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European Regional Policy and the Regions' future

by

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Abstract

This article focuses on the impact of the Eurocrisis on Regions and the role played by the European Regional Policy. Budget constraints and austerity measures determine to a large extent social policies, which have been traditionally designed and implemented by the Regions of Member States such Italy or Spain. This trend is particularly troublesome because one of the main Regions' sources of legitimacy is the achievement of positive equality. This tendency could be smoothed by in the European Regional Policy. However, this article puts this into question given the current link of Regional Funds to both economic governance requirements and the Lisbon Agenda.

Key-words

European Regional Policy, Eurocrisis, regional legitimacy, social policies

1. Introduction

Eurozone Member States have been at the center of a major financial and economic crisis since 2009, the management of which has necessitated major budgetary constraints, particularly for Member States with serious economic difficulties. Moreover, several Member States have been required to undertake deep reforms which have impacted upon their constitutional structure. In this regard, this article analyses the effect of these reforms for Regional States in the cases of Italy and Spain^I.

Both Italy and Spain are struggling with the crisis and receiving important EU directions. In fact, the Commission initiated an excessive deficit procedure regarding to Spain and Italy in 2009, which in the Spanish case had continued until the present day. Moreover, both Italy and Spain have been identified as States with macroeconomic imbalances following in-depth reviews (IDR) carried out by the Commission since 2012^{II}.

Unsurprisingly, as Italy and Spain are States organised along regional lines the EU requirements have lead to profound changes in regional social policies. In this regard, the aim of this article is to discuss the impact of this trend on regional legitimacy and the role that the European Regional Policy could play by reinforcing the social cohesion and, by doing so, regional competences.

Therefore, firstly I will briefly discuss the relationship between social policies and regional democracy. Secondly, I will describe the main novelties of the European Regional Policy from the regional social policies' perspective. Finally, I will focus on the troublesome scenario for regions in the EU.

2. Welfare State and Regions; Spain and Italy as case studies

The relationship between federal principles and the welfare state is well-known. Generally, the balance between federalism and positive equality was struck by enhancing the centralization of public policies. In fact, from the new deal onwards the welfare State seemed to imply a "Unitary Federal State" (Hesse 1962: 13). In other words, the stronger the welfare State was, the weaker the subnational units were.

Consequently, the 70's Welfare State's crisis promoted a decentralization of social policies. In this regard, it was considered that the decentralization of social policies would improve their management and would guarantee an efficient allocation of resources. Thus, local and regional administrations were empowered on social matters.

The Spanish case is a striking example because democracy, Welfare State and regionalism were almost simultaneously founded. The Spanish Regional and Welfare State's development was progressive and, particularly in the case of the latter, never fully accomplished. Several Regions were empowered over social policies during the 80's and by the end of the 90's all Regions were in charge of the main social policies' development and implementation. Hence, the Welfare State in Spain is weak and regional. The Spanish State, though, kept the power over the general framework in education and public health along with the duty to guarantee a basic equality in constitutional rights enjoyment throughout the territory^{III}.

The Italian case followed a similar path. Social policies became to a certain extent regional during the 90's. This trend was enshrined by the 2001 Italian Constitution's amendment. Regions were empowered in respect of several social policies, whereas the central State ruled over both main social policies' general framework and basic equality on social rights^{IV}. Hence, in both cases, the State has to guarantee a basic equality above which Regions can establish both different administrative models and even different entitlements for their citizens^V.

The balance achieved between regional power and positive equality no longer required deep centralization. Therefore, the relationship between regional principle and welfare state is an unstable one and relies on the economic situation but also on the prevailing political thinking in each moment^{VI}. In other words, the analysis of political decentralization out of its political, institutional and socio-economical framework is but a utopia (Neumann 1957: 217).

Nevertheless, the equilibrium between the welfare state and the regional state had a key flaw in both Italian and Spanish case because Regions were not empowered over the revenues. Fiscal federalism has not been completely achieved because Regions do not have substantial resources outside of National State's transfers. Regional social policies are funded mainly by the State's transfers of revenues, which are arranged between Regions

and the State. This flaw explains the impact that austerity measures may have upon regional policies.

3. Austerity measures and regional policies: Regions trapped?

Public administrations both in Spain and Italy have been asked to reduce public debt. In fact the EU has explicitly required strong fiscal measures and budgetary compliance at the regional level also^{VII}. Moreover, the measures required to reduce the public debt in the context of the Euro crisis have been extremely demanding and have been applied under particularly tight time constrains. Furthermore, lowering the financial contribution to social policies has been the easiest way to reduce administrations' expenditures quickly. In this regard, it is worth highlighting that social policies account for up to the 75% of Italian and Spanish regional budgets. In my view it is quite difficult to envisage how one could reduce the regional deficit without decreasing the expenditure in social services^{VIII}.

