

Executive-Legislative Relations and Legislative Agenda Setting in Italy: From Leggine to Decreti and Deleghe

Amie Kreppel
University of Florida

Abstract: The struggle between the executive and legislative branches in Italy has been a consistent aspect of the political system. Parliamentary rules have granted significant power to the opposition and shielded individual members from party control, thus weakening governing coalitions. The ability of the opposition to get its proposals on the legislative agenda while blocking the Government's proposals led to the growth in the use and abuse of decree laws, which allowed the executive to effectively legislate over the heads of the parliament. The 1996 Constitutional Court decision prohibiting the tactic of iterated decrees initially appeared to be a victory for the legislative prerogative of the parliament. However, at nearly the same time the Camera dei Deputati began an extensive reassessment of its internal rules and the norms of executive-legislative relations that had evolved over the previous quarter century. The result was an extensive revision of the rules of procedure that resulted not only in the voluntary decision to increase the executive's access to the parliamentary agenda, but also the subsequent tendency to delegate significant policy-making authority to the executive branch. This delegation of power permitted the executive to once again legislate free from formal parliamentary control. The unprecedented decision of the parliament to actively pursue internal reforms that increased the relative power of the executive following a court decision that so clearly worked to the benefit of the parliament remains largely unexplored and certainly unexplained. This article examines this counter-intuitive decision in historical context and demonstrates the extent to which the reforms pursued by the parliament reflect an attempt to empower the executive branch and return to the previous status quo.

Keywords: Italy, Camera dei Deputati, legislative-executive relations, agenda setting.

Introduction

Contrary to what might be expected from their names alone, legislatures in presidential systems tend to have more legislative power and less executive control, while those in parliamentary systems generally exhibit less legislative power, but more executive control.¹ While these generalizations hold true in the majority of cases there are examples that deviate from this

norm. Perhaps one of the most extraordinary cases of a country not following this standard model, both in terms of the scope of the deviation and its enduring character, is Italy. During both the First and the putative Second Republics, the Italian political system has been plagued by a level of dysfunction unmatched by any other western democracy. From an unending cycle of government collapses to an unprecedented level of legislative production based on decentralized and decree procedures Italy has long stood apart from its European neighbours. Even a series of wide-ranging reforms during the 1990s that included electoral system change and the restructuring of the internal rules of procedure in the legislature do not seem to have fully resolved the underlying problems of the political system. Despite the fact that there has been alternation in government (after more than forty years of single party domination) there is still a comparatively high level of government instability (with the partial exception of the Berlusconi II Government from 2001-2006), and most importantly, there continues to be an abnormally high reliance on the decentralized legislative procedure and use of executive decrees in the policy-making process.²

In this research I examine the enduring weaknesses of the Italian system by focusing on the legislative process and the role of agenda setting within it. Examining the history of legislative-executive relations in Italy through the prism of agenda-setting control serves to clarify both one of the underlying structural weaknesses of the system and a reason for the ineffectiveness of the reforms implemented in the 1990s. To this end I briefly review the importance of agenda-setting in the legislative process in general and the standard structural norms and formal rules that govern agenda-setting in democratic political systems. I then discuss the situation in Italy across time focusing on three distinct periods: the years immediately following WWII, the period between the 1971 internal rules reforms and the collapse of the First Republic and the period following the reforms of the 1990s and the birth of the Second Republic. The paper concludes with a discussion of the underlying agenda-setting structures in place in Italy and the long-term implications for executive – legislative relations and the policy process in Italian politics.

Who controls the agenda and why does it matter?

At the most basic level agenda-setting is the act of deciding what will be decided. This may initially seem quite straightforward, however, there are a broad variety of agenda-setting mechanisms and these vary between types of agenda-setting arenas. Even within the relatively narrow realm of legislative agenda-setting there are a wide range of tools and institutional structures and norms that regulate agenda-setting power. With a few notable exceptions the battle for control over legislative agenda-setting is

waged between the executive and legislative branches.³ Who controls what, and how, however, varies substantially with significant implications for the functioning of the political system as a whole.

Tools of the trade

Agenda-setting tools can be formal or informal. Although the temptation is often to assume that the formal tools and institutional structures that govern the agenda-setting process are more significant than any informal powers brought to bear, the latter should not be overlooked. One needs only to think about President Roosevelt's "fireside chats" to understand the potential influence of informal agenda-setting mechanisms. Despite their potential importance, however, such informal tools are unquestionably harder to measure and as a result more difficult to assess in terms of effective power or influence. In most of what follows the emphasis will be on formal agenda-setting tools rather than informal norms.⁴

The setting of the *legislative calendar* is both the most obvious and, in the majority of cases, the most important tool of legislative agenda-setting. The calendar determines which proposals will actually be discussed, be it in committee or on the floor. In most legislatures only a very small percentage of the bills proposed actually make it on to the formal calendar (Döring, 1995, 2001).⁵ Even fewer are ultimately successful in getting through the entire legislative process due to the extraordinary time constraints that exist in most legislatures (Cox, 1987). As a result, the power of initiation, that is the ability to formally introduce a proposal, is of comparatively little use if it is not paired with the power to insure that the proposal will make it on to the legislative calendar and through the process as a whole.

Although control over the legislative calendar is an important tool of agenda-setting, it is not the only one. The act of scheduling determines that a specific proposal will be discussed, but it does not necessarily determine what the actual *content* of that proposal will be. Unless legislation is debated under a closed rule, meaning that no amendments are allowed, the content of a proposal can be substantially altered during the policy process. The extent of the potential agenda setting influence of *amendments* will depend on who can make them, when they can be made and the existence of germaneness rules requiring amendments to be logically and substantively connected to the original content of the proposed bill.⁶

In addition to determining if a proposal will move beyond the initiation stage of the legislative process and to what extent and by whom the proposal can be amended once it has made it on to the calendar, it is also necessary to consider the timing of the process as a whole. Time is a scarce resource in most legislatures and many proposals make it on to the schedule only to languish in committee or suffer repeated delays as a result

of loose constraints on speaking time and debate.⁷ Thus, agenda-setting also includes the ability to determine the overall timeline of the legislative process and not just the initial hurdle of getting a proposal onto the agenda. The ability to move a proposal through the process can be as important as getting the process started to begin with or controlling the extent to which the content of the proposal itself can be modified.

Though not the only tools of agenda-setting, control of the legislative calendar, the amendment process and the overall timing of the legislative process are the three most critical tools of agenda setting and whichever actor(s) controls them will largely control the policy-making process within a given system as a whole.⁸ In most cases no single actor controls all aspects of agenda-setting or agenda-setting in all arenas (for example in committee and on the floor), although there is generally a clear tendency towards the executive or the legislature depending on the general character of the political system as a whole and the specifics of the type of legislation under consideration.

Who controls what?

