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## **Exploring the Dynamics of Delegation Over Time:**

### **Insights from the Italian Anticorruption Agencies (2003-2016)**

*According to the classical literature on delegation in the regulatory state, independent regulators are established to enhance the credibility of regulatory policies. In that regard, anticorruption agencies are peculiar not only as they are very salient, but also because they receive delegated competencies from the government as the “principal”, while at the same time the government also constitutes their regulatory target. How do governments manage regulatory reforms to strike the balance between the credibility gains they could earn as “principals” and the credibility losses from they could suffer as targets? Drawing on insights of historical institutionalism, this article undertakes a qualitative longitudinal analysis of organizational change regarding anticorruption agencies in Italy, where this kind of agencies are particularly relevant for political leaders. Findings shed light on delegation understood as a dynamic process where multiple factors intersect over time.*

#### **Introduction**

The delegation of public tasks to agencies is considered to be one of the main public governance innovations that have taken place in industrialized and developing countries during the past two decades (Verhoest et al. 2012). Different research communities have dealt with the agencification of

public bureaucracies which partially overlap and do not constitute fully separate research traditions (Flinders 2009).

Three main communities can be identified with respect to their research agenda on agencification (Maggetti and Verhoest 2014): a number of regulatory studies focused on the institutional design of agencies in order to examine the mechanisms of political control over bureaucratic autonomy drawing on the principal-agent framework (McCubbins et al. 1989; Moe 1990); research in public policy and political science examined the establishment, diffusion and independence of regulatory agencies focusing on the functional and non-functional pressures for delegation (Gilardi 2008; Jordana and Levi-Faur 2004; Thatcher 2002) as well as assessing how formal aspects of independence translate into de facto autonomy (Koop and Hanretty 2013; Maggetti 2007); the relationship between formal and de facto autonomy has been also investigated by public management scholars which predominantly used survey methodologies to gather perceptual data in comparative perspective (Verhoest et al. 2010).

The issue of agency autonomy within a framework of political control lies at the intersection between the three research communities. Insights from regulatory theory (McCubbins et al. 1989) have been used by both political science/public policy (Thatcher 2005) and public management (Van Thiel and Yesilkagit 2008) scholars to address the enduring tension between agency autonomy and political control. As for the benefits, the political science/public policy literature has identified the rationales for delegation to agencies which assist political principals in responding to pressures and problems (Elgie 2006; Thatcher 2002).

As for the costs, they result from “agency losses” that is agencies acting contrary to the preferences of their principals which can use a repertoire of political control tools to address them (Thatcher 2005). Consequently, the powers and autonomy that agencies are granted at the outset depend on the balance between the pressures for delegation and political principals’ strong incentives for minimizing agency losses. Yet, the capacity of political principals to design public agencies for the long run is limited (Boin et al. 2010) since design features have time-varying

effects often generating unanticipated consequences of delegation (Wilks and Bartle 2002). This is why political principals rely on agency oversight which is carried out to keep agency losses at a minimum after agency design (Balla 2011).

However, most of studies within the three research communities (regulatory, public policy and public management studies) provide a “snapshot” representation of agency design leaving its dynamic nature underexplored (Maggetti and Verhoest 2014). Drawing on organizational ecology (Hannan and Freeman 1989), the third community of public management scholars has only recently engaged in the quantitative study of longitudinal change and continuity in relation to state agencies (MacCarthaigh and Roness 2012). A body of longitudinal quantitative analysis mostly focused on patterns of agency birth and termination has also developed in the regulatory studies on the US presidential system (Boin et al. 2010; Lewis 2003; Selin 2015) and in the public policy and political science studies focused on parliamentary systems (Greasley and Hanretty 2016).

Yet, quantitative longitudinal analyses track year-by-year differences in the pool of agencies without grasping the complexity of their life span which is shaped by the interaction between the strategies and reform programs of political elites and the responses of agencies to reform proposals (Overman et al. 2014). First, data on the continued presence of an agency from year to year to do not shed light on other structural or procedural changes influencing its autonomy (Bach and Jann 2010). Second, large-N data overlook the “black box” of the process by which government proceeds from initial proposal to decision under the influence of agencies as active players who react to pressures for reform (Dommett and Skelcher 2014).

Against this backdrop, this article contributes to the emerging literature highlighting the necessity of supplementing large-N data with in-depth qualitative analysis to investigate the dynamics of organizational change following regulatory reforms that influences the autonomy of regulatory agencies. The case of Italian anticorruption agencies is particularly suitable to undergo this kind of analysis because, on the one hand, anticorruption policies display a high level of political salience (OECD 2013a), and, on the other hand, corruption is a salient feature of public life

in Italy (Transparency International 2016). Thereby, this case epitomizes situations where credibility issues manifest them intensively, such as in other countries that are similarly affected by corruption problems and in other sectors that are traditionally tightly related to the government (e.g. utilities and communications).

Whereas other recent studies contributed to this literature by focusing on policy meanings (Elston 2014) and meta-governance (Dommett and Flinders 2015), this article complements principal-agent theory with insights of new institutionalism by focusing on delegation as “a process rather than one-off event” (Thatcher 2002), one in which agencies can be active agents (Wilks and Bartle 2002).

By focusing only on agency design, these studies have not tracked the trajectory of agency development which do not necessarily constitute an irreversible self-reinforcing sequence as highlighted by those historical institutionalist accounts which leave more room for change within the path as they understand historical evolution as a “reactive sequence”, that is a chain of events linked through reactions and counter-reactions (Mahoney 2000). Reactive sequencing has been also recognized by those public management accounts (Pollitt 2008; Pollitt and Bouckaert 2009) which shed light on the cycles/alternations in public management policy which are triggered by changes in government and feedback effects from unintended consequences of reform efforts.

Research on reactive sequencing constitutes the context in which a seminal research on anticorruption agencies (Batory 2012) tracked changes over time in agencies’ mandate explaining why their life cycles are not simply a function of their initial mandate since their autonomy will evolve in a “series of attacks and counterattacks”, the outcomes of which are shaped by the interplay between political factors and agency activism. Building on this seminal study, our research uses a within-case analysis joining the call for more efforts directed to intensive research strategies for a better understanding of the interplay between explanatory factors over time (Verhoest and Maggetti 2014; Verhoest et al. 2007; Van Thiel and Yesilkagit 2011).

