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# Law and Institutions: two reasons for Sicilian backwardness?

Andrea Consoli\* and Salvatore Spagano\*\*

*Nessuno stato sociale è compatibile  
con una versione radicale del federalismo*

A. Barbera

**Abstract:** *Many reasons for the low level of local development in Sicily have been advanced through the years, often connected to historical and geographical explanations. More frequently the reasons of the backwardness (better low rate of development) is connected to high level of crime and of mafia phenomenon, or to structural grounds (first of all, Sicily is an island) and intra regional markets' dimensions. Little space, instead, has been devoted to institutions and law and to the effectiveness of legislative self-government. In ours paper we will slight the constitutional profile trying, instead, to answer, with the typical approach of the economic analysis if is it possible that some reasons of the backwardness of Sicilian economic development are hidden just in this constitutional diversity of Sicily.*

## Introduction

Apart from some extreme views, the economic doctrine accepts that – even though with some limits and under determined conditions – the State assumes an active role in the economy when market is inefficient and when the *invisible hand* does not succeed in generating an efficient resource allocation. In these cases, therefore, the *visible hand* of institutions and laws can support economic and social development.

Too much often, however, unwise lawmakers and managerial inefficiencies of public actors have added to the risks of *market failures*.

The question we want to address is whether in the case of Sicily both forms of inefficiencies operate simultaneously.

Is it possible that institutions endanger markets more than they succeed in promoting their actual working?

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Many reasons for the low level of local development in Sicily have been advanced through the years, often connected to historical and geographical explanations. More frequently the reasons of the backwardness (better low rate of development) is connected to high level of crime and of mafia *phenomenon*<sup>1</sup>, or to structural grounds (first of all, Sicily is an island) and intra regional markets' dimensions.<sup>2</sup>

Little space, instead, has been devoted to institutions and law and to the effectiveness of *legislative self-government*.

Economic analysis has adopted an individualistic approach to institutions: institutions and law are seen as constituting the background context in which economic action takes place.

As a matter of fact, institutions play an active role in the economic arena, at times competing with individual agents (people interact with government institution in order to improve their well being), and represent a constraint to every economic decision and, at the same time, an economic agent.

The political choice that turns into legal norm, at the apex of the institutional order, becomes a Constitution.

The constitution of a region is its *statute*; Sicily is a *special statute region*; its statute has been adopted with national constitutional law.

The specialty of the Sicilian *statute* has been the result of a political choice, very old in time, expected to guarantee more autonomy in economics, social reform and administrative organization.

Because of some local identities, particularly marked, the Italian Constituent decided to grant to five Regions a regimen of particular autonomy.<sup>3</sup>

Very meaningful was the case of Sicily: such it was the political urgency, to recognize its special character that its special statute was adopted before the same Constitution!<sup>4</sup>

Today's the system of the autonomies is still changing, above all as outcome of the constitutional reform of 2001, adopted with constitutional law.

In ours *paper* we will slight the constitutional profile trying, instead, to answer, with the typical approach of the economic analysis if is it possible that some reasons of the backwardness of Sicilian economic development are hidden just in this *constitutional diversity* of Sicily.

It has been argued in the economic literature that, between constitutional norms and economy, there is a *missing link*.<sup>5</sup>

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<sup>1</sup> Among other Centorrino, M. (2004) 'Mafia, Economia e Globalizzazione' in Il sogno 252, 7

<sup>2</sup> Cfr *Home market effect* literature and Krugman P 'Scale economies, product differentiation and the pattern of trade'. In the American Economic Review 70/V 1980

<sup>3</sup> Friuli Venezia Giulia, Sicilia, Sardegna, Valle d'Aosta e Trentino Alto Adige, Approved by constitutional law 1, 2, 3, 4 e 5.

<sup>4</sup> *Regio decreto legislativo* n. 455 del 1946

If we find it and bring it to light, we should be able to unveil some important relations between rules and development. A parliament unaware of this missing link may have built an autonomous system that, rather than promoting historical and social diversities, slows down competitiveness of the relevant area, impairing its growth.