Understanding who controls which agenda-setting tools is not always easy. In most cases the formal rules that determine the agenda-setting powers of the legislature and executive exist within the broader context of informal norms and practices. Although there are some general tendencies towards legislative control of the agenda within separation of powers systems and executive control in fused powers systems, there is substantial variation within each category. This is particularly notable in parliamentary systems, which range from a high level of executive dominance (the UK) to fragmentation and decentralized control (Italy) with most countries falling somewhere in between.

In general, control over the daily order of business is the best indicator of overall agenda-setting power (Döring, 1995: 243). In separation of powers systems the daily calendar, as well as the long-term calendar, is set by the legislature itself, without direct executive influence with few exceptions.⁹ In contrast, in fused (or parliamentary) systems executive initiated legislation often holds a privileged position on the calendar with opposition and/or private member proposals limited to specific days. In general, the privileged position of the executive in a parliamentary system is derived from its ability to control the majority within the legislature via simple majority requirements for the determination of the agenda (and effective control of party/coalition members). In addition, there are often formal tools that can be used by the executive to give their own proposals priority (such as the various 'guillotine' measures in place in France and elsewhere or other 'emergency' provisions).¹⁰ In a few cases, however, supermajority thresholds (or even unanimity) are required to approve the daily calendar and policy agenda within the legislature, making it difficult

for the executive to control the process and insure that its proposals will be given priority, or indeed, even be discussed.

Control over the path and timing of legislation also varies significantly. Once again, in separation of powers system this is controlled by the legislature itself and usually by the majority within it regardless of who controls the executive branch. In fused powers systems there is more variation. The executive tends to retain the most control in those systems in which the content of a bill is determined on the full floor and the committee stage is brief and supplemental (charged with fulfilling the decisions made in plenary). At the other end of the spectrum are systems in which bills are first considered by committees – especially if these need not report out the original bill to the full plenary. There are also rare examples of systems that grant full legislative powers to committees through decentralized legislative procedures that allow bills to be adopted without recourse to the full plenary.¹¹ In between these extremes are various degrees of committee independence in terms of the determination of their agenda and the time constraints under which they work. In general, the greater the degree of committee autonomy, the higher the overall level of agenda-setting decentralization is, leading to a higher level of legislative as opposed to executive, agenda-setting power.

Control over other aspects of timing such as debate within the committee or in the plenary can also be important if the absence of restrictions allows for legislative obstruction. The most extreme case of this sort of tactic is the filibuster exercised in the US Senate. Because the rules allow for unlimited debate unless a motion of cloture is passed with a 60 per cent majority, the minority opposition can often defeat a proposal through the use of debate and delay.¹² Other, less extreme, versions of the power to delay though debate can also be effective when proposals have a time delineated utility or when there is a crisis that calls for quick action. Supermajority thresholds for closing debate or rules that require a special allotment of speaking time to parties of the opposition or other actors can also effectively limit the agenda-setting power of the majority (in separation of powers systems) and the executive (in fused powers systems).

The final core component of agenda-setting is control over the actual content of proposals through the initiation and amendment process. As noted above, if the amendment process is open, without restrictions on content or germaneness, the power of initiation is less significant. Open amendment procedures tend to lead to variable coalitions forming around individual amendments, often on an ad hoc basis, rather than around full proposals. As a result, more open rules can lead to the dilution of executive proposals and represent a potential increase in the agenda-setting powers of the legislative branch. In fused powers systems the executive may be better able to combat unwelcome changes made by amendments to its

proposals through counter amendments and/or effective control of its majority, however, if party discipline is low or coalitions lack cohesion amendments can represent serious threats to executive agenda control. The executive's ability to limit damage through amendments will be higher when committees have restricted amendatory powers (as when bills are voted on first on the full floor) and/or must report out the original bill (generally with proposed amendments in an annex). Control over the order in which amendments are voted can also be used as mechanism to constrain legislative agenda-setting through amendments. In general whoever controls the ability to make a 'last offer' will be able to constrain the negative impact of unwanted amendments. It may be equally important to have the ability to constrain obstructionist amendments aimed only at bogging down and eventually stopping the legislative process.¹³

In general, the greater the degree of centralization in the agenda-setting process the higher the level of agenda-setting power in the hands of the majority, and in the case of fused powers systems, the executive. This creates a kind of axis of agenda-setting control. At one extreme there are highly centralized systems in which the majority of time is dedicated to majority/Government proposals, with special time set aside for minority and/or private member bills, debate and amendments are limited by closed rules or germaneness constraints and debate occurs first in the plenary with committees implementing decisions taken on the floor within a set time period. At the other end of the spectrum are systems in which the calendar is determined by members of the majority and minority (Government and opposition) by a supermajority (or even unanimous) vote, there are few if any restrictions on who can offer amendments or their content, and committees debate bills before the full plenary with no restrictions on their ability to change the content of the proposal or any requirement to present the original as well as the amended version to the full plenary. Most legislatures are located somewhere in between these two extremes, although legislatures in separation of powers systems tend to have a higher degree of agenda control than those within parliamentary or fused powers systems.

Of course there are exceptions to every rule and Italy is an enduring exception in this case. Despite the existence of a clear parliamentary institutional structure the legislature has an uncommon level of agenda control. The power of the Italian legislature to determine the legislative calendar is the result of both formal institutions and practical political (partisan) realities. This anomaly in the character of the executive-legislative relationship has been at the root of many of the perceived weaknesses of the Italian political system, including the production of too many "*leggine*" and not enough laws, the use and abuse of decrees and the general inability of the Government to deal effectively with the significant policy issues of the day. Despite a variety of reform efforts over the years

the underlying problem of agenda control has not yet been addressed directly.

60 years of agenda-setting in Italy (1948–2007)¹⁴

When the new Italian Republic was created following WWII it carried with it many of the legacies of both the pre-fascist and the fascist era. Both the new constitution and the political institutions were created with eye toward maintaining some level of continuity and efficiency, while developing structures that would serve to prevent the rise of another authoritarian leader (Predieri, 1975). Thus, a number of somewhat contradictory characteristics were built into the governing structures of the new Italian Republic. The Constitution provides explicitly for several different legislative mechanisms some of which privilege decentralization, not just to the legislature, but to the committees within the legislature, while others allow for both the delegation of legislative powers to *and* the usurpation of powers by the executive branch through delegating laws and emergency decrees respectively. Even in these latter cases, however, the legislature was provided with a central role either by initiating the delegation or approving executive initiated decrees.

