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Article · February 2015

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**Challenging Italian centralism**  
**through the vertical shift of competences to the subnational and supranational levels**

Enrico Borghetto

This article shows that even though the high hopes of Italy's most radical federalist advocates were largely dashed as the country remains a regionalised state within a less-than-federal European Union, there have in fact been changes in the vertical allocation of competences since the early 1990s. The article maps these transformations in Italian democracy by tracing the formal transfer of national powers to subnational and European Union (EU) levels. In addition, it portrays the driving forces behind this competence shift and discusses other outcomes of the process besides the changes in the Italian Constitution and EU Treaties. It concludes that central institutions have only adapted partially and incrementally to this formal transfer of powers.

**Key words:** federalism, integration theory, multilevel governance, competences, Italian democracy

## Introduction

Italy's corruption scandals of the early 1990s dealt the final blow to a political system that was already showing signs of distress. Amid the crisis in Italy's parties and an economic downturn, the elites in charge of the transition were assigned the mission of reshaping national political and administrative institutions in the name of efficiency and accountability. The conditions seemed propitious. It was hoped that the fall of the old elites would weaken the veto points and pave the way for the modernisation of the state. At central government level, the aim was to inject some measure of majoritarianism into the system (see the other contributions to this special issue). In addition, two further ideas were singled out to realise the rather abstract concept of stable and effective government: federalism and European integration. Both had a long pedigree in Italian politics, although they were given different interpretations by Italian elites, largely reflecting the logic of party competition. Even their most diluted versions were interrelated and challenged the concentration of power within one unique level of government, which had been blamed for nurturing the clientelistic practices that led to increasing deficit spending.

This article shows that even though Italy remains a regionalised state within a less-than-federal European Union and the high hopes of the most radical federalist advocates were largely dashed, there have in fact been changes in the territorial division of power since the early 1990s. It maps these transformations by tracing the transfer of national competences to subnational and European Union (EU) supranational actors. In line with other articles in this special issue, it uses Lijphart's empirical scheme (2012) to classify democratic systems as the point of departure (Morlino 2013). More specifically, it aims to analyse changes in the second divided-responsibility dimension. As argued by Lijphart, the latter differs from the first joint-responsibility dimension in that it does not measure the diffusion of power *within* institutions, but *between* institutions: 'between separate federal and state institutions, two separate chambers in the legislature, and separate and independent high courts and central banks' (2012). Logical connections tie the five institutional variables constituting this second dimension (Taagepera 2003). Federalism and/or decentralisation are normally associated with strong bicameralism, high barriers to constitutional amendments and an independent central bank. All of these characteristics should occur simultaneously in the ideal-typical consensus

democracy. The main focus of the article will be on the vertical division of power<sup>1</sup>, although reference will be made to particular institutional solutions e.g. bicameralism etc., when necessary.

The following analysis builds on the conceptual lenses provided in Lijphart's 'Patterns of democracy', but it departs from previous similar works (Bruneau et al. 2001; Piattoni and Brunazzo 2010) by focusing not only on top-down processes of federalisation and decentralisation in Italian territorial politics, but also on the bottom-up transfer of authority to EU institutions. The increase in the tasks managed by the EU since the mid-1980s has been remarkable. As shown by Börzel (2005), the locus of many decisions has shifted to EU level and the type of decision rule has become increasingly supranational. Although the willingness to expand the regulatory net displayed by European legislators has differed from area to area, member states have become more and more constrained by decisions taken in Brussels. First, multiple rulings of the European Court of Justice (ECJ) have long established that EU law may take 'direct effect' in member countries (given certain conditions) and prevails over national law when the two are in conflict. Ever since these seminal decisions, Italian legislation has been subject to judicial review by the national Constitutional Court and the ECJ. Furthermore, the Italian central bank is now part of the European System of Central Banks; indeed, nowadays Lijphart does not treat it as a domestic institution like all other post-1998 Eurozone central banks. This means that some of the variables constituting the divided-power dimension have now become distinctively European. There is a risk of understating changes in national politics if the focus is placed only or mainly on the domestic level (for a similar view see Flinders 2005, 89).

The study of power division within and across borders can be anchored to established research traditions in political science. In particular, the multi-level governance (MLG) research agenda has long acknowledged that the gate-keeping capacity of the state has been challenged by actors located below and above the territorial state. Over the last decade, a substantial body of literature has set out to explore the 'multi-level' structure of the EU-polity (e.g. Hooghe and Marks 2001; Bache and Flinders 2004; Piattoni 2010), where: ' "Multi-level" referred to the increased interdependence of governments operating at different territorial levels, while "governance" signalled the growing interdependence between governments and non-

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<sup>1</sup> According to Lijphart's most recent update of "Patterns of democracy" (2012), in the last thirty years Italy has displayed a slight shift towards the consensus pole on the federal-unitary dimension. It is now located almost on the dividing line between majoritarian and consensus democracy.

governmental actors at various territorial levels' (Bache and Flinders 2004, 3). The present article acknowledges the importance of the analytical lenses offered by MLG to explain current and past developments in the restructuring of territorial and functional authority in the European Union at the levels of policy, politics and polity. However, its analytical scope is narrower. Firstly, it directs attention only towards shifts of authority along two of the three axes of variation Piattoni (2010, 27) devised to map the MLG conceptual space (namely the centre-periphery and domestic-international dimensions, and not the state-society dimension). Second, for reasons of space, it does not address the area found at the intersection of the two planes analysed, which is said to capture the formation of a 'third' level in European governance populated by powerful regional actors independent from the centre (the emergence of a so-called 'Europe of regions', *ibid*: 28).