In particular, in the *special statute* are hidden some reasons of the retarded economic development in Sicily: there are some national laws that have been delayed, because of the sicilian legislative self-government.<sup>6</sup>

Its special statute, in fact, gives Sicily an exclusive competence in many matters. So all those policies designed to increase the competitiveness of markets, applied in continental Italy, run into the wall of self-government, which holds up their effects.

The legislative delay in the rules on education, for instance, is a clear warning: Sicily has been the last region to pass a law promoting the access to higher levels of studies, and so the last one to promote the entrance of talented students into the labour market.<sup>7</sup>

The partition system of legislative competences, at national and regional level, can easily hold up every decision.

Add the difficulty of knowing local norms and of interpreting them with respect of the national ones: understanding the borders of the regional legislative competence, in fact, is a hard operation that demands specialized skills. The individual citizen is requested to face a cost for that; a cost not supported by the citizens of other regions.

For decades Sicily has been, with all Southern Italy, the beneficiary of *extraordinary intervention* policies and a target of backwardness rhetoric.

We wish to check that the aforementioned nature of the institutional process in Sicily can be one reasons of its poor economic performance.

### **One: a short literature review.**

The problem that we want solve regards, in short, the system capacity of autonomies, and of competences' division between national and regional governments, to be effective and efficient.

That's a question long debated from the economic analyst of rights and of public choice, evidencing the economic consequences and, sometimes, the economically preferable solutions, in a variety of vicissitudes regarding the State (for instance the territorial unit of government that must product and distribute public service; spillovers regarding goods and services, the choice between centralization and decentralization).

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<sup>5</sup> Persson T. – Tabellini G. 'The economic effects of constitutions', MIT Press 2003 e Buchanan J. 'Constitutional Economics', IEA 1991.

<sup>6</sup> AA. VV. La specialità siciliana dopo la riforma del titolo V della Costituzione, Giuseppe Verde (a cura di), Giapichelli editore, Torino 2003

<sup>7</sup> Regional law n. 20 del 2002

According to a traditional economic literature various reasons to the base of the decentralization of some functions of government exist: in terms of economic analysis, in fact, it is possible, if not to define the various system of government, at least to support efficiency assigning functions to the central government or to other territorial level.

That's in twofold perspective: on one side in the attempt to catch up efficient regimes of production and allocation of public goods; from the other for the necessity to guarantee the mechanism of the representation and, with it, a greater sensibility of the governors to the preferences of citizens.

Active citizens may be successful in moving public policies closer to their preferred outcomes because of their participation.

In this case, citizens are said to have influence. Or active citizens may be unsuccessful, their political actions having no effect on policy outcomes. In this case, the citizens have attempted, but failed, to influence political outcomes.

Using the economic efficiency *criterion* to choose the appropriate federalist structure is a complex endeavour involving a comparison of the economic benefits and costs of assigning responsibility to each level of government: to the national or central level, or the local government level.

In a federal system there are two important dimensions to economic efficiency. First, interjurisdictional efficiency involves the appropriate allocation of individuals and other resources, such as capital, *among* the different jurisdictions. Interjurisdictional efficiency is achieved when the public activities of these interacting governments satisfy the collective demands of individuals living in different jurisdictions at a minimum economic cost.

Unfortunately, decentralization has its disadvantages, due primarily to the *spillovers* that are likely to arise when jurisdiction size is small. A less decentralized system with larger jurisdictions can minimize the *spillovers* involved, while at the same time taking advantage of the lower cost of promulgating and enforcing certain regulations or dispensing the benefits of public programs, and the lower cost of obtaining and using information.

The very great part of literature with regard to decentralization is inherent to the fiscal areas.

So that, we have to start, reconstructing of the literature of our interest, from the model used from Tiebout in 1956.<sup>8</sup>

His model demonstrates as the optimal amount of assets local publics can be caught up in those conditions of perfect mobility (that it gives place to the c.d. "*voting by feet*") for which people choose their residence based on the preferred combination between landing charges and assets publics.

