PART III

Multi-level Governance

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Chapter 5

Key Issues

This chapter introduces key issues for multi-level governance in Italy. These are presented in the context of the relative economic performance among Italian regions and the persistent regional disparities. The chapter discusses the evolution towards increased decentralisation following the recent constitutional reforms. It presents competitiveness and regional development policies in the multi-level governance framework. Finally the chapter also discusses the issues at stake for the liberalisation of local public services in Italy, with past and recent efforts, as well as economic and structural challenges.

Introduction

The 2001 constitutional reform created a new allocation of regulatory competences between the state and the regions. This has implications for the implementation of regulatory reform and liberalisation policies. A multi-level regulatory governance approach will assess tools, policies and institutions for regulatory reform in the interaction between national and local levels for key economic sectors. This chapter takes a specific focus at two economic sectors: commercial distribution and local public transport, where regions have explicit regulatory powers while national economic standards are applicable. The approach will focus on the regulatory framework and its economic outcomes, while further issues related to clustering and innovation, as well as fiscal federalism *per se* fall beyond the scope of this chapter.

A first section will provide an overview of the socio-economic performance across Italian regions as a whole, analysing the interface between the national and regional authorities in designing and implementing regional development policy. Throughout 2000-06, Italy developed an elaborated system of performance indicators, which is outcome-based. A second section will focus on regulatory quality tools and policies, to enhance regulatory co-ordination and coherence across levels of governments, as well as on local cutting red tape initiatives. The issue of local public services is also addressed as it is a key element of liberalisation policies at the local level. Specific chapters follow that focus on:

- *Commercial distribution*: the regulation of this sector, both at national and regional level, involves significant challenges for local development and is also intertwined with urban planning and local development policies. This sector has nationwide implications in terms of inflation, as well as living standards, in a context of rising prices for foods and basic commodities.
- *Local transport in metropolitan areas*: the regulation of this sector involves the monitoring, bidding processes and organisation of local public services. The definition of universal service (*servizi minimi*) at local level as well as the size of catchment areas are key factors. The analysis covers local railways, urban buses, tramways, metro and transport on sea when relevant. The issue of taxis, which is indirectly linked to local public transport, is also discussed.

Economic performance among Italian regions: Large and persistent regional disparities

As noted in Chapter 1, Italy is characterised by a sharp economic divide across regions. While this may be linked to historical and social factors, the gap between *Mezzogiorno* and the northern regions remains, despite a number of policy interventions over the past 50 years (D'Antone, 1996; Cafiero, 2000). In recent years, some of the disparities across regions has tended to persist and even to widen, as the highest economic growth has been experienced in Lazio, where Rome, the capital city, is located.

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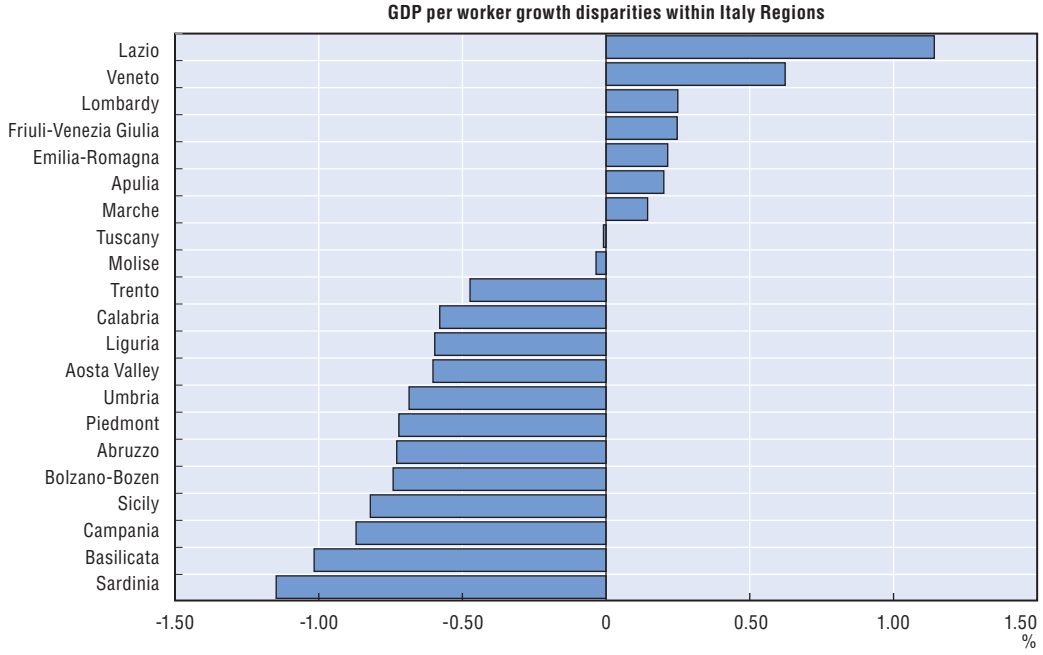
First, these trends take place in the context of an aging population. Italy is now one of the oldest countries in the world, close to Japan. For every 100 Italians aged 15 or under, there are currently 141 citizens aged 65 and over. Istat figures reveal that in 2006 the average Italian woman had 1.35 children. In addition, life expectancy in Italy is one of the highest in Europe, which represents a significant economic and social achievement. The average for Italian women is now 84 years; for men it is 78.3 (Istat, 2008). The aging trends are particularly pronounced in the South, as the most significant decline in population growth over 1995-2005 are all located in the *Mezzogiorno*, except for Liguria (–0.40%). Calabria and Basilicata register the lowest rate with –0.72% and –0.68%, respectively.

Economic disparities have increased across a number of dimensions. According to the 2008 Istat report, there are 88 firms in the south for each 1 000 working age residents (15-64 year old), against 125 in the centre-north. The number of jobs in the private sector is double in the north (545) than in the south (274), although here some dynamic trends such as the job creation rate have been higher in the recent past.

A deeper analysis of labour productivity trends at regional level confirms those trends. The *Mezzogiorno* has recorded negative growth in GDP per worker over 1995-2005. The only exception is Puglia with an increase of +0.19%, even if the Northern regions of Liguria, Piemonte and the Aosta Valley, Bolzano and Trento, as well as Umbria, also experienced a decrease (Figure 5.1).

Figure 5.1. **Productive disparities within Italian regions**

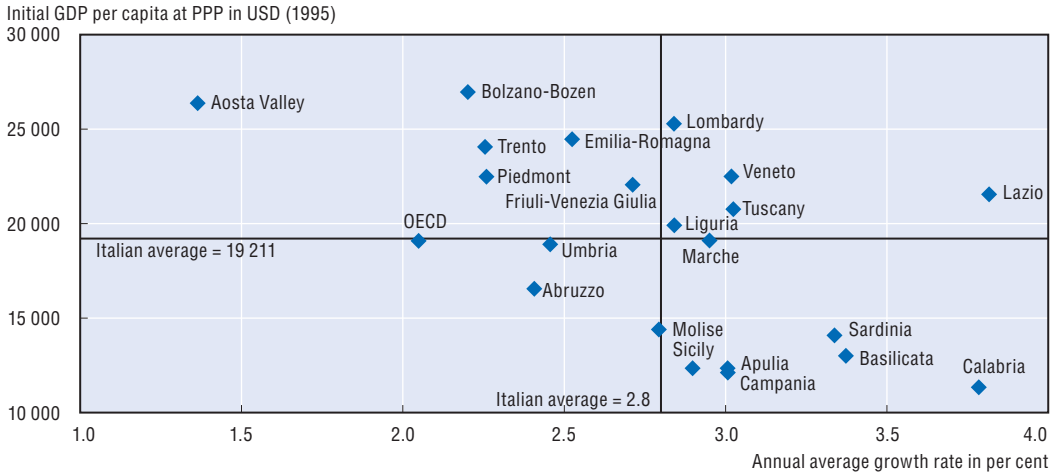


Source: OECD regional database.

An analysis of the relationship between recent growth rates and initial GDP per capita at PPP between 1995 and 2005 offers further insights. While the Italian average is broadly in line with the OECD one (about USD 19 200 per capita), all the northern regions show higher values, whereas in the south only Abruzzo exceeds the USD 15 000 threshold. Symptomatically, centre regions such as Marche, Umbria, and to a lesser extent Tuscany and Lazio position themselves around the average value (Figure 5.2). The 2008 SVIMEZ

report indicates that the *Mezzogiorno* has grown less than the rest of the country for the sixth consecutive year. The GDP per capita of the southern regions represents only 57.5% of the value for the centre-north,[1] and the regions of *Mezzogiorno* remain among the least advantaged in Europe (Centro Studi Confindustria, 2008). Over 1995-2005, Italian regions have recorded higher annual average growth rates than the OECD average. Over that longer period, the regions registering the highest growth rates were a mix of northern and central regions, including Lazio, Veneto, Tuscany and Lombardy, as well as southern regions such as Calabria, Basilicate and Sardegna which were catching up.