More specifically, we provide a diachronic examination of variations in the independence of anticorruption agencies in Italy following their repeated interaction with the government, which constitutes the “principal” that will benefit from the increased credibility of regulatory policies, but that at the same time could suffer from serious credibility losses as their regulatory target. The article is structured as follows: the next section presents the framework that we apply to the longitudinal study of delegation to anticorruption agencies in Italy. After the discussion of data and methods, the following empirical section tracks the process of delegation to Italian anticorruption agencies over time. Discussion and conclusions follow.

### **Delegation to Anti-Corruption Agencies in Italy and the Process of Regulatory Reform**

Following a key argument of the classical literature on delegation in the regulatory state, the main functional rationale for delegating regulatory competencies to agencies that enjoy formal independence from the government derives from the need for guaranteeing the credibility of regulatory policies (Majone 1996: 3-4). Indeed, stakeholders (e.g., foreign investors), consumers and citizens may anticipate a consistency problem due to political pressures and the uncertainties related to the political cycle. Therefore, like Ulysses with the Sirens, governments decide to bind themselves to achieve their goal, that is, to create credible policy commitments. As tying their hands comes at a cost, since governments will no longer be able to easily revert regulatory policies, delegation is expected to take place especially when the incumbent is facing a serious credibility problem, such as for the liberalization of former public utilities and communication companies.

The case of anti-corruption agencies – (ACAs) understood as “publically funded bodies of a durable nature whose specific mission is to fight corruption and to reduce the opportunity structures favorable to its occurrence through preventive and repressive strategies” (DeSousa 2010) – is peculiar because the government is not merely the “principal” who will achieve credibility gains by creating credible policy commitments. It is also the target of regulation, who could suffer from

credibility losses when an independent regulator would expose possible misconduct in the public sector and, above all, as regards to the core executive of the government itself (Maor 2004).

These credibility losses could be exceptionally serious, because, on the one hand, anticorruption policies display a high level of political salience in a context of increasing concern for corruption within public institutions (OECD 2013a). On the other hand, pressures for credible commitment are particularly intense in countries such Italy where corruption is a salient feature of public life: in the Corruption Perception Index (Transparency International 2016), Italy moved down from the 33th rank out of 41 countries in 1995 to the 94<sup>th</sup> out of 176 countries in 2012 before improving to the 61st out of 168 countries in 2015; according to a recent Eurobarometer survey (European Commission 2014), 97% of Italian population (EU average 76%) perceived in 2013 corruption as widespread in the country while previous bi-annual surveys conducted in the period 2005-2011 highlighted the fact that a large majority of citizens in Italy believed that corruption was a major problem for their country (from 74% in 2005 to 87% in 2011 while the EU average rose from 72% to 74% in the same period).

According to these arguments, it is expected the following:

Hypothesis 1.1: Italian anti-corruption agencies are strengthened (or weakened) over time by the government following functional reasons as regards the supply-side of credibility. Specifically, the government delegates more independence when its expected gains in terms of credibility as a principal outweigh its potential losses in terms of credibility as a regulatory target.

This hypothesis requires a crucial complementary qualification. Indeed, it is plausible to expect that periods of political and/or economic crisis will dramatically alter the balance by raising the need of credibility of the government as a principal (which corresponds to the “numerator” in the equation). In other words:

Hypothesis 1.2: (Italians) anti-corruption agencies are strengthened (or weakened) over time following the demand-side of credibility (too). Specifically, the government delegates more independence when regulators are required to provide (additional) credibility in periods of political and/or economic turmoil.

When we move from a snap-shot perspective focused on the delegation moment to a longitudinal understanding of politico-administrative relations based on within-case analysis, we can better assess whether these two sets of explanatory factors are concomitantly at work. Indeed, an in-depth look at the temporal ordering of events could indicate that these factors matter differently over time, that their combination is time-contingent, or that a specific factor played a crucial role in a given critical juncture. For instance, at some point policy makers may experience a variation in the severity of the credibility problem, and the evolution of the external environment may alter the pressures for establishing (more) independent agencies. In the analysis, we will give a special attention to the time dimension, but the specific role of time-related factors will emerge inductively from the case studies, in line with a within-case approach. Against this backdrop, we will assess the pertinence of the following two hypotheses for the process of agency reform with respect to the logic of delegation.

What is more, longitudinal within-case analysis will also allow us to tackle the “how” question. A focus on sequences of reforms instead of the “delegation moment” implies to account even more for the fact that policy makers are building on existing structures. The argument of path dependence has been already applied to the investigation of agencification by previous public management studies which demonstrated that deeply rooted administrative traditions constrain agency design (Yesilkagit and Christensen 2010). However, there are conflicting expectations about the scale of (non-)change. On the one hand, one could expect that in extremely salient policy areas embedded in a political system with many veto players, such as for anti-corruption policies in Italy,



actors have high incentives to block regulatory reforms that might threaten their constituency, and consequently change will be only marginal, if any.

Hypothesis 2.1: Italian anti-corruption agencies follow a path-dependent trajectory of development that locks-in previous decisions and produces a situation of stasis. The extreme salience of the issue combined with the high number of veto players reduce reform capacity at system-level.

On the other hand, one could alternatively expect that in this situation it is still possible to observe incremental but ultimately transformative change (Streeck and Thelen 2005). The global development of the regulatory state has proven to lead to considerable macro-institutional transformations even in cases considered as resilient (Maggetti 2014). When the regulatory framework is characterized by low discretion in interpretation and enforcement, such as in anticorruption policy, the expected mode of change is layering, that is, a process that builds on existing rules and organizations through apparently marginal and non-fundamental phenomena of re-regulation, which will, however, eventually alter the logic of the regulatory model.

Hypothesis 2.2: Italian anti-corruption agencies can be reformed according to a process of layering, whereby organizational evolution will eventually alter the logic of the regulatory framework. This process is determined by the presence of many veto players and low discretion in the implementation of the regulatory framework.

