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**Tuscany: an exercise in subsidiarity**

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## **SUBSIDIARITY**

The concept of subsidiarity has an ethical as well as social, political and juridical dimension, since it is an aspect of all organisational systems, simple or complex.

The fundamental concepts can be summarised as:

- problems are best solved in the (social, institutional and organisational) systems where they arise;
- these systems are encouraged to act independently without referring to higher authority;
- whatever solution is chosen, these systems have the responsibility to carry it out;
- power should always flow upwards from the lowest possible levels;
- higher levels should not act as decision makers for lower levels if these lower levels are capable of acting for themselves.

Juridically and institutionally, the concept of subsidiarity:

- denies the State the right to intervene in limiting individuals or communities from operating alone (autonomy of organisation, administration and government);
- allows the State to intervene where individuals, the society and the local authorities are unable to assume the responsibility for decisions concerning their activities.

Subsidiarity therefore does not put the role of the State into question, but it challenges the concept of state totalitarianism; it accepts the State as a modern social organisation, juridically based on the principle of the greatest autonomy for individuals, communities and organisations at grassroots level.

## **SUBSIDIARITY IS BOTH A NEW AND OLD CONCEPT**

Subsidiarity, like many of the current innovative concepts is born out of different cultures and historical principles.

Even though subsidiarity seems to be a word conceived by the Western civilisations, its basic principles are present in the Eastern philosophy and mysticism (Buddhism, Hinduism, Gandhism): self-government, self-improvement, individual responsibility for oneself and for society, compassion and individual commitment, societal and individual action and change, etc.

One of the most know definitions of subsidiarity can be found in the catholic social doctrine (Pio XI “Quadragesimo Anno” encyclical - 1931), its origins are also found in the fields of social sciences and philosophy.

Subsidiarity is present in both in the ancient and recent past, in texts related to the relationships between individuals and their social organisations. Aristotle, Tomes d'Acquino, Locke, Tocqueville, Proudhon, Jellinek and others discussed and wrote on this topic.

They proposed a variety of meanings but a common understanding is present that relating the responsibility of individuals and/or minor social groups to take care of themselves, according to their capability, whilst institutions of higher level (e.g. major social organisations, the State, etc.) can intervene only when and where the former do not have this capability. The role of the latter (e.g. the State) is temporary in nature, since the basic commitment of "subsidiarisation" must be to allow individuals and/or minor groups to provide for themselves, to attend to their needs; that is to develop self-management and self-government.

The new part of subsidiarity is represented by the increasing awareness of the necessity of discovering new ways to cope with, manage and determine change in the era of complexity that characterises the end of this century and the new millennium.

Subsidiarity assumes a central role, as a reference-container which has the fundamental characteristics to provide and assure flexibility and adaptability to the organisational systems.

Subsidiarity can be also a methodology to deal with the changeable patterns of a complex society.

Indeed subsidiarity is recognised as a style of "multilevel governance".

Furthermore it improves the current "rules of the game" and sustains a process where institutions and populations are fully involved in mediating differences, rights, obligations and interests.

Nowadays, subsidiarity is re-discovering its original meaning, by providing a factor which concerns all organisational systems, formal and informal, social and institutional (from the family to the local community to the enterprise; from local authorities to those of a higher level; etc.) involving societal and individual roles as they are performed in place and time dimensions (various types of work, study, leisure time, etc.).

Therefore, subsidiarity is a regulative principle

- to be applied according to local, regional and national context
- which acquires different methods and meanings in relation to the local culture

## **THE ITALIAN PATH TOWARDS REGIONALISATION**

Provinces and local authorities (municipalities - Comuni), as branches of the State administration with delegated functions, pre-existed at the birth of the Regions.

Regions are divided in two principal legal frameworks: special (5 with autonomous statutes) and ordinary (15 with normal statutes). The special Regions were attributed more autonomy than the ordinary ones.