Figure 5.2. **Income and growth in Italian regions (1995-2005)**



Source: OECD regional database.

Trends are less favourable over the most recent part of that period, from 1999 to 2005, where Italy as a whole experienced more adverse trends (Figure 5.3). As a result, the Italian average sharply falls below the OECD average over that sub-period. All regions, including the northern ones are falling behind. Only two regions, Lazio in the centre, and Calabria in the south, have kept growing faster than the OECD average, out-performing the other Italian regions by far. Over this more restricted time frame, Sardinia and, to a lesser extent, Sicily and Campania have performed better than the Italian average, as was the case for a set of northern regions, including Veneto, Lombardy, Friuli Venezia Giulia and Tuscany.

Therefore, the overall results remain mixed. Further data on the impact of growth factors on regional performance between 1995 and 2005 would support the view of reduced economic differentials.[2] These results are also visible in terms of employment rates, where over recent years southern regions are performing well: Calabria has recorded a +2.21% to the national rate; Campania +1.15%; and Sicily and Sardinia +1.04% and +0.94%, respectively. By contrast, regions of the centre-north have registered negative rates: Veneto –0.63% and Lombardy and Emilia-Romagna –0.55% each.[3] This evidence suggests that there has been a general increase in the efficiency of the local labour market in the *Mezzogiorno*. However, this has very often occurred in low productivity sectors (ISTAT, 2008). However, some of the figures need to be considered with caution, including the official unemployment figures for the *Mezzogiorno*, where adjusted data, taking account of the informal economy, are likely to be higher, while the centre-north was until recently closer to full employment.[4] The shadow economy concerns anywhere between a fifth and a quarter of the workforce in the south, compared with less than 10% in the rest of Italy.

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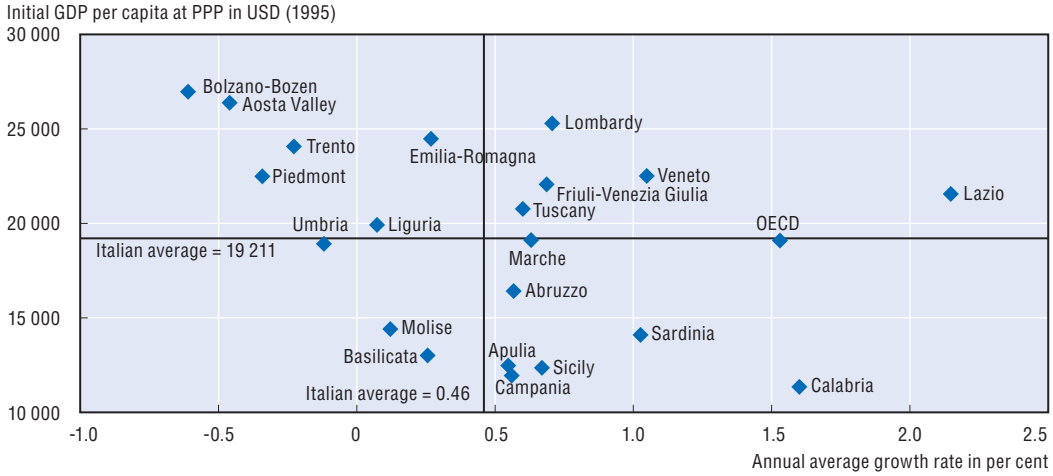
Figure 5.3. **Income and growth in Italian regions (1999-2005)**



Source: OECD regional database.

Agriculture, retail trade and services are the sectors with the highest concentrations in irregular workers.[5]

Multi-level governance in Italy: The evolution towards increased decentralisation

Most OECD countries face the need to manage multi-level arrangements, irrespective of the status of their constitution. The distinction between federal and unitary countries may not fully catch the entire range and variety of institutional contexts. As outlined in a recent OECD study, "the Italian experience is illustrative" (OECD, 2007a). Italy consists of 20 regions, 106 provinces and 8 101 communes. In the past sixty years, the country has experienced various pushes for decentralisation and devolution of competences from the central to the sub-national levels. Although enshrined in the 1948 Constitution, Italian regions were formally established only in 1970. From the beginning of the 1970s, major reforms shaped the relationship between the state and the lower forms of government. By 1972 regions were required to issue their ordinary regional basic laws (*statuti*), and in 1977, competences enshrined in Articles 117 and 118, Para 2 of the Constitution were transferred to the regions.

A significant acceleration of the reform occurred through Laws 59/1997 and 127/1997, which reinforced the principle of "vertical subsidiarity". The powers of the state were explicitly delimited, and non-specified powers were left to regions and local authorities. Among the latter powers were competences and controls on issues related to agriculture, transport and trade, industrial and energy sectors, public investment, community amenities, cultural and historical heritage, education and professional training. Law 59/1997 also provided the framework for the introduction of administrative simplification instruments, such as one-stop shops.

The most significant changes were introduced by the far-reaching reform of Title V of the Constitution in October 2001.[6] Constitutional Law 3/2001 significantly widened the competences and legislative powers of the regions and abolished in principle most direct supervisory controls of one level upon the other (on controls, see below). The reform created a framework for new institutional structures, with budgetary, regulatory and administrative implications (see Box 5.1).

Box 5.1. **The 2001 reform of Title V**

The reform of the Constitution of 2001 formalised the transfer of legislative and regulatory powers from the state to the regions in a wide range of policy areas, most notably in relation to matters of concurrent competences. The key aspects are referred to in the following articles of the Constitution:

Article 114 recognises that the Italian Republic consists of municipalities, provinces, metropolitan cities, regions and the state. All these are autonomous and equivalent entities with their own statutes, powers and functions according to the principles defined by the Constitution.

Article 117 of the Constitution defines the role and the legislative powers between the state and the regions, indicating those matters for which the state has exclusive legislative power and those for which concurrent legislation of both the state and the regions is possible. Compared with the previous text, the new article defines the competences of the state as only related to those matters expressly mentioned in the Constitution, while any other are granted to the regions. As a result, the regions have sufficient power in areas where they have exclusive power, such as agriculture, tourism, retail trade, handcrafts, transportation, professional education, etc. as soon as these activities guarantee the social and civil rights of the population along the country.

Article 118 introduces the subsidiarity principle, according to which all functions are exerted by municipalities, while the possibility remains to confer them to higher levels of governments (metropolitan cities, provinces, regions, central state) to guarantee the uniform implementation of spending functions across the country.

Article 119 relates to the financing of sub-national governments and introduces the possibility for lower levels of government to establish and levy their own taxes and other own revenues in accordance with the Constitution and in co-ordination with the national public finance and tax system. In addition, sub-national governments must be ensured with a sufficient amount of unconditional revenues such as their own taxes or transfers – either in the form of tax sharing arrangements on national revenues or of equalisation transfers – to finance decentralised spending functions.

In general terms, competences have been distributed as follows. In those areas where the existence of 20 different regional laws would seem impractical, competences have been allocated to the concurring competence at the state level. This is the case for instance of transport and navigation networks; energy, foreign trade and R&D. In other matters, competences have been attributed to the exclusive competence of the regions (*e.g.* local development in the industrial, commerce, handicraft and tourist sectors). The State at national level retains legislative powers in matters that have a highly "transversal" nature, such as competition policy, environment and equalisation of financial resources. It also may exercise substitutive powers with respect to regions and local bodies, for example in cases of failure of compliance with EU directives.

As a result, the 2001 reform has favoured the integration of competences among levels of government rather than their strict separation. Article 118 of the Constitution and Article 7 of Law 131/2003 basically overturned the hierarchic levels and attributed to the Republic a "bottom up" structure based on the subsidiarity principle. Such an approach, which implies a strong co-operation[7] among all institutional actors concerned, has generated significant domestic debates. In many instances, questions have emerged

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concerning the competences between the state and the regions, especially in areas where the regions had not adopted regional legislation and the central government provided the regulatory framework. In addition, tensions across the various levels were accentuated by the regions' lack of explicit power to produce legislative instruments, such as decree laws. The silence of the Constitution as to which level should react in cases of urgent and dangerous matters complicated the transition phase.

Remaining issues were addressed through the legislature at national level. Law 131/2003 (the so-called "*Legge La Loggia*")[8] set up the general limits to the legal powers of the state and the regions; delimited the concurrent legal powers between the state and the regions; confirmed the equivalence of explicit and inferred principles; transferred administrative powers to the regions and local authorities; defined the legal power of the local authorities; outlined the status and legal power of the regions in relation to EU legislation and international law; clarified the new competences of the Court of Accounts (*Corte dei Conti*); and integrated the right to appeal to the Constitutional Court.