Since structures provide opportunities and constraints to political actors but evolve only under the impulsion of human agents, we also expect that the presence of proactive political and/or agency leaders will be a key determinant of change. In that respect, one could hypothesize that political leaders are particularly pro-active when delegation concerns symbolic properties that do not

necessarily translate in practice, that is, when a social logic of delegation is at work (Mc Namara 2002). This would allow them to reduce the risk of credibility losses as regulatory target. Instead, agencies leaders are expected to prefer to maximize their factual independence, which is their “raison d’être” and therefore is crucial for their organizational survival.

Hypothesis 3: Political leaders are particularly pro-active when a social logic of delegation is at work, while agencies leaders would prefer to enjoy factual independence.

### **Research Design and Methods**

As anticipated, this study is based on a diachronic within-case study design applied to a “representative case” with respect to the phenomenon under investigation. This analytical approach is well suited for tracing the complex interactions between governments and agencies within the broader historically rooted context as it adopts a form of explanation which attributes outcomes to the temporal intersection of multiple factors (George and Bennett 2005; Gerring 2007).

This approach will allow us to endogenise a number of confounding factors, such as the institutional framework and the administrative culture, which are difficult to neutralize otherwise. What is more, a longitudinal perspective makes visible key variables that are usually underestimated, namely the role of political and/or agency’s leaders in pushing the reforms forward.

To operationalize our hypotheses, we focus on the use of political control tools as dependent variable drawing on the operationalization of agency independence reported in previous studies of formal independence (Balla 2011; Gilardi and Maggetti 2011; Thatcher 2005) which includes the following items:

1. *Appointment of board members.* This can be entrusted either to the Government or to the Parliament. Further, it can be constrained by rules on independence requirements (previous experiences, relationships with trade unions and political parties, notorious impartiality and

integrity), duration, dismissal and renewability of appointment, “cooling off” periods, revolving doors, incompatibility framework.

2. *Resources (Budget and staff)*. Budget can be determined by the executive or by the Parliament in the context of the annual budgeting. Staffing levels can be fixed by the law or decided autonomously by an agency. Autonomy depends on the stability (to program the activities) and their quantity (to make sustainable the attributed mission) of the available resources.
3. *Overturing of decisions*. Political principals can overrule an agency decision or reject the agency advice.
4. *Manipulation of organizational basis, powers, and duties*. This can be radical when politicians terminate agencies or change their organizational type. It can also concern the competencies of an agency with regard to rule-making, monitoring and sanctioning. Manipulation affects not only the structural dimension autonomy-control but also the functional one, that is the tasks entrusted to an agency (Elston 2014). In particular, in anticorruption policy we distinguish between *enforcement* (investigation and prosecution) and *preventive* functions (OECD 2013a).

The following empirical analysis tracks changes in delegation to Italian anticorruption agencies since 2003 when the first agency was established. Participant observation in the period 2012-2015 has been combined with semi-structured interviews and documentary evidence to strengthen internal validity as well as gathering evidence on the pre-2012 period. As for semi-structured interviews, 5 respondents were selected for each of the 4 phases in which the trajectory of Italian anticorruption agencies has been segmented (see Empirical analysis). The 20 interviews were conducted face-to-face in Rome in the period December 2013-May 2015 with experts knowledgeable about Italian anticorruption policy. Experts hail from a variety of backgrounds, from political leaders and former board members of anticorruption agencies, to senior officials and policy advisors working in agencies and ministerial units dealing with corruption prevention. The

questionnaire included five themes (the use of political control tools and the role of three factors under investigation: government alternation, international pressures, agency activism) and it provided a working definition of each of its elements. The list of interviewees and the questionnaire are available from the authors.

## **Empirical analysis**

### ***The Path to the introduction of ACAs in Italy***

In comparative perspective Italy has experienced not only significant levels of corruption but also the maximum public exposure of corruption in the early 1990s when the scandal sparked by the “Clean Hands” judicial investigation led to the collapse of the governing political parties followed by a massive party system realignment which had no impact on the enduring fragmentation of coalition governments.

Political change has not meant any true renewal in terms of firm political commitment to anticorruption efforts which entered into the political agenda after the national elections of April 1996 won by the centre-left coalition led by Prodi (Della Porta and Vannucci 2007). In September 1996, the House of deputies established a special commission to examine reform proposals produced by a committee for the study of causes and remedies for corruption (Camera deideputati – Comitato di studio sullaprevenzionedellacorruzione 1998). The analyses of the special commission were not translated into effective reforms but they triggered a parliamentary debate. The latter reproduced the divide between “watchdogs” and “guard dogs” types of anticorruption agencies that has appeared worldwide (Kuris 2015).

The “guard dog” type was promoted by Antonio Di Pietro, a leading prosecutor of the Clean Hands investigations who later became a political leader in the centre-left coalition, with the aim of endowing an anticorruption agency with strong investigative powers. However, this approach - called the “gendarmerie” (*gendarmone*) for its focus on law enforcement - raised concerns about the

resources required to operate effectively and the possible tension with law enforcement partners, especially the judiciary.

The “watchdog” type was advocated by a minority of experts and policy advisors who had designed public management reform in Italy since the early 1990s. According to this community, the gendarmerie approach consumes not only resources but also attention as it might distract policy makers from the need of systemic anticorruption efforts such as public management reforms. They rather envisaged the anticorruption agency as a small size “watchdog” that monitors issues of integrity and transparency and promotes wider administrative reforms to enhance sound management and accountability with respect to the ordinary civil service.

However, this “administrative” approach faced contextual features severely hampering the implementation of public management reforms in Italy such as the vicious circle between distrust in public officials and legalism, the entrenched organizational fragmentation of the public sector at both the central and local level, the lack of mechanisms for policy coordination, and the absence of an administrative elite endowed with an *esprit des corps* (Ongaro and Valotti 2008).

The debate on anticorruption agencies failed to produce concrete measures because of bickering within the fragmented centre-left coalition which led to the resignation of the Prodi government in 1998 and to the succession of three different governments in the 1998-2001 period. As highlighted by the following sections, the administrative and gendarmerie approaches constituted the two poles around which the implementation anticorruption policy has oscillated since 2003 when the first anticorruption agency was established.

