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Case Study Report

Target-based Tripartite Agreement among European Commission, Italian government and Lombardy Region

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1. Background and context of the case

Since the 1980s a wide debate over the participation of regional and local entities in EU policy processes has been growing. In several countries, the regional level of government has legislative competence to deal with matters that are shaped by decisions taken at European level, often without their direct involvement. This circumstance obviously has several implications for the effectiveness of policies' implementation¹.

The European Union's efforts to deeply involve sub-state actors have been carried out both formally and informally. From the formal point of view, the Maastricht Treaty created the Committee of Regions, as an advisory body, which aggregated Ministers participating in the Council. From the informal point of view, sub-state Authorities became increasingly active in Brussels through unofficial ways of lobbying.

In the White Paper on European Governance of July 2001 (European Commission, 2001), the European Commission proposed a number of innovative proposals to find new ways of involving sub-state actors. In this sense, these efforts could be understood as early forerunners in a territorial governance process aiming at widening the spectrum of actors, interests and sectors.

During its first meeting that took place in Bellagio (IT), the 'Club of Regions' invited the Commission to put forward concrete solutions for the involvement of sub-national authorities. Regional Authorities proposed themselves as candidates under the patronage of Mr Prodi, the European Commission's President, who attended the meeting, *'to develop reflections, projects and initiatives in pursuit of common interests as regions partners of 'pilot contracts' with the European Union and the States, in order to modulate the territorial dimension of community regulations, programmes and policies in sectors of strategic significance, such as in particular mobility and transport, the environment and energy, innovation and research'* (Declaration of Bellagio, 2002).

In the following Commission's Communication "A framework for target-based tripartite contracts and agreements between the Community, the States and regional and local authorities" (European Commission, 2002), the EU Commission launched the idea of experimenting tripartite tools to be subscribed by the sub-national authorities, Member States and the Commission itself. The aim was to implement EU legislation with wider efficiency and flexibility. Territorial matters were (only) functional to these aims. In other words, territorial characteristics were taken into account only in order to assure the implementation of legislation and programmes and not to fine-tune them. Two different kinds of instruments were designed: one to be

¹ Most of the reflections of this paper are taken from: Mazzoleni M. (2006).

used for the application of soft (i.e. non binding) Community law (the agreements) and the other for the application of binding secondary Community law (the contracts)².

According to the EU Commission's Communication, tripartite tools had to: be compatible with the Treaties; respect the State's ultimate responsibility and the Member States' constitutional systems; provide added value (simplification, closer implication and participation of the local and regional authorities, greater flexibility and effectiveness) and define clear and measurable objectives (both quantitatively and qualitatively)³. Furthermore, tripartite tools' scope had to be: temporal (for a specific period of time even if renewable); personal (all regional and local institutions engaged must be clearly identified and possess the legal capacity within the constitutional framework of the State); spatial (the tripartite arrangements had to clarify the territory concerned and where the impact of Community policies can be measured); material (clear connections to the cohesion policy, environmental policy and/or transport policy had to be indicated)⁴.

The Commission opened a period for pilot agreements to be developed from 2002 onwards to assess the possibility of signing contracts afterwards on the basis of the agreements' results. Cohesion Policy and Environment were the specific domains suggested by the EU Commission.

The pilot experiments were:

1. "Tripartite Agreement for Sustainable Urban Transport – Added Value" in Birmingham (UK);
2. "Sustainable Mobility in the Pescara City and its surroundings" in Pescara (IT)
3. "Convention Tripartite – Plan d'action spécifique en faveur de l'environnement urbain du territoire de Lille Metropole et de la region Nord-Pas-de-Calais" in Lille (FR);
4. Tripartite Agreement – European Commission, Italian Government and Lombardy Region" (IT).

Only one tripartite agreement was signed (Lombardy); the three others went through a lengthy negotiation process, which stalled and finally failed, especially because of the lack of support from the central government. Even

² As stated by the Article 288 of the Treaty on the functioning of EU to exercise the Union's competences: regulations are binding in their entirety and are directly applicable in all Member States; directives are binding as to the results to be achieved upon each Member States to which are addressed but leave to the national authorities the choice of forms and methods; decisions are binding in their entirety upon those to whom they are addressed. Recommendations and options, instead, have no binding force.

³ The lack of clear goals will represent one of the weakest points of this instrument (and this process) as it will be explained afterwards.

⁴ All these requirements played important roles in the process, as it will be explained afterwards.

the Lombardy agreement, after having been signed did not carried on. It was interrupted in 2005 because of the regional electoral campaign and never re-started⁵. One of the respondents (D) stated that the experience faded at the same time of the end of Prodi Commission (in office between 1994-2004) which strongly promoted it. Later Barroso Commission did not push in this direction.

Notwithstanding the substantial failure of the case, we think it could be interesting to reflect on it. More in particular, we focus the attention on the tool that represent or could represent a tool for a multi-level governance system. Actually of the respondent (D) stated:

'The Tripartite instrument did not have the ambition to build a governance structured system but only to develop a pilot project leading to a temporary experience'.

Anyway, for the first time, institutions of different levels were put on the same ground (even if with own roles) since the Commission considered that *'there should be more flexibility in the means provided for implementing legislations and programmes with a strong territorial impact'*, as stated in the mentioned communication (p. 2). Hence, the analysis will concern the tripartite agreement, investigated through the Lombard experience.

Nevertheless this task presents some additional difficulties connected both to the sources (since documents are scarce) and to the process itself that did not go on. To face these criticalities other pilot experiments are taken into account in order to obtain the more detailed framework possible about the territorial agreements' general programme.

Before engaging in the case contents, it is worth recapping here the groundwork of Italian institutional system, with its recent innovations, in order to get a better hold on the challenges faced in developing the tripartite agreements' initiative⁶.

After the State's unification in 1861, the Italian public administration and local government were organized according to a quite centralist model and only after the Second World War, the new Republican Constitution created twenty regions. After decades of institutional stalemate, in the 1970s the regional councils, executives and bureaucracy were set up and public functions and resources were transferred to them. Nevertheless, Regions remained under the State's control, both through the framing and coordinating power of national legislation and strict financial provisions. Thus, Regions were deprived of any substantial room for autonomous action in their spheres of competence (above all: health, agriculture, tourism, parks and urban planning). The 90% of their budget came from governmental transfers, mostly

⁵ In Italy, during the electoral campaigns most activities (or, at least, those understood as the less relevant or strategic) are usually suspended until new arrangements.