Clarifying competences and preventing conflicts: the role of the Constitutional Court and conciliation practices

Further to the reform and because of the need for institutional adjustments,[9] the Italian Constitutional Court was called upon to rule on an increasing number of disputes.[10] Case law produced by the Constitutional Court since 2002 has clarified the interpretation of the matters referred to in Article 117. Further contentious points have concerned the function of the Parliament; the role of the Court itself in arbitrating conflicts arising between the state and the regions; the necessity to have a *locus* for institutional and political mediation where such conflicts could be prevented; and the budgetary autonomy of the regions.[11] The suppression of the notion of "principle of national interest" by Constitutional Law 3/2001, led the court to identify possible alternatives.

The interpretation and allocation of matters and competences is a key issue.[12] Overall, the case law produced by the Court between 2002 and 2007 confirmed the exclusive competence of the state in a number of matters, in accordance to Article 117, Para. 2 of the Constitution, pointing out however that the list of matters mentioned there should be considered flexible and not exhaustive. Some of those matters are cross-cutting (*materie trasversali*),[13] notably those covering the protection of competition; but also those related to basic standards of welfare, civil and social rights; the protection of the environment, the ecosystem and the cultural heritage.[14] The application of these matters touches upon the entire policy spectrum (Anzon, 2003; Felici, 2007). In accordance with Article 118, Para. 1 of the Constitution, on the basis of the principles of subsidiarity and adequacy, the legislature could grant administrative powers to the State in exercising its exclusive and concurrent competences.[15] However, the Court made the point that these cross-cutting matters must abide by boundaries and cannot justify any "vertical" intervention of the state in areas of regional competence. The Court indicated when and how the state can legitimately impinge upon regional powers in the exercise of such cross-cutting competences.[16] The criteria set by the Court are that the overlap of regional competences on the state must be: *i*) proportionate; *ii*) "should not be unreasonable after a strict constitutionality check; and *iii*) be agreed with the concerned region. The delimitation of the exact boundaries between the state and the regional laws remains difficult, with a blurred and dynamic interface.

In general terms, the Court confirmed that whenever cross-cutting and concurrent matters are at stake, State legislation shall be limited to determining basic principles.[17]

The State shall set the overall objectives and parameters, with eventual clarifications by lower level regulation, if necessary, provided that regions are adequately involved.[18] The Court justified the State having recourse to decrees in cases where legislative action is urgent, if regions fail to timely intervene with regional norms.[19] As to the allocation of competences, case law has identified the respective powers of the state and the regions in the field of health, territorial governance as well as professions.[20]

Besides the case law of the Court, improved co-ordination mechanisms established between the state and the regions, and conciliation practices by the Regional Affairs Department also help. In fact, the Department for Regional Affairs also launched an alternative dispute settlement system in 2004, to prevent disputes related to the interface between the state and the regional levels. This follows the difficulties experienced following the lack of provisions in the Constitution which would allow forcing regional or state legislatures to comply with signed agreements. The agreements stemming from the resolution system are not binding and rely upon loyal collaboration. The system is triggered on the initiative either of the state or the regions, although it can be solicited by sectoral and professional associations. It can work preventively, *i.e.* before the legal act is adopted, or subsequently, once the law is published and within the deadline of 60 days before a formal challenge is filed with the Constitutional Court. The system has so far been very successful, particularly as a tool for preventing disputes. Initiatives for dispute settlement have mainly been launched by the regions, especially in relation to clarifications on the allocation of competences and on adaptation to existing regional legislation. Ninety per cent of the cases were handled positively. In the second case, the state has been the principal initiator and it has avoided recourse to the Court in 40% of the cases. In only one instance was the outcome resulting from the dispute settlement system not complied with, which gave the state the ground for sue a region in the Court for infringing upon the principle of loyal collaboration. As a result, the level and number of constitutional disputes (*contenzioso*) has significantly decreased in recent years.[21]

Competitiveness and regional development policies in Italy's multi-level governance framework

Background

The distribution of functions and powers between the state and the regions since 2001 has had an impact on the distribution of financial resources across the layers of government. Although the Constitution explicitly states that municipalities, provinces, metropolitan cities and regions enjoy revenue and expenditure autonomy (Article 119), fiscal federalism is still a field in progress on the Italian policy agenda. Policies supporting regional development and economic growth are therefore given particular importance for the economic development in Italy. These policies need to be analysed as they interact with the multi-level regulatory governance framework.

Traditionally, regional policy in Italy has focused on the development of the southern regions, to reduce economic disparities. A central entity, the *Cassa per il Mezzogiorno*, used to devise many of those interventions. In 1998, EU economic and social cohesion policies prompted a radical reform, which resulted in an extension of the targeted areas to less developed areas of the centre-north; the abandon of the centralised system (the *Cassa per il Mezzogiorno* was abolished in 1984) in favour of a multiplicity of institutions, including central ministries and local authorities; a shift from top-down policies to contractual and

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concerted forms of planning; and an increased use of targets as well as co-ordination and monitoring mechanisms. The reform of Title V of the Constitution and the related decentralisation created new challenges and triggered further reform, as a growing number of actors with differentiated agendas and competences needed to be co-ordinated (Brezzi, Raimondo, Utili, 2008). The country's approach to regional development policy relied on new policy delivery mechanisms. The current framework for national territorial development policies is characterised by a two-tiered approach:

- A properly called regional policy, which is specifically aimed at addressing structural socio-economic imbalances across territories. It is financed through additional resources originating both from the EU budget (notably the Structural Funds) and the national budget (the fund of national co-financing to the structural funds and the fund for underdeveloped areas – *Fondo Aree Sottoutilizzate*, FAS).
- An ordinary policy drawing on ordinary financial resources coming from the state budget and addressing broader development objectives that are not related to specific territories.[22]

The link between the two policies is established by the Document for Economic and Financial Programming (*Documento di Programmazione Economica Finanziaria*, DPEF), the National Reform Plan elaborated in the framework of the implementation of the Lisbon Strategy, and the Strategic National Framework (*Quadro Strategico Nazionale*, QSN). The current QSN covers the period 2007-13, and is the document that Italy is required to submit to the European Commission in order to direct the resources that the EU cohesion policy will make available.[23] Worked out after the national and regional governments as well as the autonomous provinces have broadly confronted each other, the NSRF contains important choices aimed at matching cohesion policy with the innovation and competitiveness targets set in the Lisbon Strategy. The NSRF strengthens the endowments earmarked for priorities and interventions consistent with the Lisbon Strategy, thereby reinforcing the link between regional and competitiveness policies. Both regional and ordinary policies are implemented at various levels by the central government, by the regions and by the local authorities.

One of the most important innovations in the field of regional policy is the introduction of a result-oriented approach to planning and expenditures in order to improve efficiency and effectiveness. The reform was prompted by supra-national pressure to introduce performance measurement in Italy and drew heavily from the EU experience. From 2000 onwards, regulatory requirements related to the Structural Funds imposed mechanisms such as the de-commitment rule, the EU performance reserve and the mid-term evaluation process, which all aimed at assessing different aspects of programme performance. Before that, very little performance management had taken place. Committed to improve the quality of the programming process and the effectiveness of public investment, the Italian government complemented the EU initiative over 2000-06 with a separate national performance mechanism.

Co-ordination institutions and mechanisms

The Ministry of Economic Development is the administration responsible for building up the productive system and granting direct financial incentives to firms. The Ministry is also in charge of planning, co-ordinating and monitoring EU cohesion policies and for the implementation of interventions for territorial development, as well as promotion and

regulation of competitiveness and market, communications, international trade and energy policy. The Department for Development Policies (*Dipartimento per le Politiche di Sviluppo*, DPS) provides for the setting, co-ordination, implementation and evaluation of the interventions for development and cohesion in the field of unitary regional, national and EU policies. Furthermore, it performs the supervision of the "National Agency for the Attraction of Investments and the Development of Enterprise" (*Invitalia*) that the Ministry of the Economic Development is responsible for. The DPS is charged with negotiating the programming approach with regions and other competent central ministries. A Technical Unit of Evaluation and Control of Public Investments (*Nucleo tecnico di valutazione e verifica degli investimenti pubblici*) (directly dependent on the Chief of DPS) provides specific evaluation on the conformity of public investment plans with the aims of economic policy, verifies and enforces investment projects of civil services, carries out technical support to the administrations, elaborates and divulges methods of evaluation, in order to optimise the use of EU structural funds.[24]

The Inter-ministerial Committee for Economic Planning (*Comitato Interministeriale Programmazione Economica*, CIPE) The CIPE co-ordinates intervention of the national economic policy and mainly in the underdeveloped areas, elaborates targets for the different sectoral policies, set guidelines to the negotiated planning; defines the guidelines for the administrations which are authorised in the public domain, approves investment plans by earmarking appropriate endowments. Within the CIPE operates the Technical Unit of Project Finance (*Unità Tecnica Finanza di Progetto*, UFP), aimed at increasing the participation of private funds in the building and management of public infrastructure.

