

Chapter 9

Tackling corruption, finally? How domestic and supranational factors have led to incremental policy change in Italy

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* The article is a result of a common undertaking. However sections "Introduction" and "Public Attitudes" can be directly attributed to Daniela R. Piccio. Sections "Shaping Reform in a Changing Environment" and "Patterns of Political Competition" can be directly attributed to Fabrizio Di Mascio. Sections "Institutional legacy" and "Conclusions" can be directly attributed to Alessandro Natalini. The empirical section "Italy's Responses" can be attributed to all authors. The views expressed by Fabrizio Di Mascio in this academic work are those of the author and do not reflect those of the Italian Anticorruption Authority.

Introduction

Corruption has played a dramatic role in contemporary Italian democracy. Indeed, anti-corruption investigations in the early 1990s revealed the existence of a complex web of corrupt networks involving high-level bureaucrats, entrepreneurs and politicians. The degree and pervasiveness of corrupt practices that emerged from the ‘Bribesville’ investigations had an unprecedented impact on the country’s institutional and social environment.

At first sight, the Italian context after the early 1990s turmoil appears as a particularly favorable one in terms of the development of anti-corruption policies. First, after the “Bribesville” investigations revealed the pervasive and high levels of corruption, the latter became one of the most extensively covered issues on the public agenda. This favors, according to several scholars, the adoption of policies promoting greater transparency and control mechanisms.¹ Second, new political actors emerged, a new party system formed, and a new electoral law was adopted that transformed electoral competition to a bipolar pattern of party competition with government alternation. This enabled Italian citizens, for the first time in the

country's political history, to "throw the rascals out," thus preventing hitherto politically dominant forces from perpetuating governmental power. Third, the turnover of the political personnel that took place after the 1990s scandals should have allowed for greater leeway for the introduction of policy reforms. Finally, at the supranational level, international 'integrity warriors' organizations started more actively pressuring national member states to introduce more thoughtful, coherent, and effective anti-corruption policies.

Yet, when looking into its evolution after the early 1990s investigations, corruption in Italy appears to have increased rather than lowered. Observing Transparency International's Corruption Perception Index (CPI), we find that corruption levels, as perceived by analysts, country experts, journalists and entrepreneurs, increased over-time, accounting under the most recent measurements for the lowest score records.² Recent Eurobarometer surveys point to similar results: in the 2009 Special Eurobarometer survey, 83 per cent of Italian respondents considered corruption as a major problem in Italy, a percentage increased to 97, in the recently issued 2014 Special Eurobarometer.³ Beyond perceptions and surveys, in 2012 yet a new wave of political corruption scandals in relation illicit use of public funds emerged in the country, further de-legitimizing Italian political elites. This chapter will explore the reasons for these outcomes. Why has Italy remained so corrupt? Does the problem lie in the legislation, or in the lack thereof, or rather is there a problem with the legal enforcement?

To answer these questions we will analyze how domestic and supranational factors have accounted for the implementation processes of anti-corruption policies in relation to two key corruption-sensitive areas: corruption in public administration and political party finance. The period of investigation starts in 1992, when the combined effects of the widespread 'Bribesville' scandals and the risk of state bankruptcy following the expulsion of the Lira's from the European

Monetary System fuelled popular revolt against the traditional parties, expressed in their collapse at the polls and in the overwhelming victory of the “Yes” vote in two referenda that profoundly reshaped the electoral system. It ends in 2013 when Italy faced a new political crisis epitomized by the advent of the “technical government” chaired by Mario Monti (November 2011 - April 2013), and by an electoral round in 2013 in which a newly formed anti-system party (Il Movimento 5 Stelle, or “Five Stars Movement”) turned out as the first single most voted political party in the Chamber of Deputies, leading to a hung Parliament.

The introduction to the current volume suggested that what underlies the inclination of those in authority to respect the boundaries of their power is an entrenched notion of what is proper and what strays from acceptable behavior. This sense is conveyed by various laws, customs, and institutions, all of which tend to change over time. But the precise form is not the primary determinant: instead, it is the general approbation of those who stray from the norms and the penalties imposed upon them. The argument we shall present confirms this claim. It shows that the prevalence of corruption in Italy does not reflect the absence of laws, or of public awareness. Rather, the law does not extract high penalties and public opinion does not act as pressure for a shift in behavior. And as long as this is not corrected, no reform will avail.

Shaping Reform in a Changing Environment: Institutional Legacies, Patterns of Competition and Public Attitudes

Notwithstanding fragmentation and polarization, the Italian party system was characterized for over forty years from the end of the Second World War by stability.⁴ Sustained by the high incidence of the ‘vote of belonging’ and by deeply-rooted linkages with society and

its sub-cultures, Italian political parties could rely on a stable electoral support, with comparatively low figures of volatility.⁵ The traditional stability of the Italian party system experienced a radical earthquake in the early 1990s, which transformed the institutional landscape to an unprecedented degree. The origins of this radical and profound turnover of the ruling class have been widely discussed in the literature.⁶ The adoption of a new electoral law in 1993 for both Chambers of the Italian parliament, replacing a form of proportional representation with a mixed plurality-PR system, and the end of the cold war and the collapse of international Communist regimes, played a major role in changing the format and functioning of Italy's party system. Yet, the country's profound changes cannot be understood without reference to a third crucial factor, namely, the revelations of Italy's widespread and pervasive system of political corruption and illegal party financing involving the country's largest political parties.⁷ Not only the did the 1992-1994 anti-corruption investigations exert a tremendous influence on the Italian party system, erasing traditional electoral competitors to the extent that little had remained in terms of the party families characterizing the country's historical development since 1948; political scandals also prompted a dramatic crisis of legitimacy of the Italian political parties.⁸