⁶ For this institutional background, see: IRER (2006).

devoted to health expenditure priorities set by the Central State government. In the 1990s many reforms occurred in the sub-national government organization. Regions were able to charge a certain amount of tax to finance their own local services. This autonomy was nonetheless counter-balanced by a system of national tax-equalization: most regional resources are still drawn from national funds, regulated and determined by national legislations, and collected by government services.

In 1999 a system of the autonomous control of Regions was introduced over their own statutes. Regions, and particularly their presidents now directly elected by voters, acquired more political influence and a stronger voice in the national arena.

In 2000 the Parliament approved another reform amending 'Title V' of the Constitution, which deals with the organization of the State. This was later approved in October 2001 by a popular referendum. The main points of the reform were the following:

- the formal State hierarchical superiority over local authorities was abolished;
- the policy fields in which the State retains reserved legislative competence were then listed (while until then Regional competences were listed);
- Since then, Regions share with the State competences over: international relations of Regions⁷, foreign trade, labour market, education, research, health, food, sport, civil defence, land use planning, ports and airports, major transport infrastructures, energy, communication, environment and culture promotion. In these domains, Regions have administrative-regulative competence, while the State can only set out general principles with which regional legislation has to comply. All other subjects are left to the exclusive regional sphere;
- Regions are allowed to obtain further exclusive competences, and even share the reserved State competence in a few fields, on the basis of future agreements with the State;
- Regions can now establish relationships with other countries' sub-national authorities and give direct application to EU legislation in their fields of competence;
- Preliminary State control on regional legislation was abolished;
- State can replace Regions in legislating only in order to preserve national unity and security, basic civil and social rights, and international and EU law.

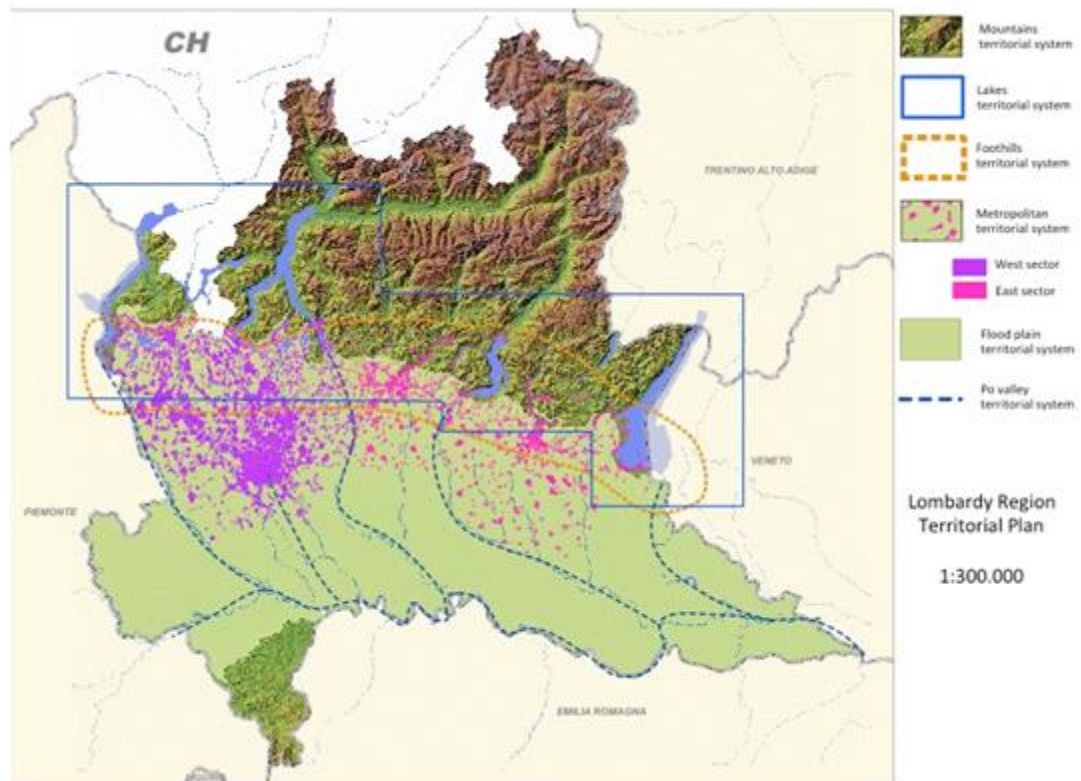
⁷ State retains reserved legislative competence in the field, among other, of foreign and EU affairs but Regions share with the State competence over their own international relations.

To recap, the reforms of recent years have widened the formal autonomy of Regions, granting them the authority to differentiate policies and to shape the regional administration; Regions' political leadership, visibility and legitimacy have been strengthened; yet there persist overwhelming environmental limits to regional autonomous policy making. Critics argue that while the formal constitutional role and law-making power of Regions has been strengthened, their political influence has moved little ahead.

In this context, Lombardy attempted to unhinge traditional political centralist logics, at the same time striving to face any attempt to re-centralize authority and functions, as well as to wrestle resources from the centre. Furthermore, in recent years Lombardy administration was keen to give a vigorous international outlook to the governing action.