With specific reference to EU regional policy and its structural funds, formal co-ordination between the central administrations and the regions exists through the National Committee for the co-ordination and the supervision of unitary regional policy (*Comitato nazionale per il coordinamento e la sorveglianza della politica regionale unitaria*). This Committee is provided for by the NSRF as a tool of governance not only for the European planning, but also for the regional policy taken as a whole.

At the sub-national level, co-ordination and management of EU-related funding is exercised through the Regional Operational Programme (*Programma Operativo Regionale*, POR), which set the strategic guidelines for the use of EU structural funds during a given period. The POR define the development strategy of each region and the priorities and identifies the conditions for economic growth.

The national agency for Inward Investment Promotion and Enterprise Development, *Invitalia* (formerly the *Sviluppo Italia*),[25] supports inward investments in order to boost the economic and productive development and is charged with enhancing Italy's attractiveness for international companies by promoting business opportunities. It acts as the one-stop shop for foreign investors who intend to set up or expand their business by providing support in every phase of their installation process, from the search for the best location to the disbursement of incentives. The core mission of the agency has been recently reformed and re-defined.[26]

Regional development policy instruments

Regional and local authorities may have access to two further particular sources of revenue to address structural imbalances across the territory. The first is an equalisation fund with no allocation constraints, which was envisaged as per Article 119, Para. 3 of the Constitution, and was designed to finance ordinary activities in areas with lower per capita

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taxable capacity. However, it has not been created yet, and is subject to the current government's proposal on fiscal federalism. The second form of financing refers to "additional resources" and "special interventions" (Article 119, Para. 5), which are aimed at promoting economic development and other social cohesion objectives. This second source is the only form of financial transfer with allocation constraints allowed after the 2001 constitutional reform.[27]

In 2003, the "national additional resources" for regional development policies attributed to the Ministry for Economic Development and to the Ministry of Productive Activities were unified and they are now allocated by the CIPE as a joint Fund for Under-utilised Areas (*Fondo per le Aree Sottoutilizzate*, FAS). The FAS was created in order to ensure predictability and to facilitate management according to criteria compatible with those adopted for EU funds. The rules for using FAS resources include (OECD, 2007b).[28]

- Monitoring provisions to ensure respect of expenditure commitments and flexibility in the allocation of funds.
- *Ex ante* evaluation of the effectiveness of public investments in achieving their stated socio-economic objectives.
- A system of bonuses to speed up expenditures and to promote the co-operation of the various actors involved.
- A principle of co-operation among the various levels of government according to which the central government is responsible for elaborating the general strategy of development, regional governments decide on the territorial allocation of resources, and local governments elaborate the concrete design of projects and stipulate alliances with the relevant local actors.

The 166/2008 CIPE decision enforcing the NSRF introduced new formalities in the FAS planning. The key feature of the new regime is the unitary planning of national and EU development funds. In this respect, the Budgetary Laws for 2007 and 2008 allowed for a unitary strategy over a certain number of years (until 2015). Three core objectives have been identified and are the same as those defined for the European cohesion policy: Convergence; Regional competitiveness and employment; and European territorial co-operation. A number of "programmes" are developed to achieve each objective.[29] The unitary approach bears the potential of substantially boosting Italy's development policies.

The Framework Programme Agreement (*Accordo di Programma Quadro*, APQ, is one of the primary multi-level governance instruments for Italian regional development policies. APQs are signed by the interested region, by the Ministry of Economic Development and by one or more central administrations, depending on the nature and the sector of intervention. APQs reflect broad, preliminary agreement reached by the central government and the regions or autonomous provinces on the definition of the objectives, the sectors and the areas where infrastructures essential to territorial development should be built. APQs are therefore the expression of a strong co-operative approach as they are implementation agreements that concretely frame the interaction between the regions, the Ministry of Economic Development and one or more competent central administrations.

The scope of application of APQs has extended. APQs now gather multiple sources of financing, including ordinary resources, national additional resources for the depressed areas, EU funding and private resources. APQs present both an implementation section (*sezione attuativa*) and a programming section (*sezione programmatica*). The latter lists interventions that are in accordance with the general objectives, but for which the required

technical and/or financial conditions are not completely satisfied. Such a two-fold structure allows for quicker programming over time. In any case, APQs indicate for each intervention the actors responsible for the implementation and their tasks as well as the procedures and the actors responsible for monitoring and evaluation of the outcomes.

Each year, the CIPE deliberates on the distribution among regions of the fraction of the FAS destined to the APQ. Broadly, 15% of these funds are allocated to centre-north regions and 85% to southern regions. Funds are then allocated on the basis of three indices: *i)* a size and population index; *ii)* an index expressing the structural problems (inverse of the GDP, unemployment rate, infrastructure deficit); and *iii)* an index expressing the negative factors affecting the region (*e.g.* being an island, or having a particularly small size). Finally, each region selects the sectors for intervention and shares the choice with the competent central administrations and with the DPS. APQs are widely used in all major policy sectors, ranging from natural resources to network infrastructures and industries. The agreements also vary significantly with regard to the complexity of the projects to be implemented.

The introduction and management of performance indicators in Italy

In many OECD countries, regional development crucially contributes to the overall national competitiveness and economic performance. The governance of regional development policy is more efficient if it is linked to a sound system of performance indicators, through a systematic collection of information to measure and monitor the activities of government. Indicators are a useful tool to channel information and incentives, if coupled with realistic quantified targets. They can be used to enhance the effectiveness of decisions regarding policy priorities, strategies and resource allocation. The design and implementation of such a framework is vital to maximise the performance of public actors (see Box 5.2).[30]

Box 5.2. **Indicators for performance-based regional development policy: Lessons from the OECD experience**

In recent years, indicator systems have been implemented both to monitor and to enhance the performance of regional development policies in OECD countries. The design and use of indicators presents however a number of challenges, which relate to the specific characteristics of regional policy, various capacities of stakeholders, data availability issues, as well as the "costs" associated with running the system. Virtuous mechanisms include, among others, engaging stakeholders at all levels of government and at an early stage; launching pilot projects to test systems prior to nationwide implementation; having recourse to external expertise if needed; streamlining procedures to minimise administrative burden; and anticipating and budgeting for training and capacity support.

Indicator systems are most effective if they are integrated in a larger toolkit of good governance. If well implemented, indicator systems can close information gaps, thereby improving the delivery of public policies at different levels of government. Specific good practices are nonetheless linked to a number of key success factors that can be drawn from experience in OECD countries. The factors relate to the following international findings:

- *There is no "optimal" design for performance indicator systems.* The design and use of the system depends heavily on the objectives established for the monitoring system and programme objectives under consideration. Establishing clear objectives from the outset will greatly facilitate indicator selection, choices regarding incentives, and the proper use of information.

Box 5.2. **Indicators for performance-based regional development policy: Lessons from the OECD experience** *(cont.)*

- *The strength of incentives depends on how information will be used and by whom.* Closely linked with the use of indicators, incentives such as explicit rewards, or sanctions, can be a powerful way to encourage effort and improvement. Explicit monetary incentive is nonetheless not a sufficient condition for success.
- *Partnership between central and sub-central levels of government is crucial.* Vertical interactions between institutional levels, as well as horizontal co-operation and peer processes facilitate the attainment of precise objectives, identifying relevant indicators, setting realistic and stretch targets, and devising appropriate incentive mechanisms. Moreover, strong *ex ante* commitment from all levels of government to rigorously assess performance reinforces the effectiveness of rewards and sanctions.
- *The importance of a "holistic" approach.* As regional development policy produces outcomes in the mid- and long-run, orienting an indicator system solely toward those outcomes can produce a deficit of information in the short term. Even when considering outcomes-based indicators, the system should strive to produce information on inputs, processes, and outputs that is relevant for ongoing activities.
- *Indicator systems promote learning.* Developing and using indicator systems provides all stakeholders new information about performance and, capabilities. Regular feedback allows for continuous improvement of both policies and the indicator system itself. Evolution is facilitated if the system is sufficiently flexible to accommodate user feedback.

Source: OECD (2008), "Linking Regions and Central Governments: Indicators for Performance-based Regional Development Policy", 12 June, GOV/TDPC(2008)7.

The national performance reserve scheme of 2000-06

Italy introduced an indicator system linked to regional development policy in 2000, applying to funds related exclusively to regional policies. The "national performance reserve scheme" drew from the instrument devised for the 2000-06 Structural Funds programming period (Ministero dello Sviluppo Economico, 2008). As in the EU case, the Italian performance reserve scheme sought to improve programme management and effective spending. This involved setting aside a reserve of a programme's budget and distributing it only if specific objectives were achieved. Compared with the EU model, the Italian scheme involved an additional 6% of a programme's budget in addition to the 4% of the EU scheme. The national scheme also promoted public administration modernisation. The scope of application of the scheme also changed: while the EU variant applied to all Structural Funds programmes (*i.e.* under Objectives 1, 2 and 3), the national performance reserve applied only to Operational Programmes (OPs) under the CSF Objective 1 regions. Seven regions in the southern part of Italy and seven national administrations were the recipients of such funds. This translated into seven regional OPs and seven national OPs.[31]

The objective of the national programme was to improve the administration's capacity for reform, rationalise decision-making and streamline procedures. It went beyond the strict implementation of Structural Funds. In particular, the specific objectives of the national performance scheme were to:

- Modernise the public administration and diffuse institutional innovation necessary to accelerate and make effective Structural Funds spending decisions.