This formal institutional preference for the legislative branch within the policy-making process is evident within the organizational structure of the constitution itself. The entire section on the formation of laws is included within the portion of the Constitution dedicated to the Parliament (Section 2 within the 1st Title of Part II, Articles 70-82). This section begins with Article 70, which clearly states that “the legislative function is exercised collectively by the two chambers”,¹⁵ although it also continues by noting that the power of legislative initiative is shared by the Government, every member of the chambers and any other units upon which this power has been conferred by the Constitution, including proposals put forward with the support/signatures of 50,000 voters. Thus, although the legislative branch controls the power to ultimately adopt legislation, the power to initiate proposals, or participate in the agenda setting process, is officially shared with a number of other actors, including most significantly the Government.¹⁶

More interesting, perhaps, are the attempts within the Constitution to decentralize the legislative process and avoid a concentration of legislative control within the Government. Aside from the formal declaration that it is the two chambers of the legislature that wield legislative authority (a common formality in fused-powers systems), the Italian Constitution also dictates key aspects of the legislative process itself. For example, Article 72 requires that under the ‘ordinary’ procedure all legislative proposals be examined first in committee and then on the full floor of the chamber.¹⁷

Furthermore, it establishes the power of the legislature to make binding final decisions on legislation within committees without reporting the proposal to the full floor (under what has come to be called the '*sede legislativa*' or '*sede deliberativa*').¹⁸

The Constitution also explicitly allows for both the possibility of legislative delegation to the Government and the issuance of decree laws by the Government, while at the same time including specific provisions to try to limit these executive legislative prerogatives. In Article 76, the constitution recognizes the ability of the legislature to delegate legislative power to the Government, but explicitly requires that such delegations clearly lay out the goal, scope and duration of such delegations.¹⁹ Similarly, the Constitution prohibits the Government from issuing ordinary laws through decrees without an explicit delegation from the legislature (Article 77). The same Article does allow for Government initiated decree laws in cases of "extraordinary urgency," but these must be presented to the legislature the same day they are issued for conversion to regular laws. Furthermore, although such urgent decree laws immediately take effect, they are valid for only sixty days and lose all validity (retroactively to the date of their issuance) if not converted by the legislature within that time frame (Article 77).²⁰

Without question the character of the Italian Constitution, like almost all constitutions, was deeply influenced by the experiences of the recent past; most particularly the rise of fascism, the experiences of WWII and the dissolution of the Monarchy. Efforts to decentralize decision making (*sede legislativa*) and limit the ability of the Government to usurp legislative power (by limiting the power of legislative delegation and decree laws) were clearly attempts to avoid a repetition of the past. However, in practice, these constraints have served primarily to hamper the implementation of an effective standard type of fused-powers system without implementing an efficient alternative. The political history of Italy over the past sixty years is in many ways a series of different attempts to cope with the contradictions of the policy-making process built into the constitution through a variety of cumulative and alternative agenda-setting strategies. Although the strategies employed have varied significantly over the years, the inability of the executive to effectively control the policy process through the standard legislative procedure, and its subsequent need to rely on alternative strategies, has remained remarkably consistent.

Stage one: 1948-1970, 'the normalcy of little laws'

The post-war political setting of the new Italian Republic is an essential factor contributing to the development of future norms of policy making. Throughout the First Republic Italian politics was fundamentally shaped by the existence of two major political parties and a myriad of smaller ones. The largest party throughout this period was the center-right Christian Democrats (*Democrazia Cristiana*) or DC. Aside from their all time high in

the 1948 elections, when they received 48.5 per cent of the votes, they received well below a majority of the popular vote. Between 1953 and 1983 the DC received an average of nearly 40 per cent of the vote; they then declined to an average of approximately 33 per cent in the following decade, before fragmenting and almost completely disappearing in the wake of the corruption scandals of the 1990s. On the left of the political spectrum was the Italian Communist Party (*Partito Comunista di Italia*) or PCI. The electoral fortunes of the PCI varied more than those of the DC ranging from a high of just over 34 per cent of the popular vote in 1976 to a low of approximately 23 per cent throughout the 1950s.²¹ Between them these two political parties never accounted for less than 60 per cent of the popular vote and generally their combined total was close to 70 per cent (Table 1). The remaining vote was divided between a myriad of comparatively small parties of the center right and center left including most notably the Italian Socialist Party (PSI), the Italian Liberal Party (PLI), Italian Republican Party and the Italian Social Democratic Party.²²

*Table 1: Electoral results by party, 1948-1992 (1st Republic)**

Year	DC % vote	DC # seats	PCI ^{a,c} % vote	PCI # seats	PSI % vote	PSI # seats	# of Others total	Other % Vote	Other ^d # Seats
1948	48.5	305	33.0	182	7.1	33	10	11.4	54
1953 ^b	40.1	263	22.6	143	12.7	75	9	24.6	109
1958	42.4	273	22.7	140	14.2	84	10	20.7	99
1963	38.3	260	25.3	166	13.8	87	9	22.6	117
1968	39.1	266	26.9	177	14.5	91	8	19.5	96
1972	38.7	266	27.2	179	9.6	61	10	24.5	124
1976	38.7	263	34.4	227	9.6	57	8	17.3	83
1979	38.3	261	30.4	201	9.8	62	11	21.5	106
1983	32.9	225	29.9	198	11.4	73	12	25.8	134
1987	34.3	234	26.6	177	14.3	94	8	24.8	125
1992	29.7	206	21.7	142	13.6	92	9	35.0	190

* In 1948 the Chamber of Deputies had 574 seats, in 1953 590. 1958 596 and from 1963 forward 630

a. In 1948 the Communists ran as the Democratic Popular Front for Liberty, Peace and Work.

b. In 1953 and 1958 the so-called "*legge truffa*" was in place which incorporated a majority bonus (but which no party was ever able to utilize)

c. In 1991 the PCI formally changed its name to the democratic Party of the Left and a splinter party (the Communist Re-foundation) was created.

d. All parties receiving at least 1 seat in the Chamber of Deputies

The critical aspect of this allocation of parties and party strength is that throughout this period the PCI was generally considered an anti-systemic party and therefore not a legitimate coalition partner. The result

was that all Government coalitions between 1948 and 1992 were led by the DC. The only variation was whether the Government would be of the center-right, the center-left or a minority (*monocolore*) Government of just the DC, with informal support from the smaller parties of both the center-right and center-left. The numerical inability to govern without the DC effectively meant that there was no hope of alternation within the Italian system. The perceived illegitimacy of the PCI left the DC and smaller parties of the center-left and center-right with few options in terms of coalition formation, they could join a coalition with the DC, support the DC informally or oppose the DC, but there was no alternative to the DC in power. This political reality serves as the political backdrop for the legislative institutional structures created by the Constitution, and to a certain degree helps to explain the development of the legislative process in Italy during the First, if not the Second Republic. In particular, the character of the party system is believed to provide at least a partial explanation for the heavy reliance on the decentralized procedure throughout the post war period.

The decentralized procedure, exceptional for its uniqueness among western democracies, rapidly became the primary method of adopting legislation in the new Italian Republic. Between 1948 and 1972 an average of over 75 per cent of all legislation was adopted in the committees (sitting in *sede legislativa*), with the result that more than three-quarters of all bills were approved without ever being debated on the full floor (Table 2). Laws approved through the decentralized procedure, known as *leggine* or 'little laws,' have historically been categorized as micro-sectional and clientalistic and as a result largely condemned (di Palma, 1977; Leonardi, Nanetti, and Pasquino, 1978; Furlong, 1990; but see also Kreppel 1997 for a different interpretation).²³ The heavy reliance on *leggine* is often attributed to the fragmented character of the party system and the need for coalitions that were created for lack of better options rather than any real policy or programmatic coherence (di Palma, 1977, 1987; di Palma and Cotta, 1986; Panebianco, 1987). As a result the only types of laws that could be agreed upon were those which were micro-sectional and allowed the coalition to, in the words of Giuseppe di Palma's famous 1977 book, 'survive without governing.'