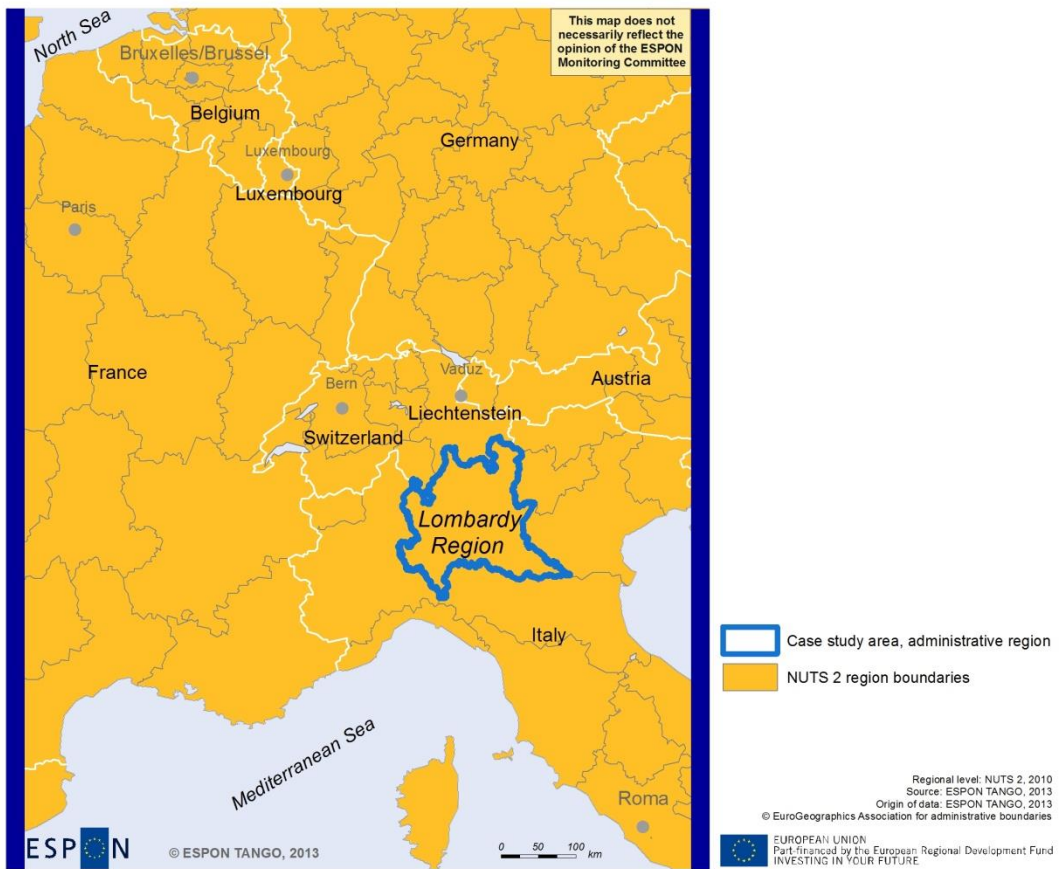
In 2002 it was the pivot player in the creation of the 'Club of Regions', which acted as an open forum of consultation and for making proposals to the Commission. The Club, as already stated, was the starting point of the first experimental tripartite agreement that Lombardy signed in October 2004, the only one to be signed.

Figure 1 :Lombardy Region and its territorial systems



Source: http://webbox.lispa.it/PTR-2/Volumi/pdf/volume2/2PTRDocumento_di_Piano.pdf

CASE STUDY AREA 5: LOMBARDY REGION



Map 1: Case study area: Lombardy Region

2. Dimensions of territorial governance

2.1 Integrating relevant policy sectors

Each of the pilot projects was built around inter-sector wide scopes concerning mobility, environment, energy, health and quality of life. The Lombardy pilot project, in particular, dealt with sustainable mobility, which is now as then a very critical theme for the Lombard context, a very densely populated area characterized by congestion and air pollution (see data provided in support of the agreement reported in paragraph 2.5). Thus, the Lombardy Tripartite Agreement combined different political dimensions (such as environment, transport, public health), which directly impact upon the citizens' quality of life.

As highlighted by the case study guidelines, the integration of policy sectors can be analysed taking into account the policy packaging and the cross-sector synergy.

Policy packaging

In the Lombardy case, policy packaging concerned the EU Commission's communication and documents regarding environmental, transport, energy and urban sustainability issues. The Lombardy agreement text, in its preamble, made reference to:

- Commission's Communication "Partnership for integration – A strategy for integrating Environment into EU Policies", COM (1998) 333 fin.;
- Commission's Communication "A sustainable Europe for a better world: a European strategy for sustainable development", COM (2001) 264 fin.;
- The Sixth Community Environment Action Programme, Decision no. 1600/2002/EC;
- Commission's Communication "European Environment and Health Strategy", COM (2003) 338 fin.;
- The Commission White Paper on "European Transport Policy for 2010: Time to decide", COM (2001) 370 fin.;
- The Green Paper "Towards a European strategy for the security of energy supply", COM (2000) 769 fin.;
- Commission's Communication on the analysis of the Auto/Oil programme, COM (2000) 626 fin.;
- Commission's Communication on the Clean Air for Europe Programme, COM (2001) 245 fin.;
- Commission's Communication "Implementing the Community Strategy to Reduce CO₂ Emissions from Cars", COM (2004) 74 fin.;
- Commission's Communication on the thematic strategy for the urban environment, COM (2004) 60 fin.;

The agreement also referred to the general principles of good governance promoted at European Level (art. 8 of the agreement text).

The Lombardy case is the only one, among the other pilot projects, having references only to European legal frameworks. The others, in fact, were based on national and/or local planning documents too. Birmingham based on the Birmingham City Council and the Conurbation's Local Transport Plan and, at European level, to the 6th Environment Action Plan and to the Thematic Strategy on the Urban Environment. Pescara referred to national legislation and the EC Communication on sustainable mobility. Lille recalled the European, national and local frameworks, exposing the different environmental strategies adopted for each level. In an effort to be specific, several local projects that were very close to the European Strategic Plans and Priorities were proposed.

The lack of references to the national and/or local legislative and planning context in the Lombardy case though avoided possible internal frictions (thus accelerating the approval procedure) probably made the agreement less fine-tuned with domestic level. Actually, one of the respondent (D) stated that it was made intentionally. In his opinion, the Lombardy Region intent was to set up a 'framework instrument', which should have been defined (as for its contents and objectives) only at a later stage. In this sense the policy packaging albeit at the domestic level, was intentionally laid aside.

This dissonance proves to be particular serious if considering the governance of mobility in Italy, characterized by a huge fragmentation and confusion of power, as it will be explained in the paragraph 2.2 in the matter of the coordination of actions of actors and institutions.

Cross-sector synergy

As for the cross-sector synergy, it is important to remark that on the basis of the EU Commission's communication tripartite tools had to concern policies "with a strong territorial impact" (in particular cohesion policy and environment), thus concerning several different policy sectors.