The article is organised in two sections that trace the process of competence transfer towards subnational and European institutions respectively. The argument in both sections is articulated in three steps. Firstly, an abstract discussion of competence allocation is avoided by briefly reconstructing the driving forces behind the rise of the "federalist" and "European integration" issues on the Italian agenda and explaining why the 1990s were a turning point. Secondly, the article provides an empirical measurement of competence transfer after the 1990s. Without going into the details of specific policies, it uses existing empirical indices (Regional Authority Index (Hooghe, Marks, and Schakel 2010); EU vs. National Competence Index (Schakel, Hooghe, and Marks 2014)) to take stock of the shift of competences from the national to the subnational and European levels. Finally, it discusses the limits of a formal understanding of competence transfer. Ultimately, normative arguments about how powers would best be allocated and delimited have to meet with the self-interest of political and social actors. The final section concludes with key insights from the analysis.

## **The subnational dimension**

### ***The rise of federalism on the Italian political agenda***

At the start of the Republic, territorial governance in Italy relied on strong local authorities under tight centralised control. This was the legacy of the previous Fascist regime, which drastically strengthened the drive towards centralisation that had started in the monarchic era with the aim of gaining hierarchical control over the territory (Baldini and Baldi 2014). In addition to this rather than displacing it, the 1948 constitution provided for a three-tier structure consisting of municipalities, provinces and regions (the highest tier), nested within a

unitary framework. However, the process of decentralising power took time to unroll. Initially, regional governments were set up only for five insular and border regions with 'special statutes'.<sup>2</sup> The governing bodies of ordinary regions had to wait until 1970 for the enabling legislation and were only given the means to become operational later in the decade (Hine 1993).

The entrenchment of the territorial cleavage on the Italian agenda came in the early 1990s with the electoral rise of the Lega Nord (LN), an amalgamation of territorial autonomist movements. From the start, the LN aimed to give representation to the growing popular discontent with the inefficiency and corruption of the centralised government. Its message caught on especially in the northern industrialised regions, which lamented the drain of state resources to finance patronage relations in the South. The LN's call for greater regional autonomy has been extensively reframed since their first electoral breakthrough in 1994, largely to exploit contingent political conditions. Their demands have ranged from outright secession of the northern regions from the rest of the country when the LN ran alone in the opposition, to various forms of power devolution when it shared cabinet responsibilities with centre-right allies (including the National Alliance party, a pro-centralist party with strongholds in central and southern Italy) (Cento Bull and Gilbert 2001).

Both external and domestic factors have helped keep the issue at the heart of the political agenda for most of the last two decades (Basile 2013). Externally, the start of a European cohesion policy in the mid-1980s put pressure on national states to equip subnational authorities with the administrative and financial resources necessary to manage EU structural funds (Fabbrini and Brunazzo 2003). On the other hand, the LN's 'ownership' of the territorial issue was not left unchallenged. Other parties engaged in the debate about the best form of territorial restructuring. Their championing of specific reforms, largely in response to the logic of party competition, was based on different arguments. In short, the centre right needed to accommodate the LN inside the coalition and capitalise on its electoral support in the northern regions; the centre left sought to neutralise criticisms that it was defending the status quo and an alleged 'corrupt' centralised state administration. Quite significantly, it was when the centre-left coalition was in power during the 13<sup>th</sup> legislature that the most far-reaching decentralising reforms to date were pushed through, despite its relatively soft stance on

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<sup>2</sup> The special statute of the Friuli–Venezia Giulia region was constitutionally approved only in 1963 (Constitution Law 1, 31st January 1963).

federalism (Bassanini reforms of 1997 and 2001 Constitutional law, see *infra*).<sup>3</sup>

### ***Patterns of change in territorial politics***

In order to spot critical junctures in the timeline and facilitate comparison across regional tiers and countries, the analysis will make use of the coding scheme and classification of regional authority developed by Hooghe et al. (2010).<sup>4</sup> The Regional Authority Index (RAI) is currently the most sophisticated attempt to capture quantitatively the scale and structure of sub-national governments. It is comprehensive in both scope and time, documenting the territorial architecture of 42 developed countries for the period 1950-2006. It is a multidimensional measure built around two groups of four variables each (see Table 1). The first cluster, labelled 'self-rule', measures variation in the 'authority exercised by a regional government over those who live in its territory' (Hooghe, Marks, and Schakel 2010, 7–8). It is consonant with the concept of political, administrative and fiscal decentralisation. The second, labelled 'shared rule', taps changes in the 'Authority exercised by a regional government or its representatives in the country as a whole' (Ibid.). In essence, it acknowledges that a federal division of powers must be guaranteed by the Constitution and cannot be modified without the consent of both levels of government (Rodden 2004).

INSERT TABLE 1 HERE

Figure 1 (see Table A in the appendix for the disaggregated data) plots the longitudinal evolution of the two aggregate indicators of regional authority (self-rule and shared-rule) for ordinary regions, special regions and provinces. It shows that the strengthening of the territorial dimension of government in Italy was marked mostly by inertia during the first decades but that a reform drive began in the 1990s. This latter process took the form of incremental steps, punctuated by a substantial revision of Chapter V of the Constitution in 2001. The asymmetry of Italian regionalism stands out. The setting up of the 15 ordinary regions suffered a long delay and, even then, they had to wait for over two decades for the

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<sup>3</sup> A second constitutional reform implying a federalisation of the Italian political system was adopted by the centre-right coalition in 2006 but was later rejected in a confirmative referendum (M. J. Bull 2007).

<sup>4</sup> Exploring the twists and turns of Italian territorial politics would entail a thorough review of the successive stages of institutional reforms undertaken over the last 60 years (if one does not opt for a longer time-frame (Baldini and Baldi 2014)), as well as an evaluation of the consequences of these reforms and their actual implementation. This is not the goal here, and space constraints would also make it impracticable.

fiscal resources and legislative autonomy (the national parliament kept on legislating on matters devolved to regions) to which they were entitled (Putnam, Leonardi, and Nanetti 1985).

INSERT FIGURE 1 HERE

However, according to the index of institutional self-rule, they seem to have caught up with the special statute regions. This goal was formalised with the 2001 constitutional reform which narrowed the historical gap separating the two types of region, especially with regard to the extent of policy competencies (both score 3 out of 4 on policy scope). Article 117 explicitly enumerates the policy fields for which the state enjoys exclusive powers and the ones that regional actors can legislate on concurrently (that is, respecting the guidelines set by national laws) with the state. The rather extensive group of residual policy fields falls within the exclusive remit of the regions, with ordinary regions now being able to request the transfer of additional powers (Article 116.3). The preventive state control of regional legislation was dropped, resulting in regional and national law having equal constitutional status. Finally, both types of regional organisation are now autonomous general-purpose administrations not subject to central veto over their legislative initiatives (both score 3 out of 3 on institutional depth).