### **1946 - 1969**

The first autonomous statute concerned Sicily and was formally approved in 1946 before the national Constitution (1948). Other autonomous statutes were approved which regarded the Regions of Sardinia (1948), Val d'Aosta (1948), Trentino Alto Adige (1948, as the sum of the two special Provinces of Trento and Bolzano) and Friuli Venezia Giulia (1963).

Among the special regions, Sicily gained more regional autonomy than the others, even though subsidiarity was never applied in respect to sub-regional authorities.

### **1970 - 1989**

The institutionalisation of the ordinary Regions (15) took place in 1970, much later than had been foreseen in the Constitution (1948).

Since the early 1970's the Regions have been striving to attain their constitutional rights. The first large scale transfer of responsibility to the Regions only occurred in 1977 (DPR 616).

A set of competencies were transferred from the State to the Regions; agriculture, craftsmanship, trade, tourism, land-use planning, public works, transport sectors (limited), professional training, health services, etc.

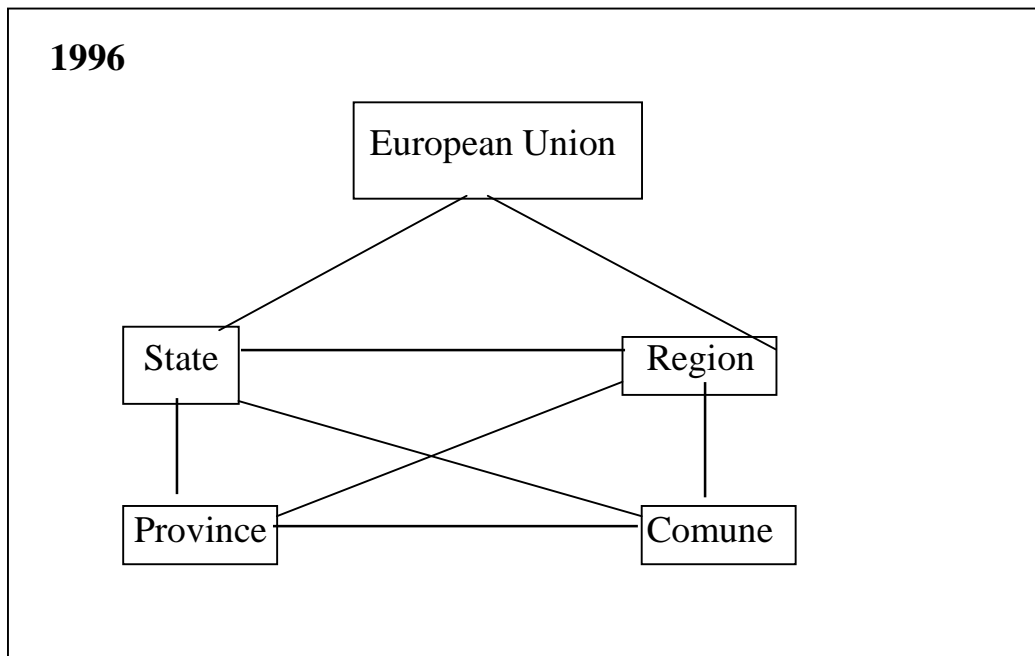
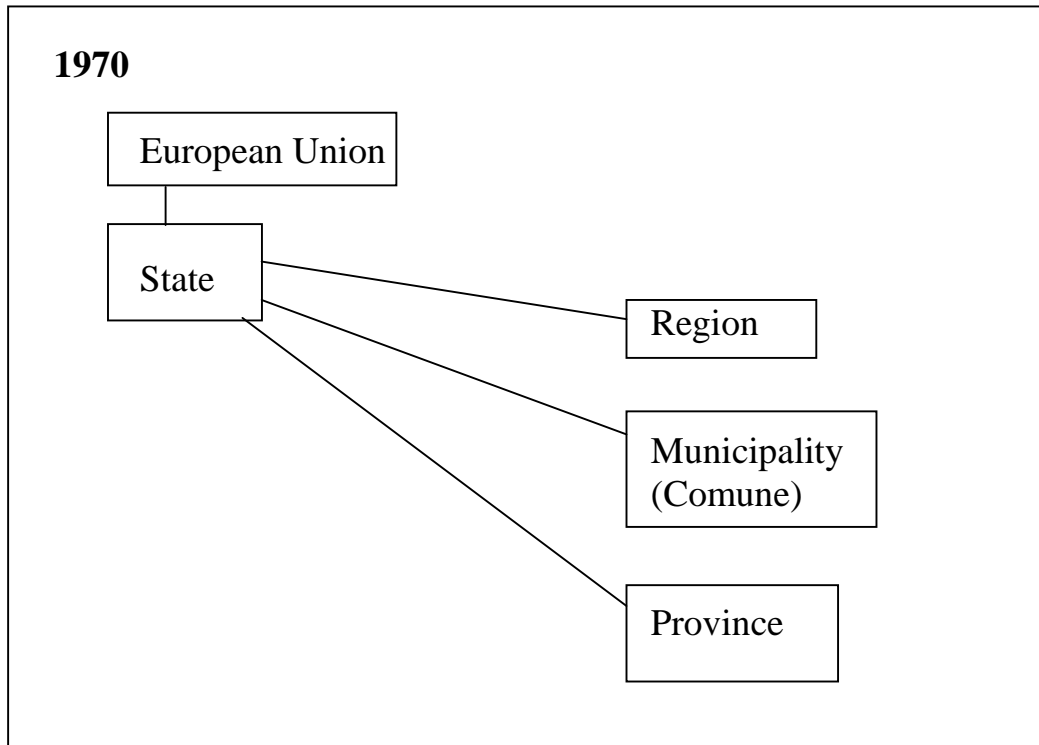
The institutional system was envisioned as a parallel system, where the elected bodies of Regions, Provinces and Local Authorities (and their own administrative structures) operate alongside numerous state administrations which have a variety of levels (national, regional, provincial, sub-provincial, inter-municipal and municipal) depending on the body being considered. The State operates to command and control the activities of the regional and local authorities.

