

**THE UNIVERSITY SYSTEM REFORM AND THE
REORGANISATION OF SECONDARY SCHOOL EDUCATION IN
ITALY: EDUCATION AS A FUNDAMENTALLY IMPORTANT
FACTOR IN DEVELOPMENT AND PROGRESS?**

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1. FOREWORD

This article analyses, firstly, relevant recent developments on the subject of governance and the organisation of teaching methods and research in Italian Universities. This latter issue, in particular, is of special interest in Italy following the approval of Reform Law no. 240/2010 whose provisions include an unprecedented overall revision process of the Statutes of Italian Universities and which thus constitutes an extraordinary 'social experiment'.

The reorganisation of secondary school education in the new national education system will then be analysed. For the first time, the school system regulations have not confined themselves to listing the subjects and tasks that the State and Administration delegates to the schools, but has also defined the competence of the State and the Ministry for Public Education, thereby definitively confirming the principle whereby all duties and powers not explicitly reserved to the ministerial initiative are ordinary duties and powers - *rectius* - which originate with the school and are managed in total autonomy by them.

2. UNIVERSITY REFORM: TOWARDS A NEW RESPONSIBLE AUTONOMY?

The latest Italian University reform would seem to be motivated by a certain dissatisfaction regarding the actual exercise of the autonomy constitutionally granted to the Universities which has resulted, in some cases, in a 'self-regulatory' framework which has led to organisational malfunction and an inefficient and ineffective use of resources¹.

¹ Recently, in general on this issue, see A. BANFI, *Prima che la nave affondi: un rapido bilancio della riforma dell'Università e qualche possibile intervento normativo*, in *Giorn. dir. amm.*, 2013, 548.

Acknowledging the system's inability to move autonomously towards rational choices, then, Italian law has in some way “took back” the subject and imposed a certain organisational uniformity onto it in the name of governance capable of guaranteeing the Universities' necessary functions with special reference to improving the quality of planning and strategic decision making².

Moving in the same direction, the recent statutory revision of Italian Universities foreseen by the reform has taken place in accordance with managerial principles and criteria placed by the law in a context of overt 'autonomy' and 'responsibility' to which has been added the yet more innovative concept of 'professionalism' which has characterised, in particular, the participation of non-academic external members in the Board of Governors.

In general, the solution adopted on a legal level with the purpose of reforming the Universities' governance is largely based on a framework which already underlies and characterises the most recent public organisation models which implement the principle of the division of responsibility between political-administrative and management bodies. In particular, the model outlined by Law no. 240 of 2010 on the subject of relations between University governing Bodies can legitimately be described as an 'interconnecting' one and in actual fact, rather than a division it is now possible to speak of a 'differentiation' of roles in the context of a system which, while still an expression of an overall logic which defines the elements as 'load-bearing', dutifully allows for the practicability of differentiated working solutions in relation to the specific characteristics and specific purposes which each single University can and must set out³.

The purpose of the recent reform of the Italian University system is to fix a standard governance model centrally without prejudice to the right of individual

² See F. MERLONI, *La riforma dell'università. La nuova governance*, in *Giorn. dir. amm.*, 2011, 354.

³ On this specific issue see E.M. MARENGHI, *L'organizzazione delle università tra riforma e controriforma*, in *Dir. e proc. amm.*, 2012, 791 ss.

Universities, once a "stable and sustainable budget has been achieved together with high teaching and research standards" to experiment with "their own functional and organisational models" on the basis of programme agreements with the Ministry, to include a composition and constitution of their governing bodies which are different to those indicated by national law⁴.

The standard governance framework in Italian Universities focuses on the mandatory institution of six bodies - the Rector, the Board of Governors, the Academic Senate, the Board of Auditors, the Evaluation Board and the General Manager.

As far as the Rector is concerned, he or she is elected according to procedures contained in the Statutes of each individual University (the usual preference is for direct election by the various academic bodies) amongst full professors including those who are working in other Italian Universities. The Rector's role has been strengthened in the reform and is the crux of the entire University decision making process and the *dominus* of its entire governance⁵ with policy and also operational and management responsibilities. From this point of view, in fact, the Rector on one side exercises a proposal and initiative power (with special reference to financial planning documents) in relation to the University's two collegial bodies on which he is an ex-officio member (and over which, in most Statutory frameworks, he presides) and, on the other, he is responsible for pursuing the University's objectives in accordance with its quality criteria and the principles of effectiveness, efficacy, transparency and rewarding merit. Furthermore, the Rector is a residual competence body in the sense that all functions not expressly attributed in the Statute to

⁴ See, in general on this issue, E. FOLLIERI, *La riforma dell'Università tra legge e statuti, analisi interdisciplinare della L. n. 240/2010*, M. BROLLO, R. DE LUCA TAMAJO (eds.), Milano, 2011, 31 ss. e R. CALVANO, *Problemi costituzionali della riforma dell'università di cui alla l. n. 240 del 2010*, in *Dir. soc.*, 2011, 765 e ss.

⁵ See F. MERLONI, *op. cit.*, 357.

other bodies are his⁶.

One original feature of the reform consists in its proposals relating to the fact that the Rector's mandate is a single one lasting six years which cannot be renewed according to an approach aimed at ensuring that the latter does not use his (vast) powers for the purposes of his own re-election and to ensure changeover at the top.