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<sup>8</sup>Tiebout, (1956) 'A pure theory of local expenditure', in Journal of Political Economy, 416

Therefore, in how much competition between various geographic areas supplying public goods and services, is possible to attend that decentralization of functions could produce efficiency.

The study carried out from Tiebout - than let compete institutions based on the vertical division of the competences (intergovernmental) or in horizontal shape (interjurisdictional), in relation to joint levels that only differ for territorial area - takes the movements from some hard issues that literature tried to overcome.

As typically specified, five conditions define the competitive Tiebout public economy: a regulated economy satisfying assumptions 1 to 5, and organized as a fully decentralized network of competing jurisdictions, will maximize economic efficiency. Citizens and businesses can consume their preferred levels of the public regulatory activity with a minimum expenditure of production and transactions costs.

The following are the five conditions.

1. Publicly provided goods, services, and regulatory activities are provided at minimum average cost. (If assumption 1 holds, there is an efficient population size which minimizes the average cost per household of providing that government activity. This rules out using Tiebout competition to allocate 'pure public' goods, those goods where additional users of the government's facility does not reduce the consumption benefits enjoyed by previous users).
2. There is a perfectly elastic supply of political jurisdictions, each capable of replicating all attractive economic features of its competitors.
3. Mobility of households and businesses among jurisdictions is costless.
4. Households and businesses are fully informed about the fiscal and regulatory policies of each jurisdiction.
5. There are no *interjurisdictional* externalities or *spillovers*. (this assumption ensures that all public regulatory activities can be provided within these efficient jurisdictions).

The concrete difficulties of the model led Frey and Eichenberger to suggest an alternative: respecting the freedom of choice *à la Tiebout*, supplies to eliminate the great obstacle of costless mobility.

In such model, whose previous statements are in the theory of the clubs of J. Buchanan, two authors think that in common space UE it would be necessary to add to the freedom space for circulation of persons, goods and capitals, also the free circulation of the governments.

Authors turn upside down the model described from Tiebout and, where this imagined perfect mobility of consumers, they postulate jurisdictions offering to the citizens the various goods and services leaving out of consideration the residence place.

They place, like jurisdictional units, the so-called FOCJ (functional, overlapping, competing jurisdictions) – not territorial but functional – that can overlap themselves and, between them, compete.

Our perspective, however, gains better with other literature, sure more institutional, that opens, instead, to a systematic application of the economic conceptual *apparatus* to the legal phenomenon.

Beside the *critic* of today's normative order through an analysis supplied of classic microeconomic instruments, we purpose, in fact, methodological examination of the regional *statute*, encouraged in such direction from the authoritative opinion of the Italian lawyer Cassese S., that suggests "to mistrust from the unique methods for understanding the law" and "to borrow from foreign experiences of the economic analysis spreading its method to Italian cases".<sup>9</sup>

Will, certainly, supply an important reference for our surveying, the conceptual *apparatus* from R. Cooter in *The Strategic Constitution*, whose criteria finds a continuous progress of consents, constituting the first organic treatment of economic analysis of public right, realized through a successful attempt of synthesis of traditional schools of public choice theory and law and economics.<sup>10</sup>

## **Two: The Strategic Constitution**

Before concentrating on the analysis *à la Cooter*, it is necessary to make clear that his type of analysis, tied to constitutional rules for competences' allocation, require a high rate flexibility and a continuous modernization of powers' division.

The Italian legal system, and the Sicilian *statute*, in particular, have not these requisites. In other cases, moreover, transparent and univocal trends, generally accepted, are absent. An instance for that is the different way to make concrete the devolution: competences regarding transports and communications, as an example, can be left to the central State, but also shared between various levels of government.

At the same time, however, his analytic method concur to place a comfortable kit of instruments at interprets disposal, permitting to construct a coherent and not ambiguous evaluation system for competences' allocation.

