Chapter 10

THE CREATION OF INDEPENDENT AUTHORITIES IN ITALY
An Inside Political Economy Perspective on the Public Works Authority

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Abstract: Over the last decade in Italy several Independent Authorities (IAs) were created. The relevance of the delegated functions and the variety of sectors involved led lawyers to refer to a “structural redistribution of power within the Italian political-institutional system”. As a parliamentary democracy, the issue at stake is the delegation of power to IAs independent from the executive branch and referring only to Parliament. Therefore, IAs are to be viewed as an alternative to the executive branch and to the bureaucracy within it. In terms of the division of powers, IAs can be considered as a kind of fourth branch, though outside any constitutional provision. The paper analyses the Italian IAs from a political economy perspective, aiming at proposing some tentative answers and at providing insights to settle a possible agenda for future research on this subject. A specific case study, the Public Works Authority (PWA), will be analyzed to offer some tentative remarks on the determinants of political decision-making about IAs.

Key words: Independent Authorities, delegation, Public Work Authority, political economy.

1. INTRODUCTION

The aim of this paper is to offer a political economy perspective of a major institutional change occurred in Italy in the nineties, namely the creation of Independent Authorities (IAs), using the Public Works Authority (PWA) as a case study. Such an institutional evolution raises several issues. One set of questions concerns why elected politicians choose to delegate
functions to these bodies; another set of questions concerns the stage after formal delegation agencies, i.e. whether the delegation, indeed, implies a real redistribution of power.

The paper does not offer a normative analytical approach to the delegation issue but it uses the PWA experience to provide some insights from a positive point of view. Section 2 will provide a brief summary of the recent history of IAs in Italy, in a comparative perspective, to sketch the issues currently at stake; in section 3 the main features of the PWA will be presented and in section 4 the issue of delegation will be analysed with respect to the PWA, in the light of the political economy approach. Some concluding remarks will be offered in section 5.

2. THE ITALIAN EXPERIENCE: A BRIEF OVERVIEW

During the nineties in Italy several bodies were created, all different but with the common denominator of being referred to as Independent Authorities (IAs).

The issue at stake in Italy is not the delegation of authority to the executive branch as an alternative to a “detailed legislation that leave the executive with little latitude in implementation”1 (Epstein and O’Halloran, 1999) but the delegation of power to bodies, IAs, which are independent from the executive branch, are an alternative to it and refer only to the Parliament but, again, from an independent position.2

The relevance and the extent of the delegated functions have led distinguished lawyers to refer to a “structural redistribution of power within the Italian political-institutional system”. The delegation, in fact, ranges from the regulation of specific economic sectors (e.g., energy, telecommunications, financial services, insurance, public works) to the control over the implementation of general principles (i.e., competition, privacy protection).

The creation of IAs has not followed a common pattern through time: IAs differ with respect to i) the method of appointment of their members, ii) the number of the members and their status, iii) the personnel hiring rules, iv) the nature itself of their functions.3 With respect to this latter issue,

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1 This is the approach in a Presidential democracy such as the USA. Epstein and O’Halloran (1999), assimilate the Congress’s decision to delegate to a firm’s make-or-buy decision.
2 According to Patrizii and Piacentino (1998), if such a status is looked in terms of the division of powers, IAs can be considered as a kind of fourth branch, though outside any constitutional provision.
3 An overview of the issues involved by the different IAs has been offered by Kostoris Padoa Schioppa (2002).