But asymmetries remain, especially when it comes to fiscal arrangements. Regional discretion over taxation has long been a sensitive issue in the political debate, but little has followed by way of reform. Historically, Italy has had and to a great extent still preserves a centralistic management of revenue and expenditure. It scored 3 out of 4 for fiscal autonomy as a result of the reform of regional finance passed in 1997 that provided regions with the revenues of a corporate tax (IRAP) within the wider process of administrative reforms known as the “Bassanini laws” (Mele 2010). Since then, the discussion on whether and how to grant regional governments the power to raise their own taxes has raged on. It gained a reference in the revised Constitution in 2001 (Article 119) and definitively came onto the political agenda in the second half of the 2000s under the label of ‘fiscal federalism’. The delegating law 42/2009 and the subsequent enabling decrees enacted by the centre-right coalition headed by Silvio Berlusconi were meant, finally, to give substance to these principles. Yet, more than five years later, the situation is still rather ambiguous and revolves around the paradox of regional and municipal actors with some discretion to impose taxes but prevented from doing so by the pre-existence of central levies (“double taxation” is constitutionally forbidden, see Palermo



and Wilson 2014). Conversely, the special statute regions have preserved and consolidated their extensive financial prerogatives over time which allow them to retain most of their tax revenues (with due case-by-case differences) and oblige them to make only marginal contributions to the central budget.

Last but not least, all regions are endowed with a directly elected assembly (ordinary regions only since 1972) and most of them have a directly elected president heading a regional executive (score 4 out of 4 in representation).<sup>5</sup> The elected presidents of “big” regions in particular have since acquired increased political influence on the national stage (Fabbrini and Brunazzo 2003).

By comparison, the scores of provinces are much more stable. This meso-level of territorial government has always been the weakest link in the three-tier structure. Their role has been squeezed between the still strong municipal level and other territorial authorities: at least until the 1970s, the authority of the nationally appointed prefect (*prefetto*), and, since the 1970s, that of increasingly powerful and assertive regions. The only noteworthy change came with the 2001 constitutional reform which abolished the ex-ante central control over provincial acts. Although the utility of provinces has been fiercely debated a number of times and their abolition came onto the agenda as a measure of administrative rationalisation a long time ago, substantial reform of their organisation is only recent (Law 56/2014). The elected assembly and appointed president were abolished and most of their policy competences (including relative resources and administrative staff) were allocated to regions, municipalities and metropolitan cities.<sup>6</sup> Nevertheless, this legislative reform cannot be deemed conclusive since only a change to constitutional provisions can ultimately regulate the existence of provinces.

One of the most attractive features of the Hooghe et al. index is that it can be used in cross-country comparisons. The authors (2008a) showed that the distribution of regional authority varied extensively both over time and across states. Figure 2 plots the difference between the aggregate RAI score (Self Rule and Shared Rule) recorded respectively on the first and last observed years and sorts countries in descending order based on the magnitude of change. The Italian score rose from 8.4 in 1950 to 22.7 in 2006: an overall increase of 14.2 that is the highest in the pool of countries under study, regardless of the number of subnational tiers on

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<sup>5</sup> The application to governors of ordinary regions of the direct election formula used for mayors was introduced through a constitutional reform in 1999.

<sup>6</sup> Article 114 of the Constitution mentions a fourth administrative tier, the ‘metropolitan cities’, which are to absorb some powers of provinces and municipalities. Law 56/2014 instituted the first 10 metropolitan cities, which will become operative beginning on 1<sup>st</sup> January 2015.

which regional governance is organised.<sup>7</sup> Without trying to read too much into these figures, they suggest that Italy belongs to a group of countries comprising Belgium, Spain and France, which has followed a distinctive path of power transfer in recent decades.

Italy and these countries also share high scores mainly for categories related to the self-rule dimension. The explanation for this is that, as a rule, it is easier to overcome the barriers to reform on self-rule than shared rule: 'Self-rule is less path dependent than shared rule' (Hooghe, Marks, and Schakel 2010: 60). The broadening of regional policy responsibilities, the direct election of regional governors, and the abolition of the centralised pre-emptive control of regional legislation did modify the potential reach of the central state across the territory. At the same time, these reforms did not overtly challenge control of national policy-making, which still rests to a great extent with the centre. For now, most intergovernmental relations in Italy are still managed through regular meetings of advisory bodies where regional and local representatives meet with executive officials. The most important of these is the State-Regions Conference, which gathers representatives of the 20 regions and executive officials and provides opinions on matters related to regional affairs (1 in executive control).

INSERT FIGURE 2 HERE

### ***Assessing change***

Although reference to federalism and autonomy are now part of the rhetorical repertoire of the average Italian politician (Keating and Wilson 2010), the Italian system still falls short of a fully-fledged federal entity (Palermo and Wilson 2014). At a minimum, this would require converting the Senate into a territorial chamber with non-elective senators representing subnational governments. This would imply reforming the current structure of perfect bicameralism and the allocation to the second chamber of veto powers over matters of shared competence and constitutional amendments (Vassallo 2004). Although such a reform has always been on the political agenda over the last two decades, it is now finally in the form of a draft constitutional reform bill, currently under discussion.<sup>8</sup>

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<sup>7</sup> Not considering the number of tiers might overstate the findings because the aggregate country score sums both regional and provincial scores, so countries with more than one tier have a greater potential to reach higher scores.

<sup>8</sup> Remarkably, the bill already received a first resonant approval from the Senate on 8<sup>th</sup> August 2014. This is but the first stage of the legislative process required for constitutional amendments, which necessitates two readings in each house of Parliament, and a two-thirds majority on the second one if a popular referendum is to be avoided.