Each of the pilot projects was built around inter-sector wide scopes concerning mobility, environment, energy, health and quality of life. Lombardy decided to engage in the metropolitan area's sustainable mobility, a topic covering a broad range of sectors, particularly transport, environment and research. With the purpose of providing a corpus data and information that would have clarified the need and the usefulness of the agreement, as well as identifying a network of institutional and social partners with whom to activate a dialogue, some documents were first prepared, to be enclosed with the agreement. They dealt with: mobility and transport Lombard arena; EC legislative framework in this sector; technical aspects of the regional transport system, health effect of outdoor air pollution; and external economic costs of

the current transport system (Mazzoleni, 2006). Nevertheless, in this reporting activity the different sectors' contribution was mainly providing data. Until the agreement signature (in 15 October 2004), the only regional structure really involved was the International Relations Area within the Regional Presidency Board. Neither Environment, nor Energy, Service, Infrastructures, Green Areas, Mobility, Health, Planning or Research sectors were involved. One of the respondent (E) – charged as director at the Directorate Landscape – even asserted that the Tripartite Agreement never existed. Even colleagues of the Directorate Infrastructure and Mobility should have confirmed it. In this way, Lombardy Region as one of the respondent (D) stated thought that the start-up of the project should have been easier and rapid. Regional Directorates, as well as local stakeholders, should have been involved only afterwards (i.e. in the implementation phase).

According to plans, these sectors should have been involved in the implementation phase (since February 2005, according to the schedule) that however was not carried out. As already stated, the process broke in 2005 because of the regional electoral campaign (held in April 2005) and never-restarted⁸. The only activity that they were able to realize (in June 2005) was a technical-scientific workshop characterized by a cross-sector approach. Organized by the Lombardy Region, in collaboration with the Institute for International Political Studies (*Istituto per gli Studi di Politica Internazionale*, or ISPI) the workshop aimed at gathering actors engaged at different levels in various sectors such as transport, economy, mobility and environment⁹. The lack of cross-sector synergy from the beginning is one of the weakness aspects of the territorial governance process.

The cross-sector character of the objectives can be highlighted in the three other pilot-projects too. The Birmingham agreement should have applied to the conurbation of the West Midlands region (which included seven metropolitan authorities) meeting sustainable urban transport targets through “an integrated and holistic approach” in order to “explore the interrelationships among certain issues” such as managing congestion, health, accessibility, travel safety and environment, as stated in the draft of the pilot agreement quoted in Vara Arribas and Bourdin (2006). In Pescara case, the agreement should have covered the area of Pescara and its surroundings and deal with the urban sustainable development concerning mobility, environment and quality of life. Finally, Lille committed itself in the three local projects concerning environment (referring to Deûle River), sustainable mobility, renewed energy and, lastly, pollution.

⁹ The other foreseen activities were consultation and negotiating table, as it will be explained in Paragraph 2.3.

From the strictly formal point of view, the territorial governance process seems to have been based on a cross-sector consistency. Nevertheless, the failure of the pilot projects does not allow us to say if there was (or there should have been) a real cross-sector synergy over the declarative statements of the agreements' scopes.

However, the wideness cross-sector scope, albeit only declarative, addressed the problem of defining clear and quantifiable objectives, that was one of the requisite set by the EU Commission: *'There should be more flexibility in the means provided for implementing legislation and programmes with a strong territorial impact. (...) Target-based tripartite contracts and agreements] are justified when they offer value added by comparison with other instruments for the achievement of common objectives. This value added may lie in either the simplification resulting from the contract (where, for example, the contract reduces the number of detailed horizontal implementing measures required) or in the political benefits and efficiency gains resulting from closer involvement and participation of regional and local authorities in policies whose impact varies in accordance with, for example, geographical, climatic or demographic circumstances and which are thus likely to benefit from local knowledge and practice. In some cases, such simplification and increased participation of territorial authorities may also be expected to lead to speedier performance'* (European Commission, 2002a:13).

The lack of a clear definition of the objectives was one of the most critical aspects of the Lombardy project. EU Commission, and in particular the DG Tren involved¹⁰, asked for themes many times and finally introduced them by on their own in the Lombardy agreement text. The lack of clear and quantifiable objectives, in its turn, had consequences on: the actors and stakeholder participation; the consensus building; and finally, the evaluation process. That is to say that a more clear identification of the objectives would have involved stakeholders, boosted the consensus and facilitated the evaluation process.

2.2 Multi-level interplay

EU Commission's Communication stated the target-based tripartite agreements had to be concluded between the Commission, a Member State and regional and/or local authorities.

Since none of the four pilot projects was implemented (only Lombardy signed the agreement but afterwards did not carry out it), the analysis of the coordination among actors and institutions can refer just to the preliminary negotiation phase and to the global structure of the tripartite tool¹¹.

¹⁰ Actually, it is become the DG MOVE (for Mobility and Transport).

¹¹ Most of the reflections of this paragraph are taken from: Vara Arribas G., Bourdin D. (2006).

Subsidiarity

The proposals of tripartite tools reflected the emphasis that the EU Commission placed on subsidiarity and, in particular, on recognising the role that sub-national levels played in the delivery of EU policies. However, several constraints restricted the tripartite tools' 'subsidiarity potentiality' since:

- They were only justified where they proved an 'added value' and not whenever they could have been invoked in the application of the principles of subsidiarity and proportionality because the envisaged objectives could have been better achieved at the grass roots, closest to citizens;
- As remarked by the EU Parliament, they could have taken place only in exceptional cases, preventing any distortion of the single market, clearly establishing the political responsibility of its context.

It is worth here dwelling upon different reactions against the Commission's proposal to catch the difficulties related to subsidiarity. Actors' reactions were different: within the European Commission, DG Environment and DG Transport were afraid that under a tripartite arrangement it would be necessary to monitor the implementation of EU legislation with regards to a specific policy area instead of simply applying the same legislative framework across the Community. Furthermore, DG Environment suspected some problems, related to financial issues. Member States in general proved to be reluctant, just wishing to reassert their unique responsibility for the implementations of EC law. The European Parliament, after having clarified some requirements¹², asked to be informed about the signature of any agreement. The regional and local authorities' reaction was in general quite sceptical, whereas the Committee of the Regions was favourable.

All these restrictions and reactions made the tool very 'exceptional' and it is fair to ask whether subsidiarity was actually at stake; in other words whether the involvement of regions was actually desired or if it was simply a slogan, a catch phrase.

Leadership

The lack of clarity on leadership, initiative power, actors' roles and responsibilities and coordination in the Commission's Communication made the groundwork even more complicated. In light of a simple designation of signatory partners¹³, issues regarding leadership and initiative still remained

¹² Tripartite arrangements should have been only used in exceptional cases, preventing any distortion of the single market, and clearly establishing the political responsibility of its contents.