The aim of this chapter is to investigate the influence these transformations have had on anticorruption policies and political finance reforms. We will argue that the conditions sustaining anti-corruption efforts in Italy are only favorable on the surface. Drawing on the theory developed by O'Dwyer,⁹ we propose a more nuanced understanding of the domestic context, analyzing how government disposition towards reforms in these two corruption sensitive areas is shaped by the interaction between three main factors: institutional legacy, patterns of political competition, and public attitudes. According to O'Dwyer, in a context such as that of Italy, marked by the institutional legacy of a weak state, low trust towards representative institutions,

and enduring fragmentation of the party system, path dependent patterns of state capture would be reproduced. Institutional legacy provides parties the means to exploit the administration as weak state structures lack the professional autonomy and legitimacy to resist the encroachment of political elites attempting to control public resources.¹⁰ In a context of low trust towards representative institutions and weakly developed party loyalties, party members who are not motivated by the lure of public office are too few to develop an organizational structure on the ground extending beyond public offices. The absence of long-run incentives for mass membership predisposes public office holders to exploit the weakness of the state in order to extract public resources needed to carry out expensive capital-intensive campaigns.¹¹ The legacy of a weak state and the demobilization of society are necessary, but insufficient to produce state exploitation. If party system institutionalization produces both coherent governing coalitions and credible oppositions, then mechanisms of vertical accountability discipline governing parties by allowing voters to punish or reward them. In the absence of party system institutionalization, the general instability of party organizations shortens the time horizons of governing coalition members, who are likely to capture organizational advantage from the state by means of corruption. Additionally, we provide a more thorough understanding of reform context including supranational influences. As we shall see in the empirical analysis, since the 1990s an ever increasing impetus for governmental efforts to implement anticorruption policy and political finance reforms has been provided by international organizations.

Building on our understanding of reform context, we test three alternative scenarios. The first, hypothesized by O'Dwyer, involves a context marked by the weak policy legacy with regard to anti-corruption framework, by the low trust towards representative institutions, and by enduring fragmentation of the party system, path dependent patterns of state capture would be

reproduced. In the second scenario, mounting international pressures would outweigh the relevance of policy legacy, public attitudes and party system fragmentation, eventually disrupting path-dependent patterns of state capture. In the third, as hypothesized through the process sequencing approach,¹² circles of reactions and counter-reactions triggered by the interaction between international pressures for change and path-dependent patterns would induce an incremental change. Before presenting the evolution of reform processes, we will briefly discuss the core features of the Italian domestic context, in terms of institutional legacy, changing patterns of political competition, and public attitudes.

Institutional Legacy

The Italian administrative system has long displayed the features typical of the Southern European bureaucratic model:¹³ the absence of an autonomous administrative elite equipped with an esprit des corps; the entrenched organizational fragmentation of the public sector at both the central and the local level; the lack of mechanisms for policy coordination; the vicious circle between distrust in public officials and legalism focusing the administrative activity on detailed rule following and pervasive legal control by administrative courts with the paradoxical effect of increasing opportunities for corruption in the application of cumbersome provisions.¹⁴ The weakness of public bureaucracies was exploited by the governing political parties emerged after the Second World War to pursue a strategy of colonization by penetrating all levels and arenas of the public sector with party-nominated appointees.¹⁵ Precisely the deep and extensive party colonization of the state created the conditions for the development of corrupt networks.¹⁶

Party finance and campaign funding was totally unregulated before 1974 when the discovery of extensive corruption produced the Law 195/1974. However, by maintaining the system of parliamentary immunity from prosecution, making legal contributions very difficult because of strict and cumbersome provisions and introducing a procedure for the publication of party accounts that provided for neither transparency nor an effective scrutiny of party finances, the Law 195/1974 did little to restrain the expansion of well-established practices of financing from kickbacks. It just established a system of public contribution for parties complementing illicit private financing. Within this context marked by the partisan colonization of the state, the anti-corruption approach has relied only on the repression side. In the absence of a preventive framework, the drivers for anti-corruption measures have been limited to law enforcement, prosecution, the judiciary and the Court of Audit.

Public Attitudes

Public attitudes and public concerns are expected to influence both the party financing and anticorruption policies when the spark of scandals put the issue of reform on the agenda.¹⁷ The widespread political corruption scandals that emerged after the 1990s had a pronounced effect on Italy's public opinion. This is evidenced in the sharp decline in the Italians' levels of trust towards representative institutions.

[Figure 9.1 about here]

While traditionally lower as compared to other countries in Western Europe,¹⁸ Eurobarometer survey data (figure 1) reveals how Italian respondents have lower levels of trust as compared to

Western European average, and how the distance between Italian and West European average scores has increased over time, accounting in the two latest surveys respectively for 12 and 12.2 percentage points difference.¹⁹ The decline in trust is in line with trends revealed by a number of additional indicators, such as election turnout and volatility measures, accounting under the political elections of 2013 respectively the lowest and the highest figures in the history of the Italian Republic.²⁰

Yet, while corruption scandals undoubtedly determined the emergence of negative public opinion, political elites perceived little social pressure for introducing policy reforms. Indeed, while widespread corruption scandals has brought about increasing disenchantment towards representative political institutions and growing mistrust towards party representatives, the endemic and enduring corruption problems that the country has continued to face have caused processes of “habituation” or “saturation” with regard to the corruption phenomena.²¹ An Italian social scientist suggested the “pill metaphor” as explanation, suggesting that the frequency of inquiries and legal notifications decrease on the long run the citizens’ attention, similarly to pills which become less effective the more they are taken.²² Thus, not only the level of public interest for news on bribery has decreased, but scandalization thresholds have risen. All in all, it appears that negative public attitudes have remained for a long time confined at the social level and did therefore not constitute an effective pressure for the established political elites. As mentioned in the previous section in fact, despite the intensity of political scandals anti-corruption did not become a salient feature of the newly established party system. It was only after the more recent scandals, and in a context marked by the emergence of a harsh economic crisis, that social discontent overtly challenged the institutional level-elites, with the emergence of the ‘Five Star Movement’.

Patterns of Political Competition

The fixed governmental formula which had characterized Italy from the end of the Second World War until 1994 has been discussed as among the factors having favored hidden political exchanges, and hence as one of the most important causes of Italy's corruption.²³ The establishment of a new party system, with new or substantially reformed political parties, and the opportunity provided to Italian voters, for the first time in the country's political history, to "throw the rascals out" from the government, appear as positive predictors of patterns of reform. And yet, a more careful consideration of the new party system dynamics reveals a more cumbersome picture.