### **1990 - 1996**

In 1990 a national law (n. 142) empowered the role of the local authorities in a more coherent framework of reciprocal co-operative relationships.

The European Union had a direct influence on regional policies having identified the regions as the most appropriate institutional level for programming. The EU has progressively acquired a central role in regional and local policies, and has made available considerable resources which have led to a growth in the spending capacity of the regions.

Institutional relationships



Financially, regional autonomy is still very limited. Between 90 - 95% of the Regions' finances consist of transfers from central government and only 5% - 10% from their own sources of income. In terms of expenditure their power is limited by various legal restraints concerned with use of resources.

As a result, conflicts have arisen many times in the relationships between the State, Regions and local authorities. Conflicts which were related to the contrary tendencies towards centralisation and decentralisation.

A new tendency was introduced by the 1996 State Financial law stating that:

- further administrative functions must be transferred to the Regions and the local authorities in professional training, tourism, agriculture, public housing construction, crafts, industry, commerce, regional and local transport and sport;
- some fiscal instruments are given to the Regions and the local authorities (i.e. a part of the petrol tax, a new tax on waste, etc.).

Innovative process of decentralisation were introduced at local level by active Regions. Tuscany opened a path towards subsidiarity in 1995 (L.R. 77), followed with relevant differentiation by Basilicata (L.R. 17/1996 and 23/1997), Lazio (L.R. 4/1997), Veneto (L.R. 20/1997), while other Regions are debating specific proposal of laws (Lombardia, Puglia, Emilia Romagna).

The basic principles of the Tuscan regional law anticipated those which were affirmed in the 1997 national laws on administrative federalism and de-bureaucratisation and which must be implemented at every level (local, provincial, regional, national) in the coming months.

## THE TUSCAN PATH TOWARDS SUBSIDIARITY

The Tuscan regional law (L.R. 77/1995) has gone beyond the concept of delegation of responsibility to the local authorities by the **explicit** application of the principle of subsidiarity.

