

**Law 5 May 2009, n. 42.**

**Delegation to the government in the matter of fiscal federalism further  
to *article 119 of the Constitution*.**

Published in the Official Journal, May 6th 2009, n. 103.

The House of Representatives and the Senate of the Republic have approved;

THE PRESIDENT OF THE REPUBLIC

Promulgates

The following law:

**CHAPTER I  
FINANCIAL COORDINATION CONTENT AND RULES**

**Art. 1.  
(Scope)**

1. The present law constitutes the implementation of *article 119 of the Constitution*, securing revenue and expenditure autonomy for municipalities, provinces, metropolitan cities and regions, and guaranteeing the principles of solidarity and social cohesion, in order to gradually replace historical spending criteria in all tiers of government and ensure their utmost responsibility, along with the effectiveness and transparency of democratic control over elected representatives. To this purpose, the present law includes provisions aiming to establish exclusively the fundamental principles for the coordination of public finances and the tax system, to regulate the institution and operation of the equalisation fund for territories with a lower per capita taxable capacity as well as the use of the additional resources and the implementation of the special measures as per *article 119, fifth paragraph of the Constitution* in pursuing the economic development of underexploited areas in view of overcoming the country's dual economy. It also regulates the general principles for the allocation of own assets to municipalities, provinces, metropolitan cities and regions, and suggests transient regulations on the legislative and financial systems of the capital city of Rome.
2. As for special statute regions and the self-governing provinces of Trent and Bolzano, in compliance with their statutes, the provisions in *articles 15, 22 and 27* alone shall apply.

## **Art. 2.**

*(Subject and aims)*

1. Within twenty-four months of the entry into force of the present law, the Government shall be delegated to adopt one or more legislative decrees on the subject of the implementation of *article 119 of the Constitution*, in order to secure financial autonomy for municipalities, provinces, metropolitan cities and regions by setting out the fundamental principles for the coordination of public finances and the tax system, and the definition of tax equalisation, as well as in order to harmonise the accounts systems and balance sheet outlines of these authorities and their respective deadlines for presentation and approval, in such a fashion as to comply with public finances planning, management and accounts-keeping requirements.
  
2. Granted the specific guiding principles and criteria established by the provisions in *articles 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19, 20, 21, 22, 24, 25, 26, 28 and 29*, the legislative decrees referred to in paragraph 1 of this article shall be informed by the following general guiding principles and criteria:
  - a) revenue and expenditure autonomy and greater administrative, financial and accounting answerability in all tiers of government;
  
  - b) institutional loyalty among all tiers of government and the participation of all public administrations in the achievement of national public finance objectives, in compliance with European Union and international treaty obligations;
  
  - c) rationality and consistency of individual taxes and of the tax system as a whole; simplification of the tax system, decrease in taxpayer obligations, tax levying transparency, efficiency in the administration of taxes; respect for the principles enshrined in the statute of taxpayer rights as per *law 27 July 2000, n. 212*.
  
  - d) involvement of the various institutional tiers in actions aiming to curb tax evasion and tax avoidance envisaging reward mechanisms;
  
  - e) assignment of independent resources to municipalities, provinces, metropolitan cities and regions, in connection with their respective competencies, in compliance with the principle of territoriality and in compliance with the principle of solidarity and of the principles of subsidiarity, differentiation and adequacy as per *article 118 of the Constitution*; resources derived from regional and local authorities' own taxes and revenues, or from their share of state tax revenue and from

the equalisation fund, shall fully finance the normal operation of the public functions attributed to them;

f) determination of the standard cost and requirement as a cost and requirement which, by enhancing efficiency and effectiveness, constitute the indicators to be used in comparing and assessing public actions; definition of service objectives to be pursued by regional and local administrations in the exercise of functions referable to the basic levels of benefits or to the fundamental functions as per *article 117, second paragraph, letters m) and p), of the Constitution*;

g) adoption by regions, metropolitan cities, provinces and municipalities, within their respective budgetary policies, of rules consistent with those deriving from the application of the stability and growth pact;

h) adoption of uniform accounting rules and of a common, integrated chart of accounts; adoption of common budget outlines organized in missions and programmes consistent with the economic and functional classification identified by specific community regulations on national accounts and relevant satellite accounts; adoption of consolidated balance statements in own companies, firms or other controlled bodies in accordance with a common model; coupling, for information purposes, of the financial accounts system with economic and property accounts system and outlines based on common accounting criteria; compatibility of accounts systems and budget outlines used by local authorities with those adopted at a European level with reference to procedures for excessive deficits; definition of a taxonomy for the reclassification of accounting and budgetary data for the public administrations referred to in the present law as bound to a civil law accounts system for compatibility purposes with respect to uniform accounting rules; definition of a system of results indicators that are simple and can be measured and referred to budget programmes, devised according to criteria and methods shared by the various territorial authorities<sup>1</sup>; for the purpose of implementing *articles 9 and 13*, identification of a deadline for regions and local authorities to submit their budgets and final balances to the government as approved, and provisions for sanctions as, per *article 17, paragraph 1, letter e)* should this deadline not be met.

i) provisions for the compulsory publication on Internet websites of regional, metropolitan cities', provincial and municipal budgets and final balances in such a way as to portray in a simplified manner the per capita revenues and expenditures, according to uniform layouts established within the Joint Conference<sup>2</sup>.

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<sup>1</sup> In Italy "territorial authorities" is used to refer to regional, provincial, municipal and metropolitan authorities, while "local authorities" excludes the regional level and only refers to the latter three.

<sup>2</sup> Permanent conference for relations between the state, the Regions and the autonomous provinces of Trent and Bolzano.

j) <sup>3</sup>upholding of the objective of not making any modification in the progressiveness of the tax system criterion and observance of the principle of tax capacity for the purpose of public expenditure sharing.

k) <sup>4</sup>gradual substitution of the historical spending criterium at all institutional levels with:

- 1) standard requirement for financing the basic levels of benefits as per *article 117, second paragraph, letter m) of the Constitution*, and of the fundamental functions as per *article 117, second paragraph, letter p) of the Constitution*;
- 2) equalisation of tax capacity for other functions;

n) observance of the distribution of legislative competencies between the State and the regions in matters pertaining to public finances and tax system coordination;

o) avoidance of any instance of double taxation on the same tax basis, save for surtaxes provided for in state or regional laws;

p) tendential correlation between taxes levied and benefits connected to the functions exercised in the territory, such as to foster a correspondence between financial and administrative responsibility; moderation and answerability in levying own taxes;

q) provisions regarding basis of taxes not subject to taxes levied by the State enabling regional laws to:

1) set regional and local taxes;

2) establish variations in tax rates or tax relief measures that may be applied by municipalities, provinces, and metropolitan cities within the exercise of their autonomy regarding the local taxes as per point n. 1);

r) provisions enabling regional laws, in compliance with community regulations and within the constraints established by state laws, to consider introducing variations in excise duties on gasoline, diesel fuel and liquefied petroleum gas, used by resident citizens and by companies with registered offices and operational headquarters in the regions affected by the production

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<sup>3</sup> "l)" in the original version, which only includes the letters of the Italian alphabet.

<sup>4</sup> "m" in the original version, which only includes the letters of the Italian alphabet.

concessions as per *article 19 of the legislative decree of 25 November 1996, n. 625*, and subsequent modifications;

s) faculty enabling regions to establish tax revenue and regional partnership revenue shares in favour of local authorities;

t) exclusion of interventions on taxable bases and on tax rates not pertaining to one's tier of government; should the aforementioned interventions be undertaken by the State on taxable bases and tax rates relating to local authority taxes and those as per *article 7, first paragraph, letter b), numbers 1) and 2)*, these shall be allowed, in the case of equal conferred administrative functions, provided they envisage the concomitant adoption of measures for full compensation by means of rate modifications or by the assignment of other taxes, and following the financial quantification of the aforementioned measures in the Conference as per *article 5*; should the aforementioned interventions be associated with a reduction in the administrative functions of the government tiers whose taxes are affected by those very interventions, compensation shall be commensurate with this reduction in functions;

u) provisions for revenue establishment and collection instruments and mechanisms ensuring efficient procedures for the direct crediting or automatic repayment of collected revenue to the bodies entitled to the tax in question; provisions for shared state taxes to be fully recorded in the state budget;

v) definition of procedures providing each tier of government responsible for a given tax with direct access to tax registers and any other database that may be of use in tax management activities, in compliance with regulations on personal data protection;

z) rewards for virtuous and efficient conduct in the exercise of tax power and in financial and economic management; provisions for sanctions for bodies failing to observe the economic and financial equilibriums or failing to ensure the basic levels of benefits as per *article 117, second paragraph, letter m), of the Constitution* or the exercise of the fundamental functions as per *article 117, second paragraph, letter p), of the Constitution*; provisions for the specific procedures whereby the Government, should the regional or local authority not ensure the basic levels of benefits as per *article 117, second paragraph, letter m), of the Constitution*, or the exercise of the fundamental functions as per *article 117, second paragraph, letter p), of the Constitution*, or, in the event of deviations from the Convergence Pact as per *article 18* of the present law having permanent and systematic characteristics, may adopt the sanctions as per *article 17, first paragraph, letter e)*, commensurate with the extent of such deviations, and possibly entailing the application of automatic measures for the

