



Local Government in Italy

Responses to Urban-Rural Challenges

edited by

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The H2020-MSCA-RISE-2018 project aims to provide solutions for local governments that address the fundamental challenges resulting from urbanisation. To address these complex issues, 18 partners from 17 countries and six continents share their expertise and knowledge in the realms of public law, political science, and public administration. LoGov identifies, evaluates, compares, and shares innovative practices that cope with the impact of changing urban-rural relations in major local government areas (WP 1-5).

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1. The System of Local Government in Italy

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Types of Local Governments

In Italy, there are three main types of local governments which are recognized under Article 114 of the Constitution as making up, together with the 20 regions¹ and the State, the Italian Republic. These are the municipalities (*comuni*), 14 metropolitan cities (*città metropolitane*) and 83 provinces (*province*). The basic units of local government throughout the country are the 7,914 municipalities (*comuni*). However, in order to facilitate the social and economic integration of urban agglomerations, there are the metropolitan cities (*città metropolitane*). While their establishment had been discussed time and again at least since the 1950s, fierce resistance, especially from the regions, had made their actual creation impossible. Only the constitutional reform of 2001 introduced the metropolitan cities into the Constitution. Then it took over a decade to clarify how they would actually operate and to overcome resistance from other government levels. The Ordinary Law no 56/2014 ('Delrio Law') finally established the metropolitan cities.² The third type of local governments that is recognized under Article 114 as a constituent unit of the Italian Republic are the provinces. They are umbrella entities between the regions and municipalities. Similar to second-tier local governments in other countries the main function of the provinces is the coordination of policies and public services.

Apart from these three main types enshrined in the Constitution, the Legislative Decree no 267/2000 mentioned some more types of local governments. The unions of municipalities (*unioni di comuni*) are composed of two or more municipalities and are an institutional form of cooperation in order to jointly exercise certain functions.³ A similar rationale is behind specific local government entities for particular geographical areas, namely the mountain communities (*comunità montane*) and the island communities (*comunità isolane*).

Legal Status of Local Governments

According to the above-mentioned Article 114 of the Constitution, '[t]he Republic is composed of the Municipalities, the Provinces, the metropolitan cities, the Regions and the State. Municipalities, provinces, metropolitan cities and regions are autonomous entities having their

¹ There are 15 regions with ordinary statute and five regions with special statute, recognized under Article 116 of the Constitution, namely Sardinia, Sicily, Trentino-South Tyrol, Aosta Valley and Friuli-Venezia Giulia.

² Giovanni Boggero, 'The Establishment of Metropolitan Cities in Italy: An Advance or a Setback for Italian Regionalism?' (2016) 8 *Perspectives on Federalism* E-1, E-5.

³ Italian Constitutional Court, Judgment no 50/2015.



own statutes, powers and functions in accordance with the principles laid down in the Constitution'. Even if this provision seems to suggest that the constituent parts of the Italian Republic are on an equal footing, the Constitutional Court soon emphasized the special role of the state vis-à-vis the other government levels.⁴ While Article 114 ensures that the three main types of local government enjoy autonomy within constitutional principles, it does not go any further in regulating them.

Article 117(2)(p), however, determines that national government shall establish the rules regarding the 'electoral legislation, governing bodies and fundamental functions of the municipalities, provinces and metropolitan cities'. The relevant law consolidating pre-existing rules is the above-mentioned Legislative Decree no 267/2000. The regional legislator can only become active in a complementary manner on the basis of the residuary power under Article 117(6). This is true, however, only for the 15 regions with ordinary statute (hereinafter, ordinary regions). The five regions with special statute (hereinafter special regions) are allowed to regulate their local governments in their autonomy statutes (e.g. Article 4(3) and Article 61-65 of the Statute of Trentino-South Tyrol) and, more in details, through ordinary regional legislation.

(A) Symmetry of the Local Government System

There are certain types of local government with special status that take into account different realities in urban and rural areas, like the above-mentioned metropolitan cities, unions of municipalities, mountain communities and island communities. Certain variations follow from Italy's system of asymmetrical regionalism, more concretely, from the different regulatory regimes concerning ordinary regions and each of the five special regions.

Nonetheless, the local government system is quite symmetrical. This is because the system is rooted in ideas of municipal organization from the French Revolution and Napoleonic times. These ideas were supported by the House of Savoy and after their founding of the Kingdom of Italy in 1861 extended to the whole country by enacting the laws of administrative unification in 1865. This explains adherence, in principle, to the French model of uniform municipalities, which are supposed to carry out the same functions irrespective of territorial size, demography, economic power, as well as urban or rural character.

Political and Social Context in Italy

The political situation at the national government level and, to a lesser extent, in the regions has in recent years witnessed profound changes of the party system. At the national level, a coalition government formed by the Five Star Movement and the League came to power in

⁴ Italian Constitutional Court, Judgment no 274/2003.



2018 and was replaced by a coalition between the Five Star Movement and the Social Democratic Party (PD) in 2019. As for the regions, candidates from the League over the last decade have been elected Presidents in Veneto, Lombardy and Friuli-Venezia Giulia, while Brothers of Italy, another right-wing party, took power in the Abruzzo region in 2019. At the local level, there is a similar tendency. When about half of Italy's municipalities were called to vote in 2019, the center-right block led by the League won, from among those with over 15,000 inhabitants, in 75 municipalities (up from 36).

A good indicator for the social and demographic context of local governments is the OECD definition of functional urban areas as composed of a densely inhabited city and a surrounding area (commuting zone) whose labor market is highly integrated with the city. Following this definition, only 30 per cent of Italy's population live in metropolitan areas (more than 500,000 inhabitants), 20 per cent in small- and medium-sized urban agglomerations (50,000 to 500,000 inhabitants), compared to an OECD average of 49 per cent and 18 per cent, respectively.

As for the structure of municipalities, only 144 of them have more than 50,000 inhabitants, while 70 per cent have less than 5,000 inhabitants and are thus, according to the Italian classification, 'small municipalities'. The average population size is 7,653. But this, of course, says little in view of an extremely wide spectrum ranging from Rome's almost 2.9 million inhabitants to 33 in the municipality of Morterone in the Region of Lombardy.

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Local Responsibilities and Public Services



2.1. Local Responsibilities and Public Services in Italy: An Introduction

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According to Article 5 of the Italian Constitution, '[the Republic] implements the fullest measure of administrative decentralization in those services which depend on the State'. Article 118, indeed, attributes all administrative functions to the most decentralized level of government, i.e. the municipalities, 'unless they are attributed to the provinces, metropolitan cities and regions or to the State, pursuant to the principles of subsidiarity, differentiation and proportionality'. Furthermore, according to Article 117, the fundamental functions of Italian local government (i.e. municipalities, provinces and metropolitan cities) are to be determined by the State, that has exclusive legislative powers in this matter.

The Fiscal Federalism Law no 42/2009 gives the most comprehensive overview over these fundamental functions assigned by the State. Accordingly, it considers municipalities to be in charge of their own general administration, management and control; local police; public education (including early childhood education and care from 0-3 years, educational support, meals, and construction); transport and roads; territorial and environmental management; and social services (Article 21(3)). According to Law no 56/2014 'Delrio', the provinces are in charge of, among others, territorial planning and environmental protection; provincial public transport and provincial streets; the provincial school network and the management of school buildings; providing technical-administrative assistance to local entities; the promotion of equal opportunity, their own strategic development and institutional relations with other territorial entities (Articles 85-86).

On top of these provincial functions, the state has assigned additional tasks to the relatively young metropolitan cities, most of which are linked to specific urban challenges, such as adopting a strategic plan for the metropolitan territory; general spatial planning including infrastructure and communication networks; the structuring and coordination of metropolitan public services; mobility and roads, especially ensuring the compatibility and coherence of municipal urban planning on the metropolitan territory; economic and social development; as well as the promotion and coordination of digitalization and information technologies (Law no 56/2014 'Delrio').

As the regions have (concurrent) legislative powers in many matters (e.g. social welfare, education, culture, town planning, housing, regional transport, maintenance of roads and the public transport net, economic development, commerce, waste management, policing; Article 117 of the Italian Constitution), they may also attribute functions to the local entities on their territory. Because of certain historical legacies, size or political cultures, some regions might favor greater administrative decentralization than others and recent structural reforms have



led to the up-scaling of formerly provincial functions to the regional level.⁵ Overall, this leads to a highly differentiated, complex and evolving picture of local – i.e. municipal, provincial and metropolitan – functions in Italy.

Overall, the fragmented legislation regarding municipal functions has led to strong bottom-up dynamics in the interpretation of municipal responsibilities and instruments for service delivery. Indeed, Italian municipalities can revert to a wide variety of instruments for the delivery of their services, which range from public institutions entirely dependent on the municipality to public companies that are simultaneously employed by multiple municipalities to private non-profit organizations or public-private partnerships.⁶

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Bolgherini S, Lippi A and Maset S, 'In mezzo al guado: La governance subregionale tra "vecchie" province e "nuove" aree vaste' (2016) 3 *Rivista Italiana di Politiche Pubbliche* 341

Lippi A and Profeti S, 'Where is Politics in Corporatisation? Local Public Services from Policy to Politics in Continental Europe' (2014) 1 *Rivista Italiana di Politiche Pubbliche* 5

⁵ For an overview over how the 15 regions with ordinary statute have re-allocated provincial functions, see Tab. 2 of Silvia Bolgherini, Andrea Lippi and Sergio Maset, 'In mezzo al guado: La governance subregionale tra "vecchie" province e "nuove" aree vaste' (2016) 3 *Rivista Italiana di Politiche Pubbliche* 341, 39. 4

⁶ Andrea Lippi and Stefania Profeti, 'Where is Politics in Corporatisation? Local Public Services from Policy to Politics in Continental Europe' (2014) 1 *Rivista Italiana di Politiche Pubbliche* 5, 14f.



2.2. Public-Private Partnerships and Social Housing

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Relevance of the Practice

Italy's housing market is dominated by homeownership with only one fifth of all households living in private or public rental dwellings. Although these numbers have remained relatively stable over the past 25 years, overall, they change considerably when zooming into the low-income demographic. While 20 years ago about half of all low-income households lived in properties they owned, this number had declined to around a third by 2014.⁷ The biggest shift occurred around the 2008 financial crisis, with a decline in homeownership of more than 10 percentage points among this demographic. While the number of dwellers in public housing has also remained relatively stable at around 4-5 per cent of households, the number of families who qualify for public housing and are waiting to access it lies at 650,000.

Like other Southern European nations, these numbers would be even higher were it not for strong family networks who step in to help out family members in need.⁸ In fact, 66 per cent of the Italian population between 18 and 34 years live with their parents,⁹ which is one of the highest percentages in Europe and in many other cases, families support family members economically. After decades of different government programs regarding public housing, Caruso furthermore holds that 'there has been no continuity in financing housing, but only fragmentary interventions'.¹⁰ She predicts that the pressure on the (social) housing market will further increase especially in northern and central Italy and the biggest cities and their surroundings.¹¹ Indeed, the impact of the system of local regional funds on southern Italy is described as limited only.¹²

Description of the Practice

Housing in Italy is a very concurrent policy issue. While Article 117 of the Italian Constitution lists the concurrent legislative powers of state and regions without explicitly mentioning

⁷ Teresio Poggio and Dmitri Boreiko, 'Social Housing in Italy: Old Problems, Older Vices, and some New Virtues?' (2017) 4 *Critical Housing Analysis* 1, 115.

⁸ Nadia Caruso, *Policies and Practices in Italian Welfare Housing: Turin, up to the Current Neo-Liberal Approach and Social Innovation Practices* (Springer 2017) 34.

⁹ *ibid* 43.

¹⁰ *ibid* 37.

¹¹ *ibid* 44.

¹² Poggio and Boreiko, 'Social Housing in Italy', above, 120.



housing, the Italian Constitutional Court has clarified that housing falls into the category of land-use planning, which is, indeed, listed among the concurrent legislative powers in Article 117 (Constitutional Court judgment no 303/2003). In large parts, the approach to social housing policy still follows the distribution of administrative competences outlined in Legislative Decree no 112/1998. The national government defines the housing programs of national interest, as well as the general criteria and principles regarding public housing. Regions and local governments take on the more specific role of determining the actual interventions and the administration thereof. The role of municipalities is largely that of owning social rental dwellings and dealing with the administration relating to public and private housing projects within their territories, which makes them an important player in housing issues.

The current picture of social housing in Italy is characterized by a wide variety of approaches that range from publicly owned and managed social housing complexes to local experiments including collaborations with non-profit NGOs and public-private partnerships. Public-private partnerships in the field were promoted as early as the 1990s but really started to be incentivized in the late 2000s as one of the interventions outlined in the 2008 National Housing Plan of the Berlusconi IV Government.¹³ They were further promoted in the new Housing Plan of the Renzi Government in 2014 (Legislative Decree no 47/2014 and State Law no 80/2014). Nevertheless, as it is, the public housing market does not meet the public housing needs and municipalities together with private entities are looking for innovative ways to offer adequate housing solutions to citizens.

The following example is a case study of one such innovative approach in the City of Turin.

In 2019, the World Bank published summaries of 100 projects of municipal public-private partnerships from around the world, including the example of Sustainable Housing Projects in Turin.¹⁴ In these projects, the Municipality of Turin issued tenders regarding abandoned buildings that were to be renovated and re-furnished for temporary social housing. The particular case described by the World Bank is that of two nine-story buildings that had been abandoned for over 20 years in a Turinese suburb with 3,000 inhabitants largely made up of public housing and subject to an Urban Recovery Program.¹⁵ Local planning regulations restricted the use of the properties to public housing purposes.

In 2008, the municipality leased the building to a consortium of private entities, granting the consortium the right to develop the property during the period of the lease for social housing aims. The municipality furthermore stipulated environmental impact requirements and energy efficiency measures. The consortium eventually converted the abandoned buildings into a multi-purpose edifice with 182 flats and 470 beds, kitchen and other ancillary services such as

¹³ *ibid* 118.

¹⁴ The World Bank, 'Municipal Public-Private Partnership: Framework – Project Summaries Part 2' (2019) <<https://ppp.worldbank.org/public-private-partnership/library/municipal-public-private-partnership-framework-project-summaries>>.

¹⁵ Sergio Copiello, 'Achieving Affordable Housing through Energy Efficiency Strategy' (2015) 85 *Energy Policy* 288.



a bar, restaurant, laundry, grocery store, a medical and dental clinic with controlled prices, employment office, after-school activity center, and car/bike-sharing system'.¹⁶ The majority of the dwellings are rented out to university students, but around 22 per cent are protected tenancies reserved for temporary social housing and subsidized by the Municipality of Turin.¹⁷

The inclusion of ancillary services, such as price-controlled clinics, an employment office and an after-school activity center, adds a community aspect to the building that goes beyond single households to benefit the wider area around the developments themselves.

Assessment of the Practice

From a national perspective, while the renovation of the two buildings in Turin can be considered a good practice of municipal-level public-private partnerships, in general, the public-private partnership approach to public housing cannot be the single solution to such a vast problem but can only complement other measures taken by the different levels of government. As a market-based solution, this kind of public-private approach depends on the financial interests of private funders. As Copiello puts it 'the hypothesis to fund social housing settlements by means of PPP requires to devise profitable transactions for private partners'.¹⁸ In the Turin case study, the energy efficient refurbishment of the building enabled the private consortium to 'break-even' only six years after the initial issuing of the tender by the Municipality of Turin, while at the same time ameliorating the problem of what others have called 'fuel poverty'.¹⁹ In other words, the consortium could increase rents while keeping them below market-rates, as dwellers would save on high utility costs that would intensify the financial burden on low-income families in less energy-efficient buildings. While the project's objectives regarding the requalification of a certain area and environmental protection have been realized, this is highly doubtful concerning the aim to offer accessible social housing.²⁰ After all, only 22 per cent of the dwellings are reserved for this social housing only at 22 per cent and financial sustainability depends to a large degree on university students renting the remaining flats. In the end, this sustainability depends in case of any PPP, especially in times of economic crises, on who ultimately bears the financial risk, i.e. whether in case of project failure the financial damage end up with the public sector partner.²¹ Whether such an approach

¹⁶ The World Bank, 'Municipal Public-Private Partnership', above, 41.

¹⁷ Copiello, 'Achieving Affordable Housing', above, 293; The World Bank, 'Municipal Public-Private Partnership', above, 42.

¹⁸ Copiello, 'Achieving Affordable Housing', above, 289.

¹⁹ The World Bank, 'Municipal Public-Private Partnership', above; Poggio and Boreiko, 'Social Housing in Italy', above, 117.

²⁰ Interview with Emanuele Padovani, Associate Professor, Department of Management, University of Bologna (7 May 2021).

²¹ Statement by Emanuele Padovani, Associate Professor, Department of Management, University of Bologna (LoGov Country Workshop, Local Responsibilities and Public Services, 28 April 2021).



is, however, a practicable solution in cities beyond the economically powerful, industrial hubs in northern Italy, remains questionable. In less prosperous cities, private actors might be more hesitant to enter into public-private partnerships that require large initial investments that potentially bear higher economic risks in economically weaker contexts. It is questionable whether Turin's approach is equally feasible in rural municipalities, as private partner investment is usually more likely in urban areas due to a better cost-benefit ratio compared to peripheral territories.²² Another caveat regarding the exportability of this practice from Turin to other contexts is linked to the fact that much of its positive aspects were arguably enabled by the special role played by the city's public officials.²³ Civil servants at the urban planning department in charge of the project had previously been employed by the Piemonte region and therefore had extensive background knowledge plus direct contacts at the regional level which facilitated smoother implementation.

Despite these specificities of the Turin case, public-private partnerships generally offer the possibility of an asymmetric, decentralized approach and give municipalities that are hard-pressed for accommodation in public housing the opportunity to individually address the need to alleviate at least some of the burden. For local governments to ensure adequate and accessible public housing is particularly important against the background of the past and present economic crises which have increasingly challenged the traditional Italian housing model based on home ownership.²⁴

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²² Statement by Emanuele Padovani, Associate Professor, Department of Management, University of Bologna (LoGov Country Workshop, Local Responsibilities and Public Services, 28 April 2021).

²³ Interview with anonymous expert, Department of Political Science, University of Milan (21 June 2021).

²⁴ Statement by Marco di Giulio, Research Associate, Department of Political Science, University of Genova (LoGov Country Workshop, Local Responsibilities and Public Services, 28 April 2021).



2.3. Bridging the Urban-Rural Digital Divide

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Relevance of the Practice

The recent trend towards e-government at local level has been greatly accelerated by the onset of the Covid-19 pandemic. Social distancing requirements have pushed local administrations to enhance digitalization processes and to broaden the scope of services offered online, from administrative services to e-education and e-health services. This pressure to go online poses significant challenges for local governments in rural and remote areas where adequate, high-speed internet infrastructure is oftentimes absent.²⁵ Digital inclusion is indeed not only a matter of citizens' digital capabilities and literacy (so-called second-order digital divide related to internet use), but poor infrastructure prevents citizens from using digital tools in the first place (so-called first-order digital divide related to internet access).²⁶ The pandemic has highlighted this digital divide between urban and rural areas and exacerbated already existing disparities in a host of countries, among which Italy.

Italy ranks only 23rd among the EU-Member States in terms of fixed high-speed broadband connectivity, based on the 2020 edition of the European Commission's DESI-Index. With a score of 49.6 out of 100 it lies well below the EU-average of 58/100.²⁷ Low connectivity rates are predominantly recorded in small and mountain territories that account for more than 50 per cent of the Italian territory, 8 million citizens and 10 per cent of the national GDP.²⁸ In three out of four mountain municipalities less than 40 per cent of housing units have, on average, access to high-speed broadband internet. The problem of poor infrastructure is most pressing in the Alpine territories, followed by the northern-central Apennine regions, while southern mountain regions are slightly better off. Low-speed internet infrastructure renders telework and access to digital public services difficult and therefore reduces the economic

²⁵ Dorothee Allain-Dupré and others, 'The Territorial Impact of Covid-19: Managing the Crisis across Levels of Government' (OECD 2020) 46ff.

²⁶ On the digital divide as a barrier to e-government use in Europe, see Sanja Seljan, Ivan Miloloža and Mirjana Pejić Bach, 'E-Government in European Countries: Gender and Ageing Digital Divide' (2020) 16 *Interdisciplinary Management Research* 1563.

²⁷ As compared to Spain (89.3), Poland (65.5), Croatia (57.3), Germany (52.5); and Austria (37.2). Malta scores highest (100), Greece lowest (31.6). See European Commission, 'The Digital Economy and Society Index (DESI)' (*European Commission*, 2020) <<https://ec.europa.eu/digital-single-market/en/digital-economy-and-society-index-desi>> accessed 26 February 2021.

²⁸ Letter from Marco Bussone (President UNCEM) to several ministers, on the digital divide and implementation of the National Ultra-Broadband Plan (5 May 2020).



competitiveness of the affected rural and mountain territories.²⁹ In view of this urban-rural digital divide, it is key for Italy's recent strategy for universal broadband coverage to succeed.

Description of the Practice

The Italian strategy to overcome the urban-rural digital divide involves all levels of government, from the supranational EU level down to the national, regional and local level. Reference point for the national strategy is the 2010 European Digital Agenda that sets out basic strategic tenets to ensure universal broadband coverage in high- as well as low-density areas by 2020, through a combination of incentivized private and 'carefully targeted' public investment in networks.³⁰ In its national-level response, the Italian Government adopted the 'Italian Ultra-Broadband Strategy' and a correlated investment plan (BUL Plan)³¹ in 2015. The BUL Plan as main instrument to meet European objectives aims at closing infrastructural and market gaps in the provision of high-speed broadband internet and to thereby guarantee greater social and territorial cohesion.

The Italian broadband strategy can be seen as an example of multi-level policy-making which includes and entangles the national, regional and local levels. The strategy is coordinated by the Presidency of the Council of Ministers (i.e. the Prime Minister) via a multi-body committee (COBUL).³² Main responsibility for implementation and the coordination of all private and public actors involved lies with the Ministry of Economic Development (MISE) and its in-house company Infratel. Regional involvement is guaranteed by a 2016 framework agreement

²⁹ Other than high-speed internet, the urban-rural digital divide in Italy concerns poor to dysfunctional mobile phone networks and TV signal, both most felt in mountain municipalities. This threefold digital divide negatively affects local administrations, citizens and companies and threatens to further exacerbate social and economic inequalities within the pandemic context. See Marco Bussone and Giampiero Lupatelli (eds), 'La montagna in rete' (dossier, UNCEM 2020) 17-25; UNCEM, 'Il digital divide alimenta divari sociali ed economici, anche in tempi di emergenza coronavirus. "Svegliamo il piano BUL"' (UNCEM, 27 February 2020) <<https://uncem.it/smart-working-uncem-senza-banda-ultralarga-e-impossibile-il-digital-divide-alimenta-divari-sociali-ed-economici-anche-in-tempi-di-emergenza-coronavirus-svegliamo-il-piano-bul/>> accessed 23 February 2021.

³⁰ European Commission, 'A Digital Agenda for Europe' (Communication) COM (2010) 245 final, 4f and 18ff.

³¹ Presidency of the Council of Ministers, 'Strategia italiana per la banda ultralarga: Piano di investimenti per la diffusione della banda ultralarga' (2015); in the following referred to as the 'BUL Plan'. The right of small and undeveloped municipalities to benefit from the measures provided for by the Ultra-Broadband Strategy and the correlated investment plan as a means to reach the objectives enshrined in the European Digital Agenda was further cemented in 2017 by Article 8(1) of the State Law no 158/2017 on Small Municipalities.

³² COBUL includes the Prime Minister, several ministries (Ministry of Economic Development, of Public Administration, of Regional Affairs, of Territorial Cohesion, of Agriculture, Food and Forestry), the President of the Conference of the State, Regions and Autonomous Provinces, as well as Infratel Italia. Technical support is provided by the Agency for Digital Italy (AGID) and the Agency for Territorial Cohesion.



elaborated within the Conference of the State, Regions and Autonomous Provinces,³³ and stipulated region by region with the MISE in order to allow for in-detail planning agreements tailored to the local context.³⁴ The regions, in turn, are committed to promote agreements and conventions with local governments in order to accelerate the issuing of authorizations and permits to open construction sites (Article 5(2)(a.1) of the framework agreement). Formal involvement of the municipal level is therefore rather limited and revolves around those latter administrative tasks in the implementation process, while the regions clearly are the more influential players when it comes to the representation of local administrations within the national BUL framework.