Furthermore, although both the Spanish and Italian State can reduce regional revenues by decreasing its transfers to the Regions^{IX}the above mentioned competence of the State to guarantee a basic equality throughout the territory prevents Regions from reducing social services in order to decrease their public deficit without the Central State's involvement.

In this regard, Catalonia and Madrid established an extra charge of one euro per prescription, with certain criteria established to exempt disadvantaged groups. However, according to the Constitutional Court the extra charge is unconstitutional. The Central State sets out the health system's budget and, by doing so, it guarantees a uniform standard in the enjoyment of the right to health throughout the State. Thus, Regions are not allowed to diminish essential public services on their own.

Moreover, they cannot improve social entitlements unilaterally either. In fact, Andalusia and Navarra have passed new Regional laws^{XI} on the right to housing which have foreseen further temporary suspension of evictions, and have created an official register of vacant properties under official protection which are currently owned by the Banking Sector.

Both laws have been challenged before the Constitutional Court and their application have been suspended. Surprisingly, the legal basis for suspending these regional laws is the fifth review of the Financial Assistance Programme for the Recapitalisation of Financial Institutions in Spain. According to this report the 'different legal frameworks on housing

across the national and regional levels and legal uncertainty about the rules to be applied could weigh on the value of the mortgage collateral and the stability of financial markets.' In addition, 'regional laws aimed at alleviating the social problems related to foreclosures and evictions [...] create additional legal uncertainty [...]. In the worst case, they may even endanger financial stability' [...].

The Regions claimed that the scope of their laws would not endanger the financial sector and also re-iterated the need to protect the right to housing, but their arguments were disregarded as unconvincing XIII.

Therefore, it is apparent that Regions can neither lower the social entitlements nor increase them without the State's consent. Besides, a reduction in transfers implies per se a reduction of Regions' competences on social policies. There is almost no room left for social policies without resources. Regions might be still legally empowered on public health, for instance, but they cannot make any actual decisions.

Regions have challenged this trend before Constitutional Courts but they do not seem to support regional demands. Both Italian and Spanish Constitutional Courts have empowered the State over Regions, emphasising the need to guarantee a balanced budget^{XIV}. Moreover, States are entitled to constrain Regions' competences on the basis of equality among citizens within the State. However, disappointing as they might be, the decisions made by both Courts were foreseeable.

In this regard, both Spanish and Italian Constitutional Courts are not willing to question the consistency of the EU/international measures with their national Constitutions (Martinico and Pierdominici 2014: 132). Furthermore, the balance between equality and regional principle has quite often simply been struck by asserting that once the Central State has provided a right, Regions may improve this entitlement^{XV}. This assertion is useless nowadays because Regions need to decrease public spending. It was indeed a too simple answer to such a complicated question (González Pascual 2013b: 1521). In fact, Regions are trapped between the economic governance requirements and the minimum of equality guaranteed by the State.

4. Social policy and democratic legitimacy: the actual scope of the regional crisis

Regional crisis and Welfare State's crisis are inevitably intertwined to a large extent. Moreover, it should be born in mind that the regional crisis might impinge upon the democratic principle. On the one hand, social policy is a key legitimating source for regional administrations. Civil and political rights are quite uniform throughout Spain and Italy, there is only one Constitution and the judiciary has not been decentralized. Consequently, social services have become the regions' raison d'être to a large extent. Furthermore, Spanish and Italian societies strongly demand a minimum standard in the enjoyment of welfare rights, provision of which are in regional hands. As a consequence, the growing inequality within societies might diminish regional legitimacy before citizens.

On the other hand, historical and socio-political reasons underlying a political decentralization process must not be underestimated. Doubtlessly, decentralization might aim at improving public policies' management. Hence, if the relationship between public management and political decentralization fails it seems reasonable to promote a political recentralisation. In this regard, there are several proposals both in Italy and Spain in favour of a clear recentralisation by reducing local and regional competences.

However, recentralisation should not be encouraged without a thorough analysis, for recentralization cannot be automatically equated with better public management in the context of budgetary constraints. Such a relationship should be proved. Furthermore, political decentralization was not simply a technocratic decision for Regional States; Regions were founded to allow the coexistence of different understandings of the political sphere within certain States. The need to create different democratic arenas in a territory derives from the coexistence of identities which may even challenge each other. As a consequence, regional reform cannot solely be predicated on management and economical arguments because Regional States' existence goes further, beyond administrations' efficiency. They are rooted on the democratic principle to a large extent in societies such as the Spanish and the Italian ones under discussion. However, the reform does not derive from a new understanding of the constitutional settlement within the States.

