



# Italy: toward a federal state?

A recent constitutional reform empowers the regions and moves Italy closer to a federal structure.

**THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES**

BY *BENIAMINO CARAVITA*

*In* the last year, Italy has gone through an important constitutional reform process that strengthened the role of the Regions and the Local Authorities as well as their international and European relationships. Federalism has long been an important strain of political thought in Italy and over the past decade many Italians have argued for increased decentralization and “federalization” (see box).

On November 8<sup>th</sup>, 2001 a significant reform of the part of the Constitution that deals with Regions and the Local Authorities came into force after being approved by the Parliament and confirmed by a referendum (Constitutional law nr. 3 of 2001).

Although this reform was hotly debated, it adapts Italy to the phenomena of regionalization and federalization of public powers – a process that is already taking place in most parts of the European Union.

Today, 8 European states out of 15 have regional institutions that are more (Germany) or less (France) significant in the political process, and more or less guaranteed at a constitutional level, with or without legislative powers. Poland has reorganised its regional administration, with the objective of making accession to the European Union easier.

## ***Powers enshrined in the Constitution***

Among the changes instituted by this reform in Italy are that it lists Municipalities, Provinces, Metropolitan Cities, Regions and the State (the central government) as components of the Republic with equal “dignity”, rejecting the notion of an absolute identity between State and Republic.

## ***The federal idea in Italian history***

Italy became a unitary State between 1861 and 1870, assembling under the Savoy dynasty (at that time governing Piedmont and Sardinia) other States and Reigns of the Italian peninsula (State of the Church, Reign of the Two Sicilies and other States under the direct or indirect control of the Austrian Empire). The Italian territories were unified only after World War I, when Trent and Trieste joined the Italian Reign.

In the first period of state making and nation building, the question of the regional autonomy - though debated in intellectual circles - was not on the political agenda; the search for a national identity was too strong. The focus of the authoritarian fascist regime (1922-1943) remained the enforcement of nationalism without any space left for regional differences.

The democratic Constitution of January 1<sup>st</sup>, 1948 recognised the Regions as political bodies with legislative and administrative powers: five of them (Aosta Valley, Trentino-Alto Adige, Friuli-Venezia Giulia, Sardinia, Sicily) were granted a special status, based on constitutional laws due to ethnic and linguistic reasons or insularity. These regions could start to work just after the Constitution came into effect (1963 for Friuli-Venezia Giulia, when an international agreement regulated the status of Trieste). The 15 other Regions were ready to function only in the Seventies, when the Regional Councils were elected (in 1970) and when the new regional Statutes, finally enacted by an act of the national Parliament, were approved (in 1972).

In the 1990s, strong political pressure for subsidiarity and federalism emerged in Italy. The burden of politics and administration on the economy was too high; the northern Regions (Piedmont, Lombardy, Veneto), whose economic systems grew faster than those of the rest of Italy, were afraid that Italy would not be able to enter into the European Union and therefore were asking for a devolution of powers to the Regions. A search for different local solutions for welfare organization was observable. The Presidents of the northern Regions (but also the ones of the more efficient Regions such as Emilia-Romagna, Toscana, Puglia, Marche) were developing autonomous international policies and trying to support the efforts of the regional economies. The central State was perceived as an unproductive mechanism and citizens demanded that decision-making procedures with regard to local matters (i.e. financing of local economies, education, health, local security, etc.) should be at a closer level.

An important decision of the Italian Constitutional Court (n. 106 of 2002) had clearly stated that, according to Article 1 of the Constitution, the only sovereign subject is the people, and not the State. And local and regional institutions derive their legitimacy from the people just as much as do the National Parliament and government.

The constitutional reform introduces a new division of legislative powers

between the central government and the regions, overturning the criteria that had been applied previously.

Prior to the reform the regions had responsibilities only for those matters that the constitution expressly assigned to them. The new constitutional provision lists responsibilities reserved to the central government and those governed by concurrent legislative powers of the centre and of the regions.

For any other matter not expressly reserved for the centre, the regions have legislative powers, without interference of the centre.