### ***Anticorruption High Commissioner (2003-2008): the inadequate launch of the “gendarmerie approach”***

In 2001 the centre-right coalition won the national elections and the second Berlusconi government was formed. Since 1994 the emergence as the leader of the centre-right coalition of Silvio Berlusconi, several times indicted for corruption crimes, has polarized the debate on anticorruption.

Judicial investigations have been denounced as a form of politically-biased intrusion of the magistracy in the political sphere. As a result, a number of measures, which many observers judged as tailored to the judicial needs of Silvio Berlusconi, were passed by the centre-right coalition after 2001 to restrain and weaken the impact of the judicial investigations on corruption (DellaPorta and Vannucci 2007).

Under a government characterized by the lack of commitment to credible anticorruption efforts, the Anticorruption High Commissioner (HC) was introduced by Law n. 15/2003 to meet a key requirement of the United Nations Convention Against Corruption (UNCAC) which Italy signed in the same year.

The HC was established as an executive agency focused on enforcement since its mandate included investigation of the causes of corruption, the assessment of the adequacy and consistency of the laws and organizational measures in place to curb corruption, and monitoring expenditure procedures. Yet, no law of ratification of the UNCAC was passed and the HC started operating only in 2005 under the pressure from the OECD. The latter monitored Italy in 2004 asking for an effective anticorruption agency to implement its Anti-Bribery Convention which Italy had signed in 1997 and ratified in 2000 (OECD 2004).

Then, the centre-left coalition won the national elections held in April 2006. Given the fragmentation of its supporting coalition preventing any major reform of the anticorruption set-up from being enacted, the new Prodi government kept the HC degree of autonomy low on the five dimensions included in our research design (see Table 1). Both under the Berlusconi and Prodi government, the choice to institute an investigative authority was contradicted by the absence of any coercive power and by the inadequacy of the resources. Further, the design of the organizational basis and the appointment of agency leaders were solidly in the hands of the government.

Under the new Prodi government, reforms stimulated by international pressures and by growing reputational concerns were mostly symbolic, in line with the argument of the social logic of

delegation. They were limited to the appointment as agency heads of prominent prefects of major cities, who were characterized by a well-known affiliation with the centre-left coalition which appointed them as flag-bearers of the fight for legality. The round of appointments started in January 2007 after the resignation of the first Commissioner Gianfranco Tatozzi, a low-profile judge close to the centre-right coalition which had been nominated by the Berlusconi government. Tatozzi resigned in December 2006 as a reaction to reform proposals threatening budget cuts and even the termination of the agency and he was followed by Bruno Ferrante, former prefect of Milan who had run for mayor in the same city in April 2006 after winning the centre-left primaries. Ferrante was appointed in January 2007 but he resigned in July when he was hired as top manager by a major company dealing with waste management in the organized crime-ridden southern regions. He was followed since September 2007 by Achille Serra, former prefect of Rome who later resigned from the HC position as he became Senator of the centre-left coalition in 2008. Therefore, the low level of institutional autonomy was complemented by the high instability of the commissioners who used the appointment as a springboard for further steps in their career. This implied a marginal and isolated role of the HC which could focus its activity only on episodic inspections.

**[TABLE 1 HERE]**

***CIVIT ante law 190/2012 (2008-late 2011): the shift to the “administrative approach”***

The formation of the fourth Berlusconi government after the large victory of the centre-right coalition in the national election of April 2008 entailed a lack of commitment to credible anticorruption efforts as rationale for delegation. As a reaction to the politicization of appointments by the previous Prodi government, the HC was included in the annex to Decree Law n. 112/2008 which listed the “useless bodies” to be abolished for the sake of fiscal consolidation. HC competencies were transferred to the Anticorruption and Transparency Service - SAET, a simple office of the Public Administration Department, lacking any requirement of autonomy that

produced only a generic report containing data (mostly already known) about corruption in Italy (SAET 2009).

International pressures continued to stimulate symbolic reforms under centre-right governments. In 2009 the GRECO issued an evaluation report of anticorruption policy in Italy highlighting that it was restricted to the sphere of criminal investigation and punishment while neither a coordinated anticorruption program nor methodologies for assessing the efficiency of anticorruption measures targeting public administration had been put in place (GRECO 2009).

Remarks from GRECO were addressed by the Public Administration Minister Brunetta which launched a public management reform (Legislative Decree n. 150/2009) establishing an independent regulatory agency, the Commission for the Evaluation, Integrity and Transparency of Public Bodies – CIVIT. This provision was meant to fill the gap of corruption prevention efforts – as later acknowledged by the GRECO (2011) – implying the re-launch of the administrative approach focused on modernization. Anticorruption was interconnected with performance management by mandating that public bodies should adopt triennial programmes for transparency and integrity under the methodological support offered by CIVIT.

By identifying transparency as a key measure for the prevention of corruption, the new reform provided citizens with full access on data regarding the activities and the performance of public bodies proactively disclosed by public administrations on their website to provide the public with an evidence base for action against corruption. Since 2011, as a result of the monitoring activity, CIVIT has published on its website periodical monitoring reports on the state of the art of transparency and performance management as well as addressing citizens' requests about the compliance of administrations regarding transparency obligations.

Given the lack of commitment exhibited by the Berlusconi government when establishing CIVIT, it was endowed with inadequate resources and deprived of sanctioning powers necessary to make its monitoring activity effective. The scarcity of resources was further exacerbated by the economic crisis which implied urgency in cutting the budget and the number of board members (Table 2). As



it already happened in the case of the HC, these cuts hampered the consolidation of the new agency. Given the scarcity of resources, two out of five original board members resigned and they were substituted only in December 2011 given the complex appointment procedure (see Table 2). Further instability was triggered by the reduction of the board members from five to three enacted by Law Decree n. 201/2011: the first President Antonio Martone, as a consequence of the modified composition of the board, let the presidency to Romilda Rizzo, while a third component of the Commission resigned.

The only dimension where the CIVIT exhibited a high level of autonomy was the appointment of the board members which ensured independence as requested by the United Nations Convention Against Corruption. It was this prerequisite to lay the ground for making CIVIT the national anticorruption agency under the Monti government.