increase of tax and non-tax revenue, and may in the most serious cases exercise its faculty to replace regional or local authorities as per *article 120, second paragraph, of the Constitution*, in accordance with provisions set out in *article 8 of the law 5 June 2003, n. 131*, and in accordance with the principle of administrative and financial responsibility;

aa) provisions for the sanctions in letter z) against defaulting bodies to be also applied in the event of failure to observe the uniform criteria for drawing up budgets predefined as per letter h) or in the event of a failure or delay in transmitting the data as required for public finance coordination purposes;

bb) guarantee of maintaining an adequate level of tax flexibility in the establishment of sets of taxes and tax share distributions to be assigned to regional and local authorities, the composition of which shall feature to a large extent manoeuvrable taxes, along with the definition for each tier of Government of an appropriate level of revenue autonomy in connection with these taxes;

cc) provisions for appropriate tax flexibility organised in a number of taxes having a stable tax base and distributed in a fairly uniform manner throughout the national territory, such that all regional and local authorities, including those having the lowest tax potential, shall be able to finance, by harnessing their own potential, the level of expenditure not referable to the basic levels of benefits and to the fundamental functions of local authorities;

dd) transparency and efficiency in revenue and expenditure decisions aiming to ensure the effective implementation of the principles of effectiveness, efficiency and inexpensiveness as per *article 5, first paragraph, letter b)*;

ee) decrease in state tax levying commensurate with the greater revenue autonomy of regions and local authorities calculated with a standard tax rate and a corresponding reduction in human and instrumental state resources; elimination from the state budget of the expenditure estimates related to the financing of functions assigned to regions, provinces, municipalities and metropolitan cities, except for equalisation funds and resources for the interventions as per *article 119, fifth paragraph, of the Constitution*;

ff) definition of local tax regulations so as to allow for a greater enhancement of horizontal subsidiarity;

gg) identification of appropriate instruments for promoting the full implementation of *articles 29, 30 and 31 of the Constitution*, with reference to the formation of the family, to its entitlements and the fulfilment of related duties;

hh) territoriality of regional and local taxes and referability to the territory of the shares of state tax revenue, in compliance with provisions in *article 119 of the Constitution*;

ii) tendential correspondence between the levying and management autonomy of own human and instrumental resources by the public sector; provisions for instruments supporting the autonomy of various tiers of government in conducting collective bargaining activities;

ll) certainty of resources and tendential stability of the financing framework, commensurate with attributed functions;

mm) identification, in compliance with community law, of tax measures facilitating development, with special regard to the creation of new undertakings in underexploited areas.

3. The legislative decrees referred to in paragraph 1 shall be adopted acting on a proposal by the Minister for the economy and finance, the Minister for federalist reforms, the Minister for legislative simplification, the Minister for regional relations and the Minister for European policy in concert with the Minister of the interior, the Minister for public administration and innovation and any other ministers having competencies involved in the subject matter of the said decrees. Legislative decree drafts, following agreement to be reached within the Joint Conference as per *article 3 of the legislative decree 28 August 1997, n. 281*, are sent to both Chambers, each enclosing a technical report illustrating the effects of the provisions envisaged in the draft decree on the net balance to be financed, on the net borrowing requirement of public administrations, and on the public sector requirement, for an opinion by the Commission as per *article 3* and by the parliamentary committees competent for financial consequences, which shall be issued within sixty days from the date of dispatch. In the event of a failure to reach an agreement by the term as per *article 3 of the legislative decree 28 August 1997, n. 281*, the Council of Ministers shall deliberate, approving a report that is sent to both Chambers. The report shall indicate the specific reasons wherefore no agreement was reached.
4. When the term for issuing the opinions as per the third paragraph has elapsed, the decrees may nonetheless be adopted. Should the Government not intend to abide by the parliamentary opinions, it shall send the text back to the Chambers with its observations, along with any modifications, and refer before each Chamber. After thirty days have elapsed from the new dispatch date, the decrees may be definitively adopted by the Government. Should the Government, subsequent to the pronouncement of parliamentary opinions, not intend to abide by the agreement reached within the Joint Conference, it shall transmit to the

Chambers and to the aforementioned Conference a report indicating the specific reasons for diverging from the agreement.

5. In drawing up the legislative decrees referred to in paragraph 1, the Government shall ensure full cooperation with regions and local authorities.
6. At least one of the legislative decrees referred to in paragraph 1 shall be adopted within 12 months from the entry into force of the present law. One legislative decree to be adopted within the term envisaged in paragraph 1 of the present article shall regulate the identification of standard costs and requirements on the grounds of the basic levels of benefits as per paragraph 2, *article 20*. The Government shall transmit to the Chambers, no later than June 30th 2010, a report on the general financing framework of local authorities and a proposal for a definition on a quantitative basis of the fundamental structure of financial relations between the State, the regions, the self-governed provinces of Trent and Bolzano and local authorities, indicating the potential distribution of resources. The said report shall in any case be transmitted to the Chambers before the legislative decree drafts on local authority taxes, tax sharing and equalisation.
7. Within two years from the date of entry into force of the legislative decrees referred to in paragraph 1, it shall be possible to adopt legislative decrees containing supplementary and corrective provisions in compliance with the guiding criteria envisaged in the present law by means of the procedure referred to in paragraphs 3 and 4.

### **Art. 3.**

*(Parliamentary committee for the implementation of fiscal federalism)*

1. A Parliamentary committee for the implementation of fiscal federalism shall be set up, composed by fifteen senators and fifteen members of the House of Representatives, appointed by the President of the Senate and the Speaker of House of Representatives respectively upon designation by the parliamentary groups - so as to reflect their proportions. The chairman of the Committee is appointed among the Committee members by the President of the Senate of the Republic and by the Speaker of the House of Representatives in mutual agreement. The Committee shall convene for its first session within twenty days from the appointment of the chairman, for the election of its two deputy chairmen and two secretaries, who shall join the chairman in forming the committee bureau.
2. The activities and functioning of the committee are governed by the Rules of procedure approved by the Committee itself prior to commencing its proceedings.

3. The costs related to the establishment and functioning of this Committee and of the Committee referred to in paragraph 4 shall be equally shared between the internal budgets of the Senate and of the House of Representatives. Costs connected with the participation in the sessions of the Committee referred to in paragraph 4 shall be borne by the institutional subjects represented therein, who shall draw on ordinary budget appropriations with no additional or greater costs for public finances. No remuneration shall be due to the components of the Committee referred to in paragraph 4.

4. In order to ensure the Parliamentary committee's coordination with the regions, the metropolitan cities, the provinces and the municipalities a Committee of representatives from autonomous territorial authorities shall be set up, appointed by the component representing the regions and local authorities within the Joint Conference. The Committee shall convene, subject to the assent of the respective Presidents, in the Senate or in the House of Representatives, and shall comprise twelve members, six of which representing regions, two representing provinces and four representing municipalities. Whenever the Parliamentary committee deems it necessary, it shall hold auditions to consult the Committee and acquire its opinion.

5. The Parliamentary committee:

a) shall issue an opinion on the draft legislative decrees referred to in *article 2*;

b) shall monitor the implementation of the provisions of the present law and refer accordingly to the Chambers every six months, up to the conclusion of the provisional stage as per *articles 20* and *21*. To this purpose it may obtain all the required information from the Technical joint committee for the implementation of fiscal federalism as per *article 4* and from the Permanent Conference for the coordination of public finances as per *article 5*;

c) on the grounds of the knowledge acquired. it shall make observations and supply the Government with evaluations that may be of use in drawing up the legislative decrees referred to in *article 2*.

6. The Parliamentary committee may request a twenty days' extension from the President/Speaker of the Chambers before pronouncing its opinion, should the complexity of the subject matter or the number of drafts received by the committee so require. Any such extension for issuing its opinion shall also entail a twenty days' extension for the final deadline of the exercise of the delegation. Should the deadline for issuing its opinion expire in the thirty days preceding the deadline for the final term of the exercise of the delegation, or thereafter, the latter shall be extended by ninety days.

7. The Committee shall be dissolved at the end of the provisional stage referred to in *articles 20 and 21*.

#### **Art. 4.**

*(Technical joint committee for the implementation of fiscal federalism)*

1. In order to obtain and process information in view of drawing up the legislative decrees referred to in *article 2*, a Prime Minister decree to be adopted within thirty days from the entry into force of the present law shall establish within the Ministry of economy and finance a Technical joint committee for the implementation of fiscal federalism, hereafter referred to as «Committee», comprising thirty-two members, two of which representing ISTAT<sup>5</sup>, fifteen expert state representatives and fifteen expert representatives from the authorities as per *article 114, second paragraph, of the Constitution*. Committee meetings shall involve the participation of an expert representative from the House of Representatives and one from the Senate of the Republic, designated by their respective Presidents, as well as of an expert representative from regional legislative assemblies and from the self-governing provinces, designated in agreement between them, within the Conference of Presidents of the Assembly, the Regional Councils and the self-governing provinces, as per *articles 5, 8 and 15 of law 4 February 2005, n. 11*.

2. The Committee is the appropriate locus for sharing basic financial, economic and tax-related information and shall promote the collection of data and the undertaking of activities required in order to satisfy any additional information requirements. Furthermore, it shall be consulted in the reorganization of the financial systems in municipalities, provinces, metropolitan cities and regions, and of intergovernmental financial relations. To this purpose, State, regional and local administrations shall provide the necessary financial, economic and tax-related information.