Subsidiarity in the Tuscan experience and orientation assumes a diversified cluster of meanings:

- **institutional subsidiarity** as an empowering process which increases the responsibility and autonomy of the lowest levels of government in order to make them more capable to deal with local issues and development;
- **functional subsidiarity** as an empowering process to implement initiatives, projects and programmes, which is based not only on institutional actors but also on social actors; this means the development of a participatory process which involves local actors, associations and interest groups in the decision - making of their communities;
- **socio-economic cohesion** as a way to lessen disparities in the allocation of resources and to open opportunities towards local development;
- **institutional cohesion**, as a way to lower disparities in the administrative activity and to assure the efficiency of policies geared towards the socio-economic cohesion.

The following aspects supported by the 1997 law are particularly relevant:

- the central role of the local actors (i.e. institutional, social and economic);
- the significant attention put on the diversity of local development;
- the co-ordination and integration of different roles, rules, initiatives, courses of action, policies, etc. by means of multi - framed network - systems of local authorities which respect and create public value of the local diversity;
- a variety of partnerships between local authorities (associated management, collaboration);
- participation to and involvement in the process of programming at different levels (regional, provincial).

Most of the active administrative functions are conferred on the local authorities, along with the necessary resources (financial, human, etc.). Before the end of 1997 the Region must provide for the re-ordering of the functions and bodies in the system of local authorities, in order to meet the principle of autonomy of single subjects with that of co-operation and programming combining bottom-up and top-down approaches and procedures.

The realisation of the complex reorganisation of the administrative functions of local authorities is based on assigning to Municipalities, Mountain Communities and Provinces all the regional administrative responsibilities except those explicitly indicated by law as corresponding to unitary regional interests in the various policy fields.

As a general rule, the Region limits its role to the co-ordination and integration of policies related to social and economic cohesion of the regional territory, starting from the definition of the main objectives and programming guidelines.

At the sub-regional level, the Province has the same limiting role with respect to the municipal level. The administrative activities and the management of projects are designated as the responsibilities of the provinces and the local authorities, who include the involvement of the local actors, both social and economic.

In the years since the regional law (L.R. 77/95) was approved, significant changes have occurred in both organisational and social systems.

A close confrontation between the Region, the associations of the Provinces, the Mountain Communities and the local authorities (municipalities) is defining new rules and legal framework to implement the principle of subsidiarity in programming and managing by means of a multiplicity of options and solutions that consider the diversity of the local contexts.

A proposal of regional law was elaborated in August 1997 which regards the creation of a new structure: the Council of Local Autonomies.

The Council is a new institution within the Region and represents the local authorities of Tuscany. The Council is composed by 50 members: the Presidents of the Provinces (10); the mayors of the municipalities which are provincial chief towns (10); the Presidents of the regional associations of the Provinces, the Mountain Communities and the local authorities (3); and 27 members elected amongst and by the mayors of smaller population centres.

The Council takes part in the formulation of regional laws, especially those regarding the attribution of responsibilities and competencies between the Region, the Provinces, the Mountain Communities, the municipalities.

This role is further affirmed by the proposal for new statute of the Region which will be approved by the Regional Council and enforced by the Italian Parliament.

## **THE TUSCAN PATH TOWARDS SUBSIDIARITY IS LINKED TO THE CONSOLIDATED CULTURE OF REGIONAL PROGRAMMING**

The link between the different levels of government is based on the principles of programming and participation. They characterise the 25 years of regional experience and are now reinforced by the incorporation of the concept of subsidiarity. This represents a far-reaching institutional change; a process which will involve the entire system of government in both directions: top-down and bottom-up. The hope is to create a flexible and open system capable of handling the noteworthy social, economic and cultural changes which characterise the present period.

The years of State centralisation nurtured an opposite side.

