

Does power tire those who do have it?*
**Exploring why Italian executives do not exercise the
legislative powers they are delegated**

ENRICO BORGHETTO

Research fellow
Dipartimento di Studi Sociali e Politici
Università degli Studi di Milano

ABSTRACT:

The substantial increase in delegation of legislative powers from the parliament to the executive has been singled out as one of the most prominent changes in the Italian political system for the last two decades. It has meant the opportunity for traditionally weak executives to adopt significant reforms in several sectors while bypassing the notorious fetters of the ordinary legislative process. While the literature has traditionally focused on those processes leading to the adoption of the enabling acts by the Italian Chambers, there exists still a research gap as to how, and whether, the executive uses these legislative mandates (by adopting so-called legislative decrees within a time-limit set out in the enabling act). Based on a newly collected dataset covering all legislative decrees enacted from 1988 to 2008, this paper firstly analyses the evolution in the use of these legislative instruments both from a diachronic and an intersectoral perspective. In the second part of the paper, we attempt to explain why in a substantial number of cases the executive did not use its mandates to legislate at all. Our results show that delegations authorizing the adoption of consolidation acts, passed towards the end of the legislature, prescribing precise guidelines for the executive agents and characterised by a high level of administrative complexity are less likely to be exercised.

* This title draws inspiration from a famous joke attributed to Giulio Andreotti, a prominent Italian politician of the First Republic who served seven times as Prime Minister and countless times as Minister of the Republic. When asked about the reasons of its political longevity, he quoted Talleyrand, and answered “Power tires only those who do not have it”.

At the turn of the millennium, the extension of cabinet's legislative functions is accepted as a necessary element for the day-to-day management of contemporary social realities: it reduces the parliamentary workload while releasing the energies of the assembly for legislation dealing with more substantive policies; and it represents a non-mediated channel to draw on the resources and expertise residing in the bureaucracy. Delegated legislation, in its many national variants, is one of the most widely-used procedures to involve the executive in the legislative process. As a rule, it envisages an act adopted by the Parliament authorizing the executive to legislate on a specific policy domain in accordance with specific guidelines.

This instrument has another strategic potential in the eyes of the governing majority. The use of legislative delegation can be described as "a clear and conscious move by the government to take an issue out of the more exposed arena of parliamentary debate and leave discussion until the delegated legislation" (Page 2001, 187). Using Schattschneider's terminology (1960), it is an attempt to restrict the scope of conflict by taking the debate on the legislation's details out of the parliamentary arena and into the more secluded sphere of government departments. In principle, this move should help reduce the number of vetoes and, simultaneously, change actors' incentives by giving precedence to policy-related motivations over election- and office-related ones (e.g. MPs in the governing majority may strategically oppose a bill in the plenary to raise their political profile). The final result is to mitigate the effects of a litigious majority and to make the adoption of a proposal less likely to be blocked or delayed.

According to the literature on the Italian case, this asset is one of the driving reasons behind the relatively recent preference of the Italian legislator for this sort of legislative instrument (Vassallo 2001; Capano and Giuliani 2001, 2003). Over the last twenty years, Italy has stood out among other parliamentary democracies for its extensive use of delegated executive decrees. The faculty for the Parliament to delegate legislative powers to the executive has been inscribed in the Constitutional Charter since its original drafting, but this power has been put to full use only since a political and economic turmoil struck Italy in the 1990s and, later on, with the advent of a bipolar system.² Italian executives have increasingly relied on the

² The Italian Constitution regulates this procedure in Article 76, which states quite succinctly: "The exercise of the legislative function may not be delegated to the Government unless principles and criteria have been established and then only for a limited time and for specified purposes". These are the basic steps of a standard delegation process. First, a delegating act is approved by the Parliament through the ordinary legislative process. Article 76 does not delineate any real limits to the breadth of the law-making power that can be delegated. It only prescribes the presence of principles and criteria which clearly lay out the goal, scope and duration of such delegations. However, since there is no clear agreement on what their minimal content should be, it is up to the Constitutional Court to rule on their legality on a case by case basis. Second, decrees (which are termed *decreti legislativi*, legislative decrees from now on) are drafted by the line ministry and have to be approved in the

availability of this instrument to bypass the fetters of the “viscous” law-making process in parliament, thereby compensating for their traditionally weak agenda-setting power which had made them “prisoners” of the myriad of factions composing the highly fragmented party system. They have been supported in this enterprise by their majorities, which have adopted an unprecedented number of, mostly executive-sponsored, bills containing delegations. Even more importantly, the range and extent of delegated powers have been large, spanning a variety of policy sectors and allowing also long-awaited structural reforms.

These dynamics have not failed to catch the eye of political analysts who detected, if not a strengthening, at least a substantial “autonomisation” of the executive with regard to the legislative function. Frustrated by a slow, overcrowded and unmanageable ordinary legislative process, Italian executives opted for “governing outside parliament” (Capano and Giuliani 2003). What is more, the availability of these powers fitted very well with the new bipolar system of government alternation, where government performance was mostly assessed in terms of its capacity to implement the electoral policy platform.

This image of autonomous and empowered executives is partly contradicted by the remarkable proportion of delegations which are not ultimately exercised. Our data show that the phenomenon became particularly relevant in the XIII and XIV legislature, where respectively about one-third and half of the delegations adopted by a majority were not followed by any implementing decree in the same legislature. How does one explain the large availability of delegations and the low propensity to use delegated powers? Past studies on legislative delegation in Italy have so far neglected the post-delegation phase. This is due, partly, to the lack of information about what happens during this stage of the decision-making, which mostly takes place behind the scenes. Additionally, there has not been so far a systematic collection and analysis of data on how the government performed its delegation mandate (the only exception is Vassallo 2001).

This work contributes to fill this gap by integrating available information on delegating laws adopted in Italy from the X to the XIV legislatures with data concerning executive decrees passed as a result of these delegations (adopted up to December 2008). Nonetheless, tracing the relationships between delegating laws, delegations and legislative decrees is not straightforward. A delegating law, which is formally an ordinary law, may contain more than one delegation. Most of the times, one delegation corresponds to one article in the law but there are also cases where it stretches across more than one article or it is contained in a single comma. In general, our guiding principle was to count a delegation every time we met the

Council of Ministers before becoming law (and before their deadline expires). Nonetheless, the executive is not constitutionally obliged to carry out the delegation.

standard wording “the government is delegated to issue, within X days, one or more legislative decrees in policy area Y”. In case of large delegations covering different issues, we counted each issue as one delegation. Additionally, the exercise of one delegation may require more than one legislative decree (sometimes they are adopted at distant points in time) and one legislative decree may be based on more than one delegation. To untangle this complicated net of connections, we made reference partly to the data collected by Vassallo (2001) (for the X, XI and XII legislature), partly to the data available online and periodically updated by the Italian Parliament (for the XIII and XIV legislature).³

A more fundamental decision for the scope of this paper was to set aside all delegations concerning the transposition of Community directives.⁴ The main rationale underlying this selection was to exclude all those delegations where the Italian Parliament had to share its role of “principal” with a supranational institution, in this case the EU. It has been observed that, in this situation, the Italian legislature plays often a subsidiary role, since most of the delegation criteria are already laid down in the EU directive. Moreover, Community Acts are under many aspects different from “ordinary delegating laws”: they are very large, omnibus law, adopted periodically and with a peculiar format. Thirdly, transposition of EU directives by legislative decrees can be delayed (Borghetto, Franchino, and Giannetti 2006), but it has to be carried out sooner or later. Although this topic is warranted a closer inspection in the future - as it might help shedding light on the so-called Europeanization of executive-legislative relationship (Goetz and Meyer-Sahling 2008) -, it represents a bias in the present study.

The paper is organized as follows. In the following section we will provide an overview of the remarkable increase in the use of legislative delegation over the last decades, from both a quantitative and qualitative perspective. The second section shows the collected evidence on the exercise of legislative delegations in Italy during our observation period. Next, we test a series of hypotheses on why a portion of the delegations are not used at all in the XIII and XIV legislature.

³ The data in Vassallo (2001) were provided by the Secretariat of the Chamber of Deputies but are not available online. On the contrary, the Parliament has been periodically updating the list of delegating laws and their corresponding legislative decrees since 1996 in their website: http://www.parlamento.it/leg/ldl_new/sldlelencoordcron.htm.

⁴ We make reference again to delegations for the transposition of EU directives in the next descriptive section.