While it is relatively easy to say what the current Italian system is not, it is more difficult to categorise it into a specific form of territorial organisation of authority. Rather than moving among clear-cut types, it could be argued that a continuum runs between unitary and federal states populated by various forms of decentralised unitary and regional systems (Hooghe and Marks 2013). Authors agree that nowadays Italy is a highly decentralised regional state preserving its unitary dimension (Baldini and Baldi 2014; Palermo and Wilson 2014). The current institutional architecture rests on the pillars laid down during the 2001 constitutional reform which sanctioned substantial advancements in regional 'self-rule'.

However, commentators have not failed to notice the sometimes strident divergence between the letter of legal reforms and the actual working of the new institutional architecture (Keating and Wilson 2010; Palermo and Wilson 2014). Especially for those reforms resulting from a constitutional revision, institutions had to be designed as empty shells, requiring enabling provisions to become fully operational (i.e. fiscal federalism). What has in fact happened to date is that detailed implementation measures have lagged behind or they have been enacted only partially. In other cases, specific measures were enacted in a sector but could not be made to work because other sectors were left unaltered. It is on this plane that critics have spotted the contradictions and ambiguities of the Italian federalising process. On the one hand, the majoritarian logic that became established in the Second Republic brought with it the opportunity for majorities to push through partisan reforms. Due to the salience of the territorial issue on the public agenda, each new alternating majority seized the opportunity to add a piece to the mosaic of reforms and claim credit from the electorate. But this came at the cost of the very coherence of these reforms, as each coalition had to accommodate different internal views on the substance of federalism and decentralisation. This state of affairs brought the role of the Italian Constitutional Court into sharper relief, as it was repeatedly called upon to offer an interpretation whenever ambiguities and controversies arose. The analysis offered by Hine in the early 1990s still seems relevant: 'The essential problem for Italian regions lies in overcoming the ambiguity in which they languish and the lack of a clear agreement on their relationship to the centre and to local government. Their role has been established by trial and error, party bargaining, and legal controversy, and reflects changing balances of coalition power at the centre, and changing priorities in national government' (1993, 271).

## The European dimension

### *The rhetoric of European integration*

Italy emerged from the war with a desperate need for economic rebuilding and political consolidation. From the beginning, it was clear that these objectives could hardly be achieved without some form of international cooperation. Joining first the European Coal and Steel Community and then the European Economic Community meant anchoring Italy's backward economy to more advanced productive systems in a mutually advantageous relationship. Alongside NATO membership, it facilitated Italy's re-integration in European and world diplomacy and allowed the distinction between winners and losers of the Second World War to fade with time. It provided Italy (and other medium- and small-sized countries) with a voice in international arenas they would never have enjoyed otherwise. Thirdly, from the start, Europe played a vital role in the realm of domestic politics. The institutionalised interdependence linking Italy to other major stable market democracies in Western Europe represented a stabilising factor for the young democracy (Ferrera and Gualmini 2004).

Italian elites had a good understanding of these benefits. Apart from the Communist Party's initial opposition to membership of the European monetary system, the partisan perceptions of Community membership were largely positive.<sup>9</sup> Closer integration was seen as an opportunity rather than a loss. In the initial decades, the content of EU policies never aroused much controversy among the ranks of Italian politicians. Italian executives were aware of what was discussed in Brussels and did try to reap as many benefits as possible from Europe (especially from the EC budget). Yet the stabilising factor was always of primary importance and pushing for more integration was the common trait of Italian European policy.

This created a sometimes marked divergence between the rhetoric of Italy's integrationist elites and its political and administrative capacity to participate actively and efficiently in European decision-making. During the initial decades, the executive's concern was 'less to defend Italian interests *against* Europe than to ensure that the various parts of the state machinery [understood] what they are required to do *by* Europe' (Hine 2000, 26). Few resources were put into intervening when policy was formulated at the Community level, so that administrative apparatuses were forced passively to implement or, sometimes, filter

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<sup>9</sup> In the mid-1970s, the Italian Communist Party (PCI) formally accepted Italy's membership of NATO and the European Community. The end of this die-hard ideological bias in the domain of foreign policy foreshadowed the PCI's strategy of distancing itself from Moscow and favoured a gradual rapprochement with the European socialist left.

whatever descended from Europe. On the domestic front, political instability and administrative inefficiency hindered the timely and correct compliance with European policies (Giuliani 2006; Borghetto 2013).

Italian support for the European idea was not confined to its political elites but was widely shared at a mass level from the outset. According to the periodic measurements provided by the Eurobarometer since the 1970s, Italians have stood out for their firm perception of Europe as a positive asset for Italian politics and the Italian economy. On the one hand, the Community's complex multi-tiered consensual policy-making style was not alien to - and thus not viewed with suspicion by - Italian voters who had grown accustomed to the intricacy of the Italian political and administrative apparatus (Hine 1993, 286). On the other hand, the advantages deriving from European membership were not formulated in terms of clear-cut short-term payoffs. Rather, the Community was perceived as a 'collective myth' for Italian society (Romano 1993, 192), a far-away technocratic entity overseeing the functioning of a by and large profitable European free market. The costs of European rules were not immediately visible and the ties were generally presented as sources of future benefits. Hence, the 'European card' - the threat of 'not keeping up with Europe' - was put on the table when the adoption of controversial measures loomed on the horizon. For instance, the costs of joining the European Monetary System in 1970 were successfully outweighed by the prospect of long-term benefits stemming from a significant development in supranational integration.

The advent of the single currency in the 1990s was in many ways a watershed. In order to meet the convergence criteria set out in the Maastricht Treaty and to seek first round entry into the European Monetary Union, Italian elites had to push for extensive administrative and financial reforms (Ferrera and Gualmini 2004). In particular, they faced the challenge of bringing Italy's public finances under control, a goal that they had not been able to achieve for the previous two decades. Strong political support from a wide coalition of actors and the clear reference points to measure goal attainment enabled Italy to join the Euro at its inauguration (Della Sala 1997).