- Promote reforms in some of the sectors crucial for achieving the CSF development objectives.
- Balance the constraints to rapid Structural Funds spending implicit in the de-commitment rule, by creating incentives to select and organise more complex and higher quality projects.

Related to these objectives, a total of twelve performance indicators applied to the regions and five to the central government. The indicators were selected and their weighting decided through negotiations between the central and regional managing authorities. At the national level, the main actors were the DPS and its evaluation unit (UVAL). The European Commission was also involved in the process. Institutional partners, stakeholders and experts were formally consulted.

However, the 2000-06 national performance reserve faced insufficient capacities at the regional and sub-regional levels (FORMEZ, 2007). Changes in the scheme required regulatory amendments, thus involving political decision making rather than administrative management. Performance depended on political actions that were not always under the control of the authority in charge (*e.g.* adoption of laws by the regional Assembly).

Overall, the experience produced some positive results. Outcomes varied from region to region, but many specific objectives were achieved. In the water distribution sector, for instance, all southern regions now have the adequate normative regulation formally in place. The experience also triggered intense vertical co-ordination between levels of government, notably as far as the definition of indicators and targets. The co-ordination in the assessment and allocation mechanisms of the premium was less evident. The scheme benefited from the systematic involvement of stakeholders. This increased the amount and quality of information to be processed. Experience shows that once indicators and targets were selected, vertical co-ordination with regions continued during implementation.

"The question remains as to whether these results are to be attributed *only* to the initial stimulus given by the national performance reserve mechanism. Some analysts would argue that objectives endorsed by the performance reserve *had* to be reached to enable further policy implementation, for example the Regional Environment Agency had to be created in order to receive funding. But even so, it is difficult to deny the performance reserve its role as a catalyst."[32] Certainly, the scheme contributed to raise the awareness of the need for certain skills and competences among the administrative staff, and prompted the regions to endorse the objective of implementing incentive mechanisms. Transparency and accountability have been enhanced and are now explicitly part of regional policy making.

The publication every two years of monitoring reports prepared by the regions and submitted to the Technical Group also helped maintain momentum. Setting up a Technical Group was decisive in securing the overall credibility of the scheme. Its reports offered a platform for dialogue and common understanding. Besides the explicit monetary reward, the reputational component of the incentive scheme seems to have played a significant role in promoting regional development. The publication and diffusion of the results contributed to transparency and accountability, and they triggered peer review and benchmarking between regions.

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A new indicator system (2007-13)

In 2006, both the EU and the national performance reserve schemes came to an end. The Italian government decided then to continue using indicators, but changed the underlying rationale and the form. Rather than following an incremental approach and drawing on the lessons from the previous scheme, a new system was introduced. The main innovation consisted in shifting from a performance assessment of processes and output indicators with intermediate objectives (*e.g.* to monitor the institutional set up) to one based on *final outcome indicators*. As an integral part of the National Strategic Framework for 2007-13 (financed by EU Structural Funds and by Italian Fund for Under-utilised Areas), the new system concentrates on four strategic goals to be met in 2013 by the southern regions:

- *Education*: improve students' competences, reduce drop-outs and broaden population's learning opportunities.
- *Child and elderly care*: increase the availability of child and elderly care to favour women's participation in the labour market
- *Urban waste management*: protect and improve the quality of the environment, in relation to urban waste management
- *Water services*: protect and improve the quality of the environment, in relation to integrated water services.[33]

Overall, the reserve amounts to about EUR 3 billion (from the Fund for Underutilised Areas) for the entire period. The sum will be allocated on the basis of 11 indicators associated to these strategic goals (see Table 5.1).

Table 5.1. **Objectives, indicators, and targets in the new performance reserve for 2007-13**

Objective	Indicator	Baseline (in %)	Target in 2013 (in %)
Improve students competence and reduce drop-outs	% of early school leavers	25.5	10.0
	% of students with poor competencies in reading	35.0	20.0
	% of students with poor competencies in math	47.5	21.0
Increase the availability of child and elderly care	% of municipalities with child care services	21.1	35.0
	%. of children (age 0-3) in child care	4.2	12.0
	% of elderly people beneficiary of home assistance	1.6	3.5
Improve environment quality as far as urban waste is concerned	Amount of urban waste land filled	395 kg per capita	230 kg per capita
	% of recycled urban waste	8.7	40.0
	% of composted waste	2.6	20.0
Improve environment quality as far as integrated water services are concerned	% of water distributed	62.6	75.0
	% of population served by waste water treatment plants	56.6	70.0

Source: Department for Development Policies, Ministry of Economic Development; *www.dps.tesoro.it/obiettivi%5Fservizio/eng/ml.asp.*

Quantified, measurable and verifiable targets are set for the eight regions of the *Mezzogiorno* and for the Ministry of Public Instruction. As in the past, the objectives, indicators and targets were selected on the basis of extensive consultations between the central government and the regions, with the involvement of a Technical Group. Regions are left free to chose how best to reach the targets.[34] Up to date, implementation plans for all the regions have been approved. The remaining plans are currently being approved. Two deadlines have been identified. A target date (2009) will be used to compare progress with the current baseline and allocate funding proportionate to the results achieved by the region. No sanctions are foreseen. At the approach of the second deadline, in 2013, it will

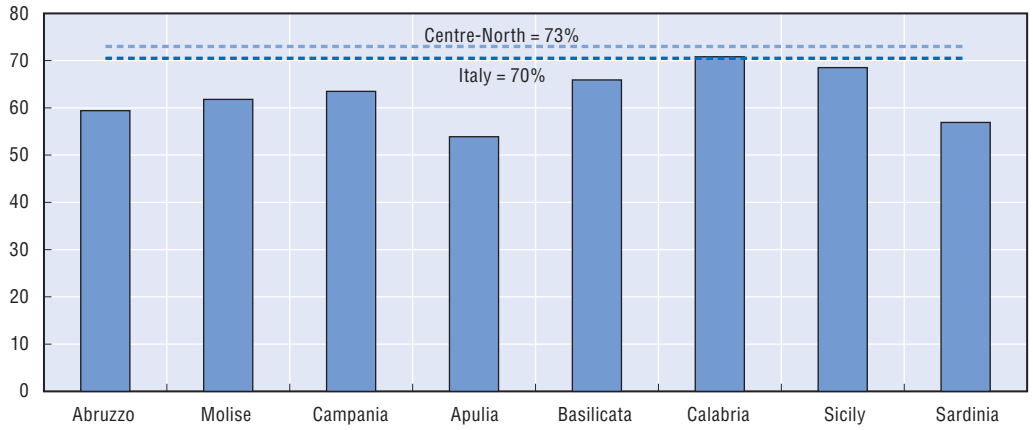
be assessed whether the minimal thresholds, equivalent to the minimum acceptable service standards, have been reached. By so doing, the premium mechanism is closely conditioned to the efforts made by the region.

The new scheme confirms the general approach of introducing competition elements (monetary premium and reputational benchmarking) among the regions, while collectively and consensually deciding on the priority areas, the targets, the indicators and the procedures. It involves a strong emphasis on results that closely affect public services provision and conditions essential for development. This seeks to overcome a system in which intermediate and formal objectives such as the enactment of a law may eventually not meet with the citizens' expectations. The previous system suffered from too many objectives and from insufficient links to the political priorities of the government. In the new scheme, by contrast, the final objectives can be better understood and are closely integrated to the policy agenda.

The choice of explicitly quantitative targets constitutes a welcome innovation. The targets are ambitious in some cases, but are in line with national and European standards, and they are considered achievable. For instance, one of the sub-objectives of the first strategic goal ("Education") is to reduce the rate of young people prematurely abandoning their studies from 26% to 10% by 2013. The latter is the target set by the EU Lisbon Strategy for 2010. As a comparison, centre-north regions had a rate of 17% case of study abandon in 2006.

A second example which is related to local public services refers to "water supply". A sub-objective requires regions to reduce the water loss ratio from 37% to 25% by 2013. In 2005, water supplied in centre-north regions constituted 73% of the overall amount of water introduced in the communal distribution network, with a national average of 70%. By contrast, only Calabria reached similar results, despite the fact that all southern regions adopted relevant legislation in the field (Figure 5.4).