1. Legislative delegation in Italy (1988-2008): a quantitative and qualitative analysis

Since the early 1990s, the recourse to legislative delegation has been a prominent phenomenon both in quantitative terms and from a substantial point of view in the Italian political landscape. According to analysts it was the determining factor explaining why “compared to the previous decades, the 1990s were a period of legislative activism and of real governance” (Capano and Giuliani 2001, 24). Others referred to it as: “The most significant change in relations between government and parliament introduced during the 1990s and maintained since” (Vassallo 2007, 699).

In order to grasp the increasing quantitative relevance of delegated decrees in the legislative toolbox available to the executive, it is worth comparing it with other types of executive-promoted legislation. The first procedure is the enactment of an executive-sponsored bill after taking it through the standard legislative process (art.72, comma 1).⁵ The first step in the conventional procedure envisages the examination and amendment of the bill by the relevant committee (where executive’s representatives can sit as observers), followed by its discussion and amendment on the floor. In order to get enacted, the bill has to be scrutinized by both Chambers and the *same* text has to be voted article by article and in full (in case of amendments, the bill is resubmitted to the previous chamber, until both parliamentary branches reach an agreement on the text). The second procedure is the issuance of Law decrees in cases of “extraordinary urgency” (Article 77). These decrees take effect immediately, but must be presented to the legislature on the same day they are issued for conversion to ordinary laws. Their conversion has to be completed by the Parliament within sixty days or they lose all validity (retroactively to the date of their issuance). The monthly outputs of the three legislative instruments are reported for each government in Figure 1.

[FIGURE 1 ABOUT HERE]

Only the trends of legislative decrees and ordinary laws present some similarities due to the fact that both are partially sensitive to government alternation. Delegations approved in previous legislatures (which have not expired yet) might not be used (see *infra*) by the incoming government, which consequently asks the Parliament for new delegations. On the other hand, not-yet approved bills expire with the end of the legislature and new bills have to be initiated by the incoming government. In both cases, the output of these measures should

⁵ We do not include in this category legislative acts which are by default promoted by the executive and follow a special procedure, such as budget laws and laws ratifying international treaties. Moreover, we exclude ordinary acts which are initiated by MPs (in Italy the executive does not enjoy any special initiative rights with respect to MPs) and delegation acts.

display a slowdown at the start of the legislature. This is not necessarily the case for law-decrees, which - should they be eventually approved by the Parliament - take a maximum of two months to get enacted.

Additionally, the relative weight of the three outputs varies over our observation period. The ordinary process is still dominant during the tenth legislature, but it has undergone a decline since and it is now the least-employed instrument. This pattern reflects the significant decline in the ability of the government to use the ordinary legislative process to get its proposals passed. The roots of the phenomenon can be traced all the way back to the institutional constraints set out in the republican Constitution (1948) and the standing orders of the Chambers to prevent the law-making power from concentrating in the executive's hands. In addition, Italian executives had to cope with the fragmented character of the Italian party system and the powerful role of party actors, generating very often quarrelsome and short-lived coalitions. This combination of factors resulted in ministers being often "hostages" of their own majority partners, which frequently used (or threaten to use) the extensive possibility of the secret vote to sink executive's bills on the floor.⁶ To overcome these obstacles, the executives of the so-called *Prima Repubblica* frequently had to compromise with opposition forces to pass its proposals. Alternatively, they had to rely heavily on the decentralized legislative procedure, whereby the legislature can decide to adopt binding final decisions on a bill within committees (sitting in *sede legislativa*), without reporting the proposal to the full floor. Until the early 70s, over 75% of all legislation (on average) was adopted in committees and took mostly the form of *leggine*, little laws, a derogatory term used to describe the largely micro-sectional and clientelistic nature of these measures (Kreppel 1997; Di Palma 1977). Various factors conjured to limit the recourse to the decentralized procedure after this period (Zucchini 2001), although they have not led to its total disappearance.

The response of the executive was to undertake other, this time non-parliamentary, paths to get its legislative agenda enacted. Against the backdrop of a steady decrease in the number of ordinary acts, starting in the 70s but accelerating during the two subsequent decades, the executive experimented successfully the use of law-decrees. This legislative option presented two useful advantages for the executive: it entered into force immediately; and it could be reiterated in case the Parliament had not approved its conversion into ordinary law within

⁶ The abrogation of the secret vote in 1988 (apart from a handful of cases where it is still required) eliminated the phenomenon.

sixty days (in which case a decree loses validity from the day of its issuance).⁷ This latter situation became more and more common since the mid-70s and reached its peak during the XII legislature, where out of more than 700 decrees issued (and subsequently reiterated) only 120 became laws before expiring (Della Sala and Kreppel 1998). Confronted with this proliferation of “emergency measures”, the Constitutional Court could no longer turn its back and established with a famous sentence in 1996 that reiteration was unconstitutional. This decision brought about a drastic drop in the number of law-decrees issued (or, more precisely, re-issued) and, according to some authors, reinforced the executive position vis-à-vis the parliament. Partly as a result of this development, partly as a result of more stable majorities in the new bipolar system (especially during the XIV legislature), the rate of conversion has increased since and stabilized around 3 law-decrees per month.

In order to explain the trend in the monthly output of legislative decrees it is useful to look at it separately and highlight the portion of decrees which implement EU measures.⁸ Figure 2 shows that, during the Andreotti (VII) and Amato (I) governments, the number of legislative decrees per month almost tripled. This increase is largely connected to the process of completion of the Internal Market and the huge amount of EU directives in need of transposition into the Italian legal system by the end of 1992.

[FIGURE 2 ABOUT HERE]

To explain the connection between delegated legislation and transposition, it is worth remembering that, since 1990, Italy has fulfilled its transposition obligations almost exclusively by means of a special procedure: the so-called Community Act. Every year, the Parliament is expected to discuss and pass a bill previously drawn up by the executive with the aim of transposing most directives due to expire in the first semester of the following year. The peculiarity of this Act is that, apart from rare occurrences, it does not transpose any measure directly.⁹ Rather, the legislator has used it as an extensive delegation law, establishing for every directive the preferred executive measure needed for its

⁷ Decree-laws benefits also MPs since they have the chance to force their amendments into the law converting the decree. If the executive opposes their amendments, they can threaten to sink the bill. This situation has often resulted in the “swelling up” of conversion bills because of the number of additions to the final text.

⁸ Although no systematic data are available, studies covering the first 40 years of the Republic reports that the use of delegated legislation was rather limited and concerned mainly technical issues (Lupo 1999). The institutionalization of legislative delegation has to be predominantly attributed to the adoption of Law 400/1988, a wide-ranging and unprecedented reform aiming at rationalizing executive normative powers. It formalized praxes which had that far been employed discretionally (e.g. parliamentary committees have to scrutinize draft legislative decrees when delegations extends for more than two years) and it created the label “legislative decrees” for this kind of measures, thus distinguishing them from other secondary regulatory measures.

⁹ This occurs mainly in two cases: when the object of the directive to be implemented is not very complex; when it is required the abrogation or amendment of national provisions in contrast with Community Law.

implementation: either administrative acts, *regolamenti* (secondary level regulations) in areas subjected to previous *delegation* or, finally, *decreti legislativi*. This latter instrument has been by far the most used. During the period under consideration, one out of two directives was transposed through legislative decrees. This preference is partly due to the fact that many technical areas are still under *riserva di legge* in Italy, namely they require primary legislation to be modified. Partly, the legislator explicitly aimed at bypassing the ordinary procedure, which had proved that far too inefficient and burdensome to cope with the constant flow of Community legislation (Italy lagged at the bottom of the Commission compliance rankings in the early 1990s), without giving up on its legislative prerogatives altogether. Hence, every Community Act includes delegating provisions laying out the guidelines the executive has to comply with when it drafts legislative decrees which transpose EU directives.

After almost two decades of life, the Community Act has institutionalized as the main gateway between the EU and the Italian legal systems. Moreover, it has been the single greatest source of legislative delegations. If we count one delegation for every directive transposed by legislative decree, the amount of delegations contained in Community Acts outnumbers other types of delegations (by 586 to 449). That said, transposition of Community directives is only one of the regulatory areas where legislative delegation has been vastly employed over the last two decades. Figure 1 shows that, since the XIII legislature, the remarkable increase in the monthly output of legislative decrees (a minimum of 8 decrees per month, which diminished only during the second Berlusconi government) has consisted mostly in delegations not directly connected to EU rules.