After securing admittance, the veil of political consensus was raised. The costs of domestic adjustments required by European membership became more visible under the rules of budgetary discipline created to sustain the Euro (Isernia 2005). European constraints (the so-called '*vincolo esterno*') had already been used as a disciplinary mechanism, but now it was directly altering the costs and benefits of domestic policy options. Symbolically, the introduction of a one-off tax (labelled Eurotax) by the first Prodi government in 1997 to mitigate the burgeoning budget deficit and meet European Monetary Union convergence

criteria might be considered one of the first blemishes on the average Italian citizen's image of Europe. The negative sentiment was fed by the perceived decline in purchasing power and the slow pace of Italian GDP growth after the introduction of the Euro.

But it could be argued that the recent financial and sovereign debt crisis was the real cross-road. The implementation of austerity measures to appease the worries of international markets and EU partners alike fuelled anti-EU resentment to unprecedented levels (e.g. Telò 2013). At the elite level, each party started openly to voice their concerns with how the crisis was handled by EU institutions. Right-wing parties especially rallied behind the Eurosceptic flag (Quaglia 2011). Arguments were only partially founded on a coherent set of ideas about the future of the integration process and Italy's role therein. Similar to the partisan exploitation of the territorial issue in the arena of party competition (see previous section), most of the time Europe was exploited to gain advantages on the domestic stage. Depending on the colour of the government or the EU issue under discussion, the pendulum of Italian European policy has since swung between supranationalism and intergovernmentalism (Quaglia and Radaelli 2007, 931).

### ***Patterns of change in EU competence***

After almost six decades of European membership, the European dimension is as important as ever for Italy. Like in the past, it has never been merely a question of direct financial transfers: the EU's own resources are still little more than 1 percent of the overall GDP of the member states. In contrast, more and more powers over national policy areas have shifted to the European level or have become a 'shared competence'. Figure 3 (disaggregated scores can be found in table B of the appendix) summarises the distribution of EU vs. national competence across different macro policy areas from 1950 to 2010. The figures reported are average scores on an ordinal scale which goes from 1 (all policy decisions at national level) to 5 (all policy decisions at EU level) for five macro areas: Internal Market, Economic and Monetary Union (EMU), social/industrial policy, legal/constitutional policy, international relations/security. Scores for specific policy areas were assigned by various experts and assembled by Schakel et al. (2014).

The bar chart reveals the dramatic expansion of European integration across all areas. According to the last estimate in 2010 which includes the latest amendments brought about by the Lisbon Treaty, not a single area is now entirely subject to national discretion (Index=1). As a result of EMU, the control of monetary policies and foreign exchange was entirely transferred to supranational institutions (Index=5), more specifically the European Central

Bank. This joins external trade policy for which the EU has had exclusive competence since the Maastricht Treaty.

INSERT FIGURE 3 HERE

As envisaged by functionalist theories, European integration made more headway in the realm of market-creating policies, encompassing Internal Market and EMU policies. A great impetus came from the creation of the internal-market programme in the mid-1980s, aimed at removing/harmonising national regulations in various economic areas and promoting the free circulation of goods, labour, capital and services. Instrumental to these developments was the extension of majority voting in the Council of Ministers. This loss of national sovereignty was partially offset by increased decision-making power for the European Parliament (EP), which is nowadays referred to as the lower house in a European bicameral system (the Council of the EU is the upper house). The increase in the economic policy index (average score) from 2.1 in 1968 to 3.6 in 2010 is clear acknowledgment of the fundamental shift in the balance of authority in this area.

The creation of the EMU by the Treaty of Maastricht (1992) marks the other major shift of responsibilities to the supranational level. Ever since the introduction of the Euro in 1999, control of monetary policy and exchange rates has been vested in the organs of the European Central Bank based in Frankfurt. As already noted, the Euro not only represented an opportunity to secure macroeconomic stability but also provided a useful 'external constraint' to push through a series of structural reforms which would otherwise have met the resistance of Italian national vetoes. It also represented a challenge. Italy was deprived of the tool of exchange rate adjustments which had often been used in the past as a quick fix in the event of a loss of competitiveness. In comparison, the 'economic' section of EMU was left underdeveloped. For many years, the inter-governmental coordination of economic policies (especially fiscal and tax policies) remained a goal inscribed in the treaties but of little value in the day-to-day management of domestic economies. The score of 4.2 in 2010 signals the preponderantly European dimension in this area. These figures are likely to accentuate the effect of the events connected to the EU debt crisis on the level of coordination of economic and fiscal policies.

The crisis revealed numerous cracks in the EMU structure. Although EU institutions were criticised for their untimely response, when it finally came it triggered a substantial expansion of EU economic governance. Policy-making spheres like the national budget, which had been

previously kept under strict national control, are now closely monitored by the EU Commission. The introduction of the European Semester, the reinforcement of the Stability and Growth Pact, the setting up of the Macroeconomic Imbalance Procedure are but the cornerstones of a wide-ranging revision of responsibilities in the coordination of economic and budgetary policies. The (still ongoing) establishment of a European Banking Union should be added to this list (Howarth and Quaglia 2013).

An in-depth discussion of the evolution of governance structures in the remaining areas ('social/industrial', 'legal/constitutional', and 'international relations/security') is beyond the scope of this article. Overall, their average score in 2010 is around 2.5, which reveals the persistent resistance of member states to relinquishing exclusive control over areas that either lie at the core of state sovereignty, or have a market-correcting connotation or outright redistributive nature. Nonetheless, the progress integration has also made in these sensitive areas goes well beyond the expectations of functional theories - especially the use of new modes of governance like the "Open Method of Coordination" (Heritier and Rhodes 2011).