The theoretical formulation, therefore, conserve a strongly valence in positive analysis: "*the economic analysis of the public law à la Cooter (...) tries to resolve the delicate issue regarding the government more adapted to take care of collective interest, acting according to certain principles, complementary between them, usually used also in order to support the opportunity of a the territorial agencies' redefinition*".<sup>11</sup>

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<sup>9</sup> Giornale di Diritto Amministrativo 2002 n.3.

<sup>10</sup> Cooter R.D. (2000) 'The Strategic Constitution', Princeton Un. Press.

<sup>11</sup> Abrescia M., (2003) 'Governare la differenziazione. L'analisi economica del diritto e il nuovo titolo V della Costituzione', *Mercato concorrenza regole*, 1.

Criteria that Cooter takes from economic sciences in order to apply them to the analysis of institutions, will be for us the method in order to verify if beyond market's failure exist government's failures that concur to not realize optimal conditions for starting and exercising enterprise activity:

- Transaction cost
- Scale economies
- Public goods
- Spillovers

Local norms increase can give place to high **transaction costs** that are serious obstacles for the citizen and enterprise' activity.

If a Region endowed with intensive autonomy (as Sicily) would be enough different from the others in the norms and institutions that transaction costs become barriers to the *interregional* exchange, contributing to slow down a, already uncertain, development.

We can make the example, since now (however it'll become clearer in the next paragraph) proposed by Abrescia: he noticed a deficiency in reformed directory of 117 article Constitution.<sup>12</sup>

Among the competence exclusive matters, in fact, do not appear norms in topic of vehicles circulation.

The co-existence on the same nation of twenty (as Italian Regions) various "Code of Road" would render quite impossible the activity of any hauler or any citizen who simply would cross the borders of a Region, creating a most obvious friction.

Besides these costs transaction we need to consider the difficulty of finding information on different emanated norms.

A same case in point can, in fact, be disciplined from different norms coming from different authorities: the local agencies, the same Regions, the central State, European Union legislator, etc.

That enormously increases the times for information and error's opportunities.

Other criterion proposed from Cooter consists in **scale economies**, that are productive dimensions where average production costs are lowest.

Scale economies could, in fact, assign that a good should be produced by a level (central or local) different from the one established by law.

It's understandable, therefore, as the eventual legal imposition of a productive level inferior than which scale economies would be, would mean to impose a legal *diseconomy*.

Just regarding Sicily, the systematic analysis of under-dimensioned productive level is still in course, by Caserta et Al., moving from *home market effect* literature.

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<sup>12</sup> Abrescia M., op. cit..



Third criterion concerns kind of service to produce.

The competences assigned to sub-central level in supplying and financing some goods and services is supported with the greater information that this level has about preferences and needs of local population and, from other side, with the greater vigilance of citizen-contributors over local administrators.

Such goods are defined from Coater **local public goods**, in contrast to the classics pure public goods, whose production cannot be embezzled to the central level in order to avoid a competition, between the regions, to decrease on minimum standards.

Production of particular goods, therefore, sometimes is more efficient if entrusted to the central government.

In particular cases, quite, the centralized production is the only that can guarantee some goods to be produced: particular assets, characterized for not rivalry and not excludible (so-called pure public goods), cannot in fact be produced in market, but only by the central government, and traditionally we think that at least stabilization and standardizing of charges go carried to national level.

Well, for local public goods, is just required to make sure a public supply, but a local autonomies supply.

So that each sub-national unit of government can't evade its duty to tolerate costs for decentralized production, it is necessary that national norms prescribe competence of local government cannot be removed from the same sub-national authority.

It must be a matter not disposable for the single local communities (here is the reason why the division of competences must happen in Constitution, that it is a higher level law, intangible from the regional norms).

Of course, could not be missing, in *The Strategic Constitution*, a criterion regarding **spillovers** and, more in particular, with regard to those connected to production of local public goods.

The production of some assets can produce effects positive or negative, not mediated from prices, also towards a third party.

Where it's happen, would need *special jurisdictions*, taking a task to internalise spillovers, imposing benefits or taxes.

