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SAIs and Jurisdiction: just a Mediterranean eccentricity?

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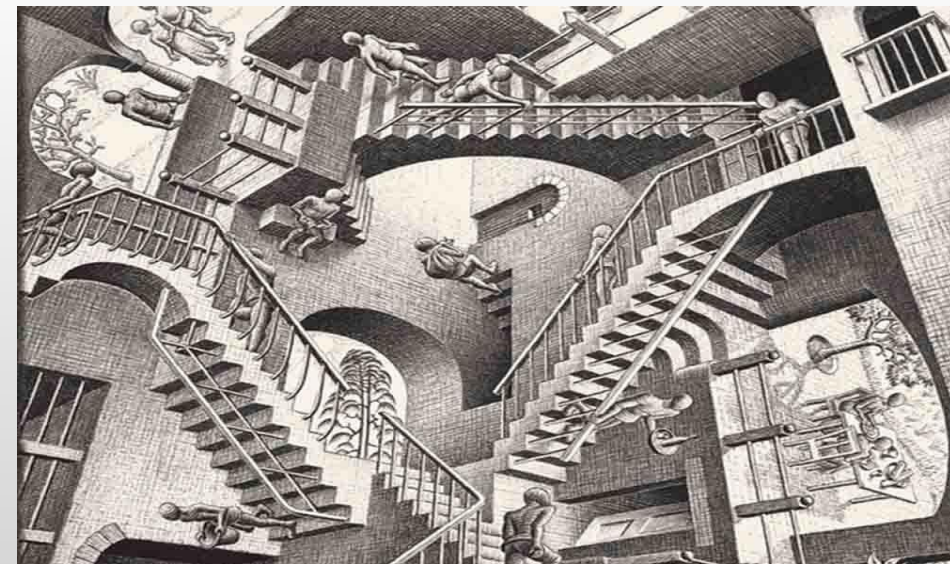
What we will *not* be talking about...

- ✓ Matters connected with the proceedings of the Forum of Jurisdictional SAIs.
- ✓ A comparison between SAIs with jurisdictional characters and their respective *actual* institutional/legal outline.
- ✓ Case-based *specific* proposal(s) for a way forward in harmonising powers and competences between jurisdictional SAIs.



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What we will *actually* be talking about...





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AGENDA

- ✓ What is jurisdiction?
- ✓ Control on the State accounts and jurisdiction: Why, how and when?
- ✓ Supreme Control Institutions and the evolution of modern State: from the Robe to infographics...
- ✓ Jurisdictional SAIs today: competences and powers
- ✓ Jurisdictional SAIs *tomorrow*: a new frontier? The Italian case
- ✓ Towards a possible model: SAIs and post-modernity, a renewed leading role



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What is jurisdiction?

- ✓ **Jus-dicere and the idea of law: from *ius quia iustum* to *ius quia iussum***
«*Imperare autem est quidem essentialiter actus rationis; imperans enim ordinat ei cui imperat*» (St. Thomas Aquinas, Summa Theologica, Prima Secundae, Q. 17, art. 1)
«*Le point principal de la majesté suprême et absolue gît principalement à donner loi aux sujets en général sans leur consentement*» (Jean Bodin, Les Six Livres de la République, I, 8)
- ✓ **Gubernaculum and Jurisdictio: the birth of Modern state**
- ✓ **Administration by adjudication in the early modernity**



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Control on the State accounts and jurisdiction: why, how and when

- «The king must be able to live off his own means»: The *Chambre des comptes*
- An institution in a time of transitions...
- A successful model throughout Europe, sometimes even ahead of its times (the Neapolitan *Camera della Sommaria*)
- The key: *polycentric architecture* of the early modern State (the *Sun* and its *planets*)



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Supreme control institutions and the evolution of modern State

From the Robe to infographics...

- ✓ The end of institutional polycentrism and the pyramidal, hierarchical late-modern State
- ✓ Revolution and constitutionalism: the dogma of sovereignty (in its *three* shades...) and the decline of the judiciary
- ✓ Parliamentary sovereignty as *budgetary* sovereignty: or, *silete juristae in munere alieno!*
- ✓ Which role for the comptroller?
 - Between the unthinkable and the unfeasible: the Napoleonic model
 - Jurisdiction as a channel to (continuing) relevance: administrative liability
 - The triumph of economics and the rise of «audit» over «control»



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Jurisdictional SAIs *today*: competences and powers

- The **traditional pillars of jurisdiction** within (many) SAIs: **accounting judgement and administrative liability**
- The «judgement of equalisation» and the *formalities of jurisdiction*
- The power to impose **sanctions**



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Jurisdictional SAls *tomorrow*: a new frontier? The Italian case /1

- Public expenditure in the age of budgetary constraints
- The legacy of Eurozone crisis (2011 - ?)
- Binding parameters and «whole-of-Government» approach: the need for an impartial referee
- The legal results: new powers for the Corte dei conti – «Budget – as – commons» theory and access to the Constitutional Court – which category of powers are we describing?



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Jurisdictional SAls *tomorrow*: a new frontier? The Italian case /2

- The **fight against corruption** in the era of financial and administrative complexity: beyond the criminal offence
- Integrity in the public sector and the need for control over *correct* expenditure
- A privileged actor: the **Public Prosecutor office** to the Court of accounts



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Towards a possible model: SAIs and postmodernity

a renewed leading role

- ✓ Legal post-modernity, multilevel constitutionalism, institutional complexity and the **fading of the State**
- ✓ A renewed polycentricity and the re-expansion of jurisdiction
- ✓ The end of representative legitimacy as *exclusive* legitimacy and authoritativeness as (potential) source of authority: **the demand for independent assessment of public policies**
- ✓ From assessing to adjudicating: new binding rules and parametric control
- ✓ A new need for *Judges in public accounting?*



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Thank you for your attention!
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