The BUL Plan roughly subdivides the Italian territory into three areas for public intervention, to be targeted in two phases. Phase I is most relevant to rural local governments and envisages the construction of a publicly owned broadband infrastructure in so-called ‘white’ areas of market failure where private investments are limited or absent.³⁵ This public infrastructure will in a second step be made available to private service providers, and is financed with EUR 3 billion stemming from national and European funds.³⁶ Phase II targets quality and speed improvements in ‘grey’ and ‘black’ competition areas in which one or more broadband networks are present already. These areas thus largely correspond to higher-density and urban territories. Other than direct intervention in the style of Phase I, public intervention, as envisaged by the BUL Plan, can take the form of public contributions and private-public partnerships, depending on the specific territorial context and degree of market competitiveness.³⁷

Within 2020, the BUL Plan originally aimed at a 100 per cent broadband connectivity rate at a speed of at least 30 Mbps, and at a 85 per cent coverage with higher speed networks of at least 100 Mbps.³⁸ There have, however, been repeated slowdowns in the implementation of the plan so that finalization is currently envisaged by the end of 2023. A major reason for lagging implementation is attributed to local-level delays in the issuing of authorizations. This is mainly due to the large number of actors involved, as several public entities (besides the municipalities in charge of the bureaucratic process also provinces, for example) and publicly-owned

³³ For more information on Italy’s Multilevel Conference System, see report section 5.1. on Intergovernmental Relations of Local Governments in Italy, and report section 5.2. on the Inclusion of Local Governments in Italy’s Multilevel Conference System of Intergovernmental Relations.

³⁴ Framework Agreement for the Development of Ultra-Broadband on the National Territory toward the EU2020 Objectives, 11 February 2016; Ministry of Economic Development, ‘Governance’ (*Strategic Plan Banda Ultralarga*, undated) <<https://bandaultralarga.italia.it/en/strategia-bul/governance/>> accessed 20 February 2021.

³⁵ For public-private partnerships as another form of intervention given difficult market contexts, see report section 2.2. on Public-Private Partnerships in Social Housing.

³⁶ The European financial sources, drawn from the European Funds for Regional Development (FESR) and the European Rural Development Funds (ERDF), are managed independently by the regions on the basis of the above-mentioned framework agreements between MISE and each region.

³⁷ For a concise overview over the contents of the BUL Plan, and for details on the financial sources, governance and the implementation process, see the MISE’s dedicated website <<https://bandaultralarga.italia.it/>>.

³⁸ See BUL Plan, above, 11.



companies (in charge of managing strategic infrastructure such as roads) have to give their clearance for the authorizations to proceed.³⁹ As repeatedly pointed out by the National Union of Mountain Towns and Communities (UNCCEM), this slowdown is a particularly bitter pill for mountain municipalities as they are predominantly located in the white areas individuated by the plan.⁴⁰

Interestingly, limited formal involvement of municipalities in the national broadband strategy is contrasted by a lot of LGA activity. Firstly, UNCCEM⁴¹ engages in continuous dialogue and meetings with public actors involved in the coordination and implementation of the BUL Plan, especially with the Ministries of Economic Development and Digitalization, but also with the Ministries of Regional Affairs and Territorial Cohesion. Given the accumulating delays, these actions are designed to pressurize government into resolute political interventions to unlock and accelerate the implementation process. More specifically, UNCCEM's appeals to the various public actors (besides the ministries, COBUL and Infratel also Parliament and the regions) include repeated demands for enhanced coordination with the municipal level, a re-definition of the implementation process with fixed, transparent deadlines and calls to simplify bureaucratic processes.⁴²

Secondly, UNCCEM directly entered into contact with private operators involved in the implementation process and in the telecommunications sector at large. In 2019, it signed a Memorandum of Understanding with Open Fiber, the concessionaire tasked with building the public broadband infrastructure in white areas, in order to establish closer collaboration with local administrations. UNCCEM further sought intermediate solutions with other telecommunications providers to bridge the gap until full implementation of the plan by Open Fiber. For instance, an agreement with Eolo aimed at quickly providing fixed wireless (FWA) solutions in low-density areas, and TIM started integrating its own developing optic fiber

³⁹ Ministry for Economic Development, 'Piano Banda Ultralarga – completamento dell'intervento nelle "aree bianche" e avvio della Fase II'; UNCCEM, 'Digital Divide: I ministri Pisano e Provenzano rispondono a UNCCEM' (UNCCEM, 15 May 2020) <<https://uncem.it/digital-divide-i-ministri-pisano-e-provenzano-rispondono-a-uncem-bussone-azzeriamo-i-tempi-del-piano-bul/>>.

⁴⁰ UNCCEM, 'Banda ultralarga, piano troppo lento' (UNCCEM, 28 January 2020) <<https://uncem.it/banda-ultralarga-piano-troppo-lento-bussone-uncem-patuanelli-preoccupato-come-noi-comuni-in-attesa-arrabbiati-per-i-ritardi-per-montagna-e-gravissimo/>> accessed 23 February 2021.

⁴¹ UNCCEM is a private non-profit association on the basis of the civil law, enjoying statutory and financial autonomy. Its members consist of municipalities, unions of municipalities, municipal associations, consortia, and provinces, as well as national parks, in mountain territories (Art 5 of UNCCEM's statute) and therefore at least in part also of public-law entities. UNCCEM, according to its statute, represents the interests of its member organizations vis-à-vis, and collaborates with, public bodies, unions and international organizations. In promoting the interests of mountain territories it subscribes conventions and agreements with public as well as private entities (Art 2). See the statute of UNCCEM, approved by the 15th Congress (2020) <https://uncem.it/wp-content/uploads/2021/06/Statuto-UNCCEM_XVCongresso.pdf>.

⁴² Letter from Marco Bussone (President UNCCEM) to several ministers, on the digital divide and implementation of the National Ultra-Broadband Plan (5 May 2020).



network with the one under construction by Open Fiber in order to accelerate capillary coverage of white areas.⁴³

Thirdly, UNCEM engages in formation activities on the Digital Agenda and BUL Plan, and actively collects and disseminates information on the digital divide in mountain territories. For instance, information on the digital divide was recently gathered in a comprehensive dossier, including statistical data, outcomes of political meetings, expert opinions and reports on the state of advancement of the BUL Plan.⁴⁴

Assessment of the Practice

The Italian broadband strategy originally envisaged universal coverage with high-speed internet by 2020. In early 2021, the rate of implementation of the BUL Plan lies at 59 per cent.⁴⁵ Slowly, the urban-rural broadband divide *is* closing, but at a rate far slower than anticipated. The lagging pace of implementation ended up further penalizing mountain localities during the pandemic and resulted in mayors of mountain municipalities and UNCEM as the LGA of their representation feeling alienated.⁴⁶ While it is difficult to isolate the impact of UNCEM's interventions, it should be noted that some re-adjustment measures adopted by the national government to tackle implementation delays actually respond to the demands brought forward by the LGA. For instance, measures include stronger oversight over the implementation process and greater transparency, as well as proposals for simplification to accelerate bureaucratic processes (e.g. the limitation of veto rights).⁴⁷ Even though it could not entirely prevent the slowdown in the implementation process, UNCEM is seen altogether as having played a highly strategical and important role as representative of the small municipalities⁴⁸ and facilitator between public and private actors.⁴⁹ It seems difficult to say

⁴³ Such intervention outside the BUL framework was possible on the legal basis of Article 82 of the 'Cure Italy' Law Decree no 18/2020 that calls on telecommunications providers to potentiate their networks in order to cushion some of the negative socio-economic repercussions of the pandemic. During and beyond the months of the 2020 spring lockdown, TIM connected 1,500 municipalities, corresponding to half the amount of municipalities Open Fiber should have connected since 2018. See UNCEM, 'Banda ultralarga nei comuni italiani' (UNCEM, 16 September 2019) <<https://uncem.it/banda-ultralarga-nei-comuni-italiani-tutti-gli-aggiornamenti-e-lo-stato-del-piano-comune-per-comune-aggiornamento-settembre-2019/>> accessed 23 February 2021; and — 'Montagna — "Rete unica con TIM per vincere digital divide"' (QC, 13 August 2020) <<https://www.quotidianocanavese.it/politica/montagna-rete-unica-con-tim-per-vincere-digital-divide-la-proposta-di-uncem-per-la-fibra-28483>> accessed 26 February 2021.

⁴⁴ Bussone and Lupatelli (eds), 'La montagna in rete', above.

⁴⁵ Infratel, 'Stato di avanzamento del Piano strategico per la banda ultralarga' (Infratel Italia SpA 2021) 22.

⁴⁶ UNCEM, 'Banda ultralarga nei comuni italiani', above.

⁴⁷ See Bussone and Lupatelli (eds), 'La montagna in rete', above, 98-103.

⁴⁸ Interview with Emanuele Padovani, Associate Professor, Department of Management, University of Bologna (7 May 2021).

⁴⁹ Statement by Emanuele Padovani, Associate Professor, Department of Management, University of Bologna (LoGov Country Workshop, Local Responsibilities and Public Services, 28 April 2021).



with certainty what caused this slowdown. But one should caution against always (only) blaming bureaucratic inertia as collaboration with private actors is often as much prone to delays.⁵⁰

A tangible achievement that formally enshrines collaboration with the national government in overcoming the digital divide is a Protocol of Understanding signed between UNCEM and the former Digitalization Minister Paola Pisano. Collaboration under the Protocol comes in the form of information exchange and confers on UNCEM the role of intermediary between the national government and municipalities. In this role, UNCEM is tasked with the collection of any data that may facilitate the implementation process of the Digital Agenda (Article 2(1) of the Protocol). Furthermore, dialogue between UNCEM, Open Fiber and Infratel resulted in the latter enacting a series of technological simplification measures, with UNCEM acting as an intermediary in tackling delays in authorization processes by sensitizing local governments to technological details.⁵¹ These examples hint at UNCEM being able to carve out an intermediary role for itself in addressing the Italian broadband divide. This mediating position does not only concern the traditional, vertical relations between (mountain) municipalities and higher-level public bodies, but also extends to the relations between local governments and private service providers. As for the role of the national government vis-à-vis private companies, it has been suggested that better use could have been made of its bargaining power, i.e. by exerting pressure on companies to not only provide infrastructure in big cities where this is profitable but also in mountain municipalities where there is less of a market incentive for doing so.⁵² Overall, however, there seems to be a broad consensus that the initiative's objective to remove the 'white or grey areas' not covered by the market has been achieved.⁵³

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Framework Agreement for the Development of Ultra-Broadband on the National Territory Toward the EU2020 Objectives, 11 February 2016

State Law no 158/2017 on Small Municipalities

Law Decree no 18/2020 'Cure Italy'

⁵⁰ Statement by Marco di Giulio, Research Associate, Department of Political Science, University of Genova (LoGov Country Workshop, Local Responsibilities and Public Services, 28 April 2021).

⁵¹ Infratel, 'Banda ultralarga nei comuni montani', above, 8.

⁵² Interview with Walter Tortorella, Head of Department of Studies of Territorial Economics, IFEL Foundation (21 May 2021).

⁵³ Interview with anonymous expert, ANCI (18 May 2021); Interview with Walter Tortorella, Head of Department of Studies of Territorial Economics, IFEL Foundation (21 May 2021).



Protocol of Understanding between the Minister of Technological Innovation and Digitalization and the National Union of Mountain Towns and Communities UNCEM, 24 July 2020

European Commission, 'A Digital Agenda for Europe' (Communication) COM (2010) 245 final
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Infratel, 'Banda ultralarga nei comuni montani: Per il superamento del digital divide' (Infratel Italia SpA 2020)

Infratel, 'Stato di avanzamento del Piano strategico per la banda ultralarga' (Infratel Italia SpA 2021)

Seljan S, Miloloža I and Pejić Bach M, 'E-Government in European Countries: Gender and Ageing Digital Divide' (2020) 16 Interdisciplinary Management Research 1563

Website on the BUL Plan, <<https://bandaultralarga.italia.it/>>



2.4. Strategic Planning in Geographically Heterogeneous Metropolises

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Relevance of the Practice

Since 2001, the Italian Constitution has recognized metropolitan cities as ‘autonomous entities having their own statutes, powers and functions’ (Article 114).⁵⁴ The idea behind the metropolitan cities is certainly interesting: the asymmetric governance of rural and urban areas. While Italy with its special autonomies had already been a rather asymmetric system, the structural differentiation between urban and rural local governments, as such, is new. Metropolitan cities are established as second-tier local governments that are made up of a principal city and surrounding municipalities and replace the homonymous provinces. Established through an ordinary national law – the so called ‘Delrio Law’ (Law no 56/2014) – the metropolitan cities retain the responsibilities of provinces and obtain additional tasks that are supposed to enable them to better tackle the challenges of increasing urbanization and metropolitan growth. The very first new responsibility that is mentioned in the Delrio Law is metropolitan strategic planning.

Description of the Practice

The Delrio-Law itself established 10 metropolitan cities in Italian Regions with ordinary statute in 2014: Bari, Bologna, Florence, Genoa, Milan, Naples, Reggio Calabria, Rome, Turin, Venice. Subsequently, the Autonomous Region of Sicily established three more metropolitan cities on its territory via a regional law in 2015⁵⁵ – Catania, Messina, and Palermo – and in 2016, the Autonomous Region of Sardinia added the Metropolitan City of Cagliari to the list.⁵⁶ The Sicilian metropolitan cities are not required to pass metropolitan strategic plans. So far, eight metropolitan cities have adopted one or more strategic plans: Bologna, Cagliari, Florence, Genoa, Milan, Naples, Turin, and Venice. Rome, Reggio Calabria and Bari are still in the process of elaborating their plans.

The finalized metropolitan strategic plans all outline macro-areas of intervention, more specific strategies and explicit actions and projects. Interestingly, the most common themes that have emerged across these plans are social inclusion, agriculture, landscape, research and

⁵⁴ See also report section 4.1. on the Structure of Local Government in Italy.

⁵⁵ Regional Law of Sicily no 8/2014.

⁵⁶ Regional Law of Sardinia no 2/2016.



education.⁵⁷ The arguably rural themes agriculture and landscape take up much space in the strategic planning of metropolitan cities, and while the seemingly more straightforward metropolitan themes of mobility and innovation are still quite common, the themes smart cities and industry 4.0 only take secondary spots.

This prevalence of rural themes in metropolitan strategic planning can be explained by a curiosity of the establishment of metropolitan cities. After years of municipal, provincial and regional vetoes that blocked previous efforts, the national Delrio Law simply implemented them top-down.⁵⁸ It converted ‘old’ provinces into ‘new’ metropolitan cities without changing any borders. On the one hand, this mere structural change made the top-down approach constitutional whereas boundary changes would have required more of a bottom-up approach that included local participation and regional consultation.⁵⁹ On the other hand, this has led to metropolitan cities that in some cases do not entirely cover the functional urban area, for example Milan and Rome, while in others, they include remote rural municipalities. With the exception of Naples, the most extreme examples are the metropolitan cities in southern Italy where the functional urban area only makes up a small fraction of the overall metropolitan territory, but examples also include Turin and Venice.⁶⁰ This makes strategic planning tricky for the metropolitan cities.

A closer look at three metropolitan strategic plans (Milan, Turin and Venice) provides some further insights into these issues. While Milan is the most extreme case of a functional urban area exceeding the metropolitan city’s territory, in Turin and Venice, the functional urban area covers only small areas of the territory.⁶¹

The Metropolitan City of Venice outlines 13 programmatic trajectories in its 2018-2020 strategic plan,⁶² among which it includes infrastructures and networks, informatization and digitalization, economic development, cohesion and social inclusion, as well as labor and territorial planning, and others. The second of these 13 trajectories carries the title ‘Beyond

⁵⁷ See Metropolitan Strategic Plan 2019-2021 of Milan (Milan PSM), ‘Milano metropolitana al futuro: Piano strategico del territorio metropolitano aggiornamento 2019-2021’ (Metropolitan City of Milan 2019) 29 <https://www.cittametropolitana.mi.it/export/sites/default/Piano_Strategico_2019_2021/doc/Piano-strategico-2019_2021.pdf>.

⁵⁸ For the rather long history behind metropolitan cities, see Giovanni Boggero, ‘The Establishment of Metropolitan Cities in Italy: An Advance or a Setback for Italian Regionalism?’ (2016) 8 *Perspectives on Federalism* E-3; see also Silvia Crivello and Luca Staricco, ‘Institutionalizing Metropolitan Cities in Italy: Success and Limits of a Centralistic, Simplifying Approach’ (2017) 10 *Urban Research & Practice* 231.

⁵⁹ See Italian Constitutional Court Judgement no 50/2015, referring to Art 133 of the Italian Constitution.

⁶⁰ Crivello and Staricco, ‘Institutionalizing Metropolitan Cities in Italy’, above, 232.

⁶¹ Although in both cases part of the functional urban area does still extend beyond the territorial boundaries in some areas, see Crivello and Staricco, ‘Institutionalizing Metropolitan Cities in Italy’, above, 233, for maps of the metropolitan city boundaries and the functional urban areas.

⁶² The Metropolitan Strategic plan 2018-2020 of Venice is available at <<https://cittametropolitana.ve.it/notizie/il-consiglio-adotta-il-piano-strategico-metropolitano-triennale.html>>. A new version for 2021-2023 is not yet available.



the Metropolitan Borders’ and outlines the need for a flexible approach to the metropolitan geography in order to be able to reach governance objectives and mentions treaties, contracts, conferences, unions and partnerships as possible instruments to be able meet metropolitan needs, be they at the level of single municipalities or the level of the entire Venetian Lagoon that extends beyond the boundaries of the metropolitan city.⁶³

The Metropolitan City of Milan also identifies six general themes in its second strategic plan (2019-2021), covering digitalization, cooperation with and support of the municipalities of the metropolitan city, economic development, territorial planning and urban regeneration, environmental sustainability, as well as infrastructures and mobility, for which it has outlined 36 action plans.⁶⁴ While the cooperation beyond metropolitan city boundaries does not take the center stage, there are already strong intergovernmental partnerships with surrounding provinces in place when it comes to transport and mobility, and which are supposed to be enhanced even further through some of the 36 action plans.⁶⁵

The Metropolitan City of Turin breaks its second strategic plan (2021-2023) down into six axes of intervention – digitalization and innovation, green revolution and ecological transition, sustainable mobility, education and research, inclusion and cohesion, as well as health services – 24 strategies and 111 specific actions, the implementation of which is assured through European and national funding, including Next Generation EU funds.⁶⁶ It explicitly recognizes the very heterogeneous geography of the Metropolitan City of Turin and holds that this requires a polycentric approach, more so than in any other metropolitan city in Italy. It therefore requires actions that can be adapted to the differential needs of the various municipal realities that are present in the metropolitan city.⁶⁷

Assessment of the Practice

According to the Council of Europe ‘Toolkit on Strategic Municipal Planning and Performance Management’, in a strategic plan, ‘the [local government takes] care to establish a clear understanding of what local people and other key stakeholders want, what is achievable given the resources and assets of the Municipality and the overall municipal vision to be met’.⁶⁸

Unfortunately, the top-down implementation of metropolitan cities seems to have complicated the achievement of the ambitions that local government strategic plans generally

⁶³ ibid 131

⁶⁴ Metropolitan Strategic Plan of Milan, above, 55ff.

⁶⁵ ibid 77.

⁶⁶ Turin Metropolitan Strategic Plan (2021-2023), ‘Torino Metropoli Aumenta’ (Metropolitan City of Turin 2021) <<http://www.cittametropolitana.torino.it/cms/sviluppo-economico/piano-strategico/>>.

⁶⁷ ibid 13.

⁶⁸ Council of Europe, ‘Toolkit IV on Strategic Municipal Planning and Performance Management at Local Level’ (undated) iii <<https://rm.coe.int/smp-strategic-municipal-planning/16807470ea>>.



set out for. The territorial reform following the Delrio Law, followed by the 2016 referendum that opposed related constitutional amendments, has seen many former provincial staff transferring out of the administration, leaving newly established metropolitan cities pressed for human resources.⁶⁹

Another issue is the financing of metropolitan functions. While the Italian Constitution requires that territorial entities be able to fully finance their tasks and the law on fiscal federalism (actually pre-dating the existence of metropolitan cities)⁷⁰ established far-reaching metropolitan tax autonomy, the legislative decree enacting this autonomy has so far not been issued.⁷¹ This means that despite their additional functions, the metropolitan cities continue to incur only the tax bases of the former provinces. As can be seen in the case of the Metropolitan City of Turin, this leads to strategic planning and projects that depend on ad hoc funding and have to forego the continuity of own additional tax bases.⁷²

Furthermore, creating metropolitan cities that do not necessarily coincide with their functional urban areas might tie up metropolitan city resources in intergovernmental cooperation mechanisms with municipalities outside the metropolitan city territory and other provinces in order to tackle metropolitan challenges, while at the same time necessitating differential approaches to diverse realities within the metropolitan city territory, itself. To conclude, while strategic planning in and of itself can be a useful tool for local government entities, the context in which it happens nevertheless has to be conducive to the goals that it sets out to achieve.

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Legal Documents:

Law no 42/2009 on Fiscal Federalism

Law no 56/2014 'Delrio' on Metropolitan Cities

⁶⁹ Statement by Emanuele Padovani, Associate Professor, Department of Management, University of Bologna (LoGov Country Workshop, Local Responsibilities and Public Services, 28 April 2021); Interview with anonymous expert, Politecnico di Torino, Interuniversity Department of Regional and Urban Studies and Planning (21 June 2021); the Draghi Government has made increased public sector recruitment a priority for its Next Generation EU funds (*Piano Nazionale di Ripresa e Resilienza*, PNRR).

⁷⁰ Law no 42/2009.

⁷¹ Karl Kössler and Annika Kress, 'European Cities Between Self-government and Subordination: Their Role as Policy-Takers and Policy-Makers' in Ernst H Ballin and others (eds), *European Yearbook of Constitutional Law 2020* (TMC Asser Press 2021); and 'Elenco delle deleghe e dei decreti legislativi emanati' (*camera.it*, undated) <<https://www.camera.it/parlam/leggi/deleghe/09042ld.htm>>.

⁷² See also LoGov Country Workshop, Local Responsibilities and Public Services, 28 April 2021.



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Local Financial Arrangements



3.1. Local Financial Arrangements in Italy: An Introduction

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According to the legal framework resulting from the 2001 constitutional reform - and progressively entering into force - local authorities, i.e., municipalities, provinces and metropolitan cities - shall be financed by means of own tax sources, shared taxes, non-earmarked equalization transfers, plus additional transfers provided for exceptional cases (Article 119 Constitution). However, over the last decade (2010-2020) local finance has witnessed a structural metamorphosis marked by an overall increase of local taxes and a correspondent decrease (-32 per cent) of state transfers altogether considered.⁷³ At present, local financing is mostly based on taxes, which are created and regulated in their foundations by the central level of government (so-called devolved taxes).

Having specific regard to municipalities, they are vested with a tax varying power and/or are entitled to the revenue generated within their territory. In 2018, the share of local taxes compared to overall local revenues was 46 per cent and this figure has been increasing. This is the result of frequent revisions adopted by national legislation from 2012 onwards. Since 2014 one of the major municipal tax sources is the *Imposta Unica Comunale* (literally, Single Municipal Tax), composed of a local tax on property of housing (IMU), a local tax on waste (TARI) and a local tax for general public services provided by the municipalities (TASI). Local taxes also include a surtax on individual income (IRPEF), consisting of a fixed tax rate defined by national law, which resembles a shared tax, and an optional tax rate which can be determined by each municipality within an upper limit of 0,8 per cent. Tax benefits can be set within the limits provided by the national legislation. Autonomous own tax sources represent an exception to this scheme. The tourist tax is one example: a national law entitles municipalities to impose a tourist tax to be applied within the upper limit set by the state (Legislative Decree no 23/2011).

In order to remedy inter-municipal imbalances, the state has set up an equalization fund providing for non-earmarked transfers. Since the constitutional reform of 2001, the overall system of equalization is undergoing a comprehensive reform. According to Article 119(4) of the Constitution, a state law shall establish a non-earmarked equalization fund, to be assigned to entities with lower fiscal capacity per-capita. At the same time, the state holds the exclusive legislative power over the equalization system and over the determination of the fundamental functions of local entities to be ensured in a uniform manner across the country (Article 117(2) Constitution).