As far as the collegial bodies are concerned, in relation to the system malfunctioning mentioned previously, the reform has emphasised the need to distinguish between the functions of the Senate, as the fully academic elective body, and the Board of Governors presided over by the Rector (as will occur in the vast majority of cases) or by an advisor who is external to the University and made up of individuals nominated according to procedures laid out in the Statutes but in any event with "proven management experience" or an "academic-cultural qualification" with the expectation that a certain number of external advisers will be mandatory.

The reform gave mainly consultation roles in teaching, research and student services and financial planning responsibilities to the former body as well as regulatory powers while the latter's functions include strategic policy and sustainability supervision and financial planning approval and resolutions, after consulting the Senate, on setting up or terminating courses or buildings.

The Senate was given the right to propose a no-confidence resolution in the Rector at least two years after the beginning of the mandate. It is an instrument of guarantee which can be activated by a qualified majority (two thirds) wherever it is held that the work of the Rector is not in line with the declared opinion of the electoral body which constitutes an element which still binds the Rector, despite the strengthening of his decision making capacity, to the academic community which has elected him and which must continue to

⁶ On this issue, AA.VV., *La riforma dell'università (commento alla l. 30 dicembre 2010 n. 240)*, in *Giorn. dir. amm.*, 2011, 353 e ss.

trust in his work.

The organisational framework which comes out of the reform is characterised substantially by the respective roles of the two collegial bodies with a marked movement of the centre of gravity in favour of the Board of Governors which, together with the Rector, has become the most important decision making body while the role of the Senate would seem to have been 'marginalised' in some way.

Moreover, it is important to consider the mandatory opening up of the Board of Governors to external members in relation to which the requirement for "proven management experience", both tempered by the alternative academic-cultural qualification, seems to point towards managerial type models which, in fact, expose themselves to the risk - the opposite of self-regulation - of submitting to external technical-managerial power without legitimacy or effective representation in the academic body⁷.

Ultimately, the system of governance referred to in the reform, as far as it relates to the top levels of the University hierarchy and the collegiate bodies, is essentially based on the Board of Governors-Rector relationship, the former with managerial competence (*rectius* decision-making and planning⁸), the latter of academic origin to whom falls the most complex strategic decisions with a more covert role, of an advisory sort, from the

⁷ See E. CAVALIERI, *Il d.d.l. sulla riforma universitaria. Osservazioni sul modello di governance proposto*, in F. CAPRIGLIONE (ed.), *Luci ed ombre della riforma universitaria (Governance, meritocrazia, baronie)*, Bari, 2010, which highlights the fact that governance managed by private individuals should not jeopardise the completion of top level research and training for general interest objectives; on this see also G. GRASSO, *Governance ed autonomia del sistema universitario: problemi e prospettive*, in A. ARCARI, G. GRASSO (ed.), *Ripensare l'università. Un contributo interdisciplinare sulla legge n. 240 del 2010*, Milano, 2011, 1 ss.

⁸ See, on this specific point, the considerations of E.M. MARENGHI, *op. cit.*, 803, who perceptively highlights the fact that "the power framework combined with the financial lever, transfers to the Board of Governors that which is left of limited autonomy" and that "what remains of potential autonomy is the preserve of the Board of Governors".

Academic Senate which, however, has been given the right to vote a no-confidence resolution in the Rector.

In the intentions of the law such a framework should, by means of limiting the autonomy of individual Universities to an extent, correct the self-regulatory distortions highlighted previously and this by weakening the principle of representation between the academic body office-holders and the academic community or, in other words, the principle of self-government. In particular this principle continues to apply to the administrative and control functions but is limited as far as strategic and evaluation policy decisions are concerned above all in relation to choices which presuppose a selective allocation of resources and consequently require a certain measure of independence and autonomy of the decision maker in relation to the subjects of the decisions themselves. It is precisely for this reason, in the reform under consideration, that an attempt has been made to distinguish these latter roles clearly from the others, assigning them to bodies in which legitimate representation is balanced by a different sort of nomination in that it is based on the professionalism and independence of the office-holder⁹.

These latter characteristics underlie - even more strictly as compared to the Board of Governors, where, as we have seen, the presence of a minimal external component is involved – the work of the members of the Evaluation Board, who, in accordance with the law, must be mainly external to the University (although the co-ordinator can be selected from the University's full professors) and above all they must hold a "high level professional qualification" which appears on a CV to be published on the University's website.

The Evaluation Board, in the renewed framework of Italian University governance, has taken on equal weight and dignity with other bodies with a much more long term tradition and this in conjunction with changes in the form of control over public

⁹ See S. BATTINI, *La nuova governance delle università*, in *Riv. trim. dir. pubbl.*, 2011, 377.

administration and thus of the Universities too.

In fact, review functions of the quality and efficacy of teaching as well as of the research activities carried out by faculties and the adequacy of the academic or professional CVs of the holders of teaching contracts have been entrusted to this body by the reform under examination here. Moreover, in line with that foreseen for public administration in general, the Evaluation Board also carries out roles relative to the evaluation procedures of structures and staff in order to fulfil the declared aims of rewarding merit and promoting improvements in organisational and individual performance.