**[TABLE 2 HERE]**

***CIVIT-ANAC after law 190/2012 (late 2011-early2014): the failed institutionalization of the “administrative approach”***

The Berlusconi government proved unable to counteract the effects of the ever-increasing fiscal crisis and to reverse the path of faltering legitimacy of the political class fueled by a number of corruption investigations. This paved the way for a new “technical” government led by the former EU Competition Commissioner Mario Monti and supported by a large bipartisan coalition in late 2011.

In the effort to support the restoration of markets’ trust in Italian government – a key determinant of sustainable growth – the new government put the anticorruption policy at the centre of its agenda as revealed by the ratification of the Council’s of Europe Civil and Criminal Law Conventions on Corruption (Law 110/2012; Law 112/2012) thirteen years after their signature. Further, the SAET

was shut down and the CIVIT was defined as National Anticorruption Authority to meet the request from the United Nations Convention Against Corruption to establish an independent anticorruption agency.

In this period, further rationales complemented the social logic of delegation in the effort for granting more autonomy to the CIVIT. First, the Monti government displayed a high level of commitment to credible anticorruption policy in the attempt to counteract the rise of the anti-establishment “Five Star Movement” which campaigned for more transparency and public integrity. Given its technical nature, the new government was composed of ministers who had not been previously involved in politics. This meant that they could promote anticorruption without worrying to be targeted by anticorruption efforts. Credible commitment was further boosted by a wave of major scandals which revealed diffused corruption and maladministration at regional level (especially in Latium and Lombardy) in Spring 2012. These scandals triggered a mass media campaign to promote the revision of a manifestly inadequate anticorruption policy set up. This campaign provided the pressure needed to overcome political stalemate and a major anticorruption package (law n. 190/2012) was eventually approved after almost two years of debate in Parliament. Second, the very brief time span between the approval of the Anticorruption package in late 2012 and the national elections which were approaching in early 2013 posed severe time inconsistency problems. Political uncertainty forced the Monti government to approve before the end of the mandate four key provisions: a new Code of Conduct for public personnel and three legislative decrees concerning, respectively, the prohibition to be elected or however to be appointed to political position in case of criminal conviction (245/2012), a review of transparency obligations (33/2013) and the incompatibility framework regarding administrative positions (39/2013). The implementation of these provisions was delegated to the CIVIT so as to bind the hands of future incumbents preventing them from undoing the anticorruption policy. This provision implied a reinforcement of the “administrative approach” since the CIVIT was entrusted with additional tasks regarding regulation and monitoring of the implementation of three-year rolling anticorruption

plans adopted by public organizations drawing on risk assessment and within the framework set by the National Anticorruption Plan. The latter was formulated by the Ministry for Public Administration and approved by the CIVIT.

A key factor for the reinforcement of the administrative approach was the appointment of Filippo Patroni Griffi as Minister of Public Administration. As a key member of the expert community advocating public management reform in Italy who previously served as the head of cabinet for the Minister Brunetta (2009-late 2010) and then as a CIVIT board member (late 2010-late 2011), Patroni Griffi supported the attribution of additional powers, by extending of the existing strategy focused on the integration between performance management, transparency and integrity.

However, additional powers were entrusted to the CIVIT without making it able to rely on a predictable budget. In a context of widespread popular dissatisfaction towards the public sector as a whole, a further budget cut was enacted in 2012 since the government adopted across-the-board cutback management for all public organizations, regardless of the saliency of their mission. No sanctioning powers were granted to the CIVIT accordingly to the administrative approach. The agency could only carry out inspections and require public organizations' conduct in keeping with integrity and transparency rules.

The subsequent political developments made the agency's institutionalization process even more complicated. The 2013 national elections were marked by the success of the anti-establishment "Five Star Movement" which led to a hung Parliament. Eventually, an unusual grand coalition government led by Letta, a MP of the centre-left Democratic Party, was formed two months after the elections. In November 2013 Berlusconi exited from the grand coalition as a reaction to his first definitive criminal conviction implying his expulsion from Parliament on the basis of legislative decree n. 245/2012. However, Letta was able to survive because a new faction (New Centre Right Party) split from the party led by Berlusconi and supported the incumbent government in exchange of key ministerial portfolios, including that of Public Administration Minister which was assigned to the career-politician Gianpiero D'Alia.

The shift from a technical to a political government altered dramatically the political context in which the agency operated since the influential New Centre Right Party inherited the lack of commitment towards anticorruption exhibited by the previous centre-right governments. Symbolic reasons explain the compliance with the agreements signed by previous governments in line with recommendation from the OECD (2013b) whose integrity review of Italy was released in 2013 Fall. However, the leadership of the CIVIT embraced a zealous approach to the implementation of the Anticorruption law. The agency's activism implied the risk of high "agency losses" for the government with regard to the implementation of the legislative decree n. 39/2013 regulating the incompatibility between political and managerial functions in local administrations. In a context such as the Italian one, where most of local politicians held simultaneously and/or in sequence different political and administrative positions, the national association of local authorities (ANCI) made a public statement asking for the postponement of the decree application. This request was not addressed by the CIVIT which disposed the immediate and total application of the legislative decree 39/2013 which made a large part of local politicians incompatible with administrative positions (Deliberation 46/2013).

This provision increased the tension between the agency and the government since the latter was sustained by many local politicians, sharing the ANCI's concerns regarding the immediate application of the incompatibility framework. As a reaction, the Letta government adopted two emergency measures curtailing the agency's autonomy in addition to a new round of budget cuts. First, an unprecedented overturning of the agency's decision occurred in August 2013 when the Parliament adopted a law that postponed the application of the incompatibility framework as well as moving the interpretative power from the CIVIT to the Ministry of Public Administration (Law Decree n. 69/2013). Second, Law Decree 101/2013 changed the name of the agency from CIVIT to ANAC (Anticorruption National Authority) as the agency's mission was focused only on anticorruption by transferring powers on performance management to an agency entrusted with the management of collective bargaining.

