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Territorial government reforms at the time of financial crisis: the dawn of metropolitan cities in Italy

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ABSTRACT

On 1 January 2015 a new institution, the metropolitan city, took its place among the Italian territorial authorities. Despite its incorporation in the Italian Constitution since 2001, the metropolitan city became a reality only when the national government carried out a process of reform and transformation of Italian territorial government by transforming 10 large cities into metropolitan cities and depriving other intermediate governments (regions and provinces) of their fundamental competences. This article critically reviews the activation of metropolitan cities and the reshuffle of Italian territorial authorities. It stresses the way in which this reform marks the shift towards a new phase of Italian regionalism, which is dominated both by a dynamic of recentralizing intergovernmental relations and by the resulting loss for provincial and regional governments.

KEYWORDS Metropolitan cities; territorial government; regionalism; intermediate local authorities; Italian Constitutional Court

1. Introduction

The struggle between localism and centralism is a key factor in understanding Italy's history; it is also a good framework for the analysis of contemporary Italian institutions. Attempts to reorganize Italian localism have a long history. After the unification in 1860, the king of Italy introduced a strong central government and created a well-established network of decentralized ministerial bodies (*Prefetture*) devoted to the control of cities and territories (Putnam *et al.*, 1994). This system was characterized by the simultaneous presence, at the territorial level, of both state bodies and local authorities (*Comune* and *Provincia*) operating in the same fields; however, the latter were not granted the power of self-governance (Castelli, 2013). In 1948 the Republican Constitution established a clear separation from any previous system, by

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Albeit its unitary conception, Erik Longo drafted Sections 1, 2, 3, 4, and 4.1 while Giuseppe Mobilio drafted the other Sections.

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introducing the principle of the recognition and promotion of territorial government among the fundamental tenets of the new constitutional order, at the same time establishing respect for the principle of decentralization on the part of the state (Article 5). The Constitution defined the shape of what we now call a 'multi-level polity' with two intermediate institutions between local and state levels: provinces and regions.

Today, more than 150 years after unification, and with local authorities having different constitutional status, the enactment of a new state law on territorial government represents an issue that Italians must handle with care. Indeed, new rules on territorial autonomies introduce conflicts not only among cities, but also between each local authority and the central state.

The latest example of reform intended to herald a significant shift in the regulation of Italian local government is Law No. 56 of 2014, also known as 'Legge Delrio' (hereinafter the *Delrio Act*, after the name of the Undersecretary of State to the Presidency of the Council of Ministers that promoted the bill), which was passed by the Italian parliament in April 2014. The *Delrio Act* contains a general reform of provinces and municipalities, in each aspect of their organization and powers, and innovatively introduces 'metropolitan cities' as a new tier of government, as we will elucidate in this article.

The enactment of the *Delrio Act* marks the culmination of a controversial political campaign and much-debated passage of the bill through parliament. The whole story of this reform began with the political and economic crisis that struck the Eurozone in 2008 and reached its peak in Italy during 2011. The crisis brought to light the need to reform and shrink territorial government in order to cut state budgets and implement the European policy of austerity (Groppi *et al.*, 2013).

Parliament came to grips with these issues with the *Delrio Act* and adopted a more comprehensive plan to overhaul the intermediate local authorities. The new act focuses on two main points. First, it transforms the territories of the 10 most important provinces of the country (Rome, Milan, Naples, Turin, Genoa, Bologna, Florence, Venice, Bari and Reggio Calabria) into metropolitan cities with special powers. Second, it reforms all the remaining provinces by reducing the representativeness of their councils and by depriving them of many functions. All these aspects will be explored further in the article.

In March 2015, ruling on a controversy between state and regions on the above-mentioned rules, the Italian Constitutional Court upheld the *Delrio Act* (decision No. 50 of 2015). The Court ruled as groundless the various objections raised by four regions challenging the provisions regarding the powers and elections of provinces and metropolitan cities. The decision was certainly one of the most significant judgements on local government in Italy, as it substantially endorsed the reform of second-tier authorities (Salerno and Fabrizzi, 2014).

In light of these developments, the purpose of this article is to contribute to the European debate on intermediate local authorities by discussing the

introduction of metropolitan cities in Italy. We wonder if and how the introduction of these new institutions will be capable of leading Italian decentralization towards a new and as yet undiscovered phase.

Our discussion starts with an overview of the reform and provides a synopsis of the Delrio Act; next we analyse the Italian attempts to make institutional reforms of local institutions over the last 20 years in order to understand the path and reasons for the recent reforms. We then consider the so-called European dimension of metropolitan cities as a new phase in Italian decentralization. Our discussion culminates in the understanding of the judgement of the Italian Constitutional Court on metropolitan cities.

2. The activation of metropolitan cities

The Delrio Act lacks the formal attributes of a statute. Due to the controversial situation during the approval of the bill, parliament chose a particular technique in its drafting of this law, which is composed of only one article and 151 paragraphs. Consequently, the text is very strange and all but incoherent. This is because it lacks the usual canonical features of a statute, which is made up of sections, articles and then paragraphs.