While the content and significance of *leggine* may be debatable, what is not questioned is the effective use made of them by the Government itself.²⁴ During the early years of the legislature the decision over which committee a proposal was sent to, as well as the procedure under which it was sent, were largely determined by the President of the Chamber of Deputies (*Camera dei Deputati*).²⁵ Furthermore, throughout this first period the President of the Chamber of Deputies was always a member of the governing coalition and indeed, until 1968 a member of the DC itself.²⁶ The control over this central organizational position, as well as rules which

invested the President with almost unilateral control over the legislative calendar insured that the Government's proposals would not only get on to the schedule, but also under the decentralized decisional rule most preferred by the majority.

Table 2: Laws passed on the Floor and in Committee I-IX Legislatures (1948-1987)

Legislature	Laws Passed on the Floor	Laws Passed in Committee	Total Laws Approved	% Passed on the Floor	% Passed in Committee
I (1948-53)	587	1840	2427	24.2	75.8
II (1953-58)	496	1598	2094	23.7	76.3
III (1958-63)	484	1558	2042	24	76.0
IV (1963-68)	445	1604	2049	21.7	78.3
V (1968-72)	149	692	841	17.7	82.3
VI (1972-76)	280	848	1128	24.8	75.2
VII (1976-79)	321	345	666	48.2	51.8
VIII (1979-83)	323	640	963	33.5	66.5
IX (1983-1987)	263	533	796	33.0	67.0

This suggests that while the early reliance on the decentralized procedure may have been a function of fragmented and problematic party system, *it was not a result of weak executive control over the legislative agenda*. It appears instead that the selection of the decentralized procedure resulted from a recognition of the political realities within the coalition (inability to deal effectively with highly controversial issues) and the agenda-setting power to cope with them in the most effective manner possible within the institutional structures established by the Constitution. This does not mean that *leggine* were an effective mechanism of governing, but it does suggest that they were the tool of choice for the Government of the day. This reality changed substantially, however in the 1970s as a result of changing political realities within the broader electoral and political arenas. A series of formal internal reforms and newly developed informal norms fundamentally changed the political reality by effectively reducing the agenda-setting capabilities of the executive branch. This does not mean that *leggine* were

no longer the legislative tool of choice, rather, it means that the Government no longer had the unfettered ability to use them to suite their own preferences that it had had during the first quarter century of the new Republic.

Stage two: 1971-1996, 'the innovation of decrees'

As the electoral strength of the PCI continued to grow, increasing from 22 per cent of the popular vote in the 1950s to over 30 per cent in the 1970s (Table 1), the role of the opposition forces within the legislature came under increasing scrutiny. In 1971, in an attempt to normalize and depolarize the Italian party system (i.e. integrate the PCI into the political process, minimize the role of parties in general and increase the role of the parliament itself) the parliament significantly reformed its internal rules of procedures (Leonardi et al, 1978). The critical element of the reforms was the decentralization of the internal mechanisms of control previously concentrated almost exclusively in the hands of the President of the Assembly (which had been under the control of the Government) through the establishment of the Conference of Party Group Leaders. This new body was given control over the majority of internal decision making functions, including the critical task of setting the institution's agenda and assigning bills to the floor or committees for final approval. Most importantly the conference adopted its decisions by *unanimous* consent. This meant that the parties of the opposition (and in particular the PCI) now were granted the ability to effectively halt the legislative process if they did not approve of the agenda. The unsurprising result was that their initiatives were increasingly included in the agenda. In fact, even if unanimity in the committee could not be reached the new rules required that the parties of the opposition be allocated calendar time in proportion to their size within the legislature, which was substantial (always well over 25 per cent - see Table 2).

In addition, in 1976 during the so-called "historic compromise" between the DC and PC, it was decided that the President of the Chamber should be controlled by a representative of the opposition. This was initially done in recognition of the informal support that the PCI was granting the minority single party DC Government during this period. It also recognized that the PCI had come within just a few percentage points of the DC in the 1976 legislative elections and needed to be better incorporated into the governing process.²⁷ For the first time since the establishment of the new Republic a Communist Party leader was selected to serve as the President of the Camera dei Deputati creating a norm that would remain in place for nearly twenty years. Despite the reforms of 1971, which reduced the powers of the President of the Chamber, they were not insubstantial during this period and included: setting the agenda when the Conference of Party Groups Leaders could not come to an agreement, determining the order of the vote as well as the order of the day, allocating

speaking time and critically determining the order and acceptability of amendments on the floor.²⁸ Combined with the changes made in the 1971 reforms, this gave an unprecedented level of internal institutional control to the opposition and significantly hindered the ability of the Government to control the destiny of its initiatives within the Parliament.

As noted above, prior to these reforms the Christian Democrats had benefited from almost unilateral control over the internal agenda-setting process, including the assignment of the arena of legislative decision-making, i.e. plenary or committee (Leonardi et al, 1978).²⁹ This power guaranteed the Government direct access to the parliament and secured the rapid passage of those laws and *leggine* supported by the governing coalition. Once it was taken away the Government could no longer be assured that its proposals would even get on the parliamentary agenda, to say nothing of the likelihood of their eventual success. Furthermore, these changes took place, not coincidentally, as the popularity of the DC was declining and leading to further erosion of the Government's ability to control its own majority within the legislature and the policy process.³⁰

Evidence of the decline of the DC led coalition's ability to manage the policy process effectively can be seen in the rapid decline of regular legislative activity during these years (Table 3). The average monthly production of laws fell from 41.1 during the first legislature (1948-1953) to approximately 36 or 37 per month on average during the second, third and fourth legislatures (1953-1968), but then fell by almost 50 per cent to just 20 bills per month on average during the fifth legislature (1968-1972). Indeed, since the sixth legislature (1972-1976) the number of 'ordinary' bills has continued to decline reaching an all time low of just under 12 per month on average during the twelfth legislature (1994-1996).³¹

The rapid and significant decline in the ability of the Government to use the ordinary legislative process, including the decentralized procedure, to get its proposals passed led, perhaps unsurprisingly, to the use of alternative legislative mechanisms. The most suitable in terms of increased executive agenda control was the emergency decree. Article 77 of the Italian Constitution allows the Government to initiate decree laws in cases of 'extraordinary urgency.' Such decrees take effect immediately, but are valid for just sixty days unless they have been converted (adopted) by the parliament. Given their short duration and immediate effect, decree laws must be presented to the legislature the same day they are issued *and they are automatically added to the legislative calendar* so that the legislature can convert them into regular laws. If a decree is not converted by the legislature within the sixty day time frame (Article 77) it loses all validity (retroactively to the date of issuance).