⁷³ All data in the text are taken from: IFEL Dipartimento Finanza Locale, 'La finanza comunale in sintesi. Rapporto 2019' (IFEL 2019) <https://www.fondazioneifel.it/documenti-e-pubblicazioni/item/download/3410_1784abea3a086d86f6363eaf17c6d78f>.



This framework was implemented partly by Law no 42/2009, partly by a number of governmental decrees. In particular, Law no 42/2009 requires the gradual overcoming of the funding system, which links the transfers to the resources spent in the previous financial years (so-called historic spending). The new calculation of the funding shall be based on objective and pre-defined parameters to be applied uniformly to all entities (so-called standard costs and needs). Pursuant to Article 11, two equalization mechanisms shall be established on the basis of a twofold classification of the decentralized functions. A first scheme has to ensure the funding of fundamental functions (around 80 per cent of local spending), while a second one is envisaged for the other residual (non-fundamental) functions (20 per cent of local spending). The impact of equalization differs between the two groups: a full financing is foreseen for fundamental functions, while only a partial equalization is prescribed for all others. A second differentiation consists in the financing parameter: equalization transfers are calculated applying the standard costs and needs criteria to the first group only, while for non-fundamental functions equalization is related to the per-capita fiscal capacity.

The regulation of these equalization mechanisms (methodology and definition of parameters) has been left to governmental decrees (e.g., Law Decree no 216/2010 as later modified and integrated), while a public-private company (SOSE) is in charge of calculating the standard costs and needs. These have to be calculated for each fundamental function taking into consideration the peculiarities of the single function and each category of entity (e.g. the size of municipalities).

Within this complex legal framework, the Stability Law 2013 (Law no 228/2012) has finally set up the Fund of Municipal Solidarity, as later modified by the Stability Law 2014 (Law no 147/2013, paragraph 729). However, the transition towards the new system started only in 2015. The Fund is financed through a share of the revenue generated from the local tax on properties - IMU (accounting for 38.23 per cent in 2015 and for 24.43 per cent in 2016) and only a selection of local tax revenues is taken as benchmark, in order to determine who is entitled to benefit from it. In 2016, the resources of the equalization fund that were distributed on the basis of the new standardized parameters amounted to only 30 per cent, while the rest was allocated taking into account historic spending (the old parameter). The share is progressively increasing, and the new system should enter fully into force in 2021.

Starting from 2015, spending autonomy of local entities has expanded significantly. The Internal Stability Pact has been abandoned and a new system based on the principle of balanced budget is in place.⁷⁴ The impact of the principle of 'balanced budget' for local authorities has been specified by Article 9 of Law no 243/2012, as later modified by Law no 164/2016. It prescribes the achievement (paragraph 1) of a non-negative value - on accrual basis - in the balance between final revenues and final expenditures. The new legal framework imposes limits to deficits and to the possibility to incur debts and, at the same time, it sets strict limitations to overspending. Deviations from the equilibrium could occur after agreement

⁷⁴ In this respect, see also report section 3.2. on Investment Spending of Local Entities.



reached at the regional level or at the national level, among all territorial entities and/or with the State. These allow for compensatory measures, potentially releasing space to single entities for investment spending. It is not by chance, then, that in the last few years the use of other sources of funding, such as the use of public-private partnerships (project finance, leasing) or EU resources, has increased.

All in all, municipalities do not receive other transfers, with minor exceptions. One example consists in the measures in favor of tiny municipalities with less than 5,000 inhabitants. In 2017 the Fund for Structural, Economic and Social Development has been set up and it is distributed on the basis of parameters that serve to safeguard of the environment and the cultural heritage, as well as the economic, social and infrastructural development of small municipalities. In addition, to cope with the challenge of increasingly depopulated small municipalities forms of reduced taxation have been introduced, for foreigners that move their residence in small municipalities of the south.

Also the financing of provinces and metropolitan cities, the system is based on the same type of sources, i.e., devolved and shared taxes, plus transfers from the experimental fund for financial consolidation of provinces. However, the legal framework is even more complex and uncertain. As to the provinces, this is the result of the austerity measures that have progressively reduced the transfers, on the one hand, and of the undergoing process of territorial reorganization regarding in particular the (reduction of) functions allocated to the provincial level. As to metropolitan cities, the situation is even more uncertain: they have been finally established by Law no 56/2014, but their system of financing remains undefined. The result is that the provincial scheme with reduced resources still applies to them entailing problems of underfunded mandates.⁷⁵

Notwithstanding the discrepancies among the single local entities in terms of population size and density, territorial and socio-economic characteristics, all local entities of a certain type are vested with the same competences and the same system of financing applies. However, the system described above applies to local entities within ordinary regions. For special regions, the rules are different. First, the general financial rules do not directly apply to them, but they have been asked to reform their systems according to the same basic principles. The specific regulations have to be agreed between each special region and the state in bilateral negotiations. In sum, special regions enjoy a higher degree of financial autonomy, but they differ one from the other to a great extent. Second, some special regions are in charge of local finance, whereas in others this remains a state competence. But it is the responsibility of all regions (special and ordinary) to ensure the respect of the balanced budget principle taking into account all territorial entities within the regional territory of reference.

⁷⁵ Commissione Parlamentare per l'Attuazione del Federalismo Fiscale, 'Resoconto Stenografico' (Audizione 99, 23 February 2017) 5
<<https://documenti.camera.it/leg17/resoconti/commissioni/stenografici/pdf/62/audiz2/audizione/2017/02/23/leg.17.stencomm.data20170223.U1.com62.audiz2.audizione.0099.pdf>> accessed 28 February 2020.



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3.2. Investment Spending of Local Entities

Alice Valdesalici, *Eurac Research*

Relevance of the Practice

Investment spending of local entities has been severely affected by the economic crisis and the solutions the center has adopted to cope with it. The large reduction of transfers, together with the additional obligations introduced through the Internal Stability Pact (requiring substantial surpluses in the budget of local entities), have added a heavy burden to local finance. As a result, municipalities are the entities that contribute the most to reduce the level of indebtedness. Nevertheless, this goes mainly to the detriment of investment spending. With minor exceptions (mostly in the northern part of the country), the data of the period 2010-2018 show a significant decrease (- 38 per cent).⁷⁶

Among the flexibility measures introduced to favor a turnaround, it is worth to mention the infra-regional agreements and the national solidarity pacts. Together with the principle of balanced budget, these instruments have been introduced as of 2016 in order to assign extra-financial room to certain entities and foster investment spending within the territories.

Description of the Practice

As to the infra-regional agreements, each region can come to term with the local entities located within its territory in order to assign extra financial room to some of them. This is done by 'borrowing' financial space from those entities that do not spend/need the entire amount of resources at their disposal, as the principle of balanced budget applies to the entire regional territory, the region included. This is mandated in order to ensure the balance of the budget on a regional scale. Anyhow, each entity has to ensure the recovery of the deficit within the following three years. The same compensatory function is exercised by the national solidarity pacts in case there is no room for maneuver on a regional basis. These pacts permit the activation of compensatory measures at the national level, potentially releasing space to local entities for investment spending. In this respect, Article 10, Law no 243/2012 - as later modified, and implemented by governmental decree (Decree of the Presidents of the Council of Ministers no 21 of 21 February 2017) - stipulates that investments made through debt or the use of surpluses of the previous years are subordinated to an agreement to be reached at the regional level. The agreement serves the purpose of ensuring the respect of the balanced

⁷⁶ All data in the text are taken from: IFEL Dipartimento Finanza Locale, 'La finanza comunale in sintesi. Rapporto 2019' (IFEL 2019) <https://www.fondazioneifel.it/documenti-e-pubblicazioni/item/download/3410_1784abea3a086d86f6363eaf17c6d78f>.



budget rule taking into account all entities within the territory of reference, including the region itself. If no room is left on a regional base, the 'horizontal' national solidarity pact redistributes the existing financial spaces respectively among regions, municipalities and provinces/metropolitan cities on a national base.

To be noted is that both instruments represent a tool of last resort. They integrate the already existing margin of maneuver each entity is vested with and can be activated only if the single entity cannot cover its investment spending either incurring debts (in the respect of the limitation applied to the single entity), or using its surplus. To be noted is the fact that surpluses shall primarily be used to extinguish the existing debts; later, they can be earmarked for investment spending (Article 9(3)). Both instruments have a horizontal nature that is to allow extra-flexibility to certain entities, to the detriment of other entities, measured on regional or on a national base. Furthermore, it is worth stressing that the extra resources are available under conditionality. As a matter of fact, they are earmarked and can be used only for the purposes defined by the law. In addition, the related use of 'free-space' is limited to the current financial year.

In addition to that, 'vertical' national solidarity pacts are also foreseen (Law no 232/2016). These are meant to favor investment spending of both regions and local entities, in case there are no financial spaces available by means of the other two 'horizontal' instruments. The vertical nature is linked to the fact that the resources to cover the extra-financial margin of action come from the state budget. Back in 2017 the resources available for local entities were 700 million Euro a year. As of 2018 the amount has been expanded to 900 million Euro a year with a quota reserved to school and sport infrastructures.

Assessment of the Practice

As some scholars highlight, any assessment must be taken with a grain of salt if it does not include a comprehensive ex-post qualitative and quantitative data analysis and that is something lacking so far in the case of investment spending in Trentino and other Italian territories. This is because very small details can make a difference whether a practice can be regarded as effective, at least from the perspective of political economy. Generally speaking, although instruments regarding local investment spending have been in place for three years now and the available data shows an ongoing exchange in terms of financial spaces among local entities, within and beyond the single region, so far investment spending has not registered the desired turnaround. Having a look at the available data, in fact, investments remain on average well below the level of 2010 (-36 per cent). Nevertheless, having a closer look at the data of the last two years (2017-2018), these show an interesting positive trend (+9 per cent), even if with great variations between the northern (+13 per cent) and the southern (+9 per cent) part of the country, with 0 per cent registered for central Italy and +7 per cent for the two main Islands. Discrepancies can also be found between ordinary regions (+9 per



cent) and special regions (+13 per cent). Despite these potentially positive trends, this can only be considered as a preliminary assessment of the role played by the mechanisms concerning local investment spending and only the coming years will show whether it is confirmed or not. However, the context of a recession has certainly further exacerbated the problem of a lack of financial space and flexibility for investments. As one observer has pointed out, fiscal consolidation in Italy typically means cutting investments and while such consolidation used to be cyclical in nature, recession made it a structural issue.⁷⁷

Once the above-mentioned turnabout concerning local investment spending is achieved, it will be key to look not only at one-time investment but also on the long-term expenses that they require.⁷⁸ Some Emilia-Romagna municipalities after the 2012 earthquake are cases in point for a lack of such a link. They used easily available resources to invest not only in the rebuilding of destroyed infrastructure but also in facilities such as public swimming-pools. The current expenses that the operation of these facilities require were not always duly considered. Thus, the nexus between investments and long-term costs, which is key for financial sustainability, has sometimes received insufficient attention in the past and that will have to be avoided in the future.

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Sciancalepore C, 'Le intese regionali nella regola fiscale del pareggio di bilancio: esperienze e prospettive future' (IRPET and Osservatorio regionale sul federalismo fiscale 2017)

⁷⁷ Interview with Giorgio Brosio, Professor, Department of Economics and Statistics, University of Turin (17 May 2021).

⁷⁸ Interview with Emanuele Padovani, Associate Professor, Department of Management, University of Bologna (7 May 2021).



3.3. The Revision of the Inter-Municipal Equalization Mechanism in Trentino

Alice Valdesalici, *Eurac Research*

Relevance of the Practice

In the Autonomous Province of Trento there are altogether 166 municipalities. The territory is almost entirely mountainous, except for small flat areas located in the valleys crossed by the major rivers of the province. These circumstances have had profound consequences in the uneven distribution of the population: the highest population density is found in the lower districts, such as the Adige Valley, Vallagarina, Alta Valsugana and Alto Garda e Ledro, which have a density of over 100 inhabitants/km². 49.5 per cent of the provincial population lives in these areas. The major urban areas, Trento, Rovereto, Pergine Valsugana, Arco and Riva del Garda, are the only five municipalities with more than 10,000 inhabitants. By contrast, the alpine valleys at higher altitudes have a much lower population ratio. It is not by chance then that the population density in the provincial territory ranges from 789 and 6 inhabitants per km². Only 7 per cent of the overall population lives in the areas between 1,000-2,000 meters above sea level and only 12 per cent in territories between 750 and 1,000 meters. 87,95 per cent of the 166 municipalities are tiny municipalities with less than 5,000 inhabitants and most of the entities over 500 meters are tiny municipalities. As such there exists a strong divide between (the few) urban municipalities and the many rural municipalities regarding both revenues and expenditure needs which the Province attempts to overcome through an equalization scheme.

Description of the Practice

The existing discrepancies within the territory justify the establishment of an inter-municipal equalization fund to correct the imbalances and ensure a comparable level of services throughout the provincial territory. The general rules thereof are provided in the Provincial Law no 36/1993, whereas in the annual arrangement on local finance the province and the local entities agree on the detailed regulations. By virtue of the exclusive legislative competence over local finance attributed by the Statute to the Autonomous Province of Trento, the latter has adopted the above-mentioned Provincial Law no 36/1993. Among other things, this law regulates the procedures and contents of the annual agreement on local finance, which establishes both the amount of financial resources to be transferred to municipalities and other local entities, as well as the measures necessary to guarantee the coordination of municipal



and provincial finance, with particular reference to the measures for the pursuit of provincial finance objectives.

As to the procedure for adopting the annual arrangement on local finance, the proposal is drafted by the Province, however an agreement has to be reached with the representatives of the local entities that sit in the Council of Local Autonomies (Article 81 of the Autonomy Statute and Article 3 of the provincial law). The basic rules governing the equalization fund are contained in Article 6 of the provincial law. The provision sets as the general objective of the fund that of rebalancing the financial endowments of the municipalities and the level of services offered to the population. As for the distribution among the municipalities, it is foreseen that this will be determined annually by the provincial executive with a resolution adopted on the basis of the criteria and parameters set forth in the annual agreement and with the ultimate aim of guaranteeing: (i) the rebalancing of the level of services offered with respect to average provincial standards; and (ii) efficiency in the use of the transferred resources.

In addition, the distribution of the fund is carried out based on a standardized level of expenditure that is assessed, for each municipality, also taking into account the following variables:

- the differentials in the costs to deliver services in relation to the different environmental and demographic context;
- the imbalances in the territorial distribution of the taxable bases and of the revenues from municipal assets;
- the weight of actual revenues deriving from taxes, duties and tariffs with respect to the standard values;
- the exercise of functions connected with the provision of specific services characterized by a non-homogeneous distribution throughout the provincial territory and pertaining to singular municipal socio-economic situations;
- the financial effects on the expenditures of the municipalities resulting from policies of interest to the province in matters of municipal competence.

In light of this legal framework, on 8 November 2019, the annual agreement on local finance has been reached. With reference to the equalization mechanism, at first, the agreement stipulates that the fund has a twofold dimension: vertical and horizontal. While the provincial level grants 61 million euros, approximately 14 million euros derive from the municipalities with greater tax-revenues and assets (solidarity quota). Second, for 2020 the interested parties have agreed to change the distribution criteria.

On top of that, with the agreement for 2020 the provincial executive and the representatives of local authorities agree on the revision of equalization system with the aim to update the evaluations of the standard expenditure of municipalities taken as benchmark, as well as to



introduce among the equalization criteria also the value of the municipalities' own current revenues (as a measure of existing differences in terms of fiscal capacity).

To pursue this objective, an analysis of the financial situation of municipalities at the end of 2017 was conducted, with reference to those entities with less than 15,000 inhabitants so as to highlight strengths and weaknesses of the system. The analysis has revealed anomalies in the current equalization system. On the one hand, there are municipalities that after the equalization transfers are able to achieve a positive current balance, on the other hand, with the present level of transfers some other municipalities permanently experience a negative (or otherwise unstable) current balance.

Therefore, the need has emerged to revise the equalization mechanism having regard to the municipalities with a population of less than 15,000 inhabitants. As such the agreement for 2020 integrates the distribution criteria basing, on one hand, on a standard level of expenditure, estimated per each municipality taking into account demographic, socio-economic and geographical characteristics; and, on the other hand, on the level of own revenues, so as to also take into account the ability of each municipality to independently finance the standardized level of expenditure. Standard expenditures are estimated through an econometric model that takes into account the following variables: number of inhabitants; growth rate (or decrease) of the resident population; share of population from 1 to 5 years; share of population over 65 years; altitude; area (territorial dimension/size of the municipality); population density; number of tourist presences; number of local units (enterprises). Own revenue capacity is defined by taking into account two criteria:

- the level of tax revenues with respect to a standard calculated on an econometric basis, taking into account the demographic dynamics, the number of tourists, the presence of companies, the number of houses and the number of local units (businesses), the number of houses and the taxable IRPEF income;
- the level of revenues of non-tax nature with respect to a standard calculated as the average of the demographic class of belonging.

Given these benchmarks, the equalization transfers attributed to each municipality are therefore calculated starting from the municipality's standard expenditure figure and deducting:

- a share of the actual extra-tax revenues;
- the standardized tax revenues and considering a share equal to 80 per cent of the difference between actual and standardized revenues. This share reduces the allocation on the equalization fund in cases where actual revenues are higher than standard revenues and, conversely, increases them in cases where actual revenues are lower than standard revenues. In this way, municipalities with a higher fiscal capacity than the standard revenues 'give up' a share of the greater resources in favor of municipalities with a fiscal capacity below the standard.



As a result the degree of equalization of the differences in terms of fiscal capacity is high, though not complete, so as not to discourage the effort of each municipality to raise its own revenues.

Assessment of the Practice

Compared to the national equalization system, inter-municipal equalization in Trentino has been regarded as more evolved and complete.⁷⁹ Of course, it is difficult for any mechanism with the aim of sharing financial resources in a fair way to overcome the key challenge of avoiding overly complex calculation which inevitably results in a lack of transparency. This is arguably one of the main limitations of the national system.⁸⁰

Compared to its preceding system of 2018, the application of Trentino's new model of 2020 entails significant changes in the allocations to each single municipality. As such, a gradual transition to the new system has been planned, providing for its full operation only in 2024. It is therefore too early to assess the impact of the new mechanism on the functioning of local system. Nonetheless, it reflects a clear political signal towards the valorization of even the smallest municipalities with a view to keeping all public services as closest as possible to the citizens. This runs contrary to the approach of the former provincial governments, which had instead put in place both measures to encourage mergers between small municipalities and compulsory forms of inter-municipal cooperation. Indeed, it is important to note in this context that equalization schemes are linked with such cooperation in various ways. For one, these schemes may disincentivize collaboration because they remove part of the financial pressure to work together. But also issues of electoral accountability and public satisfaction with services need to be taken into account, besides financial issues, when evaluating the link between these two instruments.⁸¹

Anyway, although each political majority that has governed the Autonomous Province of Trento has in any case worked to enhance local autonomy, in the last decade evaluations of efficiency and cost-effectiveness have also been introduced. This outcome has been prompted by the overall reduction of resources due to the economic and financial crisis as well as by the need to comply with the EU ever more stringent obligation on public finance. From a legal perspective a significant role in this respect has been played also by the principles inspiring the national reform of fiscal federalism (law no 42/2009) and the provincial competence on the

⁷⁹ Interview with Maria Teresa Nardo, Associate Professor, Department of Political and Social Sciences, University of Calabria (17 May 2021).

⁸⁰ Interview with Giorgio Brosio, Professor, Department of Economics and Statistics, University of Turin (17 May 2021).

⁸¹ Statement by Federico Boffa, Professor, Faculty of Economics and Managements, Free University of Bolzano/Bozen (LoGov Country Workshop, Local Financial Arrangements, 14 April 2021).



financial coordination of so-called ‘integrated territorial system’ that includes all entities located in the provincial territory.

However, as efficiency arguments frequently come along with expenditure cuts, they do not necessarily lead to an increase in popular support, but rather the opposite. Read in this context, then, the changes under consideration embody a different vision put forward by the current provincial government and characterized by the desire to enhance the local dimension at all costs. One can hardly deny the central position of the municipal authorities for sustainable living in a territory like the one of the Autonomous Province of Trento which is characterized by significant portions of rural areas at medium-high altitudes. Small municipalities in these areas suffer from significant diseconomies of scale with many public services being very expensive. As the traditional market logic has negative effects in such local governments, public policy interventions are needed if people shall be incentivized to stay in small mountainous villages.⁸² Action is necessary not only to avoid depopulation of these areas but also the related risk of (harmful) abandonment of the territory. The question that arises is whether we can still afford a local financing scheme in which efficiency plays a far too marginal role.

Looking at Trentino’s inter-municipal equalization not from the perspective of its effectiveness but that of autonomy (both local and regional), it is important to note that Italy’s ‘Alpine’ special regions play through their integrated territorial system concerning public finance a sort of Janus-faced role. They coordinate local finance inside their territory and effectively replace through the direct management of the equalization mechanism the national government. As some observers highlight, Trentino’s system of inter-municipal equalization could thereby serve as an example for other territories because it would be desirable that regional administrations should take over responsibility in this area.⁸³

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Provincial Law on Local Finance, Provincial Law no 36/1993 (Articles 3 and 6)

Agreement on Local Finance for the year 2020, November 2019,
<<https://www.cal.tn.it/albo/2019>>

⁸² Interview with Gianfranco Postal, Magistrate, Court of Auditors of Trento, (25 May 2021).

⁸³ Interview with Elena D’Orlando, Head of Department of Legal Studies, University of Udine (13 May 2021).



3.4. Financial Assistance to Municipalities with Structural Deficits

Karl Kössler, *Eurac Research*

Relevance of the Practice

Italy is characterized not only by a deep cleavage in socio-economic terms between the north, center and south of the country, but also between local governments. Even if a certain gap sometimes exists also between municipalities within these three macro-regions, it is beyond doubt that the number of local governments whose populations can be defined as vulnerable in social and material terms is particularly high in the southern regions of Campania, Sicily and Calabria.⁸⁴ A comparison of municipalities with more than 50,000 inhabitants shows a similar picture, as all towns and cities in the quartile with the highest vulnerability are located in Italy's south.⁸⁵ Such vulnerability goes beyond mere poverty and has come to be seen in recent years as a state in which 'the autonomy and capacity of self-determination of individuals are permanently endangered' due to their marginalization concerning the main systems of social integration and distribution of resources.⁸⁶ Thus, it is also seen as ultimately running contrary to building resilience of (local) populations.⁸⁷

This situation in southern Italy is both a reason for and result of the fact that migratory patterns do not only concern the rural-urban dimension but also substantial movement especially of the young and educated from the south, including its urban areas, to the north of the country.⁸⁸ The main challenge that this 'brain drain' entails for southern municipalities, both rural and urban, is a lack of personal resources and administrative capacity.⁸⁹ The structural weakness of many of these municipalities, which have run high deficits for years and have little or no leeway for investment, has recently led the national government to transfer payments in those cases in which this financially precarious situation follows from 'the socio-economic characteristics of the community and territory and not from organizational pathologies'.⁹⁰ The establishment of such a fund occurred in August 2020 and therefore also has to be seen in the

⁸⁴ National Institute for Statistics, 'Le misure della vulnerabilità: Un'applicazione a diversi ambiti territoriali' (2020) 36.

⁸⁵ *ibid* 70f.

⁸⁶ Costanzo Ranci, *Le nuove disuguaglianze sociali in Italia* (Il Mulino 2002).

⁸⁷ See United Nations, 'Human Development Report: Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience' (2014).

⁸⁸ Interview with Giorgio Brosio, Professor, Department of Economics and Statistics, University of Turin (17 May 2021).

⁸⁹ Interview with Giulio Citroni, Associate Professor, Department of Political and Social Sciences, University of Calabria (17 June 2021).

⁹⁰ Article 53(1) of Law Decree no 104/2020.



light of an effort to ensure the continued provision of basic public services also by local governments with structural deficits.