First, ideological polarization, a salient feature of the Italian "first" Republic,²⁴ has continued to play a pivotal role in structuring the post-1990s new party system. Both old and newly formed political parties used the previous left-right ideological polarization to capture voters, placing themselves along traditional political axes.²⁵ The historical significance of ideological polarization in structuring voting choices of the Italian electorate, on turn reinforced by the anti-communist appeals of Mr. Silvio Berlusconi, leader of the newly founded party *Forza Italia*, prevented anti-corruption issues to constitute as a significant new cleavage at the institutional level. Indeed, while the country did experience the emergence of several new single issue parties, lists and movements, self-profiling mainly against corruption, until the most recent parliamentary elections their electoral incidence revealed quite limited. It was only after a new wave of corruption scandals emerged in the 2010s, in a context which has been hit hard by the global economic crisis since 2008, and possibly as the consequence of left-right ideological polarization having ultimately disappeared, that a new party, the 'Five Star Movement', managed

to bring party financing and anticorruption policies in the heart of the institutional agenda.²⁶ A second essential characteristic of the post-1994 party system resides in the enduring fragmentation of the party system, despite the unprecedented shift towards a bipolar pattern of wholesale alternation in government. Indeed overall bipolar, fragmentation determined opportunities for conflict within coalitions, leaving unaltered the power of minority vetoes, thus weakening the capacity of implementing reform proposals.²⁷

Finally, another highly relevant factor to be taken into consideration with respect to the Italian case is the rise of Silvio Berlusconi as the key leader of the center-right coalition: not only Mr. Berlusconi has been facing several corruption charges, but in relation to political finance he could rely on the resources of the companies under his control in the formation of a party as a personal business firm.²⁸ Additionally, the polarization of the debate around Mr. Berlusconi signaled a momentous change in the relationship between the judiciary and politics, determining polarization over the role of the judiciary. Hence, while the center-right coalition focused on the need to reform a judiciary it considered too politicized and too powerful, the center-left coalition displayed a greater concern for legality focusing its anti-corruption approach on the repression side.²⁹

Italy's Responses: Introducing Reforms?

In the following analysis of anti-corruption reform processes we identify six main periods characterizing the Italian political cycles from 1992 until 2013: the transition years (1992-1996); the centre-left governments of the XIII legislature (1996-2001); the centre-right governments of the XIV legislature (2001-2006); the centre-left government of the XV legislature (2006-2008);

the centre-right government of the XVI legislature (2008-2011); the grand coalition governments of the XVI and XVII legislature (2011-2013).

In order to present the broader reform context, however, it is important to also consider the supranational dimension, and how it contributed to shaping the Italian policy environment. Indeed, pressures for reform from both governmental and non-governmental international organizations have become increasingly relevant for growing range of national policy areas³⁰ and the fields of corruption and party funding are not an exception. Table 1 summarizes the main initiatives developed at the supranational level in the time frame under consideration.

[Table 9.1 about here]

As shown by the table, since 1997, Italian political elites have faced rising pressure from international organizations such as the Organization for Economic Co-operation and Development, Council of Europe, European Commission, United Nations and the G-20 which have been acquiring an increasingly more relevant role as “integrity warriors”, key players of the “global movement against corruption”.³¹ International organizations recommended strengthening the anticorruption framework as well as balancing the anti-corruption burden which had been falling almost exclusively on the law enforcement side.³² Italian governments signed the most important anticorruption international agreements but ratified them with consistent delay due to political bickering over the introduction of measures bringing legislation in line with mechanisms for curbing corruption advocated at the supranational level.

With regard to political finance, international pressures have been less intense since there are no international agreements demanding the implementation of specific measures. However, also in relation to political finance, the EU has been defining standards and international

guidelines since the early 2000s, and has been conducting a major evaluation of domestic regulation in the context of the Council of Europe-Group of States against Corruption.

1992-1996

As the Clean Hands investigations started revealing a widespread and deeply rooted system of corruption, the Italian institutional political landscape characterized by a period of profound political and economic crisis. Until 1994, government coalitions were still held by the traditional parties of the First Republic. Scholars observed how policies appeared more focused on self-discharge rather than the adoption of coherent anti-corruption policies.³³

Yet, under what would become the first of the ‘technical’ governments that Italy experienced (the government led by Mr. Ciampi), a number of important reforms were introduced in corruption sensitive areas. For example, relevant efforts were made in the area of public administration, with the introduction of a Code of Conduct of public personnel, the introduction of transparency in public procurement processes (l.109/1994), and the adoption of internal systems of control.

More substantial changes were introduced in the political finance legislation. Soon after a referendum held in 1993 which abolished direct public funding of political parties – “the highest manifestation of popular rejection of the old party-system”, as Bardi argued,³⁴ a new law aiming at greater transparency over the political parties’ financial management and prevention of hidden corrupt exchanges, was approved. The law introduced maximum ceilings for election expenses, maximum ceilings for natural and legal persons’ donations, and established the duty for political parties to disclose information on expenditure and income, from both legal and natural persons.

Additionally, for the first time, a system of external controls over the political parties' financial activities was introduced (previously under (partisan) control of the Presidents of the two Chambers of Parliament). All in all, and despite the limited powers that the newly established controlling agencies had in terms of investigation and sanctions enforcement, the new law constituted an attempt to curb illicit financing of political actors and illicit use of public money.

1996-2001

The pattern of political instability continued between 1996 and 2001, with the succession of four different governments. The first one, formed after the center-left coalition led by Romano Prodi won the 1996 political elections, collapsed after intra-coalition disagreements. The remaining three followed between 1998 and 2001. During this period, the theme of corruption entered for the first time in the political agenda in a more sustained way.³⁵ Hence, two research Commissions were established at the Chamber of Deputies in 1996, both with the objective to advance policy proposals that would have strengthened corruption prevention and enhanced public administration accountability.³⁶