The exclusive focus on anticorruption was the official motivation behind the change of the board composition from 3 to 5 members. This provided room for the new appointment of all the components as the career background of former members was deemed to be focused on performance management (Table 3). However, in both the parliamentary and public debate (Senato della Repubblica 2013; Melis 2013), the new round of appointments has been interpreted as a political retaliation against the zealous CIVIT board members introducing an unprecedented case of spoils system (first threatened and then practiced respectively before and after CIVIT Deliberation 46/2013). The politicization of the agency was also increased by the new procedure for the appointment of the President which no longer required the approval by a qualified majority in Parliamentary commissions.

The reaction against the agency's activism was also made possible by the lack of public support enjoyed by the CIVIT board members who give low priority to the investigative tasks in line with the "administrative approach" to anticorruption policy. The latter was perceived by the public as toothless in a context marked by outright rampant corruption. This perception was shared by international observers such as the European Commission (2014) which reported that the under-resourced CIVIT had so far seen its role in a limited way, mostly focused on the formal verification of documents prepared by public administrations.

**[TABLE 3 HERE]**

### ***The merger ANAC-AVCP (early 2014-2016): the return of the "gendarmerie" approach***

In February 2014, an Anticorruption report on Italy was released by the European Commission (2014) demanding for more effective anticorruption policy, including the transfer of more powers and resources to the ANAC. In the same month, the renewal in the leadership of the Democratic Party implied the sudden end of the Letta government. The new leader Matteo Renzi took over as the youngest Prime Minister in the Italian history meeting the demand for a much-awaited generational change. Renzi put anticorruption policy at the centre of the government agenda in the

attempt to counteract the attacks of the Five Star Movement on Italian mainstream parties which lurched from one corruption scandal to another.

The first initiative adopted by the new government was the appointment of Raffaele Cantone as President of the ANAC in late March 2014. A former anti-mafia prosecutor in Naples, Cantone enjoyed fast-growing popularity among public opinion to the such an extent to be selected as “2014 Man of the Year” by a prominent weekly news magazine (L’Espresso 2014). The appointment was meant to focus the agency on the “gendarmerie” approach which was deemed more effective than the “administrative” one in addressing the need to reassure both the European Commission and the public.

Efforts to provide credibility in regulating corruption received further impetus in late Spring 2014 when a new wave of major corruption scandals hit the Expo 2015 in Milan and the flood barrier system in Venice. Scandals prompted the adoption of the emergency Decree Law 90/2014 shifting the responsibility of formulating the National Anticorruption Plan from the Ministry for Public Administration to the ANAC. The latter was also charged with the responsibility of receiving complaints on possible misconduct from whistle-blowers, and imposing monetary sanctions to those public administrations that failed to adopt anticorruption plans, transparency programmes and codes of conduct.

Decree Law 90/2014 also provided the termination of the Authority for the Supervision of Public Contracts (AVCP) and its organizational merger with the ANAC. The merger of the two agencies was meant to strengthen the gendarmerie approach by bringing the supervision of public procurement under the agency led by Cantone. The latter was also given special personal powers to oversee procurement procedures related to the implementation of the Expo 2015 in Milan, due to open May next year. In exercising this role of supervision, in October 2014 ANAC and the OECD signed a memorandum of understanding referring to the monitoring of Expo 2015 tender procedures. The controls carried out by the ANAC under the methodological supervision by the

OECD made it possible to respect the deadline of May 2015, leaving a legacy of high principles for integrity and transparency of major events and related infrastructure (ANAC and OECD 2015).

The success in weeding out graft in the contracts of Expo 2015 boosted the popularity of Cantone who called for further powers. This request was reinforced by the outbreak of a new major corruption scandal in the municipality of Rome in November 2014, leading to the delegation of more monitoring powers in the field of public procurement to the ANAC in Spring 2015 when the Anticorruption Law n. 190/2012 was amended by Law n. 69/2015. Since August 2015 the approach for monitoring procurement procedures pioneered at the 2015 Expo in Milan was applied to the Jubilee of mercy due to open in Rome at the end of the year.

Yet, the endless eruption of scandals related to the management of procurement procedures in Rome, whose shortcomings had been highlighted by an investigation conducted by the ANAC (Deliberation 207/2016), kept concerns about corruption high, triggering a new spate of anticorruption provisions. In early Spring 2016 the transposition of European directives in the field of public contracts (Legislative Decree 50/2016) provided an opportunity to strengthen not only the supervisory functions (precautionary interventions on tendering processes and sanctions for failure to comply with ANAC's recommendations) but also the regulatory ones: contracting authorities must be recorded in a registry subject to ANAC assessment; ANAC adopts instruments of flexible regulation also with binding effectiveness; ANAC's recommendations in pre-litigation mechanisms are now binding. In late Spring 2016, the review of the provisions on anticorruption and transparency (Legislative Decree 97/2016) charged ANAC with further regulatory responsibilities with regard to the implementation of the newly introduced freedom of information act. Concerning obligations for proactive disclosure by public administrations, ANAC was entrusted with more regulatory and sanctioning powers.

In sum, the consolidation of the gendarmerie approach advocated by Cantone gained prominence in the wake of scandals intensifying the need of credibility of the Renzi government. However, there were drawbacks to the wide range of powers granted to the ANAC. It faced higher expectations and

it required more resources against a backdrop of legalist intricacies slackening the organizational merger with the AVCP (ANAC 2016). The merger occurred under the persistent pressure for expenditure reduction focused on personnel in a context where dismissal and transfer of public servants face strong resistance from powerful veto players such as unions. As a result, the approval of the agency's reorganization plan occurred only in February 2016 ensuring the survival of the former AVCP personnel disguised as ANAC. The latter has been banned to recruit new staff with skills that match the functions related to anticorruption and transparency until early 2017.

**[TABLE 4 HERE]**

## **Discussion and Conclusion**

This article has examined changes in Italian anticorruption agencies' mandate and powers over time. Our study confirms that anticorruption policy is particularly interesting for studying delegation processes over time since it is exposed to contradictory pressures between independence and control that make delegation "a rollercoaster shaped by changes in government" (Batory 2012). More specifically, our empirical analysis has focused on the interplay between explanatory factors over time drawing three main findings.