Description of the Practice

In 2020, Italy's Constitutional Court had to deal with the delicate issue of the time frame and modalities of the deficit recovery of local governments within their multiannual financial rebalancing procedures. The judges held a provision of a Law Decree of 2019⁹¹ to be unconstitutional because it allowed municipalities in financial distress, like Reggio Calabria and others, to use resources earmarked for the payment of past debts for current expenditure, thus widening the deficit gap.⁹² Some observers have criticized both the court for the decision's alleged lack of a clear line of argument and the legislator for taking the ruling as a starting point, facilitated by the arguable unclarity, for rather unrelated regulatory measures.⁹³

Anyway, the fact is that Article 53(1) of Law Decree no 104/2020 stipulated, with explicit reference to the implementation of this court decision, the establishment of a fund to facilitate the financial recovery of local governments with structural deficits which are attributable to their socio-economic characteristics (and not to organizational pathologies). This fund's financial resources are transferred without conditions for what the money is to be spent and they are non-refundable. Beyond having a financial rebalancing plan, the criteria for being eligible for such assistance are not only the strictly financial indicator of low fiscal capacity but also social and material vulnerability in the above-mentioned sense, relying on a composite index calculated by the National Institute for Statistics (*Istituto nazionale di statistica* – ISTAT).

This index of social and material vulnerability (IVSM) was developed by ISTAT within a project focusing on census-based data at municipal level ('8milaCensus')⁹⁴ and brings together seven indicators regarding such vulnerability: the number of one-parent families, of families composed of six or more individuals, of potentially care-dependent families composed exclusively of people over 65 years of age with at least one over 80, people with little living space, individuals with low formal education, people aged 15 to 29 not integrated into the education system or labor market and families without income from employment or from unemployment insurance from former employment. While especially the latter three indicators show a clear north-south divide, several also reveal significant differences between rural and urban municipalities.

⁹¹ Article 38(2) of Law Decree no 34/2019.

⁹² Constitutional Court, Judgement no 115/2020.

⁹³ Clemente Forte and Marco Pieroni, 'La sentenza n. 115 del 2020 della Corte costituzionale: Una pronuncia di non agevole lettura' (2020) 4 *Forum di Quaderni Costituzionali* 248, 277 and 263.

⁹⁴ For more information, see <<http://ottomilacensus.istat.it/>>.



In the latter regard the IVSM applies the classification of territory developed within a national strategy against the demographic decline of certain areas.⁹⁵ This classification defines areas as a function of their distance from urban centers, constituted either by a single municipality (*polo*) or more of them (*polo intercomunale*), which offer essential public services of healthcare, education and transportation. Municipalities within 20 minutes from such centers are urban fringes (*cintura*) and those beyond that ‘internal areas’ (*aree interne*) which are again subdivided into the three categories of intermediary, peripheral and ultra-peripheral municipalities (*comuni intermedi, periferici e ultraperiferici*). As for the IVSM and the financial assistance, which are supposed to be based on it, the number of one-parent families is clearly more common in urban centers. By contrast, other indicators such as the number of individuals with low formal education, of potentially care-dependent families and families without income from employment or unemployment insurance concerns local governments of the ‘internal areas’ to a greater degree.⁹⁶

With the IVSM and low fiscal capacity being mentioned in the Law Decree of August 2020 as the criteria for distributing the financial means, 20 local governments benefitted from the EUR 200 million foreseen for 2020-2022, most of which went to the Municipality of Reggio Calabria, a city of almost 200,000 inhabitants. When in 2021 additional EUR 100 million were set aside for this special fund, another roughly 20 local governments received assistance. Looking at this measure from an urban-rural perspective, it is interesting to see that among these 20 beneficiaries there are smaller municipalities but with the Municipality of Naples also a huge metropolis.⁹⁷ In what form and to what extent these financial transfers to aid local governments with structural deficits will continue in the future remains to be seen.

Assessment of the Practice

It is obvious that any assessment of a practice that is so new (started only in August 2020) cannot be much more than preliminary. But what is certainly remarkable about this initiative is the fact that it recognized for the first time that some local governments are structurally different from others regarding certain criteria of social and material vulnerability, as well as fiscal capacity and that they are caught in a vicious circle of continuously high deficits and low public services.⁹⁸

On the other hand, it is evident that the fund was an ad hoc emergency measure for financial stability, also in the context of Covid-19. This is demonstrated by the fact that merely roughly

⁹⁵ Agency for Territorial Cohesion, ‘Strategia per contrastare la caduta demografica e rilanciare lo sviluppo e i servizi di queste aree attraverso fondi ordinari della Legge di Stabilità e i fondi comunitari’, within the National Reform Plan (Piano Nazionale di Riforma – PNR) <<https://www.agenziacoessione.gov.it/>>.

⁹⁶ National Institute for Statistics, ‘Le misure della vulnerabilità’, above, 9-31.

⁹⁷ Interview with Maria Teresa Nardo, Associate Professor, Department of Political and Social Sciences, University of Calabria (17 May 2021).

⁹⁸ *ibid.*



40 municipalities have so far benefitted and that some doubts have been cast on whether the calculations of the indexes by the Ministry of Economy to identify the eligible recipients of financial assistance have followed the principle of equal treatment of all local governments.⁹⁹ Thus, it is certainly legitimate to describe the practice, as the Court of Auditors did, as one concerning only a limited number of municipalities with the aim to prevent the foreseeable slowdown of financial recovery plans and to keep their deficits under control.¹⁰⁰ In this regard, the question has also been raised from a legal point of view whether the initiative, seen as emergency-based and unsystematic, is in line with Article 119 of the Constitution, which allows no other forms of financial equalization than those expressly mentioned in this provision and stipulates for the latter that they must always follow the principles of generality and equal treatment.¹⁰¹

As for the effectiveness of the practice, several other considerations appear to be relevant. Some economists are generally skeptical regarding (excessive) financial transfers to local governments of the 'internal areas' because analyses of these municipalities would suggest that corruption and mismanagement are more problematic in those where funds are more readily available.¹⁰² On the other hand, this assessment may also be linked to the fact that in the other municipalities there are just no (or little) funds to (mis)manage which by nature reduces the potential for corruption, but, importantly, also any chances for liberating these local governments from the above-mentioned vicious circle of structural deficits.

For that to happen it is crucial to bear in mind that financial assistance may only be part of a solution because a lack of money is only part of the problem. Additional funds have a limited impact if weaknesses regarding administrative capacities and the organization of public services persist.¹⁰³ It is not a coincidence, therefore, that a number of experts sees insufficient training of politicians and administrative staff of municipalities as one of the most urgent problems that Italian local government faces today.¹⁰⁴ It has been pointed out that such training has been neglected in particular since the global crisis of 2007-08. Whether that will change, however, precisely in times in which the Covid-19 pandemic entails another financial and economic crisis remains to be seen.

⁹⁹ *ibid.*

¹⁰⁰ Court of Auditors, Deliberation no 14/SSRRCO/AUD/20 of 4 September 2020, 'Memoria della Corte dei conti sul decreto-legge n. 104 recante "Misure urgenti per il sostegno e il rilancio dell'economia"' para 23.

¹⁰¹ Forte and Pieroni, 'La sentenza n. 115 del 2020 della Corte costituzionale', above, 263.

¹⁰² Statement by Federico Boffa, Professor, Faculty of Economics and Managements, Free University of Bolzano/Bozen (LoGov Country Workshop, Local Financial Arrangements, 14 April 2021).

¹⁰³ Interview with Maria Teresa Nardo, above.

¹⁰⁴ Interview with Emanuele Padovani, Associate Professor, Department of Management, University of Bologna (7 May 2021); Interview with Walter Tortorella, Head of Department of Studies of Territorial Economics, IFEL Foundation (21 May 2021); Interview with Andrea Lippi, Professor, Department of Political and Social Sciences, University of Florence (10 June 2021); Interview with Giulio Citroni, above.



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Structure of Local Government



4.1. The Structure of Local Government in Italy: An Introduction

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When it comes to inter-municipal cooperation and the rationalization of local government, any associative form today goes beyond the mere wish to more efficiently deliver services. Managing local services cooperatively is becoming a condition for the survival of (small or remote) municipalities, not only in Italy. In addition, regional strategies in terms of inter-municipal cooperation are strongly influenced by the different political regional cultures and their legacies of the past.

As for the legal framework, the Italian Constitution specifies the role of the regions as to the number, changes in territorial boundaries and mergers of municipalities. Article 133 of the Constitution says that '[c]hanges in provincial boundaries and the institution of new provinces within a region are regulated by the laws of the Republic, on the initiative of the municipalities, after consultation with the region. The region, after consultation with the populations involved, may establish through its laws new municipalities within its own territory and modify their districts and names.' However, the number and the size of local entities has always been a controversial feature in Italy. As of 1 January 2019, 5,498 out of 7,914 municipalities have less than 5,000 inhabitants (that is 69.5 per cent) and more than 700 have less than 500 inhabitants. This has historical reasons. The practice of establishing a municipality for each territorial community dates back to the 19th century (Administrative Unification Laws 1865).

As second-tier local entities, the provinces in their current form also date back to the years 1859-1865 (with bodies being firstly elected in 1860). Today, their very existence is put into question (apart from the two autonomous provinces of Bolzano/Bozen and Trento that together form the special region Trentino-South Tyrol). Under the most important reform in recent times concerning associative forms of local government, metropolitan cities and provinces, the Ordinary Law no 56/2014 ('Delrio Law'), a province shall no longer be considered as a representative entity, but as a territorial entity of wide area (*area vasta*). In terms of functions, a province should have a coordination role and focus on strategic planning and management issues of the concerned territory. In practice, a province shall represent the interests of the mayors of the municipalities belonging to its territory. The central state aimed to completely abolish the province as a layer of intermediate local entity, but the Constitutional Reform foreseeing the removal of the provinces was voted down in a referendum on 4 December 2016. In practice, only some regions have reduced the number of the provinces and, as a rule, the functions provinces were vested with were either transferred to the regional or to the municipal level. The Constitution in its Article 114 stills reads that 'The Republic is composed of the municipalities, the provinces, the metropolitan cities, the regions and the State. Municipalities, provinces, metropolitan cities, and regions are autonomous entities



having their own statutes, powers, and functions (...). Rome is the capital of the Republic. Its status is regulated by State Law.'

Like the provinces, the metropolitan cities are a structural layer in the local government design of Italy that is placed between the municipalities and the regions. They are designed to replace some of the provinces and, in part, vested with functions like the ones of provinces such as strategic planning and coordination of the concerned territory, also regarding the provision of public services. While the metropolitan cities in the ordinary regions are regulated by the Ordinary Law no 56/2014, for the ones in the special regions different regulations may apply. Metropolitan cities were already introduced by the 2001 constitutional reform (Constitutional Law no 3/2001), but they were only established with the Ordinary Law no 56/2014. As of 01/01/2020, there are 14 metropolitan cities and not all of them are so far fully operational. The organs of the metropolitan cities are neither directly, nor indirectly elected. The main organs of the metropolitan cities are the metropolitan mayor, the metropolitan council, as well as the metropolitan conference comprising the mayors of all municipalities belonging to the metropolitan city. It is worth mentioning that the metropolitan mayor – contrary to the president of the provinces – is not elected by the mayors and the members of the councils of the municipalities in the metropolitan city. As a rule, the mayor of the capital of the former province becomes the metropolitan mayor.

Rome enjoys a special autonomy and is specifically referred to in different laws (for example, the Fiscal Federalism Law no 42/2009). Rome has its own internal by-laws and, in a nutshell, has a twofold organization with an upper level (mayor and appointed councilors) and a lower level with the bodies of the ten municipalities into which Rome is subdivided (mayors and members of the councils). The Mayor of Rome is also the mayor of the Metropolitan City of Rome.

Taking reforms at national and regional level into account, as of 01/01/2020, Italy consists of the following divisions:

- 20 regions (fifteen ordinary and five special ones, with varying degrees of autonomy from one to another):
- 7,904 municipalities;
- 14 metropolitan cities (ranked by population size in decreasing order they are: Rome, Milan, Naples, Turin, Palermo, Bari, Catania, Florence, Bologna, Genoa, Venice, Messina, Reggio Calabria, Cagliari);
- 83 provinces;
- 6 free consortia of municipalities;
- 4 non-administrative units (corresponding to the former provinces of the Friuli-Venezia Giulia region).

Several forms of inter-municipal cooperation complete Italy's administrative territorial organization. They are now analyzed in a more detailed manner.



The challenge of having overall too many and too small municipalities differently affects regions and has led to the elaboration of several reform packages, at national, but also regional level, in recent times, but also earlier on. Two are the solutions envisaged in Italy to address the challenges linked to the need to rationalize the number and size of municipalities due to financial, socio-economic and demographic trends: associative forms of (incentivized) inter-municipal cooperation or mergers of municipalities.

There are three types of associative forms (*forme associative*) of local government: the conventions (*convenzioni*), the consortia (*consorzi*) and the unions of municipalities (*unioni di comuni*). The conventions are agreements between two or more municipalities for the delivery of a service or the fulfillment of a task (regulated to a certain extent under Article 30 of the Unified Law on Local Entities no 267/2000 and in subsequent legislation).

Municipalities shall form a convention for at least three years. For the exercise of fundamental functions in the form of a convention, Law no 56/2014 establishes a minimum demographic limit of 10,000 inhabitants or of 3,000 inhabitants if the municipalities belonged to or still belong to mountain communities (if the regional legislator that holds exclusive powers on associative forms of local government has not foreseen any exceptions to these parameters due to particular territorial conditions). Conventions in general represent a flexible, adaptable tool as to associative forms of service delivery. They can be of 'closed' type (with a fixed and predetermined number of members) or of 'open' type (with the possibility for others to join at a later stage, prior the consent of all municipalities that cooperate in the convention). Conventions do not foresee the establishment of further bodies. As a rule, one municipality part of the convention is identified as the coordinator of all parties in the convention.

Unlike the conventions, consortia are fully recognized as local entities, with the necessity to be organized in an assembly and a management board (Article 31 of the Unified Law on Local Entities no 267/2000). Municipalities and other entities form a consortium if they intend to manage one or more public services together.

The unions of municipalities are composed of two or more municipalities for the associative exercise of their functions, being also recognized as local entities (Article 32 of the Unified Law on Local Entities no 267/2000), with own by-laws and organs. Unions of municipalities are normally exercising an array of functions and services, unlike consortia. The minimum demographic limits are the same ones as for a convention (with exceptions that can be set by the region). Among the most prominent provisions of Article 32 of the Unified Law on Local Entities no 267/2000, attention should be given to paragraph 5 that states that the resources invested in the personnel of a union of municipalities shall not exceed the sum of staff costs previously incurred by each municipality (that now is part of the union of municipalities). Once fully operational, progressive savings must, instead, be the aim regarding personnel costs. In addition, the role of secretary of the union of municipalities shall be carried out by a secretary of a municipality belonging to the union, thus without incurring in further costs. Unions of



municipalities are often viewed – or have so been interpreted by the central government – as a precursor of the merger of municipalities.

Especially from 2009-2010 onwards, austerity legislation not only affected financial intergovernmental relations at the expense of subnational entities, but also structural aspects in local government.

One example are the provisions enshrined in the Decree Law no 78/2010 (converted into Law no 122/2010). On the one side, they, in various forms, heavily impact financial resources available to local government bodies. On the other side they call for new rules as to the associative exercise of administrative functions in the six so-called fundamental competence areas of municipalities (in short, general administration and management; early childhood education and care as well as schooling and schools; local mobility, transport and roads; land management and environmental development; social services). At this stage it shall also be noted that the portfolio of functions to be exercised in an associative form of inter-municipal cooperation has been further defined in details and augmented in subsequent national legislation (for example, Decree Law no 95/2012, converted in Law no 135/2012). With the exception of single-municipal islands and the enclave municipality of Campione d'Italia, municipalities up to 5,000 inhabitants or municipalities up to 3,000 inhabitants (if they belonged to or still belong to a mountainous community [*comunità montana*]) have to exercise basic functions in an associative form, by a convention or by a union, in a gradual manner starting by jointly exercising three functions. The same function cannot be carried out by more than one associative form.

Another example are the provisions enshrined in Decree Law no 138/2011 (converted in Law no 148/2011). They provide a reduction in the number of members in local government bodies and a merger of administrative functions in the case of small municipalities. Accordingly, municipalities with a population of less than 1,000 inhabitants have to carry out their functions in an associative form. It has to be noted that the possibility of exercising functions in an inter-municipal cooperation has already been prescribed for in 1990 (by the Law no 142/1990). Thus, the new aspect in legislation on associative forms at local government level in the period 2009-2012 lies in its compulsory nature (from which the national legislator again refrained from with regard to certain categories of municipalities in subsequent legislation that modified the legislation and by-laws on associative forms of cooperation at local level).

One of the shortcomings of the first provisions on associative forms of inter-municipal cooperation was the lack of sanctions for entities that did not foresee them at all or for those that would do so beyond the deadlines enshrined in legislation (deadlines that were extended several times and last extended until 1 December 2020 by Decree Law no 8/2020 converted in Law no 40/2020). This lack was filled by Article 14 of Decree Law no 78/2010, which provides that the prefect of the province, the representative of the central state, shall give the defaulting municipalities a peremptory deadline within which to act. Once this deadline has expired, Article 8 of Law no 131/2003 would provide the *commissariamento* (administration



by an external commissioner) in line with the provisions laid down in Article 120 of the Constitution; they read as follows: ‘The Government can act for bodies of the (...) and municipalities if the latter fail to comply with international rules and treaties or EU legislation, or in the case of grave danger for public safety and security, or whenever such action is necessary to preserve legal or economic unity and in particular to guarantee the basic level of benefits relating to civil and social entitlements, regardless of the geographic borders of local authorities. The law shall lay down the procedures to ensure that subsidiary powers are exercised in compliance with the principles of subsidiarity and loyal co-operation.’

Many pieces of the national legislation from the financial-economic crisis onwards do not only offer and impose formulas of associative forms to municipalities, but they also increase conflicts over competences. The formulas are very complex and, most importantly, the implementation of associative forms of inter-municipal cooperation has been desultory from the very beginning. In Italy, the region has exclusive the power on forms of inter-municipal cooperation. Regardless of that, the Constitutional Court has legitimized interference resulting from centrally imposed schemes because of exceptional times and the need of spending reviews. According to the rulings of the Constitutional Court, inter-municipal cooperation is instrumental to the rationalization of public finance and any State’s austerity legislation (containing, among others, forced inter-municipal cooperation) is considered legitimate as it falls into the competence ‘coordination of public finance’ (Article 117(3) of the Constitution), a concurrent (State-Region) competence. By very extensively interpreting the principles of coordination of public finance, the Constitutional Court nullified the regional space for maneuvering on inter-municipal cooperation (among others, see Constitutional Court judgments no 237/2009, no 68/2011, no 108/2011, no 182/2011; no 77/2013). However, the Constitutional Court most recently has ruled (judgment no 33/2019) that requiring municipalities with less than 5,000 inhabitants (and less than 3,000 inhabitants in case of mountain municipalities) to perform their basic functions cooperatively is unconstitutional, if it does not allow municipalities to demonstrate that the management by means of associative forms does not favor the economies of scale or ameliorate the delivery of public services to the concerned population. According to the Court, forcing small municipalities to cooperatively manage fundamental functions is excessively rigid and does not stand the proportionality test. The rigidity does not allow to consider all those situations in which, due to the geographical location and demographic and socio-environmental issues, the convention or the union of municipalities are not suitable to achieve cost savings.

Regarding the different associative forms of inter-municipal cooperation, the regional governments may provide for (financial) support or any other incentives. In practice, regions do so to a very different extent (favoring one or the other form). Incentives are also provided by central state legislation in the form of contributions and facilitations.

Mergers of municipalities have been encouraged by the national legislator since the 1990s with little success. Between 1995 and 2011 only nine mergers were successful. In the following years more mergers were undertaken (in 2019, 31 mergers for a total of 65 municipalities in



seven ordinary and one in a special region), but the solution of merging municipalities remains the proverbial drop in the ocean when it comes to finding solutions to the hyper-fragmentation and rationalization of very small municipalities (so-called *comuni polvere*) in Italy. However, positive examples are to be found in the Italian panorama. For example, in the Autonomous Province of Trento the number of municipalities has been reduced by more than one third through mergers.

At national level, financial incentives are foreseen for the merger of municipalities, and, to very different extent, regions do also establish them. The situation as to incentives is again different in special regions as they regulate the matter of local entities in their respective autonomy statutes and as they also enjoy a great extent of financial autonomy.

The merger of municipalities is a bottom-up process in the sense that a referendum involving the citizens of the affected municipalities is obligatory. As earlier mentioned, Article 133 of the Constitution reads that ‘The region, after consultation with the populations involved, may establish through its laws new municipalities within its own territory and modify their districts and names.’). Put simply, if the referendum is positive, the merger is approved by the regional legislation. However, there are many differences (and some innovative approaches) when it comes to the details in the procedures and in the interpretation of the result of the consultative referendum. Regions may apply a ‘dirigist’ role or be a mere executor of the popular will regarding mergers of municipalities.¹⁰⁵

Law no 56/2014 (‘Delrio Law’) provides many facilitating measures for the merger of municipalities (paragraph 116ff). Most importantly, it establishes that in municipalities that are the result of a merger the by-law of the new local authority may lay down special cooperation forms between all municipalities involved in the merger. The by-law of the new local authority may be approved as a provisional one by all municipal councils that initiated the merger before the new municipality is established. In addition, it is foreseen that it is the by-law of the new municipality and no longer regional legislation that lays down appropriate detailed measures that ensure the participation of all the peoples of the former independent local authorities, and the effectiveness of decentralized service provision throughout the new municipal territory.

The Ordinary Law no 56/2014 also expressly speaks of ‘merger by incorporation’ and of ‘aggregations of municipalities by incorporation’ in Article 130. However, with regard to the merger *strictu sensu* (which results in the abolition of the existing municipalities and the establishment of a new municipality), the incorporation does not establish a new municipality. It results in the abolition of the incorporated municipality, which formally becomes part of an already existing municipality.

At this stage, it should also be recalled that in order to facilitate the merger of municipalities, Article 15(3) of the Unified Law of Local Entities no 267/2000 provides that the central state

¹⁰⁵ See details below in report section 4.3. on Mergers of Municipalities.



shall make special contributions for the ten years from the merger itself. To this end, the rule provides that each year, by an administrative act issued by the Minister of the interior, after hearing the Standing Conference State-Cities and local entities, the modalities of allocation of the contribution shall be defined.

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4.2. Unions of Municipalities in Emilia-Romagna

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Relevance of the Practice

Emilia-Romagna is an interesting case study as the model of inter-municipal cooperation in this region has been characterized by a participatory and proactive (in part 'dirigist') approach, with high programming and social capacity in terms of administration and civil society initiatives that address challenges linked with the urban-rural divide in local government in an effective way. Such an approach ensured the Region of Emilia-Romagna a high success rate when it comes to the implementation of structural reforms in the field of local government. Emilia-Romagna is the region that first developed regional legislation in this matter and does so also today by giving policy preference to associative forms with own bodies (unions of municipalities). This is to favor political views on associative forms that go beyond the joint management of a single task or few tasks.

As of 2018, there were 43 unions of municipalities including a total of 280 municipalities, equal to 84 per cent of the municipalities in Emilia-Romagna. Altogether, they have a population of over 2.5 million inhabitants, equal to 58 per cent of the regional population. If we exclude the population living in the provincial capitals, this value rises to 80 per cent, highlighting a particularly important role in the management of functions and services for families and businesses, also in rural areas. 39 out of 43 unions of municipalities have applied for access to contributions in the regional 'Territorial Reorganization Program 2018-2020' (*Programma di riordino territoriale*).

Description of the Practice

The regional legislator in Emilia-Romagna establishes inter-municipal cooperation as a priority in the regional funding policies and even provides for technical and administrative support to the newly created entity. The first regional law in this field dates back to 1996 (Regional Law no 24/1996 *Norme in materia di riordino territoriale e di sostegno alle Unioni e alle fusioni di comuni* [Norms in the field of territorial reorganization and of support to Unions and Mergers of Municipalities]). In the mentioned law, the regional council was to adopt a program to the change of municipal districts and unions of municipalities, foreseeing financial incentives, while Regional Law no 3/1999 established associations of municipalities that, unlike unions of municipalities, were not specifically referred to in the regional programs regarding territorial reorganization and socio-economic development.