Figure 5.4. **Supplied water out of overall amount of water introduced in the distribution network (in %, 2005)**



Source: ISTAT, *Sistema indagine acque.*

The liberalisation of local public services in Italy

"Local public services" usually refer to the distribution of natural gas, the distribution of electric power, water supply services, waste collection and disposal, and local public transport. Reordering the production and provision of services at the local level is one of

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the key elements of the Italian strategy to progress towards a more competitive and market-friendly economy as part of its Lisbon strategy. The notion of public service delivery is based on the same rationale as for public intervention, namely the existence of market imperfections, natural monopoly, public good, externalities and redistribution imperatives.

The economic context

Overall local public services represent a significant share of the economy (about EUR 42 billion, 1.4% of GDP and 4% of national industrial production)[35] – and its share remains stable. In 2005, some 1 000 businesses registered to *Confservizi* operated at the local level, 40% of which registering less than EUR 5 million turnover, while 22% registered more than EUR 25 million turnover. In 2006, they employed 170 000 people, *i.e.* 4.1% of the employed labour force in the industrial sector. Investments in local utilities grew in real terms at 7% (annual average rate) between 2004 and 2006, while annual growth rates did not exceed 1.2% (in real terms).

However, local public services are of significant relevance in terms of competitiveness. Given its importance, the Bank of Italy has devoted significant analytical efforts to the sector in 2007-08 (Giacomelli 2008).[36] Costs for transport, water, energy, represent a significant element of SMEs production costs, and have implications for the competitiveness of the economy as a whole, as well as for the location of various economic activities through the territory. Local production network and clusters are highly dependent on the quality, variety and costs of local services.

Most of the Italian local utilities provide only one type of service. Only one public utility out of five has diversified its services. The number of businesses is higher in the north of the country. Multi-service utilities are for 70% in the north, 24% in the centre and 6% in the south. Particularly significant are the territorial disparities in the energy sector where southern region businesses, which in 2005 represented 17% of the sector, totalled only 3% of the production, revenue and total production costs share and 1.7% of the Earnings Before Interest and Taxes (EBIT) value. Still in the energy sector, which by itself covered one third of all local utilities, the efficiency of the employed labour varies considerably from northern to southern regions. The ratio of labour costs to economic value added was 52% in the *Mezzogiorno* as compared with 21% in the north. Such differences are less significant in the local public transport, waste and water sectors (AA.VV., 2007). More in general, the nature, size and concentration of local public utilities on the territory reflects the typical geographical distribution of manufacturing plants and activities in Italy. In turn, these have implications for the future growth and geographical location of businesses across regions.

Public monopolies continue to persist in all sectors, which may result in inefficiencies and disproportionate costs for consumers and tax payers. A 2006 study by *Confservizi* reports that almost three-quarters of the businesses considered belong entirely to the local government agency (*ente locale*) (Confservizi, 2006)[37] and that in the instances of joint venture capital, 65% of the capital is publicly owned. The opening to private capital remains slow.

Past efforts to reform local public services in Italy

As mentioned above, local public services are strategically important for urban development, territorial governance and economic performance despite their nominally limited contribution to overall GDP. Italian interventions to reform local public services

date back to the early 1990s (Law 142/1990), as a response to two sources of inefficiency. A first element was the lack of budget balance among utilities and incentives to control costs remained limited. A second element was the extreme fragmentation of the system. The high number of municipalities, producing their own services, has prevented the sector from benefitting from economies of scale and exploiting potential for higher productivity (Bognetti/Robotti, 2003; Termini, 2004; and AA.VV., 2007).

Reform of the sector occurred in subsequent waves. The first interventions addressed the form of management of local public utilities, and the related legislation was specifically designed to cut costs and reduce deficits, not least because of EU-wide financial constraints. Local public utilities were granted greater independence, which stimulated more efficient management. A second round of reforms occurred in the mid-1990s and was prompted by a series of EC directives and regulations introducing important innovations and regulating specificities in sectors such as public transport, electricity and gas.[38]

In recent years, one pressing rationale for reforming the sector has been the control and reduction of tariffs and prices. The 2002 Budgetary Law (Law 448/01) constituted a further step in the reform, modifying Article 113 of the Consolidated Act on Local Authorities.[39] The 2002 Budgetary Law made a distinction between local public services of industrial interest and non-industrial utilities. This implied different management forms foreseen for each category. This regime was nonetheless replaced one year later (Law 326/2003), at which time the notion of "service of economic interest" was introduced, stating that the companies owning networks and other capital assets must be entirely publicly held. The thrust for enhancing forms of privatisation and competition slowed down with the new law.

Apart from general legislative measures on local public services, a number of punctual interventions progressively reformed specific sectors. Thus water was regulated by the "*Legge Galli*" (Law 36/94) and waste by the "*Ronchi Decree*" (Legislative Decree 22/97). Local public transport was reformed in 1997 and 1999.[40] The so-called "*Letta Decree*" covered the gas sector and the "*Bersani Decree*" the electricity sector.[41] These interventions paved the way for further reforms and introduced innovative and valuable provisions for competition and market openness. The "*Burlando Decree*" and the "*Letta Decree*" for instance established recourse to formal public bids and set criteria for those bids. However, the sectoral approach also made the legislative environment more complex and opaque, as shown in the chapter on local transport. The lack of clarity resulting from the existence of different requirements enshrined in EC law, in sectoral legislation and in the general legislation governing local public services has led local authorities to delay the opening of bidding and hindered other forms of innovation at the local level.

Current economic and structural challenges

The measures introduced since the 1990s in Italy to tackle the public deficits of the local public services have been broadly successful, as all local public utilities sectors are now profitable on the average – with the exception of local transport. This may have occurred at the expense of consumers, through tariff increases (see below). However, local public services in Italy have gone through a formal rather than a substantial privatisation.[42] The shift from the *municipalizzate* – the old local public enterprises – into joint stock companies has not been complete. The transformation was meant to give more freedom to managers but was accompanied by incentives to internal efficiency that are

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limited as the producer is integrated in the public administration structure, since he is then constrained by rules and norms that were originally formulated to guarantee respect of procedures aimed to prevent "bad utilisation" of public money rather than to promote efficiency.[43]

Challenges have legal and structural origins. The provision of public services of economic interest is defined by law[44] to be awarded to three types of companies:

- Joint-stock companies identified through public tender procedures.
- Mixed capital public-private companies in which the private shareholder is selected through a public tender procedure.
- Companies having an entirely public capital, on condition that the public body or bodies owning the capital exercise over the company a control similar to that exercised over their own services and that the company performs the most important part of its activities with the public authority or authorities which control it (so-called "in-house providing").

The institution of "in-house providing" refers to the creation of a relationship between the authority and the operating company which cannot be considered a contractual relationship between two autonomous and separate subjects. Under such an organisational structure, the controlling public authority has the direction, co-ordination and supervision power over the activities of the awarded company, thereby not giving rise to any real externalisation of the activity (Bognetti and Robotti, 2007).

The legislation set the above three options on an equal footing. In particular, the recourse to in-house practices was considered neither exceptional nor residual. This has contributed to hinder the incentives for local entities, especially small municipalities, to call for public tenders and to seek private participation in the provision of the service. This created infringements to Community law that resulted in rulings by the EU Court of Justice.[45]

In addition, legislation has tended to grant each local authority the discretion as to whether to privatise and liberalise public utilities or not. This approach has built upon ruling 272/2004 of the Constitutional Court which limited the legislative competence of the state with regard to local public services so as to provide a guarantee from the competition principle. The legislative framework, moreover, has not clearly defined the responsibilities of the central, regional and local authorities, and the Conference system has proven to be slow in determining the instrument and the extent to which co-operation should work.

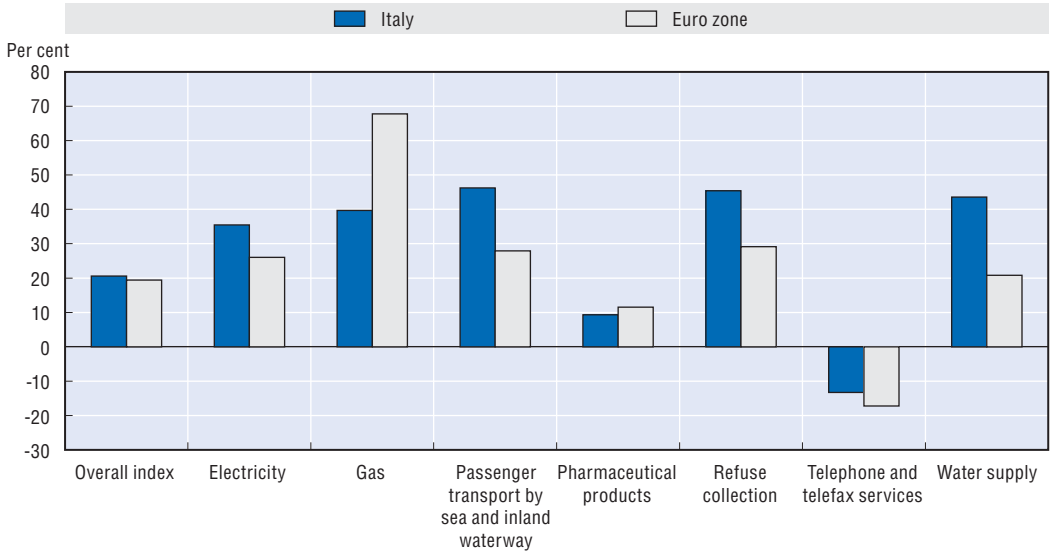
Past reforms have also suffered from conflicting pressures. The confrontation between market-oriented, privatisation and liberalisation forces on the one hand and vested political and economic interests, often strongly represented by municipalities, struggling to preserve the *status quo* and control local public services on the other hand, led to an uncertain and contradictory path of reform. As a result, relatively few bids were opened and efficient mixed enterprises actually created, often putting local authorities in the conflicting position of being simultaneously the regulator and the entrepreneur. This situation is illustrated in the chapter on local transport.