Hence, the impact of austerity measures upon regional social policies may eventually become a democratic issue. It can undermine the legitimacy of a constitutional

arrangement between Regions and the national State which is to ensure the coexistence in one polity of different identities. In fact, the intensity of the increasing conflict between Spain and Catalonia must be read in the context of the economic crisis. Regional crisis may impair the popular support either to the Regions or to the State depending on the predominant identity among citizens. The political role of regions indeed "may weaken the link between national identity and citizenship" (Aasi 2009:129)

To sum up, Regions cannot develop their social policies in order to fulfil the budget constraints promoted by the EU. This trend might impinge upon the legitimacy of the Regions (or the State) as perceived by their citizens, thus aggravating the institutional crisis both in Italy and Spain.

5. European regional development fund and regions: the Lisbon Agenda and the role of Regions

The EU has deeply changed the constitutional design of Member States. However the eventual EU impact may differ among states owing to the domestic structures and settings (Jachtenfuchs/ Kohler-Koch, 1996). In this regard, the regional participation at the EU derives from the domestic arrangements and political culture (cooperative or antagonist). Traditionally, both Italian and Spanish States are very reluctant to cooperate with their regions on European matters.

Thus, regional social policies are constrained by decisions taken by institutions and organisms alien to them. They can only rely on the explanations given to them by their central government to get to know the actual debate within the European arena. However, regional participation in EU Institutions aims also at delivering some control over their own central government's decisions. In fact, the design of the regional participation in the EU has been characterized as institutionalised mistrust towards the central governments (Chardon 2005: 149). Regions seem to prefer direct participation in the EU- institutions than an indirect participation through their own State. All regions in Europe long for a direct relationship with the EU institutions^{XVI}.

Doubtlessly European Regional Policy allows for a bridging of the gap between the EU and Regions. In fact, the EU Commission has promoted regional participation in the European Regional Policy, in particular by enforcing the partnership principle and shaping

new avenues for regional participation along the years. This promotion was not only grounded on a technocratic argument but also on an understanding of Europe "in which the value of non-state and sub-national participation in public governance is valued both intrinsically and extrinsically" (Bache 2001: 63)

It could be argued that management of European Regional funds could compensate for the reduction in the effectiveness of both Italian and Spanish regions over social policies. Therefore, the European Regional Policy might enforce the regions legitimacy by strengthening social policies aimed at achieving an actual equality among citizens.

In fact, the European Regional Development Fund (ERDF) currently claims to "strengthen economic and social cohesion in the European Union by correcting imbalances between its regions" whereas the European Social Fund (ESF) is particularly devoted to promote employment and to reduce poverty. In this regard, although many scholars have questioned whether cohesion is the actual key target of EU Regional Funds, cohesion policy is still biased towards the least prosperous member states, which highlights that its distributive impact is still substantial (Begg 2010: 80). Given that the Euro crisis has increased the inequality rates within several Member States the European regional funds might eventually overturn this trend by promoting economic development and social cohesion XVIII.

Therefore, regional empowerment through European Regional Funds could reinforce the bonds between citizenry and regions. Moreover, theoretically EU popular support could also be broadened by a policy aimed at improving living conditions of EU citizens. Even this eventual bond between citizens and Regions, and the potential support of the EU process, will result to a large extent not only from the policies' outcome but "from the introduction of procedural elements based on fundamental concepts like citizens' participation" (Sommermann 2013: 12). Thus, although Spanish and Italian Regions are entitled to participate actively in the European Regional Policy design and implementation, the outcome in terms of citizens' support is not straightforward.

Besides, cohesion might not be the main target of the European Regional Policy. On the one hand, social policies accounts for scarcely 20% of the European Regional Funds, not least because the ERDF is particularly well funded XIX. In this regard, the ERDF aims at fulfilling the Lisbon Agenda's goals, being these innovation and research; the digital agenda; support for small and medium-sized enterprises and the low-carbon economy.

Those policies account, at least, for 50% of the ERDF. Thus, the margin left to States and Regions' to shape their own policies is scarcer than ever.