¹³ In Lombardy: the Lombardy Region, the Italian Government and the EU Commission. In Birmingham: the Birmingham City Council, the West Midlands Region, the Central Government and the EU Commission. In Pescara: the city of Pescara, the Abruzzi Region, the Central Government and the EU Commission. Finally, in Lille: the Lille Urban Community, the Nord-Pas-de-Calais Regional Council, the Prefecture of the Region, the Ministry for Environment and the European Commission.

unclear (Who is in charge beyond the formal disposals: the EU Commission or the national/sub-national authorities?).

The vagueness of these disposals, and the risks related to it, was confirmed during a Tripartite Forum by an officer of DG Environment who recalled that it was important that all levels of administration participate in the negotiation of the agreement, as quoted in Vara Arribas and Boudin (2006). Again, all parties (European, national, regional/local) should have been implicated in the negotiation at the outset of the initiative, particularly in defining objectives in order to come up with clear objectives agreed by all levels of government, as well as throughout the development and implementation of the project. Thus, coordination and cooperation between the three levels of governance seems to be a key element. Without it, the potential added value of this instrument would be limited.

Coordination among different actors and institutions

All the four pilot projects showed that the collaborative relationships between the region/local level and the national were mostly dependent on political support. If the two levels were of the same political colour, it was far easier to carry out the process, as it occurred (only) in the Lombardy case. In the three other pilot projects there was not the political support (even because the local and national levels were not of the same political colour) and they did not arrive to the agreement signature. In Lombardy, the building of mutual trust through personal contacts between regional officers and Foreign Ministry staff, as well as good relationships between the Lombard governor and the Italian Minister of Foreign Affairs who were members of the same political party ('Forza Italia', a centre-right party) were fundamental.

This collaborative relationship mattered very much and was the key-element of the case considering moreover the complexity of the mobility governance system in Italy. Recapping briefly, there persists a steady centralization of decision-making and rigidity in the mechanisms for financing and realizing infrastructures (roads and railways). In the meanwhile there are many actors with partial decision-making powers and competences. The State is responsible for the larger transport infrastructures upon which Regions are entitled to issue binding options. Regions besides are responsible for programming railway services while Cities and Provinces are responsible for local road public transport. Such a complex governance system should require a clear and precise coordination and a high level of collaboration.

As for the role of the European Commission and its relations with the sub-national level, local and regional authorities involved had been asked how they would have defined the Commission's role¹⁴.

¹⁴ These opinions are collected within the analysis by Vara Arribas and Bourdin (eds), 2006.

For Birmingham, the EU Commission appeared to be a bystander in the process.

Pescara recalled that “communication” between the parties had been assured by means of coordinated activity between: the Ministry of the Environment, the Permanent Representation to the EU in Brussels, DG Environment, The Region of Abruzzi and the Municipality of Pescara. The Commission acted through the General Secretariat and the DG Environment.

According to Lille Metropolis, the role of the EU Commission should have firstly been to advise how the project should be led with regard to European directive and recommendations. It had been specified that cities, often at the early stage of a new process concerning the local level (see Agenda 21, for example), needed some help with the practical application of measures frequently proposed by the EU Commission. Therefore, tripartite agreements could have been useful tools for simplifying and making the implementation of concrete urban projects more efficient. However, the role of the EU Commission in them had to be highlighted. Lille Metropolis also underlined its wish for the EU Commission to be more present. Nevertheless, as the latter had not the human and financing resources for doing so, they proposed the idea of having one or several representatives in each region; this meant delocalisation of the Brussels service in Member States.

Finally, Lombardy Region stated that the EU Commission cooperated throughout the different stages of the negotiation, as well as in assessing the results of the first phase of activities. Between 2003 and 2004, consultations with the DG Transport, DG Regional Policy and DG Environment were stepped up. Indeed, EU Commission Services suggested a series of amendments that were introduced by the regional government into the final text of the agreement.

All these different positions reveal the lack of clarity on actors’ role, and in particular on the Commission’s one. Moreover, what can be underlined is that assiduous relationships with the EU Commission, as those occurred in the Lombardy case, made the agreement advance, though the uncertainty of roles. However on the long duration it seems to be not sufficient.

At this point, it is useful to wonder: which were the actors’ roles and the types of relationships in the only agreement that was signed? In order to answer to these questions, it is useful to look into the work of Mazzoleni (2006) who proposes an actor-centred approach to analyse the process that led up to the agreement, by distinguish the different phases and examining the behaviour and goal of each one of the actors involved (see table 1).

The territorial governance process can be divided into 4 main phases: the initiation, the decision-making, the implementation and the adjudication. Only the first two phases, as already stated, took place (thus the activities of the latter two phases have to be considered only as planned).

Above all, the responsibility in implementation and adjudication rested with the Italian government, evidently together with the Commission (and not with regional authority), that it to say Italian government was, and continues to be, the ultimate responsible for the actions at the European level of its sub-national agencies: *'The Italian Government has a key role in preparing this Tripartite Agreement and remains responsible for its performance, in the context of which the sub-national authority designated undertakes to carry out the measures necessary to achieve the targets established in this Tripartite Agreement'* (Regione Lombardia, 2004: preamble).

Table 1: Actors' role in Lombardy case

		EU Commission	Italian government	Lombardy Region
REALIZED	Initiation	Launching the idea, indicating policy areas	Minimal: supporting the process	Taking up initiative and carrying out the project
	Decision Making	Defining standards and structure of the text, objectives and content	Providing political and technical support, not interfering in content	Accepting Commission's guidelines
EXPECTED (NOT REALIZED)	Implementation	Rejected idea of contributing, even partially, in financial terms. It has promised only to verify possibility of conceding funds by end 2005	Supplying funds and (formally) guaranteeing the agreement will be implemented and comply with necessary rules and standards	Carrying out action plan
	Adjudication	Evaluating agreement performance and results in terms of implementation of EU policies and programmes and of improvement of governance	Monitoring and controlling agreement working at mid-term and end of its implementation; reporting results to Commission	Providing information on the running of the agreement via a monitoring observatory, internet site and publications on official journal, also for enhancing public awareness

Source: Mazzoleni (2006)