As well multiplying local competences and, therefore, increasing spillovers' occasions, constitutional legislator of 2001 has not absolutely supplied to predispose any remedy. Therefore, above all if it comes true (as many previewed) a new expansion of speciality through revision of *special regional statutes* (v. infra par. 3), some exclusive matters will become concurrent matters between State and *special* Regions, so depriving economic system of whichever method of spillovers' management and control.

**Three: institutional system of autonomies.**

We will try, now, to search into Sicilian case with the instruments *à la Cooter* viewing the normative context in which its autonomy strikes root.

It will be necessary, therefore, to premise the actual status of competences recognized to the local government as well as perspective of future (necessary) developments of the autonomy system.

Each State offer a different model for answering positive and normative question about allocating power among levels of government: some of them centralize power subordinating regions to national government, some other reserve powers to local autonomies.

Decentralized states require more governments and less hierarchy, whereas centralized states require fewer government and more hierarchy.

The relative efficiency of centralized or decentralized states depends upon the relative efficiency of governments and hierarchies.

The autonomy level of Italian Regions is established by Constitution came into force in 1948 and by constitutional laws that approved the various *special statutes*.

Italy is divided into 20 administrative regions, about 100 provinces and about 8000 municipalities.

The Italian Constitution provided decentralization to regions. These were distinguished in "Special Statute Regions" and "Ordinary Statute Regions".

The former were established during the early years of the Republic (Sicily in 1946; Sardinia, Valle d'Aosta and Trentino Alto Adige in 1948; Friuli Venezia Giulia in 1963).

The Ordinary Statute Regions have only been implemented later (laws and decrees regarding decentralization of 1970, 1972, 1975 and 1977) and almost completed with Law Decree 112/1998.

More recently the Constitutional Law 3/2001 has turned over the previous constitutional framework, which assigned only a few competences to the regional legislative power, and the new text lists the competences at national level, leaving the remaining ones to the regions.

During training for the giving out Italian Constitution, two extreme attitudes to the continuum unity/diversity face each other: from a wall, supporters of a central government planner, from the other wall, supporters of an articulated system of autonomies.

A conciliation was settled in the text of article n. 5 ("Republic, one and indivisible, recognize and promote local autonomies; (...) adapts principles and methods of its legislation to the needs of the self-government and the devolution") and in the system planned by the Title V as reformed in 2001.<sup>13</sup>

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<sup>13</sup> constitutional law n. 3

We have to be conscious of how much the allotment of competence to the various levels of administrations is tied, sometime in inextricable way, with the typical institutional features of each Region, often consolidated in long time: with the character of State, with the existing relationships between levels of government (cooperative or competitive), with the kind of historical distance that has lead to asserting a system.

The reform of Title V has been approved when the traditional moderate structure of devolution in our Republic was exposed to important changes by previous rules concerning decentralization of administrative functions.

In a context of clear *institutional hierarchy* between the State, on one side, and local autonomies, from the other, the Constitution of 1948 assigned to the Regions the right to emit (for some specific matters) "*norms in the limits of the main beliefs established from the national law, provided that the same norms are not in contrast with the national or other regional interest*" (art. 117 old Constitution).

Such version of Title V, therefore, used the *concurrent legislation* to order matters very significant as artisan and professional order, urban planning, tourism, viability, aqueducts and regional public works, handicraft, agriculture.

The constitutional reform of 2001 has classified as exclusive State's competence the power to make laws in some matters (contemplated in article 117 clause two, reformed Constitution).

At the same time, article 117, third clause, describes *concurrent regional competence* (less strong than *exclusive competence*).

Therefore, without differentiating between ordinary and special Regions, the reform has substantially packed down the speciality of the second ones: constitutional reform of 2001, elevating the autonomy level of ordinary Regions, reduced the speciality of the *special statute* ones.

Now, or we must think that the reason for special autonomies came over or, if it has not came less, the legislative autonomies of *special Regions* will have to find a way in order to reaffirm.