Even if it is not organized into homogeneous parts, the law can be divided into two main sections. The first (paragraphs 5 to 50) concerns the organization, competences and other rules regarding metropolitan cities, while the second (paragraphs 51 to 156) contains rules governing other local authorities, namely provinces, unifications (*unioni di comuni*) and mergers of municipalities (*fusioni di comuni*). The essential idea is that, with this novel system, local authorities will be organized according to the principles of 'subsidiarity', 'differentiation' and 'suitability', as set out in Article 1, paragraph 1, of the law, as well as in Article 118 of the Constitution. According to these three principles, the local authority which is entrusted with an administrative function should be the one closest to the citizens, and only if it does not have the structure to carry out the service should the function be attributed to a higher territorial level (subsidiarity); the distribution must bear in mind the factual reality of territorial institutions and distinguish between institutions according to their capacity of government (differentiation); an organization should be suited to ensuring the effective exercise of the competence (suitability).

The first part of the Delrio Act defines the organization, competences and principles guiding the activity of metropolitan cities. According to the law, from 1 January 2015, the territories of the provinces of Rome, Milan, Naples, Turin, Genoa, Bologna, Florence, Venice and Bari were transformed into metropolitan cities. By May 2016, all the metropolitan cities considered by the Delrio Act had been instituted, except Reggio Calabria.

The Delrio Act strictly defines the number of metropolitan cities. Therefore, only the law has the power to institute a new metropolitan city, with a

corresponding parliamentary change to the Delrio Act. For this reason, the state has been accused of having a centralistic approach, also because local populations or municipalities cannot exercise the right of initiative to create a new metropolitan city.

Regarding the identification of metropolitan cities, the legislature seems to have followed an arbitrary criterion of choice, without referring to clear spatial or demographic parameters. The selection has also been criticized as unreasonable, since each area is very different, either in dimension, population or economic productivity (Salerno, 2014).

As a consequence, the metropolitan city absorbs all the municipalities, as well as the territories, of the former provinces. Therefore, the Delrio Act tightens the borders of new metropolitan cities, impeding the easy change of the perimeter created by the law. The impracticality of an easy way to change their boundaries is considered a real obstacle for the promotion of local development and flexibility of the new institution. It would have been better for the legislature to modify the territory of metropolitan cities in accordance with the socio-economic features of territories—which are now different from a century ago when the provinces were instituted.

According to paragraph 44 of the law, the metropolitan cities retain all the fundamental powers that the Italian Constitution and legislation used to yield to the provinces, i.e. powers concerning the so-called *wide-area* (agriculture, environment, maintenance of school facilities, tourism, etc.). Innovatively, the Delrio Act sets out a list of six new competences:

- the adoption of a three-year strategic plan for the metropolitan territory;
- general urban planning;
- coordination and network of public services;
- local infrastructures;
- economic and social development; and
- promotion and coordination of Information and Communications Technology (ICT) infrastructures.

The government has tried to correct this centralistic approach by granting metropolitan cities a certain margin of autonomy. Each metropolitan city has the power to adopt the *Charter of Autonomy (Statuto di autonomia)* and the possibility of integrating the rules of the Delrio Act regarding the organization of the new authority, the governance, the competences of the organs and relations with the other municipalities of the area.

Moreover, the Delrio Act introduces important changes to governance arrangements for intermediate local government in Italy. Each metropolitan city has a mayor (*sindaco*), a council (*consiglio*) and a committee (*conferenza*), all tagged with the adjective 'metropolitan'.

The mayor of the metropolitan city is by law the mayor of the biggest city in that territory (e.g. the 'mayor of Florence' is also the 'metropolitan mayor of Florence'). The mayor has extensive powers, which are defined both in the Delrio Act and in every Charter of Autonomy—e.g. the duty to represent the metropolitan city and to control the administration.

The council has both the power to define the strategy of the metropolitan city and to prepare the Charter of Autonomy. The number of councillors varies according to the population of each metropolitan city (from 24 for the most-populated to 14 for the least-populated). Councillors are not directly elected by residents in the territory of the metropolitan city; they are elected from among the mayors and members of the local councils.

Exceptionally the Delrio Act allows the Charter of Autonomy to opt for the direct election of the metropolitan mayor and council by residents. This possibility produces heavy consequences for the metropolitan city, like the duty of carving up the metropolitan territory into multiple boroughs with a wide margin of autonomy. Only the Charters of Autonomy of Milan, Rome and Naples opted for this kind of election.

The committee is a residual board carrying out some of the functions once wielded by the provincial council—e.g. the capacity to adopt the Charter of Autonomy and to express guidelines to the benefit of the metropolitan council and mayor. For this reason, the committee is considerably weaker and carries little weight in the metropolitan structure of government. Members of the committee are automatically the mayors of each municipality in the territory of the metropolitan city.

The Delrio Act lays down a new regulation for all the other provinces that are not transformed in metropolitan cities. According to the law, metropolitan cities and all the other provinces have similarities, but also many differences. As regards the similarities, the provinces have their own Charter of Autonomy for integrating the rules of the Delrio Act. They also have a council (*consiglio provinciale*), a president (*presidente di provincia*) and an assembly (*assemblea dei sindaci*). The provincial councils are not elected from among the residents, but from among mayors and municipal councillors, as is the case with the metropolitan councils. The president of the province, unlike those of metropolitan cities, is a mayor of a municipality inside the province, freely elected by mayors and municipal councillors (paragraphs 58–60). The assemblies are composed of all mayors of the municipalities in the territory of the province, as are the metropolitan committees.