Table 3: Summary legislative production I-XIV Legislature (1948-2006)

Legislature	Ordinary Laws Approved	Constitutional Laws	Decree Laws Issued	Decree Laws Converted	Decree Laws not Converted#	% Decree Laws Converted	Duration (months)	Regular Laws (per month)	Decreases (per month)
I (1948-53)	2426	1	29	28	1	96.6	59	41.1	0.5
II (1953-58)	2093	1	60	60	0	100.0	57	36.7	1.1
III (1958-63)	2039	3	30	28	2	93.3	56	36.4	0.5
IV (1963-68)	2046	3	94	89	5	94.7	57	35.9	1.6
V (1968-72)	840	2	69	66	3	95.7	42	20.0	1.6
VI (1972-76)	1128	0	124	108	16	87.1	48	23.5	2.6
VII (1976-79)	666	0	167	136	31	81.4	33	20.2	5.1
VIII (1979-83)	963	0	274	171	101	62.4	46	20.9	6.0
IX (1983-87)	795	1	302	136	129	45.0	45	17.7	6.7
X (1987-92)	1061	5	459	187	264	40.7	58	18.3	7.9
XI (1992-94)	311	3	493	123	315	24.9	24	13.0	20.5
XII (1994-96)	295	0	718	122	556	17.0	25	11.8	28.7
XIII (1996-01)	905	6	211**	174	37	82.0	60	15.1	3.9
XIV (2001-06) [§]	621	2	222	193	29	86.9	57	10.9	3.9 [#]

* Total number of laws approved also includes laws introduced by "mixed initiative" and is therefore greater than the sum of the Government and Parliamentary initiated proposals.

** Does not include decrees issued before decision N. 360 by the Constitutional Court prohibiting the re-iteration of decree laws.

Does not include decrees that had not yet been converted or expired at the end of the legislative term.

§ Elections for the XV legislature were called for April 10-11. The data presented here includes through 29 May 2005 only.

Does not include re-iterated decrees, which were no longer reported in the official reports of the Camera de Deputati.

Thus, the use of decree laws provided an easy, if not entirely legitimate, solution to the Government's inability to get its proposals onto the legislative calendar as a result of the changing electoral realities and internal reforms of the 1970s. What soon became clear, however, was that although emergency decrees are *automatically* entered onto the Parliament's agenda for the subsequent session, simply being on the agenda did not constrain the Parliament to actually act within the sixty day limit. The parliament could easily use debate, discussion and committee work to keep

the decree under consideration until after the deadline passed if it did not wish to adopt the underlying legislative proposal. Emergency decrees nonetheless rapidly became a central tool in the executive branch's legislative arsenal not only because they take effect immediately (granting the Government some capacity to deal with pressing concerns in the short term), but also because it was rapidly discovered that if a decree was not converted within the sixty-day limit it could be re-issued repeatedly.

The number of emergency decree laws issued began to increase dramatically during the sixth legislature when the total number jumped from 69 to 124 and the monthly average increased from 1.6 to 2.6 (Table 3). At the same time, the number of decree laws *not* converted by the legislature within the necessary time frame rose from 4.3 per cent to 13 per cent. This marked just the beginning of a long-term trend. The number of emergency decrees per month grew to an average of almost 29 per month during the troubled twelfth legislature, and over 20 per month on average during the eleventh. At the same time decree conversion rates fell to just under 41 per cent and 45 per cent respectively during the same period. Moreover, the Government was resorting to the legally questionable practice of repeatedly reiterating the same decree multiple times, often with little or no substantive change in content. This allowed them to keep the legislation implemented by the decree in effect despite the inaction of the legislature. As can be seen in Table 3, in the 24 years between 1948 and 1972 a combined total of just 11 decrees has been reiterated out of the nearly 300 that had been issued (just under 4 per cent). During the following quarter century between 1972 and 1996 the number of reiterated decrees jumped to 955 out of 2537 decrees issues (38 per cent).

Looking at the data more closely, it is possible to distinguish dual trends. Initially the Government, unable to insure that its proposals would receive adequate space on the legislative calendar of the parliament resorted to issuing emergency decrees. These automatically gain access to the calendar and must be dealt with within a short sixty day window. Initially, this behaviour led to a simple increase in the number of decrees issued and some decrease in their eventual conversion, dropping from the average 95 per cent success rate experienced during the early years of the Republic to approximately 85 per cent on average during the sixth and seventh legislatures (1972-1979). However, by the 1980s, the effectiveness of the emergency decree as a legislative tool continued to decrease as fewer and fewer were being converted by the parliament. In most cases the failed decrees were not actually rejected, the Parliament simply delayed its decision until the sixty day time limit had expired. This led to the secondary trend of repeatedly re-issuing the same or similar decrees. This trend grew increasingly throughout the 1980s as the success rate of emergency decrees dropped from 38 per cent (eighth legislature) to just 17

per cent (twelfth legislature) while the rate of reiteration increased from 25.2 per cent to 49.7 per cent respectively (Table 3). By the collapse of the First Republic following the corruption scandals and the electoral reforms of the 1990s the abuse of the emergency decree had become so egregious that it could no longer be ignored. The use of emergency decrees for issues that clearly did not meet the constitutional expectations of an emergency, together with the repeated reiteration of the same or similar decrees ultimately pushed the Constitutional Court to act. In October 1996 the Court ruled not only that the reiteration of decrees was unconstitutional, but also that the Government had to include in every decree a justification which clearly explained the need for its use (Sentenza n. 360/1996).³² This decision, combined with several other institutional and political changes ushered in a new period of executive-legislative contestation over the legislative process in Italy.

Stage three: 1996-2007, 'adding delegation to the mix'

Following the decision of the Constitutional Court the number of decree reiterations declined as anticipated, however the new legal environment in no way put a definitive end to the use (and abuse) of emergency decrees (Table 3). During the abbreviated XII legislature (1994-1996) the Government issued 718 decree laws, but just 122 were ultimately converted by the parliament. During the XIII legislature (1996-2001) the Government issued just 211 decrees, but 174 of them were ultimately converted.³³ Thus, the success rate of the Government improved significantly (from 17 per cent to nearly 82.5 per cent), but there was also an overall drop in the number of decree laws adopted per month from 4.9 during the XII legislature to just 2.9 per month during the XIII legislature.³⁴ The average number of converted decrees rebounded somewhat during the XIV legislature (2001-2006) to almost 3.4 per month, still well below the monthly average prior to the 1996 ruling of the Constitutional Court. Thus, the intervention of the Court not only limited the ability of the Government to continuously re-issue decrees, it also effectively reduced the overall use of the emergency decree as an agenda-setting tool by the executive, while failing to fully eradicate its use outside of true emergency situations.

