and significant degrees of autonomy for regional and local authorities has always been followed by phases, of different intensity, during which an attempt to reverse the process was made or a substantial recentralisation of competences was reached.

A positive reform of education governance should therefore be preceded in Italy by the awareness necessary for overcoming that attitude which makes perceived decentralisation become a mere ‘bureaucratic’ transfer of competences between institutions.

The building of a vital ‘system of autonomies’ primarily involves State willingness to reform itself, transforming its own mechanisms and making the dysfunctional central apparatus lighter.

<sup>23</sup> A. D’Atena, Il riparto delle competenze tra Stato e regioni ed il ruolo della Corte costituzionale, (2015) (1–2) *Italian Papers on Federalism*, <https://www.ipof.it/il-riparto-delle-competenze-tra-stato-e-regioni-ed-il-ruolo-della-corte-costituzionale/> (Last accessed: 14 July 2017).

The State should focus on broader policies aimed at addressing the educational process, retreating from the concrete management of the education public service, which is expected to be largely given to regional and local authorities, the autonomy of which should be further strengthened to face the challenges of an increasingly complex and localized society.

A logic, that – as we have seen – still has difficulty in being fully shared.