The central government has priority jurisdiction in a number of key areas:

- foreign and defence policy,
- coordination at the European level,
- citizenship,
- the organization of justice,
- the civil and penal codes,
- local authorities,
- protection of the environment,
- and equal protection at the national level of civil and social rights.

Concurrent legislative powers are recognized in the sectors of infrastructure, welfare, labour policies, and urban and territorial planning. Agriculture, handicrafts, commerce, tourism, industry, local transportation, and public works are, among others, in the exclusive regional jurisdiction.

This list is not exhaustive and there are no doubt matters where the Constitution doesn't specify who is responsible. It is probably impossible to devise a list of powers and responsibilities that would take into account all contingencies. The history of Constitutional and Supreme Courts of federal countries "is full of cases trying to resolve the whole question of what is the role and the power of the states as opposed to what is the role and the power of the national government in ever new circumstances" (President Clinton's Speech on Federalism, October 8, 1999, Mont-Tremblant, Quebec, Canada, available on the Forum's web site: [www.forumfed.org](http://www.forumfed.org)).

### ***Who does what, international relations, finance***

In addition to defining areas of jurisdiction, as best it can, the constitutional reform reorganizes the distribution of administrative functions. It seeks to rationalize and distribute roles and tasks according to the principles of "unity, subsidiarity, differentiation and adequacy", to use current popular European language. The effect is that Municipalities have an enhanced administrative role and Regions have the responsibility to administer matters on which they legislate.

As regards international and European relations, the reform opens up interesting prospects for the Regions. It refers to "international and European relations" and the fact that agreements may be made between Italian Regions and other sub national entities.

With respect to financial autonomy, though the constitutional changes do not introduce the principle that tax revenues should be spent in their area of origin, Municipalities, Provinces, Metropolitan Cities and Regions have autonomous resources, receive a part of the tax revenue collected in their territory, and establish and apply their own taxation and revenue systems. Coordination of public finance is a concurrent jurisdiction of the central government and the regions.

### ***Not subject to the centre***

Another feature of the reform is that the central government no longer exercises control over regional legislation. Regional laws now come into force as soon as they are approved by the Regional Council and enacted by the President of the Region. The central government's Regional Commissioner no longer exists.

In addition to their guaranteed powers, all the Regions may now request special "conditions of autonomy" with regard to the concurrent legislative powers (e.g. health, professions, employment, infrastructure, education, etc.) and with regard to three matters in which the central government has exclusive jurisdiction (the organisation of the basic level of justice, the environment, and guidelines on education).

On the question of elections, the new constitutional law provides that the Presidents of Regions be directly elected by popular vote. Previously Regional Councils would elect the Presidents. The new constitutional provision also states that the regional Statutes are acts of regional autonomy, approved by the Councils, and that they do not need approval of the central government.

In the case of possible violations of the Constitution, regional laws and statutes can be brought by the central

government before the Constitutional Court.

The reform stipulates that a referendum against the statute can be triggered by 1/50 of the regional electors or by 1/5 of the regional deputies. And the reform foresees that in the near future, a council of Local Autonomies, as a connecting body between the Region and the Local Authorities, should be created.

### ***Still much to do***

Italy is now facing difficulties in both completing and implementing the constitutional reform.

In terms of completion, the political debate focuses on the need for a Chamber of Regions that could represent the political regional instances at the central level and on the need for a regional presence inside the Constitutional Court. (In Italy there are two political Houses, both composed according to the same criteria and both participating at the election of the Government. The Constitutional Court is composed of 15 judges, 5 of them elected by the Parliament in common session, 5 appointed by the President of the Republic, and 5 selected by the Supreme Civil, Administrative and Account Courts.)

The goal of creating new institutional mechanisms is that in the new, more "federal" Italy, the regions should participate in the political decisions of the central government.

As for a timetable for putting this package of reform into practice, Italian authorities are most concerned about the capacity of the regions to assume their new, greater role. After all, the regions will have to assume new legislative power and Italians have to figure out a practical working distribution of functions between administrative levels. Plus, Italy faces the task of building accountable fiscal federalism. The challenge will be to guarantee better public services and to include an element of equalization that improves the fiscal capacity of the poorer areas of the country – all without adding burdens to the Italian economy as a whole. (6)