### ***Assessing change***

Against this backdrop of formal expansion of EU competences, there is a risk of overstating the increase of EU vis-à-vis member states' powers. An extensive literature shows that the top-down impact of Europeanization dynamics at the levels of policy, politics and polity has varied greatly. Italy has not been an exception (e.g. Fabbrini 2003). If we look for instance at the Europeanization of national legislation, measured by the presence of European references in the text of legislation adopted between 1987 to 2005, it has been shown that the share of national legislation with a European link is far below the 80% predicted by Jacques Delors in the early 1990s (and ever since echoed by the media) (Borghetto, Giuliani, and Zucchini 2012). Quaglia & Radaelli (2007) showed evidence that national adaptation to EU pressures in politically sensitive areas during the centre-left (1996-2001) and centre-right (2001-06) governments was mediated significantly by the political orientations of the governing coalitions.

Secondly, managing the Union's relationship with the member states in the increasing range of Europeanised areas has been more complex than simply a matter of formally drawing competence boundaries through Treaty amendments.<sup>10</sup> On the one hand, over the years, the

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<sup>10</sup> The recent revision of the Treaties adopted in Lisbon constitutionalised the competence boundaries between the Union and the member states (Article 2 to 6 of the Treaty of the Functioning of the



open-ended nature of Community goals has allowed the ECJ incrementally to expand the scope of EU legislative powers beyond the letter of the treaties (Weiler 1999). On the other hand, the 'subsidiarity' principle (namely the expectation that the EU may only intervene in the area of shared competences if it is capable of acting more effectively than the member states (Article 5(3) TEU)), introduced by the Treaty of Maastricht as a safeguard against this trend, has proved difficult to apply consistently (De Búrca 1998).

Finally, member states can opportunistically use other ways to reclaim control over EU policies that are not in line with their preferences. Firstly, they can exert pressure at the supranational level to modify the policy, both during the decision-making phase or after the adoption. Quaglia and Radaelli (2007) made the case that Italian cabinets seem to have become more proactive in trying to adapt the rules of the game to their positions at the EU level. Secondly, they can adapt their content at the implementation phase. The success of this second strategy is contingent on the discretion allowed by the European legislator and/or the capacity of the member state caught infringing a policy to litigate effectively its case before EU Commission officials and (eventually) the ECJ. Italy has been a notoriously laggard country when it comes to complying with EU policies, although the evidence suggests that it has managed to close the gap at least with regards to the timely transposition of EU directives (Borghetto 2013).

## **Conclusions**

This article has traced the important steps taken by Italian governments since the 1990s to allocate competences to institutions located at both subnational and supranational levels. The justifications for these decisions were varied, mostly reflecting the partisan interests of their advocates. At the very least, all arguments tried to respond to public discontent with centralised administration, which was held responsible for the dismal conditions of the country's finances. At the beginning of the so-called Second Republic, the road to state modernisation normatively envisaged some measure of power decentralisation, while simultaneously reforming national institutions so as to approximate a majoritarian style of

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European Union (TFEU)). Similarly to what happened in Italy at the domestic level with the division of competences between the regions and central government, the TFEU now distinguishes between exclusive competences (the EU alone legislates and member states implement the acts), shared competences (both the EU and member states legislate, although member states are authorised to do so only if the EU has not already exercised its competence) and supporting competences (the EU plays a coordinating role).

democracy.

In terms of legal reforms, the substantial stability up to the 1990s stands out when compared with the dynamism of the last twenty years. Italy is nowadays a strongly decentralised regional state deeply embedded in one of the most integrated regional organisations in history. What is remarkable is that although the process of vertical transfer of powers may have gone through stop-go cycles, it has not yet experienced any significant reverse trend. Competences have never been reallocated to the national level as a result of Constitutional or EU Treaty changes, nor have EU member states pushed for a return to intergovernmental decision-making in specific areas. Quite the contrary, a bill to transform the Italian Senate into a territorial chamber is currently under discussion, while the imperative of keeping up with Europe is still used as a lever by governing parties to make unpopular reforms politically palatable in times of austerity.

The outcome of the process is not so clear-cut if the nature of the shift of competences beyond the legal sphere is considered. The progressive transfer of powers to the lower and upper levels has not implied a proportional transformation of central institutions. Borrowing from Streeck & Thelen (2005) (among others), Bull & Rhodes (2007; see also Baldini and Baldi 2014) put forward an explanation of the process of change in post-1994 Italy based on *drift* (gradual not deliberate adaptation), *conversion* (old institutions are adapted to new purposes) and *layering* (new institutional elements are added on top of existing institutions), rather than *displacement* (existing institutions are replaced by new ones). The reform of the territorial system stopped short of giving direct representation to regional governments at the national level, acknowledging their equal constitutional standing with central institutions or conceding them their own fiscal powers and full authority over lower-level administrations. What is more, many of these reforms have been so patchy, difficult to implement and couched in ambiguous language that the Constitutional Court has repeatedly had to step in to fill this normative void. On the European front, the outstanding expansion of formal competences enumerated in the treaties cannot entirely capture the complex evolution of European integration. Rather than through a deliberate grand constitutional design, integration was built through incremental steps by actors interacting at different territorial and functional levels. This is inevitable for an institution like the EU that relies heavily on national administrative and financial resources to implement its policies.

In conclusion, studying the vertical allocation of powers is arguably of fundamental importance for an understanding of the evolution of Italian democracy over the last two decades. Rather than a deliberate process of hollowing out of the central state (Della Sala 1997), what we have

witnessed is an ongoing power struggle between national, subnational and European actors representing different public and private interests. The result should not necessarily be understood as a zero-sum game entailing a clear drift of sovereignty from one jurisdiction to another. Rather, it might be described as “a system of continuous negotiations among nested governments at several territorial tiers” (Marks 1993, 392) aimed at dealing with tasks that cut across different policy areas and territorial levels. Seen from this angle, the path undertaken by Italian democracy since the 1990s is not unique, and could be framed within a wider growth of multilevel governance structures (e.g. Hooghe and Marks 2001; Bache and Flinders 2004; Piattoni 2010). Having said that, only further research can reveal whether a mainly formal re-allocation of powers will prove sufficient to overcome the “stickiness” of centralised institutions.

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## Acknowledgements

This work was funded by the Portuguese Government through the FCT - Foundation for Science and Technology - under the project PEst-OE/SADG/UI4067/2014 and the Grant SFRH/BPD/89968/2012.