On the other hand, the provinces lose many of the competences they had in the past, and so differ from metropolitan cities, which gain many functions. In fact, the competences covered by the provinces now include only urban coordination, transport and maintenance of schools. All the other functions that the provinces exercised in the past are to be transferred by central government and regions to the metropolitan cities, but also to the municipalities

and only if required to ensure unitary practice to the regions, pursuant to the principle of 'subsidiarity', 'differentiation' and 'suitability'.

3. The long journey of metropolitan cities in Italy

As in 1990 and 2000, the Delrio Act provided parliament with a simplification of the intergovernmental system through the abolition, merger and integration of territorial authorities into new larger institutions. The expected outcome of this reform is not just a reduction and better coordination of local and intermediate government, but also a way of implementing the new dogmas of European integration, namely development from the bottom, simplification, innovation and a reduction in public expenditure (Loughlin, 2000).

Thus, the Delrio Act represents a significant reshuffling in the Italian levels of government. Since the Constitution of 1948, there have been four levels of government in Italy: national, regional, provincial and municipal (Baccetti, 2011). The Italian Republic operates within a system of unitary sovereignty, in which the regions are political entities created to devolve a part of the legislative power to a level closer to the population. In addition, territorial authorities are considered independent of each other, but all are dependent on the national government that has the power to direct and control affairs, to allocate budget and designate responsibility. In brief Italy's subnational levels consisted of 15 ordinary regions (*Regioni a statuto ordinario*), 5 regions with special status (*Regioni a statuto speciale*), 110 provinces (*Province*) and over 8000 municipalities (*Comuni*). Provinces form the intermediate level of local government, and, with the municipalities, they constitute the territorial government system. Provinces are administrative units with different demographic and territorial profiles. They present a highly fragmented picture, marked by the tendency to be very small.

While the importance and necessity of having strong territorial government has been the aim of every Italian government since the Second World War, the implementation of the regions in 1970, with the first election of regional councillors, questioned the role of the provinces (Evans and Rizzi, 1978). As a result, they suffered political decline between the 1960s and the 1980s, squeezed between the increasing role of regions and the importance of municipalities.

It was not until the 1990s, when the political system found itself in a deep crisis, that parliament passed a series of laws devoted to beginning a process of reorganization and devolution of powers to intermediate and local levels. In this phase, the reappraisal of the role of the provinces was conducted in a threefold manner. Firstly, they were granted new general competences in some fields (agriculture, roads, school facilities, tourism, etc.). Secondly, central government introduced the direct election of mayors and provincial

presidents in order to enhance local government stability, efficiency and performance (Rolla, 1992; Spence, 1993; Magre and Bertrana, 2007). Thirdly, innovations and modernization occurred in administration and self-regulation at the intermediate and local level. Laws separated and distinguished between powers of bureaucracy and politicians, recognized statutory autonomy, and transformed territorial administration according to the principles of transparency, accountability and efficiency (Mattarella, 2010).

As often occurred in the past, the starting point of Italian reforms coincided with a moment of radical international changes. Italy's loss of economic competitiveness and the 1992–1993 crisis (when Italy, Spain and the UK abandoned the European Monetary System), as well as the birth of the Maastricht system and the resulting changes in the economic policies of the European states (Dyson and Featherstone, 1999), pushed governments to propose measures to cut 'red tape' together with a strong reform of political processes.

Likewise, in the course of the political and institutional crisis of the early 1990s, local levels were able to anticipate certain trends in the rest of the institutional system. Their ability to change was a consistent consequence of the law that provided for the direct election of mayors in two rounds of voting—a system in which only the first two candidates proceeded to the second ballot, the winning coalition being rewarded with a 'bonus' (Dente, 1997).

At such a critical point, Europe, local levels and civil society were assumed to be a 'sound part' of a new course for Italian democracy (Lippi, 2011). The request for a reduction of the general government debt, the good results of the election law reform, the crisis of old political parties and the consequences of these issues for the transformation of political parties persuaded the decision-makers to increase the devolution of powers, favouring a brisk, yet gradual, decentralization (Bull and Rhodes, 1997). In this way, the decentralization programme totally reflected the political climate: an entirely different approach from the traditionally institutional arrangements of the Western world (mainly the transformation of the 'Napoleonic' arrangements of the Italian administration).

As in other European countries during the last part of the twentieth century, the revival of the decentralization process brought a reshaping of the relationship between the state and local government, establishing a new organization and framework of competences. During that period, Italy witnessed important institutional reforms granting more powers to regional governments. Thus, Italy started a quasi-federalist programme, which led it to becoming a strongly regionalized and would-be federal nation (Caretti and Tarli Barbieri, 2007).