First, the empirical analysis has highlighted the negative disposition towards independence exhibited by those government (Berlusconi and Letta) supported by political elites who had strong incentives to avoid the risk that agency will focus on their previous conduct in office. Conversely, the risk of agency losses was much lower for those government (Monti and Renzi) composed of political elites who did not worry to be targeted by independent regulators. In particular, agency independence has been enhanced most under the Monti government as the only case in which political uncertainty (Moe 1989) acted as a pressure for delegation. In this case, it was the technical nature of the Monti government and its short-term perspective that posed severe time inconsistency problems which were addressed by delegating powers to the agency as a way to stick anticorruption



policy before the return of conventional governments of political leaders. By influencing the career background of political principals and their time horizons, the alternation in government has therefore provided more or less incentives for political control. In that regard it is worth noting that the demand for credible commitment to anticorruption policy has constituted a crucial factor encouraging agency independence particularly under the pressure put on political leaders by scandals. This finding confirms the common reference to scandals in the literature on anticorruption agencies (Batory 2012), where they are seen as triggers reinforcing credible commitments. However, scandals influence agency independence only if political conditions are also present. By exposing the inadequacy of the system, scandals reinforced the need for credible commitments of those governments whose leaders (Monti and Renzi) came to power by emphasizing the need for a radical break with the past. What is more, our findings clarify the role of recommendations from international organizations which refer to agencies as the legitimate institutional model for anticorruption policy. Those external pressures for adoption have been constant throughout the period under investigation providing impetus for agency creation and survival. Therefore, the cyclical fluctuation displayed by the historical trajectory of agencies imply that delegation has been affected primarily by domestic factors. All in all, these findings confirm our hypotheses 1.1 and 1.2: the extent of delegation corresponds to the balance struck by governments between expected credibility gains as a principal and expected credibility losses as a target, in a context punctuated by domestic crises and scandals that acted as triggers for reforms.

Second, the analysis does not support hypothesis 2.1 while mostly corroborating hypotheses 2.2 as regards the mode of institutional reform, even though some qualifications are in order. Indeed, a process of layering seems at work, which is however characterized by an unusually high frequency of reform activity. This suggests that even in highly salient fields populated by many veto players and with low discretion in implementation, institutional change is possible. More specifically, our operationalization of agency independence has also allowed us to track how the use of political control tools has changed over time. We found that political principals have relied

mostly on appointments, resources and manipulation of powers. As for the latter, it has affected not only the structural dimension but also the functional one by swinging competences between the poles of prevention and enforcement thus revealing the potential of our integrated framework for investigating agency autonomy. One tool, that is the overturning of agency's decision, has been used only once when the Letta government reacted to the agency's zealous implementation of the incompatibility framework highlighting the role of agency's activism as a factor influencing delegation. Thus, our study also support hypothesis 3, about the role of proactive political and/or agency leaders in institutional reforms, which has been underestimated so far by historical institutionalists. This is a factor that should be reconsidered and given more attention, especially through qualitative studies that can uncover the "black box" of the politics of delegation process characterized by circles of reactions and counter-reactions.

Turning to the broader implications of our study, these findings suggest to qualify the main functional arguments for delegation to independent regulators, that is, the assumption that government delegate regulatory competencies in order to solve time-inconsistency problems and thereby increase the credibility of regulatory policies. On the one hand, it appears that governments that suffer from stronger credibility problems are not those delegating the most. Instead, the contrary is true. Governments that do not anticipate any threat by regulators tend to confer them with more power. This means that the demand-side of credibility is crucial. On the other hand, we can observe that regulatory reforms are more frequent than expected, and that delegation can be quite easily reverted, even in a unfavorable context characterized by many veto players and limited discretion in implementation. This state of affairs suggests to rethink the "principal-agent" framework by including reputational concerns more systematically and more explicitly. However, our findings are preliminary and limited cases similar to the one under investigation, that is, highly salient policy areas where the government is a "principal" and a regulatory target at the same time. By comparing multiple cases across countries and policy sectors, further case studies could reduce the limitations inherent to single-case design (Rohlfing 2012).

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## TABLES

Table 1. Anticorruption High Commissioner: Autonomy indicators by dimensions

<p>1. <i>Nominate the head and the members of ACAs.</i></p> <p><i>Nomination procedure:</i> Council of Ministers on proposal of the Prime Minister  <i>Appointment Requirements:</i> Selected among judges, State solicitors, military generals, top public managers  <i>Appointment duration:</i> 5 years  <i>Cooling off period:</i> null</p>
<p>2. <i>Determine ACAs' budget and staffing levels.</i></p> <p><i>Budget:</i> 2003 and 2004 euros 582.000 each year; 2005 euros 6.000.000; 2006 euros 6.460.000; 2007 euros 3.800.000; 2008 euros 2.582.000  <i>Notional Staff dimension:</i> From 66 to 83 units in the period 2005-2007  <i>Actual Staff dimension:</i> from 40 to 57 units in the period 2005-2008  <i>Staff stability:</i> staff borrowed by other public administrations and temporary workers  <i>Budget and organizational rules:</i> budget, staff dimension, and internal organization defined by a spate of Prime Minister decrees</p>
<p>3. <i>Overturning of decisions</i></p> <p>NULL</p>
<p>4. <i>To alter the organisational basis, powers, and duties of ACAs by legislation.</i></p> <p><i>Approach:</i> Gendarmerie – Focus on Enforcement  <i>Statutory reserve about mission and powers:</i> not specified by the law but by a Prime Minister decree; Agency termination threatened under the Prodi II government by the Public Administration Minister Mr Nicolais  <i>Powers:</i> to collect information from public administrations; to warn public administrations about observed inadequacies or inconsistency; to report periodically to the Parliament</p>