The double nature of legislative delegation in Italy can also be appreciated by looking at the range of policy areas regulated through this instrument. In figure 3, every decree is assigned to one of the nineteen major topics established in the coding scheme developed by the US Policy Agendas Project (Bryan D. Jones and Baumgartner 2005; Baumgartner and Bryan D. Jones 1993), which covers the whole spectrum of policy areas. Subsequently, policy topics are grouped according to the level of EU involvement in the area by using the classification elaborated by Nugent (2006, 388).

[FIGURE 3 ABOUT HERE]

Figure 3 illustrates the sort of division of labour existing between the EU and Italy and the extensive role played by legislative decrees in both spheres. Starting from the left side of the axis in Figure 3, we can observe that the greatest amount of legislative effort has been put in traditionally EU-regulated areas belonging to the First Pillar, namely agriculture, market regulation and environment. But the fulfilment of transposition obligations is only half of the

story. Our data shows that the scope of legislative delegation for reasons not related to transposition has been indeed wide-ranging and it has touched every sector over the last twenty years. The impression is that its initial application as the main transposition tool in a great variety of policy areas (besides the above-mentioned sectors, we can add transport, macroeconomic issues, working conditions and health) gradually facilitated its acceptance as an instrument to launch policy reforms not explicitly originating in Brussels.

Nonetheless, the importance of Europe and its link with the expansion of legislative delegation should not be confined to the aspect of legal transposition. Figure 3 shows that legislative decrees played a substantive role also in the reform of areas which lay outside the scope of EU direct involvement, namely the regulation of law & crime and government operations. The Europeanization literature has showed that EU pressure was a necessary - albeit, according to some authors [Capano and Giuliani 2001, 32], not sufficient - condition for the adoption of these reforms (Ferrera and Gualmini 2004).

A meaningful example was the wave of reforms sweeping through the Italian political system at beginning of the 1990s. Specific contingencies (a public debt out of control and a substantial depreciation of the *lira*) converged to make an extensive structural reform of the public finances an imperative for the Amato government. By means of an act connected to the Budget Law for 1993 (Law 421/92), the executive was delegated a comprehensive restructuring of four strategic sectors: the civil service, the health service, the pension system (extensive delegations to reform this sector were also contained in Law 335/95) and the finance of local governments.¹⁰ This delegation law is interesting because it meant a qualitative metamorphosis of the delegation instrument. More specifically, it introduced innovations in terms of both content and procedure which will be replicated in subsequent legislatures. As to the content, the limited number of delegations approved by the parliament for the past decades had been used for the most part to *complete* reforms in single sectors, some of them with a very limited policy scope. Conversely, Law 421/92 included a plurality of delegations (11 delegations) which are meant to *substantially revise* a *variety* of sectors.

On the procedural side, the novelties touched upon the relationship between the executive and legislative branches. Firstly, questions of confidence were attached to the articles of the delegating act. The recourse to this procedural device was justified by the political turmoil which endangered the stability of the ruling majority and the necessity of cutting off the

¹⁰ According to Vassallo (2007, 699-700), the emergency of the situation had momentarily altered the balanced of powers between executive and parliament “Both Amato (1992–93) and Ciampi (1993–94) were able to ask parliament to transfer powers to government since many MPs, during the course of judicial investigations into corruption, feared that in the event of an early election, they would lose their seats.”

approval time of the financial reform. It also signalled a mutation in the political meaning of delegated legislation: it was no longer the mere opening of a confrontation between executive and parliament on a specific policy issue, but an act which qualified a specific policy programme of the government in charge (the linkage between delegation and implementation of the majority platform will be consolidated only in the *Seconda Repubblica*). On the other hand, the reduction of the law to four maxi articles and the contextual application of questions of confidence on each article were seen as an attempt to marginalize the parliament.

The second innovation regarded the fact that most delegations envisaged the possibility for the executive to issue “integrative” and “corrective” decrees after implementing the so-called “primary delegation”. This power had to be exercised within specified time-limits (for instance, X years after the issuance of the first legislative decree) and had to respect the policy guidelines and procedural constraints laid down in the parent delegation. The rationale underlying this temporal extension of the delegation was to provide the executive with the opportunity to adjust its regulations in the light of the first implementation results. This gradual approach, allowing the distinction between a phase of “experimentation” and one of “revision”, was judged particularly necessary given the range of issues addressed in the reform.

Thirdly, it extended the scrutiny by parliamentary committees to most of the draft legislative decrees. Nowadays, this procedure has become almost the standard. Our data reveals that the proportion of primary delegations compelling the executive to present the draft decrees to the relevant committees increased from around 80% in the X legislature to respectively 95% and 90% in the last two legislatures.¹¹

The next important watershed in the evolution of legislative delegation in Italy is 1996. Firstly, the Constitutional Court ruled out the possibility of reiteration for law-decrees, thus increasing the relative importance of legislative delegation as the most obvious alternative to a slow and unwieldy parliamentary law-making process. Secondly, it coincided with the demise of the so-called *Prima Repubblica* and the shift of the Italian party system from polarized pluralism (Sartori 1976) to bipolar competition (Di Palma, Fabbrini, and Freddi 2000). The possibility for the pre-electoral coalitions to choose one candidate for the post of Prime Minister contributed to strengthen the legitimization of the governments, and especially of their leader. In this new scenario, legislative delegation was no longer considered the best

¹¹ No data are currently available on the actual contribution of parliamentary committees to the final text of the legislative decrees. A report by the Chamber of Deputies on the state of legislation in 1998 (Camera dei Deputati 1998, 45) reveals that the Committees’ amendments were generally incorporated in the final text. Moreover, when it was not feasible, the executive pledged to introduce the required modifications subsequently by means of corrective decrees. See also the case studies in Mattei (2007).

available response to an emergency situation, but rather the natural way to bring into being the policy objectives of the government in charge and realize the mandate received by the electorate.

The advantages of this instrument were already apparent at the start of the XIII legislature and the Prodi government exploited them widely. It managed to obtain a consistent number of large delegations (75) from the Parliament and launched a number of reforms in fields such as: public finance [Law 662/96]; immigration [Law 40/98]; government operations (devolution of administrative powers to local governments and modernization of administrative apparatuses [Law 59/97]); European matters (introduction of the Euro [Law 433/97]); education system [Law 425/97]. Prodi's strategic employment of delegation paved the way for subsequent governments in the XIII legislature, which used many of the still pendant delegations and got new ones (D'Alema I [69], D'Alema II [9] and Amato II [27]) to intervene in policy sectors such as: the health service [Law 419/98], industry [Law 274/98], penal and tax systems [Law 205/99].

Although stigmatising the excessive recourse to legislative delegation while being at the opposition (they dubbed it a case of legislative "outsourcing")¹², the second and third Berlusconi Governments were at least as ready to employ it when they came to power. Most importantly, they continued to emphasize the strict connection between their electoral promises and the reforms pursued by means of delegated legislation. This was the case with some of the policy commitments contained in the so-called "contracts with Italians" (*Contratto con gli Italiani*) (which pledged to simplify the complex tax system [Law 2003/80], halve the unemployment rate [Law 2003/30] and develop a massive new public works programme [Law 2002/166]) or in the policy programme presented in front of the Parliament at the beginning of his mandate (e.g. reform of the education system [Law 53/2003] and of the judicial system [Law 150/50]).

The list of these reforms – albeit incomplete – illustrates quite effectively the transformation of this instrument in the Second Italian Republic. Its justification rested no longer only on the "technical complexity" or the "inter-sectoral scope" of the issue to be regulated. Neither did it rest on the exceptionality of the circumstances (e.g. Italy in the early 1990s). Rather, its rationale lay in its political relevance as a "governing" tool, which allowed Italian executives to respond to the increasing pressure for functional legitimization in the Second Republic.

In the new system of government alternation, the recourse to legislative delegation offers significant advantages to the incumbent government willing to change the status quo in line

¹² Tremonti, Giulio (1999). "Camere "a secco" per troppe deleghe." *Il Sole 24 Ore*.

with its electoral platform (Zucchini 2009).¹³ The most obvious one is that the points of friction which normally hamper the passage of a bill through the ordinary legislative process are relatively bypassed. The fact that the discussion in Parliament revolves around guidelines and normally avoids getting into the details of the matter contributes to blunt the opposition weapons. Most importantly in the Government's eyes - especially if, as in Italy, it does not firmly hold the reins of the law-making process - the approval of the delegating law leads to a swapping of roles between the two branches: in the first phase, the last word belongs to MPs; in the second phase, this power lies in the Government's hands. If the executive is so willing, the day after the delegating law enters into force it can send its draft legislative decrees to the relevant parliamentary committees or other special committees (if it is envisaged in the delegating provision). In one or two months at maximum, it receives their observations. Formally, it can disregard them because they are not legally binding. After the draft decree is approved in the Council of Ministers, it is published in the Official Journal and eventually, it becomes law. All in all, the post-delegation phase can take no longer than a few months.