*"It can be supposed by means attribution to the special Regions of an exclusive competence in matters in which ordinary ones have only concurrent competence".*<sup>14</sup>

The grounds where that will be able to happen are, first of all, those in third clause of article 116 Constitutions.

For instance, organization of *minor* justice, education, ecosystem and the cultural assets.

In these matters special statute Regions will be able to contract more autonomies, in order to reaffirm the original speciality.

Sicilian legislator (as each other special Regions) could try, with autonomous reform of its stature, to realize an new local order that will concur to redesign competence stronger than before.

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<sup>14</sup> ISAE report on federalism, 2004

If constituent of 2001 has granted to ordinary Regions faculties to contract greater powers, much greater should be the freedom that could be disposed to grant to special statute region.

Among the matters on which could be concentrated such attempt, there're mainly atmosphere protection and ecosystem.

Recalling Cooter's criteria, a reasonable aspiration could hide a serious danger.

The protection of ecology, in fact, should be considered as pure public good and not as a local public good.

It is notorious as norms to protect ecology are often an obstacle (a cost) for the enterprises whose production processes involve polluting emissions.

If such enterprises meet the same costs on all territory will be forced, to support these necessary costs because of spillovers neutralization.

If, in the same State, the protection normative against pollution depends from regional statutes (where, that is, was considered like local public good), the enterprise could think economically more convenient to transfer the own systems (and the relative polluting emissions) where the region imposes smaller standards.

It would establish, between Regions, a competition *to the bottom* in order to draw enterprises, lessening protection against pollution.

That appears, as well as more realistic, for a region like Sicily, that continues to have the highest levels of unemployment in Italy, and that it would be probably disposed to barter an adequate defence of ecology with higher employment levels.

#### **Four: Sicilian case**

In a such system could, of course, happen that some wise central policies, find in Sicily a impassable obstacle in exclusive competence of the regional government.

We have already pointed out to the regional norm on the topic of education; now we proceed characterizing, just as instances, a series of hypothesis where the legislative autonomy has determined a delay to consent to proposals already in force for the rest of Italy.

The first experience regards Sicilian delay in have benefits of a national development policy.

The decree n. 114 of March 1998 (c.d. Bersani decree) brought, in fact, a sequence of norms about commerce liberalization.

This matter is classified (articles 14 point *d*) and *e*) sicilian special statute) as an *exclusive regional competence*.

Sicily has supplied to modernize its own law<sup>15</sup> in December 1999: 21 months later than the national.

Other experience concern the Unified Code on the subject of construction (in Italy *Testo Unico*), task with presidential decree n. 380/2001.

Construction is very complex matter, disciplined by various norms, finally ordered by the cited decree.

This decree has realized a strong simplification, not profited by Sicily.

While, in fact, each Italian territorial areas have been able to reason in the terms of substantially homogenous discipline, Sicily, instead, has not been able to allocate that norm, remaining berthed to a regional law (n. 71) of 1978 and (n. 15) of 1991.

Other hypothesis of inapplicability of norms has, recently, taken place in topic of public contracts of jobs and services.

Also the legislative decree n. 163/2006 (code of public contracts for jobs and services), in fact, has met the obstacle of Sicilian autonomy.

This issue is really too much recent (and complicated from the automatic effectiveness of the European detailed norms), for being faced completely.

Remains the piece of evidence that because of the article 14 point *n*) of the statute, Sicily conserve exclusive competence in this matter and that prevents to the national law to extend its value inside of the regional territory.

Without facing the goodness of reform that, moreover, Sicilian legislator has often brought to the national laws, we want just reflect: leaving out the effectiveness of both disciplines (national and regional), the constant Sicilian delay can easily damage local economy.

The delay, in fact, constitutes a cost, not being able the Sicily to profit by economic advantages produced in the rest of Italy, for all the period of the lacked adjustment.

To that should be overlapped the difficulty of knowing operating norms on the regional territory.

That means: regional economic operator endures costs added (also in terms of chance renunciation), instead of the extra-regional entrepreneurs.