What is interesting from a viewpoint of regional political culture is Article 2 of Regional Law no 3/1999. It regulates the relations between the region and the local entities and refers, among others, to the principles of subsidiarity and loyal cooperation (two years before the Constitutional Reform 2001 ‘crystallized’ these same principles!). Regional Law no 10/2008 provided that all mountain communities should be transformed into unions of municipalities. The law also established the ‘principle of non-overlapping associative forms of cooperation’: Accordingly, municipalities cannot join for the associated management of the same functions more than one cooperative form, except for consortia that were obligatory. Also noteworthy are the regional laws no 21/2012 and no 13/2015. They make ample reference to the incentives constituted by the extraordinary contributions directed to territorial strategic planning instruments.

The proactive approach led to the establishment of unions of municipalities all over the territory of the region, thus also specifically addressing the challenges linked to depopulation in rural areas. A comparison with other regions confirms that Emilia Romagna is the region where the diffusion of unions of municipalities has been strongest in Italy, with a differentiated picture when it comes to the functions vested with the unions of municipalities. This comes with advantages and disadvantages: the advantage is that the unions of municipalities have a great say when deciding in which areas to cooperate; the disadvantage is that the scope and size of unions of municipalities vary significantly across the region and coordination is rather difficult. To facilitate coordination and relations with the region, the Regional Observatory of Unions was established (Article 9 of Regional Law no 15/2016): It aims to monitor the effects arising from the joint exercise of functions and service provision in the unions of municipalities. This to, firstly, better assess the concrete impact that associative municipal governance has on citizens, public bodies and businesses, and, secondly, to better support the unions of municipalities in taking advantage of the financial incentives offered in the different regional programs.

Assessment of the Practice

Emilia Romagna's regional policy of encouraging virtuous behavior of the municipalities has been decisive in terms of the effectiveness of multiplication of forms of associative municipal management. The 2018-2020 territorial reorganization program confirms this. In relation to the creation of unions of municipalities, it provides financial and other incentives such as support with legal issues regarding the inconsistencies that exist between national and regional legislation. What stands out in terms of support in the case of Emilia Romagna is a monitoring system concerning the effectiveness of associative management which distinguishes between mature and developing unions and unions that have only just been set up. Taking into account a number of indicators such as staff shared among municipalities involved, strategic functions and services, etc., unification of territorial planning, the region may assess the quite different



needs of these unions and provide tailor-made incentives and support with the aim of transforming developing unions into mature ones.¹⁰⁶

There is broad agreement in academia that in Emilia-Romagna an interventionist approach co-exists well with valuing participation of local entities in deciding on how inter-municipal forms of cooperation should play out in practice. There is, however, also some deficiency to point to. The regional law, following the national law, could not regulate that the bodies of the union of municipalities should be directly elected by the citizens of the municipalities which are part of the union. The regional legislator did not look for any element balancing this shortcoming, leaving a wide margin of discretion to the by-laws elaborated by the unions of municipalities themselves. They, for their part, did not provide for particular forms of citizen participation. This, thus, prevents the establishment of a mechanism of political accountability of the bodies of the union of municipalities to the citizens that they represent. The fact that the citizen can relate politically to his/her own municipality, but not to the union makes it extremely difficult to hold the union of municipalities accountable for mismanagement and it thus not yet sufficiently favor the creation of an inter-municipal public sphere.

With regard to unions of municipalities in other Italian regions several critical factors for success or failure have been identified.¹⁰⁷ One of them is the composition of these unions which is often seen as too 'variable' with municipalities entering and leaving or some of them joining to cooperate on a number of functions and others on only one. Another detrimental factor has arguably been, for example in the case of Tuscany, a problem of implementation. Whereas local governments with less than 5,000 inhabitants would be under an obligation since 2014 to manage services in an associative form, this has been continuously deferred. The current deadline for these municipalities is December 2021 and it is not unlikely that practical realization will be postponed once more.

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4.3. Mergers of Municipalities – A Comparison of Procedures and Their Implications

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Relevance of the Practice

The challenge of having too many and too small municipalities affects all of Italy. Mergers are seen as an instrument of rationalization. The process of merging two or more adjacent municipalities is governed by Articles 15 and 16 of Legislative Decree no 267/2000. These Articles refer to Articles 117 and 133 of the Constitution and provide that it is exclusively up to the regions to modify the territorial boundaries of the municipalities and to establish new ones through mergers. The obligation for the regional legislator is to ‘hear the populations concerned’ (Article 133(2)) before adopting a regional law. The very details of this rule vary from region to region and are in continuous change. Therefore, it is of interest to highlight the most innovative approaches regarding the procedural and interpretative frameworks that the regions opted for and to assess their implications.

Description of the Practice

In Emilia-Romagna, the legislative procedure for the merger of municipalities is regulated by Regional Law no 24/1996, and its numerous amendments. Accordingly, and in addition to the parties entitled to exercise the regional legislative initiative under the region’s statute (Law no 13/2005), the legislative initiative for the establishment of a new municipality is exercised by citizens and provincial and municipal councils, in accordance with Article 18 of the regional statute and by the regional government and other subjects authorized according to Article 50 of the regional statute. Municipal councils may also submit a request to the regional government to call for the start of a merger, and the majority of voters living in the concerned municipalities may do so too. If all conditions are properly met, in this case, the regional government submits a draft law to the regional legislator. The referendum is called by the president of the regional council, who decides on the question to be submitted to the popular consultation, specifies a proposed name to be given to the new municipality or a list of names to be submitted to the consultative referendum and defines the territorial scope within which voters are called upon to give their opinion (those voters living in the areas affected by the merger or by a merger by incorporation). The Regional Law no 15/2016 specifies the criteria according to which the regional legislator interprets the will of the people (with a set of highly sophisticated provisions for the different scenarios in the field of municipal mergers, and municipal merges by incorporation). The criteria consider both the overall outcome of the referendum (in relation to all municipalities concerned) and its articulation in each concerned



municipality (or part of a municipality that intends to change boundaries). The legislative process for the merger of municipalities does not continue if the votes cast in the majority of the municipalities and those cast overall are against the merger. If there is divergence and votes cast overall are in favor of the merger, but the votes cast in the majority of municipalities against the merger are equal to or greater than the votes cast in favor, the regional legislator, only after consulting the concerned municipal councils, may proceed towards the approval of the merger of municipalities by regional legislation. This possibility exists also if the overall votes casted are against the merger but the votes in favor of it prevail in the majority of the concerned municipalities. In 2018, however, with the Regulation no 263, the regional assembly committed itself to stop any merger process also if a negative vote prevails only in one municipality, regardless of the result of the overall casted votes. This confirms the participatory rather than 'dirigist' approach Emilia-Romagna increasingly opts for. Put differently, from 2018 onwards, the regional assembly has committed itself to be a mere executor of the popular will regarding mergers. Interestingly, the successful merger of Valsamoggia 2013-2014 – well-known because it involved five municipalities with 30,000 inhabitants – would have never been approved following this new approach.

Tuscany has been experimenting with mergers for many years, often without success (also because some attempts aimed to merge too many municipalities; for example, 'del Casentino' with 13 municipalities). The legislative initiative is vested with those having regional legislative initiative and with two or more neighboring municipalities that are part of the same province and that have expressed their will of merging by means of a joint agreement (in case of top-down forced mergers initiated by the regional council this is not the case). The procedure of merging municipalities can also be initiated by the voters if they represent at least 10 per cent of those entitled to vote in each involved municipality and if they altogether represent at least 15 per cent of the entire electorate that would be called to vote in the referendum. Regional law no 62/2007(V) regulates the consultative referendum and specifies that it is the regional assembly that validates the votes cast by separately taking into consideration the municipalities concerned. There is no explicit provision regarding the parameters of how to interpret the results of the vote. Interestingly, the regional assembly itself in 2016 decided (*risoluzione* no 39/2016) to proceed with the approval of legislation regarding mergers if the majority of votes in all municipalities is in favor or if the yes votes overall equal two thirds of the valid casted votes, as long as in none of the concerned municipalities the percentage of votes contrary to the merger is superior to three quarters of the votes (so-called 'anti-merger clause').

In Lombardy, Regional Law no 29/2016 regulates the merger of municipalities. Two procedures are referred to: the classical one, like the ones described above in the other regions and a simplified one. Taking into account the technical-legal difficulties that were arising throughout the process of the first merger by incorporation in Italy (Gordona and Menarola), the regional legislator has provided for the possibility to undertake the consultative referendum in case of a merger by incorporation before initiating the necessary regional draft law. This possibility



allows local administrators to better manage the consultation process and to carefully assess the evaluation of the results. Only afterwards the results of the vote are forwarded to the president of the regional council who then initiates the actual draft law. In general, and unlike the Region Emilia-Romagna, Lombardy is an example of strong contrasts. On the one hand, the region does not provide many incentives and contributions for municipalities newly created from mergers; also, the rule that a merger is implemented only if the votes cast in all the municipalities are in favor, makes mergers less feasible. On the other hand, the introduction of a simplified procedure does allow municipal councils to keep control and to be the ones that ultimately take the decision regarding mergers.

The Veneto model on mergers of municipalities is interesting to mention, as it introduces a time constraint on the submission of initiatives. Proposals of mergers that have already been rejected cannot be represented for the following three years (Regional Law no 25/1992 (3)). As far as the interpretation of the popular vote is concerned, the rule applies that both the overall votes cast as well as the votes in each involved municipality are to be considered. However, it is noteworthy that the regional council decided to anyway approve the merger process if, in mergers with four or more municipalities, only the votes cast in one municipality were against; the regional council does so by excluding the municipality contrary to the merger from the merger process (Regional Law no 25/1992 (5 bis)) The Veneto Region has opened an innovative road that aims at fully respecting the local vote in the consultation, but the veto of a single municipality in the very end cannot stop the merger of municipalities, but only the participation of the municipality in question to the creation of the new municipality.

Assessment of the Practice

The rationale behind the different regional legislation on the merger of municipalities lies in the different historical legacies and the development of regional political cultures. As the competence in this field falls in the exclusive power of the regions, procedural details and policy preferences are influenced by the way in which regional political elites understand the role of the municipalities as a governance actor in the territory. Indeed, there are some regions more concerned with the will of the population and others mainly focused on the result of the merger. Some observers see this diversity as problematic and suggest inter-regional coordination in identifying common criteria towards a harmonization of rules.¹⁰⁸

Moreover, the number and types of municipalities vary from region to region, as does the 'ideal' size of a municipality. While a population of 10,000 is considered appropriate in Tuscany, but this ideal may vary from region to region depending on a number of factors like territorial

¹⁰⁸ Interview with Claudia Tubertini, Associate Professor, Department of Legal Studies, University of Bologna (14 May 2021).



size of municipalities, topography, infrastructure, etc.¹⁰⁹ Currently, the Tuscan Region has the lowest number of municipalities and an average number of inhabitants per municipality significantly higher than the majority of the other analyzed regions. Therefore, it does not make much sense to assess (these) regions by numbers of successful mergers. A study of the procedural aspects linked to the way popular consultation is organized and gets interpreted at regional level is much more interesting. In general, one can notice the following trend: even though mergers (and mergers by incorporation) might be initiated top-down, the policy preference of all described regions is to give the municipalities a say and a veto power. For small and very small municipalities (in peripheral areas) it might still be difficult to get their voices heard, but in presence of highly sophisticated procedural schemes as to the merger of municipalities, small and very small municipalities have more and better possibilities to represent their interests (in consultation processes leading to the merger of municipalities, and in municipal governance once the process is concluded). As for the efficiency and sustainability of amalgamations of very small municipalities, there have indeed been cases in which even the merged municipality has faced serious difficulties due to a lack of resources. Such situations have occurred especially once the financial contributions, which are generally key for continued interest in the merger in the first place,¹¹⁰ run out.

As for the expected efficiency, regions have followed the approach of letting local population choose and have refrained from opposing a referendum because an amalgamation is supposedly not sustainable.¹¹¹ Other observers have even cast doubt on whether a referendum is the appropriate instrument to decide such a controversial issue like a merger because it would risk, especially in small municipalities, to create and reinforce strong polarization within the local community.¹¹² Instead of this ‘hard power’ tool, softer and more consensus-oriented mechanisms might be better suited for municipalities in the long run.

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4.4. The Valley Communities (*comunità di valle*) in the Province of Trento

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Relevance of the Practice

Italy is characterized by an extreme territorial fragmentation at the local level. All the more so the problem affects the territory of the Autonomous Province of Trento, which back in 2006 was sub-divided in 217 municipalities (double the number of the neighboring Autonomous Province of Bolzano/South Tyrol), with a population of 502,478 inhabitants. More than 90 per cent of the municipalities had less than 5,000 inhabitants. With the outbreak of the economic crisis, the extreme territorial fragmentation has been targeted as responsible for inefficiency and overspending and different forms of inter-municipal cooperation have been introduced both by the state and the regional authorities, as an instrument of ‘spending review’ to reach a balanced budget.

On these grounds, the solution of the Autonomous Province of Trento appears as an original answer, aimed at reforming the territorial organization and local governance, on the one hand, and at contributing to the recovery of public finance, on the other hand. This is of particular interest, if one considers the province’s topography that is almost entirely mountainous, with the exception of a few small flat areas nearby the main rivers. To avoid additional depopulation there is the need to ensure that all citizens are entitled to a comparable level of services, disregarding the place of residence. However, the necessity to have a consolidated balanced budget taking into account all territorial entities within the provincial territory and the obligation of the province to contribute to both the recovery of the national system of public finance and the respect of EU obligations, have brought about the need to reform territorial organization and local governance within the province.

Description of the Practice

With this twofold purpose in mind, the provincial legislator adopted Law no 3/2006 and soon afterwards – with the outbreak of the economic crisis – introduced significant changes: first, with provincial laws no 15/2009 and no 26/2010, more recently with Law no 12/2014. The latter has substantially revised the governance system, on the one hand, and the territorial administrative structure, on the other. Consequently, over a decade later, the implementation process is still a work in progress and the provincial government is discussing a further reform of the system in place.



The current system provides for a new scheme of territorial administration, in which local entities are forced to exercise certain administrative competences and jointly deliver well-determined public services. To this extent, the provincial territory has been divided in 16 sub-territories named *'Comunità di Valle'* (literally, valley communities). These are local public entities mandatorily made up of the municipalities located in the territory of reference. The reform basically affects the way administrative functions are exercised and public services are performed. In fact, the communities are responsible for the exercise of almost all administrative functions and public services the territorially-related municipalities are vested with (Trento as the main city represents an exception to this pattern).

In addition, the 2014 reform has provided for an additional form of inter-municipal cooperation. The main reasoning is to consider the scope of the interest involved and the adequate territorial dimension, with a view to reducing public spending and ensuring administrative efficiency. Accordingly, either municipalities under 5,000 inhabitants accept to merge, or they are obliged to exercise additional well-determined functions and services in cooperation with the other municipalities as located in an area delimited by the provincial executives (so-called optimal territorial area). This approach of mergers as a means to avoid inter-municipal cooperation is interesting because in most cases it is exactly the other way round.¹¹³

The 2014 reform has also reviewed the system of government of the valley communities. Since 2015, the related governing bodies – the president and the council of each community – are only indirectly elected by the respective municipal councils.¹¹⁴ To compensate the lack of a democratic legitimation, the reform has also introduced strong forms of participatory democracy. As such the decision-making process within the governing bodies of the communities is complemented by a preliminary consultative phase that provides for the direct involvement of the population. Of interest is the fact that this consultative phase is mandatory for the adoption of the most important decisions for the community (enumerated by the provincial law), and is optional for all other decisions, i.e. a participatory phase can be started on request for instance by the municipalities, the community itself or the at least 5 per cent of the residents within the community over the age of sixteen. It is the responsibility of the authority for local participation to decide on that. The authority is an ad hoc institution entrusted with the promotion, implementation and management of the participatory process at both the community and municipal level.

¹¹³ Statement by Silvia Bolgherini, Senior Researcher, Institute for Comparative Federalism, Eurac Research, Bolzano/Bozen (LoGov Country Workshop, Structure of Local Government, 23 October 2020).

¹¹⁴ The prior system provided for a mixed system of direct and indirect election. However, doubts of constitutional legitimacy had emerged, as the Italian Constitution (Art 114) enumerates the territorial entities that make up the Italian Republic, and the Constitutional Court considers the list to be exhaustive. See: Constitutional Court, Judgement no 876/1988 and no 107/1976.



Assessment of the Practice

Also due to the pace of the reforms, the implementation process is still a work in progress and as such it is too early to assess if and to what extent the new system has brought about any improvement in the performance of administrative functions and public services, or any significant savings in terms of public spending. This holds true especially due to the fact that the 2014 reform has substantially changed the way functions are exercised, requiring additional efforts of territorial reorganization. Besides that, the system is rather complex and requires strong coordination from the center. Therefore, the challenge to local autonomy is high. However, due to the change of the governing parties at the provincial level (the Lega party has won the provincial elections in 2018) a reform of this system is under discussion. It is far too early to understand if there will be a radical change (as promised during the political campaign) or if the intervention will be limited to minor cosmetic adjustments.

Apart from that, an interesting result has anyway emerged as a side effect of the reform. To bypass the obligation to resort to compulsory forms of inter-municipal cooperation, numerous municipalities have opted to merge. Back in 2006 there were 217 municipalities, while at present there are 175. This result represents a first important step in terms of economic efficiency and spending review, although there is still considerable scope for improvement.

When analyzed against the background of other Italian territories it is remarkable that Trentino's valley communities are quite similar to the *Unioni territoriali intercomunali* (UTI) in the Friuli-Venezia Giulia Region. This suggests that – despite the differences between the Special Regions – there are also similarities. Even if institutions may be called differently in different places, horizontal processes of inter-regional exchange and emulation still give rise to similarities regarding their nature.¹¹⁵ Some observers caution, however, against the belief that the Trentino experience can be easily transplanted to other Italian territories because the solid bureaucracy in the province enables a top-down policy-making effectiveness that is lacking in other contexts.¹¹⁶

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4.5. Inter-municipal Cooperation Based on a Model Agreement: A Top-Down Approach in South Tyrol

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Relevance of the Practice

The issue of how to overcome the pronounced territorial fragmentation of Italian municipalities is of high relevance also to the Autonomous Province of Bolzano/South Tyrol. Of the 118 municipalities in the province, only seven count more than 10,000 inhabitants, while 68 (57,6 per cent) have a population below the mark of 3,000. On average, South Tyrolean municipalities count 4,500 inhabitants.¹¹⁷ At the same time, local governance faces increased complexity. Citizens expect modern and high quality services that safeguard employment and a high quality of life even in the most peripheral areas. In order to preserve rural areas and prevent depopulation, municipalities have to stay competitive and meet those expectations.¹¹⁸

Contrary to the neighboring Autonomous Province of Trento, mergers of municipalities have never been a political option in South Tyrol.¹¹⁹ Rather, the province displays a tradition of horizontal cooperation between municipalities, with voluntary agreements, consortia, conventions, concessions and unions of municipalities as forms of inter-municipal cooperation (IMC) aimed at tackling the challenges arising from a highly fragmented municipal landscape.¹²⁰ In 2017, the Provincial Law no 18/2017 on the Re-Organization of Local Entities conferred a set of new responsibilities to South Tyrolean municipalities. However, numerous municipalities are too small to deliver high-quality performances on the full set of their responsibilities. In particular, they lack the financial means, specialized personnel and infrastructure to do so.¹²¹ Other than reinforcing local self-government, it is therefore another

¹¹⁷ If the provincial capital of Bolzano/Bozen, with 108,000 inhabitants by far the largest municipality within the province, is excluded, the average size of South Tyrolean municipalities amounts to 3,700. Istituto provinciale di statistica ASTAT, 'Banca dati "Dati comunali"' (ASTAT, 2020) <<https://astat.provincia.bz.it/it/banche-dati-comunali.asp>>.

¹¹⁸ Greta Klotz, 'Gemeinden in Südtirol: ein Blick auf ihre vertikalen und horizontalen Kooperationsformen' in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed), *Jahrbuch des Föderalismus 2019: Föderalismus, Subsidiarität und Regionen in Europa* (Nomos 2019) 395.

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¹²⁰ Josef Bernhart and Kurt Promberger, 'V Interkommunale Zusammenarbeit in Südtirol' in Peter Biwald, Hans Hack and Klaus Wirth (eds), *Interkommunale Kooperation. Zwischen Tradition und Aufbruch* (Neuer Wissenschaftlicher Verlag 2006) 107.

¹²¹ Bernhart and Promberger, 'V Interkommunale Zusammenarbeit in Südtirol', above, 107; Klotz, 'Gemeinden in Südtirol', above, 393 and 406.



central pillar to the Law on the Re-Organization of Local Entities to encourage practices of horizontal cooperation among municipalities in order to increase the quality and efficiency of municipal service provision, as well as to guarantee minimum standards in the provision of local public services.¹²²

Description of the Practice

At the outset, it is important to emphasize that IMC in South Tyrol is a broader phenomenon and not limited to the new instruments provided by the above-mentioned Provincial Law of 2017. In fact, municipalities may form corporations with only public capital or private corporations and they also engage in certain informal forums, especially in the essential area of tourism. Some of these promote soft tourism ('Alpine Pearls') or bring together the province's seven biggest cities and towns ('Städtenetzwerk Südtirol City'). Interestingly, such cooperation rather seems to integrate municipalities of similar size and nature and thus to involve little urban-rural collaboration. Moreover, the 2018 Code regarding Local Entities in the Autonomous Region Trentino-South Tyrol (which is composed by both above-mentioned Autonomous Provinces) provides for five instruments of IMC. However, these do not deviate significantly from instruments in other Italian regions.¹²³ It is rather the 2017 Provincial Law which attempted to create and establish a distinctive new framework of IMC so that it deserves closer attention.

The above-mentioned law makes provisions, on the one hand, for a transfer of additional tasks by provincial legislation in agreement with the Council of Municipalities (*Rat der Gemeinden*)¹²⁴ and, on the other hand, for the fulfilment of these tasks within a new framework of IMC. The latter builds on agreements between municipalities on the joint management of services as a main instrument of horizontal cooperation. Collaboration is voluntary, yet strongly encouraged through financial incentives. To this purpose, an amount of EUR 7 million, drawn from regional funds, was allocated by the provincial government for a three-years' time period from 2019 to 2021 and with the possibility of further extension.¹²⁵ Financial incentives amount to EUR 25,000 annually per 2,000 inhabitants for each jointly managed service. To be eligible for funding, two municipalities must cooperate in the management of at least two services or, alternatively, at least three municipalities must jointly manage at least one service.¹²⁶ In order to obtain funding, cooperation must occur within pre-defined functional and geographical

¹²² Art 1 of the Provincial Law no 18/2017.

¹²³ Elena D'Orlando and Francesco Emanuele Grisostolo, 'La disciplina degli enti locali tra uniformità e differenziazione', in Francesco Palermo and Sara Parolari (eds), *Le variabili della specialità* (ESI 2018) 98f.

¹²⁴ For details on the Council of Municipalities of South Tyrol as Facilitator of Local-Subnational Relations, see report section 5.3.

¹²⁵ Resolution of the Provincial Government no 961/2019.

¹²⁶ Art 1(1) of the Resolution of the Provincial Government no 961/2019.



areas and, critically, on the basis of a Model Agreement,¹²⁷ a legal template elaborated at and approved by provincial level. South Tyrol therefore relies on a pronounced top-down approach to horizontal cooperation, with the provincial level retaining a strong role in planning, coordinating and monitoring of the cooperative approaches between municipalities, thereby securing a desired level of homogeneity.¹²⁸

The Model Agreement¹²⁹ determines the range of possible functional areas for cooperation that include the municipal secretary and secretariat service, the management of taxation and fees, accounting, construction and landscape matters, public works, licenses and trade, demographic services and human resource management (Article 4). This contrasts sharply with a 2012 agreement between the Province and the municipalities in which the latter had pledged to cooperate in terms of services, but in services of their *own* choice. Within these functional areas, three forms of cooperation are admissible (Article 3(1)):

- joint coordination of single municipal services with own personnel and a supra-local senior official;
- one municipality ('competence center') manages certain services on behalf of cooperating municipalities;
- shared use of municipal infrastructure and buildings.