3. During its first session, which shall occur within fifteen days from the entry into force of the decree referred to in paragraph 1, the Committee shall establish the procedures and schedule for its proceedings.

4. The Committee shall operate within the framework of the Joint Conference and act as a technical secretariat for the Conference, as referred in *article 5*, starting from the date in which the latter shall have been set up. It shall transmit information and data to the Chambers on their individual request, and to the Regional Councils and the self-governed provinces on their individual request.

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<sup>5</sup> National Institute of Statistics.

## **Art. 5.**

*(The Permanent Conference for the coordination of public finances)*

1. The legislative decrees referred to in *article 2* shall provide, within the framework of the Joint Conference, for the setting up of the Permanent Conference for the coordination of public finances as an on-going organisation for the coordination of public finances, hereafter referred to as «Conference», composed by the representatives of the various institutional tiers of government, regulating its composition and functioning in accordance with the following guiding principles and criteria:

a) the Conference shall concur in the definition of public finance objectives sector by sector, including in connection with tax and debt burdens; it shall concur in the definition of procedures for monitoring any deviation from public finance objectives and promote the undertaking of any action required for attaining these objectives, with particular reference to the procedure for the Convergence Pact as per *article 18*; it shall monitor its implementation and effectiveness; it shall put forward proposals for the identification of the righteousness indexes and their associated incentives; it shall supervise the application of reward mechanisms, the observance of procedures for administering sanctions and their functioning;

b) the Conference shall propose the criteria for the appropriate use of equalisation funds in accordance with the principles of effectiveness, efficiency and transparency and monitor their application;

c) the Conference shall monitor the employment of funds for the actions as per *article 16*;

d) the Conference shall ensure the regular monitoring of the functioning of the new financial systems in municipalities, provinces, metropolitan cities and regions, including the adequacy as per *article 10*, paragraph 1, letter d); it shall also deal with the verification of financial relations between the various tiers of government and the appropriateness of financial resources in each tier with reference to the functions exercised, proposing any required modifications or adjustments in the system;

e) the Conference shall verify the consistency of the data and of the financial and tax-related information provided by territorial administrations;

f) the Conference shall make available to the Senate of the Republic, the House of Representative, the Regional Councils and the councils of the self-governed provinces, all of the information and knowledge obtained;

g) the Conference shall avail itself of the Committee referred to in *article 4* as technical secretariat for undertaking any required investigation and support activities; for this purpose a database shall be set up including cost, coverage and quality indicators for the services, used for the definition of the standard costs and requirements and service objectives, as well as in order to evaluate the extent to which service objectives have been attained;

h) the Conference shall verify at regular intervals the progress in the convergence process of standard costs and requirements, as well as of service objectives, and promote the reconciliation of interests of various tiers of government concerned by the implementation of regulations on fiscal federalism, subject to joint discussion and assessment within the Joint Conference.

2. the Conference's decisions shall be transmitted to the Chambers.

#### **Art. 6.**

*(Duties of the Parliamentary watch committee for the tax register)*

1. The following words are added at the end of *article 2, first paragraph, of law 27 March 1976, n. 60*, «, as well as the duty to undertake investigations and research on the management of local tax assessment and collection services, including the supervision of the related information systems».

### **Chapter II**

#### **FINANCIAL RELATIONS BETWEEN STATES AND REGIONS**

#### **Art. 7.**

*(Guiding principles and criteria for regional taxes and state tax share distributions)*

1. The legislative decrees referred to in *article 2* regulate regional taxes in accordance with the following guiding principles and criteria:

a) regions shall receive revenue from own taxes and from their share of state taxes, primarily the revenue from value added tax (VAT), enabling them to finance the expenditures deriving from the exercise of functions in those areas for which the Constitution assigns them an exclusive and concurrent competence, as well as expenditures related to areas for which the State is exclusively competent with reference to which the regions are assigned an administrative competence;

b) the term regional taxes refers to:

1) own taxes, derived, set up and regulated by state laws, whose revenue is assigned to the regions;

2) surtaxes on the taxable bases of state taxes;

3) own taxes, levied by regions through regional legislation in connection with reference to tax bases not subject to state taxes;

c) regarding the taxes as per letter b), number 1), regions may, through own legislation, modify tax rates and establish tax exemptions, rebates and deductions within the limits and according to the criteria established by state legislation and in compliance with community legislation; regarding the taxes as per letter in letter b), number 2), regions may, through own legislation, introduce percentage modifications in the rates of surtaxes and establish rebates within the limits of state legislation;

d) procedures for the allocation to the regions of the revenue from regional taxes levied through state laws and of the regions' share in state taxes shall be defined in accordance with the principle of territoriality as per *article 119 of the Constitution*. To this purpose, the aforementioned procedures shall take into account:

1) the place of consumption, for taxes entailing consumption; with reference to services, the place of consumption may be identified in the domicile of the end user;

2) the location of assets, for taxes entailing property;

3) the place of work, for taxes entailing production;

4) the residence of the recipient, for taxes in connection with personal income;

e) revenue from the so-called derived regional taxes and the regions' shares in state taxes shall have no allocation constraints.

## **Art. 8.**

*(Guiding principles and criteria regulating the exercise of legislative responsibilities and financing sources)*

1. In order to adapt financing rules to the diverse nature of the functions assigned to regions, as well as to the principle of revenue and expenditure autonomy set out in *article 119 of the Constitution*, the legislative decrees

referred to in *article 2* shall be adopted in accordance with the following guiding principles and criteria:

a) classification of expenditures connected to areas whose legislative responsibility is set out in *article 117, third and fourth paragraph, of the Constitution* as well as of the expenditures regarding areas falling exclusively within the State's responsibility, for which the regions exercise administrative responsibilities; these expenditures consist in the following:

1) expenditures referable to the constraint as per *article 117, second paragraph, letter m), of the Constitution*;

2) expenditures not referable to the constraint as per number 1);

3) expenditures financed with special grants, European Union funds and the national cofunding as per *article 16*;

b) definition of the procedures whereby the expenditures referable to letter a), number 1), shall be identified in compliance with the standard costs associated to the basic levels of benefits established by state laws, in full cooperation with regional and local authorities, and shall be delivered in efficient and appropriate conditions throughout the national territory;

c) definition of how, in determining the sum required for financing local public transport costs, the need to deliver an adequate service throughout the national territory as well as standard costs shall be taken into account;

d) definition of how the expenditures referable to letter a), number 1), shall be financed with revenue – established with uniform tax rates and taxable base - from own, so-called derived taxes, as referred in *article 7, paragraph 1, letter b), number 1)*, from the regional surtax on personal income tax and from the region's share in VAT revenue, as well as with specific quotas from the equalisation fund, in such a manner as to ensure in the aforementioned conditions the full financing of the required sum in each region; the expenditures referred to in the first sentence shall also be provisionally financed by means of revenue from the regional tax on production (IRAP) until it shall be replaced by other taxes;

e) definition of how the expenditures referable to letter a), number 2) shall be financed with revenue from the taxes set out in *article 7, paragraph 1, letter b)*, and with the quotas from the equalisation fund referred to in *article 9*;

f) abolition of state transfers directed toward financing the expenditures as per letter a) numbers 1) and 2), except for outstanding state tax contributions to the amortisation rates of loans contracted by the regions;

g) definition of how the rates for taxes and revenue shares earmarked for financing the expenditures as per letter a), number 1), shall be determined at the lowest absolute level required to ensure financing fully the requirement corresponding to the basic levels of benefits, established in a single region according to the provisions in letter b); furthermore, definition of how the quotas from the equalisation fund as per *article 9* shall contribute to financing the basic level of benefits in regions with insufficient tax revenue;

h) definition of how the total amount of state transfers directed toward financing the expenditures as per letter a), number 2), except for those allotted to the equalisation fund as per *article 3, paragraphs 2 and 3, of law 28 December 1995, n. 549*, currently covered by IRAP revenue, shall be replaced by the revenue deriving from the average equilibrium rate for the regional surtax on personal income tax. The new value of the rate must be established at a level such that the regions may globally secure the amount of resources required in order to match exactly the total sum of abolished transfers;

i) definition of how the costs related to any administrative functions that may have been transferred from the State to the regions, in the implementation of *article 118 of the Constitution*, shall be covered with appropriate financial instruments that are consistent with the principles of the present law and in accordance with the procedures set out in *article 7 of law 5 June 2003, n. 131*, and subsequent modifications thereof.

2. Regarding the manner in which individual regions shall take action following the State-regions agreement on education, the required funds shall be covered in accordance with the provisions of the present article for expenditures referable to paragraph 1, letter a), number 1).

3. Expenditures as per paragraph 1, letter a), number 1), include expenditures for the health system, welfare and, as far as education is concerned, the expenditures connected with the exercise of administrative functions assigned to regions by the legislation currently in force.