2. The paradox of not-exercised delegations

The fact that the executive is the *dominus* in what we term "post-delegation" phase contrasts with the data on the actual exercise of individual delegations presented in table 1: the number of delegations which expire without being implemented was substantial and it increased in the two last legislatures considered (in absolute terms).

[FIGURE 4 ABOUT HERE]

Figure 4 shows that this eventuality occurred also for delegations approved in the first three legislatures. Nonetheless, it is arguable that these events were largely due to their short duration. In many cases the government in power at the moment of the delegation did not have sufficient time to issue the required implementing decrees and the delegation was handed over to the next majority. They could decide to use the pendant delegation or, vice versa, they could simply decide to wait for the delegation to expire without exercising it. An exemplary case is the XII legislature. Most of the delegating laws were approved in the second part of the 2-year legislature, during the transitional "government of technocrats" led by Lamberto Dini. Out of six delegations expiring in the course of the legislature, only 4 were

¹³ Zucchini argues that the advent of government alternation introduced the situation where "the reverse point in case of no policy change can be farther than the present status quo for some of the present government parties". These new conditions reinforced the agenda power of Italian executives (Zucchini 2009).

used.¹⁴ The remaining 22 delegations (with a deadline expiring after the elections) were for the most part inherited by the Prodi government (only 2 were used by the Dini cabinet), which completed the reform of the financial system (5 delegations in Law 549/95) and the pension system (8 delegations in Law 335/95). Conversely, 7 delegations were neglected by the new centre-left executive. A closer inspection of these cases reveals that at least four of them fitted well into Prodi's policy programme since they envisaged transfers of competences to local governments in various fields (Law 203/95 and Law 549/95 art.2). Their exercise did not get a place in the new government's agenda because the new majority had plans to regulate this policy issue by means of a brand-new, more organic and far-reaching reform (Law 59/97, the so-called Bassanini law).

Also a portion of the delegations approved in the XIII and XIV legislature were not used and passed automatically to the next majority (until their deadline expired). In 24 cases, they were not implemented. In more than half of the cases, they consisted in authorizations to adopt consolidating laws in a specific policy area and, in general, they concerned very specific policy issues. Maybe more surprisingly, in the new bipolar system a smaller number (9) of delegations were eventually used. Partly, their objectives were of a rather technical nature: ratification of international treaties or drafting of consolidating laws. Partly, they were included in important delegating acts adopted in the last months of the previous legislature (establishment of the national voluntary service, new employee regulations for the army and police forces, a revision of legislation on social enterprises and on the financial markets). In one case, it was the completion of a complex reform launched by the previous majority (reform of the judicial system). All in all, these data may be interpreted as evidence that delegations adopted by previous majorities are not discarded *a priori* by the incoming government.

The most remarkable finding is however the amount of delegations adopted which were not followed by any implementing decree in the same legislature. Their number soared in the last two legislatures. They were 42 out of 133 primary delegations in the XIII legislature (almost 32%). This proportion was even higher in the XIV legislature: 48 out of 103 primary delegations, i.e. almost 47%. How to explain the paradox of a government asking for legislative powers and obtaining them, which next does not take advantage of this authority?

¹⁴ We established their implementation deadline by looking at their original text. In principle, nothing precludes the postponement of a delegation deadline to a date falling in the next legislature. Sometimes, these amendments to the original delegating act are made by means of law-decrees.

2.1 Hypotheses

The first category of determinants affecting the decision to exercise the delegation concerns the configuration of preferences within the majority. In line with Tsebelis (2002), we expect that policy disagreement within the governing coalition makes policy changes less likely. As it has been argued above, one of the advantages in the delegation setting is to postpone the discussion on the details to a phase dominated by the government. The dialogue in the majority coalition, which normally runs its course prevalently within the parliamentary institutions or in the shadow of them, is prolonged. More importantly, the fact of privatizing the conflict is more likely to smooth out disagreements within the coalition. But the time conceded is limited. If the coalition partners sitting in the Council of Ministers do not manage to find an agreement by the end of the expiration period, delegation is lost. The hypothesis, therefore, is that large intragovernmental conflict will make the exercise of a delegation less likely (H1).

On the other hand, the divisiveness of an issue is not *per se* a sufficient predictor of the way preferences impact on the decision-making process. It is also necessary to consider how important the issue is for the government coalition. Not taking decisions in politically salient sectors is costly for a coalition, since it risks losing political benefits which are highly valued. In light of this argument, we expect that delegations concerning political salient sectors are more likely to be exercised (H2).

In addition to the above-mentioned actor-centred variables, our model includes also factors varying at the level of the enabling acts. Firstly, we take into consideration the timing of adoption for delegating bills. Our data reveal that it is not rare for the Parliament to adopt important reforms also a few months before the dissolution of the two Chambers. This is particularly apparent towards the end of the XIII legislature, with 5 important laws adopted in the three months preceding the elections; but it holds true also for the subsequent legislature, with the enactment of at least two important laws at the start of the electoral campaign in December 2000. Of course this decision puts the Government under tight time-constraints and nullifies most of the benefits stemming from a longer time-frame for intra-coalition negotiations. Thus we expect that delegations adopted in the pre-election period are less likely to be exercised (H3).

Secondly, we consider the type of initiator of the delegating bill. In the greatest majority of cases the initiative originated from the executive and when the initiator is an MP, he/she is

usually affiliated with a party of the governing majority.¹⁵ This last option is often used by coalition members when their proposal does not enjoy a sufficient consensus in the Council of Ministers (whose vote is necessary to initiate a bill). We decided to control for this factor because it is indicative of a divergence of interests in the governing majority. Conversely, we expect that the rare cases of delegating laws initiated by opposition MPs are ordinarily not implemented by the executive because of the distance in terms of policy priorities typical of a bipolar system. That said, we expect that delegations incorporated in bills initiated by MPs are less likely to be exercised (H4).

We incorporated four factors varying at the level of individual delegations. A first relevant distinction in the family of delegating provisions is between delegations enabling the executive to adopt new regulations or amendments in a policy area; and delegations which require the governmental agent to consolidate existing legislation pertinent to a policy field into a single act. As other countries, Italy has traditionally made use of the codification of laws to reorganise and reduce the stock of existing laws. What is more, in 1999 the centre-left majority launched an initiative to accelerate the process of legal consolidation and it assigned a central role to the instrument of legislative delegation. It was decided that the so-called *testi unici* had to be adopted by means of legislative decrees (OECD 2001). That said, the drafting of Consolidation Acts is usually a technical and bureaucratic activity, which has no short-term benefits for the government in power. Thus, we would expect that the amount of resources devoted to this task will be smaller in comparison with delegations dealing with issues that are of high salience for the programmatic profile of majority parties. This should make the exercise of delegations authorizing the adoption of consolidating acts, *ceteris paribus*, less likely (H5).

A second property is the level of precision of the guidelines incorporated in the delegating provisions. We recall that Article 76 of the Italian Constitution obliges the Parliament to establish the “principles and criteria” governing the executive action when it delegates normative power. These provisions are normally contained in a comma, next to the main delegation provision, and conventionally take the form of a bullet-point list. We consider the precision of delegation criteria as a predictor of the degree of agreement reached on the policy content of the executive decree/s before the start of the post-delegation phase. If the above

¹⁵ According to our data, it is the government which initiated most of the delegating bills: 64% in the XIII and 85% in the XIV. These figures stand out when confronted with the proportion of executive-sponsored legislation adopted through the ordinary process (excluding those where the initiator is always formally the executive such as budget bills, bills converting law-decrees and most bills ratifying international treaties): 51% in the XIII and 33% in the XIV.

argument is correct, the more precise the criteria, the more likely the use of the delegation (H6).

A third attribute we take into consideration is whether the delegation envisages the possibility of corrective and integrative decrees. While they were almost absent in the first three legislatures under consideration, since 1996 they have reached the substantial proportion of one corrective delegation, every two primary delegations.¹⁶ As it has already been explained, these provisions (ordinarily incorporated in the delegating law) authorize the executive to modify legislative decrees already adopted in light of the information acquired during their first implementation. Normally, corrective decrees have to be passed within specified time-limits (the adoption period normally starts immediately after the last primary legislative decree is issued) and abide by the procedures of their corresponding delegating provisions. This means that MPs have a second chance to formally meet the government and propose their modifications of the policy measure, sometimes even a few years after the adoption of the delegating law.¹⁷ We expect that having a longer time-frame to complete a reform should facilitate the creation of a compromise within the governing majority and, consequently, the adoption of an implementing text, although an allegedly provisional one. All in all, the inclusion of “corrective provisions” should make the exercise of a delegation more likely (H7).