Essentially, the Evaluation Board is deployed on a twofold front. On one hand it is called on to supply the necessary information to promote strategic planning and policy roles and on the other, its role is also to put internal and external governance into contact with one another as it can claim to be, at the same time, both part of the internal organisational structure and part of an external network guided by a central body (National Agency for the Evaluation of Universities and Research Institutes - ANVUR Agenzia Nazionale di Valutazione del Sistema Universitario e della Ricerca) of which each Evaluation Board can consider itself an operating terminal¹⁰.

Practically speaking, from this latter point of view and working together with ANVUR, the Evaluation Board must ensure that the evaluation of structures and teaching staff within the University is carried out according to criteria and indicators which are in accordance with those on which the University itself is then assessed by public bodies in overall terms including as far as funding is concerned¹¹.

¹⁰ In general, on evaluation in the university context, see A. SANDULLI, *Spunti di riflessione sulla valutazione della ricerca universitaria*, in G. DELLA CANANEA, C. FRANCHINI (eds.) *Concorrenza e merito nelle università, prospettive e proposte*, Torino, 2009, 55 ss.; F. FRACCHIA, *La valutazione dell'attività didattica*, in *Concorrenza e merito*, cit., 63 ss.

¹¹ S. BATTINI, *op. cit.*, 374.

The Board of Auditors and the General Director complete the University's mandatory governance bodies.

The former body is made up of three effective members and two substitute members of whom one takes on the role of president and is chosen by the University while the others are either nominated by the Ministry of the Economy or chosen by it from its own managers and executives.

As far as the second body is concerned, the change in title from Administrative Director to General Director carried out by the reform would seem a significant one in underlining the fact that the latter has been given responsibility for the overall management and organisation of services, of the necessary resources, of the technical and administrative staff as well as of the functions typical, as far as these are compatible, of a State official¹².

The General Director acts on the basis of policy guidelines given him by the Board of Governors whose meetings he attends without voting rights and is nominated, from a selection of individuals with "high-level professional qualifications and proven long term experience of managerial roles", by the Board of Governors on the basis of the Rector's suggestions and having heard the opinions of the Academic Senate. Precisely in this regard, it has been found that the General Director is generally a trustee appointed by the Rector which would seem to conflict with the administrative management roles given to the Manager which, as we have already seen, are also part of the Rector's duties. This 'composite' framework does not help to clarify the correct configuration of the University's administrative duties taking account, among other things, of the fact that the trusteeship character of the appointment should mean that the Manager is 'only' given supervisory and overall co-ordination roles of the activities of the administrative bodies¹³.

¹² On this issue, see the recent, A. MARRA, *Il direttore generale e i dirigenti nella nuova governance delle università*, in *Giorn. dir. amm.*, 2012, 1142 ss.

¹³ See F. MERLONI, *op. cit.*, 358-359.

Ultimately, in the context of the governance foreseen by the law it can be argued that the Rector is called onto to perform a fundamentally important decision making role in agreement with the collegiate bodies in the context of a (constitutionally) autonomous organisation which, however, the law has attempted to modify in an extremely important way by means of the reform under examination.

From the point of view of the system of control of the University system and research, this is performed internally, by means of the Evaluation Board, in liaison with an external level and in a centralised manner reporting to an independent national Agency, a legal entity governed by public law (ANVUR)¹⁴.

This latter, from the former point of view, carries out a policy and liaison role with internal evaluation systems and from the latter point of view, on behalf of the Ministry, performs evaluation activities, defines academic standards and parameters and, above all, evaluates *ex post* but on the basis of parameters defined *ex ante*, the quality of University management, training and research processes partly in order to ensure that resources are distributed by reference to the efficiency and efficacy of teaching activities on the basis of international level quantitative standards, the quality of research results - assessed by means of evaluation by peers, the ability to obtain outside funding and set up partnerships with public and private entities, the internationalisation of the University and the efficiency and sustainability of structures and government and management processes (Presidential decree no. 76 of 1st February 2010, Article 3, subsection 2).

From an organisational point of view, the reform under examination dictates a simplification of internal structures and identifies the department as the only body with teaching and research duties which thus acquires the roles of both faculties and departments, as implied above.

¹⁴ On this issue, see the recent C. BARBATI, *La valutazione del sistema universitario (commento al d.lgs. 27 gennaio 2012 n. 19)*, in *Giorn. dir. amm.*, 2012, 816 ss.

This intention to simplify originates from the need to move beyond a system from which irrational and overlapping responsibilities had emerged¹⁵. In this reform, then, the law has prescribed the simultaneous assignment of academic, teaching and training duties to the departments as well as of outreach activities linked to or in support of these.

The reform also sets out a minimum number of professors to be attached to each Faculty on the basis of "homogeneous academic discipline sectors".

The law also foresees a second level of organisation of teaching responsibilities on an optional basis for smaller Universities by means of 'liaison frameworks' which are given the task of co-ordination and rationalisation as well as of common service management for faculties working together.

In essence, the de-structuring of the Faculty is reflected in the reduction of importance in the role of government which, in the previous system, was performed by the Deans by means of the Academic Senate. Under the reform, the Faculty heads are now called on to perform a minor role which is underlined by their only partial presence on the Academic Senate.