## **Art. 9.**

*(Guiding principles and criteria with regard to the determination of the amount and distribution of the equalisation fund in favour of the regions)*

1. The legislative decrees referred to in *article 2*, for determining the amount and distribution of the vertical state equalisation fund in favour of regions, in the implementation of *articles 117, second paragraph, letter e), and 119, third paragraph, of the Constitution*, shall be adopted in accordance with the following guiding principles and criteria:

a) institution of the equalisation fund in favour of regions having a lower per-capita taxable capacity, with contributions from the revenue obtained from a share in the VAT revenue related to the expenditures as per *article 8*, paragraph 1, letter a), number 1), as well as by a quota from the regional tax revenue as per *article 8*, paragraph 1, letter h), for the expenditures as per *article 8*, paragraph 1, letter a), number 2); quotas from the fund shall be assigned with no allocation constraints;

b) application of the equalisation principle for the disparities in taxable capacity in such a way as to adequately reduce the differences between areas having diverse per-capita taxable capacities, without modifications to the order and without preventing modifications over time as a consequence of the evolution of the economic and territorial framework;

c) definition of how the fund's resources shall be allocated in financing:

1) the difference between the financial requirement needed to cover the expenditures as per *article 8*, paragraph 1, letter a), number 1), calculated in the manner set out in letter b) of the same paragraph 1 in *article 8* and the specific regional tax revenue assigned to them, calculated excluding the revenue variations produced by the exercise of tax autonomy, as well as by the emersion of the taxable base referable to the region's participation in tax recovery activities, so as to ensure the full coverage of expenditures corresponding to the standard requirement for basic levels of benefits;

2) the financial needs deriving from letter g) of the present article;

d) definition of the manner whereby the identification of each region's dues from the equalisation fund shall take into account the taxable capacity to be equalised and the constraints deriving from legislation passed in implementing *article 117, second paragraph, letter m)*, of the *Constitution*, in order to ensure the full coverage of expenditures for the standard requirement;

e) coverage for the certified positive differential between the estimated tax revenue and the revenue actually collected, excluding revenue from tax evasion and tax avoidance, shall be guaranteed for the region for which the minimum sufficient level of tax rates has been determined, as referred in *article 8*, paragraph 1, letters d) and g), such as to ensure the full coverage of expenditures for the basic levels of benefits; should the tax revenue actually collected be greater than estimated, the certified differential shall be acquired by the state budget;

f) definition of how quotas from the equalisation fund for local public transport current expenditures shall be assigned in such a manner as to adequately reduce the disparities among areas having dissimilar per-capita

taxable capacities, while those for capital expenditures shall be assigned taking into account the standard requirement whose full coverage is guaranteed;

g) definition of how, with reference to the expenditures as per *article 8*, paragraph 1, letter a), number 2), quotas from the equalisation fund shall be assigned according to the following criteria:

1) regions having the greatest taxable capacity, namely those wherein the per-capita revenue from the regional taxes as per *article 8*, paragraph 1, letter h), exceeds the average national per-capita income, shall not receive resources from the fund;

2) regions having the smallest taxable capacity, namely those wherein the per-capita revenue from the regional taxes as per *article 8*, paragraph 1, letter h), is lower than the average national per-capita income, shall participate in the distribution of the equalisation fund fuelled by contributions from the revenue produced in other regions in connection, with the objective of reducing disparities among regions in the revenue derived from the same taxes, compared to the average national per-capita revenue;

3) the distribution of the equalisation fund shall take into account the element of population size with an inverse relationship to the actual size of the population for regions having a population falling short of a threshold to be identified in the legislative decrees referred to in *article 2*;

h) definition of how the quotas from the equalisation fund resulting from the application of letter d) are indicated in a distinct manner in annual assignments. The indication does not entail allocation constraints.

## **Art. 10.**

*(Guiding principles and criteria regarding the financing of functions transferred to the regions)*

1. The legislative decrees referred to in *article 2*, with reference to the financing of functions transferred to the regions in areas pertaining to their legislative responsibility, as per *article 117, third and fourth paragraphs, of the Constitution*, shall be adopted in accordance with the following guiding principles and criteria:

a) cancelling the corresponding expenditure appropriations from the State's budget, including personnel and operational expenses;

b) decrease in state tax rates and corresponding increase in:

1) for expenditures as per *article 8*, paragraph 1, letter a), number 1), of the taxes as per *article 7*, paragraph 1, letter b), numbers 1) and 2);

2) for expenditures as per *article 8*, paragraph 1, letter a), number 2), of the regional tax as per *article 8*, paragraph 1, letter h), without prejudice to the provisions in *article 27*, paragraph 4;

c) increase in the rate of the region's share of the revenue from VAT earmarked for contribution to the equalisation fund in favour of regions having a lower per-capita taxable capacity, or in the share of personal income tax;

d) definition of how regular verifications will be undertaken regarding the adequacy of taxes used as reference for covering the standard requirement as per *article 8*, paragraph 1, letter g), both in terms of revenue and of correlation with functions performed.

### **Chapter III**

#### **LOCAL AUTHORITY FINANCE**

##### **Art. 11.**

*(Guiding principles and criteria for financing the functions of municipalities, provinces and metropolitan cities)*

1. The legislative decrees referred to in *article 2*, regarding the financing of the functions of municipalities, provinces and metropolitan cities shall be adopted in accordance with the following guiding principles and criteria:

a) classification of expenditures related to the functions of municipalities, provinces and metropolitan cities in:

1) expenditures referable to the fundamental functions as per *article 117*, second paragraph, letter p), of the Constitution, as identified in state legislation;

2) expenditures related to other functions;

3) expenditures financed with special grants, with European Union funds and with the national cofunding as per *article 16*;

b) definition of how the financing of expenditures as per letter a), number 1) and related to any basic levels of benefits that may be entailed shall be established in order to ensure full financing with reference to the standard requirement and shall be secured by means of own taxes, shares in state and regional taxes, surtaxes on these taxes whose manoeuvrability shall be established taking into account the population size brackets of the municipalities and by the equalisation fund;

c) definition of how the expenditures as per letter a), number 2), shall be financed with revenue from own taxes, with shares in tax revenue and with the equalisation fund based on the per-capita taxable capacity;

d) definition of how the additional transfer of functions to municipalities, provinces and metropolitan cities as per *article 118 of the Constitution* and according to the provisions as per *article 7 of law 5 June 2003, n. 131* shall be taken into account, in order to ensure for all of the authorities the full financing of such functions, should no concurrent provisions have been made regarding both funds and transfers;

e) abolition of state and regional transfers directed toward financing the expenditures as per letter a) numbers 1) and 2), with the exception of allocations directed toward the equalisation fund as referred in *article 13*, and of outstanding state tax contributions to the amortisation rates of loans contracted by the regions;

f) the revenue from state and regional tax shares shall have no allocation constraints;

g) assessment of the adequacy of population and territorial size of the local authorities for the optimal exercise of their individual functions and for the protection of territorial specificities, particularly with reference to the specific features of small municipalities in mountain areas and small islands<sup>6</sup> wherein, when they join together, the overall population does not fall below the threshold determined in the legislative decrees referred to in *article 2*.

## **Art. 12.**

*(Guiding principles and criteria regarding the coordination and the revenue and expenditure autonomy of local authorities)*

1. The legislative decrees referred to in *article 2*, with reference to the coordination and the revenue and expenditure autonomy of local authorities shall be adopted in accordance with the following guiding principles and criteria:

a) state laws shall identify municipal and provincial own taxes, including by replacing or transforming extant taxes and through the attribution to municipalities and provinces of former state taxes or parts thereof; they shall define the bases of taxes, taxable persons and taxable bases; they establish

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<sup>6</sup> In Italy this refers to all islands to the exception of Sicily and Sardinia.

and ensure the appropriate flexibility of reference tax rates valid throughout the national territory;

b) definition of how municipal expenditures related to the fundamental functions as per *article 11*, paragraph 1, letter a), number 1), shall be financed as a priority by one of the following sources: the revenue from shares in VAT, the revenue from shares in personal income tax, from real estate taxes, excluding taxes on assets corresponding to the main place of residence of taxable persons, according to legislation in force at the time of the implementation of the current law in the field of municipal real estate taxes as per *article 1 of the legislative decree 27 May 2008, n. 93*, converted, with amendments, by *law 24 July 2008, n. 126*;

c) definition of how provincial expenditures relating to the fundamental functions as per *article 11*, paragraph 1, letter a), number 1), shall be financed as a priority by the revenue from taxes whose basis is in connection with road transport as well as by a share in a state tax;

d) rules governing one or more municipal own taxes which, by enhancing tax autonomy, assign to the authority the faculty to establish and levy own taxes with reference to specific purposes, such as the construction of public works and multiannual investments in social services, or the financing of costs deriving from special events, such as tourist movements and urban mobility;

e) rules governing one or more provincial own taxes which, by enhancing tax autonomy, assign to the authority the faculty to establish and levy own taxes with reference to specific institutional purposes;

f) reward provisions for promoting unifications or combinations of municipalities including by means of increases in tax levying autonomy or greater shares in state taxes;

g) provisions enabling regions, within the framework of their own legislative powers in the field of taxes, to set up new municipal, provincial or metropolitan taxes in their own territory, detailing the areas of autonomy granted to local authorities;

h) provisions enabling local authorities, within the constraints established by the law, to modify the rates of taxes assigned to them by such laws and to introduce tax relief measures;

i) provisions enabling local authorities, in compliance with specific sectors' legislation and with the resolutions of supervisory authorities to enjoy full autonomy in establishing charges for benefits or services offered, including on request by individual citizens;

l) provisions ruling out that state legislation may, in matters relating to the rewards for virtuous municipalities and provinces, in identifying the principles for the coordination of public finances referable to the observance of the growth and stability pact, impose constraints to the budgetary policies of local authorities with regard to capital expenditures, only in connection with the sums made available by the region to which the local authority belongs or by other authorities in the same region.