The fact that the average number of successful decrees issued by the Government decreased following the restrictions against reiteration imposed by the Court is unquestionable, however, it is unclear to what extent decrees retained their utility to the executive as an effective tool of agenda-setting. The initial attraction of emergency decrees was that unlike normal Government initiatives emergency decrees gained immediate access to the legislative calendar. However, the inability or unwillingness of the legislature to deal with them within the sixty day constraint severely decreased their utility in this regard. This led to multiple reiterations of decrees by the Government to keep the item on the agenda. The full implication of these repeated iterations of the same decree are not entirely

clear however. It has been suggested (Zucchini, 2001) that the reiteration of decrees evolved into a kind of bargaining game between the legislature and the executive that ultimately worked to decrease the utility of the emergency decree for the executive. In effect, the possibility of reiteration meant that the legislature was not bound by the strict sixty day limitation for decree conversion even if they preferred the decree to the status quo since they knew the Government could (and most often would) simply reissue the decree giving them another chance at it. This allowed them to engage in a greater degree of bargaining with the executive (primarily through the amendment process) without regard to the formal deadline for conversion. It could also be argued, however, that the removal of the ability to reiterate decrees effectively forced the Government to accept any amendments to the decree adopted by the legislature since they could no longer hope to do better next time around if they blocked passage and re-issued a similar decree to allow for further bargaining.

The absence of any special status for the Government during the amendment process, on ordinary bills as well as decree laws, significantly reduces their agenda setting power. While it is clear that use of decrees provided the Government an effective mechanism to access the legislative calendar, their inability to control the content of decrees once on the agenda as well as the timing of their consideration (despite the sixty day requirement) significantly reduced the power of this tool. The absence of any protection against amendment during the conversion process meant that the outcome might be significantly altered by the legislature. In fact, only approximately 10 per cent of converted decrees between 1996 and 2007 were adopted without modification.³⁵ While it is true that some of the modifications made during the course of the conversion process might have been made with the support of the Government, since decrees are issued by the executive to begin with it seems unlikely that the bulk of amendments are “friendly” in nature.³⁶ Moreover, the inability to simply reissue decrees if dissatisfied with the previous outcome after the 1996 Court decision left the executive once less able to effectively determine legislative outcomes because of its inability to control the agenda-setting process.

However, an alternative strategy emerged to mitigate the executive’s lack of effective agenda-setting power within the legislature. Like the emergency decree this new strategy had its roots in the constitution. Article 76 of the constitution grants the legislature the ability to delegate legislative power to the Government, but requires that such delegations lay out the goals, scope and duration of such delegations.³⁷ Once such delegations (*deleghe*) have occurred the Government may issue legislative decrees (*decreti legislativi*) to implement the necessary laws. Unlike the previously discussed decree laws, legislative decrees do not require conversion or

approval by the legislature, *nor can they be altered by the legislature*. Thus, in the areas in which delegation authority has been granted to the Government the executive is able to effectively control the legislative process without fear of delay or amendment.

Table 4: Executive laws in Italy X-XV Legislatures (1987-2006)

<i>Legisla- ture</i> (years)	<i>Laws with 'Deleghe'</i>	<i>Legisla- tive Decrees</i>	<i>Legisla- tive Decrees</i> (per month)	<i>Decree Laws Issued</i>	<i>Decrees Issued</i> (per month)	<i>'Execu- tive Laws'</i>	<i>'Execu- tive Laws'</i> (per month)
X (1987-92)	3	129	2.2	459	7.9	588	10.1
XI (1992-94)	8	107	4.5	493	20.5	600	25.0
XII (1994-96)	13	51	2.0	718	28.7	769	30.8
XIII ^a (1996-01)	55	378	6.3	204	3.4	582	9.7
XIV (2001-06)	44	288	5.1	216	3.7	504	8.7

a. Does not include decrees issued before decision N. 360 by the Constitutional Court prohibiting the reiteration of decree laws.

Although the possibility of legislative delegation existed since the promulgation of the Constitution, it was not until 1988 that rules governing the procedure were effectively implemented (see Article 14 of Law N. 400, 1988). Immediately following the adoption of this law the number of laws with delegations within them and the number of legislative decrees implementing them began to increase significantly.³⁸ It should be noted that individual laws can contain more than one legislative delegation. Moreover, the executive may use its discretion in determining the number of legislative decrees necessary to fulfil a delegation. As a result there is little connection between the number of delegating laws passed by the legislature and the number of legislative decrees issued by the Government. However, there is clear evidence of an increase in the use of this legislative tool (Table 4). Between 1987 and 1992 the legislature adopted 26 laws that contained a total of 143 different delegations. By the XIII legislature the number of laws containing delegations more than doubled to 58 with the total number of delegations increasing to 344.³⁹ Not surprisingly, in response to the increasing number of delegations granted to the executive there was an increase in the number of legislative decrees issued. During the X legislature just 2.2 legislative decrees were promulgated per month on average, whereas by the XIII legislature the number had increased

almost threefold to 6.2 per month, although it dropped back down somewhat to just 4.9 per month during the XIV legislature.

The number of delegations and legislative decrees had both unquestionably begun to increase following the passage of Law N. 400 in 1988, however, the significant increase in the use of this tool that occurred after the 1996 Court ruling against reiteration of emergency decrees suggests that its role in the legislative arsenal of the executive branch changed substantially at least in part as a result of that ruling.⁴⁰ There is additional anecdotal evidence suggesting that the breadth of the delegated powers has been expanding since the XIII legislature reaching its highest levels during the XIV legislature (Gambale and Savini, 2001, 2004; Zucchini, 2003, 2005). Article 14 of Law n. 400, 1988 governing the use of the legislative decree provides only minimal constraints on executive power under the delegated procedure and provides no limitation in terms of the type or breadth of powers that can be delegated. The corresponding article of the Constitution, though generally not understood to allow for the delegation of broad policy-making powers, stipulates only that “the exercise of the legislative function cannot be delegated to the Government unless there is a clear and determinate mandate including explicit objectives and a limited time-frame” (Article 76, *author’s translation*). The absence of clearly worded limitations or constraints to the delegating procedure effectively means that there are no real limits to the breadth of law-making that can be delegated to the executive should the majority within the legislature desire it. It also makes it incumbent upon the legislature to carefully delineate delegations if they do not wish to give sweeping legislative powers to the executive.

As a result, through delegating laws the executive in Italy has perhaps finally acquired an effective agenda-setting tool. Legislative decrees issued in response to a delegation do not go through the legislative process, there is no need for them to be placed on the legislative calendar and they cannot be amended. They require no action on the part of the legislature. Once the delegation has been given to the executive it is free act as it sees fit.⁴¹ If the powers delegated are narrowly defined and generally technical in nature this power is of little real significance. If, however, recent in-depth analyses of the content of delegations (Gambale and Savini, 2001, 2004) are representative of a growing trend, then the significant growth in delegating laws represents a real increase in the agenda-setting powers of the executive.

It remains to be seen whether the trends of the XIII and XIV legislature as regards delegating laws and legislative decrees will continue. The evidence thus far remains unclear. In fact, during the first sixteen months of the XV legislature there were a total of nine delegating laws including 87 delegations, but a total of just 56 legislative decrees (or an

average of 3.5 per month). The critical element of the delegated law process is in fact the willingness and ability of the legislature (or the majority within it) to pass the necessary delegating laws. If the governing coalition is too weak as a result of internal fragmentation or small majorities (both of which were present in the XV legislature) the effectiveness of the delegating law procedure as a tool of executive agenda-setting will be rendered useless since they will be unable to achieve the necessary delegations to begin with and/or the constraints built into the delegations will be too limiting to grant the executive much autonomous agenda-setting authority.