It is a framework which is in line with the greater centralisation in University governance described above. In this context, whilst the reform assigns an important role to the faculties as the true seat of self-government and guarantors of the academic and teaching freedom of the professors, it also, at the same time, places them in a position characterised by a certain 'separation' and 'distinction' as compared to the University governing bodies which are, in turn, placed under the same framework in their mutual relations in order to avoid, as has just been emphasised, any sort of overlapping or cross

¹⁵ In this respect, E. CARLONI, *La riforma dell'università. L'organizzazione della didattica e della ricerca*, in *Giorn. dir. amm.*, 2011, 366 ss.

over in roles¹⁶.

Thus, the 'new' faculty, with the exception of any intermediation from liaison structures, deals directly with the Board of Governors and the Senate.

As far as the former is concerned, the choices which impact on the allocation of resources are influenced by central level sharing (for example, as far as the appointment of new professors is concerned in relation to which the decision making process is divided up between the faculty - which formulates the proposal - and the Board of Governors - which is responsible for deliberating on it)¹⁷.

As far as the latter is concerned, the main decisions on teaching fall to the faculties, or to the liaison networks as well, as they are obliged to negotiate with the Academic Senate which has been given an overt co-ordination role with the faculties and liaison networks on this issue.

3. THE REORGANISATION OF UPPER SECONDARY EDUCATION IN THE NEW NATIONAL EDUCATION SYSTEM

Under the new institutional framework, the cornerstone of the structure and balance of the public education system is the 'national' dimension of the system, as is well known.

This is clearly reaffirmed in the exclusive competence set out for the state legislature in relation to the main common regulations which have, in various ways, to

¹⁶ See E. CARLONI, op. ult. cit., 370.

¹⁷ On this issue see the recent C. FRANCHINI, *Il nuovo sistema di reclutamento dei professori universitari e l'apologo di Schopenhauer*, in *Giorn. dir. amm.*, 2011, 802.

discipline the general approach and working of public education understood as functional to effectively safeguarding one of the main social rights involved in citizenship¹⁸.

Essentially, in the context of a marked development of regional and local autonomy, a constitutional approach based on anchoring education to a series of common principles and rules on a national basis has emerged clearly and this ultimately limits the recognised current legislative power of the regions in various ways.

Law no. 53/2003, effectively the first law, post Constitutional approval, to dictate "general norms on education", took these provisions on board and has not disguised its radical nature for our linguistic and statutory customs¹⁹.

Seventy years after the *Gentile* reform and innumerable attempts to reform the school system, this document is still a fundamentally important element in the great changes which have (long) been reformulating the Italian school system. This reorganisation has eliminated in a single stroke what had survived of the old system together with the decades' long concept of formulated and experimental reorganisation.

In resolving the newly emerged inconsistency of Law no. 30/2000 with the new constitutional framework, the new legislation confirms the educational cycle framework.

Firstly, the tripartite division of education into elementary, lower middle and upper middle schools has disappeared and has been replaced with three distinct cycles: the *infancy cycle*²⁰, the *primary cycle* and the *secondary cycle*.

¹⁸See R. MORZENTI PELLEGRINI, *Istruzione e formazione nella nuova amministrazione decentrata della Repubblica*, Milano, 2004, 139.

¹⁹A first evident difference, as compared to the provisions of Law no. 30/2000, is the fact that Law no. 53/2003 sets out 'general norms' for and not the 'objectives' of the education system.

The first cycle includes primary school (previously elementary) and lower secondary school (middle school)²¹; the second cycle encompasses the high schools²², the technical schools²³ and the vocational education system (Vocational schools)²⁴ and professional education and training (regional three and four year courses)²⁵. It is the second

²⁰ See Presidential Decree no. 89, 20 March, 2009, *Revisione dell'assetto ordinamentale, organizzativo e didattico della scuola dell'infanzia e del primo ciclo di istruzione ai sensi dell'articolo 64, comma 4, del decreto-legge 25 giugno 2008, n. 112, convertito, con modificazioni, dalla legge 6 agosto 2008, n. 133*. Infant school is open to all Italian and foreign children who are between three and five years of age on the 31st of December. It lasts three years and is non-compulsory. This first stage in the educational journey contributes to the child's emotional, psychomotor, cognitive, moral, religious and social educational and development and promotes the ability to relate to others, autonomy, creativity and learning and guarantees the real equality of educational opportunity. Respecting the primary educational responsibility of the child's parents, infant school contributes to overall educational development and, in terms of autonomy and integrated teaching and pedagogy it is on an educational continuum with primary school (see Article 2, Law no. 53 of 28 March 2003).

²¹ The first education cycle is divided into two simultaneous, compulsory stages - primary school lasting five years and lower secondary school lasting three years.

²² As 'redesigned' by Legislative Decree no. 226 17 October 2005 – *Norme generali ed i livelli essenziali delle prestazioni sul secondo ciclo del sistema educativo di istruzione e formazione ai sensi della legge 28 marzo 2003, n. 53 e dal d.P.R. 15 marzo 2010, n. 89, Regolamento recante revisione dell'assetto ordinamentale, organizzativo e didattico dei licei a norma dell'articolo 64, comma 4, del decreto-legge 25 giugno 2008, n. 112, convertito, con modificazioni, dalla legge 6 agosto 2008, n. 133*.