### **Art. 13.**

*(Guiding principles and criteria regarding the amount and distribution of equalisation funds for local authorities)*

1. The legislative decrees referred to in *article 2*, with reference to the amount and distribution of equalisation funds for local authorities shall be adopted in accordance with the following guiding principles and criteria:

a) provisions in regional budgets for two funds, one in favour of municipalities, the other in favour of provinces and metropolitan cities, based on contributions from a state equalisation fund fuelled by general taxation, with individual specifications of the appropriations for the various kinds of authorities, as a contribution for financing the functions exercised by local authorities; the amount of the fund shall be determined, in each tier of government, with reference to the exercise of fundamental functions, in such a manner as to cover the difference between the sum of standard requirements for these very functions and the whole of general standardised revenues assigned to the municipalities and provinces as per *article 12*, excluding the taxes as per paragraph 2, letters d) and e), of the same article and the contributions as per article 16, taking into account the principles envisaged in *article 2*, paragraph 2, letter m), numbers 1) and 2), with regard to the substitution of the historical expenditure criterion;

b) definition of how to update on a regular basis the total amount of the funds as per letter a), and how to redefine the corresponding financing sources;

c) the distribution of the equalisation fund among local authorities, for the part referable to the fundamental functions as per *article 11*, paragraph 1, letter a), number 1), shall be established in accordance with:

1) an indicator of the financial requirement calculated in terms of the difference between the standardised value of current expenditure after interest and the standardised value of general own taxes and revenue;

2) indicators of the infrastructures requirement, consistent with the regional programme in the field, for financing capital expenditures; these indicators take into account the European Union infrastructures grants received by local authorities, and of the additionality constraints to which they are subjected;

d) definition of how standardised current expenditure is calculated for the purposes referred to in letter c) on the grounds of a uniform per-capita quota, adjusted to take into account expenditure diversities in connection with population size, territorial features, with particular reference to mountain areas, and the population, social and productive characteristics of the local authorities. The weight of the individual characteristics of the local authorities in determining the requirement is identified by means of statistical instruments, using the historical expenditure data of individual authorities, and also taking into account the expenditure connected with outsourced services, or services delivered in associated forms;

e) definition of how revenues considered for standardisation purposes in the distribution of the equalisation fund among the individual local authorities shall correspond to own taxes considering standard tax rates;

f) definition of how, regarding expenditures in connection with the exercise of functions other than fundamental functions, the equalisation funds for municipalities, provinces and metropolitan cities are directed toward reducing the disparities between taxable capacities, taking into account, as far as local authorities having a population falling short of a threshold to be identified in the legislative decrees referred to in *article 2* are concerned, the element of population size with an inverse relationship to the actual size of the population and taking into account if they have entered into associations;

g) definition of how the regions, on the grounds of criteria established in agreements ratified in the Joint Conference, and following an understanding with local authorities, may, considering the overall resources assigned by the State in the form of an equalisation fund for the municipalities, provinces and metropolitan cities present in the regional territory, undertake their own assessment of the standardised current expenditure, on the grounds of the criteria referred to in letter d), and of standardised revenues, as well as independent estimates of infrastructure requirements; in that case, the distribution of the aforementioned resources shall be established on the grounds of parameters defined in the manner referred to in the present letter;

h) the funds received by regions from the equalisation fund for municipalities, provinces and metropolitan cities present in the regional territory shall be transferred from the region to the appropriate authorities

within twenty days of receipt. Should the regions not have redefined by this deadline the standardised expenditures and revenues, and therefore the quotas from the equalisation fund due to the individual local authorities according to the provisions in letter g), they shall nevertheless apply the criteria for the distribution of the fund enshrined in the legislative decrees referred to in *article 2* of the present law. Any redefinition of standardised expenditures and revenues must not entail delays in the assignation of equalisation fund resources to the local authorities. Should a region not comply with the provisions in the present letter, the State shall exercise its faculty to replace regional authorities as per *article 120, second paragraph, of the Constitution*, according to the provisions in *article 8 of law 5 June 2003, n. 131*.

#### **Art. 14.**

*(Implementation of article 116, third paragraph, of the Constitution)*

1. The law defining, as per *article 116, third paragraph, of the Constitution*, the specific forms and conditions of autonomy to one or more regions, shall also assign the required financial resources, in compliance with *article 119 of the Constitution* and with the principles of the present Law.

### **Chapter IV**

#### **FINANCING METROPOLITAN CITIES**

#### **Art. 15.**

*(Financing metropolitan cities)*

1. A specific legislative decree, adopted according to the provisions in *article 2* and consistent with the principles referred to in *articles 11, 12 and 13*, shall ensure financing for the functions of metropolitan cities by means of assigning to the latter the tax levying autonomy corresponding to the functions exercised by the other local authorities, while concurrently abolishing the financing of local authorities whose functions are thus transferred, including by the assignment of specific taxes, in order to ensure a greater autonomy of revenue and expenditure commensurate with the complexity of these functions. The same legislative decree assigns own taxes and revenues to metropolitan cities, including taxes and revenues different from those assigned to municipalities; it shall also regulate the faculty of metropolitan cities to levy taxes in connection with financing expenditures referable to the exercise of their fundamental functions, granted the provisions in *article 12, paragraph 1, letter d)*.

## Chapter V

### SPECIAL MEASURES

#### Art. 16.

*(Measures referred to in paragraph five of article 119 of the Constitution)*

1. The legislative decrees referred to in *article 2*, with reference to the implementation of *article 119, fifth paragraph, of the Constitution*, shall be adopted in accordance with the following guiding principles and criteria:

a) definition of how measures whose objectives are referred to in paragraph five of *article 119 of the Constitution* shall be financed with special grants from the state budget, European Union funds and with the national cofunding, according to the multiannual programming method. European Union grants shall not replace special grants from the State;

b) convergence of special grants from the state budget, their aims being preserved, in specific funds with allocation constraints assigned to municipalities, provinces and metropolitan cities;

c) consideration of specific territorial characteristics, with particular reference to the socio-economic context, the infrastructure deficit, the rights of the individual, the geographical location of local authorities, their proximity to a border with other states or special statute regions, mountain territories and small islands, the need to protect their historical and artistic heritage in order to promote the economic and social development of the area;

d) identification of the measures directed toward promoting the economic development and the cohesion of underexploited areas in the country and social solidarity, toward the abolition of economic and social structural imbalances and to foster the effective exercise of individual rights; the action of removing the social and economic structural imbalances and of supporting underexploited areas shall be implemented by means of special measures featuring organized plans financed with multiannual resources having allocation constraints;

e) definition of how the objectives and criteria for using resources allocated by the State as per the present article shall be agreed upon within the Joint Conference and regulated with the annual measures that determine so called

“financial manoeuvre”<sup>7</sup>. The total amount of resources is defined by the latter measures.

## Chapter VI

### COORDINATION OF THE VARIOUS TIERS OF GOVERNMENT

#### Art. 17.

*(Coordination of and tax regulations in the various tiers of government)*

1. The legislative decrees referred to in *article 2*, with reference to the coordination of and tax regulations in the various tiers of government shall be adopted in accordance with the following guiding principles and criteria:

a) the guaranteed transparency of the different tax capacities and of the overall per-capita resources before and after equalisation, so as to safeguard the principle of order in the tax capacity list and any modifications thereof consequent to the changes in the territory’s economic framework;

b) attaining the objectives of the statement of accounts, both in terms of accruals and cash, in order for each region and each local authority to contribute to observing the stability and growth pact; determination of the fundamental parameters according to which the virtuousness of municipalities, provinces, metropolitan cities and regions shall be evaluated, also with reference the reward or sanctioning mechanisms envisaged by financial autonomy provisions;

c) ensuring that the public finance balance objectives are attained by the regions, which may, following consultation with the local authorities present on their regional territory, adjust the rules and constraints established by national legislation, by diversifying the rules for the evolution of the financial flows of individual authorities in accordance with the discrepancies in the financial situations of the regions;

d) identification of efficiency and adequacy indicators for ensuring appropriate quality levels in the services delivered by the regions and local authorities;

e) introduction of a rewards system for the authorities that ensure high quality in services delivered and tax burden levels lower than those of other

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<sup>7</sup> All of the financial and budget regulations and provisions approved annually by the Government.

authorities in the same tier of government offering the same services, or for the authorities ensuring the observance of the provisions in the present law and which participate in strategic projects by assuming costs and commitments in the interest of the national community, including with reference to the environment, or for local authorities that foster female occupation and entrepreneurship; introduction of a sanctions system for the less virtuous authorities with reference to public finance objectives, which, until evidence is provided of remedial measures having been undertaken - including the disposal of any personal and real estate property in the authority's available assets - as well as of the implementation of the greatest possible tax-levying autonomy, such as to attain the objectives, shall entail the prohibition to hire permanent staff and to include in the budget expenditures for discretionary activities, except for those in connection with cofunding at a regional or local authority level for the implementation of community policies; provisions for automatic sanctions mechanisms for government and administrative organisations should they fail to observe the economic and financial equilibriums and objectives assigned to the region and other local authorities, including the identification of ineligibility instances with reference to the administrators in charge of the local authorities for which a statement of financial difficulty has been issued, as per *article 244 of the aforementioned consolidated law referred to in the legislative decree 18 August 2000, n. 267*, as well as of disqualification from holding positions in organisations under public body supervision or affiliated to public bodies. Cases of grave violations of the law as per *article 126, first paragraph, of the Constitution*, include activities having given rise to serious financial difficulties in the regions.