The importance of effective executive agenda-setting power

Although there are undoubtedly a wide range and large number of formal and informal agenda-setting tools within the legislative process the most basic, and most important, are access to the legislative calendar, management of the timing of the legislative process and the ability to control amendments that effect the content and policy outcomes of the legislation itself. As a result of the constitutional environment and political realities (party system) the executive branch in Italy has consistently found itself frustrated in all three agenda-setting arenas. The Constitution allows for a decentralized system that self-consciously grants the bulk of legislative powers to the legislature alone, or at best the legislature working in concert with the executive branch. The Constitution requires that bills be reviewed first in committee, grants committees the power to make definitive decisions without recourse to the full floor and in no way provides the executive branch with any special status in terms of guiding its legislative programs through the legislature or controlling their fate once they are there. There are no 'guillotine' type procedures available to the executive, no priority status for its bills and no ability to make the 'last offer' during the amendment process or implement a closed rule.

In many parliamentary systems these institutional and structural weaknesses would not pose significant problems because the executive would represent a coherent and cohesive majority based on disciplined parties within the legislature. Such a majority would allow the Government to control the legislative process despite the institutional weakness of the political structures. In Italy, however, a host of variables have conspired to ensure that this is not the case. The use of an electoral system, which for most of the post-war period was among the most proportional in existence, facilitated the development of a phalanx of small parties.⁴² Even the electoral reforms of the 1990s failed to substantially reduce the number of parties competing in elections, although it did incentivise electoral coalitions for 75 per cent of the seats.⁴³ The absence of legitimate alternation during the 'First Republic' resulted in a long series of coalitions based on

necessity rather than ideological or programmatic coherence. Added to these weaknesses is the unparalleled independence of the legislature, which is free to determine its own internal rules without regard to the implications in terms of executive agenda-setting power. The result has been an Italian executive branch that for most of the period since the Second World War has been unable to implement broad substantive policy through the 'ordinary' legislative process. Instead, at least since the early 1970s, the Italian executive has been forced to find alternative mechanisms to get its proposals on to the legislative agenda, through the process and out the other side without substantive alteration as a result of unwelcome amendments.

The result has been repeated recourse to constitutionally devised procedures originally intended for emergencies (emergency decrees) or administrative and technical implementing legislation (legislative decrees) for 'ordinary' law-making. This leads not only to questionable strategies in terms of the constitutionality of the process, but also to a general lack of reliability of the outcomes. Governments cannot fulfil electoral commitments or govern effectively if they cannot work with the legislature to implement their policy programs.

In the end, Italy aptly demonstrates the need for executive agenda control within a parliamentary system. The ability to set the agenda may come through formal established institutional structures and rules, or it may be derived from the strength and coherence of the governing majority or even both. Executive agenda-setting power need not be hegemonic or absolute, but it does need to be real and substantive if the policy-making process is to work effectively within a parliamentary system. The alternative, at least in the Italian case, is an ineffective and detrimental reliance on questionable practices that in the long run fail to function effectively.

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¹ Tsebelis (2002) points out this misnomer as well by noting that "as a general rule, in parliamentary systems the government makes a proposal to parliament to accept or reject, while in presidential systems, parliament makes a proposal to the executive to accept or veto. In the sense the roles of agenda setting are reversed in the two systems. In addition, the names used for each one of these systems do not reflect the legislative reality."

² The decentralized procedure refers to use of the '*sede legislative*' during which the committees can make the ultimate determination of laws with no need for them to then also be passed by the full floor. Laws adopted in committee are often referred to as "*leggine*" or "little laws" because they are generally understood to be smaller, micro-sectional and clientalistic laws. Executive decrees include both the decree laws (*decreti leggi*) and legislative decrees (*decreti legislativi*) although the two are substantively quite different. The two types of decrees and the implications of both will be discussed below.

³ There are, of course, some systems which provide citizens direct agenda-setting access through the initiative process for referenda. In addition, courts may sometimes be seen as setting the legislative agenda through their decisions, which may call for further legislative action. In most cases, however, the norm is for the legislative agenda to be determined by the executive and/or legislative branch.

⁴ Although many of the mechanisms used by the executive to influence the agenda-setting process in Italy lie outside of "normal" legislative procedures they are nonetheless formal rather than informal in nature as they rely on the existence of rules and structures rather than simply norms of behaviour.

⁵ In Italy the legislative calendar is embodied within the 'order of the day.'

⁶ Rules requiring that amendments be germane helps to avoid excessive pork-barrel bills with special provisions added on as side payments to various interest groups as well as "killer amendments" which generally have nothing to do with the bill to which they are attached.

⁷ Committees that have independent gate-keeping power can serve as an additional obstacle since they may simply decide to kill a proposal by never reporting it out of committee. Most legislatures have some mechanism that allows

for the full floor to recall a proposal out of committee, but these generally requiring dauntingly high majorities.

⁸ For example the ability to initiate legislation is also clearly a critical precursor of agenda-setting, although one that can be overcome if amendment rules are relatively liberal.

⁹ In fact, in most separation of powers (or presidential) systems the executive is limited in its ability to even introduce bills within the legislature, usually having to work through partisan intermediaries (as in the United States). However, emergency orders and executive decrees take precedence over the regular calendar in some cases.

¹⁰ It should be noted that not all guillotine procedures invoke a confidence vote in the French case. In the UK, for example, the term is used to refer to the predetermined time at which all debate on a proposal is cut off (guillotined) and a vote is immediately taken.

¹¹ At the moment Italy is the only country with this possibility, however the European Parliament also had a provision for the decentralized procedure until recently.

¹² The Republican minority has used this tool quite effectively in the US Senate to block the Democratic majority since the 2006 midterm elections).

¹³ Serial amendments that are offered by the hundreds (if not thousands in extreme cases) that merely substitute in different numbers, words or phrases within an otherwise unchanged text can now be easily constructed electronically and are a frequently employed strategy in a number of systems.

¹⁴ All data used in this paper is drawn from the archives and on-line resources of the Camera dei Deputati. In particular, legislative data is drawn from the annual reports of the *Osservatorio sulla legislazione*, available online at www.camera.it.

¹⁵ Author's translation.

¹⁶ An example of the comparatively weak position of the executive in the legislative process is the absence of any special status in terms of scheduling or debate for its proposals under the ordinary procedure as well as the lack of any special standing for the executive to make a "last offer" in the amendment process.

¹⁷ In general legislatures that first review policy proposals in committee *before* sending them to the full floor for a final vote have a greater degree of legislative influence and control over policy outcomes than those that allow (or require) bills to be reviewed *first* by the full plenary, leaving the committee the more directed task of implementing the decisions made by the full plenary (see Shaw and Lees, 1979).