Yet, despite heightened attention, few of the proposals that had been advanced by those commissions became implemented by law. The few anticorruption measures that were approved include law 97/2001, which introduced a loose link between disciplinary sanctions on public officials and acts of corruption; and laws 165/2001 and 267/2000 laying out a loose incompatibility framework and providing the public personnel rotation. Other measures, such as the new Code of Conduct, the public management reform and administrative simplifications, did either lack effective sanctions for any violation of its provisions,³⁷ or they displayed an

implementation gap.³⁸ The parliamentary discussion was polarized around the harshly debated proposal promoted by Antonio Di Pietro, a leading judge of the Clean Hands investigations who later became a political leader in the center left coalition. The debate was in regards to the establishment of a “law enforcement type” specialized anticorruption institution which contrasted to the preventive and policy coordination framework advocated by the research commissions. This polarization implied a stalemate which had a negative impact on the anticorruption policy since it hindered the establishment of an anticorruption body designed to coordinate the prevention framework. Further, most of the political elites did not exhibit alacrity in elaborating a preventive framework as they were much more interested in reproducing colonization of the state by means of patronage appointments.³⁹

As opposed to the tentative reforms in the field of administrative corruption, the changes in political finance legislation taking place between 1996 and 2001 appear mostly centered on increasing the amount of financial resources for political parties and widening the number of beneficiaries. Law 2/1997, adopted in short time and with wide consensus (422 in favour, 31 abstentions and only 13 against), provided an additional channel for party funding, introducing the option for citizens of allocating 4 per cent of their personal income tax for the funding of political parties. Concretely, this implied the reintroduction of public funding of the ordinary activities of political parties abolished by the 1993 referendum. The failure of this system for increasing the parties’ revenues stimulated the adoption of a second law in 1999, which heightened the amount of funds available for election reimbursement and lowered the eligibility threshold from 3 to 1 per cent of the votes.⁴⁰

In terms of policies contrasting financial misdemeanours by political parties and candidates, this period experienced a return to the past. Indeed, the 1997 law abrogated the

requirement, previously in force (L. 659/1981, art. 4, co. 13), that internal control of the parties' balance sheets should be performed by professional accountants with a minimum of five-year experience, thus leaving the nomination of internal accountants unregulated. Additionally, the 1997 law introduced a new organ, the Board of Auditors, with the task of verifying the accuracy and legal compliance of the political parties' annual financial statements. Noticeably, the Board is based in the Chamber of Deputies, and the five auditors composing it are appointed by the Presidents of the two Italian Chambers, thus restoring *de facto* the partisanship of controlling organs.

2001-2006

In the first half of the 2000s, international pressures intensified with regard to both anti-corruption policies and political finance regulation. However, the new center-right government formed after the political elections of 2001 did not introduce reforms in the direction urged by international organizations in neither area.⁴¹ While an Anticorruption High Commissioner was established in 2003 – following calls from OECD and UN – with a mandate to investigate the causes of corruption, assess the legal frameworks, and monitor expenditure procedures, it only became operative in 2005 and endowed with limited resources. Thus, three are the relevant anti-corruption policies introduced in this period: Law 163/2006, enhancing the transparency of public procurement; the Legislative Decree 231/2001 that implemented the 1997 OECD Anti-Bribery Convention, criminalizing the corruption of foreign officials and introducing the liability of companies for bribery; the Law 215/2004 enacted to provide restrictions and to define incompatibilities and conflicts of interest. However, the latter provision lacking in effective

sanction as it was driven by the questionable motive of providing for permissive legislation regulating the presence of an entrepreneur such as Berlusconi among the ranks of executive politicians.⁴² Other laws potentially enhancing corruption were passed that were highly advantageous to Berlusconi's private interest as they provided legal safeguards for the Prime Minister against pending judicial inquiries ranging from: Law 61/2002 decriminalizing false accounting from which businesses can extract money for bribes; Law 140/2003 providing for the suspension, ruled unconstitutional, of criminal proceedings for holders of the highest state offices; and Law 251/2005 reducing the time limit specified in the statute of limitations.⁴³

Impermeability towards international pressures equally reveal with respect to political finance legislation. Contrarily to the international standards that had developed in these very years, legal provisions were overtly used to increase the amount of state funding that political parties benefited from for a longer time-span. Indeed, an amendment was introduced providing the reimbursement for a full (five years) legislature even in the event of the early dissolution of the Chamber of Deputies and the Senate. This implied that in case of early dissolution of the legislature (which indeed took place in 2008), political parties would have funding for both the election expenses incurred for the previous and for the current legislature. In sum, it implied a doubling of the funds relating to the two Chambers. Additionally, the established ceiling for disclosing private donations is substantially raised (set at approximately eight times higher), thus decreasing transparency of the political parties' financial management.

2006-2008

Between 2006 and 2008, when the center-left led by Romano Prodi won the elections, no significant anti-corruption reforms were introduced. Further, center-left coalition politicized the High Commissioner as the appointment of well-known prefects was motivated by the need to reassure leftist voters about credible commitment to law enforcement. However, what took place was a symbolic action since the capacity of the High Commissioner was not strengthened to fulfil its mandate. No changes were introduced with respect to political finance legislation, except for a 10 per cent lowering of election reimbursements to political parties as a reaction to the first signs of growing popular discontent.

All in all, the very narrow majority supporting the Prodi government in the Senate and its heterogeneous composition made it difficult to have a coherent and ambitious anticorruption policy. Therefore, before its early resignation in February 2008 the Prodi government was capable only of joining the Council of Europe's Groups of States against Corruption (GRECO) in June 2007.

2008-2011

The new Berlusconi government, formed in 2008, reacted to the center left politicization of the High Commissioner by suppressing the agency and entrusting its competencies to the Anticorruption and Transparency Service - SAET, a simple office of the Public Administration Department, lacking any requirement of autonomy as prescribed by the UNCAC ratified through Law 116/2009.

The mounting international pressure, provoked by the absence of any plausible response to corruption, forced the Berlusconi government to establish a new agency, the Commission of Evaluation, Integrity and Transparency (CIVIT) in 2009. Identifying transparency and integrity as key drivers of administrative reform, the government provided total disclosure on raw data regarding public management for strengthening pressure against maladministration, inefficiency and bribery, and launching a series of initiatives under the banner of “Transparency Operation.” As a matter of fact, in the first stage CIVIT suffered from the same difficult building process of the High Commissioner, since it started its job at the very end of 2009 endowed with limited resources. The institutionalization of CIVIT was further complicated by the resignations of two of the five original components whose substitutions, given the complex nomination procedure, ended only in December 2011.