Table 2. CIVIT before n. 190/2012 law: autonomy indicators by dimensions

<p>1. <i>Nominate the head and the members of ACAs.</i></p> <p><i>Members nomination procedure:</i> qualified majority of 2/3 of the components of the competent Commissions of Chambers of Deputy and Senate on proposal by the Council of Ministers</p> <p><i>Appointment Requirements:</i> high professional experts in the fields of public management; no eligibility of those who had political positions or appointments in political parties or trade unions in the previous three years.</p> <p><i>Appointment duration:</i> 6 years</p> <p><i>Number of members:</i> originally 5 then cut to 3 by Law Decree 211/2011</p> <p><i>President:</i> elected by the components</p> <p><i>Cooling off period:</i> null</p>
<p>2. <i>Determine ACAs' budget and staffing levels.</i></p> <p><i>Budget:</i> euros 8 million each year (Law 15/2009)</p> <p><i>Budget annual cuts:</i> 10% in 2011</p> <p><i>Notional Staff dimension:</i> 30 units of personnel complemented by 10 experts</p> <p><i>Actual Staff dimension:</i> From 18 to 21 units in the period 2011-2012</p> <p><i>Staff stability:</i> staff borrowed by other public administrations and temporary workers</p> <p><i>Budget and organizational rules:</i> defined by a Prime Minister Decree in spring 2010</p>
<p>3. <i>Overturning of decisions</i></p> <p>NULL</p>
<p>4. <i>To alter the organisational basis, powers, and duties of ACAs by legislation.</i></p> <p><i>Approach:</i> Administrative Innovation – Focus on Prevention</p> <p><i>Statutory reserve about mission and powers:</i> the prolonged discussion of an anticorruption bill before Parliament (from May 2010 to December 2012) has kept the agency under high uncertainty about its survival and its competences</p> <p><i>Powers:</i> Violations of the transparency obligations were sanctioned only at the reputational level by the reports of the CIVIT</p>

Table 3. CIVIT-ANAC post Law n. 190/2012: autonomy indicators by dimensions

<p>1. <i>Nominate the head and the members of ACAs.</i></p> <p><i>Members nomination procedure:</i> qualified majority of 2/3 of the components of the competent Commissions of the Chambers of Deputy and the Senate on proposal by the Council of Ministers.</p> <p><i>Appointment Requirements:</i> to be high professional experts not only in the field of public management but also in that of anticorruption policies; no eligibility of those who had been elected in political positions or had appointments in political parties or trade unions in the previous three years</p> <p><i>Appointment duration:</i> 6 years, but renewal of all its components (Law Decree 101/2013)</p> <p><i>Number of Members:</i> 4 until October 2013, then 5</p> <p><i>President:</i> appointed by the Government (Law 221/2012)</p> <p><i>Cooling off period:</i> null</p>
<p>2. <i>Determine ACAs' budget and staffing levels.</i></p> <p><i>Budget:</i> about 5 million in 2013</p> <p><i>Budget annual cuts:</i> 40% in 2012; about 15% in 2013</p> <p><i>Notional Staff dimension:</i> 30 units of personnel complemented by 10 experts</p> <p><i>Actual Staff dimension:</i> 24 persons at the end of 2013</p> <p><i>Staff stability:</i> staff borrowed by other public administrations and temporary workers</p> <p><i>Budget and organizational rules:</i> defined by a Prime Minister Decree in spring 2010</p>
<p>3. <i>Overturning of decisions</i></p> <p>The application of the incompatibility framework was postponed by emergency Law Decree 69/2013</p>
<p>4. <i>To alter the organisational basis, powers, and duties of ACAs by legislation.</i></p> <p><i>Approach:</i> Administrative Innovation – Focus on Prevention</p> <p><i>Statutory reserve about mission and powers:</i> Transfer of competences defined by the Letta government via emergency Law Decree 101/2013: the power to clarify the ambiguities of anticorruption provisions has been transferred from the ANAC to the Ministry of Public Administration; performance management competences have been temporally transferred from the ANAC to the ARAN (Agency for collective bargaining)</p> <p><i>Powers:</i> to order public administrations to remove punctual violations or inertias without sanctions (Law 190/2012)</p>

Table 4. ANAC post Law Decree 90/2014: Autonomy indicators by dimensions

<p>1. <i>Nominate the head and the members of ACAs.</i></p> <p><i>Members nomination procedure:</i> qualified majority of 2/3 of the components of the competent Commissions of the Chambers of Deputy and the Senate on proposal by the Council of Ministers.</p> <p><i>Appointment Requirements:</i> high professional experts in the fields of public management and anticorruption policy; no eligibility of those who had political positions or appointments in political parties or trade unions in the previous three years.</p> <p><i>Appointment duration:</i> 6 years</p> <p><i>Member number:</i> 5</p> <p><i>President:</i> appointed by the Government (Law 221/2012).</p> <p><i>Cooling off period:</i> 2 years</p>
<p>2. <i>Determine ACAs' budget and staffing levels.</i></p> <p><i>Budget:</i> about 47 million in 2015, a cut of 25% considering the previous ANAC and AVCP budgets</p> <p><i>Notional Staff dimension:</i> 350 units, a cut of 16 people considering the sum of the ANAC and AVCP previous notional staffs and of 30% of the personnel costs considering the sum of the ANAC and AVCP previous expenditure</p> <p><i>Actual Staff dimension:</i> From 318 to 295 units in the period May 2015-December 2016</p> <p><i>Staff stability:</i> tenured staff, mostly inherited from the AVCP without any specific skill in anticorruption</p> <p><i>Budget and organizational rules:</i> Defined by a Prime Minister Decree in early February 2016</p>
<p>3. <i>Overturning of decisions</i></p> <p>NULL</p>
<p>4. <i>To alter the organisational basis, powers, and duties of ACAs by legislation.</i></p> <p><i>Approach:</i> Gendarmerie – Focus on Enforcement</p> <p><i>Statutory reserve about mission and powers:</i> Transfer of competences defined by the Renzi government via emergency Law Decree 90/2014: performance management competences transferred to the Ministry of Public Administration on a permanent basis while ANAC received the former Ministry's tasks on transparency and anticorruption complemented by powers previously attributed to the AVCP with regard to public procurement; further, the President of the Agency was entrusted with tasks related to the oversight of EXPO 2015 public contracts</p> <p><i>Powers:</i> sanctions for those administrations which have not adopted Transparency Programmes, Anticorruption Plans, and Codes of Conduct (Law Decree 90/2014); monitoring powers in the field of public procurement (Law 69/2015); regulatory powers in the field of public procurement (Legislative Decree 50/2016); regulatory powers with regard to freedom of information and sanctioning powers concerning obligations for proactive disclosure (Legislative Decree 97/2016)</p>