## Figures and tables

Table 1. Dimension of regional authority

Self-rule	The authority exercised by a regional government over those who live in its territory	
Institutional depth	The extent to which a regional government is autonomous rather than deconcentrated.	0–3
Policy scope	The range of policies for which a regional government is responsible.	0–4
Fiscal autonomy	The extent to which a regional government can independently tax its population.	0–4
Representation	The extent to which a regional government is endowed with an independent legislature and executive.	0–4
Shared rule	Authority exercised by a regional government or its representatives in the country as a whole	
Law making	The extent to which regional representatives co-determine national legislation.	0–2
Executive control	The extent to which a regional government co-determines national policy in intergovernmental meetings.	0–2
Fiscal control	The extent to which regional representatives co-determine the distribution of national tax revenues.	0–2
Constitutional reform	The extent to which regional representatives co-determine constitutional change.	0–3

Note: Table reproduced from Marks et al. (2008b, 115)

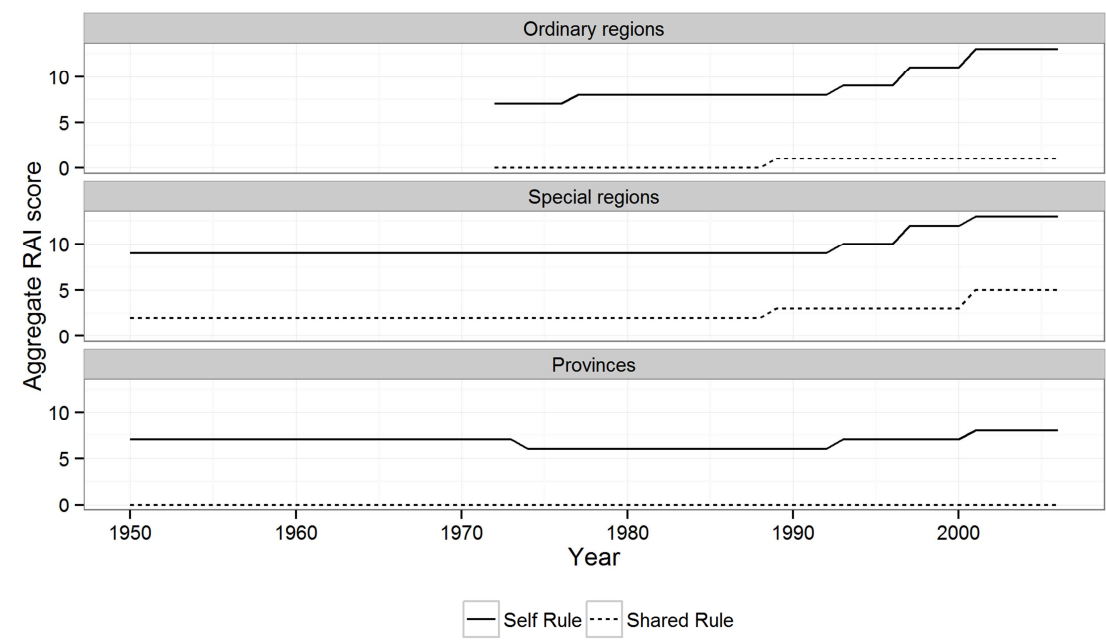
Table A. Regional authority index in Italy (1950-2006)

<b>Territorial level</b>	<b>Period</b>	<b>Institutional depth</b>	<b>Policy scope</b>	<b>Fiscal autonomy</b>	<b>Representation</b>	<b>Self rule</b>	<b>Law making</b>	<b>Executive control</b>	<b>Fiscal control</b>	<b>Constitutional reform</b>	<b>Shared rule</b>
Ordinary regions	1950-1990	2	1.7	0.0	4	7.7	0	0.1	0	0	0.1
Ordinary regions	1991-1995	2	2.0	0.6	4	8.6	0	1.0	0	0	1.0
Ordinary regions	1996-2000	2	2.0	2.6	4	10.6	0	1.0	0	0	1.0
Ordinary regions	2001-2006	3	3.0	3.0	4	13.0	0	1.0	0	0	1.0
Special regions	1950-1990	2	3.0	0.0	4	9.0	0	0.0	1	1	2.0
Special regions	1991-1995	2	3.0	0.6	4	9.6	0	1.0	1	1	3.0
Special regions	1996-2000	2	3.0	2.6	4	11.6	0	1.0	1	1	3.0
Special regions	2001-2006	3	3.0	3.0	4	13.0	0	1.0	2	2	5.0
Provinces	1950-1990	2	1.0	0.6	3	6.6	0	0.0	0	0	0.0
Provinces	1991-1995	2	1.0	0.6	3	6.6	0	0.0	0	0	0.0
Provinces	1996-2000	2	1.0	1.0	3	7.0	0	0.0	0	0	0.0
Provinces	2001-2006	2	2.0	1.0	3	8.0	0	0.0	0	0	0.0

Note: Data reproduced from Hooghe et al. (2010)