Similarly, the lack of autonomous regulatory authorities at national level for some of these sectors, has had implications. In particular, sectoral authorities do not exist for transport, environmental services, and water, despite a recent law proposal on the topic

(see Chapter 2). In the latter case, implications of a sub-optimal administration of the water sector are significant for a significant share of the population. While in 1997 about 9% of Italian households suffered from poverty-specific problems related to the consumption of public services, in 2004 the proportion fell to 7.6% for heating-related (gas) consumption and to 5% for the consumption of electric power, but rose to 10.7% for the consumption of water-related services (Miniaci *et al.*, 2007).

This has implications for tariffs, as a sound structure of controls, evaluation and (market) sanction mechanisms has not yet been put into place while local public utilities' management strives towards a more entrepreneurship and innovation spirit. In many key sectors, tariffs have remained high and increased more in Italy than in neighbouring EU countries. A comparison between Italy and the Euro zone countries shows that in recent years Italian tariffs have increased more than in the rest of the Euro zone for sectors such as passenger transport by sea and inland waterway, waste collection and water supply (see Figure 5.2). Differences are even more pronounced over the recent period (2005-08), (see Figure 5.3). This contrasts with the positive experience of other sectors where autonomous regulatory authorities exist at national level: gas, telecommunication services, or where significant liberalisation efforts have been undertaken recently, such as in the case of pharmaceutical products. In all these sectors, tariffs have increased less than the Euro zone average. In the case of pharmaceutical products, prices in Italy have even decreased since 2005 while they were still growing in the rest of the euro area. However, data limitations prevent a specific analysis of local transport as a statistical category.

Figure 5.5. **Cumulated total variation in consumer prices, in % (2000-08)**



Note: Data is computing the total variation in the CPI components for the services between the January 2000 value and the January 2008 value. In the Eurostat classification of HICP, "pharmaceutical products" are defined as follows: the medicinal preparations, medicinal drugs, patent medicines, serums and vaccines, vitamins and minerals, cod liver oil and halibut liver oil and oral contraceptives. Veterinary products and the articles for personal hygiene such as medicinal soaps are excluded.

Source: Eurostat, Harmonised Indices of Consumer Prices (HICP). Monthly data, index 2005 = 100.

Recent reform initiatives

The 2009 budget law[46] lays out new provisions for local public services of economic relevance (see Box 5.3). Recourse to open bidding is enshrined on the basis of principles of,

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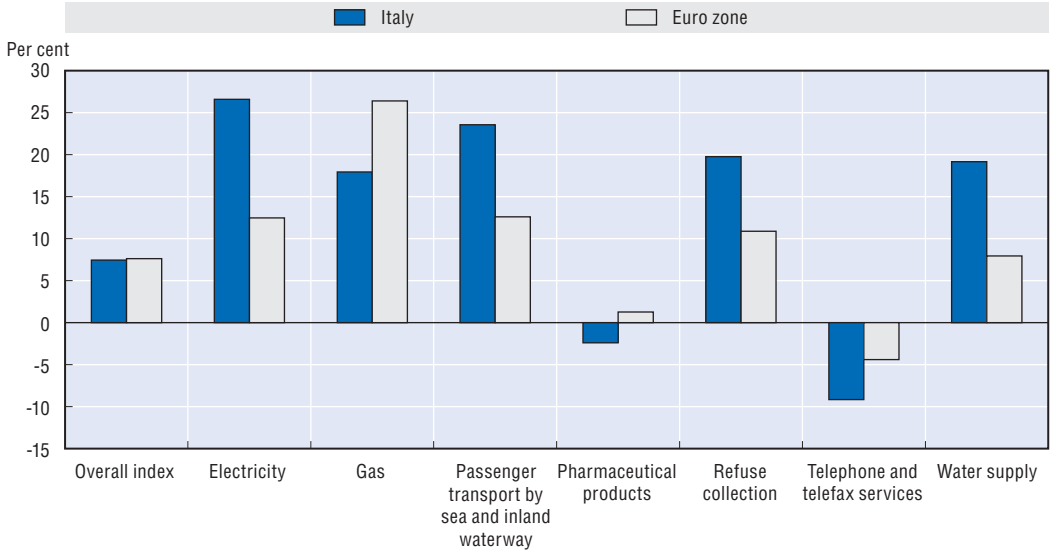
Figure 5.6. **Cumulated total variation in consumer prices, in % (2005-08)**



Note: Data is computing the total variation in the CPI components for the services between the January 2000 value and the January 2008 value. In the Eurostat classification of HICP, "pharmaceutical products" are defined as follows: the medicinal preparations, medicinal drugs, patent medicines, serums and vaccines, vitamins and minerals, cod liver oil and halibut liver oil and oral contraceptives. Veterinary products and the articles for personal hygiene such as medicinal soaps are excluded.

Source: Eurostat, Harmonised Indices of Consumer Prices (HICP). Monthly data, index 2005 = 100.

among others, economy, effectiveness, impartiality, transparency, non-discrimination and proportionality. However, the law allows for exemptions and the potential impact of these exemptions from a competition perspective, could be questioned. They may give local authorities some leeway for limiting competitive bidding in practice. Law 133/2008 repeals Article 113 of the 2000 Consolidated Act on Local Authorities, and calls on the government to harmonise the existing sectoral legislation with the new approach within six months after the entry into force of the 2009 Budgetary Law. However, the policy debate remains open. A number of regions (Piedmont, Liguria and Emilia-Romagna) have filed appeals to the Constitutional Court against Art. 23-*bis* of Law 133/2008. More generally, discussions are still ongoing but the issue is very complex and enshrined in a complex system of local and national interests (see Box 5.2).

Box 5.3. **Reforming local public services in Italy: Recent progress**

The 2009 Budget Law (Law 133 of 6 August 2008), encourages competition for the market. The new law stipulates that public bidding is mandatory with some exceptions, in the case of particular economic, social environmental and geo-morphological characteristics of the area. In such cases, the municipality has to motivate the choice through a written statement to the Competition Authority. The law also requires the government to issue regulations in order to rule on the details, including how to ensure the separation between regulation and control.

This new law, which finally enacted reform, built on the debate over the reform of local services, with the discussions over the legislative proposal on reforming local public services under the previous legislature (Ddl 772/2006, so-called "Lanzillotta proposal"). This proposal aimed to harmonise the legal framework, and overcome inefficiencies and

Box 5.3. **Reforming local public services in Italy: Recent progress** *(cont.)*

boost liberalisation practices within the sector.[1] However, the end of the XV Legislature in February 2008 brought the procedure to a halt. In May 2008, a revised version was tabled, which is at present going through the first reading in the Chamber,[2] and which among other provisions, sought to overcome the sectoral approach and provide a common regulatory framework for all local public services; strengthen the definition and use of quality and transparency criteria for the biddings; extend the use of social shock absorbers (*ammortizzatori sociali*); overcome fragmentation and inefficiencies by forcing communes with less than 20 000 inhabitants to aggregate and jointly administer the management functions of the local public services; establish the criteria for the definition of bidding areas (*bacini di gara*) for each sector; clarify, in accordance with European case law, and limit the instances of a direct assignment of the service as well as the recourse to "in-house" entities, and prohibit the acquisition by direct trustees of any further right to manage other services in a different territory; standardise the contents of service contracts; ensure transparency of tariffs and bills and general information to the consumers, notably through the so-called *carta dei servizi pubblici locali*.

1. L. Sciandra (2007), "Le tendenze in corso nei servizi pubblici locali: Aspetti economici e normativi", in Rapporto ISAE, Finanza Pubblica e Istituzioni, ISAE.
2. Camera dei Deputati, Proposta di Legge sulla Disciplina dei Servizi Pubblici Locali, No. 948, presented on 9 May 2008.