On the other hand, European Regional Policy is conditional on Economic governance requirements. The National Reforms Programmes (NRP) drafted by the States and evaluated by the EU Institutions are crucial to the development and maintenance of the operational programs. In fact, the operational programmes have to be consistent with the NRP and address the reforms identified through country-specific recommendations (CSR) in the European Semester^{XX}. In this regard, it has been argued that the cohesion policy is being used "to enforce EU objectives on structural reform and fiscal stability" (Mendez 2013: 651)

This is a particularly troublesome trend for both Italian and Spanish Regions because their respective National States watch over regional budgets, in the framework of the Eurocrisis^{XXI}. Besides, it should be born in mind the limited participation of Italian and Spanish regions in EU institutions. Regions still need the State to participate effectively in the European decision-making process. In fact, they participate neither in the European Council nor in Ecofin which are taking the lead along with the Commission in the form and execution of austerity measures.

Thus, in case of need, European regional policy could be in the States' hands on the basis of the budgets' constraints. In other words, the European semester' requirements hang over the regional policy like Sword of Damocles.

In fact, although the European Regional Policy claims to open up more avenues than in the past to the local actors by being a place-based policy, such a statement has been questioned; the concentration of expenditure on the Europe 2020 goals does not provide flexibility for a place-based policy. Furthermore, the management of economic governance in a context of crisis is not linked to territorial development goals (Mendez 2013: 651).

European regional policy management could alleviate the current pressure on regional budgets and, with it, ameliorate their problem of decreasing legitimacy. Nevertheless, European Regional Policy is linked to the Lisbon Agenda and, ultimately, to the European semester. Social cohesion is still a very important target for the European Funds but it is not their main goal, excepting the case of the Cohesion Fund. In fact, much thought should have been given to the eventual conflict between competitiveness and equity/cohesion objectives (Begg 2010: 92).

Moreover, operational programmes can even be conditioned by the CSR, and must take into account the NRP. However, Regions do not have a say regarding the CSR and their position is very weak regarding the NRP. Flawed regional participation in EU institutions negatively impacts on the accessibility of European Regional Funds for local and regional actors, in disregard of the place-based narrative, and thus falls short of both a territorial convergence approach and of a local-democracy empowerment.

6. Which future for Regions within the EU?

Regional participation in EU institutions should be increased; for supranational, national and subnational constitutional scenarios are intertwined. Decisions made at the EU level impact upon regional competences. This development is not new, but up until recently, important as it might be, it did not undermine the legitimacy of regional power. However, nowadays EU decisions impinge upon regional competences which lay at the core of regional legitimacy itself. The austerity measures required by the EU are being used to centralise regional powers. This trend is based on the assumption that transferring public services to the central government level will make them more cost-effective XXIII

Nevertheless, Regions remain powerless within the EU. Not only Member States are mostly politically centralised States, but their own [constituent] States are quite reluctant to widen the regional participation in EU-matters. In fact, such States do not share easily with the Regions their seats at EU Institutions and organisms (Moore 2006), even though they might be even stronger than other Member States if they did it (Tatham 2008: 500)

Centralisation within Italy and Spain has deepened through the Euro-crisis. This tendency probably started before the crisis, being promoted particularly by the central governments. However, in the framework of a deep political and socio-economical crisis, central governments have become even stronger in relation to the Regions (González Pascual 2014: 127). The "paradox of the weak" XXIII has been fulfilled and can condition the implementation of the European Regional Policy. The pre-existing balance of power between the centre and different regions within states is crucial in explaining the regional empowerment on the basis of the EU regional policy (Bache and Jones 2007: 19) and this balance has been changed.

The link between European Regional Policy and economic efficiency and financial stability must also be highlighted in a context of crisis and increasing poverty. The loss of legitimacy for the supranational project on the long run should be assessed; the progressive erosion of national (and local) democracy will endanger the European project eventually. Still, Member States seem incapable of making decisions in the interest of the EU project unrelated to their current individual needs.

Nevertheless, the EU has been an engine for regionalization in several States. In fact, regionalization would have been highly unlikely in several Member States without the influence of the EU (Lidström 2007:508). Furthermore, the treaties have increasingly paid attention to the Regions (Martín y Pérez de Nanclares 2010: 59). However European integration seems to weaken Regions constitutional foundations. In fact, the Europe of Regions has been never fully accomplished (Keating 2008: 635). Regionalism rooted in identity claims seems not to fit within the EU.

The European Communities were funded to guarantee the coexistence of citizenries, which had even been enemies in the past. However, paradoxically, the European project is gradually eroding the arrangements made between different societies within the Member States. The so-called compensation of the loss of regional power through participation in the EU level depends in practice fully on the Member States' will (González Pascual 2013a: 18)

European Regional Policy could be a useful tool to ease this trend by bringing together European and regional actors. If this link between European and regional institutions were focused on the pressing needs of European citizens, it could generate a spill-over effect upon the legitimacy of both regional and European project. Unfortunately, under the current legal framework, this scenario seems to me quite unlikely.