²³ As disciplined by Law no. 40 of 02 April 2007, *Conversione in legge, con modificazioni, del decreto-legge 31 gennaio 2007, n. 7, recante misure urgenti per la tutela dei consumatori, la promozione della concorrenza, lo sviluppo di attività economiche e la nascita di nuove imprese e dal d.P.R. 15 marzo 2010, n. 88, Regolamento recante norme per il riordino degli istituti tecnici a norma dell'articolo 64, comma 4, del decreto-legge 25 giugno 2008, n. 112, convertito, con modificazioni, dalla legge 6 agosto 2008, n. 133*.

²⁴ See Law no. 40 2 April 2007 and Presidential Decree no. 87 15 March 2010, *Norme concernenti il riordino degli istituti professionali, ai sensi dell'articolo 64, comma 4, del decreto legge 25 giugno 2008, n. 112, convertito dalla legge 6 agosto 2008, n. 133*.

²⁵ See Legislative Decree no. 226/2005.

cycle which constitutes the reform's most innovative element and this stage has been deliberately designed with the objective of pursuing "the educational, cultural and professional growth of young people by means of knowledge, practice and action" (Article 2, letter *g* of the delegated law).

Law no. 53/2003 provided for eight high schools while the new measures allow for six: the High School for the Arts with specialisations in Representational Arts, Architecture and the Environment, Audio Visual and Multi Media Design and Graphics and Stage Design. The High School for the Classics; the High School for Languages; the High School for Music and Dance, the High School for Science and applied science options; the High School for Social Sciences and the socio-economic option²⁶. The same Law no. 53 - and it could not have been otherwise given the exclusive legal competence on the subject of the regions - had very little to say on the schools of the "vocational education and training system" which emerged, however, as insufficiently clearly defined in their essential character.

Lastly, a (new) general reorganisation of the education system of the secondary education system took place involving 'redesigning' the *high school system* and, above all, renewing the technical and vocational schools.

All high school courses last five years and are divided into two year periods and a fifth year at the end of which students take the State examination which is required for continued studies in any University faculty. The purpose of the fifth year is also improved links between school and upper education and preparation for starting work.

²⁶ The reorganisation of the high school system overcomes the huge fragmentation of the ordinary and experimental specialisations (more than 500). The new features include studying one foreign language for five years in all high schools and a second foreign language in the socio-economic option of the High School for Social Sciences and three foreign languages in the High School for Languages.

For the first time in Italy, on the 1st of September 2010, an overall and simultaneous reform was set in motion of the second cycle of education and training which will change the face of upper secondary school education. The latter has been completely reorganised to provide a clearer basis for family choice (6 high schools; technical schools subdivided into 2 sectors with 11 specialisations; vocational schools subdivided into 2 sectors and 6 specialisations).

As far as the vocational schools are concerned, in the *economic sector*, we have the following specialisations: Administration, Finance and Marketing; for the *technological sector*: Mechanics, Mechatronics and Energy; Transportation and Logistics; Electronics and Electrical Engineering; Computer Science and Telecommunications; Graphics and Communication; Chemistry; Materials and Biotechnology; Fashion; Agriculture; Agribusiness and Agro-industry; Construction, Environment and Territory²⁷.

The new vocational institutes, on the other hand, have been divided into two sectors and six services. For the *service sector*, the specialisations are: Services for Agriculture and Rural Development; Health and Social Services; Services for Wine and Food and Hospitality; Business Services, and for the *industry and artisan sector*: Industrial and Artisan Production and Technical Maintenance and Support²⁸.

This new framework is certainly to be located within the context of European co-operation for the establishment of a shared system of vocational education and training and the commitments undertaken by the Country following the Council of Lisbon in 2000 and the re-launching of this type of training aims not only at personal development but also at

²⁷ See Presidential Decree 88/2010.

²⁸ On this subject, see Presidential Decree 87/2010 and Ministerial Decree no. 4 18 January 2011, *Linee Guida per realizzare organici raccordi tra i percorsi degli Istituti Professionali e i percorsi di Istruzione e Formazione Professionale*.

economic, social, scientific and technological progress which requires "working minds" with specific specialisations²⁹.

The general framework of secondary school education has been completely reviewed with the additional objective of providing suitable preparation for upper education, both University and otherwise, and for the world of work.

It should also be noted that Article 1 of Law no. 53/2003 already provided that, in exercising direct authority over the definition of general norms on education and essential performance standards for education and training, the government must work "in accordance with the principle of school autonomy and the principles set out in the Constitution"³⁰. Respect for this necessarily implies that the general norms must limit themselves to defining the general *minimum objectives* and the school system's assessment *standards* without interfering with the recognised autonomy of the schools in matters of teaching and pedagogy.

The first important stages in the implementation of Delegated Law no. 53/2003 have been implemented with legislative decree no. 59 of 19 February 2004 which redefined the main *guidelines for the reorganisation of education cycles*³¹. In 2005 further fundamental stages towards the completion of the reform of school cycles were then defined by means of the approval of legislative decree no. 76 of 15 April 2005 on the subject of *rights and duties in education and training and on the matter of vocational*

²⁹ In these terms M. FALANGA, *La scuola pubblica in Italia*, Brescia, 2011, 343.

³⁰ In this sense, it represents a lesser safeguard of school autonomy as compared to draft Law no. 1306/2002 in which it was anticipated that, in exercising its direct authority over the general norms on education and minimum performance standards on education and training, the Government should respect "the newly acquired autonomy of the schools on a constitutional level".