Additionally, as a reaction to the international pressures, in March 2010 the Council of Ministers approved an Anticorruption Bill which proposed an Anticorruption National Plan and an Anticorruption Network. However, the Anti-Corruption Bill was not approved until the formation of the Monti government. Yet again, under the Berlusconi government the conflict between the executive and the judiciary intensified, as a new provision providing criminal immunity for the highest offices of the state was approved (l.124/2008), and a year later ruled unconstitutional by the Constitutional Court.

As for the previous political cycle, no changes were introduced for what political finance is concerned, except for two measures: the abolishment of the full reimbursement in the event of the early dissolution of the Chamber of Deputies and the Senate, and another lowering of public funding (20 per cent lower).

2011-2013

As the Berlusconi government proved unable to counteract the effects of the global economic crisis and to reverse the path of faltering legitimacy of the political class fuelled by a number of corruption allegations, a new technical government formed in the late 2011 under the former EU Competition Commissioner Mr. Mario Monti. With the stated objective to support the restoration of markets' and citizens' trust in the Italian government, the new government put the anticorruption policy at the center of its agenda.⁴⁴ Indeed, among its first initiatives, the Italian government ratified the Council of Europe Criminal and Civil Law Conventions on Corruption through law. 110/2012 and 112/2012. The Monti government was keen to meeting the requests of international organizations such as the European Commission, which launched in summer 2011 the EU Anti-Corruption Report to monitor and assess member states' efforts in this area, and the GRECO, which issued the Third Evaluation Report on the Transparency of Party Funding highlighting major shortcomings of the Italian regulatory system.⁴⁵

By exploiting the sense of urgency associated with the economic and legitimacy crisis, the Monti government was capable of forcing the resistance of the center-right wing of the coalition, using a vote of confidence in Parliament to approve the Anticorruption Law 190/2012 which built on the previous Anticorruption Bill proposed by the Berlusconi government. While the previous bill did not address major shortcomings highlighted in monitoring reports by international organizations, the Anticorruption Law was meant to bring Italian legislation in line with its international commitments. The approval of the Anti-Corruption Law constituted a true turning point since it allowed the Monti government to adopt in a very brief span of time two important legislative decrees concerning, respectively, the strengthening of publication

requirements, transparency and disclosure of information by public administration (33/2013) and incompatibility regarding administrative positions (39/2013), complemented by the new code of conduct for public personnel (DPR 62/2013). The Anticorruption law provided for the first time in Italian legislation whistleblower protection for those who expose corrupt conduct. Furthermore, the whole administrative system was involved in an Anticorruption National Plan that triggered the adoption of Anticorruption Prevention Plans to embed corruption risk management within public management in each public administration and public entities, that should even introduce a new specific organizational position responsible of the anticorruption prevention, designated for monitoring anticorruption measures. The new law also partly addressed the lack of coordination mechanisms by making CIVIT the national independent anticorruption authority in line with the provisions of the UNCAC. However, the short mandate of the Monti government prevented the agency's institutionalization from taking roots as no additional resources were allocated to enforce the new powers with regard to the control of the implementation of anticorruption measure, raising concerns that the CIVIT might be overburdened.⁴⁶

The Monti technical government did also provide smooth responses to GRECO's evaluation report on Italy, introducing a new political finance law in July 2012 (Law 92/2012). This act is significant as it addressed many of the shortcomings underlined by GRECO. Important amendments were introduced in relation to the corruption sensitive areas of transparency, disclosure and control. The most relevant changes introduced with respect to political corruption are the establishment of a system of internal and external controls over the parties' financial management. As to the former, the law repealed the changes introduced by law 2/1997, requiring internal control to be performed by qualified state-recognised auditors. As to

the latter, it established a new independent commission at the Court of Audit, providing it with powers of investigation. Under the same act, the ceiling for disclosure of donations to political parties was lowered substantially, thus allowing for greater financial transparency over political parties' sources of income. Finally, this law introduced a new system of 'co-financing', based on which 30 per cent of the total amount of funding to political parties would have been disbursed in relation to the income derived from membership fees and donations. This measure would have allowed reducing the political parties' state dependency, and would have encouraged them to promote their linkages with civil society.⁴⁷

However, the Monti government did not last long, and the new political elections that took place in 2013 generated a new phase of political instability, comparable for high volatility records to the one of the early 1990s, marked by the success of the 'Five Star Movement' that eventually led to the constitution of the Letta government based on the fragile parliamentary support of a "grand coalition". The shift from a technical to a political government altered dramatically the political context in which the corruption prevention provisions were implemented. Given its status as a technician who had not been previously involved in politics, Monti could attempt to promote the integrity of public officials since he was not worried about being targeted by anticorruption mechanisms. Conversely, the Letta government was not committed to implement the legislative decree 39/2013 regulating incompatibility and conflicts of interest since it would have had a negative impact on the Italian political class. Thus, when the CIVIT displayed a zealous approach to the implementation of the anticorruption framework by disposing the total and immediate application of the legislative decree,⁴⁸ the Letta government reacted by adopting Law 98/2013 which reversed the CIVIT decision and moved the interpretative power from the agency to the Ministry of Public Administration. The autonomy of

the agency was further curtailed by Law 125/2013 which changed the name of CIVIT to Anti-Corruption National Authority (ANAC) and enlarged the composition of its board from 3 to 5 so as to provide for new nomination.

As for political finance reform, the growing popular discontent with established parties found an electorally challenging interlocutor in the Five Stars Movement, which started an active campaign for the repeal of public funding to political parties. This party's exceptional electoral success in the political elections of 2013 brought a growing number of established political actors to adopt anti-public funding stances, ultimately leading to the adoption of yet another political finance law (Law Decree 149/2013). The repeal of public funding to political parties, which makes Italy become the only country in Europe where state subsidies have been abolished, leads to a paradox: while responding towards civil society discontent, it ignores recommendations from international organizations.

Conclusions

Heywood observed how “effectively, the Italian example produced a ‘demonstration effect’, sensitizing other western democracies to the issue of political corruption”, and “prompting anti-corruption drives in several states.”⁴⁹ Yet, while exporting this sensibility abroad, Italy is found at the highest end of the West European continuum with regard to both the frequency of political corruption and the scale of political scandals,⁵⁰ and the Italian governments' disposition in tackling corruption with coherent and effective measures appears very limited.