Whom of them wanted to invest in Sicily would meet, at the same time, one series of costs connected to the not homogeneous disciplines.

More in particular:

- information costs necessary to know Sicilian norm;
- transaction cots in order to adapt their own production processes to the eventual various local institutional order.

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<sup>15</sup> with regional law n. 28

If the delay (cost) depends on the exclusive competence, such delay is due essentially to the constitutional norm that shared the competences.

Obviously, these costs would be, instead, compensate by benefits if the local regulation is more suitable (economically more productive) than the national one.

But, Cooter standard, that is only if the classified matters to the *exclusive competence* of agree with the construction of local public goods.

### **Five: statute valuation**

Before concluding, could be useful to give a little description of a recent survey carried out from international organizations that, with the purpose to estimate the regional governance, have weighed the competences assigned to local administrations and the structure of regional statutes, so obtaining a levels of *compliance* with the upper-national institutions.

This report has contributed to supply a chain of parameters of local statute judgment, moving from some issues of capability of peripheral level rules and attributions and confronting decisional apparatus and level of modernity.

The issues (source UN - OCSE - UE) are assembled for areas of feature and turn out almost corresponding with the aim to guarantee:

- transparency of decisional processes and promotion of citizens participation to the governance;
- comprehensibility of norms and openness of the information;
- clear definition of competences and responsibilities;
- consideration of effectiveness of programmed aims and of efficiency of administrative management;
- supportability of regional policies;
- impartiality of administration and the exclusive purpose to the public interest;

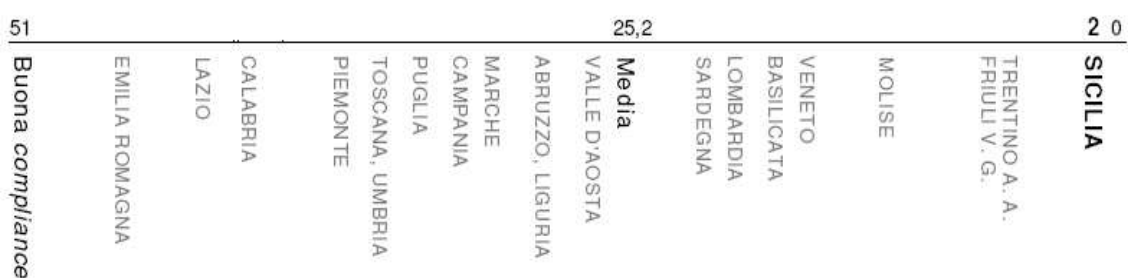
Of course everyone could discuss critically about such issues and their suitability to define quality of the devolution.

However they seem, on a vast scale, to coincide with the criteria list from Cooter, representing, therefore, for a side a test for the analysis contained in *The Strategic Constitution* and, for other side, the prove for the method used up to now.

Another step in the appraisal of statutes has been realized by a recent report of the European Agency of Investments, that has gained from the generic criteria contained in several international report some ponderable pointers.

The construction of such pointers and their measurement has made to emerge interesting results turns out.

As instance, it has turned out that, among Italian regions, the statutory norms farther from international parameters are just those contained in *special* statutes. That means, therefore, that the *special autonomy* Regions have promoted a government system perhaps more independent, but also more *distant* from international standards of *good governance*.



**Grafic from *Gli statuti regionali a confronto: peso e ruolo delle indicazioni UE, OCSE ed ONU sulla buona governance*. Report Ufficio Studi AEI 21/4/2006**

Every Italian Region, anyway characterized, need to *internationalises* itself, recognizing to global organizations a role of main interlocutors, especially in a normative system defined, by now, of *double devolution* (towards European Union and the other international organizations or towards local autonomies).<sup>16</sup>

The institutional order chosen by every regional legislative body, then, becomes an instrument in order to estimate the level of opening and attractiveness to private investor, Italians or foreign, public or private.

From the board, in fact, becomes clear that three of the five *special* Regions (Friuli Venice Giulia, Trentino Alto Adige and Sicily) are placed to last the three places, and the other two are placed, instead, in proximity of medium values (Sardinia and Valle d'Aosta).