The Model Agreement further requires a periodic dialogue between the mayors of the cooperating municipalities (Article 14) and provides for the creation of a supervisory panel, composed of the mayors and municipal secretaries. The latter's task is to monitor, assess, guide and coordinate the joint management of municipal services and to assist the development and improvement of the cooperation (Article 15).

In order to create a homogenous setting for the joint management of municipal services, cooperation under the Model Agreement is possible only within pre-defined geographical areas, the so-called 'ideal catchment areas' (*Optimale Einzugsgebiete/Ambiti territoriali ottimali*). 25 catchment areas that account for 'homogenous socio-economic and geographical characteristics'¹³⁰ were designed by the provincial government in agreement with the Council of Municipalities.¹³¹ Interesting from an urban-rural perspective is the exclusion of eleven South Tyrolean municipalities, which are big in terms of territorial and/or population size, from the ideal catchment areas, among which the provincial capital of Bolzano/Bozen. Cooperation with the excluded municipalities is still possible, but only if the bigger municipalities assume a leading role in the provision of the service in question and if there is no other municipality that has already assumed responsibility over the management of that service on behalf of other local governments in a catchment area. Cooperation with municipalities across several

¹²⁷ Resolution of the Provincial Government no 1161/2018 (amended by Resolution no 1349/2018).

¹²⁸ Klotz, 'Gemeinden in Südtirol', above, 400; Arts 1, 7 and 8 of the Provincial Law no 18/2017.

¹²⁹ Resolution of the Provincial Government no 1161/2018.

¹³⁰ Art 7(4) of the Provincial Law no 18/2017.

¹³¹ Resolution of the Provincial Government no 960/2019.



catchment areas are possible in this specific case. However, the leading municipality must deliver the offered service to all the other municipalities within a certain catchment area if need be.¹³²

Hence, whether or not a municipality is included in the catchment areas significantly impacts on the context for cooperation. The 2017 framework leaves little room for municipalities that were assigned to a certain catchment area to freely choose the partners for cooperation (top-down approach). An exclusion from the pre-defined areas leaves more flexibility in the choice of junior partners for cooperation and allows spontaneous bottom-up associations of municipalities across several catchment areas. This greater flexibility comes, however, at the risk of considerably broadening the pool for potential junior partners. The possibility of being required to deliver a service on behalf of all the municipalities within several catchment areas might constitute a disincentive for the eleven excluded municipalities to actively engage in cooperation projects within the new framework.

Assessment of the Practice

As of December 2020, out of the EUR 7 million allocated to projects of cooperation on the basis of the Model Agreement, EUR 4,5 million have been assigned to municipalities presenting a total of 53 requests for funding.¹³³ The new framework aimed at further incentivizing horizontal cooperation among municipalities and this incentive seems to have worked. Within a year after the opening for requests in December 2019, half of the reserved funds were already assigned. This speaks for a high demand for the new framework, even though it is still a little early for a more in depth assessment of this fairly young practice.

The requests that were so far presented proved to be heterogeneous. While some groups of municipalities take advantage of the full range of functional areas eligible for funding, others limit cooperation to two services. Among the requests for joint management of services presented so far, the municipal secretary, secretariat services, accounting, as well as construction and landscape management rank prominently. The Municipality of Schenna/Scena is a particularly interesting case because it entered into different partnerships for cooperation concerning the management of different services: While the municipal secretary, secretariat services, management of taxation and fees as well as demographic services are jointly managed with the Municipality of Hafling/Avelengo, Schenna/Scena cooperates with Tirol/Tirolo, Riffian/Rifiano and Kuens/Caines on accounting and public works.¹³⁴

¹³² Art 1(2) of the Resolution of the Provincial Government no 961/2019.

¹³³ Resolutions by the Provincial Government no 1120/2019; 219/2020, 308/2020; 585/2020 and 953/2020.

¹³⁴ LPA/JW, 'Über eine Million Euro für die zwischengemeindliche Zusammenarbeit' (*Südtiroler Landesverwaltung*, 1 April 2020) <<http://www.provinz.bz.it/news/de/news.asp?art=637221>> last accessed 31 July 2020.



The framework rather seems to incentivize small, rural municipalities to jointly manage services. In fact, 40 out of 53 requests (75 per cent) were presented by municipalities with less than 5,000 inhabitants, while 7 (13 per cent) came from municipalities with a population count between 5,000 and 5,500. There has also been a small number of requests for joint service management by two of the bigger municipalities that were not specifically assigned to any of the catchment areas. While the Municipality of Kastelruth/Castelrotto (6,919 inhabitants) presented a single request of limited financial scope, the case of the Municipality of Schlanders/Silandro (6,261 inhabitants) is of greater import. Within the first year of the new framework, a sum of EUR 253,000 was assigned to the municipality for 5 cooperation agreements that include different cooperation partners and span over three distinct catchment areas. When looking at the total amount of funds assigned within the new framework so far, it must however be underlined that these cooperation initiatives with bigger municipalities are fairly limited in scope, with financial contributions amounting to around EUR 300,000 as compared to the EUR 4.2 million assigned to cooperation agreements initiated by smaller municipalities. As Bolgherini, Casula and Marotta¹³⁵ suggest in their study of municipal reactions to functional rescaling in Italy, fear of a loss of identity and autonomy as a result of being dominated by a bigger municipality may be an explanation for the higher resistance of small municipalities to cooperate with bigger neighbors.

One of the main critiques towards the new framework is the top-down approach adopted by the Province in the definition of both the thematic and geographical areas for cooperation.¹³⁶ The rigid nature of the Model Agreement is symptomatic for this approach, as it allows cooperation exclusively within the previously established functional areas. To be sure, the thematic list provided by the Agreement is extensive and most likely covers almost all typical areas of collaboration. Yet, the framework lacks a flexibility clause that would enable municipalities to broaden the scope of cooperation beyond the pre-defined functional areas to any areas of *their* choice. At this point, a wider and more flexible thematic framework could reinforce the financial incentives and further increase cooperation among South Tyrolean municipalities.¹³⁷

The Province thus appears to maintain a strong say on matters of IMC and this seems to hold true beyond the thematic scope of cooperation. There appears to be a similar pattern regarding its geographical scope, even though, for example, the exclusion of bigger municipalities from the catchment areas seems to go back to an initiative of the municipalities.¹³⁸ Indeed, the South Tyrolean Council of Municipalities, as advisory organ on the provincial level, has been actively involved in the elaboration of the new framework. Article 4 of the Provincial Law no 18/2017 explicitly mandates a decision on the ideal catchment areas

¹³⁵ Silvia Bolgherini, Mattia Casula and Mariano Marotta, 'Municipal Reaction to Functional Rescaling in Italy' (2018) 31 *The International Journal of Public Sector Management* 448, 459.

¹³⁶ Klotz, 'Gemeinden in Südtirol', above, 401.

¹³⁷ *ibid* 407.

¹³⁸ *ibid* 401.



in agreement with the council, thereby enabling the municipalities to express their perspective on the matter. As some observers highlight, a (mostly) top-down approach with the provincial government playing a leading role must not be necessarily a negative thing because this often enables more efficient, rationalized cooperation outcomes. In particular, clear top-down indications on the territorial and functional basis for cooperation as well as on the minimum duration may prevent practices of short-term cooperation which are currently widespread in many parts of Italy.¹³⁹

Anyway, the issue what specific criteria are applied for the inclusion of municipalities in the various catchment areas and how they are weighted against each other, ultimately remains unclear. On one hand, there is the vague criterion of socioeconomic and geographical homogeneity of neighboring municipalities. On the other hand, there is the even broader reference to the general principles of subsidiarity, adequacy, differentiation, effectiveness, quality, economic efficiency and simplification which are to be realized through cooperation.¹⁴⁰ From an urban-rural perspective, it remains unclear, why some urban municipalities (such as Brixen/Bressanone) are included in a catchment area with smaller, rural municipalities, while others (e.g. Bruneck/Brunico, Merano/Meran or Sterzing/Vipiteno) fall within the list of the eleven left-outs.

In sum and despite the points raised above, the 2017 framework on IMC, with its financial incentives and standardized approach to guarantee uniformity in the provision of municipal services, has proven able to further incentivize horizontal cooperation among South Tyrolean municipalities in the first years since its implementation.¹⁴¹ It can be viewed as an asset especially for small and rural municipalities in as far as it allows for the creation of synergies, as well as the sharing of expertise, financial and personnel burdens.

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¹³⁹ Statement by Sabrina Iommi, Economist, IRPET – Istituto Regionale Programmazione economica della Toscana (LoGov Country Workshop, Structure of Local Government, 23 October 2020).

¹⁴⁰ Art 3 of the Provincial Law no 18/2017 on the Re-Organization of Local Entities.

¹⁴¹ Klotz, 'Gemeinden in Südtirol', above, 407.



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Intergovernmental Relations of Local Governments



5.1. Intergovernmental Relations of Local Governments in Italy: An Introduction

Greta Klotz, *Eurac Research*

When it comes to intergovernmental relations with the national government, local government associations are the main actors. The National Association of Italian Municipalities (*Associazione dei Comuni Italiani* – ANCI) has a long-established tradition, as it was founded in 1901 as a non-profit organization active throughout the national territory. It is not recognized by the Italian Constitution, but as the main representative organization of local authorities, it is institutionally anchored in the system of the multilateral cooperation mechanisms with the national government. Not all Italian municipalities are members of the ANCI. As of July 2019, it had 7,041 members from among 7,914 Italian municipalities and represents approx. 90 per cent of the Italian population.¹⁴² The main goal of ANCI is to represent the interests of municipalities and metropolitan cities vis-à-vis the national and regional governments. It is also a facilitator of international cooperation and even a shareholder of some companies for service provision.

ANCI's assembly, bringing together all members, meets once a year, but the organization has 17 permanent commissions on different policy fields, ranging from local finances and social welfare to immigration and integration policies. Furthermore, ANCI comprises within its structure several special interest bodies. Among others, there is a National Council of Small Municipalities (*Consulta Nazionale dei Piccoli Comuni*). This institution represents all ANCI municipalities with a population of less than 5,000 inhabitants and has the aim to secure and promote the coordination of initiatives, which support small municipalities and to promote initiatives with regard to inter-municipal cooperation. Apart from this council, there is within ANCI also a Coordination Body of Metropolitan Cities' (*Coordinamento delle Città Metropolitane*). Similar to the aim of the above-mentioned council, the task of this coordination body is to support specific initiatives with regard to the metropolitan realities. The mayors of the 14 metropolitan cities as well as the coordinator of the Council of Small Municipalities, also the coordinators of regional councils of small municipalities, are members of the important National Council (*Consiglio nazionale*) of ANCI. This body is important because it determines above all the strategic direction of the association. As in addition to the mayors of the metropolitan cities those of all regional and provincial capitals participate as well, there seems to be a certain imbalance of representation in favor of urban areas.

¹⁴² National Institute of Statistics, 'Codici statistici delle unità amministrative territoriali, novità per l'anno 2019' (*Istat*, 30 June 2019) <<https://www.istat.it/it/archivio/6789>>.



ANCI is complemented by the National Association of the Italian Provinces (*Unione delle Province d'Italia* – UPI) as well as the National Union of Mountain Towns and Communities (*Unione Nazionale Comuni, Comunità ed Enti Montani* – UNCCEM).

In terms of local government councils at the regional level, it should be pointed out that ANCI has branches in all of the 20 Italian regions. In the Autonomous Provinces of Bolzano and Trento, the ANCI is represented by particular provincial associations of local authorities, i.e. the *Consorzio dei Comuni della Provincia di Bolzano-Südtiroler Gemeindenverband* and the *Consorzio dei Comuni della Provincia di Trento*.

Apart from the regional branches of ANCI, an important body of intergovernmental relations between the regions and local entities was established by the constitutional reform in 2001. According to Article 123 of the Italian Constitution, regions with ordinary statute have to foresee and regulate in their statute a so-called Council of Local Authorities (*Consiglio delle Autonomie Locali* – CAL), an organ ensuring consultation between regions and local authorities. All 20 regions have established this institution. Although the five regions with special statute (Friuli-Venezia Giulia, Sardinia, Sicily, Trentino-South Tyrol and Val d'Aosta) enjoy autonomous competences regarding the organization and functioning of local authorities and are, following the Constitutional Court decision no 370/2006, not obliged to establish this institution, all of them have also set up such an advisory body. The main task of a CAL is consultation and sometimes their advice during the legislative process is compulsory. The councils of local authorities of some regions established in 2012 a Permanent Coordination Body of CALs in order to promote inter-regional collaboration between these institutions, as well as to exchange experiences and best practices among each other. According to a recent study, the CALs in the regions with ordinary statute have so far only played a marginal role of influence in regional decision-making, with the lacking implementation of the principle of subsidiarity being a main reason.¹⁴³

As for mechanisms of supervision, it is important to note that the constitutional reform in 2001 cancelled Article 130 of the Constitution, which had foreseen, according to the principle of hierarchy between levels of government, a regional preventive control of acts of local authorities. Before this change the regions had tightly controlled the provinces and municipalities and had been controlled, in turn, by the national government. However, there is still a system of internal administrative monitoring, auditing and the extraordinary substitution power under Article 120 of the Constitution.

According to this provision, '[t]he Government can act for bodies of the regions, metropolitan cities, provinces and municipalities if the latter fail to comply with international rules and treaties or EU legislation, or in the case of grave danger for public safety and security, or whenever such action is necessary to preserve legal or economic unity and in particular to

¹⁴³ Elena di Carpegna Brivio, 'Il CAL tra sogno e realtà. Problemi attuali delle istituzioni di raccordo nel sistema regionale delle fonti' (2018) 5 *Federalismi.it* <<http://www.consigliautonomieitaliane.it/wp-content/uploads/2018/07/Inserire.pdf>>.



guarantee the basic level of benefits relating to civil and social entitlements, regardless of the geographic borders of local authorities. The law shall lay down the procedures to ensure that subsidiary powers are exercised in compliance with the principles of subsidiarity and loyal co-operation'. This power of the national government to intervene is only for the exceptional circumstances explicitly mentioned in the cited provision and measures must observe the principle of proportionality. Only those measures may be taken that are necessary to achieve, to the benefit of citizens, a swift return to normality and legality. Financial supervision is exercised by the Court of Auditors and its regional branches. Law no 131/2003 strengthened control powers of these courts. But this supervision does not concern the political assessment of measures taken by local governments. It controls the compliance of local government actions with budget legislation and other rules and policies from the regional, national and EU levels, especially regarding financial mismanagement and balanced budget requirements.

The most important mechanisms for intergovernmental cooperation between the national government, regions and local authorities are the following two conferences: the Conference of the State, Cities and Local Autonomies (hereinafter CSCLA) and the Unified Conference, which brings together the CSCLA with the Conference of the State, Regions and Autonomous Provinces. The latter conference therefore comprises three levels of government (national, subnational and local). The CSCLA was introduced with the Decree of the President of the Council of Ministers on 2 July 1996 and was reformed by the Legislative Decree no 281/1997. The same legislative decree also created the Unified Conference.

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5.2. The Inclusion of Local Governments in Italy's Multilevel Conference System of Intergovernmental Relations

Greta Klotz, *Eurac Research*

Relevance of the Practice

In Italy there are two important formal mechanisms to facilitate intergovernmental relations and to include the local level of government in the political decision-making process: the Conference of the State, Cities and Local Autonomies (hereinafter CSCLA) and the Unified Conference, which brings together the CSCLA with the Conference of the State, Regions and Autonomous Provinces. The latter conference therefore comprises three levels of government (national-subnational and local). The CSCLA was introduced with the decree of the President of the Council of Ministers on 2 July 1996 and was reformed by the Legislative Decree no 281/1997. The same legislative decree also created the Unified Conference.

The two conferences are the only formal institutions where political representatives of the local authorities meet regularly with members of the national and subnational governments to discuss relevant policies, as well as challenges of the local institutions. They are thus of utmost importance.

Description of the Practice

The members of the CSCLA is composed of representatives of the national government as well as representatives of the local authorities. The chair of the conference is held by the Italian Prime Minister or, through delegation, the Interior Minister or the Minister for Regional Affairs. In addition, the following members of the national government participate in the Conference: the Ministers of Finance, Economy, Infrastructure and Health. For the local authorities, the members are: The President of the National Association of Italian Municipalities (ANCI), the President of the Union of Italian Provinces (UPI), 14 mayors appointed by ANCI and 6 presidents of Italian provinces appointed by UPI. The institution tries to strike a balance between urban and rural areas with the provision that five out of the 14 mayors have to represent metropolitan cities. The same persons also form part of the Unified Conference, together with the members of the Conference of the State, Regions and Autonomous Provinces (Prime Minister, Minister of Regional Affairs, all presidents of the Italian Regions and the two presidents of the Autonomous Provinces Trento and Bolzano).



The CSCLA meets normally at least once a month (according to law it has to meet at least every three months). In addition, the Prime Minister, the President of the ANCI and the President of the UPI have the right to ask for a meeting whenever they deem it necessary. On the contrary, only the Prime Minister has the right to convoke the Unified Conference. The tasks of the CSCLA are about consultation, information and exchange:

- coordination of relations between the state and local authorities;
- study, information and discussion on issues related to policies that may affect the functions of provinces, municipalities and metropolitan cities;
- discussion and examination of problems with regard to the organization of local authorities, including aspects of financial and budgetary policies as well as legislative initiatives and acts of the national government;
- discussion and examination of problems relating to the management and delivery of public services and any other problem that is submitted to the opinion of the Conference itself by the President or at the request of the local authorities;
- encouraging information and initiatives to improve the efficiency of local public services.

In contrast to the CSCLA the Unified Conference brings together three levels of government. According to the Legislative Decree no 281/1997, there is the obligation to consult the conference with regard to draft laws, legislative decrees or acts, which are of common interest for regions and local authorities. Specifically, the Unified Conference expresses opinions (*pareri*), among others, on:

- the draft stability pact that aims to ensure sound public finances;
- the draft finance law and related draft laws;
- the economic and financial planning document.

The function of the conference is purely consultative, as its opinions are not binding. Furthermore, according to Article 9 of the above-mentioned legislative decree, the Prime Minister can put on the agenda each other topic that he/she regards as being of interest for the regions, provinces, municipalities, as well as mountain towns and communities. This can also occur, however, upon request from ANCI, UPI or the National Union of Mountain Towns and Communities (UNCCEM). The UNCCEM was founded in 1952 as a non-profit association, which represents all Italian mountain towns and municipalities, which cover 54 per cent of Italy's territory and are home to around 10 million inhabitants. According to law, the President of UNCCEM should also be a member of the CSCLA. In practice, this function is left to the representation of ANCI, with whom UNCCEM is working closely and on the basis of a written agreement. However, the President of UNCCEM is present at the meetings of the Unified Conference.

Beyond its consultative function, the Conference promotes and confirms, for instance, intergovernmental agreements (*intese*) between the government entities represented there.



However, if there is no agreement within 30 days, the Council of Ministers can take a unilateral decision (with justification).

It is interesting how the Unified Conference works in practice. It does not take decisions in common but separately in two groups of entities. The group of regions which are members of the Conference of the State, Regions and Autonomous Provinces and the group of representatives of the local authorities who are members of the CSCLA have to give consent in two separate blocks. Usually, the consent is given in unanimity by the members of these two groups. If there is no unanimity, the consent is given by the majority of the representatives of each of the groups. Therefore, there is a differentiation in the decision-making process between regional and local authorities but not, among the latter, between authorities from urban areas (e.g. metropolitan cities) and rural areas (e.g. mountain towns and communities).

Assessment of the Practice

The rationale behind the establishment of these two conferences is very important, as they are about reinforcing the relations between the national government and local authorities and giving the latter a voice regarding policies that concern them. Thus, it strengthened the position of the local level of government in the multilevel system and gave it the possibility to discuss these policies and their repercussions in a formal framework. However, it must be borne in mind that there in Italy two dimensions of political access and representation, i.e. the formal channels such as the conference system and the direct, (party-)political informal channels.¹⁴⁴ The system of intergovernmental relations is therefore not as coherent as a purely formal perspective might suggest.¹⁴⁵

In spite of their potential crucial role, the conferences are often criticized as being limited to discussing relatively minor technical issues instead of big policy issues and as being imbalanced in terms of decision-making power. It is indeed true, especially, that the role of the local authorities is, in comparison to the national government, quite a limited one. This is underlined by the fact that the Prime Minister chairs both conferences and sets the agenda. Furthermore, the agreements and opinions of the conferences are not binding. Therefore, although there is the formal collaboration between government levels, these opinions are in fact often ignored by the national government. There are of course some decisions which require not only consultation with local authorities but also their agreement, even if constitutional jurisprudence has defined this requirement on a case-by-case basis in very different ways. Arguably even more problematic is the fact that there is no mechanism for verifying

¹⁴⁴ Statement by Silvia Bolgherini, Senior Researcher, Institute for Comparative Federalism, Eurac Research, Bolzano/Bozen (LoGov Country Workshop, Structure of Local Government, 23 October 2020).

¹⁴⁵ Statement by Andrea Lippi, Associate Professor, Department of Political Science, University of Florence (LoGov Country Workshop, Structure of Local Government, 23 October 2020).



compliance with what was agreed upon, especially when it comes to implementation.¹⁴⁶ In fact, as some scholars have pointed out, it was only the Covid-19 pandemic which eventually seems to have prompted the national government to take the conference system more seriously.¹⁴⁷ Before that, the latter had after some debates in the end often relied on ‘hard’ instrument such as financial tools and pressure.

From the perspective of the local authorities, a further challenge is within the conference system to speak with one common voice. This is so because experiences especially with metropolitan cities suggest that there is an intense struggle for representation and that medium- and large-sized local governments typically prevail.¹⁴⁸ For this reason, the broad spectrum of different views on specific policies by local governments from urban and rural territories might be not visible. Metropolitan cities have a strong position as they represent 5 out of 14 mayors, even if about 90 per cent of Italian municipalities have less than 3,000 inhabitants. As for the above-mentioned two channels, the political and institutional one, local governments other than metropolitan cities are therefore disadvantaged concerning the institutional channel. As a result, they focus on political contacts with other government levels, through ANCI or outside of it. Due to Italy’s historical legacy of localism, it is not that municipalities are not heard at all, quite often mayors even in appear public and media debates concerning national issues. What is missing is stronger integration through the institutional channel.¹⁴⁹

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¹⁴⁶ Interview with Claudia Tubertini, Associate Professor, Department of Legal Studies, University of Bologna (14 May 2021).

¹⁴⁷ Statement by Andrea Lippi, Associate Professor, Department of Political Science, University of Florence (LoGov Country Workshop, Structure of Local Government, 23 October 2020).

¹⁴⁸ Statement by Silvia Bolgherini, Senior Researcher, Institute for Comparative Federalism, Eurac Research, Bolzano/Bozen (LoGov Country Workshop, Structure of Local Government, 23 October 2020).

¹⁴⁹ Interview with Andrea Lippi, Professor, Department of Political and Social Sciences, University of Florence (10 June 2021).



Palermo F and Wilson A, 'The Multi-Level Dynamics of State Decentralization in Italy' (2014) 12 Comparative European Politics 510

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5.3. The Council of Municipalities of South Tyrol as Facilitator of Local-Subnational Relations

Greta Klotz, *Eurac Research*

Relevance of the Practice

With the Italian constitutional reform of 2001 (Article 123 of the Italian Constitution), it was introduced that each Italian region shall regulate in its statute the activity of a Council of Local Authorities (*Consiglio delle Autonomie Locali – CAL*) as a consultative body between the regions and local authorities. Although the five special regions (Friuli-Venezia Giulia, Sardinia, Sicily, Trentino-South Tyrol and Val d'Aosta) enjoy autonomous competences in the organization and functioning of local authorities and they are, following the decision by the Constitutional Court no 370/2006, not obliged to establish this institution, all of them have set up such an advisory body.

On this legal basis, the Autonomous Province of Bolzano/South Tyrol established in 2003 the Council of Municipalities (hereinafter the Council) which was then reformed in 2010. The Council is based at the South Tyrolean Parliament and issues 'advisory opinions' (*Gutachten/pareri*) on all draft laws and resolutions of the provincial parliament and government concerning the local level: 'The Council is required to express an opinion on draft legislative acts, state ordinances and general administrative acts, where these concern matters in which the relevant functions are wholly or partly assigned or allocated to municipalities, local taxes or local finances'.¹⁵⁰

The Council has a crucial role for representing the positions and assessments of local authorities in the decision-making process at subnational level and it has to speak with one voice.