This goes against expectations raised by the abrupt political change in the early 1990s. After 1990 corruption scandals, some conditions for the adoption of anti-corruption policies were favorable: government alternation was for the first time introduced in Italy, and political corruption scandals made the public become alert and attentive. Additionally, both policy areas have been subject to a growing supranational pressure. In this chapter we argued that a more nuanced understanding of the factors accounting for government disposition towards reforms is warranted. First, while the bi-polar tendency and government alternation were introduced, elections did not act as counterweights. Party system dynamics remained characterized by polarization, fragmentation, veto powers, patronage appointments of top state positions, leading to the persistence of government instability problems and to their short duration, which on turn hampered the establishment of a coherent and consistent program of reforms. Second, until more recently, corruption scandals did not determine strong civil society pressures on political elites: due to “habituation” to corruption phenomena, scandalization thresholds have heightened. It was only after the more recent economic crisis and a new wave of corruption scandals that societal pressures rose again, this time finding a newly formed institutional interlocutor, the “Five Star Movement,” which profiled itself strongly against corruption as well as against the established political elites.

Throughout the twenty years’ time span from the ‘Bribesville’ investigations, several changes have been introduced in both the anti-corruption and the political finance reform areas. In less than two decades, three anti-corruption agencies have been established, two major transparency initiatives have been launched, two codes of conduct for public personnel have been introduced, the incompatibility regime has been reviewed twice; on political finance, eight legislative amendments have been introduced, changing the nature and the functions of the

authorities controlling the parties' financial management, disclosure and transparency measures, amending procedures for public funding disbursement and their thresholds, and ultimately repealing it. However, all this gives the impression of reactions and counter-reactions rather than a coherent and consistent anti-corruption reforms program. The overall pattern that can be observed with respect to the Italian governments' disposition towards anti-corruption policy reforms since the 1990s is one of incremental change: policy changes have been developed occasionally and unevenly, disguising substantial continuity as they lacked effective implementation.

Noticeably, in the two areas that we examined, reforms have followed a different path. Supranational influences have revealed to be particularly relevant for the introduction of legislative provisions aimed at preventing corruption. While in the early 1990s the Italian approach had relied on criminal legislation to curb corruption, greater consideration for preventive mechanisms revealed in the 2000s, concomitantly to the intensification of international pressures which reached its peak when the Italian government launched anticorruption legislation as a part of its response to the economic crisis. However, even after the adoption of the Anticorruption law, major gaps and shortcomings in the public integrity framework remain. First, anti-corruption provisions are still missing in the private sector. Second, the legislation remains unclear on the application of prevention mechanisms with regard to the panoply of public corporations which constitute the privileged site of corrupt exchanges. Third, provisions regulating conflicts of interest with regard to elected politicians need to be strengthened. Fourth, anticorruption initiatives should be linked to more general reforms aimed at preventing corruption indirectly by improving the overall quality of public management as envisaged by the administrative reforms launched in the 1990s. Finally, the implementation gap

of the new prevention mechanisms should be addressed by effective communication, stakeholders' involvement and capacity building under the coordination of an independent and well-resourced anticorruption agency.

Pressure from above played a more marginal role instead in shaping political finance reforms. Even though supranational organizations have been providing increasing attention to political finance legislation throughout this very last decade and have solicited national member states to take on board a growing number of recommendations in the field of public funding provision, transparency, control and oversight, it is only in 2012, after that GRECO issued a highly critical report on Italy's political finance regime, that supranational influences permeated the national debate. However, while the reform adopted immediately after the report appears (partially) influenced by it, the 2014 counter-reform that abolished public funding to political parties goes overtly against supranational recommendations. Indeed, the latter encourage forms of direct state funding to political parties: not only they level the playing field of electoral competition, allowing parties to compete on more equal grounds, but they also help preventing the parties' excessive reliance on private, potentially corruptive, donors. Comparative research has in fact widely shown that the lack of public funding to be correlate with opportunities for corporations and wealthy individuals to "capture" the state policy-making capacities.⁵¹ The Italian legislator instead, in a context of enduring economic crisis, growing electoral uncertainty, and growing anti-elites pressures, preferred to throw out the baby with the bath water: rather than introducing a more comprehensive and internally coherent regulation with respect to all main political finance areas (i.e.: regulation of income, expenditure, reporting, control, sanctions), it abolished direct public funding *tout court*.

All in all, what seems to be needed is not a set of reforms and measures, but the establishment of a consensus concerning what is appropriate and what are the limits of the tolerated. Unless this takes root, the future of anti-corruption policies appears still very uncertain.

NOTES

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² See, also for a methodological caveat, Alberto Vannucci, “La corruzione in Italia: cause, dimensioni, effetti.” In *La legge anticorruzione. Prevenzione e repressione della corruzione*, eds Bernardo Giorgio Matterella and Marco Pelissero (Torino: Giappichelli Editore, 2013): 25-58.

³ Eurobarometer 72.2, *Attitudes of Europeans towards Corruption*. European Commission 2009; Special Eurobarometer 397, *Corruption*. European Commission 2014.

⁴ Leonardo Morlino and Marco Tarchi, “The dissatisfied society: The roots of political change in Italy,” *European Journal of Political Research* 30 (July 1996): 41-63.

⁵ Arturo Parisi and Gianfranco Pasquino, “Changes in Italian Electorate Behaviour: The Relationship between Parties and Voters,” *West European Politics*, 2 (October 1979): 6-30; Luciano Bardi, “Electoral change and its impact on the party system in Italy,” *West European Politics* 30 (September, 2007): 711-732.