Finally, we incorporated a measurement of complexity for each delegating provision. Lacking a widely-agreed and direct index of complexity, our proxy measures the time granted to the executive to draft the decrees, as it is laid down in the delegating measure. In fact, the time-limits are normally set out by the legislator on the basis of the predictable difficulty of the process. Therefore, we expect that the greater the amount of time conceded, the less likely the exercise of the delegation (H8).

2.2 Measurement of dependent and independent variables

The unit of analysis is the individual primary delegation. Our observation period covers two legislatures, the XIII (1996-2001) and XIV (2001-2006) legislature, and a total of 10 years. In quantitative terms, our data set comprises the whole population of delegations approved in

¹⁶ The odds are that this figure is underestimated. In some cases, corrective delegations not originally incorporated in the delegating acts were added in a subsequent legislative measure (often, in law-decrees).

¹⁷ The availability of corrective decrees can also present advantages for the parties at the opposition when the delegation is conceded. It is not rare that, after becoming the governing majority, they use these “secondary” delegations to amend legislative decrees adopted on the basis of “primary delegations” and adapt them to their policy platform. This sort of legislative “spoil-system” regarded 8 and 4 corrective delegations adopted respectively in the XIII and XIV legislature.

this period, namely 236 primary delegations (133 in the XIII and 103 in the XIV), excluding those related to the implementation of EU obligations.

The dependent variable measures whether the delegation was exercised in the legislature (1) or not (0). A delegation may require more than one implementing legislative decree and, in a few cases (2 for each legislature), the last adopted measure was passed by the subsequent legislature. In this case, we considered the delegation as exercised by the legislature which adopted the enabling act. With respect to the explanatory variables, our preference-related variables used data from the Laver and Benoit (2006) expert survey, which reports extensive information on issue saliency and policy positions for a large number of democracies and policy dimensions.¹⁸ Since we exclude all delegations authorizing transposition of EU directives, the list of dimensions available for the Italian case was reduced from 9 to 5. To assign a delegation to its relevant policy area, we read the text of the enabling bill as published in the Italian Official Journal. Table 1 summarizes how each policy area was attributed to one of the policy dimensions in the expert survey database. Our policy-area specific proxy of *conflict within the government coalition* (H1) measures the distance of government parties on each policy dimension (Tsebelis 2002). The use of the ideological range on a policy dimension is justified by the fact that legislative decrees are agreed collectively and unanimously by coalition partners in the Council of Ministers. To measure the level of *government issue saliency* (H2) varying across policy dimensions, we replicated the procedures used by Martin & Vanberg (2004, 21) for their saliency variables.

[TABLE 1 ABOUT HERE]

For the next two variables, timing of adoption and parliamentary sponsorship, we created two dummy variables. *Pre-election period* (H3) takes the value of 1 if the delegating bill is passed in the 6 months preceding the elections, 0 otherwise. *Parliamentary origin* takes the value of one if the initiator of a bill is a MPs (no matter his/her party affiliation), 0 otherwise.

As for the factors which vary at the level of individual delegating provisions, we included two dummies, *Codification* (H5) and *Corrective measures* (H7). They take the value of 1 if the delegation authorizes, respectively, the codification of extant legislation in a policy area or the issuance of corrective and integrative decrees after the adoption of the “parent” legislative decrees. *Precision of delegating criteria* (H6) was created by counting the number of words used to specify the “principles and criteria” incorporated in the delegating law. Finally,

¹⁸ These measurements were deemed appropriate because the time of the data collection (2001-03) is close to the middle of our observation period (1996-2006).

Complexity (H8) is measured by counting the number of months granted to the executive to adopt the necessary legislative decree/s.

2.3 Analysis and finding

To test the effect of the explanatory factors presented above on our binary dependent variable, we fitted a multilevel model with binary responses. This decision was justified by the need to account for the hierarchical structure of our dataset.¹⁹ The possibility for a single delegating law to include multiple delegations entails the presence of two levels of analysis, where the latter is nested in the former. This double level is reflected in our model which incorporates determinants varying at the level of both delegating law and delegation. We also checked for the presence of a third level of analysis: the lead ministry in charge of the delegation. While we suspect there might be ministry-specific factors (sluggishness or lack of resources?) at the origin of existing obstructions in the legislative process, this hypothesis could not be fitted in the model by means of dummy variables because of the number of its categories (N=22). The estimated coefficients of the variance components are respectively 2.091 for the delegating act level (standard error = 1.065, Wald-test statistic = 3.854) and 6.291^{e-12} for the ministry level (standard error = 2.984^{e-06} , Wald-test statistic = 4.445^{e-12}). The inter-ministry variance is not statistically different from 0 (p close to 1), whereas this is not the case for the estimated variance between enabling acts ($p < .05$), which accounts for 38% of the total variance. We hence estimate a multilevel model with a random intercept on each enabling act.²⁰ Since consolidating laws do not normally envisage specific delegation guidelines (while performing these codification tasks, the discretion of the executive is rather limited by definition), we test the two hypotheses, *H5: Codification* and *H6: Precision of delegating criteria*, in separate models.

[TABLE 2 ABOUT HERE]

The first consistent finding is that both our preference-related covariates (H1 and H2) behave as expected but they have no significant impact on the probability that a delegation is actually performed.²¹ Firstly, these results might be due to the fact that delegations belonging to the same policy area are often regrouped into the same delegating law and, in addition, the

¹⁹ A likelihood ratio test (performed in Stata 10 with the *xtmelogit* command) confirmed that the multilevel model should be preferred to a standard logistic regression. The multilevel regression was calculated by means of Stata 10 with the GLLAMM command.

²⁰ For the implications of ignoring the multilevel structure of a dataset see Steenbergen and Jones (2002, 219-20).

²¹ Being an early version of the model, we refrain from performing a substantive analysis of regression results.

corresponding draft legislative decrees are often presented in the Council of Ministers for the vote as a package. Given these conditions, we expect that even if all delegations are equally opposed to some extent within the coalition, the policy entrepreneur is still able to build a consensus around a group of them, while accepting to sacrifice the rest. This would not be possible if every delegation was dealt with separately. A second interpretation is that venue-change, as expected by Schattschneider (1960), alters the level of conflict. Both sector-specific policy divergence and salience are less critical in the post-delegation when the majority has already reached an agreement on the policy platform.

As regards the attributes of the delegating law, adoption in the *pre-election period* (H3) is significant and, in line with our expectations, it decreases the likelihood that delegations are used. This finding lends itself to a twofold explanation. The first one is mechanical: there is simply not enough time and most of the resources are devoted to run the electoral campaign. Under these circumstances, delegation appears as a leap of faith. The exercise of the delegation is left to the winner in the polls which, in the new system of government alternation, has been so far the coalition of opposition parties. The second explanation hints at the symbolic value of delegation laws adopted in the run-up to elections. From the point of view of the incumbent government, a benefit associated with the issuance of a delegating law is the possibility of claiming credit for starting a sector-wide reform in front of the electorate. The legislature adopting them does not plan their final implementation from the very beginning. They represent a sort of “manifesto” delegations. The next finding points out that delegations included in enabling bills initiated by MPs are not less likely to be implemented than those sponsored by governmental actors (H4). Rather than hinting at a division in the Council of Ministers, the presentation of bills by parliamentarians might be justified by mere electoral reasons (Bräuning and Debus 2009).

With regards to the factors varying at the level of individual delegations, consider first the effect of *codification* (H5). This is one of the most robust results in our model. Authorizations to carry out the consolidation of existing laws in a policy area are less likely to lead to the adoption of legislative decrees. Our explanation is that there are low political incentives for the minister governing that jurisdiction to perform these rather administrative tasks. This apparent reluctance emerges also from our data: the average time taken to adopt a *testo unico* is longer in comparison with the time required to pass other legislation. This result might also represent an explanation of why the current Berlusconi government created a specific Minister for the Simplification of laws in charge of coordinating all codification processes.