At the beginning of the 2000s, Italy reformed Title V of the Constitution devoted to the regions, provinces and municipalities. Even the constitutional reform of the Italian unitary state was the outcome of a fortunate combination of a threefold pressure, one from above (Europe), another from below (local

levels) and another from civil society (Fabbrini and Brunazzo, 2003). The reform introduced several important transformations into the architecture of regional and local levels in the Constitution. Article 114 of the Constitution now lists the entities that *compose* the Republic, starting from the level closest to citizens, i.e. the municipality. The level between municipalities and regions includes, along with provinces, also metropolitan cities. Therefore, the metropolitan cities share with provinces the same position in the description of the levels of government. Whereas the provinces gradually and progressively became the authority with competences for governing functions over a wide-area, metropolitan cities served as a way of reinforcing the role of big cities in the light of social, demographic and economic assumptions.

Unfortunately, the implementation of the constitutional reform of 2001 was hindered by the political stalemate that affected Italy during the period 2001–2013 (Caravita, 2013). Indeed, after the general elections of 2001 the winning centre-right coalition decided to put obstacles in the way of the process of implementation of the constitutional reform made in 2001. The centre-right coalition boasted about devolution—like the mantra of the Lega Nord—but practised centralization. Therefore, after a period of strong momentum for local authorities and a dominant pro-decentralization approach in the 1990s, a trend reversal (centralization) occurred 10 years later.

Even metropolitan cities suffered this stalling in the enactment of constitutional reform. The government failed to activate the new entity, and metropolitan cities remained only on paper.

An understanding of this drift towards recentralization it is not easy. Even before the explosion of the economic crisis, the need to cut the budget hindered every measure devoted to giving power and responsibility to provincial and regional level as implied in the constitutional reform of 2001. Financial obligations required by the Maastricht Treaty accentuated the state powers established in the amended Articles 117 (on the distribution of legislative power to state and regions), 118 (on the allocation of administrative functions) and 119 (on the financial autonomy of territorial authorities) of the Constitution.

Under the umbrella of austerity and the consequent resource cuts this entailed, many other measures have affected local governments (Mangiameli, 2013). The most stringent and pervasive reform has been that of Articles 81 (on budget law), 97 (on administrative organization) and 119 of the Constitution made by the constitutional Law No. 1 of 2012, which added that all local governments are required to maintain a balanced budget (Fabbrini, 2013).

Interpreters have considered these acts as the most important example of the reintroduction of the features of a centralized system. Through normative acts, the state has constitutionally invaded the spaces of self-government granted to local authorities and imposed more constraining non-negotiable institutional arrangements on them (Groppi *et al.*, 2013).

4. Constitutional issues in the regulation of metropolitan cities

The Italian Constitution provides for the presence of an intermediate level of government between regional and local authorities. The powers of intermediate government depend on both constitutional rules and legislation developed in the 1990s and 2000s (Vandelli, 2012). As territorial government rests on constitutional foundations, the reform of intermediate authorities is a tricky constitutional matter since it affects the strategies and equilibrium of the whole structure of the Republic. Territorial government is not just the lower level of the nation, but also a constitutive part of the constitutional design.

Article 5 of the Constitution introduces the principle of both recognition and promotion of local and intermediate government among the fundamental principles of the new constitutional order, and establishes respect for the principle of decentralization on the part of the central state.

While the introduction in the Constitution in 2001 established the metropolitan city, the devolution of powers to this new entity and the reform of the provinces faced the resistance and inertia of the most involved subjects —on one side, the regions, which considered these new territorial authorities as a ‘dangerous competitor’ and, on the other, the neighbouring municipalities, which feared the likely hegemony of the bigger city against them.

However, as mentioned above, when the economic crisis reached its peak, and the entire Italian institutional set-up of local self-government was considered to be most responsible for the deficit, the reform of provinces could no longer be delayed. On 6 December 2011 the government passed a first decree-law to consolidate public finances as part of a plan to cut public spending by around €13 billion —including measures to “reduce the operating costs of national authorities, the National Council for the Economy and Labour, independent authorities and the provinces” (Article 23). The decree-law was converted by parliament, but several regions challenged its provisions on local government, alleging the violation of some articles of the Constitution. The Constitutional Court struck down the rules on the provinces insofar as the government had failed to comply with the constitutional requirement of “extraordinary circumstances of necessity and urgency”, which are constitutionally necessary when adopting decree-laws (decision No. 220 of 2013). The government also approved several decree-laws to introduce metropolitan cities (decree-laws Nos. 138 and 201 of 2011), but these attempts did not achieve the objective; only the Delrio Act succeeded in realizing the process of reorganization.

However, this gave rise to strong opposition to and criticism of, on one side, the relationship between metropolitan cities and the upper levels of government and, on the other, between the metropolitan cities and municipalities (Salerno and Fabrizzi, 2014). Commentators have considered the entire

reform in breach of the Constitution since the transformation of intermediate local government should have been enacted through a constitutional amendment in order to be valid. Whereas, the government put the cart before the horse, proposing the adoption of an act that anticipated a future constitutional reform. The Italian parliament has approved a complex constitutional reform, which will come into force if the Italian people vote in favour in next autumn's referendum. The constitutional reform aims to change Italian bicameralism and the relationship between the state and territorial authorities. This reform pursues a simplification of the geography of territorial authorities by removing references to provinces from the Constitution. If the proposal is successful, the metropolitan city will remain the only wide-area authority mentioned by the Constitution and so the only strong interlocutor with the regions and municipalities. Other entities will follow a different destiny: provinces will only survive as ruled by the Delrio Act, without the recognition of autonomy offered by the Constitution; municipalities will be entitled merely to constitute unifications (*unioni di comuni*) in order to deal with some mutual issues.