The Euro crisis and its management have gone as far as influencing dramatic changes in social entitlements (Kilpatrick and De Witte 2014: 2); such changes might undermine the citizens' support to public power. This trend might be particularly troublesome for both Italian and Spanish regions, whose legitimacy is anchored to their social policies.

European Regional Policy could have softened this trend by strengthening social cohesion within societies particularly affected by the crisis. However, the European Regional Policy aims at fulfilling the Lisbon Agenda and is linked to the requirements of economic governance. Against this background, European Regional Policy can hardly

ameliorate the poor regional social policies nor reinforce the regional role within the European integration.

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¹ For the purposes of this article, the differences between regions and autonomous regions are set aside

^{II} The macroeconomic imbalances were considered excessive in the Spanish case in the 2012 IDR and 2013 IDR and in the Italian case in the 2014 IDR.

III Article 149 (1) (1) Spanish Constitution; "The State holds exclusive competence over the following matters: Regulation of the basic conditions guaranteeing the equality of all Spaniards in the exercise of their rights, and in the fulfilment of their constitutional duties"

^{IV} Article 117 (a) Italian Constitution. "The State has exclusive legislative powers in the following matters: Determination of the basic level of benefits relating to civil and social entitlements to be guaranteed throughout the national territory"

V Social insurance, including pensions schemes and unemployment benefits, is still almost fully controlled by central authorities in Spain and Italy

^{VI} A striking example in this regard was the approval of the *Personal Responsability and Work Opportunity* Reconciliation Act in 1996 whose actual target was deeply put into question by the scholarship. (Ferejohn and Weingast 1997; Schram and Beer 1998).

VII Recommendation for a Council recommendation on Spain's 2012 national reform programm and delivering a Council opinion on Spain's stability programme for 2012-2015. COM (2012) 310 final, 30.05.2102.

 $^{^{}m VIII}$ According to the Stability Plan 2012-2015 for Spain the budgets' cuts implied a savings of 7.2 billion Euros in the area of health.

^{IX} In this regard, the Italian budgetary strategy is currently devoted to a spending review, projected to entail savings on the expenditure side, worth more than 0.5% of Italian GDP in 2015. Specifically, around half of these savings is related to lower transfers to Regions and Provinces. Commission Staff Working Document. Analysis of the draft budgetary plan of Italy. Accompanying the document Commission Opinion on the draft budgetary plan of Italy SWD(2014) 8806 final 28.11.2014

X Spanish Constitutional Court Judgments 71/2014 (8.5.2014) and 85/2014 (29.5.2014)

XI Law 24/2013, approved by the Parliament of Navarra and Law 4/2013, passed by the Parliament of Andalusia

XII Fifth review of the Financial Assistance Programme for the Recapitalisation of Financial Institutions in Spain, European Commission, Occasional Papers, 170, January, 2014: 26

According to the Constitutional Court, the Troika is composed of independent and highly specialised institutions. Hence, the President of the Government can rely on their reports to require the suspension of a regional law. In the Court's view such reports make plain that regional laws on the right to housing jeopardise not only the financial assistance program but international obligations assumed by Spain. Spanish Constitutional Court Decisions 69/2014 (10.2.2014), 115/2014 (8.4.2014).

XIV Regarding the Italian case law on the matter (Martinico and Pierdominici 2014)

XV Italian Constitutional Court, 24 april 2003, n. 467.

XVI Being the increasing number of Regional Offices in Brussels a striking example (Moore 2008: 521)

XVII http://ec.europa.eu/regional policy/thefunds/regional/index en.cfm

XVIII For the purposes of this article only the ESF and the ERDF are taken into account because to all Italian and Spanish regions participate at both, being the influence of the Cohesion Fund much more limited in both cases.

 $^{^{}m XIX}$ The available budget for the EDRF is 351.8 billion of Euros whereas the budget for the ESF (included the youth employment initiative) accounts up to 83.2 billion of Euros

xx European Commission. Refocusing EU Cohesion Policy for Maximum Impact on Growth and Jobs: The Reform in 10 points <u>MEMO/13/878</u>

XXI In fact, both Italian and Spanish Constitutions have enshrined the power of the State to control regional deficits to comply with TSCG. See, among others, (Martinico and Pierdominici 2014; Alberti Rovira 2013)

XXII Opinion of the Committee of the Regions on 'Devolution in the European Union and the place for local and regional self-government in EU policy making and delivery' (2013/C 139/08) OJ C 139, 17.5.2013, p. 39–45

XXIII This statement refers to the central governments, which have become weak at the international level but

strong at the domestic one. (Grande 1996).

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