- ⁶ Roberto D'Alimonte and Stefano Bartolini, "Electoral Transition and Party System Change in Italy," *West European Politics* 20 (January 1997): 110-134; Morlino and Tarchi, "The dissatisfied society."
- ⁷ Luciano Bardi, "Anti-party sentiment and party system change in Italy," *European Journal of Political Research* 29 (April 1996): 345-363.
- ⁸ Martin Bull and Martin Rhodes, "Between crisis and transition: Italian politics in the 1990s," *West European Politics* 20 (January 1997): 1-13.
- ⁹ Conor O'Dwyer, *Runaway State Building: Patronage Politics and Democratic Development* (Baltimore: Johns Hopkins University Press, 2006).
- ¹⁰ Martin Shefter, "Party and Patronage," *Politics & Society*, 7 (December 1977): 403-451.
- ¹¹ Jonathan Hopkin, "The Problem with Party Finance: Theoretical perspectives on the funding of party politics," *Party Politics*, 10 (November 2004): 627-651.
- ¹² Michael Howlett, "Process Sequencing Policy Dynamics: Beyond homeostasis and path dependency," *Journal of Public Policy* 29 (December 2009): 241:262.
- ¹³ Dimitri Sotiropoulos, "Southern European Public Bureaucracies in Comparative Perspective," *West European Politics* 27 (May 2004): 405-422.
- ¹⁴ Sabino Cassese, "Hypotheses on the Italian Administrative System," *West European Politics* 16 (July 1993): 316-328.
- ¹⁵ Miriam Golden, "Electoral connections: The effects of the personal vote on political patronage, bureaucracy and legislation in postwar Italy," *British Journal of Political Science* 33 (April 2003): 189-212.
- ¹⁶ Veronica Pujas and Martin Rhodes, "Party finance and political scandal in Italy, Spain and France," *West European Politics* 22 (July 1999): 41-63.

¹⁷ Ben Clift and Justin Fisher, “Comparative Party Finance Reform. The Cases of France and Britain,” *Party Politics* 10 (November 2004): 677-699; Batory, “Political Cycles and Organizational Life Cycles;” Koss, *The Politics of Party Funding*.

¹⁸ Roberto D’Alimonte, “The Italian elections of February 2013: the end of the Second Republic?,” *Contemporary Italian Politics* 5 (July 2013), 113-129; Della Porta and Vannucci, *Un paese anormale*; Morlino, 1998

¹⁹ European Commission, Standard Eurobarometer surveys:
http://ec.europa.eu/public_opinion/archives/eb_arch_en.htm (Accessed March 10, 2014).

²⁰ D’Alimonte, “The Italian elections of February 2013.”

²¹ Donatella della Porta and Alberto Vannucci, “When Anti-Corruption Policy Fails.”

²² Alessandro Pizzorno, *Il potere dei giudici* (Roma-Bari: Laterza, 1998)

²³ Donatella Della Porta and Alberto Vannucci, *Un paese anormale. Come la classe politica ha perso l’occasione di Mani Pulite* (Laterza & Figli, Roma-Bari, 2009): 27.

²⁴ Giovanni Sartori, “European Political Parties: The Case of Polarized Pluralism. In *Political Parties and Political Development*, eds James LaPalombara and Myron Weiner (Princeton, N. J.: Princeton University Press, 1966), 137-76.

²⁵ Salvatore Sberna and Alberto Vannucci, “It’s the politics, stupid!”. The politicization of anti-corruption in Italy,” *Crime, Law and Social Change* 60 (December 2013): 583-584.

²⁶ Piergiorgio Corbetta and Elisabetta Gualmini, eds. *Il Partito di Grillo* (Bologna: Il Mulino, 2013).

²⁷ Leonardo Morlino, “Crisis of parties and change of party system in Italy,” *Party Politics* 2 (January 1996): 5-30; Roberto D’Alimonte, “Italy: A Case of Fragmented Bipolarism.” In *The*

Politics of Electoral Systems, eds Michael Gallagher and Paul Mitchell (Oxford: Oxford University Press, 2005), 253-276.

²⁸ Jonathan Hopkin and Caterina Paolucci, “The business firm model of party organisation: Cases from Spain and Italy,” *European Journal of Political Research* 35 (May 1999): 307-339.

²⁹ Donatella Della Porta and Alberto Vannucci, “When Anti-Corruption Policy Fails: The Italian Case Eighteen Year After the mani pulite investigations”. In *The Social Construction of Corruption in Europe*, eds Dirk Tanzler, Konstadinos Maras and Angelos Giannakopoulos (Farnham: Ashgate Publishing Group, 2012), 133-161.

³⁰ David Dolowitz and David Marsh, “Learning from Abroad: The Role of Policy Transfer in Contemporary Policy-Making,” *Governance* 13 (January 2000): 5-23.

³¹ Luis De Sousa, Peter Larmour and Barry Hindess (eds). *Governments, NGOs and Anticorruption: The New Integrity Warriors* (Abingdon: Routledge, 2009).

³² Group of States Against Corruption (GRECO), *Evaluation Report on Italy* (Strasbourg: Council of Europe, 2009); Organisation for Economic Co-operation and Development (OECD), *Integrity Review of Italy* (Paris: OECD Publishing, 2013).

³³ Della Porta and Vannucci, “When Anti-Corruption Policy Fails.”

³⁴ Bardi, “Anti-party sentiment and party system change in Italy,” 345.

³⁵ Della Porta and Vannucci, *Un paese anormale*, 36

³⁶ The two commissions are the Research Committee for Corruption Prevention (Comitato di studio sulla prevenzione della corruzione) and the special anti-corruption Commission (Commissione special anti-corrruzione). Both were established at the Chamber of Deputies. In the same year, also a third commission was established by the Minister of Public Administration,

with a specific focus on tackling corruption at the level of public administration, and therefore focusing on remedies such as the public personnel rotation, the revision of the budget rule, and the change of the management of the private companies in public hands.

³⁷ GRECO, *Evaluation Report on Italy*, 43-44.

³⁸ Edoardo Ongaro and Giovanni Valotti, "Public Management Reform in Italy: Explaining the Implementation Gap." *International Journal of Public Sector Management* 21(February 2008): 174-204.

³⁹ Fabrizio Di Mascio, "Exploring the link between patronage and party institutionalization: An historical-institutional analysis of the Italian transition", *Democratization* 21 (June 2014): 678-698.

⁴⁰ For details, see Alessandro Bianco, *Il finanziamento della politica in Italia* (Milan: Giuffrè 2001) and Maria Chiara Pacini, "Public funding of political parties in Italy," *Modern Italy* 14 (May 2009): 183-202.