Starting from the initiation phase, the Commission and Lombardy were the protagonists: the former building up a new opportunity for sub-national authorities and the latter taking advantage of. It is important to note that Lombardy forced a little the procedure since the Commission's Communication stated that the agreement's partners had to be identified by Member States. On the contrary, Lombardy nominated itself thanks to the good relationships between the Lombardy Governor and the Italian Minister of

Foreign Affairs (this circumstance might not necessarily be the case for the other pilot projects). The agreement appears to have been understood both by the EU Commission and by the Lombardy Region for its instrumental added value rather than for its environmental policy matter. On one hand, EU Commission had not a limpid idea of what agreements and contracts would have been in concrete terms. On the other hand, Lombardy Region aimed above all at gaining new visibility at the regional, national and European levels. As a consequence, neither precise contents nor a following actions' perspective were present in the initial steps. On the contrary, DG Transport maintained that the agreement should have been set, from the beginning, precise and quantifiable policy objectives.

The following decision making phase was a consensual process. As for the Italian actors, Lombardy Region considered its relationship with the Central Government (and in particular with the Minister of Foreign Affairs) as positive. Actually, there was not a real exchange between them, since the Central Government simply checked (in formal and legal terms) the text produced by the Region and identified the appropriate ways to finance the agreement without affecting its contents.

The Commission, on the other hand, acted as the most influential agent in defining the agreement contents. In fact, during a meeting between the representatives of the regional executive, the DG Transport and the members of Italian delegation, the Commission proposed some amendments to the text produced by the Lombardy Region and insisted on the need to identify and include some quantifiable targets to reach. No regional department seemed to be able to do so. In mid April 2004, the DG TREN helpfully intervened with its own comments to the draft, with quantitative and process targets drawn from the 2001 White Paper on Transport. Without discussion, regional officers accepted all the indications provided by the Commission. The text was re-written and sent again to Brussels. By the end of July, both the DG TREN and the Ministry of Foreign Affairs communicated their new comments and remarks, especially on budget and financing of the project and finally the agreement was signed in October 2004.

The synthesis provided here about the subsidiarity and the coordination of actors' and institutions' actions highlights both good and bad features.

As for the latter:

- All the restrictions put in place both by the Commission and by the EU Parliament (cf. the strict application conditions before mentioned) to the tripartite tool, made it very 'exceptional' and it is fair to demand whether subsidiarity was actually at stakes.
- The lack of clarity on leadership functions and the responsibilities of different actors conditioned heavily the territorial governance

process; in the Lombardy case, the leadership was “partially shared” between EU Commission and Lombardy Region, with a relevant lack of Central Government contribution in defining contents. This circumstance affected the governance capacity: concisely, who had to demonstrate governance capacity?

- The lack of clarity both in contents and in objectives made the participation of further actors and institutions more complicated. Anyway, Lombardy Region decided to involve Regional Directorates and local stakeholders only after the initiation phase in order to simplify the start-up of the process (cf. paragraph 2.1).

As for the former:

- At political level the fine-tuning between the national and sub-national level had a positive role. This circumstance occurred in the Lombardy case because of contingent reasons, i.e. thanks to the good relationships between the Ministry of Foreign Affairs and the Governor of Lombardy;
- Assiduous relationships between the domestic (i.e. national and sub-national) and external (i.e. European) levels facilitated the agreement’s achievement. In the Lombardy case, they led to the definition of contents and objectives of the agreement. In the long run, however, it seems not to be sufficient for implementation.

2.3 Mobilising stakeholder participation

The only reference to stakeholders’ participation in the Commission’s Communication referred to local actors: *‘Since the aim is to develop experience and encourage involvement, the clear identification of local actors to be included in the contract or agreement is an important condition of success. This identification requires the involvement of the Member State, if only to ensure that the contract or agreement is compatible with constitutional, legislative and administrative provisions in force in each Member State’* (European Commission, 2002: 3)

No additional information was provided and the pilot projects included only some generic elements concerning stakeholders in their own drafts: Birmingham committed to involve all agencies whose activities contributed to the existence of barriers to the objectives’ achievement and could have contributed to its elimination; Pescara did not make reference to any stakeholder participation; Lille case referred to a generic openness of the process to associations; finally, in the Lombardy case, a consultation process involving the network of stakeholders and other territorial authorities should have taken place. More in details, the mobilisation of stakeholders should have taken place only since the implementation phase. The activities planned to this purpose were:

- A technical-scientific workshop aiming at gathering actors engaged at different levels in various sectors (transport, mobility, environment, health and quality of life (see paragraph 2.1). It is the only activity that actually took place;
- Consultation boards involving stakeholders in order to identify the needs of citizens in mobility matters;
- Negotiation boards in order to find, on the basis of the proposals gathered in the consultation boards, possible answers to the territorial needs;
- Involving of the decision makers at the different levels of government (both regional and local) in order to select the proposals.

With the information available, we cannot assert whether actually a stakeholders' involvement should have been, how and with which results. It is possible therefore to suggest the hypothesis that the involvement since the beginning of the project could have promoted a higher consensus around projects and raised a wider spectrum of interests included the private ones.

2.4 Adapting to changing contexts

Since the Lombardy case (as the other three pilot projects) was not implemented, observations can be made only at a general level (i.e. referring to the instrument): the first concerning the social learning and the second one the adaptability.

Reflexivity (institutional learning)

The institutional learning process is intrinsic to the pilot character of the tripartite tool as an experimental project. As already stated, the Commission proposed a two-phase project based on two different types of arrangements: a prior pilot phase exclusively covering the signature of tripartite arrangements (to implement non-binding Community acts) and, only after a proper test and positive evaluation of those pilot projects, a second phase concerning the signing of tripartite contracts (to implement binding Community acts). For this purpose, the four pilot projects were launched. But, as we know, the tripartite global project declined since only the Lombardy agreement was signed and the three others, through a lengthy and stalling negotiation process, failed. From a merely procedural point of view it is possible to assert that the tripartite project fulfils its task, i. e. exploring the possibility/opportunity to sign up contracts between different levels of government. In this sense, an institutional learning there was (even if the lesson was to shelve the tripartite tools since they did not work).

Adaptability

As for flexibility and resilience, it is worth here dwelling on main outputs of the process that can help us to highlight a feature concerning the adaptability.