The position of Sicily stands out, showing a statute very little permeated from opening parameters of good *local governance*.

The sicilian statute, in fact, has shown to possess qualitative standards farthest from the average national.<sup>17</sup>

<sup>16</sup> See for example *La doppia devoluzione: sovranazionalizzazione e federalismo interno*. In ISAE report regarding federalism 2004

<sup>17</sup> Compliance degree 2 confronting national level 25.2.

## Bibliography

- AA. VV., La specialità siciliana dopo la riforma del titolo V della Costituzione, Giuseppe Verde (a cura di), Giapichelli editore, Torino 2003
- Abrescia M., (2003) 'Governare la differenziazione. L'analisi economica del diritto e il nuovo titolo V della Costituzione', *Mercato concorrenza regole*, 1.
- Baranzini M e Scazzieri R. (1990) 'Institutions in Economic Theory', in *The Economic Theory of Structure and Change*, Cambridge University Press, 243-267.
- Barca F. et Al. (a cura di), 2006 'Federalismo, equità e sviluppo', Il Mulino Bologna.
- Brainard, William C. and Dolbear, F. Trenery (1967), 'The Possibility of Oversupply of Local Public Goods', *75 Journal of Political Economy*, 86.
- Breton, Albert and Scott, Anthony (1978), *The Economic Constitution of Federal States*, Toronto, University of Toronto Press.
- Buchanan J. M. and Tullock G. 'The calculus of consent: logical foundations of constitutional democracy', ed. It. (1998) Il Mulino Bologna.
- Centorrino, M. (2004) 'Mafia, Economia e Globalizzazione', *Il sogno* 252, 7.
- Coase, Ronald (1960), 'The Problem of Social Costs', *Journal of Law and Economics*, 1-44.
- Cooter R.D. (2000) 'The Strategic Constitution', Princeton Un. Press
- Cumberland, John (1981), 'Efficiency and Equity in Interregional Environmental Management', *2 Review of Regional Studies*, 1.
- Downs A. 'Teoria economica della democrazia', ed. It. (1988) Il Mulino Bologna.
- Easterbrook, Frank (1983), 'Antitrust and the Economics of Federalism', *26 Journal of Law & Economics*, 23-50.
- Ellickson, Robert (1979), 'Public Property Rights: Vicarious Intergovernmental Rights and Liabilities as a Technique for Correcting Intergovernmental Spillovers', in Rubinfeld, Daniel (ed.), *Essays on the Law and Economics of Local Governments*.
- Epple, D. and Zelenitz, A. (1981), 'The Implications of Competition Among Jurisdictions: Does Tiebout Need Politics?', *89 Journal of Public Economy*, 1197.
- Frey B.S. and Eichenberger R., (1999) 'The new democratic federalism for Europe. Overlapping and competing jurisdictions' Northampton.
- Krugman P. 'Scale economies, product differentiation and the pattern of trade'. In the *American Economic Review* 70/V 1980.



- North, D.C. (1990), 'Institutions, Institutional Change and Economic Performance', Cambridge, Cambridge University Press.
- Oates, Wallace E. and Schwab, Robert M. (1986), 'Economic Competition Among Jurisdictions: Efficiency Enhancing or Distortion Inducing?', 35 *Journal of Public Economics*, 333.
- Persson T. and Tabellini G. 'The economic effects of constitutions', MIT Press 2003
- Posner, Richard A. (1977 (2)) (1986)(3rd, ed.), *The Economic Analysis of Law*, Boston, Little Brown.
- Posner, Richard A. (1987), *The Constitution as an Economic Document*, *George Washington Law Review*, 56 (4), pp. 4-38
- Rose-Ackerman, S. (1981), 'Does Federalism Matter? Political Choice in a Federal Republic', 89 *Journal of Political Economy*, 152-165.
- Tiebout, (1956), 'A pure theory of local expenditure', *Journal of Political Economy* 416.