⁴¹ Luis De Sousa. "Anti-Corruption Agencies: Between Empowerment and Irrelevance," *Crime, Law and Social Change* 53 (February 2010): 5-22.

⁴² Della Porta and Vannucci, "When Anti-Corruption Policy Fails".

⁴³ GRECO, *Evaluation Report on Italy*.

⁴⁴ OECD, *Integrity Review of Italy*.

⁴⁵ Group of States against Corruption (GRECO), *Evaluation Report on Italy. Transparency of Party Funding* (Strasbourg, Council of Europe, 2012).

⁴⁶ OECD, *Integrity Review of Italy*.

⁴⁷ Daniela R. Piccio, "A Self-interested Legislator? Party Regulation in Italy," *South European Society and Politics* 19 (March 2014): 135-152.

⁴⁸ ANAC-Autorità Nazionale Anticorruzione. *Rapporto sul primo anno di attuazione della legge n. 190/2012* (ANAC: Roma, 2013).

⁴⁹ Paul Heywood, "Political Corruption: Problems and Perspectives," *Political Studies* 45 (special issue, 1997): 418-419.

⁵⁰ Arnold J. Heidenheimer, "The topography of corruption: explorations in a comparative perspective," *International Social Science Journal* 48 (September 1996): 337-347.

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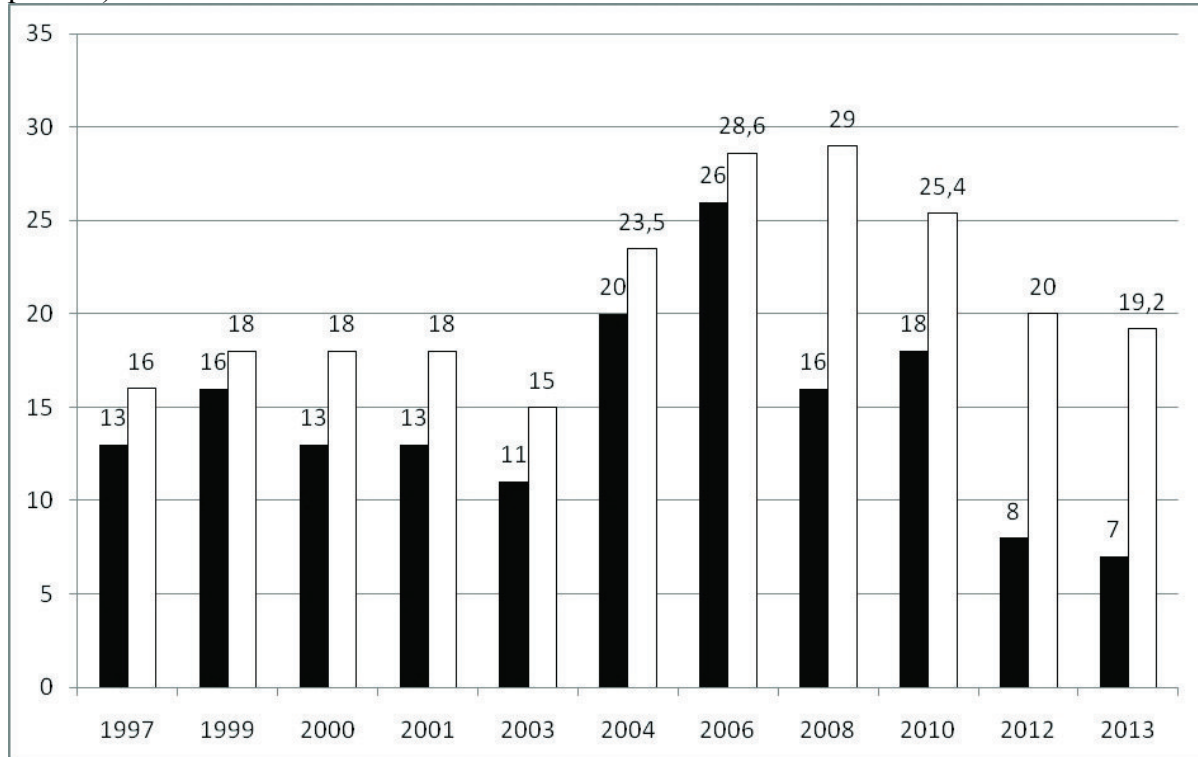
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Tables and figures

Figure 9. 1: Trust in political parties in Italy and in Western Europe, 1997-2013 (tend to trust, in percent)



Sources: Standard Eurobarometer surveys.

Key: black bars refer to Italy; white bars to Western European average.

Table 9. 1: Anti-corruption initiatives at the supranational level, 1992-2013

	Core reform areas: Anti-corruption and political finance
1992-1996	No relevant supranational initiatives
1996-2001	OECD: Anti-Bribery Convention on the corruption of foreign officials (1997) Council of Europe: Criminal Law and Civil Law Conventions on Corruption; Establishment of the Group of States Against Corruption (GRECO) (1999)
2001-2006	OECD: Italy ratifies the Anti-Bribery Convention (2001) United Nations: Convention Against Corruption (UNCAC) (2003) OECD: Report issued by the Working Group on Bribery in International Business Transactions highlights shortcomings of Italy's implementation of the Anti-Bribery 2008-2011 Convention (2004) Venice Commission (Council of Europe): Guidelines and Report on the Financing of Political Parties (2001) Council of Europe: Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns (2003) European Parliament: Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding (2003)
2006-2008	Council of Europe: Italy joins the GRECO (2007)
2008-2011	Council of Europe: GRECO's First and Second Evaluation Round Report, highlights Italy's shortcomings of the Italian anticorruption policy (2009) United Nations: Italy ratifies the UNCAC (2009) G20: Anti-corruption Action Plan (2010)
2011-2013	Council of Europe: Critical GRECO's compliance report (2011) European Commission: launch of the <i>EU Anti-Corruption Report</i> initiative (2011) Council of Europe: Italy ratifies the Criminal Law and Civil Law Conventions on Corruption (2012) OECD: Integrity Review of Italy (2013) GRECO: Third Evaluation Report on the Transparency of Party Funding, highlights Italy's shortcomings (2012)