An interesting result is the effect of the precision of delegation criteria (H6). Delegations prescribing in details the guidelines which the government must follow are more likely to be performed. We interpret this finding as an example of the close relationship between the parliamentary phase, when delegation criteria are adopted, and the subsequent executive phase. In most cases, very precise instructions are introduced when there is a strong agreement among coalition partners both on the policy principles and the implementation criteria (Huber and Shipan 2002). This means that only less controversial points are postponed to the post-delegation and to the discretion of the ministerial unit responsible. Additionally, since writing detailed legislation is costly, a high level of statutory control signals the importance of the policy in the eye of the delegating actors.²² As a result, the latter will be more prone to monitor the ministry in charge of drafting the decree and avoid that previous efforts are wasted because of administrative negligence.

We are more likely to find an implementing decree in the case of delegations envisaging the possibility of *corrective measures* (H7). The awareness that the regulation can be modified at a later point in time represents an incentive to find a coalition agreement. Even so, we notice that this finding loses its statistical significance when tested in model 2. As a final result, the *complexity of a delegation* (H8) affects the likelihood of it being performed in a statistically significant way. Previous research on the topic (e.g. Hine 1993) leads to suspect that such administrative dysfunction is imputable more to the low-level of effective coordination, than to the lack of legal expertise in the administration. Coordination problems were a constant in the First Italian Republic, where the short-termism of coalition relationships ended up undermining the leadership of the prime minister and its cabinet. The first years of the Second Republic do not seem to be immune from this problem either.

Conclusions

Our findings represent a contribution to the debate on the current evolution of the executive-legislative relation in the so-called Second Italian Republic. The advent of government alternation and the consolidation of a bipolar system are seen as the strongest incentive pushing governing majorities to look for new means to increase their functional legitimisation. Legislative delegation was one of the responses they found. Whereas in the first half of the 1990s, this legislative option was predominantly used to transpose EU

²² This finding is not necessarily in contrast with results in H1 and H2, because two different levels of observation are involved: respectively sector-specific (H1) and policy-specific disagreement (H6).

directives and to initiate large emergency reforms, since 1996 it established itself as the strongest instrument available to the executive to implement its legislative agenda. In fact, it allowed the executive to bypass the veto-ridden ordinary process without requiring a specific Constitutional amendment.

On the other hand, we showed that there is an apparent problem of follow-up in relation to many delegations. Indeed, the value-added of this paper is to cast light on a policy-making phase which has been so far neglected: the post-delegation phase. The discovery that in Italy a large number of delegations expire without generating any decree represents a conundrum if it is compared with the increased availability of delegations. Our model points to three main answers to this phenomenon. Firstly, this is due to the lack of political commitment at the highest political level. This emerges both from the reluctance on the part of ministerial units to embark on resource-demanding activities of codification, which do not guarantee any substantial political benefits; and from the fact that some delegations are adopted for mere electoral convenience, especially at the end of the legislature. Secondly, we interpret the finding that delegations prescribing precise guidelines for government action are more likely to be implemented as evidence that delegated legislation needs an extended consensus in the coalition majority about what to do from the very beginning to pass. The emphasis on the importance of consensus-building finds support also in other trends emerging from the data. Time-limits granted to the executive to adopt delegated decrees are increasingly extended and deadlines are repeatedly delayed. Executives tend to use the entire time conceded, so much that the final adoption of legislative decrees in the Council of Minister often occurs a few days before their deadline expire. The inclusion of provisions allowing corrective measures is becoming a standard practice: this means that the duration of a single delegation can be extended for up to 5 years (a whole legislature). All in all, delegation processes are not exempt from the practice of consensual decision-making, which has been long recognized as a typical trait of Italian politics (e.g. Giuliani 2008). Thirdly, there is evidence that Italian bureaucracy still suffers from high segmentation and is permeated by a legalism which makes policy coordination difficult.

In conclusion, our collected evidence points out that the greater reliance on legislative delegation did not coincide with a pronounced transformation of Italian deep-rooted politico-administrative practices. As in the past, the Italian system does not envisage any specific *formal* monitoring and enforcement mechanisms to counter administrative *inaction*. For the executive, maintaining the status quo is often a better option than deciding in a state of uncertainty, with the probability of incurring in sanctions (which one risks in case of

overspending or of *ultra vires* administrative action, Hine 1993, 180). For this reason, a good predictor of the ultimate success of reforms is not so much the amount of power delegated, but the political will underlying it. The crucial point is that the formal adoption of a delegation is only the beginning of a long and demanding battle. In this confrontation, the burden of scrutinizing administrative operations lies particularly on MPs. In fact, it is often neglected that, most of the times, parliamentary committees have to be consulted also after the delegation is issued and express an opinion (not binding in Italy) on the draft executive decrees (but see Mattei 2007). We believe this aspect to be relevant, in particular in the case of large and heterogeneous coalitions as found in Italy. The level of internal policy divergence often impairs the capacity to draft sufficiently detailed delegation criteria or makes it extremely costly, so much that the delegation benefits are relatively nullified. Therefore, MPs may have to invest in other monitoring devices which are activated after the delegating act is adopted, in the interim period conceded to the ministerial agent to draft the decrees. Partly, they correspond to classic cabinet-level accountability tools; partly they take the form of consultation procedures and other investigative activities involving parliamentary committees. Numerous questions arise, such as are these instruments efficient? Have they adapted over time? Ultimately, much work remains to be done to explore more fully how the expansion of legislative delegation impacted on the relationship between legislative and executive. Research on the processes characterizing the post-delegation phase in Italy is just at the beginning stages.

REFERENCES:

- Baumgartner, Frank R., and Bryan D. Jones. 1993. *Agendas and instability in American politics*. Chicago: University of Chicago Press.
- Borghetto, Enrico, Fabio Franchino, and Daniela Giannetti. 2006. "Complying with the transposition deadlines of EU directives: Evidence from Italy." *Rivista italiana di Politiche Pubbliche* 1(2006): 7-38.
- Bräuninger, Thomas, and Marc Debus. 2009. "Legislative Agenda-Setting in Parliamentary Democracies." *European Journal of Political Research* Forthcoming.
- Camera dei Deputati. 1998. *Rapporto 1998 sullo stato della legislazione*. Rome: Osservatorio sulla legislazione.
- Capano, Giliberto, and Marco Giuliani. 2001. "Governing without Surviving? An Italian paradox: law-making in Italy 1987-2001." *Journal of Legislative Studies* 7(4): 13-36.
- Capano, Giliberto, and Marco Giuliani. 2003. "The Italian parliament: In search of a new role?." *Journal of Legislative Studies* 9(2): 8-34.
- Della Sala, Vincent, and Amie Kreppel. 1998. "Dancing without a lead: legislative decrees in Italy." In *Executive decree authority*, Cambridge: Cambridge University Press, p. 175-196.
- Di Palma, Giuseppe. 1977. *Surviving without governing: The Italian parties in parliament*. Berkeley: University of California Press.
- Di Palma, Giuseppe, Sergio Fabbrini, and Giorgio Freddi, eds. 2000. *Condannata al successo?: l'Italia nell'Europa integrata*. Bologna: Il Mulino.
- Ferrera, Maurizio, and Elisabetta Gualmini. 2004. *Rescued by Europe? Social and Labour Market Reforms in Italy from Maastricht to Berlusconi*. Amsterdam: Amsterdam University Press.
- Giuliani, Marco. 2008. "Patterns of Consensual Law-making in the Italian Parliament." *South European Society and Politics* 13(1): 61 - 85.
- Goetz, Klaus H., and Jan-Hinrik Meyer-Sahling. 2008. "The Europeanisation of national political systems: Parliaments and executives." *Living Reviews in European Governance* 3(2). Available at: <http://www.livingreviews.org/lreg-2008-2> [Accessed May 19, 2009].
- Hine, David. 1993. *Governing Italy. The Politics of Bargained Pluralism*. Oxford: Clarendon Press.
- Huber, John D., and Charles R. Shipan. 2002. *Deliberate Discretion? The Institutional Foundations of Bureaucratic Autonomy*. Cambridge: Cambridge University Press.
- Jones, Bryan D., and Frank R. Baumgartner. 2005. *The Politics of Attention: How Government Prioritizes Problems*. Chicago: University Of Chicago Press.