4.1. The relationship between metropolitan cities and upper levels of government

The Delrio Act represented a real change with many implications for relationships between both the state and regions with metropolitan cities. To appreciate this point, it is necessary to go into greater depth in order to understand the precise degree of autonomy wielded by metropolitan cities.

The increased power of metropolitan cities within the Delrio Act is clearly the fruit of compromise. The distribution of powers has not been revolutionized with respect to the provinces, although the reform has provided new momentum to a flourishing of wide-area powers, giving the metropolitan cities the aspect of paramount engines of local economic systems (30% of the Italian population live in metropolitan cities, and they produce 35% of the Italian GDP (OECD, 2013). However, like most of the reforms undertaken in Europe in recent years, the Delrio Act was also implemented largely for economic reasons. The decrease in human, financial and material resources is the core of this statute and the main source of issues. For this reason, the idea has been advanced that the newly established institution risks becoming a weak rung on the ladder of multi-level governance because of the enforcement of the 'Stability and Growth Pact' at the local level, which every year sets limits to financial balance items and controls local indebtedness (Vesperini, 2014).

In addition, the regions see metropolitan cities as having intruded between their role and that of local authorities. In the regional context, metropolitan cities constitute a problem since the new authority is 'stronger' than a

province. Only 10 provinces were transformed into metropolitan cities and although metropolitan cities and provinces share a similar structure of government—as noted above—they differ as regards competences: metropolitan cities are stronger on the economic and demographic side. And this is without considering that metropolitan cities will remain the only wide-area authorities established directly in the Constitution if the ‘yes’ vote in the constitutional referendum succeeds.

However, competition between regions and metropolitan cities is still in progress, and is easily tangible in the current reshuffle of administrative competences. The Delrio Act, in fact, assigns the duty to cooperate in the design of a new distribution of those competences to national government and regional executives. The regions have delayed this activity, eventually holding back numerous functions, such as the environment, agriculture, tourism, to which wide-area institutions would be entitled.

4.2. The relationship between metropolitan cities and municipalities

The analysis of the relationship between metropolitan cities and municipalities offers a more comprehensive assessment of the role played by the intermediate level within the multi-level government system designed by the Italian Constitution. As for the relationships between provinces and municipalities, these have tended to be continuing and dynamic, marked to some extent by cooperation. But is it the same now in those areas where metropolitan cities have been established?

To answer this question, we first need to recall the differences of governance between new metropolitan cities and the ‘old’ provinces before the Delrio Act reformed all of them and substituted the 10 most important with metropolitan cities. The Delrio Act gives metropolitan cities not only important competences for the governance of the wide-area, but also a lighter legal and political status than the ‘old’ provinces. Indeed, before the Delrio Act reformed their structures, the provinces were governed by three bodies: the provincial council and the president, both directly elected by residents, and the *Giunta Provinciale*, a kind of cabinet made up of a varying number of officers known as *assessori* and chaired by the president. Comparisons between metropolitan cities and ‘old’ provinces reveal that the former has simpler government machinery and structure of government.

As things stand, we have to consider that the Delrio Act abolished ‘old’ provincial bodies, which were elected directly by residents, and replaced them with the bodies of metropolitan cities, with new forms of institutional representation.

In fact, the figure of the metropolitan mayor coincides with the mayor of the biggest city in that territory and only mayors of each municipality and municipal councillors are eligible to vote for metropolitan cities’ councillors

(with the exception of the cities that opted for the direct election of mayor and councillors by residents in their Charter of Autonomy). Thus, the reform introduces assemblies (councils) representing not the local franchise but the supra-communal interest of the municipalities included in the metropolitan territory as the principal institutions of local self-government. This means that members of metropolitan city councils represent their governing boards of municipal institutions. The Delrio Act definitively sees metropolitan bodies as a derivative of municipal self-government.

In accordance with the relationship with municipalities, metropolitan cities can act either as political entities or as authorities at the service of municipalities (a sort of 'mentor'). They work to implement strategies and collaboration among municipalities, and build public services at the infra-regional level (a new institutional structure for both governing fragmented urban areas and finding the right scale of government at the 'meso' level).

Each solution provides some risk because remaining a political entity, as was the 'old' province, could lead to a return to the previous framework. At the same time, the transformation in a smart and light wide-area institution is likely to expose metropolitan cities to becoming a larger but less incisive unification of municipalities.

This framework sparked a debate regarding the non-democratic character of the metropolitan city, and there have been accusations of a betrayal of the spirit of Italian decentralization, which is founded on the principle of representative democracy. The direct election of executives was considered an essential element of legitimacy for the local authority, whereas the picture that emerges in the Act diverges from that of other local levels and from the Italian tradition.