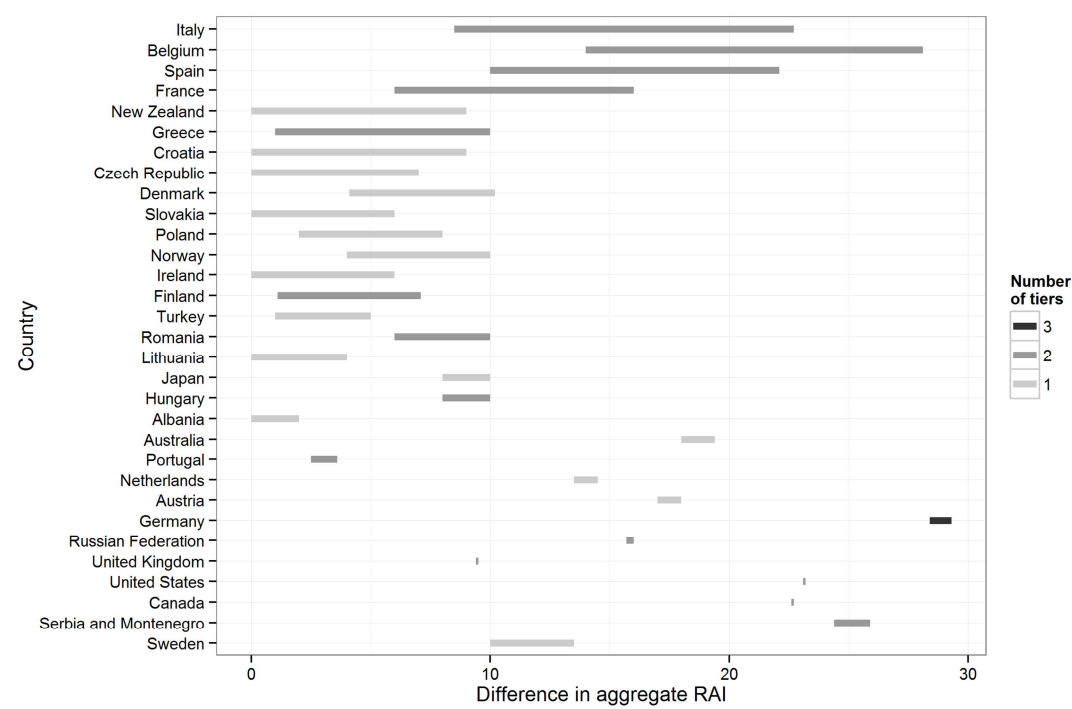


Figure 1. Longitudinal variation of the Regional Authority Index (1950-2006)



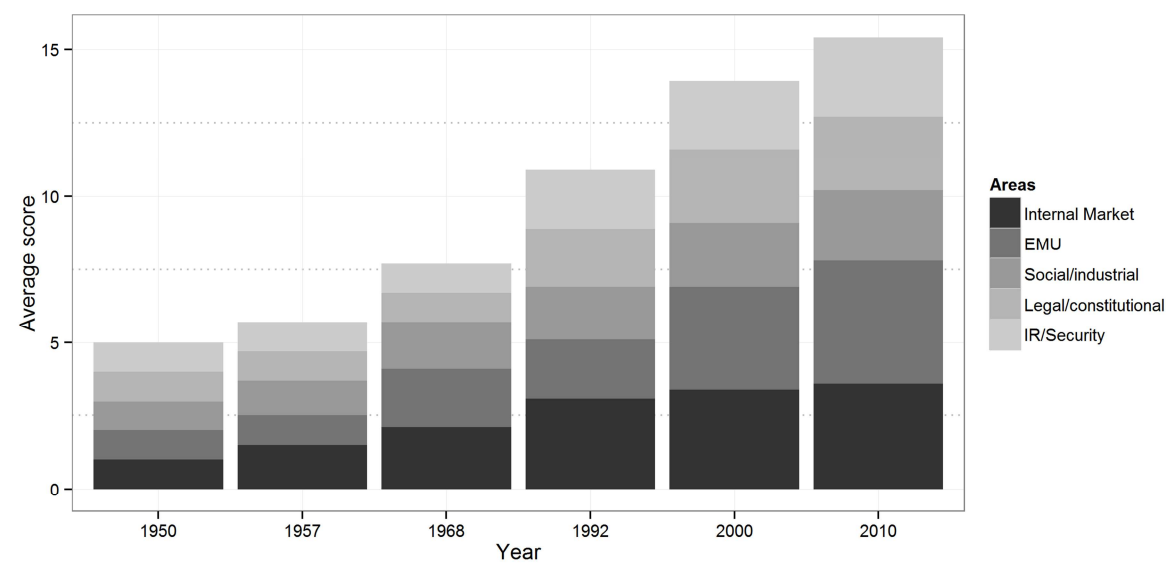
Note: Data from Hooghe et al. (2010)

Figure 2 Difference in aggregate Regional Authority Index between the first year of observation and 2006



Note: Data from Hooghe et al. (2010)

Figure 3. EU vs. National Competence in Policy Areas



Note: Data from Schakel et al. (2014). See Table B in the appendix for disaggregated data

Table B. EU vs. National Competence in Policy Areas

Field	Aggregated field*	1950	1957	1968	1992	2000	2010
Money/credit	EMU	1	1	2	2	5	5
Foreign exchange	EMU	1	1	2	2	4	5
Revenue/taxes	EMU	1	1	2	2	2	3
Macroeconomic	EMU	1	1	2	2	3	4
Goods/services	Internal Market	1	2	3	4	4	4
Agriculture	Internal Market	1	1	4	4	4	4
Capital flows	Internal Market	1	1	1	4	4	4
Persons/workers	Internal Market	1	1	2	3	4	4
Transportation	Internal Market	1	2	2	2	3	3
Energy	Internal Market	1	2	1	2	2	3
Communications	Internal Market	1	1	1	2	3	3
Environment	Internal Market	1	2	2	3	3	4
Regional policy	Internal Market	1	1	1	3	3	3
Competition	Internal Market	1	2	3	3	3	3
Industry	Internal Market	1	2	2	2	3	3
Trade negotiations	Internal Market	1	1	3	5	5	5
Economic-military aid	IR/Security	1	1	1	2	2	3
Diplomacy	IR/Security	1	1	1	2	3	3
Defense & war	IR/Security	1	1	1	2	2	2
Justice	Legal/constitutional	1	1	1	3	3	3
Citizenship	Legal/constitutional	1	1	1	2	3	3
Participation	Legal/constitutional	1	1	1	2	2	2
Police & order	Legal/constitutional	1	1	1	1	2	2
Employment conditions	Social/industrial	1	1	2	2	3	3
Health	Social/industrial	1	1	1	2	2	2
Social welfare	Social/industrial	1	2	2	2	2	2
Education & research	Social/industrial	1	1	2	2	2	3
Labour relations	Social/industrial	1	1	1	1	2	2

Note: Data from Schakel et al. (2014)

\* Categories re-aggregated by the author