### **Art. 18.**

*(Convergence pact)*

1. Within the framework of the financial bill, namely by means of a specific bill in connection with the so-called public finances manoeuvre, consistent with the objectives and measures specifically identified in the Economic and finance planning document, the Government, following consultation and joint assessment within the Joint Conference, shall propose regulations for the dynamic coordination of public finances aiming at the objective of converging the standard costs and requirements at the various levels of government, as well as of service objectives in the basic levels of benefits and in the fundamental functions as per *article 117, second paragraph, letters m) e p), of the Constitution*. Should the monitoring undertaken within the Permanent conference for the coordination of public finances detect that one or more local authorities have failed to attain the objectives assigned to them, the State shall initiate - with the consensus of the Joint Conference and only with reference to the local authorities having registered the greatest per-capita cost variance - a procedure referred to as «Plan for attaining the convergence

objectives» with the purpose of identifying the causes leading to the variance and establishing the remedial measures to be undertaken, including by providing the authorities concerned with the required technical assistance and using, wherever possible, the method of disseminating best practices among authorities belonging to the same tier of government.

## **Chapter VII**

### **REGIONAL AND LOCAL AUTHORITY ASSETS**

#### **Art. 19.**

*(Assets of municipalities, provinces, metropolitan cities and regions)*

1. The legislative decrees referred to in *article 2*, with reference to the implementation of *article 119, sixth paragraph, of the Constitution*, shall establish the general principles for the assignment of own assets to municipalities, provinces, metropolitan cities and regions in compliance with the following guiding principles and criteria:

a) free of charge assignment at every tier of government of different types of assets, commensurate with the size of the territory, the financial capacity and the responsibilities and functions actually undertaken or exercised by the various regions and local authorities, without prejudice to the determination by the State of specific lists identifying, within the aforementioned types, the individual assets to be assigned;

b) assignment of real estate property on the grounds of territorial criteria;

c) recourse to concertation within the Joint Conference, for the purpose of assigning the assets to municipalities, provinces, metropolitan cities and regions;

d) identification of the types of assets having national significance that may not be transferred, including assets belonging to the national cultural heritage.

## **Chapter VIII**

### **TRANSIENT AND FINAL REGULATIONS**

#### **Art. 20.**

*(Guiding principles and criteria relating to transient regulations for regions)*

1. The legislative decrees referred to in *article 2* shall contain transient regulations for regions, in compliance with the following guiding principles and criteria:

a) the criteria for computing the quotas of the equalisation fund referred to in *article 9* shall be applied in the long-term, following the completion of a transition stage aiming to ensure a gradual passage from the average values of the transfers registered in the individual regions in the three-year period 2006-2008, net of transferred extraordinary resources, to the values determined with the criteria referred to in *article 9*;

b) use of the criteria defined in *article 9* shall occur following the actual determination of the financial content of the basic level of benefits, by means of a convergence process of the historical expenditure towards the standard requirement in a period five-year period;

c) for areas other than those referred to in *article 117, second paragraph, letter m), of the Constitution*, the financing system must diverge progressively from the historical expenditure criterium in favour of per-capita tax capacity in five years. Should, in the implementation of the legislative decrees, situations of objective significant and justified unsustainability arise in some regions, the State may initiate, following an agreement within the Permanent Conference for relations between the State, the regions and the self-governing provinces of Trent and Bolzano, remedial compensating measures lasting as long as the transition period referred to in the present letter;

d) the compensating mechanisms referred to in letter c) shall be activated in the presence of a systematic plan for the reorganisation of the local authority in coordination with the Plan for attaining the convergence objectives as per *article 18*;

e) specification of the date as of which the five-year period referred to in letters b) and c) shall start;

f) guaranteed coverage for the regions of the certified differential - if positive - between the estimated revenue and the actual tax revenue as per *article 8, paragraph 1, letter g)*;

g) acquisition by the state budget during the transition stage of the certified differential – if negative – between the estimated revenue and the actual tax revenue as per *article 8, paragraph 1, letter g)*;

h) assurance that the sum of the proceeds from the new regional revenue as per *article 10, paragraph 1, letters b) and c)*, shall be, for all of the regions referred to in the latter article, no less than the value of the appropriations

referred to in paragraph 1, letter a), of the same *article 10* and that, following an agreement within the Permanent conference for relations between the State, the regions and the self-governing provinces of Trent and Bolzano, verifications shall be undertaken regarding the adequacy and the consistency of the financial resources for transferred functions.

2. State laws shall regulate the determination of the basic levels of assistance and the basic levels of benefits. Until they shall be determined anew by state laws, the basic levels of assistance and the basic levels of benefits shall be understood as having already been determined by state laws.

## **Art. 21.**

### *(Transient regulations for local authorities)*

1. Upon their initial implementation, the legislative decrees referred to in *article 2* contain transient regulations for local authorities, in accordance with the following guiding principles and criteria:

a) in the process of implementing *article 118 of the Constitution*, the financing of additional administrative functions in areas pertaining to the legislative responsibility of the State or of the regions, as well as the costs deriving from any redefinition of the functions exercised by them at the time in which the legislative decrees shall enter into force, shall be covered by the State or the regions, whilst at the same time determining sufficient forms of financial resources consistent with the principles in the present law;

b) assurance that the sum of the proceeds from the new revenue of municipalities and provinces according to the present law for all of the municipalities and all of the provinces shall globally correspond to the value of the transfers as per *article 11*, paragraph 1, letter e), and that their consistency shall be verified within the Joint Conference;

c) taking into account, in the procedure for identifying the standard requirement, of the need to redress the balance of the resources in favour of underexploited local authorities as against overexploited ones in terms of state transfers, as provided for in the regulations currently in force;

d) determination of equalisation funds for municipalities and provinces equal, for each tier of government, to the difference between the state transfers abolished under the provisions of *article 11*, paragraph 1, letter e), earmarked for financing the expenditures of municipalities and provinces, excluding the contributions as per *article 16*, and the greater revenue due in lieu of these transfers to municipalities and provinces, as per *article 12*, taking into account the principles provided for in *article 2*, paragraph 2, letter m),

numbers 1) and 2), with regard to the substitution of the historical expenditure criterium;

e) the rules, time frames and terms of the transition stage shall be defined in such a manner as to ensure the substitution of the historical expenditure criterium in a period of five years for expenditures referable to the exercise of the fundamental functions and for other expenditures. Until the date of entry into force of the provisions regarding the identification of the fundamental functions of local authorities:

1) the requirement for the functions of municipalities and provinces shall be financed considering 80 per cent of expenditures as fundamental and 20 per cent as non fundamental, as per paragraph 2;

2) for municipalities and provinces 80 per cent of the expenditures as per number 1) shall be financed with revenue derived from financial autonomy, including shares in state taxes, and by the equalisation fund; 20 per cent of the expenditures as per number 1) shall be financed by revenue deriving from financial autonomy, including the shares in regional taxes, and by the equalisation fund;

3) the most recent audited final balance shall be used as reference for the purposes specified in number 2) when the draft legislative decrees referred to in *article 2* shall have been laid down;

f) specification of the date as of which the five-year period referred to in letter e) shall start.

2. For the sole purpose of implementing the present law, with particular reference to the determination of the amount and distribution of the equalisation funds for local authorities on the grounds of the standard requirement or of the tax capacity, as per *articles 11* and *13*, in the legislative decrees referred to in *article 2*, upon their initial implementation, – for the purpose of their full financing on the grounds of the standard requirement – the functions identified and quantified by the corresponding expenditure items shall be temporarily considered, as per the present article, on the grounds of their organisation into functions and related services envisaged in the regulations as per the *decree of the President of the Republic 31 January 1996, n. 194*.

3. For municipalities, the functions and related services to be considered for the purposes of paragraph 2 shall be provisionally identified as the following:

a) general functions for administration, management and control amounting to 70 per cent of expenditures audited in the most recent statement of accounts available upon the entry into force of the present law;

b) local police functions;

c) public education functions, including services for nursery schools and education support and school meal services, as well as school building and maintenance;

d) functions relating to roads and transport;

e) functions regarding the management of the territory and the environment, with no prejudice to the public and local housing construction service and to the housing programs, as well as to the integrated water-works services;

f) functions pertaining to the social sector.

4. For provinces, the functions and related services to be considered for the purposes of paragraph 2 shall be provisionally identified as the following:

a) general functions for administration, management and control amounting to 70 per cent of expenditures audited in the most recent statement of accounts available upon the entry into force of the present law;

b) public education functions, including school building and maintenance;

c) functions relating to transport;

d) functions regarding territory management;

e) functions in the field of environmental protection;

f) functions in the field of economic development regarding services for the labour market.

5. The legislative decrees referred to in *article 2* shall regulate the possibility that the list of functions as per paragraphs 3 and 4 shall be adjusted by means of agreements between the State, the regions, the provinces and the municipalities to be sought within the framework of the Joint Conference.