Until the 1970's, the local authorities acted as "general representatives" of the local communities, with a limited role, being recognised and legitimised as a basic interlocutor: to guarantee the reduction of social unbalances; to maintain and, as far as possible, to improve social welfare; to mediate between different social interests; to channel social demands and expectations towards the higher levels of government; to ask for the strengthening of local autonomy; to adopt an "open-door" style of governance.

During the '70s, the birth and the consolidation of the Tuscan Region represented a very important opportunity for the local authorities. They were no longer alone, they were supported by a regional framework (government, regional laws, etc.) while power was progressively delegated from the regional to the provincial and local level.

Of course, Tuscany is not an isolated case. Similar characteristics have been observed, in the 1980's, in other regions creating the identification of the so called "Third Italy".

The above process has been very important in Italian politics and has provided a contrast to those elements that support a centralised state: both on the political right, centre and left.

It was the incisiveness of this process that has led to the modification of the strongly held conviction (in the period immediately after the second world war) that a federalist Italy would be dominated by local egoism and individualism that would threaten the nations capacity to resolve the fundamental national problems.

History has clearly shown the effects of certain processes which have led to the awareness that it is necessary to bring the level of government (and its related responsibilities) as close as possible to the citizens. This is, in essence, the principle of subsidiarity.



Since the beginning of its constitutional history, Tuscany has recognised the need for a *Regional programme*, to involve local authorities, social and economic interests.

The Tuscan legal and institutional framework is clearly orientated to participatory democracy, to stimulate various representative forms of collective interests and to involve populations and local authorities in determining aims and objectives as well as in implementing projects.

The year 1990 was decisive for the regional programming, thanks to both the new European Union regional policy and to the new norms on local authorities introduced at national level.

The European Union gave the Regions important role, identifying them as the point of reference, both institutionally and territorially, for resources destined for development.

The programming policy was re-launched, putting together in one instrument, the *Regional Development Programme (PRS)*, all its intervention policies and stimulating:

<b>Strategic choices</b>	<b>Complexity governance</b>	<b>Elaboration</b>
Subsidiarity	Structural (many components)	Regional Government with its internal structures
Social cohesion		
Integration	Functional (many interrelationships)	Co-decision between Regional Government and Local Authorities
Diversity	Evolutionary (not linear and ongoing, discontinuity)	Agreements between Regional Government, the State and the EU
Flexibility	Active (not deterministic but systemic)	
Co-ordination		Negotiation and agreements between Regional Government and social interests groups
Participation	Decisional (many decision makers, options, participants)	
Joint decision making		
Partnership and networking		
Monitoring		

The new programming model was sanctioned by law in 1992 (L.R. 26) and met with substantial success and has had considerable influence on new regional norms.

The PRS 1992-1994 facilitated and systematised the change towards the Region as an entrepreneurial and social development regulator.

It must be underlined that the above mentioned L.R. 77/95, based on subsidiarity, is the result of the institutional strategy contained in the PRS 1992-1994, which became the key to the reform of the institutional regional framework.

The explicitly federalist structure of PRS 1995-1997 has pointed out a new direction for the whole problem area.

In fact it has specified and developed a practical application model of programming, proposing federalism as the basis of a regional development policy geared towards four key words: **employment, innovation, the environment and co-decision.**

The federalist option is closely correlated to the principle of subsidiarity meaning the adoption of a maximum possible decentralisation of decision making over interventions with maximum involvement of the market, social and economic interest groups and the voluntary groups in public functions.

This is a strategic option which implies a reformulating of the relationships between central, regional and local powers, towards a reorganisation at national level. It also implies a re-definition of the role of the Region, giving it a general part to play based on the adoption of a subsidiary role, in relation to both national and local levels, which would also harmonise the Italian position with that of the European Union.

This same principle gives the Region a new supporting role and regulates the inter-institutional relationships, implying an administrative role which is largely concerned with programming and guidance in close contact with the provincial levels and which includes the identification at local level of the active administrative functions and management.

Moreover local authorities are attributed with a wide range of regional administrative functions and programming procedures both in the regional-provincial dimension and in the systematic participation of local authorities in the principal choices regarding the economic, social and civil developments in Tuscany.