Taking into account the Lombardy case, we can note that during the process there was neither change of roles nor shift of alliances among the three partners (Mazzoleni, 2004): the Regional Authority and the EU Commission played effectively a strong role, albeit in the initiation phase (Paragraph 2.2, table 1), in collaboration with the Central Government. Actually, the process did not really consist of policy making: it introduced neither regulations nor a redistribution of resources and services¹⁵. Taking into account these outputs, it is possible to say that the territorial governance process failed since it did not produce any alteration of EU governance. It looks like that the territorial governance process, albeit adaptive and flexible, cannot introduce any innovation without an actual political will and specific territorial goals.

Therefore in this case study, the matter in hand is not how much the territorial governance process was adaptive to changing contexts but how much contexts were adaptive and flexible against the territorial governance process. There was not a “cross-adaptability” that seems to be, instead, a necessary feature of any territorial governance process.

2.5 Territorial specificities and characteristics and territorial governance

Territorial relationality

Even if the tripartite tool's aim was to provide “*higher flexibility in the means provided for implementing legislations and programmes with a strong territorial impact*” (EC Commission's Communication), territories stood in the background. References in the agreement texts and/or in their drafts were vague. The only thing that can be underlined is the variety of levels: in Birmingham case, the agreement would have been applied to the conurbation of the West Midlands region (which includes seven metropolitan authorities); in Pescara case, the area of Pescara and its surroundings; in Lille case, the Lille Urban Community territory and in Lombardy case, the regional metropolitan area.

A more detailed analysis of the Lombardy case, albeit this impreciseness, can highlight some causes for reflections.

The art. 1c of the Lombardy agreement text stated that the area of the application is the metropolitan area defined neither statistically nor as an administrative region but as an area determined by ‘roles and responsibilities’, a sort of functional region: ‘*[The] metropolitan area [is] understood as a geographical area that is not taken into statistically, but that is subject to variation in roles and responsibilities based upon the policy options considered*’ (Regione Lombardia, 2004: art. 1c).

¹⁵ It is important to remind the position of the EU Commission, which showed more rigidity than flexibility, in particular, insisting on quantifiable targets.

One of the footnotes specified that an Annex should have detailed the area of application: *'For a more detailed definition of the area of application of this Tripartite Agreement refer to the project annexed to this Agreement (Actions to be realised within the ambit of the Tripartite Agreement)'* (Regione Lombardia, 2004: footnote no. 12)¹⁶.

The fact that the area of the intervention should have been defined basing on roles and responsibilities based upon the policy options considered, could mean that there was indeed a functional approach based on the territorial needs and/or policy options. Nevertheless, a more precise definition of the area since the beginning and, formally, in the agreement text, should have probably facilitated the actors', institutions' and stakeholders' involvement and increased not only the political but even the social consensus around the project.

Territorial Knowledgeability

As asserted beforehand, the area of application was indicated only marginally. In order to assess whether the Lombardy Tripartite Agreement met the territorial needs it is worth taking into account the analysis conducted by the Regional Territorial Plan (RTP) (Regione Lombardia, 2010). Obviously it is about an expedient to make up for the lack of primary sources. Notwithstanding it, territorial analysis of RTP, conducted only few years after the tripartite project, are able to show the main territorial characteristics so as to evaluate whether the Tripartite Agreement's global planning answered to the actual territorial peculiarity.

The Regional Territorial Plan identifies six "Territorial Systems", among which the metropolitan one¹⁷. For each of them, the RTP shows objectives and challenges at stake.

The Metropolitan Territorial System concerns the area that goes from east to west and that is included between the foothills area and the northern area of the Po Valley (see fig. 1 in Chapter 1). It is part of the wider Northern Italy metropolitan system that concerns Piedmont, Lombardy and Veneto and represents the connection among the pan-European transport corridors (Lisbon-Kiev, Mediterranean-North Europe and Genoa-Rotterdam). The settlement model brought to a highly built territorial arrangement with huge environmental and social costs. The consequent mobility demand is wide and the infrastructural system is able to satisfy it only in part.

According to data provided in support of the agreement¹⁸, 5.7 million Lombard residents travel every day; approximately 7 million hours are spent en route;

¹⁶ One of the respondent stated that Lombardy Region externalized these in-depth analysis but when asked the Regional Presidency Board did not provide any of these documents.

¹⁷ The other five territorial systems are: Mountain, Lakes, Foothills, Flood Plain and Po Valley.

¹⁸ Data referring to 2004.

total costs related to road transport in Lombardy amount to between 30 and 55 million euro every day. As a consequence of this complex scenario, air pollution is very high especially in those areas characterized by a strong level of urban density.

The objectives fixed by the RTP aim at preserving the environmental assets and quality of life and fighting air pollution and traffic. More in detail:

- Safeguarding citizens' health and safety, by reducing the different forms of environmental pollution;
- Balancing territory through sustainable development strategies;
- Supporting the development and the territorial polycentric reorganization, keeping Milan as the main centre of the North Italy.
- Promoting the integration among the European infrastructural networks;
- Reducing the congestion of the private traffic, by strengthening the public transportation and supporting sustainable mobility;
- Reorganizing the transport system of goods;
- Endorsing the territorial cultural and landscape assets.

Taking into account the characteristics of the metropolitan area, as marked by the RTP, the Tripartite Agreement which aimed at implementing a sustainable mobility can be considered a well-tailored project, since it met some of the main challenges of Lombardy towards a more sustainable mobility system and better quality of life.

3. Features of “good” territorial governance

3.1. Identifying tentative features of “good” territorial governance and components of exchange

In the light of the documents' analysis and the contacts (hardly) established it is now possible to make some remarks about the territorial governance process' dimensions and features.

Although initially tripartite tools seemed to be a promising approach to manage more flexibly the implementation of Community law and policies with strong territorial impact, the Commission's initiative faced a stagnation of sorts.

The Tripartite Agreement could represent, albeit on paper, an interesting tool for a territorial governance process. Nevertheless, many things compromised the good results of this challenge. Among them, the most important concerns the way the Lombardy Region dealt with the Agreement. This was, in fact, understood as a pilot experience aiming at strengthening international position of Lombardy Regional rather than testing a sound and durable governance system. In regards to it, the lack of clear indications from the Commission

about the Tripartite Agreement's goals, leadership and actors' different roles mattered a lot. The way of conceiving the Agreement by the side of Lombardy Region had consequences on inter-sectoriality, the coordination of actors and institutions, the stakeholders' involvement, the institutional learning and territoriality.