## **Art. 22.**

### *(Infrastructural equalisation)*

1. Upon initial implementation, the Minister of Economy and Finance, upon agreement with the Minister for federalist reforms, the Minister for legislative simplification, the Minister for regional relations and any other minister whose responsibilities are involved, shall make arrangements for an assessment of required interventions, according to regulations in force, regarding infrastructure in public health, welfare and educational facilities, as well as

road, highway, railroad, sewerage, water and electricity distribution and gas transport networks, and port and airport facilities. In particular, this assessment shall be made taking into account the following elements:

- a) extension of territorial surfaces;
- b) assessment of road infrastructures, particularly with reference to Southern Italy;
- c) the infrastructure and the development deficits;
- d) population density and the density of production units;
- e) special requirements for mountain areas;
- f) deficiencies in the infrastructures present in each territory;
- g) island specificities, with the definition of objective parameters for measuring the effects caused by the economic development gap deriving from the area's insularity, including with reference to the total amount of resources for the special measures as per *article 119, fifth paragraph, of the Constitution*.

2. In the transition stage as per *articles 20 and 21*, in order to make good the infrastructure deficit, including that related to local public transport and transport connections with the islands, on the grounds of the assessment as per paragraph 1 of the present article, there shall be an identification of interventions aimed at the objectives as per *article 119, fifth paragraph, of the Constitution*, that shall also take into account the virtuousness of local authorities in adjusting to the process of convergence towards the standard costs or requirement. The interventions as per the present paragraph, to be undertaken in underexploited areas, shall be identified in the programme to be included in the Economic and financial planning document as per *article 1, paragraphs 1 and 1a<sup>8</sup>, of law 21 December 2001, n. 443*.

### **Art. 23.**

*(Transient regulations for local authorities for metropolitan cities)*

1. The present article contains transient regulations for the initial establishment of metropolitan cities, valid until the date of entry into force of ordinary regulations on the fundamental functions, bodies and the electoral system of metropolitan cities, which shall be determined by a dedicated law.

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<sup>8</sup> "1-bis" in the original version.

2. Metropolitan cities may be established within a region in the metropolitan areas comprising the municipalities of Turin, Milan, Venice, Genoa, Bologna, Florence, Bari, Naples and Reggio Calabria. The proposal for their establishment shall be put forward by:

a) the municipality that is the provincial capital, jointly with the province;

b) the municipality that is the provincial capital, jointly with at least 20 per cent of the municipalities in the province involved, if totalling 60 per cent of the population, including the population in the municipality that is the regional capital;

c) the province, jointly with at least 20 per cent of the municipalities in the province involved, if totalling 60 per cent of the population.

3. The establishment proposal as per paragraph 2 shall contain:

a) indications as to the perimeter of the metropolitan city, which in accordance with the principle of territorial continuity shall include all the municipalities that are authors of the proposal. The metropolitan territory shall coincide with the territory of a province or part thereof and shall include the municipality that is the provincial capital;

b) the division of the territory of the metropolitan city into municipalities;

c) a draft statute proposal for the metropolitan city defining the forms of coordination of the global government actions within the metropolitan territory and regulating the procedures for the election or appointment of the president of the provisional council as per paragraph 6), letter b).

4. The proposal as per paragraph 2 shall be the object, following the acquisition of the region's opinion – which must be expressed within ninety days – of a referendum among the citizens living in the province. The validity of the referendum shall not require a quorum when the region shall have expressed a positive opinion or if the region shall fail to express an opinion. Should the region's opinion be negative, the referendum shall be considered valid with a quorum equal to 30 percent of eligible voters.

5. Provisions to be adopted within ninety days from the date of entry into force of the present law, as per *article 17, paragraph 1, of law 23 August 1988, n. 400*, on proposal by the Minister of the Interior in concert with the Ministers of Justice, for federalist reform, for legislative simplification and for relations with the regions, shall regulate the procedure for calling and holding the referendum as per paragraph 4, in compliance with the provisions in *law 25 May 1970, n. 352* which are compatible.

6. Within thirty-six months from the date of entry into force of the present law – on proposal by the Minister for federalist reforms, by the Minister for legislative simplification and by the Minister for relations with the regions, in concert with the Minister for public administration and innovation, the Minister of the economy and finance and the Minister for relations with Parliament - for the purpose of establishing each metropolitan city, the Government is delegated to adopt one or more legislative decrees in compliance with the following guiding principles and criteria:

a) establishment of the metropolitan city in compliance with the proposal approved in the referendum as per paragraph 4;

b) establishment, in each metropolitan city, up to the date of installation of the bodies regulated with the provisions as per paragraph 1, of a representative assembly referred to as «provisional council of the metropolitan city», composed of the mayors of the municipalities that are part of the metropolitan city and of the president of the province;

c) no compensation fees, attendance fees or other forms of compensation for the members of the provisional council of the metropolitan city for holding this position;

d) provisions such that - up to the date of installation of the bodies regulated with the provisions as per paragraph 1 - the financing of the authorities forming the metropolitan city shall ensure a greater autonomy of revenue and expenditure commensurate with the complexity of the functions to be exercised in associated or joint form, within the constraints of the appropriations provided for by the legislation in force;

e) provisions such that - for the sole purpose of the provisions concerning the expenditures and the attribution of financial resources to metropolitan cities, with reference to the population and territory of each metropolitan city – the fundamental functions of the province shall be provisionally considered as the fundamental functions of metropolitan cities, effective as of the date of installation of its definitive bodies;

f) provisions such that – for the purposes as per letter e) – the fundamental functions of the metropolitan city, with reference to the population and territory of the metropolitan city, be considered as the following:

1) general planning of the territory and infrastructure systems;

2) the organisation of coordinated systems for the management of public services;

3) the promotion and coordination of economic and social development.

7. The draft legislative decrees referred to in paragraph 6, accompanied by the resolutions and the prescribed opinions, shall be transmitted to the State Council and to the Joint Conference, which shall deliver their opinions within thirty days. Subsequently, they shall be transmitted to the Chambers for the acquisition of the opinions of the competent Parliamentary committees, to be delivered within thirty days of the assignment to the aforementioned Committees.

8. The province involved shall cease to exist and all related bodies shall be abolished starting from the date of installation of the bodies of the metropolitan city, identified by the law as per paragraph 1, which shall also regulate the transfer of functions and of human, instrumental and financial resources related to the transferred functions, and to implement the new perimeter established as per the present article. The definitive statute of the metropolitan city shall be adopted by the responsible bodies within six months from the date of their installation in accordance with the law as per paragraph 1.

9. The law referred to in paragraph 1 shall establish the regulations for the exercise of the power of initiative by the municipalities in the province not included inside the perimeter of the metropolitan area, in such a manner as to ensure that each municipality shall be able to choose whether to be included in the territory of the metropolitan city or in another existing province, in compliance with territorial continuity.

#### **Art. 24.**

*(Transient regulations for the capital city of Rome as per article 114, third paragraph, of the Constitution)*

1. Upon its implementation and up to the entry into force of regulations for metropolitan cities, the present article shall lay down the transient rules on the regulations system, including financial aspects, for the capital city of Rome.

2. The capital city of Rome is a territorial authority whose current borders are those of the municipality of Rome, and which enjoys special statutory, administrative and financial autonomy within the constraints established by the *Constitution*. The regulations system of the capital city of Rome is aimed at ensuring the best framework for the functions that Rome is called upon to exercise as the seat of the constitutional bodies, and of the diplomatic delegations of foreign States to the Italian Republic, the State of the Vatican City and international institutions.

3. Aside from those currently assigned to the municipality of Rome, the capital city of Rome shall be entrusted with the following administrative functions:

a) participation in the exploitation and enhancement of historical, artistic, environmental and river-related assets upon agreement with the Ministry for environmental affairs;

b) economic and social development of the capital city of Rome, with particular reference to the production and tourist sector;

c) urban development and country planning;

d) public and private building construction;

e) organisation and functioning of urban services, with particular reference to public transport and mobility;

f) civil protection, in collaboration with the Presidency of the Council of ministers and the Region Lazio;

g) additional functions conferred by the State Region Lazio as per *article 118, second paragraph, of the Constitution*.

4. The exercise of the functions as per paragraph 3 is regulated with provisions adopted by the city council, which shall assume the name of Capitoline Assembly, in compliance with the Constitution, community and international constraints, state and regional legislation and *article 117, sixth paragraph, of the Constitution*, as well as in accordance with the principle of functionality with reference to the special attributions of the capital city of Rome. The Capitoline Assembly - within six months from the entry into force of the legislative decree as per paragraph 5 - shall approve - as per *article 6, paragraphs 2, 3 and 4 of the consolidated act regarding the legislative system of local authorities as per legislative decree 18 August 2000, n. 267*, with particular reference to municipal decentralisation – the statute of the capital city of Rome, which shall enter into force the day after publication on the Official Journal.

5. Following consultations with the region Lazio, the province of Rome and the municipality of Rome, one or more legislative decrees adopted as per *article 2*, shall regulate the transient legislative system, including on financial aspects, of the capital city of Rome, according to the following guiding principles and criteria:

a) specification of the functions as per paragraph 3 and definition of how the required human and material resources shall be transferred to the capital city of Rome;

b) granted the legislative provisions for the financing of municipalities, assignation of additional resources to the capital city of Rome, taking into account of the specific financing requirements deriving from its role as capital

of the Republic, following their specific determination, and the determination of the functions as per paragraph 3.