Description of the Practice

In the respective Law no 4 of 4 February 2010, the Council is defined as 'advisory board' and as 'body of cooperation' between the Autonomous Province and the municipalities.

The Council consists of 17 members (16 ordinary members and the President) which are at the same time also the members of the executive board of the local government association of South Tyrol (*Südtiroler Gemeindeverband/Consorzio dei Comuni*). The Council brings together

¹⁵⁰ Article 6, Provincial Law no 4/2010



political representatives of different municipalities and guarantees also a balance between big and small municipalities and different territories of the Province. Only current or former mayors as well as members of the local executives can be elected as members of the Council. This applies also for the President of the Council. The vast majority of the 17 members is elected by the plenary assembly of all South Tyrolean mayors and only some of them, for instance the members representing the City of Bolzano, are nominated. For a territorial balance, each of the seven *Bezirksgemeinschaften/comunità comprensoriali* (intermediate territorial bodies between the municipalities and Autonomous Province) is entitled to have one member in the Council. The City of Bolzano as capital city of the province has the right to nominate three members. In addition, the municipalities with more than 20,000 inhabitants and the group of municipalities with up to 1,200 inhabitants each send one member.

If population size of more than 10,000 inhabitants is taken as indicator (because only such municipalities can apply for recognition as town), then urban-rural representation is quite balanced. Six out of 17 members are currently from such municipalities. Formally, local authorities from urban areas seem to be overrepresented compared to those from rural areas. The City of Bolzano nominates three members and municipalities with a population of over 20,000 a fourth one, while those with less than 1,200 inhabitants are only represented by one representative. However, most of the Council members elected irrespective of whether they come from an urban or rural municipality (e.g. those from each *Bezirksgemeinschaft/comunità comprensoriale*) are in practice from smaller rural local governments. The latter dominate these elections for demographic reasons. Only seven out of 116 municipalities in South Tyrol have more than 10,000 inhabitants, even though they constitute 43,6 per cent of the total population in the province.

Apart from guaranteeing a balance between big and small municipalities, the composition of the Council has also to respect a balance of the three linguistic groups in South Tyrol: one member has to be from the Ladin language group and four members from the Italian language group. Furthermore, in relation to the number of female mayors and executive members also the representation of women has to be guaranteed in the Council. The election of the members is announced by the President of the South Tyrolean Parliament, who also appoints the members by decree. The Secretary General of the Council is also the Managing Director of the provincial local government association.

As for its tasks and functions, the Council gives its opinion on all drafts of laws and resolutions which concern the local level, although these are not binding opinions. It must provide an opinion within 30 days of being requested by the South Tyrolean Parliament or the provincial government. If the political representatives do not comply with the opinion, the parliament or the government must provide a written justification. Apart from the fact that its opinions may be overruled, it has no right to initiate the process of giving opinions. As the Council may only act upon request, the definition of what constitutes a 'local' issue and thus triggers the consultation mechanisms is a prerogative of the provincial parliament and government. The Council issues positive, negative or conditionally positive opinions. The latter are opinions that



contain comments or proposed changes. In 2018, a total of 84 opinions on draft laws or government resolutions were issued. Almost half (45 out of 84) were positive without conditions, 24 were positive with conditions or comments, four were negative. Apart from this most important function, the Council has the following rights:

- it has legislative initiative with regard to provincial laws concerning local issues;
- the President of the Council can request hearings by the legislative commissions of the provincial parliament;
- it can, with the approval of two thirds of its members, initiate a referendum to abolish a provincial law, except in areas relating to local taxes, finance or the provincial budget.

Assessment of the Practice

The establishment of the Council as institutionalized advisory body can be seen as a huge valorization of the local level of government, as the involvement of the municipalities in the legislative process contributes to the enhancement of local autonomy. Nevertheless, the Council's actual political influence remains limited by its only consultative function. Through the personal union between the Council members and its Secretary with the executive board and the Managing Director of the provincial local government association, both bodies form a unity which further reinforces their central role in vertical relations with the province and horizontally between the municipalities themselves. The provincial local government association would like to enhance the functions of the Council: They propose that a deviation of the Council's opinions should require approval by a qualified majority. Furthermore, they request the presence of the Council President also at the legislative committee discussions which follow the hearing involving the President before this committee.

Recently, however, the Council has been involved in the implementation of the new Law no 18/2017 on the organization of the municipalities including the forms of inter-municipal cooperation.¹⁵¹ It is actively involved and all decisions have to be taken in agreement. In this regard, however, it is stipulated that if there is no agreement between the Council and the provincial government within 60 days, the latter can continue with the implementation. This underlines that the role of the municipalities has been enhanced but they are not (yet) equal partners. It is difficult to assess the effectiveness in comparison with the Councils of Local Authorities (CAL) in other regions. In general, the latter are not seen as having had a major added value.¹⁵² The degree of their involvement depends very much on the regional

¹⁵¹ For more detail on this law and on inter-municipal cooperation in the Autonomous Province of Bolzano/South Tyrol, see report section 4.5. on Inter-municipal Cooperation Based on a Model Agreement: A Top-down Approach in South Tyrol.

¹⁵² Interview with Claudia Tubertini, Associate Professor, Department of Legal Studies, University of Bologna (14 May 2021).



government in office, but according to many studies they are not the places where real consultation takes place. For this purpose, informal political channels are normally preferred.

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5.4. Migration Management as an Intergovernmental Cooperation Instrument in Rural Areas

Caterina Salvo, *Eurac Research*

Relevance of the Practice

Italy, due to its geographical position at the center of the Mediterranean Sea, occupies a strategic location regarding the migratory routes towards Europe. The 2014 so-called ‘refugee crisis’ marked a crucial turning point in the Italian immigration policy regime. Italy was on the front line in hosting the newcomers and, as the first state of arrival accordingly to the Dublin Convention and its modifications, it was responsible for examining the majority of the international protection requests, a condition that placed the reception and legal system in a difficult situation. The number of asylum applications jumped from 25,207 in 2013 to 83,970 in 2015.¹⁵³ The number of requests rose to reach its peak in 2017 with 130,119 applications made.¹⁵⁴ Therefore, migration became an issue of key relevance for all Italian government levels. Migration policies concerning control and management of entries into Italian territory is within the competence of the national government, while asylum seekers’ reception and integration are issues of complex multi-level governance dynamics.

The present practice concerns the role of local governments within this multi-level governance, which in Italy is both vertical and horizontal. Vertical governance, characterized by center-periphery relations, aims at guaranteeing a coordination mechanism between the various levels of government. Horizontal governance, based on the collaboration between public actors and private-sector players, seeks to create an integrated system of services. The overall objective is to design a territorially decentralized reception and integration system (*accoglienza diffusa*) to avoid substantial concentrations of migrants in a few larger urban centers. Empirical evidence has shown that the local level is pivotal in determining not only the implementation but also the formulation and decision-making phases of immigration

¹⁵³ Department for Civil Liberties and Immigration, ‘Quaderno statistico per gli anni 1990 – 2020’ (Ministry of the Interior, undated)

<http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/quaderno_statistico_per_gli_anni_1990_2020.pdf> accessed 9 July 2021.

¹⁵⁴ The number of applications is calculated on the basis of the so-called C3 module of international protection deposited at the local police headquarter (*Questura*). Therefore, the number of arrivals exceed the number of applications: as for 2017, the number of undocumented migrants arrived was 181,436. See Department for Civil Liberties and Immigration, ‘Quaderno statistico per gli anni 1990 – 2020’; Department for Civil Liberties and Immigration, ‘Cruscotto statistico giornaliero’ (Ministry of the Interior, undated)

<http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_31-12-2017.pdf> accessed 9 July 2021.



policies.¹⁵⁵ This is particularly relevant in Italy considering the morphology of its territory: among a total number of 7,954 municipalities 69.85 per cent (5,545) have less than 5,000 inhabitants,¹⁵⁶ and almost all of them are located in inland areas.¹⁵⁷ The Italian multi-level and decentralized migration governance system therefore has significant implications for urban-rural relations.

Description of the Practice

The Italian migrant reception and integration system is organized in such a way that rescue, aid and assistance take place in the so-called ‘hotspot areas’,¹⁵⁸ namely national governmental centers located at the main places of arrival. Those applying for asylum in Italy enter the first phase which takes place in government collective centers called Primary Reception Centers (*Centri di Prima Accoglienza – CPA*). The stay inside the CPA centers corresponds to the time necessary for the asylum application procedure to begin.

The second phase consists of the Reception and Integration System (*Sistema Accoglienza e Integrazione – SAI*). The program, introduced in 2020 with the Decree Law no 130/2020, substitutes the Protection System for Persons with International Protection and Unaccompanied Foreign Minors (SIPROIMI) established in 2018 following the so-called Security Decree (Decree Law no 113/2018 also known as Salvini Decree), which in turn replaced the Protection System for Asylum Seekers and Refugees (SPRAR) in force from 2002 to 2018. The SAI re-established the principles that had inspired the SPRAR: a coordinated and territorially decentralized system of reception and integration and specific measures to promote integration. The SAI can be accessed by both applicants for and beneficiaries of international protection even though organized on two levels of services. The first level is dedicated to applicants for international protection; the second to those who already have been granted international protection entailing additional services focused on fostering integration.

¹⁵⁵ To expand on that point and on the so-called ‘local turn’ in migration and integration policies, see, for instance Peter Scholten and Rinus Penninx, ‘The Multilevel Governance of Immigration and Integration’ in Blanca Garcés-Mascareñas and Rinus Penninx (eds), *Integration Process and Policies in Europe. Contexts, Levels and Actors* (IMISCOE Research Series 2006); Francesca Campomori and Tiziana Caponio, ‘Immigrant Integration Policymaking in Italy: Regional Policies in a Multi-Level Governance Perspective’ (2017) 83 *International Review of Administrative Sciences* 303.

¹⁵⁶ Data from the National Institute for Statistics ISTAT, ‘Annuario Statistico Italiano 2019’ (ISTAT 2019) 3-30 <<https://www.istat.it/it/files/2019/12/Asi-2019.pdf>> accessed 9 July 2021.

¹⁵⁷ Inland areas are also called ‘inner areas’ following the definition made by the National Strategy on Inner Areas – SNAI. For more information on the topic, see the respective website of the Agency for Territorial Cohesion, <<https://www.agenziacoesione.gov.it/strategia-nazionale-aree-interne/?lang=en>>. To the scope of the present research, they can be compared to rural areas, even if the majority of them is located in mountain regions.

¹⁵⁸ By the end of 2015, the operative hotspots were 6: 4 in Sicily (Porto Empedocle, Pozzallo, Trapani, Lampedusa) and 2 in Puglia (Augusta and Taranto).



In the absence of sufficient places within the programs of the two above-mentioned phases of reception and integration (CPA and SAI), the system authorizes the possibility for the prefectures to establish so-called Extraordinary Reception Centers (*Centri Accoglienza Straordinaria* – CAS). CAS are managed directly by the prefecture, the operational arm of the Ministry of the Interior at the local level, and entrusted to private entities. Despite the fact that this is an extraordinary system, CAS centers have become by far the majority of reception facilities over the years.¹⁵⁹ As of January 2021, among the total of 80,097¹⁶⁰ migrants welcomed only 30,049¹⁶¹ have been hosted inside SAI facilities with the remaining being received inside CAS centers (around 62,5 per cent).

One main difference between the two levels of the Italian reception system concerns their management. CPA and CAS centers are administered centrally by the Ministry of the Interior and peripherally by the local prefecture following national government instructions with a top-down approach. As for CAS in particular, while until 2018 the legislation provided (albeit rarely applied) for the involvement of local authorities in the identification of extraordinary centers, this involvement was completely set aside with the security decrees¹⁶² which entailed a centralization and securitization of migration policies.

SAI facilities are initiated by municipalities responding to a ministerial call for project funding following a bottom-up logic. The SAI network is coordinated by the Central Service (*Servizio Centrale*) based in Rome, whose administration is assigned by the Ministry of Interior to the National Association of Italian Municipalities (ANCI) with the operational support of the Cittalia Foundation. Cittalia is the ANCI foundation dedicated to promoting and disseminating the

¹⁵⁹ As of 31 December 2019, there were 5,469 CAS centers located all over the country. See Openpolis, 'I comuni dove vengono offerti più posti nei centri di accoglienza' (*Openpolis*, 9 April 2021) <<https://www.openpolis.it/i-comuni-dove-vengono-offerti-piu-posti-nei-centri-di-accoglienza/>> accessed 2 August 2021.

¹⁶⁰ Department for Civil Liberties and Immigration, 'Cruscotto statistico giornaliero al 31 dicembre 2021' (Ministry of the Interior 2021) <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/sites/default/files/allegati/cruscotto_statistico_giornaliero_31-01-2021.pdf> accessed 9 July 2021.

¹⁶¹ The present number encompasses ordinary beneficiaries, unaccompanied foreign minors and asylum seekers with special needs (mental or physical disorder). 'I numeri della rete SAI. Progetti Territoriali gennaio 2021' (*Sistema Accoglienza Integrazione*, January 2021) <<https://www.retesai.it/i-numeri-dello-sprar/>> accessed 9 July 2021.

¹⁶² Openpolis & Actionaid, 'Centri d'Italia, una mappa dell'accoglienza' (*Openpolis*, 16 March 2021), <<https://www.openpolis.it/esercizi/limportanza-di-un-monitoraggio-dettagliato/>> accessed 9 July 2021. In this regard, it is interesting to note that in October 2016 the Minister of the Interior, following the pressure made by the Italian Association of Municipalities (ANCI), issued a directive concerning the so-called 'safeguard clause' (*clausola di salvaguardia*). Such a clause exempted the municipalities already involved in a SPRAR project (or having formally expressed the intention to do so) from having a CAS center opened on their territory. 'Piano di Ripartizione e Clausola di Salvaguardia' (*Sistema Accoglienza Integrazione*, undated) <<https://www.retesai.it/piano-di-ripartizione-e-clausola-di-salvaguardia/>> accessed 9 July 2021.



culture of welcome, integration and citizenship, contributing to strengthening the role of cities in implementing social inclusion and integration policies.¹⁶³

The municipalities that choose to join the SAI network, as it was also in the previous systems SIPROIMI and SPRAR, outsource the implementation of the project to one or more managing bodies (usually private-sector organizations) and sometimes also involve second-tier local governments. The fact that in the Autonomous Province of Bolzano/South Tyrol the seven *Bezirksgemeinschaften/comunità comprensoriali*, intermediate territorial bodies between the municipalities and autonomous province, were involved in the SPRAR is a case in point.

The emergency nature of the CAS allows, on the one hand, greater flexibility in terms of organization, and, on the other hand, less administrative transparency compared to the SAI model.¹⁶⁴ Such features combined with, on the one hand, the voluntary nature of signing up to SAI projects and, on the other, the possibility for the local prefecture to force the opening of CAS centers, have contributed to a climate of tension between the different levels of government regarding migration and integration management.

The complexity of multi-level migration governance is exacerbated by the above-mentioned multitude of small inland municipalities. These are small in demographic terms but often cover large territories so that access to public services is limited or even problematic. The trend of the depopulation of these areas is complemented by the rationale behind the territorially decentralized reception and integration system to incentivize the settlement of migrants in rural municipalities and not only in cities.¹⁶⁵

¹⁶³ Founded in 2008, the Cittalia Foundation has dealt with environment, institutions and innovation and then focused on welfare and social inclusion; study and research activities, as well as the development of new projects which are devoted to asylum, human rights, immigration, citizenship, social inclusion, social and socio-health policies. For more information, see the Cittalia website, <<https://www.cittalia.it/utility/la-fondazione/chi-siamo/>> accessed 9 July 2021.

¹⁶⁴ In this regard, two recent contributions made by Openpolis are particularly relevant. They offer a comprehensive and updated overview of the CPA/CAS facilities by municipalities. It is the first time that data concerning location, number of centers and migrants hosted in governmental centers at the national level is made publicly available. See Openpolis & Actionaid, 'Centri d'Italia, una mappa dell'accoglienza' (*Openpolis*, 16 March 2021), <<https://www.openpolis.it/esercizi/limportanza-di-un-monitoraggio-dettagliato/>> accessed 9 July 2021; Openpolis, '1 comuni dove vengono offerti più posti nei centri di accoglienza' (*Openpolis*, 9 April 2021) <<https://www.openpolis.it/i-comuni-dove-vengono-offerti-piu-posti-nei-centri-di-accoglienza/>> accessed 2 August 2021.

¹⁶⁵ See, as an example, Martin Hedelund, Doris A Carson, Marco Eimermann and Linda Lundmark, 'Repopulating and Revitalising Rural Sweden? Re-examining Immigration as a Solution to Rural Decline' (2017) 183 *The Geographical Journal* 400; Manfred Perlik and Andrea Membretti, 'Migration by Necessity and by Force to Mountain Areas: An Opportunity for Social Innovation' (2018) 38 *Mountain Research and Development* 250. The recent EU-Horizon 2020 MATILDE three-year project focus specifically on the impact of migration on the local development of rural and mountain regions. For more information, see <<https://matilde-migration.eu/>> accessed 9 July 2021.



Even though the majority of asylum seekers are hosted in large urban areas, a distinction between the two levels of receptions in relation to their territorial distribution is worth to be explored.

Considering the CAS/CPA system, 75,43 per cent¹⁶⁶ of the total available places¹⁶⁷ are located in the so-called ‘pole’, ‘inter-municipal pole’ and ‘belt’, namely those municipalities having inside their territory or the neighboring one all essential services¹⁶⁸. Interestingly, only around 24 per cent of the total CAS/CPA places are located in ‘intermediate’ and ‘peripheral’ or ‘ultra-peripheral’ areas. The center-north has the highest number of facilities, with Emilia Romagna and Toscana leading the way with in each case 55 per cent respectively of their total municipalities hosting a CAS.¹⁶⁹

Looking at the SAI network, the picture is reversed. Official data concerning the SAI territorial distribution are not yet available. However, looking at the distribution in 2017 of the SPRAR facilities which preceded and formed the basis of the SAI system,¹⁷⁰ 20 per cent of southern municipalities, individually or in association, hosted a project as opposed to 9 per cent of those in the north. In fact, with the exception of Trentino-Alto Adige where 39 per cent of the all municipalities were involved in a SPRAR project, the top regions in the ranking are located in the south: Puglia (38 per cent), Calabria (30 per cent), Sicilia (26 per cent) and Molise (21 per cent). The last positions, on the contrary, were occupied by Lombardy (6 per cent), Piedmont (5 per cent), Veneto (5 per cent), Abruzzo (5 per cent), Friuli Venezia Giulia (4 per cent) and Valle d'Aosta (1 per cent).¹⁷¹ Applying the criterion of inner areas, it appears that almost one out of two municipalities belonging to the SPRAR is located in such an area (323 out of 659).¹⁷²

¹⁶⁶ The following data are referred to 2019. See Openpolis & Actionaid, ‘Centri d’Italia, una mappa’.

¹⁶⁷ ‘Available places’ means the full capacity of each center, regardless of whether or not the places are occupied.

¹⁶⁸ The categorization of municipalities in classes (pole, inter-municipal pole, belt, intermediate, peripheral and ultra-peripheral) is the one proposed by the National Strategy on Inner Areas (SNAI). Such classification introduced an interesting novelty feature compared to previous ones because it considers as main feature the accessibility to so-called citizenship rights: primary education, emergency health care services and mobility infrastructures, in particular high-speed railways. The last three classes (intermediate, peripheral and ultra-peripheral) are generally referred to as inner areas.

¹⁶⁹ Data are referred to 2017. See Luca Pacini, Nicolò Marchesini, Monia Giovannetti, ‘L’accoglienza di richiedenti asilo e rifugiati nelle aree interne: una strategia per il rilancio del territorio’ (*Percorsi di secondo welfare*, 25 February 2019) <<https://www.secondowelfare.it/immigrazione-e-accoglienza/accoglienza-nelle-aree-interne-una-strategia-per-il-rilancio-del-territorio.html>> accessed 9 July 2021.

¹⁷⁰ The SIPROIMI system was established in 2018, following the so-called Security Decree (Decree Law no 113/2018) and was replaced by the SAI in 2020. Being short-lived it did not change the overall territorial distribution of the precedent SPRAR system.

¹⁷¹ Claudio Buongiorno Sottoriva and Francesco Longo, ‘Accoglienza: quando la realtà smentisce le narrazioni’ (*lavoce.info*, 16 October 2020), <<https://www.lavoce.info/archives/69965/accoglienza-quando-la-realta-smentisce-le-narrazioni/>> accessed 9 July 2021.

¹⁷² Data are referred to 2017. See Pacini and others, ‘L’accoglienza di richiedenti asilo e rifugiati nelle aree interne’.



Assessment of the Practice

The data clearly shows that, on the one hand, the concentration of the CAS system is in the north, mainly in pole and belt municipalities, and, on the other hand, a greater territorial decentralization of the SPRAR model is witnessed in southern regions, concentrated in inner villages. Looking at this evidence from an urban-rural divide perspective, such an uneven territorial distribution is striking. The reasons that have led to this imbalance between first and second phases of reception and integration are to be found at the local and regional levels. The establishment of inter-municipal cooperation regarding reception and integration is complicated by the voluntary nature of signing up to SAI projects. The limited extent of such cooperation is a general problem but more evident in the north than in the south. Moreover, southern municipalities often cooperate inside the SAI framework to convey public funds and resources into their territory where employment and investment rates are generally low. The consequence is that, overall, poorer municipalities welcome relatively more beneficiaries with fewer services, while richer municipalities host fewer migrants but with higher standards.

What is important to emphasize in relation to the urban-rural divide concerns above all the provision of public services: in the inland areas the access to basic services such as compulsory education, health care and railroad infrastructure, is denied or extremely limited. The challenge to guarantee services to asylum seekers in such places offered occasions to rethink the meaning of inter-municipal cooperation beyond migration management, as SAI resources could be directed towards actions to the benefit of the whole community. An example is 'Small Welcoming Municipalities' (*Piccoli Comuni del Welcome*), an initiative promoted by the Caritas of Benevento with the support of the Sale della Terra Consortium, born from the union of four cooperatives active in the fight against poverty. In the four years of activity, the network has brought together 34 small municipalities in southern and central Italy. The main objective of the network is to foster reciprocity between those who welcome and those who arrive. The intention is to create a new model of welfare capable of empowering the small municipalities to cope with the challenges they are facing. The welcoming of newcomers is seen as a strategy not only to tackle depopulation, rural demographic ageing and environmental degradation but also to rethink the development strategies at the local level. The network supports the strengthening of the SAI System, assistance to fragile fringes of the population, a focus on social agricultural activities and artisanship, overcoming the digital divide, the transition to clean energy and implementation of community-based cooperatives.¹⁷³

In conclusion, the new system of multi-level governance concerning reception and integration which is in place since 2020 has countered the centralization attempts made in 2018 in several respects and gives rise to an increasing role of local governments. First, it involves single municipalities adhering to the SAI, places the local government association ANCI at the heart

¹⁷³ 'Il Manifesto' (*Piccoli Comuni Welcome*, undated) <<https://piccolicomuniwelcome.it/il-manifesto/>> accessed 9 July 2021.



of the SAI network and in some cases even features the participation of second-tier municipalities. Secondly, it harks back to the principles and objectives of the pre-2018 SPRAR system and seeks to achieve steering effects in terms of a territorially decentralized reception and integration so as to avoid the ‘natural’ imbalance in this regard between urban and rural local governments. The varied extent to which such decentralization of centers hosting newcomers actually occurs across Italy’s regions is striking. What is common, however, to local governments in all regions are the need – in spite of certain obstacles – to reap maximum benefits from inter-municipal cooperation and to see reception and integration services for migrants as specific group as a platform to rethink local development and public service provision to each local community as a whole.