Starting from the integration of policy sector, the Lombardy case study proved to be careful about packaging policies assembled within the European framework. However, the lack of references to the national and/or local legislative and planning context, though it avoided internal frictions and accelerated the approval, made the agreement less fine-tuned with domestic level.

The cross-sector character can be seen mainly in the declarative formulation of the wide objectives. The lack of cross-sector synergy (through a deeper involvement of different regional sectors) did not allow overcoming this enunciating dimension.

About the coordination of actors and institutions, a premise is necessary: formally the EU Commission had the exclusive right of initiative even if, at the same time, it should have shared it (it was not specified at what extent) with Member States and sub-national authorities, while the ultimate responsibility for compliance remain in the hands of the Member States. In this vagueness, one does not know who is in charge of governing capacity, or to what extent and with which instruments.

As things stand and taking into account the Lombardy experience we can make some observations related to subsidiarity, leadership and relationships among actors.

About the subsidiarity, the formal restrictions to the tripartite arrangements made them very exceptional tools, and it is fair to ask whether subsidiarity was really at stake. Furthermore, the lack of clarity both in contexts and in objectives made the participation of further actors and institutions more complicated, that is to say that the vagueness on contents and objectives inhibited the participation of actors at lower level. Anyway, Lombardy Region decided to involve them only in the implementation phase.

The lack of clarity on leadership made the groundwork very complicated. This feature had several consequences on the other aspect of the coordination among actors and institutions.

As for the relationships among actors and institutions, the political support was a key in the relationships among actors and, above all, between Central Government and Lombardy Region. Moreover, the assiduous relationship between EU Commission and Lombardy Region was a strength point, above all in defining contents and objectives.

The dimension concerning the stakeholders' involvement is only sketched both in the EU Commission's communication and in the pilot projects' documents. It is not possible to assert whether there should have actually been, how and with which results. It is possible therefore to suggest the hypothesis that the involvement since the beginning of the project could have promoted a higher consensus around projects and raised a wider spectrum of interests included the private ones.

As regards the adaptability of the territorial governance process, we can assert that the pilot projects fulfilled their tasks since they stimulated at the different level an institutional learning process that induced to shelve the tripartite project. By observing the lengthy and stalling development of the pilot projects, the awareness of the impracticability of this tool clearly arose. The most important cause was the unwillingness of changing actually the multi-level governance system. It was clear during the territorial governance process when several concerns and fears distinctly emerged. Therefore in this case study, the matter in hand would seem how much contexts were (willing to be) adaptive and flexible against the territorial governance, rather than how much the territorial governance process was adaptive to changing contexts.

Finally, in reference to territoriality even if the tripartite tool's aim was to gain "*higher flexibility in the means provided for implementing legislations and programmes with a strong territorial impact*" (European Commission's Communication), territories stood in the background.

The Lombardy case suggests some causes of reflections. First of all, taking into account the characteristics of the metropolitan area, as marked by the Regional Territorial Plan, we can assert that the Tripartite Agreement met the specific territorial needs and was fine-tuned to the main territorial characteristics.

Furthermore, the fact that the area of the intervention should have been defined based on roles and responsibilities depending on the policy option considered could mean that there was indeed a functional approach based on the territorial needs and/or policy options. Nevertheless, a more precise definition of the area since the beginning and, formally, in the agreement text, should have probably facilitated the actors', institutions' and stakeholders' involvement and increased not only the political but even the social consensus around the project.

3.2 Hypotheses about the features of "good" territorial governance

In the light of the whole process, the most interesting and features are:

- The **political support** of the Central Government towards Lombardy Region that can be understood as the key of the project that allowed the agreement's signature (the three other pilot projects which had not

the same political support did not arrive to the signature). Nevertheless, it is very hard to transfer this important promoter since it concerns specific political and institutional circumstances.

- **References to European policy documents**, which were appreciable in this case even if it is about a mere formal fine-tuning within the preamble of the agreement text. This promoter can be transferred only at a discourse level as it concerns the wide principles of sustainable development and governance.

Furthermore, as stated, it is possible to hypothesize that a stakeholders' involvement at the beginning of the process could have promoted a higher consensus around the project and raised a wider spectrum of interests, included the private ones. This hypothesis was confirmed by one of the respondent (D).

4. Promoters and inhibitors of territorial governance

Promoters:

- The political support of the Central Government towards Lombardy Region was the key of the project that allowed the agreement's signature (the three other pilot projects which had not the same political support did not arrive to the signature). It is very hard to transfer this important promoter, since it concerns a specific political and institutional circumstance.
- References with European policy documents was appreciable. However it is a mere formal fine-tuning within the preamble of the agreement text. This promoter can be transferred only at a discourse level as it concerns the wide principles of sustainable development and governance. The principles could be shared everywhere, thus the degree of transferability is high.

Inhibitors:

- The lack of references (both formal and practical) made the agreement few fine-tuned with domestic level.
- Missing a clear designation of signatory partners, issues regarding leadership still remained unclear (Who is in charge beyond the formal disposals: the EU Commission or the national/sub-national authorities?)
- The lack of definition of the area was crucial. A more precise definition since the beginning should have probably facilitated the involvement of actors, institutions and stakeholders and increased the political and social consensus around the project.

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Interviewees and contacts

All interviewees are listed in a random order to guarantee anonymity.

- Francesco Passarelli and Antonio Villafranca, advisors in Italian Institute for International Political Studies – December 7, 2012 (by mail)
- Sabrina Bandera, Senior Researcher (Institutional Area) in Éupolis Lombardia (Institute for research, statistics and training of the Lombardy Region) – January 9/23/26, 2012; May 22, 2012; October 2/15, 2012 (by phone and mail)
- Anna Pacca, in behalf of Davide Pacca, official in Lombardy Region Presidency Board – March 28, 2012; November 13/20, 2012; January 11, 2013 (by phone and mail)

- Martino Mazzoleni, Researcher in Department of Political Sciences, Università Cattolica del Sacro Cuore – March 3, 2012; May 27, 2013 (by phone and mail)
- Luisa Pedrazzini, Director in Lombardy Region Directorate Landscape – April 17, 2012 (by phone and mail)

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