6. The legislative decree as per paragraph 5 shall ensure the institutional interconnections, the coordination and the collaboration of the capital city of Rome with the State, the region Lazio and the province of Rome, in the exercise of the functions as per paragraph 3. The same decree shall regulate the status of the members of the Capitoline Assembly.

7. The legislative decree referred to in paragraph 5 – with reference to the implementation of *article 119, sixth paragraph, of the Constitution*, shall establish the guiding principles for the attribution of own assets to the city of Rome capital of the Republic, in compliance with the following specific guiding principles and criteria:

a) assignment to the capital city of Rome of assets commensurate with attributed functions and responsibilities;

b) free of charge transfer to the capital city of Rome of the assets belonging to the State that are no longer useful for the needs of the central administration, in compliance with the provisions in *article 19*, paragraph 1, letter d).

8. The provisions as per the present article and those in the legislative decree adopted as per paragraph 5 may only be modified, derogated or repealed explicitly. For matters not provided for in the present article, the provisions regarding municipalities in the consolidated act on the legislative system of local authorities as per *legislative decree 18 August 2000, n. 267* shall continue to apply to the capital city of Rome.

9. Following the implementation of the regulations on metropolitan cities, and as of the installation of the metropolitan city of the capital city of Rome, the provisions as per the present article are intended as referring to the metropolitan city of the capital city of Rome.

10. *Article 23* shall apply to the metropolitan city of the capital city of Rome except for paragraph 2, letters b) and c), and paragraph 6 letter d). The metropolitan city of the capital city of Rome shall continue to exercise, aside from the functions of a metropolitan city, the functions as per the present article.

## **Art. 25.**

*(Guiding principles and criteria relating to the management of taxes and tax shares)*

1. The legislative decrees referred to in *article 2*, with reference to the system for the management of taxes and tax shares, in compliance with the

organisational autonomy of regions and local authorities in selecting how to organise tax management and collection, shall be adopted according to the following guiding principles and criteria:

a) provisions for adequate forms of collaboration between the regions and the local authorities with the Ministry for the economy and finance and with the Revenue Agency, for the purpose of using the regional revenue directorates for the systematic management of state, regional and local taxes;

b) definition, by means of a dedicated and specific convention between the Ministry for the economy and finance, individual regions and local authorities, of the management, operational and cost distribution procedures for the proceeds from tax evasion collection.

### **Art. 26.**

*(Curbing tax evasion)*

1. The legislative decrees referred to in *article 2*, with reference to the system of management of taxes and tax shares, in compliance with the organisational autonomy of regions and local authorities in selecting how to organise tax management and collection, shall be adopted according to the following guiding principles and criteria:

a) provisions for adequate forms of mutual integration of the information databases available to regions, local authorities and the State in dealing with the curbing of evasion of state, regional and local taxes, as well as direct collaboration aiming to provide data and useful information for the purpose of the assessment of the said taxes;

b) provisions for adequate rewards for regions and local authorities having achieved positive results in terms of increased revenue from activities aimed at curbing tax evasion and tax avoidance.

## **Chapter X**

### **EQUALISATION AND SOLIDARITY OBJECTIVES FOR SPECIAL STATUTE REGIONS AND FOR THE SELF-GOVERNING PROVINCES OF TRENT AND BOLZANO**

### **Art. 27.**

*(Financial coordination of special statute regions and self-governing provinces)*

1. Regions having a special statute and the self-governing provinces of Trent and Bolzano, in compliance with the special statutes, shall participate in achieving equalisation and solidarity objectives and in the exercise of rights and duties thereof, as well as in the internal stability pact and in the fulfilment of obligations in connection with community legislation, according to criteria and procedures established in the implementing provisions of their respective statutes, to be defined according to the procedures envisaged in the statutes themselves within the twenty-four month deadline established for issuing the legislative decrees referred to in *article 2* and according to the principle of the gradual replacement of historical expenditure as per *article 2*, paragraph 2, letter m).

2. The implementing provisions as per paragraph 1 take into account the financial dimension of the aforementioned regions and self-governing provinces as against overall public finances, the functions they actually exercise and their related costs including, where these occur, in consideration of permanent structural disadvantages connected with the costs of insularity and of the per-capita income levels that characterise the respective territories or parts thereof, as against those correspondingly borne for the same functions by the State, by the regions altogether and – for self-governing regions and provinces exercising functions related to local finances – by the local authorities. The same implementing provisions shall also regulate the specific procedures whereby the State shall ensure the achievement of the constitutional objectives of equalisation and solidarity for special statute regions whose levels of per-capita income falls below the National average, granted the coverage of the standard requirement for the basic levels of benefits connected with civil and social rights as per *article 117, second paragraph, letter m), of the Constitution*, in compliance with the provisions in *article 8*, paragraph 1, letter b), of the present law.

3. The provisions in paragraph 1 shall be implemented to the extent provided for by the very implementing provisions of the special statutes and at the conditions established by those provisions in the implementation of the criteria as per paragraph 2, including by means of taking up the costs deriving from the transfer or from the delegation of state functions to the very same special statute regions and self-governing provinces, or by means of other measures aiming to achieve savings in the State budget, as well as other procedures established by the implementing provisions of the special statutes. Furthermore, the aforementioned provisions, insofar as it befalls their responsibility shall:

a) regulate the coordination between state legislation in public finance matters and the corresponding regional and provincial legislation in regional and provincial finances respectively, as well as in local finances - should this be one of the responsibilities of the special statute region or of the self-governing province;

b) define the fundamental coordination principles for the tax system with reference to the legislative powers assigned by their respective statutes to special statute regions and self-governing provinces with regard to regional, provincial and local taxes;

c) identify tax measures facilitating development, as per *article 2*, paragraph 2, letter mm), at the conditions referred to in *article 16*, paragraph 1, letter d).

4. In the event of new functions being assigned to special statute regions and to the self-governing provinces of Trent and Bolzano, as well as to regions having a regular statute, in cases in which there shall be no participation in achieving the equalisation and solidarity objectives as per paragraph 2, the implementing provisions and the legislative decrees referred to in *article 2* shall respectively define the corresponding additional financing provisions by means of state tax and excise duty shares, without prejudice to the provisions of constitutional laws in force.

5. In accordance with their respective statutes, the Presidents of the self-governing regions and provinces involved shall be invited to participate in the Council of ministers meetings on the examination of the drafts of the implementing provisions as per the present article.

6. The Committee as per *article 4* shall also deal with mere acknowledgement of provisions in force regarding the financial system of special statute regions and of the self-governing provinces of Trent and Bolzano and their respective application. In exercising such functions the Committee shall be supplemented by an expert representative from the individual region or province concerned.

7. In order to ensure the observance of the fundamental rules of the present law and of the principles deriving thereof, in compliance with the peculiarities of each special statute region and each self-governing province, a working group between the Government and each special statute region and self-governing province shall be set up within the Permanent Conference for relations between the State, the regions and the self-governing provinces of Trent and Bolzano in accordance with the principle of loyal collaboration; participants shall include the Ministers for relations with the regions, for federalist reforms, for legislative simplification, for the economy and finance and for European policies, as well as the Presidents of the special statute regions and self-governing provinces. This group shall identify guidelines, policies and instruments to ensure the participation of special statute regions and self-governing provinces in the equalisation and solidarity objectives, and to assess the consistency of any additional financial allocation made subsequent to the entry into force of the statutes, checking their consistency with reference to the new structure of public finances. The organisation of the working group shall be provided for by a decree issued by the President of the Council of ministers to be adopted within thirty days from the date of entry into force of the present law.

## Chapter X

### FINANCIAL SAFEGUARD AND REPEALS

#### Art. 28.

*(Financial safeguard)*

1. The implementation of the present law shall be compatible with the financial commitments assumed with the stability and growth pact.

2. The legislative decrees referred to in *article 2* shall identify the mechanisms suited to ensuring that:

a) the reorganization and reassignment of functions and the allocation of human and financial resources is consistent with the constraint whereby the transfer of functions shall entail the transfer of personnel in order to avoid any duplicate functions;

b) the determination at regular intervals of the maximum level of the tax burden is ensured, as well as its distribution among the various tiers of government, and that the objective of not bringing about any increases in the overall tax burden is safeguarded even in the transition stage.

3. The establishment and functioning of the Committee and the Conference as per *articles 4* and *5* shall be provided for with human, instrumental and financial resources available with the legislation in force. The costs connected with the participation of the Committee and Conference meetings referred to in the first sentence shall be borne by the individual institution represented therein, which shall draw from ordinary budget appropriations and in any case with no additional or greater costs to be debited to public finances. Members of the Committee and Conference shall receive non remuneration.

4. The present law and each of the legislative decrees referred to in *article 2* and in *article 23* shall not give rise to additional or greater costs to be debited to public finances.

#### Art. 29.

*(Repeals)*

1. The legislative decrees referred to in *article 2* shall identify provisions incompatible with the present law, making provisions for repealing them.

The present law, bearing the State seal, shall be included in the Official collection of legislative acts of the Italian Republic. All shall observe it and ensure it is observed as a law of the State.