In this situation, the search for strategic alliances with other Regions and the consolidation of the relations between the Region and the local authorities become central objectives.

The role of the social actors is very important: in the programming phase the unions and employers' associations, who are more directly in touch with the needs of the community, represent their interests and thereby legitimise the arrangements. In the management phase they adopt a more active role in the planning of the interventions.

It is in the phase of the realisation of the Programme Objectives that the programme agreements reached between the various groups become of great importance. The programme negotiated through the programme agreement allows for co-ordination between the various participants, of various levels, working on concrete objectives. As well as the importance of co-ordination, there is also shared responsibility between the institutional and the social actors in the implementation of the planning policy.

The new PRS 1998/2000 follows four fundamental principles:

- Federalism, in relationships with the State and the local autonomies;
- Europeanism, in relationships with the European Union and the European Regions;
- Solidarity, in relationships with the less developed Regions;
- Sustainability, in relationships with the development patterns and processes.

Three key-words express the general aim of the new PRS: **employment, environment, and innovation.**

As a conclusion, it must be noted that the Tuscany "model", which combines regional programming and institutional reform, anticipated the State in the path towards subsidiarity.

The characters of the new PRS on the following aspects:

Operational principles	Criteria	Instruments	Operational methods	Guarantees
co-decision	localisation	programme-objectives	flexibility	transparency
concentration	de-bureaucratisation	regional initiatives	specificity	information
concreteness	control	sectorial plans	changeability	responsibility
credibility		local development programmes	re-programming	incentives and sanctions
convergence		Mountain Communities development plans		
		instruments of programming agreements		

## THE ITALIAN PATH TOWARDS FEDERALISM AND SUBSIDIARITY

Between March and May 1997, two national laws (n. 59 and n. 127 – the first and the second “Bassanini” laws) were approved.

The first one (administrative federalism) directs the top-down delegation of power and functions between the different levels of government.

The second one supports this process by means of a streamlined administration and procedures simplification (de-bureaucratisation).

The first one (L. 59/97) is based on the following principles:

- **subsidiarity**, giving to local authorities (Municipalities, Mountain Communities, Provinces) the overall administrative functions and tasks according to their territorial dimensions in order to bring services closer to their citizens and to foster the capability of self-governance involving local communities, families, associations, individuals;
- **completeness**, giving to the Regions a role of programming agencies, along with administrative functions and tasks which are not included in those orientated towards the empowerment of the local authorities;
- **efficiency** and **inexpensiveness**, abolishing functions and tasks which became unnecessary;
- **co-operation** between State – Regions - Local Authorities also in order to assure an adequate participation to the initiatives adopted within the European Union;
- **responsibility** and **single (unitary) administration** in order to increase transparency, visibility and identification of each service and activity;
- **homogeneity** in order to distinguish different levels of government;
- **adequacy** in order to increase organisational capability, reliability and capacity building of the different levels of government;
- **differentiation** in order to respect local diversities, that is territorial, structural, demographic, social characteristics, etc.;
- **autonomy**, both in organisations and procedures, in order to enforce the responsibility given to the local authorities;
- **financial support** in order to cover the costs of the administrative functions and tasks which are assigned to each level of government.

The law determines the duties of the State as those regarding the national cohesion while the duties of the regional, provincial and local governments are to guarantee cohesion at their territorial levels.

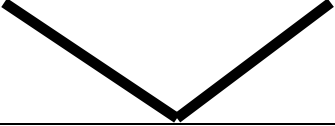
To sum up, the law reveals an actual rebuilding of the Italian administrative system from the bottom up with the purpose of assuring more direct correspondence between social contexts and administration methods. It establishes that the details of the administrative functions belong to the Regions and local authorities, except those which are expressly reserved for the State. This means that only those functions and tasks that are intrinsically unitary and not susceptible to division even on the administrative level are reserved for the State. Same procedure is applied to the local authorities. All the functions are reserved for them, except those expressly reserved to the Regions.