References to Scientific and Non-Scientific Publications

Legal Documents:

Decree Law no 113/2018 ‘Urgent Provisions in Matters of International Protection and Immigration’

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— — and Caponio T, ‘Immigrant Integration Policymaking in Italy: Regional Policies in a Multi-Level Governance Perspective’ (2017) 83 *International Review of Administrative Sciences* 303

Openpolis & Actionaid, ‘Centri d’Italia, una mappa dell’accoglienza’ (*Openpolis*, 16 March 2021), <<https://www.openpolis.it/esercizi/limportanza-di-un-monitoraggio-dettagliato/>>

Scholten P and Penninx R, ‘The Multilevel Governance of Immigration and Integration’ in Blanca Garcés-Mascareñas and Rinus Penninx (eds), *Integration Process and Policies in Europe. Contexts, Levels and Actors* (IMISCOE Research Series 2016)



People's Participation in Local Decision-Making



6.1. People's Participation in Local Decision-Making in Italy: An Introduction

Martina Trettel, *Eurac Research*

In recent years, representative democracy has been experiencing a crisis in relation to all levels of government: local, provincial, regional, national and supranational. The most striking evidence of this crisis are the low turnout at the polls and the widespread disinterest in issues linked to society and citizenship. Although it is recognized that the instruments of representative democracy, elections in particular, are still the method that allows modern systems to be governed democratically, a new phenomenon is slowly taking hold: that of 'participatory democracy'.

'Participatory democracy' can be intended as the synthesis of practices, devices and procedures that create ways for citizens to be actively and effectively involved in decision-making processes of public administrations. In other words, these are 'processes or institutions, that are new to a policy issue, policy role, or level of governance, and developed to reimagine and deepen the role of citizens in governance processes by increasing opportunities for participation, deliberation and influence'.¹⁷⁴ The purpose of this innovative policy-making tools is to enhance the legitimacy of political decisions, to improve the quality of democratic policymaking, and, finally, to increase their level of effectiveness.

In recent years, in particular at local level, a growing interest in the instruments of participatory democracy can be witnessed.¹⁷⁵ In line with this tendency, also many Italian municipalities are employing more and more frequently decision-making tools that are intended to involve common citizens in the traditional (representative) decision-making structures. The Italian constitutional structure allows municipalities, even if not explicitly, to adopt regulations that introduce consultative participatory procedures. This has been also confirmed by the Italian Constitutional Court.¹⁷⁶

The Italian Constitution does not contain any explicit reference to participatory democracy and its democratic nature is based on Article 1 (particularly paragraph 2) which regulates the principle of popular sovereignty. The democratic principle is concretely implemented through instruments of representative and direct democracy, explicitly provided for by the constitutional text. Nonetheless, a constitutional connection to participatory democracy can be identified in Article 3 paragraph 2 of the Constitution, which provides for '...(the) effective

¹⁷⁴ Stephen Elstub and Oliver Escobar 'Defining and Typologising Democratic Innovations' in Stephen Elstub and Oliver Escobar (eds), *Handbook of Democratic Innovation and Governance* (Edward Elgar 2019).

¹⁷⁵ Birte Gundelach, Patricia Buser and Daniel Kübler, 'Deliberative Democracy in Local Governance. The Impact of Institutional Design on Legitimacy' (2017) 43 *Local Government Studies* 218.

¹⁷⁶ Constitutional Court, Judgement no 379/2004; Constitutional Court, Judgement no 235/2018.



participation of all workers in the political, economic and social organization of the Country'.¹⁷⁷ In addition, Article 118 paragraph 4 of the Constitution stipulates that 'State, Regions, metropolitan Cities, Provinces and Municipalities encourage the autonomous initiative of citizens, individuals and associates, for the conduct of general interest activities, based upon the principle of subsidiarity'. This is the principle of horizontal subsidiarity that paves the way for forms of collaboration between citizens and administrations as part of the management of material and concrete activities, rather than the development of general legislative acts.¹⁷⁸

With particular regard to the local system, the ways in which citizens can participate in decision-making processes are, to one extent, traditional instruments of representative democracy, in particular elections of the local council, and that of direct democracy, like consultative referenda; on the other hand, municipalities can adopt regulations for promoting the participation of citizens in local decision-making, as stated by Article 8 of the Consolidated Law on Local Authorities.¹⁷⁹ This norm represents the legislative translation of Article 3(2) of the Constitution. The provision stipulates that the municipalities must promote organizations of participation in the local administration, by way of the introduction in their statutes of 'forms of consultation of the population as well as procedures for the admission of requests, petitions and proposals of individual or associated citizens aimed at promoting interventions for the best protection of collective interests'. The Consolidated Law on Local Authorities is the source that underpins formal legitimacy and the extent of the municipal regulatory competence in terms of adoption of institutes of participatory democracy.

According to Valastro,¹⁸⁰ about a third of the Italian municipalities have equipped themselves, over time, with one or more regulations that in various ways regulate participatory democracy procedures. Looking at the ca. 8,000 Italian municipalities almost 3,000 regulations can be identified: a rather high number if we consider that the first ones have begun to be approved at the beginning of the 1980s. With regard to the geographical distribution, the regulations are spread all over the country with a prevalence to be identified in the northeastern regions that are characterized by a high density of municipalities.

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¹⁷⁷ Pier Luigi Zampetti, 'L'art. 3 della Costituzione e il nuovo concetto di democrazia partecipativa' in *Studi per il ventesimo anniversario dell'assemblea costituente* (vol 2, Vallecchi 1969).

¹⁷⁸ Francesco ME Emmanuele, 'La sfida della sussidiarietà ed il nuovo assetto istituzionale' (2006) 4 *Federalismi.it*.

¹⁷⁹ Italian Legislative Decree no 276/2000.

¹⁸⁰ Alessandra Valastro, 'La democrazia partecipativa alla prova dei territori: tendenze e prospettive dei regolamenti comunali' (2016) 3 *Osservatorio sulle fonti* 1.



Emmanuele FME, 'La sfida della sussidiarietà ed il nuovo assetto istituzionale' (2006) 4 Federalismi.it

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6.2. Participatory Budgeting in Italy: The Case of the Municipality of Mals

Martina Trettel, *Eurac Research*

Relevance of the Practice

Participatory Budgeting (PB) is currently one of the most used instruments of what has been described as ‘participatory democracy’.¹⁸¹ In the last ten years a massive employment of PB has been witnessed globally, especially at the local level.¹⁸² PB started in the City of Porto Alegre (Brazil) in 1989¹⁸³ and can be briefly described as a democratic process in which community members decide how to spend part of a public budget through consensual and deliberative approaches towards decision-making.¹⁸⁴

As in many other parts of the world, also in many local entities in Italy, PB has been practiced.¹⁸⁵ Even if the Italian local practices of PB show similarities and commonalities in the way in which they are conceived and designed for allowing the participation of non-elected citizens in the allocation of public finances,¹⁸⁶ each experience is unique since they take place in very specific

¹⁸¹ Stephen Elstub, ‘Deliberative and Participatory Democracy’ in André Bächtiger, John S Dryzek, Jane J Mansbridge and Mark Warren (eds), *The Oxford Handbook of Deliberative Democracy* (Oxford University Press 2018).

¹⁸² Yves Sintomer, Carstberg Herzberg, Anja Röcke and Giovanni Allegretti, ‘Transnational Models of Citizen Participation. The Case of Participatory Budgeting’ (2012) 8 *Journal of Public Deliberation*; Brian Wampler, ‘Participatory Budgeting. Core Principles and Key Impacts’ (2012) 8 *Journal of Public Deliberation*; Brian Wampler and Janette Hartz-Karp, ‘Participatory Budgeting. Diffusion and Outcomes Across the World’ (2012) 8 *Journal of Public Deliberation*; Public Policy Institute for Wales, ‘Participatory Budgeting: An Evidence Review’ (2017).

¹⁸³ Santos Boaventura de Sousa, ‘Participatory Budgeting in Porto Alegre. Toward a Redistributive Democracy’ (1998) 26 *Politics society* 461.

¹⁸⁴ Brian Wampler, ‘A Guide to Participatory Budgeting’ (2000)

<http://www.partizipation.at/fileadmin/media_data/Downloads/themen/A_guide_to_PB.pdf>; Ernesto Ganuza and Francisco Francés, ‘The Deliberative Turn in Participation. The Problem of Inclusion and Deliberative Opportunities in Participatory Budgeting’ (2012) 4 *European Political Science Review* 283; Anja Röcke, *Framing Citizen Participation. Participatory Budgeting in France, Germany and the United Kingdom* (Palgrave Macmillan 2014).

¹⁸⁵ Matteo Bassoli, ‘Participatory Budgeting in Italy. An Analysis of (Almost Democratic) Participatory Governance Arrangements’ (2012) 36 *International Journal of Urban and Regional Research* 1183.

¹⁸⁶ Valter Canafoglia, ‘Cicli procedurali dei Bilanci Partecipativi: alcuni esempi italiani’ in Umberto Allegretti (ed), *Esperienze e prospettive in Italia e in Europa* (Firenze University Press 2010).



(cultural, social, economic, political, geographical, etc.) environments with different preexisting conditions.¹⁸⁷

In South Tyrol, the experience of the municipality of Mals/Malles is particularly interesting in many respects. Mals has to face issues related to the urban-rural divide given that it is located in a remote mountainous area. The municipality only has ca. 5,000 inhabitants but it spreads over a huge territory of 250 km². This gives rise to big issues when it comes to involving citizens with instruments of participatory democracy. Furthermore, the current local administration has paid particular attention to the involvement of citizens through democratic innovations in the last years, that is also demonstrated by the fact that the regulation of the municipality includes an entire section on citizens participation.¹⁸⁸

Description of the Practice

The process of PB in Mals foresees that each citizen has the chance to submit proposals (maximum three) on how to allocate a specific portion of the budget (decided by the municipality on a yearly basis). The process has a yearly cycle that starts in September of each year. In the first phases, citizens advance proposals of projects to be implemented with the reserved resources. These proposals are then presented to fellow residents in dedicated assemblies organized by the municipality. Once the proposals are submitted and presented, the municipality checks the project's legal, technical and financial feasibility in collaboration with a council of 15 randomly selected citizens. If a project or proposal is not feasible for one of these reasons, this must be indicated and justified. The projects that are admissible are published and put to an online vote. The projects are ranked and those getting the most votes are then implemented, until reaching the limit of the available resources.

As an example, under the 2016 PB (for 2017) citizens submitted 33 projects, out of which 10 were voted as 'the best projects'. The 200,000 euros available that year allowed to finance all of them: nine projects have been implemented in 2017 and one in 2018.

As regulated by the municipality, further specific rules of PB in Mals are the following:

- any number of citizens can support a proposal. Members of the city council and the city committee are not allowed to submit proposals;
- proposals may concern investments in the municipality and savings in the municipal budget;

¹⁸⁷ Jelizaveta Krenjova and Ringa Raudla, 'Participatory Budgeting at the Local Level: Challenges and Opportunities for New Democracies' (2013) 14 *Halduskultuur – Administrative Culture* 18.

¹⁸⁸ Elisabeth Alber and Martina Trettel, *Partizipation und partizipative Demokratie in der Europaregion Tirol-Südtirol-Trentino. Denkanstöße und Beispiele* (EURAC Research 2015); Elisabeth Alber, Alice Engl and Günther Pallaver (eds), *Politika 2018. Südtiroler Jahrbuch für Politik* (Raetia 2018).



- if two or more proposals have the same purpose, they will be brought together after consultation with the participants;
- a proposal can only be submitted by one individual, but can be supported by other people with signatures;
- proposals from associations and interest groups are not allowed;
- anonymous suggestions and ideas will not be accepted;
- the submission of project proposals does not entail any legal obligation for the municipality of Mals;
- legal feasibility: The municipality of Mals must be responsible for this type of investment or activity; Financial feasibility: It must be possible to finance the proposal within the limits of the funds available but not yet committed for each year; Technical feasibility: The proposal must be technically feasible with a reasonable effort.

Assessment of the Practice

Generally speaking, participatory budgeting has filled a vacuum in an era when intermediate bodies such as churches, trade unions and parties have decreasing significance, which results in polarization between the municipality as political institution, on the one hand, and the individual, on the other. Participatory budgeting is a mechanism to link the two by involving people in local decision-making and in this respect the process is actually at least as important as the result.¹⁸⁹ In the case of the PB in Mals this main objective of involving citizens in the formation of the budget has clearly been achieved. As in any other (face-to-face) practice of the so-called participatory democracy, the direct involvement concerns (especially in the first years) a small percentage of the entire population; however, in a small (and rural) municipality such as Mals, it is easier to involve a larger percentage of citizens given the limited number of inhabitants that facilitates the spread and exchange of information. As the PB process relied on self-selected participation, which is more prone to an imbalanced representation of opinions, it would be interesting how this issue was dealt with.¹⁹⁰ After all, inclusiveness, i.e. the capacity of a participatory process to give voice to a plurality of opinions in order to enhance a decision's legitimacy (also in the eyes of those not involved) is a key indicator for the assessment of any attempt to involve the local population in policy-making. As some observers pointed out, the practice has achieved in addition to participation also the aim of evaluating local policy-making in general and thus to reinforce the legitimacy of the local administration as the core of representative democracy.¹⁹¹

¹⁸⁹ Interview with Gianfranco Pomatto, Researcher, IRES Piedmont (15 June 2021).

¹⁹⁰ Statement by Gianfranco Pomatto, Researcher, IRES Piedmont (LoGov Country Workshop, Public Participation in Local Decision-Making, 19 March 2021).

¹⁹¹ Interview with Fulvio Cortese, Director, Faculty of Law, University of Trento (23 June 2021).



Despite this specific aspect, there is evidence that the most voted ideas proposed by the citizens in the context of PB have been then translated into concrete actions by the local administration. Therefore, it is possible to affirm that the practice has been successful. Next to issues of implementation, it is a general limitation of participatory budgeting in many cases that it is more suited for immediate decisions than medium- or long-term choices and that these decisions often are not integrated into broader visions for the territory, thus entailing a certain risk of fragmentation and incoherence.¹⁹²

In general, we must be aware of the fact that PB processes often strongly depend on the political will of the municipality (especially its mayor). Hence, a change of the dominant political force can lead to the interruption of a practice of participatory democracy, such as the PB. This is an inherent limit of democratic innovations. Mals, however, went a step further by introducing in the regulation of the municipality (*Statuto comunale*) an explicit reference to the PB. This gives to this instrument a legal guarantee that the future local administration will not be able to simply ignore this instrument, even if there is no direct sanction for not using this new policymaking tool.

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6.3. District Laboratories (*laboratori di quartiere*) in the City of Bologna

Martina Trettel, *Eurac Research*

Relevance of the Practice

The district laboratories (*laboratori di quartiere*) are an initiative of the City of Bologna, started in 2017 and continued each year thereafter. Bologna is a medium-sized city, with 389,009 inhabitants and a density of 2419,87 people per km², and it is the capital city of the Region Emilia-Romagna which strongly promotes participatory instruments and policies. This is demonstrated by the fact that in 2010 the region adopted an organic law on civic engagement in local and regional policymaking¹⁹³ which was recently reformed in 2018.

In this participation-friendly environment, Bologna represents an interesting example because it shows a way in which large urban local governments can still manage – despite their size – to involve citizens in local decision-making. It also has to be noted that the City of Bologna, in line with the Region in which it is situated, has a long tradition of cooperative movements, and in the field of public debate and civic participation it has developed a long series of initiatives and shared actions. In the last 15 years Bologna has tried to devise innovative policies for co-designing urban development and taking care of common goods together with citizens.¹⁹⁴

Description of the Practice

Bologna established in 2005 the Urban Innovation Foundation (previously called Urban Centre Bologna) with the purpose of connecting citizens and policymakers in an efficient and sustainable way. In the framework of the activities of the foundation, the Civic Imagination Office (*Ufficio immaginazione civica*), in particular, operates as a development and research laboratory and connects the resources, choices and projects of the administration with the needs and capabilities of citizens and communities.

The main tool through which this office operates are the district laboratories that started in 2017. These are organized and managed by the Governance Unit, the city Districts, and the University of Bologna. They are intended as spaces of interaction among public servants of the

¹⁹³ Marco Ciancaglini, 'Tra democrazia partecipativa e concertazione. La legge regionale 3/2010 dell'Emilia-Romagna' (2011) 2 *Le Istituzioni del Federalismo* 215.

¹⁹⁴ Michele d'Alena, Simona Beolchi and Stefania Paolazzi, 'Civic Imagination Office as a Platform to Design a Collaborative City' (ServDes2018. Service Design Proof of Concept Conference, Milan, June 2018).



City of Bologna and organized and non-organized groups of citizens. The aim is to activate and manage participatory processes in order to map, listen, consult, co-design, report and measure what is happening in the neighborhoods of Bologna.¹⁹⁵

District labs are intended to be permanent. In fact, as stated by one of the project creators Michele d'Alena in an interview: 'At the beginning of every year we design the team, with the resources, and then we go to the neighborhood to involve the community and enterprises. We can build up social capital, we can learn new instruments, we can learn with the people how we can do better, and we know every year much more about the city'.¹⁹⁶

Concretely, the district labs are organized over three different phases, repeated every year.

First, the Civic Imagination Office sets out the strategic guidelines and selects the neighborhoods in which labs should be activated, as they take place every year in different neighborhoods. Secondly, the Office meets the relevant stakeholders of each neighborhood in order to collaboratively identify problems, priorities, available resources and consequently design the framework for the development of each district public space. In a third and final phase, the Office opens the process to all citizens, through the implementation of community engagement initiatives, among others offline and online meetings, performances, neighborhoods walks, bike rides etc., mainly in order to attract the attention of the public to the participatory activities. Furthermore, workshops open to all citizens are organized through the Open Space method to give to all participants the opportunity to advance proposals on how to improve life in the district and discuss these together with the relevant stakeholders and people responsible in the administration (see image). Once all the proposals have been advanced, and project ideas are finally shaped, all residents can vote through a ballot for one winning project in each district. The latter will then be implemented during the year.

Assessment of the Practice

To some extent the district labs are similar to other practices included in this report. It has been pointed out, for example, that they can be seen as an evolution of the regulations on common goods.¹⁹⁷ Moreover, the district labs are in a way also similar to practices of participatory budgeting, as the municipality's administration devotes some resources to the organization of deliberative gatherings where citizens together with other relevant stakeholders decide which project should be activated in order to improve the life quality of the neighborhood. However, the district labs are something that reaches beyond participatory budgeting by creating a permanent participatory initiative in the different districts, where citizens can meet with

¹⁹⁵ *ibid.*

¹⁹⁶ See Rob Hopkins, 'Bologna, the City with a "Civic Imagination Office"' (*resilience*, 7 March 2019) <<https://www.resilience.org/stories/2019-03-07/bologna-the-city-with-a-civic-imagination-office/>>.

¹⁹⁷ Interview with anonymous expert, Faculty of Law, University of Trento (29 June 2021).



different purposes, through the above-mentioned community engagement initiatives, and not only with the aim of identifying specific projects. As for the Open Space method, it is key to know how solutions were elaborated and evaluated during these meetings. This is because the capacity of problem-solving, i.e. the extent to which the outcomes of the participatory processes are both effective in addressing the problem at hand and implementable for the administration, is a crucial indicator for the success or failure of mechanisms involving local populations.¹⁹⁸

As for the concrete outcomes, it can be said that the district labs produced a number of tangible positive results which are reflected in innovative projects each year and extensive participation. As for the numbers of citizens involved, more than 2,000 took part in the workshops in 2017 and more than 2,500 in 2018. Importantly, the district labs also drew attention to and provided answers for certain non-material needs and they also worked in a way as a recruitment mechanism by collecting competences that the local administration did not have.¹⁹⁹

The practice can be positively assessed not only by looking at numbers but also given the fact that the district labs have become a permanent part of the municipality's policymaking structure by redefining the relation between the local administration and citizens. Rather than being only passive information receivers, the latter can be active players able to promote change and innovative solutions for their city.²⁰⁰

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6.4. Regulations on Common Goods

Martina Trettel, *Eurac Research*

Relevance of the Practice

Regulations of Italian municipalities on the shared administration of public goods are for at least two reasons an important example for local participation. The first one concerns the way in which a prototype of this local regulation concerning common goods has been developed by researchers and made accessible to all Italian municipalities. The second one is the large number of municipalities that decided to adopt it and make extensive use of the possibilities that were made available. As a result, the regulation gave rise to many local practices that spread quickly all-around Italy (in both urban and local areas). Hence, this represents an interesting pathway with regard to citizens' participation in Italian local entities that cannot be ignored.

Description of the Practice

In 2014 the Association Labsus (*Laboratorio per la sussidiarietà*) elaborated a prototype regulation on the collaboration between citizens and the public administration on activities aiming at the care for and regeneration of common goods.²⁰¹ Labsus aimed at realizing in practice the so-called 'principle of horizontal subsidiarity' contained in Article 118(4) 4 of the Italian Constitution which states the following: 'The State, regions, metropolitan cities, provinces and municipalities shall promote the autonomous initiatives of citizens, both as individuals and as members of associations, in carrying out activities of general interest, on the basis of the principle of subsidiarity'. This principle was introduced by the constitutional reform of 2001, recognizing that citizens can act for the common good and instructing institutions to actively support and encourage such efforts.

Labsus developed the 'Regulation on the Shared Administration of Common Goods' as an application of the principle of subsidiarity and foresees that public administrations should support citizens in the development of autonomous initiatives aiming towards the collective interest. The Regulation acts as a general framework in which citizens, individually or organized

²⁰¹ Common goods are natural and cultural resources accessible to all members of a society. They are called this way because they are not owned privately but held in common. Some typical examples include community gardening, urban farms on rooftops and cultural spaces. See Marco Bombardelli, 'La cura dei beni comuni come via di uscita dalla crisi' in Marco Bombardelli (ed), *Nuove risorse e nuovi modelli di amministrazione* (University of Trento 2016); Fulvio Cortese, 'What are Common Goods (beni comuni)? Pictures from the Italian Debate' (2017) *Revista da Faculdade de Direito* 121.



in groups, can submit project proposals (through a specific form available online) to be developed on a spontaneous basis with voluntary effort of the parties involved, making competences, resources and energy available to the collective good. Such projects are disciplined by the Regulation through a series of specific agreements, called Collaborations Pacts, in which both the citizens and the public administration agree on the terms of their cooperation. The commons in this regulation are intended as material spaces as public squares, green areas or schools, but also immaterial commons, such as education and social inclusion and digital commons like applications and digital alphabetization.²⁰²

The value of this pioneering regulation has been to attempt to provide a legal framework for projects promoting the commons that were taking place spontaneously in the city, often outside if not even in contrast to the existing regulations. In fact, collective cleaning of public spaces, paintings of murals or creation of street furniture have become frequent valuable initiatives thanks to the legal clarity in which they can take place.

Assessment of the Practice

The regulation was adopted in 2014 by the City of Bologna as a first experiment. After the positive experience of this municipality, many others followed this example and adopted the regulation in order to create a framework in which citizens and local administrators can cooperate for the management of common goods. At the time of writing, 217 municipalities adopted the regulation.²⁰³ Furthermore, it has to be noted that many metropolitan cities adopted it (i.e. Torino, Bologna, Bari, Milan, Reggio Calabria). That makes this figure even more impressive, as in these big cities a high number of citizens can benefit. On the other hand, however, also smaller and rural municipalities have adopted the regulation. Examples are Ala and Lavis in the mountainous north of Italy, each with less than 10,000 inhabitants, or the island municipality Isola del Giglio with as few as 1,400 inhabitants.

Of course, as some observers highlight, the conceptualization of what actually is a common good is not so straightforward and definitions have in fact been quite different in different local contexts. But this challenge can arguably be turned into a strength by not trying to achieve one uniform definition and rather leaving the conceptualization of common goods to the local population.²⁰⁴ This is in line, more generally, with the adaptability of the framework regulation to the local needs, generating as many possibilities for citizens' collaboration with the local administration as the number of cities that introduced the regulation in their local structure.

²⁰² Daniela Patti, 'Regulating the Urban Commons – What We Can Learn from Italian Experiences' (*cooperative city magazine*, 21 November 2017) <<https://cooperativecity.org/2017/11/21/urban-commons-learning-from-italy/>>.

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²⁰⁴ Interview with anonymous expert, Faculty of Law, University of Trento (29 June 2021).



Given the widespread circulation in the country, as well as its adaptability and actual adaptation to the needs and specific circumstances of many different local governments, both urban and rural, the regulation is widely seen as a success. Overall, this has enabled people in many different local contexts to engage in a co-design experiment creating solutions tailored to individual circumstances and, importantly, to do so without being represented in institutions or even associations.²⁰⁵

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