³¹ See Legislative Decree no. 59 19 February 2004, *Definizione delle norme generali relative alla scuola dell'infanzia e al primo ciclo dell'istruzione, a norma dell'art. 1 della legge 28 marzo 2003, n. 53*.

courses with legislative decree no. 77 15 April 2005³² which was followed up by the approval of legislative decree no. 226 of 17 October 2005 – *Norme generali ed i livelli essenziali delle prestazioni sul secondo ciclo del sistema educativo di istruzione e formazione ai sensi della legge 28 marzo 2003, no.53* and by legislative decree no. 227 of 17 October 2005 on the subject of teacher training for access to teaching³³.

The decrees approved subsequently (particularly between 2008 and 2010) are a fundamental (and definitive?) completion of the powers set out by Law no. 53/2003 aimed at a comprehensive reformulation of our school system³⁴.

³² See Legislative Decree no. 76 15 April 2005 – *Definizione delle norme generali sul diritto-dovere all'istruzione e alla formazione, a norma dell'art. 2, comma 1, lett. c), della legge 28 marzo 2003, n. 53. Legislative decree no. 77 15 April 2005 – Definizione delle norme generali relative all'alternanza scuola-lavoro, a norma dell'art. 4 della legge 28 marzo 2003, n. 53. On this issue see A. POGGI, I decreti attuativi della riforma della scuola, Commento a d.lgs. 15 aprile 2005, n. 76 e d.lgs. 15 aprile 2005, n. 77), in *Giorn. dir. amm.*, 2005, 922-928.*

³³ See Legislative Decree no. 226 17 October 2005 – *Norme generali ed i livelli essenziali delle prestazioni sul secondo ciclo del sistema educativo di istruzione e formazione ai sensi della legge 28 marzo 2003, n. 53 e dal d.P.R. 17 ottobre 2005, n. 227 – Definizione delle norme generali in materia di formazione degli insegnanti al fine dell'accesso all'insegnamento, ai sensi dell'art. n. 5 della legge 28 marzo 2003, n. 53. On this issue also see, M. COCCONI, Diventare insegnanti: le nuove regole (Commento a d.m. Pubblica istruzione 10 settembre 2010, n. 249), in *Giorn. dir. amm.*, 2011, 237-243.*

³⁴ The general legal framework has remained substantially unaltered and was further implemented by means of Law no. 133/2008 which provided for the adoption of regulations and the delegation of legislative power in Article 64, subsections 3 and 4, in order to amend the legal framework on the school cycles. The Legislative Decree no. 89 of 15 March 2010 cited above was thus (partly) adopted containing: *Revisione dell'assetto ordinamentale, organizzativo e didattico dei licei, ai sensi dell'articolo 64, comma 4, del decreto legge 25 giugno 2008, n. 112, convertito dalla legge 6 agosto 2008, n. 133*; Legislative Decree no. 87 15 March 2010, containing *norme concernenti il riordino degli istituti professionali, ai sensi dell'articolo 64, comma 4, del decreto legge 25 giugno 2008, n. 112, convertito dalla legge 6 agosto 2008, n. 133*; Presidential Decree no. 88 15 March 2010, containing *norme concernenti il riordino degli istituti tecnici ai sensi dell'articolo 64, comma 4, del decreto legge 25 giugno 2008, n. 112, convertito dalla legge 6 agosto 2008, n. 133*. See also Legislative Decree no. 122. 22 June 2009, *Regolamento recante coordinamento delle norme vigenti per la valutazione degli alunni e ulteriori modalità*

Specifically, these acts only apparently follow the framework of the definition of general norms, fundamental principles and minimum standards. Reading between the lines they are, in fact, essentially an empty container which refer to later, normally regulatory acts. Moreover, they (often) do not provide for funding or, worse, add an additional empty vessel: Art. 1, subsection 2 of Legislative Decree no. 59/2004, for example, sets out that "the generalised nature of educational opportunity and the chance to attend infant school is guaranteed" and then adds that Legislative Decree no. 53/2003 provides for this in Article 7, subsection 8. These decrees, however, can only be adopted "after legal provisions come into force which set aside the necessary funds"³⁵.

These implementing decrees, moreover, impact strongly on the implementation of the principle (now constitutional) of school autonomy in that they deal with the national guidelines on the organisational profiles of school activity (think of school personnel, the assessment of learning)³⁶.

These ultimately propose, in an extremely ambitious way, to lay down the guidelines for the activation of one of the powerhouses of the whole reform, the integration,

applicative in materia, ai sensi degli articoli 2 e 3 del decreto-legge 1° settembre 2008, n. 137, convertito, con modificazioni, dalla legge 30 ottobre 2008, n. 169; Legislative Decree no. 81 20 March 2009, Norme per la riorganizzazione della rete scolastica e il razionale ed efficace utilizzo delle risorse umane della scuola, ai sensi dell'articolo 64, comma 4, del decreto-legge 25 giugno 2008, n. 112, convertito, con modificazioni, dalla legge 6 agosto 2008, n. 133; Legislative Decree no. 89 20 March 2009, Revisione dell'assetto ordinamentale, organizzativo e didattico della scuola dell'infanzia e del primo ciclo di istruzione ai sensi dell'articolo 64, comma 4, del decreto-legge 25 giugno 2008, n. 112, convertito, con modificazioni, dalla legge 6 agosto 2008, n. 133; Law no. 169, 30 October 2008, n. 169, Converted into law with amendments by legislative decree no. 137 1 September 2008 containing disposizioni urgenti in materia di istruzione e università.