Even if much is delegated to the rules set out in the Charter of Autonomy, the Delrio Act ultimately tends to consider the metropolitan city as an authority without political legitimacy, with functions of coordination and strategy for the wide-area. This means that the metropolitan city does not act as the direct administration working to achieve general objectives; it is essentially a level of government that acts on the basis of strategic tasks. Thus, the replacement of direct elections with automatic appointments and indirect elections brings about a gross transformation of intermediate local authorities since metropolitan institutions are hardly accountable to the electorate.

Beyond the discourse over functions, the gap between the local electoral space and the metropolitan policy area is likely to face increasing criticism. Governance of metropolitan cities can result in a democratic dilemma because system effectiveness secured through the involvement of municipalities tends to bypass democracy in terms of citizen participation. In future, metropolitan policies will gain visibility and importance, and so the problem of distance from the citizen will increase. In parallel, mayors of small municipalities belonging to a metropolitan city will have progressively

more and more difficulty in basing their election campaigns on issues for which their own responsibility is neither independent nor important. If such a gap emerges, it will indicate that voting in the bigger city would be more 'effective' in comparison to voting for the other mayors and councils. Finally, these trends will also affect the metropolitan city and its capacity to cooperate with other levels and create functional networks to offer public services and programme local transformation.

5. The role of metropolitan cities at EU level

As mentioned above when considering the evolution of metropolitan cities, Italian governments since 2011 have put the reform of territorial authorities at the top of their agenda. Transformations occurred in statehood as a consequence of internal and external factors, such as the economic crisis, the development of new technologies, the crisis in the welfare state and European integration. However, it was still deemed necessary to establish metropolitan authorities as a new form of wide-area governance in highly urbanized areas. Thus, metropolitan cities are mostly the product of a top-down approach characteristic of a new trend directed towards achieving efficient government of localities as a consequence of the evolution driven by Europeanization. This process has changed the intra-governmental dynamics in Italy, intensifying the role of central government, which tends to occupy a stronger position than regional and provincial governments (Swenden and Bolleyer, 2014).

These arguments should, however, be compared with the reality of the influence of EU regulation on local authorities. The European dimension affects the transition from traditional to new local government arrangements and the change in the decision-making process of regional and local authorities (Jones and Keating, 1995).

5.1. A new 'form' of local government

It is a certainty that the EU affects not only states but also territorial government (Callanan, 2011). As the European integration process accelerated, subnational bodies became more and more involved in EU matters (Hooghe and Marks, 2001). Two narratives can be used to summarize these developments. First, the creation of a policy-making body, with consistent legal powers to override decisions of nation-states, also has relevant implications for subnational authorities. Second, subnational institutions affect the EU political process through their everyday interactions with other levels of government, their role as a conduit of information on EU affairs and their responsibility for implementing EU policies. After the Single European Act in 1986 in particular, many European legislations began to directly influence local and regional governments (John, 1996).

The EU has transformed politics and policies within member states, giving itself powers in many areas formerly covered only by states, and it has created a different background for the exercise of political power and authority. Although it is difficult to completely map out the direction of change produced by European membership, and local authorities do not formally have a voice at EU level, supranational changes have deeply affected local government mostly through the influence on domestic politics (Keating, 2008; Tatham, 2014; Keating *et al.*, 2015). Three principles have particularly marked these effects.

The *first* is the subsidiarity principle. This was introduced formally at the EU level with the Maastricht Treaty, and thereby has penetrated into the juridical order of member states, producing a revitalization of the constitutional position of subnational government. The development of this principle has led to the creation of the 'Committee of the Regions and Local Authorities'. After the Lisbon Treaty of 2009 this institution increased its authority and gained more relevant powers which were not merely consultative and symbolic (Tatham, 2014).

The *second* principle is that of pluralism. The EU has contributed not just through institutional transformations. Rather, EU institutions and policies transferred philosophies and working practices in a way that moved local authorities away from hierarchical and old forms of administration towards more negotiated and participated practices that blur the static view of administration and involve a wide range of interest groups (Goldsmith, 2002). Europeanization has produced an increase in pluralism and, in particular, the emergence of a less institutionalized context: a pluralistic melting-pot of public, private, voluntary and community organizations, rather than institution-based policy arenas (Bennington, 1994). Pluralism has affected representation and participation at the local level, reinvigorating subnational democracy (Schobben and Boschma, 2000).

The *third* principle influencing the role of subnational levels in the EU is called multi-level governance. Together with subsidiarity, it has transformed the way institutions cooperate and interact to constitute new forms of politics (Hooghe and Marks, 2001; Swenden, 2006). Multi-level governance helped the emergent role of local authorities and—in the last 10 years—the importance of cities for the evolution of the economy at the European level.

5.2. The funding issue

Two of the main aspects of EU policies that now preoccupy local government are the allocation of funds and respecting the Maastricht economic and financial parameters.

In the context of Italian decentralization, EU funding sustained the transformation of the state during the 1990s. The amount of EU funds and the

complexity of their management required the institutionalization of direct links between institutions of local authorities and those of the EU. This article will not delve into the story of EU cohesion policies and the use of structural funds. However, since the 1980s EU institutions have increasingly spent considerable financial resources on the development of regions and local territories (Hooghe and Keating, 1994). Eligible subnational actors have derived considerable benefit from access to these sources of funding (financial mobilization), allowing them to pursue projects or develop cross-national agreements—albeit always with the leading support of the relevant central governments (Goldsmith, 2002; Bache and Bristow, 2003).