- Kreppel, Amie. 1997. "The Impact of Parties in Government on Legislative Output in Italy." *European Journal of Political Research* 31(April): 327-350.
- Laver, Michael, and Kenneth Benoit. 2006. *Party Policy in Modern Democracies*. London: Routledge.
- Lupo, Nicola. 1999. "Le leggi delega e il parere parlamentare sugli schemi di decreti legislativi nell'esperienza repubblicana." In *Il parlamento repubblicano*, ed. Silvano Labriola. Milano: Giuffrè Editore.
- Martin, Lanny W., and Georg Vanberg. 2004. "Policing the Bargain: Coalition Government and Parliamentary Scrutiny." *American Journal of Political Science* 48(1): 13-27.
- Mattei, Paola. 2007. "Legislative Delegation to the Executive in the 'Second' Italian Republic." *Modern Italy* 12(1): 73-89.
- Nugent, Neill. 2006. *The Government and Politics of the European Union*. London: MacMillan.
- OECD. 2001. *Regulatory reform in Italy*. Paris: OECD Publishing.
- Page, Edward. 2001. *Governing by numbers: delegated legislation and everyday policy-making*. Hart Publishing.
- Sartori, Giovanni. 1976. *Parties and Party Systems*. Cambridge University Press: Cambridge.
- Schattschneider, Eric E. 1960. *The Semi-Sovereign People*. New York: Holt, Rinehart & Winston.
- Steenbergen, M. R, and B. S Jones. 2002. "Modeling multilevel data structures." *American Journal of Political Science*: 218-237.
- Tsebelis, George. 2002. *Veto Players: How Political Institutions Work*. Princeton: Princeton University Press.
- Vassallo, Salvatore. 2007. "Government under Berlusconi: The functioning of the core institutions in Italy." *West European Politics* 30(4): 692-710.
- Vassallo, Salvatore. 2001. "Le leggi del governo. Come gli esecutivi della transizione hanno superato i veti incrociati." In *Parlamento e processo legislativo in Italia. Continuità' e mutamento*, Bologna: Mulino, p. 85-126.
- Zucchini, Francesco. 2001. "' Veto players" e interazione fra esecutivo e legislativo: il caso italiano." *Rivista italiana di scienza politica* (1): 109-138.
- Zucchini, Francesco. 2009. "Italy: Government alternation and legislative agenda setting." In *The Role Of Governments in Legislative Agenda Setting*, eds. Bjørn Erik Rasch and George Tsebelis. London: Routledge.