³⁵ On this issue, see A. POGGI, *La legislazione regionale sull'istruzione dopo la revisione del Titolo V*, in *Reg.*, 2005, 934.

³⁶ See R. MORZENTI PELLEGRINI, *L'autonomia scolastica tra sussidiarietà, differenziazioni e pluralismi*, Torino, 2011, 87.

that is, of professional education and training. The unresolved issues which still remain in this implementing legislation, above all on the problem of funding and the responsibilities of the region, place a heavy burden not only on the efficacy of these decrees but, probably, on the overall success of the whole reform³⁷.

With regard to the study guidelines, the *National Guidelines* for the high schools which identify the *specific learning objectives* with reference both to student *profiles* and to the activities and teaching contained in the *study plans* (Ministerial Decree no. 211/2010) have been approved³⁸; for the Technical Schools, the *Guidelines* approved for the first two year period with *Ministerial Decree* no. 57/2010 and for the second two year period and the 5th year by *Ministerial Decree* no. 4/2012 in force from the 2012/13 school year; for the Vocational Schools the *Guidelines* including *learning results* for the first two year period (*Ministerial Decree* no. 65/2010) and for the second two year period and the final year (*Ministerial Decree* no. 5/2012 in force from the 2012/13 school year).

4. CONCLUDING REMARKS

In the current socio-economic context Universities and the world of education in

³⁷ As argued by A. POGGI, *I decreti attuativi della riforma della scuola, Commento a d.lgs. 15 aprile 2005, n. 76, d.lgs. 15 aprile 2005, n. 77, cit., 922*. It also highlights - with reference to legislative decree no. 77/2005 and observing the way in which a number of difficult issues relating to 'interference' by the state legislator in matters which are the competence of regional laws have remained open - the fact that this decree did not meet with agreement in the Joint Conference of 14 October 2004 despite the fact that such agreement is mandatory according to Article 4, subsection 1 of Law no. 53/2003.

³⁸ Ministerial Decree 07 October 2010, *Indicazioni nazionali riguardanti gli obiettivi specifici di apprendimento concernenti le attività e gli insegnamenti compresi nei piani degli studi previsti per i percorsi liceali di cui all'articolo 10, comma 3, del decreto del Presidente della Repubblica 15 marzo 2010, n. 89, in relazione all'articolo 2, commi 1 e 3, del medesimo regolamento*.

general, can (and must) represent a fundamental factor in development and the end of economic crisis. To this end, the need has emerged for an organisational and management - but also cultural - model re-think which is capable of supporting the whole University system within the funding restrictions imposed by the current economic and financial situation and the limits on the state budget which are a feature of our times, identifying, for example, new forms of funding which are “local” rather than “central” and, at the same time, enhancing the role of the Universities in civil society.

It is argued that Universities and the world of education will perform a crucial role in the "knowledge society". Their role, however, has changed a great deal and they are today called on to perform a range of tasks which are much more far reaching than in the past. As far as the Universities are concerned, alongside their traditional research and teaching functions, originating from Humboldt, a 'third function' has been added of 'service to the community' involving opening up to the local area, providing services within it and becoming a driving force for development regionally³⁹. This 'third function' is an enlargement of the two principal activities of producing and transmitting knowledge not as an end in itself but at the service of productive activities.

The latest reform of the Italian University system fits into this 'cultural' context and involves moving it closer to a market model without, however, producing a fully 'entrepreneurial' University governance model. Significant elements of academic representation have persisted which have been justified by the identification of a University mission which is not based on 'market demand' but rather oriented towards encouraging freedom of research and training in a context of "learning and critical elaboration of knowledge" with a view to Italian cultural, civil and economic progress (Article 1, subsection 1.1, no. 240/2010) as well as of certain elements of 'state control' implemented by means of the establishment in advance of many elements in the Statutes including by

³⁹ On this issue, see the considerations of C. BARBATI, *Territori e università: l'incontro di due autonomie*, in *Ist. fed.*, 2012, 20 ss.

means of defining general guidelines on planning and thus on strategic choice.

As far as the school education sector is concerned, the current general situation will soon be affected by further, radical changes. Any (further) reform of the national education system will definitely involve the schools with the consequent need for a (further) adjustment of ordinary legislation and the organisational and management framework.

5. BIBLIOGRAFY

AA.VV., *La riforma dell'università (commento alla l. 30 dicembre 2010 n. 240)*, in *Giorn. dir. amm.*, 2011.

AA.VV., *Istruzione e formazione dopo la modifica del Titolo V della Costituzione*, Roma, 2004.

A. BANFI, *Prima che la nave affondi: un rapido bilancio della riforma dell'Università e qualche possibile intervento normativo*, in *Giorn. dir. amm.*, 2013.

C. BARBATI, *La valutazione del sistema universitario (commento al d.lgs. 27 gennaio 2012 n. 19)*, in *Giorn. dir. amm.*, 2012.

C. BARBATI, *Territori e università: l'incontro di due autonomie*, in *Ist. fed.*, 2012.

L. BARBERIO CORSETTI, *La riforma del Titolo V della Costituzione*, in *Nuova sec.*, 2001.

F. BATTINI, *L'attuazione della riforma dei cicli scolastici*, in *Giorn. dir. amm.*, 2001.

S. BATTINI, *La nuova governance delle università*, in *Riv. trim. dir. pubbl.*, 2011.

L. BERLINGUER, *Presentazione*, in F. DUBET, *Perché cambiare la scuola*, Firenze,

2002.