¹⁸ There are several categories of laws that cannot be decided in *sede legislative* including electoral laws, constitutional reforms, ratification of international treaties, approval of the budget and importantly delegating legislation (discussed below). In addition, laws can be pulled out of committee for full consideration on the floor if requested by the Government, one-tenth of the members of the relevant chamber or one fifth of the committee itself (article 72).

¹⁹ Article 76 stipulates that "the execution of the legislative function cannot be delegated to the executive without clear guidelines regarding the principles and criteria of the delegated laws; furthermore, delegation can only occur within a specified time period and for the achievement of clearly defined objectives"

(*author's translation*). The implication is that the intended purpose of the delegated procedure is to allow the executive to directly manage administrative and implementing legislation rather than independently control the development of major policy initiatives.

²⁰ Of course the failure of the Constitution to explicitly limit the re-iteration of the same or similar decrees ad infinitum led to significant abuse of this Government prerogative, but this will be discussed in depth below).

²¹ The PCI received about 27 per cent of the vote in 1987, the last elections before the party's name was changed to the Democratic Party of the Left (*Partito Democratico di Sinistra*) or PDS in 1991 reflecting the changing global situation. Many who objected to the name change shoes to form a splinter group, the Party of the Communist Refoundation (*Partito della Rifondazione Comunista*) or PRC.

²² There were additional smaller parties; including the Italian Social Movement (a neo fascist party) not listed because of their small size and general irrelevance for the legislative process since no one was willing to form a coalition with them until their transformation into the National Alliance Party (AN) in the 1990s.

²³ Because decision-making in the committees is far less open than the full floor procedure with meetings generally closed to the public and few recorded votes, as well as the belief that *leggine* tend to be clientalistic rather than substantive in character, the Chamber of Deputies itself repudiated the high level of reliance of the use of the decentralized procedure during its 1996 internal reforms and explicitly called for a reduction in its use.

²⁴ Table 2 presents the total number of laws passed, including those initiated by individual members. The same general pattern is visible if we look only at those presented by the Government itself, although the average percentage adopted in committee falls to an average of approximately 70 per cent between 1948 and 1972.

²⁵ For simplicity's sake I will restrict my commentary in this paper to the Chamber of Deputies (*Camera dei Deputati*) however, everything holds equally for the Senate (*senato*). Italy is a truly symmetrical bicameral system with both chambers having identical powers (including investiture and censure) and similar partisan majorities. This means that all of the arguments presented should be understood to hold for both chambers. Furthermore, the existence of the second chamber increases the agenda-setting burden on the Government as it must be accomplished in both chambers.

²⁶ In 1968 the governing coalition included the Socialist PSI for the first time. The inclusion of the Socialists was considered a notable shift toward the left and the importance of the party for the coalition was highlighted by the selection of noted Socialist Alessandro Pertini (who was later elected as president of the Republic) as Chamber President.

²⁷ The DC received 38.7 per cent of the popular vote while the PCI received 34.4 per cent (a more than 7 per cent increase over the previous 1972 elections). The next largest party, the PSI received just 9.7 per cent.

²⁸ The full powers of the President are set forth in Articles 8 and 12 of the Rules of Procedure.

²⁹ Although he does not differentiate between bills from members of the opposition and those from the governing coalition, della Sala (1993: 163) notes “sending a private member bill to the assembly guarantees it a rough passage through Parliament, while its deliberation in committee results in a more serious effort to have it approved.”

³⁰ An added difficulty came from the fact that, until reforms were passed in 1988, almost all votes within the legislature were by secret ballot. This made it impossible for party leaders within the governing majority to control their rank and file members and made it nearly impossible to insure safe (without substantive amendments) passage of the Government’s proposals on the floor.

³¹ Data is reported by monthly averages to control for the different duration of the various legislatures ranging from just 24 months to the full 60 month term.

³² It should be noted that neither constitutional requirement has been fully implemented in the years following the Court’s decision. Although the frequency of reiteration has unquestionably decreased dramatically it does still occur. Furthermore, the number of decrees as a whole remains significantly higher than can be realistically justified by “emergencies” of the sort initially envisioned by the Constitution.

³³ The overall impact of decrees also dropped noticeably. During the XII legislature converted decrees made up 41.4 per cent of all successful legislation, while during the XIII legislature converted decrees represented just 19.2 per cent of the total.

³⁴ The abbreviated XII legislature endured for just 24.7 months while the XIII legislature lasted for the full 5-year term (60.7 months).

³⁵ Specific statistics for the last year of the XIII legislature are unavailable. Of the 100 decrees adopted through June 2000, 85 included modifications. During the XIV legislature 136 out of 148 converted decrees included modifications and during the first 16 months of the XV legislature (through August 2007) 21 of the 23 converted decrees included modifications.

³⁶ The complicated, and often contentious, character of most Government coalitions in Italy works in conjunction with the high decentralized character of the legislative process and the significant power of the opposition within the legislature to prevent the governing coalition from being able to rely upon a cohesive and effective majority within the legislature. Thus, unlike most parliamentary systems, in Italy there is no effective majority of MPs available to insure that the Government’s initiatives not only make it onto the agenda, but are eventually adopted without significant revision.

³⁷ Article 76 stipulates that “*L’esercizio della funzione legislative non puo` essere delegate al Governo se non con determinazione di principi e criteri direttivi e soltanto per tempo limitato e per oggetti definiti.*”

³⁸ Unfortunately because of their relative rarity there is little data available on the use of the delegated law procedure prior to the X legislature (1987-1992).

³⁹ The numbers cited are for “primary” delegations only as opposed to “integrative” or “corrective” delegations which have less substantive significance.

⁴⁰ It is interesting to note that during this same period (1996-1997) the Camera dei Deputati was also pursuing significant internal reforms aimed at increasing the efficacy and quality of the legislative process. Part of this reform aimed at intentionally reducing the role of the legislature in policy-making

(Camera dei Deputati, 1998). Increasing the delegation of decision-making power to the executive branch can be understood within this general framework and helps to explain why the legislature voluntarily abdicated some of its legislative authority to the executive branch through delegations. In effect, this trend (though not an explicit component of the internal reform process) was a natural consequence of its overall intent. Increased delegation helped to insure that the executive was more actively engaged in the legislative process and allowed the parliament to truthfully claim that it had successfully reduced its own legislative activities.

⁴¹ Depending on the delegating law the executive may need to issue a report to the Legislative Committee of the Camera dei Deputati, but this is for informational purposes only. The Constitutional Court also has the official task of overseeing the promulgation of both delegating laws and legislative decrees to insure that these do not infringe upon the boundaries established by the Constitution.

⁴² In addition, until the early 1990s Italy employed the use of multiple preference votes that further weakened party control over members by allowing members to develop personal followings that insulated them from party discipline.

⁴³ There is a significant and growing literature on the electoral reforms (and subsequent party system changes) in Italy following these reforms. In particular see Bardi (2007) and Fusaro (2009) for more information.