FIGURE 1. Legislative output by government and legislature

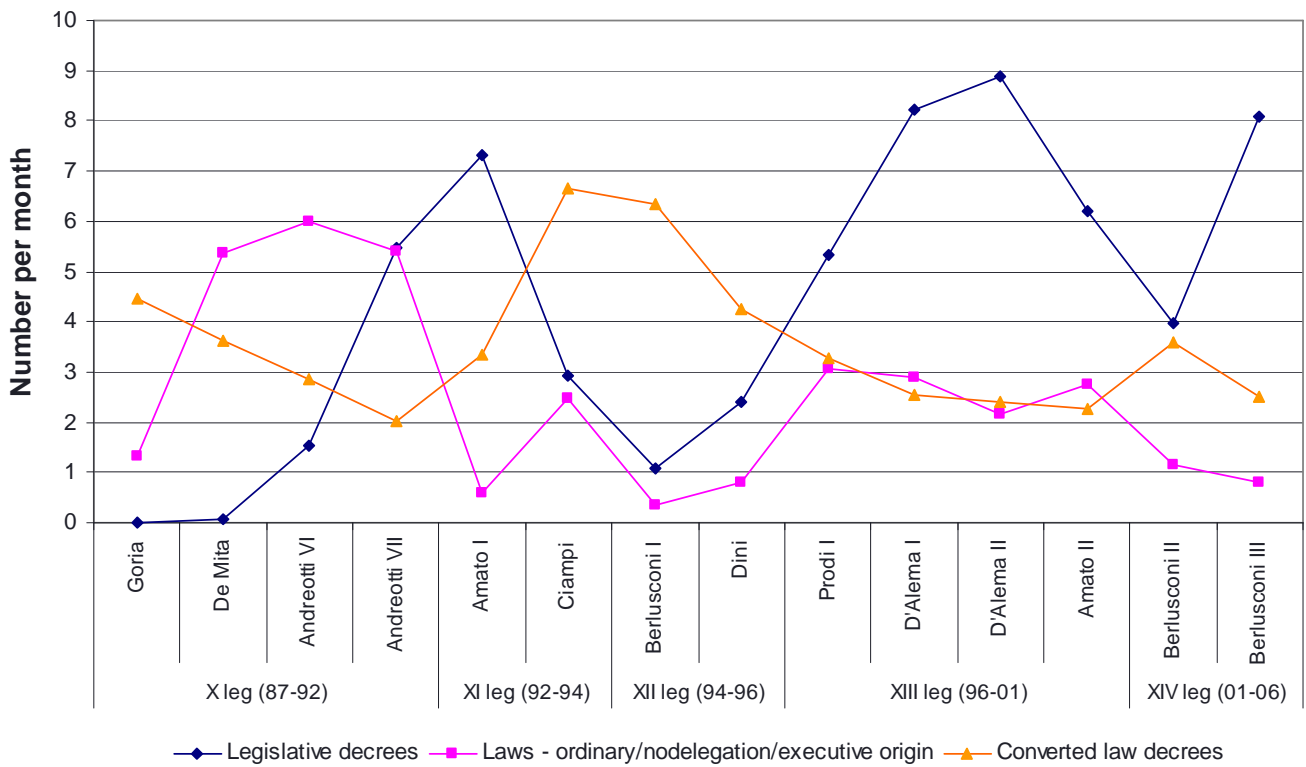


FIGURE 2. Proportion of legislative decrees transposing EU directives

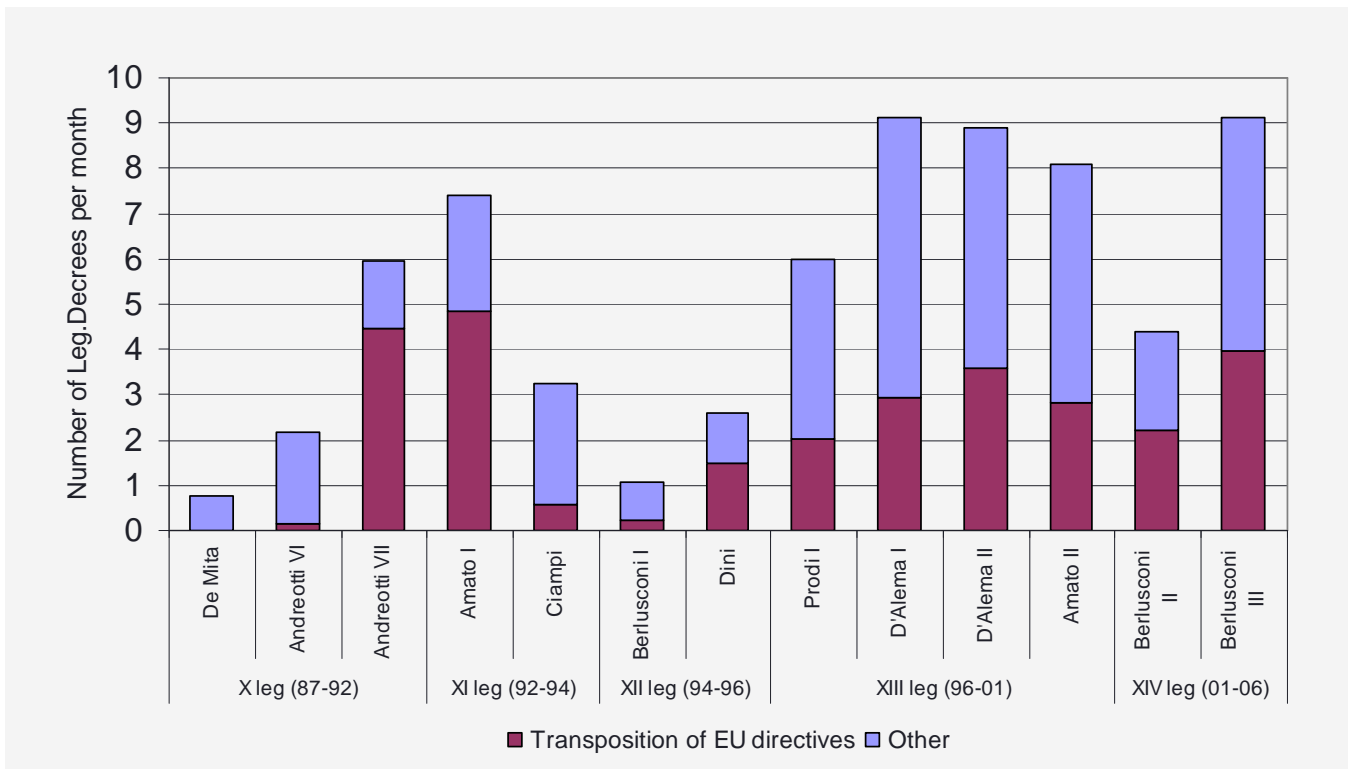


FIGURE 3. Legislative decrees by policy area and origin

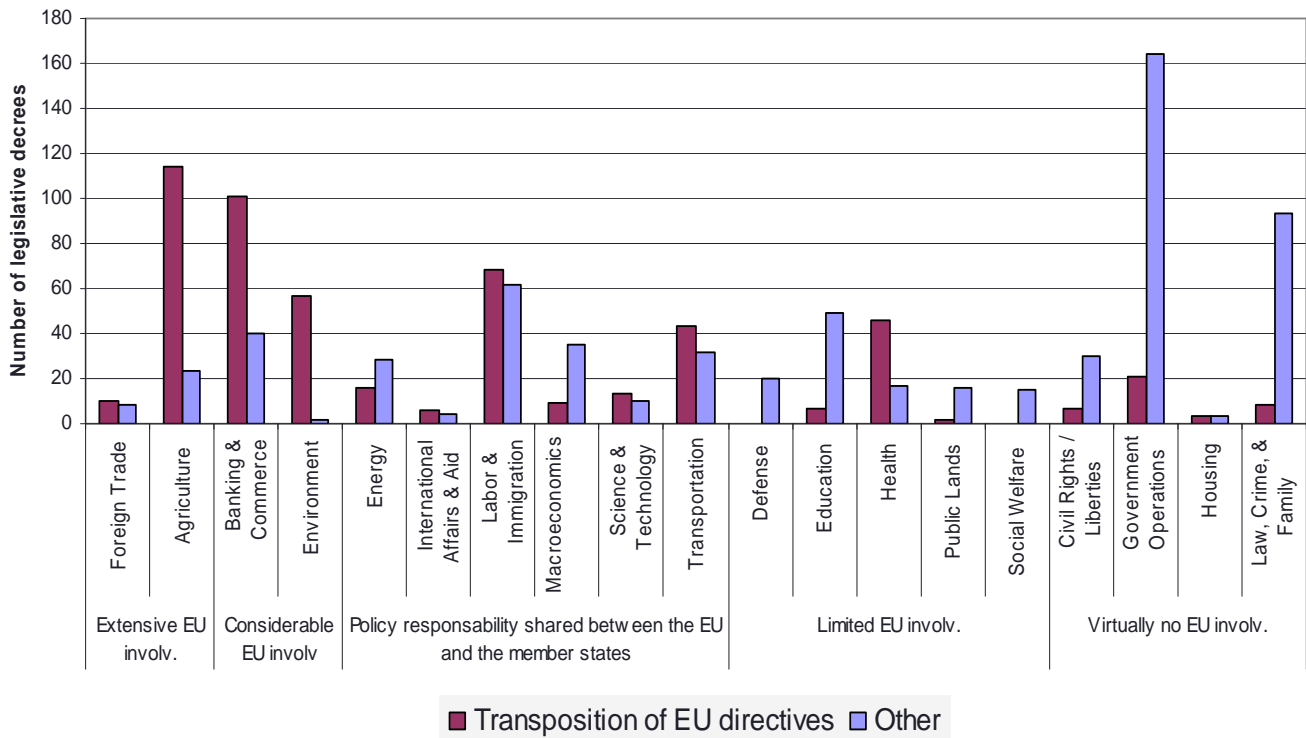


FIGURE 4. The exercise of legislative delegations

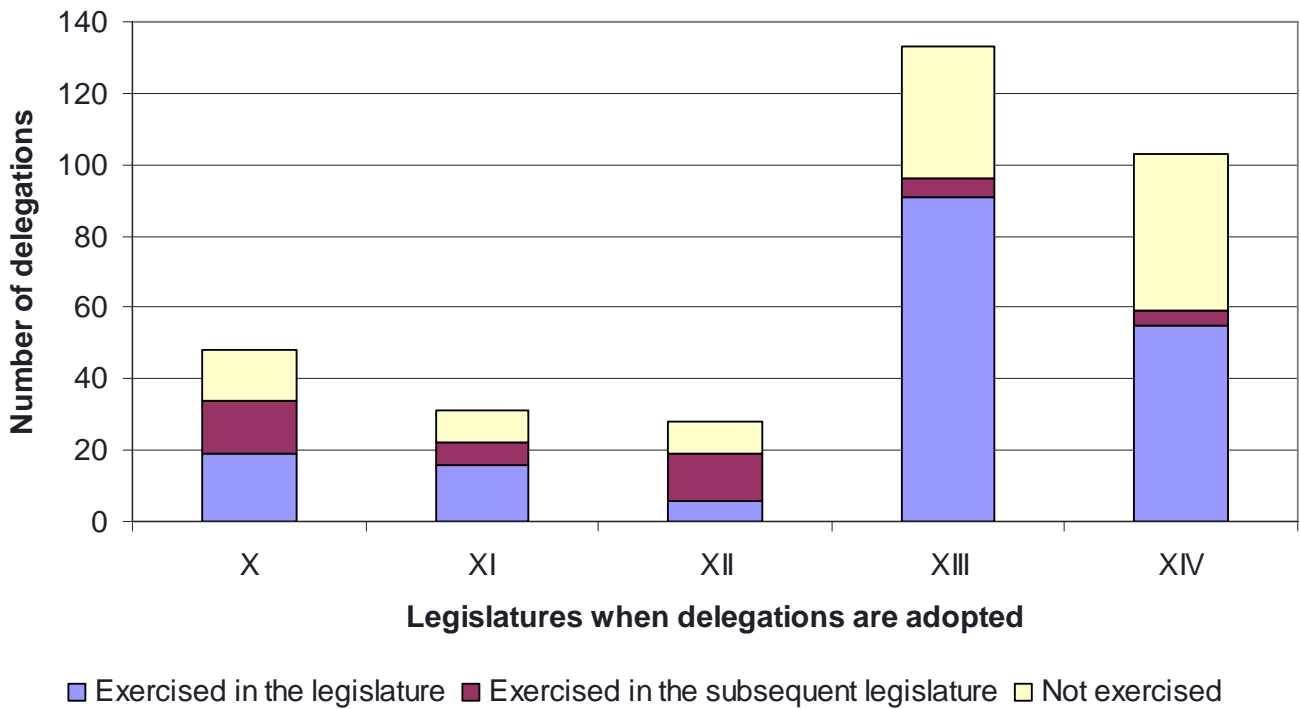


TABLE 1. The match between policy areas and policy dimensions

Policy areas in dataset on legislative delegation	Description	Policy dimensions in Laver & Benoit dataset (2006)
Decentralization (N=72)	Promotes decentralisation of all administration and decision-making	Regional policy, Interior, Justice & Law
Deregulation (N=77)	Favours high levels of state regulation and control of the market	Industrial policy, Commerce, Energy
Environment (N=12)	Supports protection of the environment even at the cost of economic growth	Environmental policy, Agriculture
Social (N=24)	Favours/opposes liberal policies on matters such as abortion, homosexuality and euthanasia	Civil rights policy, Social Welfare, Immigration
Economic policy (N=51)	Increase taxes vs improve public services	Economic affairs and finance, Education, Science and Research, Health

TABLE 2. Results

Parameter	Model 1		Model 2	
	Coef.	Std. Err.	Coef.	Std. Err.
FIXED EFFECTS				
H1: Conflict within government coalition	-0.104	0.090	-0.040	0.128
H2: Government issue saliency	1.753	6.980	3.618	8.772
H3: Pre-election period	-2.209	0.745***	-3.357	1.181***
H4: Parliamentary origin	0.182	0.695	-0.564	1.123
H5: Codification	-1.594	0.504***		
H6: Precision of delegating criteria			0.002	0.001***
H7: Corrective	0.762	0.437*	0.303	0.600
H8: Complexity of delegation	-0.084	0.033**	-0.119	0.047**
Intercept	2.551	1.461*	2.039	2.070
RANDOM EFFECTS				
Variance, intercept	1.636	0.834**	2.606	1.463*
Log-likelihood	-121.23		-80.61	

Dependent variable is exercise of delegation within the legislature. Logit model with random intercept on delegating law level. Models 1 -> N= 236 (delegating law, N=83). Models 2-> N=180 (delegating law, N=62). Maximum likelihood estimates. *** = $p < .01$; ** = $p < .05$; * = $p < .1$