However, the EU is not always good as an investor. The main goal of the austerity measures decided upon in Italy during the last eight years was to comply with EU economic governance agreements and, consequently, to prevent the collapse of Italian public finances. Indeed, in the last 20 years almost every authority in the member states has discovered the ‘oppressive’ nature of European restrictions on debt, such as the ‘Stability Pact’. Over the last five years, under the umbrella of ‘stability’, several innovations have been introduced for local government; in addition, the reform of the intermediate level, discussed here, has mainly been a product of these measures (Bolgherini, 2014).

6. The Delrio Act before the Italian Constitutional Court

As mentioned above, the Italian Constitutional Court has played an important role in moulding decentralization in Italy. In the light of the problems outlined, it is evident that the laws and the process of their implementation are only one part of the way localism is shaped. In this context, one addition is the role of the courts in which Italy is not exceptional. In other legal systems, judicial review also plays an important role since courts can rule on fundamental questions regarding local government (Alder, 2001).

In the recent Italian experience, constitutional judgements have regularly shaped the interpretation of constitutional reforms. Since 2001 the Court has repeatedly justified expanding role of central government at the cost of regions. Furthermore, local authorities have been considered in several judgements, although they cannot be part of litigations before the Italian Constitutional Court since direct access is limited only to the state and regions. Thus, the involvement of local government has been conducted through the voice of the upper level authorities, as in the case decided by the Court in March 2015 about the constitutional status of metropolitan cities (decision No. 50 of 2015).

The Court was faced with a case of alleged unconstitutionality of several provisions of the Delrio Act. Four regions (Lombardy, Veneto, Campania and Apulia) challenged 58 different paragraphs of the Delrio Act before the

Italian Constitutional Court as they were allegedly interfering with regional competences and were therefore violating the constitutional framework; this was with regard to Articles 1 (on popular sovereignty), 5 (on the principles of the Republic's unity and decentralization), 48 (on the right to vote), 114 (on authorities forming the Republic), 117 (on the distribution of legislative power to state and regions) and 133 (on modification of local boundaries) of the Constitution and Article 9 of the European Charter of Local Self-Government. The regions challenged almost every paragraph of the Delrio Act on metropolitan cities and, in particular, those parts relating to the institution and the replacement of the provinces, the metropolitan mayors, councils and committees. The regions asserted that the Delrio Act tended to bend the meaning of the Constitution, shifting the balance of power between state and regional level.

The reasoning of the regions could be regarded as implying three different arguments on this problem.

First, they challenged the state legislative competence used to rule on the institution of metropolitan cities. The regions claimed that the law violated Article 117 of the Constitution since it was not concerned with any of the subjects of exclusive legislative competence reserved to the national government.

Second, even though the state has not modified the boundaries of provinces by replacing the latter with metropolitan cities, the Delrio Act violated the constitutional provisions on the modification of boundaries of local authorities.

Third, the regions challenged the democratic deficit which the provisions on metropolitan cities produced on local self-government. By also giving the office of metropolitan mayor to the mayor of the biggest city, and the entitlement to become members of the metropolitan committee only to the mayors, the Delrio Act is deemed in contrast with the tenets of local self-government, subsidiarity, democracy, as well as decentralization.

The Italian Constitutional Court rejected the arguments of the petitioners and ruled that the national legislature has the power to freely institute and regulate metropolitan cities. Thus, the Delrio Act does not infringe any of those constitutional principles which the regions claimed had been encroached.

Despite the importance of every passage of this decision, only some aspects of it are worth commenting upon. It is therefore necessary to fully understand them prior to considering that access to the Italian Constitutional Court is rather circumscribed. Italian constitutional adjudication differs substantially from Anglo-Saxon judicial review of legislation (Barsotti *et al.*, 2015). First, the Italian Constitutional Court is a constitutionally established, independent branch of the central state whose main purpose is to defend the normative superiority of the Constitution within the juridical order. The

framers of the Constitution established a 'centralized' model of review similar to that introduced in other countries of Continental Europe (Stone Sweet, 2012). Second, there are few avenues to access the Italian Constitutional Court. One is that of Article 127 of the Constitution through which both the national and regional governments may challenge, respectively, a regional or a national law within 60 days of its publication (Groppi, 2008). This, the so-called 'direct review', is the only tool for guaranteeing the constitutional separation of legislative competences between the national and regional governments (Arban, 2015).

The Italian Constitutional Court's ruling in the *Delrio Act* case is made up of two specific arguments.

Firstly, the Court assumes the regulation of metropolitan cities as an area where the state is free to make laws in order to determine the basic organization, powers and functions of these local authorities. In contrast, regions have no right to regulate this matter since they lack the competence to reform local autonomy. Against this background, the state acted under the provision of the separation of legislative powers set out in Article 117 of the Constitution. In this view, the Italian Constitutional Court neglected the thesis of the region whereby they assumed to have the competence to regulate even 'the institution of metropolitan cities'. Commentators found a clear-cut example of a changing attitude of the Italian Constitutional Court towards regionalism in this line of reasoning and, in particular, towards the regions' demands to regulate matters outside their legislative competences. Indeed, this judgement represents a good example of the Italian Constitutional Court's shift from regionally to centrally oriented decisions issued during a time of economic crisis (Groppi *et al.*, 2013).