G. BERTAGNA, *Istruzione e formazione professionale dopo la modifica del Titolo V della Costituzione*, in *Nuova sec.*, 2003.

G. BERTAGNA, *Un unico sistema educativo*, in *Nuova sec.*, 2004.

G. BERTI, G.C. DE MARTIN, *Le garanzie di effettività dei diritti nei sistemi policentrici*, Milano, 2003.

R. CALVANO, *Problemi costituzionali della riforma dell'università di cui alla l. n. 240 del 2010*, in *Dir. soc.*, 2011.

E. CARLONI, *La riforma dell'università. L'organizzazione della didattica e della ricerca*, in *Giorn. dir. amm.*, 2011.

E. CAVALIERI, *Il d.d.l. sulla riforma universitaria. Osservazioni sul modello di governance proposto*, in F. CAPRIGLIONE (a cura di), *Luci ed ombre della riforma universitaria (Governance, meritocrazia, baronie)*, Bari, 2010.

M. COCCONI, *Diventare insegnanti: le nuove regole (Commento a d.m. Pubblica istruzione 10 settembre 2010, n. 249)*, in *Giorn. dir. amm.*, 2011.

N. DANIELE, *Natura del diritto all'istruzione; L'obbligo scolastico; Inadempimento dell'obbligo scolastico; L'attività assistenziale; Le borse di studio; Gli enti pubblici che operano nel settore della pubblica istruzione; Le prestazioni degli enti pubblici; Il problema del decentramento; Istruzione professionale*, in *Comm. di legislazione amm. La pubblica istruzione*, Milano, 2001.

M. DEI, *Un cantiere aperto per la scuola del 2000*, in *La scuola in Italia*, Bologna, 1998.

G. DELLA CANANEA, C. FRANCHINI (a cura di) *Concorrenza e merito nelle università, prospettive e proposte*, Torino, 2009.

G.C. DE MARTIN, *Autonomia dell'istruzione e riforme istituzionali: note introduttive*, Relazione al Convegno *Autonomia dell'istruzione e autonomia regionale dopo la riforma del Titolo V della Costituzione*, in *Ist. fed.*, 2004.

M. FALANGA, *La scuola pubblica in Italia*, Brescia, 2011.

E. FOLLIERI, *La riforma dell'Università tra legge e statuti, analisi interdisciplinare della L. n. 240/2010*, M. BROLLO, R. DE LUCA TAMAJO (a cura di), Milano, 2011.

C. FRANCHINI, *Il nuovo sistema di reclutamento dei professori universitari e l'apologo di Schopenhauer*, in *Giorn. dir. amm.*, 2011.

G. GRASSO, *Governance ed autonomia del sistema universitario: problemi e prospettive*, in A. ARCARI, G. GRASSO (a cura di), *Ripensare l'università. Un contributo interdisciplinare sulla legge n. 240 del 2010*, Milano, 2011.

G. LOY, *Istruzione professionale (ad vocem)*, in *Dig. disc. pubbl.*, IX, Torino, 1994.

E.M. MARENGHI, *L'organizzazione delle università tra riforma e controriforma*, in *Dir. e proc. amm.*, 2012.

A. MARRA, *Il direttore generale e i dirigenti nella nuova governance delle università*, in *Giorn. dir. amm.*, 2012.

F. MARSILIO, E. MIDENA, in *Giorn. dir. amm.*, 2004.

C. MARZUOLI, *Istruzione: libertà e servizio pubblico*, in C. MARZUOLI, *Istruzione e servizio pubblico*, Bologna, 2003.

G. MELONI, *Il diritto-dovere all'istruzione e alla formazione*, in *Quad. cost.*, 2003.

F. MERLONI, *La riforma dell'università. La nuova governance*, in *Giorn. dir. amm.*, 2011.

R. MORZENTI PELLEGRINI, *Istruzione e formazione nella nuova amministrazione decentrata della Repubblica*, Milano, 2004.

R. MORZENTI PELLEGRINI, *L'autonomia scolastica tra sussidiarietà, differenziazioni e pluralismi*, Torino, 2011.

A. POGGI, *Istruzione, formazione professionale e Titolo V: alla ricerca di un (indispensabile) equilibrio tra cittadinanza sociale, decentramento regionale e autonomia funzionale delle Istituzioni scolastiche*, in *Reg.*, 2002.

A. POGGI, *La legislazione regionale sull'istruzione dopo la revisione del Titolo V*, in *Reg.*, 2005.

A. POGGI, *I decreti attuativi della riforma della scuola, Commento a d.lgs. 15 aprile 2005, n. 76, d.lgs. 15 aprile 2005, n. 77*, in *Giorn. dir. amm.*, 2005.

A. SANDULLI, *Il sistema nazionale di istruzione*, Bologna, 2003.

L. TORCHIA, *Il riordino dell'amministrazione centrale: criteri, condizioni e strumenti*, in *Dir. pubbl.*, 1999.

G. VESPERINI, *Per uno studio delle tendenze di riforma del sistema universitario*, in *Giorn. dir. amm.*, 2009.