L. 59/97 must be enforced through a series of legislative decrees regarding the various policy and administrative fields (the deadline is the end of 1997), which will be followed by the necessary operational norms and procedures.

Furthermore, a proposal for constitutional modification was recently approved by the Bicameral Committee and is being examined by the Parliament in order to give L. 59/97 a constitutional scope.

The State retains responsibilities in the following:

- foreign affairs and trade, promotional activities excluded
- co-ordination of the relationships with the EU
- defence, armed forces, etc.
- protection of cultural, historical and artistic heritage
- environmental protection and soil conservation
- civil protection
- relationships between the State and religious orders
- citizenship, immigrants, refugees, etc.; elections and other civil rights
- currency and monetary regulations, equalisation of financial resources
- customs, protection of national frontiers
- public order and safety
- administration of justice
- social insurance and security (redundant workers included)
- surveillance of rights concerning labour and co-operation
- scientific research
- education
- tasks concerning national independent authorities (e.g. antitrust, etc.)
- post office board
- energy production and distribution at national level
- infrastructure networks which are nationally relevant (motorways, railways, telecommunications)

TUSCANY L. R. 77/1995	EMILIA ROMAGNA regional law proposal 20/1/1997
<i>Principles:</i> subsidiarity, autonomy, co-operation, programming	<i>Principles:</i> subsidiarity, adequacy, systematicity, organicity, homogeneity, responsibility and single (unitary) administration, differentiation
<i>Roles:</i> Region - programming, control, “high administration”, unitary regional interests; Provinces - programming and administration, unitary provincial interests; Local Authorities (municipalities, mountain communities, consortia, districts) - programming and administration, unitary local interests	<i>Roles:</i> Region - programming, control and administration regarding unitary regional interests; Provinces, municipalities and other local authorities, functions and tasks concerning local interests and development
<i>Ways of empowerment:</i> through regional laws on specific policy fields, apportionment of resources (financial, organisational, etc.)	<i>Ways of empowerment:</i> through administrative acts, apportionment of resources (financial, organisational, etc.)
Committee of the representatives of the local autonomies (proposal of law concerning the next institution of the Council of the Local Autonomies)	Regional Chamber of the Local Autonomies
	
<p>NATIONAL LAW 59/97 (“Bassanini 1” - administrative federalism) new competencies, roles and responsibility to Regions, Provinces and Local Authorities</p>	

## **THE LESSON LEARNT THROUGH THE EXPERIENCE OF THE MANY “TUSCANIES OF TUSCANY”**

- subsidiarity is a way to foster and to empower the capacity (both administrative and managerial, both normative and organisational) of local levels to fully recognise their responsibility, autonomy and competencies;
- social communities must be involved in the definition and implementation of initiatives and courses of action;
- the top down approach must express itself by means of an innovative role of support, that being to foster and nurture bottom-up local initiatives (also as a new culture and practice);
- subsidiarity implies an improvement in governance culture, since the higher levels must think locally in order to be capable of acting globally, whilst the lower levels must think globally in order to act locally;
- each region has to determine its own path of subsidiarity according to the local contexts and must support flexible procedures, clear rules and transparent co-decision-making;
- subsidiarity represents a set of principles to manage interdependence, negotiation, participation and conflict; these can no longer be considered as contrasting factors within the democratic process, but as expressions of each other in different stages; they are the components of real life and closely related to social, economic and cultural cohesion in the regional context;
- subsidiarity should improve “diversity” by focusing policies, programmes, schemes and other courses of action on the local identities, potentials and resources;
- subsidiarity must be cohesive, offering equal opportunities for development in different situations;
- subsidiarity must improve “partnership and networking”, enhancing the capability of regional and local actors (public and private) to cope with complexity, problem solving, responsibility and autonomy, risk taking;
- subsidiarity must be efficient, evaluating the policies' impact on the local communities, presently and in the future, in connection with other communities, both near and distant.