Notes

1. See *Associazione per lo Sviluppo dell'Industria nel Mezzogiorno* (2008), *Rapporto SVIMEZ 2008 sull'Economia del Mezzogiorno*, Il Mulino, at *www.svimez.it/Pubblicazioni/il_rapporto.htm*.
2. See OECD (2008), *The Sources of Economic Growth in OECD Regions. Overall Growth Trends and Decomposition Method*, GOV/TDPC/TI(2008)5, "Territorial Disparities Within Countries Between TL2 Regions and Between TL3 Regions, 1995-2005", pp. 5-6.
3. OECD regional database.
4. Only 235 000 southern unemployed have actually found a new job out of the 635 000 unemployed that have no longer been reported as such over the period 2000-07. The remaining 350 000 unemployed have simply statistically disappeared, as they are neither searching nor finding a job.
5. See SVIMEZ Report 2008.
6. Before this, other important changes were introduced by the Constitutional Law 1/1999 of 22 November 1999.
7. See the ruling 31/2006 in which the Constitutional Court states that the so-called principle of loyal collaboration (*principio di leale collaborazione*) must underpin any type of relationship between the various institutional entities.
8. See Law 131/2003 on *Disposizioni per l'Adeguamento dell'Ordinamento della Repubblica alla Legge Costituzionale 18 ottobre 2001*, No. 3.
9. On this point, see for instance, *Osservatorio sulla Legislazione della Camera dei Deputati, Rapporto 2004-05 sullo stato della legislazione*, XIV Legislative Session, 11 July 2005, p. 247 ff.
10. Over 2004-06, almost 10% (123 out of the some 1 160) of the regional legislative acts examined by the national government have been challenged in court. A quantitative analysis of the judicial dispute is provided by the *Servizio Studi del Senato, Il Contenzioso Stato-Regioni: Dati Quantitativi*, Dossier No. 17, June 2008.
11. On the latter point, see *Osservatorio sulla Legislazione della Camera dei Deputati, Rapporto 2007 sulla Legislazione tra Stato, Regioni e Unione Europea*, XV Legislative Session, 29 October 2007, p. 291 ff.
12. For a discussion on the types of competence and their allocation between the state and the regions, see B. Caravita di Toritto (2005), "Tra federalismo e regionalismo: La Costituzione italiana

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dopo le riforme del Titolo V", in M. Covino (a cura di), *Pubblicazione Finale del Progetto Scenari del Federalismo*, FORMEZ.

13. See *Osservatorio sulla Legislazione della Camera dei Deputati, Rapporto 2004-05 sullo Stato della Legislazione*, XIV Legislative Session, 11 July 2005, p. 269 ff.

14. Rulings 282/2002; 303/2003; 6/2004; 378/2007; and 401/2007.

15. Rulings 303/2003 and 6/2004. See *Osservatorio sulla Legislazione della Camera dei Deputati, Rapporto 2007 sulla Legislazione tra Stato, Regioni e Unione Europea*, XV Legislative Session, 29 October 2007, p. 303 ff.

16. In this sense, the Court ruled for instance on matters related to particularly risky activities (ruling 407/2002), hunting (ruling 536/2002 and 129/2004), detention and trade of exotic animals (ruling 222/2003) and on the location and construction of plants generating electromagnetic emissions (ruling 307/2003). As to competition cases, the Court limited state aid measures to instances showing objectively a macroeconomic importance, taking into account the general principles set at the EU level (ruling 14/2004), whereas any other economic intervention appertains to the regional legislature.

17. Rulings 303/2003 and 30/2005.

18. See *Osservatorio sulla Legislazione della Camera dei Deputati, Rapporto 2003 sullo stato della legislazione*, XIV Legislative Session, November 2004, pp. 95-99.

19. Rulings 6/2004 and 196/2004.

20. Rulings 355/2005; 153/2006; 423/2006; 424/2006; 449/2006; and 57/2007.

21. A selected database on the constitutional case law mentioned above can be accessed at *www.affariregionali.it/Normativa/EsameLeggiRegionali/Contenzioso/Default.aspx*. For a complete account, see also the related web pages of the Institute for the Study of Regionalism, Federalism and Self-Government (ISSiRFA), at *www.issirfa.cnr.it/1457,1457.html*, and *www.issirfa.cnr.it/318,46.html*.

22. For further information on the co-ordination between national and regional policies, see Para. V.3 and in particular Box Z: "Integration between Ordinary and Regional Development Policies: Main Institutes and Co-ordination Offices" ("*Integrazione fra politica ordinaria e politica regionale di sviluppo: principali istituti e sedi di coordinamento*") of the 2007 Department for Development Policies (DPS) Yearly Report p. 256-261.

23. See *www.dps.tesoro.it/qsn/qsn.asp*.

24. See *www.dps.tesoro.it/*. *Cf*. the Decree of the President of the Republic "Regulation dealing with the re-organisation of the Ministry for the Economic Development" (*Regolamento recante la riorganizzazione del Ministero dello Sviluppo Economico*), DPR 28 November No. 197 and DPR 28 November 2008, No. 198.

25. See *www.en.sviluppoitalia.it/*.

26. *Cf*. Box AA: "The Settlement, the Re-Organisation and the New Mission of the National Agency for the Attraction of Investments and the Development of Enterprise" – "*Il Riordino, la riorganizzazione e la nuova missione dell'Agenzia Nazionale per l'attrazione degli investimenti e lo sviluppo d'impresa*" – 2007 DPS Yearly Report p 261-264.

27. With the exception of those indicated in its Article 119, Para. 5, the use of earmarked grants has not been allowed by the Italian Constitution since 2001. The same constitutional provision constitutes the legal basis for interventions complementary to those funded through the EU cohesion fund.

28. See OECD (2007b), p. 100. The publication provides a contractual analysis of the Framework Programme Agreement (see below).

29. Para. IV.1.2 of the 2007 DPS Yearly Report, pp. 157-168.

30. See OECD (2008), *Linking Regions and Central Governments: Indicators for Performance-Based Regional Development Policy*, Draft Report, 12 June, GOV/TDPC(2008)7. This section largely draws from that publication.

31. Programmes in Objective 1 regions received more than 70% of the total Structural Funds.

32. Quoted from OECD (2008), *Linking Regions and Central Governments: Indicators for Performance-Based Regional Development Policy*, Draft Report, 12 June 2008, GOV/TDPC(2008)7, p. 101.

33. See *www.dps.tesoro.it/obiettivi_servizio/*.

34. See Delibera CIPE 82/2007 on *Regole di Attuazione del meccanismo di incentivazione legato agli Obiettivi di servizio del QSN 2007-13*.

35. To illustrate, the manufacturing sector weighted 22% in 2005.

36. Giacomelli S. (2008) La distribuzione di Gas Naturale in Italia: l'attuazione della riforma e i suoi effeti, Bank of Italy, Occasional Papers, n° 21, September.

37. Confservizi (2006). This figure has not changed in the past few years. In another report two years earlier, Confservizi assessed at 73% the percentage of companies with capital fully owned by the local authority. See Confservizi (2004).

38. For instance, see Directive 92/96/EC (on electric power) and 98/30/EC (on gas).

39. (*Testo unico delle leggi sull'ordinamento degli Enti Locali*, Legislative Decree 267/2000).

40. Legislative Decrees 422/1997, or "Burlando Decree", and 400/1999, respectively.

41. Repectively Legislative Decree 164/2000 and Legislative Decree 79/1999.

42. Confservizi (2004;2006); AA.VV. (2007); Bognetti/Robotti (2007).

43. Quoted from Bognetti/Robotti (2007), Conclusions.

44. Legislative Decree 269/2003 and Law 350/2003 (Budgetary Law for 2004). Such a distinction does not apply however to the electric power, gas and public transport sectors.

45. See in particular the so-called "Teckal" ruling of the European Court of Justice, C-107/98 of 18 November 1999. On this point, see A. Le Donne/C. Pierotti (2006), "Gestione *in house* dei servizi pubblici locali: Contaminazioni, suggestioni, soluzioni", in *ASTRID-Rassegna*, No. 5; and L. Manassero (2008), "*In house* providing e concorrenza: il ddl governativo, le procedure di infrazione promosse dalla Commissione UE, le posizioni dell'Autorità Garante per la Concorrenza ed il Mercato, l'istruttoria dell'Autorità per i Contratti pubblici", in *Diritto dei Servizi Pubblici*, at *www.dirittodeiservizipubblici.it/articoli/articolo.asp?sezione=dettarticolo&id=297*; A. Cavaliere (2005), "Le riforme dei servizi pubblici locali: effetti economici e finanziari", in ISAE, IRES Piemonte e IRPET (a cura di), *La finanza locale in Italia. Rapporto 2005*, FrancoAngeli, Milan, pp. 233-256.

46. Passed by Parliament in August 2008, Article 23-*bis* of Law 133/2008. See also Legislative Decree 112/2008 on *Disposizioni Urgenti per lo Sviluppo Economico, la Semplificazione, la Competitività, la Stabilizzazione della Finanza Pubblica e la Perequazione Tributaria*.

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