Secondly, the Court considers it necessary to endorse state efforts to reform local authorities, and, in particular, the introduction of metropolitan cities. The argument of the Italian Constitutional Court delves into the reason behind the reform of second-tier of local authorities that has been highlighted in this passage of the judgement: 'With this law' the Court affirms

the legislature intended to make a significant and systematic reform of all public authorities forming the Republic (Article 114 of the Constitution) in order to simplify the characters of local government, without arriving at the abolition of those established in the Constitution (cfr. § 3.4.2 of the *Conclusions on points of law*).

The Italian Constitutional Court then alluded to two overlapping aspects of this law that we have already highlighted: (1) this law only anticipates a broad, forthcoming constitutional reform of those provisions governing local entities; (2) the complex nature of the provisions of the *Delrio Act* is excusable because it is the outcome of long and difficult political bargaining.

In this sense the argumentation of the Court reveals a hidden intent to ease both the transition from a more centrifugal to a more centripetal division of powers between the state and the regions, and the achievement of an independent constitutional role for metropolitan cities—with minimum interference from the regions. In addition, the Court remembers the pillars of this independence: European relevance, fiscal autonomy and power of self-regulation (with regard to both functions and basic organization).

Based on this reasoning, the Court declines those issues on the boundaries and the structure of local government (mayor, council and committee). State power to regulate metropolitan cities even overrides the international covenants that Italy has signed. Surprisingly, the Italian Constitutional Court invokes the lack of effectiveness of the European Charter of Local Self-Government in Italy in order to exclude both the infringement of this Charter and the necessity for the direct election of metropolitan city members. For the Italian Constitutional Court, the expression ‘freely elected’ in Article 3 of the Charter does not mean ‘directly elected’ since it asks only for the respect of democracy and representativeness in the choosing of local members.

Although a strict interpretation of the ruling leads to the consideration of the result of this decision as relevant only for determining the competence to regulate metropolitan cities, this judgement marks the end of the strong version of the regional state in Italy. To some extent, this would be an attack on the 2001 reform and the difficult implementation of subsidiarity, differentiation and suitability set forth in Article 118 of the Constitution. We must admit that the reasoning and wording of this judgement could very well lead to this type of broad interpretation. The Court states in very general terms that the regulation of local authorities must be uniform for every city, no matter what its size, population, territory, etc. However, state law has not covered everything. The Delrio Act allows the Charter of Autonomy of each metropolitan city to make some choice in order to adapt the regulation to its specific conditions. Evidently, this ‘margin of discretion’ has been considered determinative for upholding the law.

7. Perspectives

In this article, we have argued that the new Italian legislation on metropolitan cities generates a new state-centric dynamic for Italian regionalism. The Delrio Act relies on an ostensibly attractive yet deeply political logic of ‘centralism’, which endorses the superior decision-making capacity of central state over local communities.

The reform introduced by the Delrio Act is wide-ranging and significant, although its precise implementation as yet remains somewhat uncertain. As this article has identified, however, the Delrio Act is only the first part of an overarching constitutional reform that the parliament passed in April 2016

and that will be the object of a constitutional referendum in October 2016. Thus while the law has consistency by itself, the new constitutional rules on local and regional powers are necessary for the complete and correct implementation of the Delrio Act. Indeed, the success of the reform rests on the combination of the bottom-up/voluntary (on the side of the relationship between metropolitan cities and municipalities) and top-down (on the side of the relationship between metropolitan cities and upper levels of government) implementation of the Delrio Act. So, the institutional role of metropolitan cities depends both on the powers they exercise and on the boundaries they have in the exercise of these powers. Although the legislative power is vested in the state and regional levels, implementation has to be pursued primarily at the local level (Mehde, 2006). The dawn of metropolitan cities is clearly an example of a state-centric approach in the reform of intermediate levels of government. However, the success or failure of the reform lies in the effort and the struggle of all territorial authorities and, particularly, in the capacity of lower levels to contribute to the enactment of new regulation.

This clearly makes a strong argument for government to give local authorities the possibility of becoming an 'experimental laboratory' for good practice, by changing their approach, for example, to public administration, delivering services at a lower cost, cutting red tape, simplifying the organization, etc. Such an incentive would be in accordance with the request for innovation and reduction of public expenditure that affects all European member states.

Metropolitan cities, therefore, have the opportunity of playing a central role in good governance and collaboration, by creating new networks at the inter-municipal, national and European levels, integrating metropolitan functions (with the dispositions of the Charter of Autonomy) and adopting a three-year strategic plan. These developments, indeed, involve more complex systems of actors, and different forms of action, based on flexibility, partnership, voluntary participation and, to some extent, competition. Such activity currently lacks the institutional consolidation necessary for the construction of a wide-area steering capacity. Thus, state, regions and the same metropolitan cities need to work together in order to foster the creation of an institutional architecture of cooperation-collaboration (Loughlin, 2013).

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