

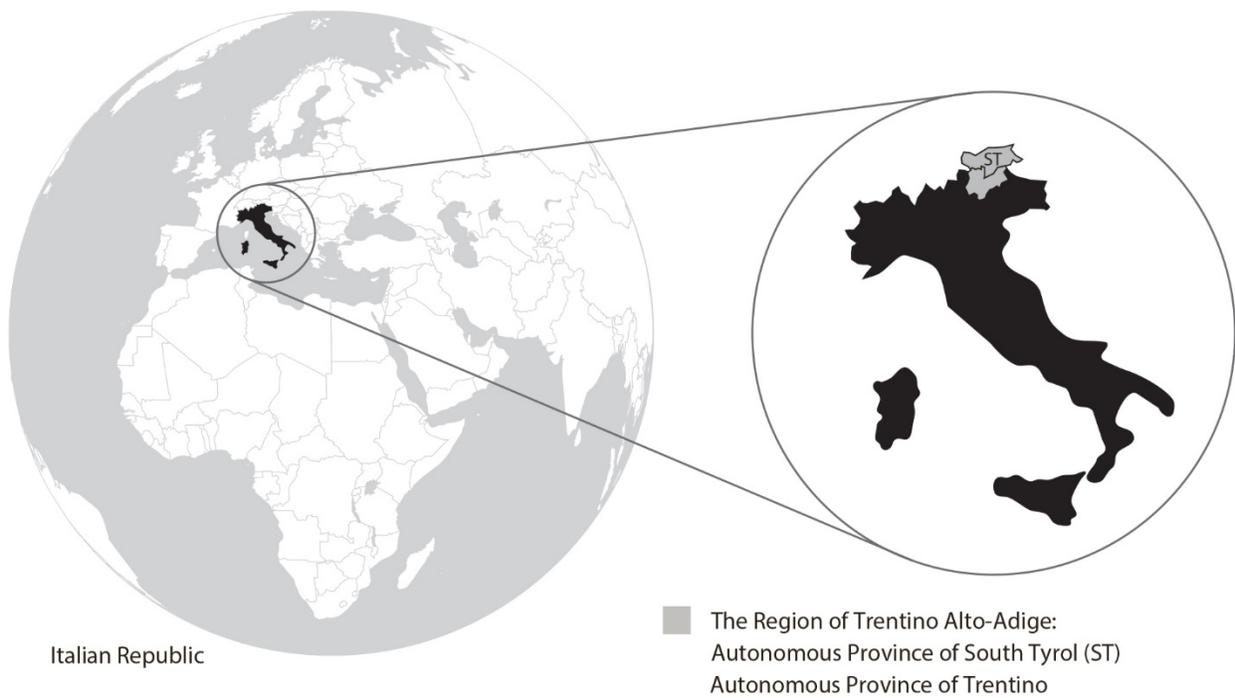


AUTONOMY ARRANGEMENTS IN THE WORLD

South Tyrol

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1. Essential Facts and Figures

1.1. Italy

The clear majority of Italy's population of almost 59.4 million according to the 2011 census are Italian-speakers. This does not mean, however, that the country is from a linguistic point of view entirely homogeneous. Even though Italian is the mother tongue for roughly 93% of the population, there are several other languages, many of which are also legally recognized. At state level, this recognition is conferred to Albanian, Catalan, German, Greek, Slovene, Croatian, French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian.¹ At the subnational level, co-official status is granted to French in the Aosta Valley, Slovene in the provinces of Trieste, Gorizia and Udine, German in South Tyrol and Ladin in parts of both South Tyrol and the neighbouring Trentino. While language is defined by Article 6 of the Italian Constitution as the sole distinctive feature for identifying minorities, the legal instruments for their protection vary substantially. These instruments have in common that they, as a rule, follow the territorial principle, but they differ considerably regarding the level of protection.²

1.2. South Tyrol

Geographically, South Tyrol borders Austria and Switzerland, and has a population of 518,518.³ Almost one third of South Tyroleans live in urban areas (with 102,869 persons inhabiting the predominantly Italian-speaking capital of Bolzano/Bozen).⁴ According to the linguistic declaration

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¹ Law no. 482 of 1999.

² Elisabetta Palici di Suni Prat (1999) distinguishes between "super-protected minorities" (German speakers in South Tyrol, French speakers in Aosta Valley and Slovene speakers in Friuli-Venezia Giulia), "recognized minorities" (all those recognized in the Italian framework law no. 482 of 1999) and "not recognized minorities" (the remaining groups that include Roma and immigrants).

³ Data as of 31 December 2014. For detailed data consult ASTAT (2015).

⁴ Overall, South Tyrol's surface area amounts to 7,400 km². Almost 5,000 km² are over 1,500 meters above sea level, and only 292 km² are located less than 500 meters above sea level. Categorised by land use, most of the surface area is forest (2,920 km²) or used for agriculture (2,670 km²). Agriculture and tourism are two of the major components of the flourishing South Tyrolean economy. For detailed data consult ASTAT (2015).

at the last census in 2011, 69.41% are German, 26.06% Italian and 4.53% Ladin⁵ speakers (out of 453,272 valid linguistic declarations of affiliations).⁶

A quite recent phenomenon with indirect repercussions on the autonomy arrangement is increased immigration to South Tyrol. The area's flourishing economy has turned South Tyrol from a place where people emigrated from (until the late 1980s) to a place where people immigrate to. As to 31 December 2012, 42,522 persons having foreign citizenship are residing in South Tyrol.⁷ In short, and with regard to the country of origin of immigrants, prior to 1994 a consistent number of German speakers moved to South Tyrol (from Germany and Austria) and a small number of persons from North Africa. In the period 1994-2006, a consistent number of refugees from former Yugoslavia settled in South Tyrol. From 2003 onwards, immigration from Eastern Europe became more relevant and in the last several years the number of immigrants from North Africa and Latin America has also increased. Important to note is the fact that the increasing amount of foreigners in South Tyrol today is double the number of Ladin speakers, challenging thus some aspects of the institutionalised ethnic governance system.

2. Autonomy in the Context of the State Structure

This criterion and the very existence of strong minority groups were of significant importance in 1948 when the Constitution makers opted for a regional system with special and ordinary regions. After World War II, the Constitution makers faced a complex situation with regard to regional diversities that had always been very strong in Italy but were repressed by the fascist regime (1922-1943). International obligations, claims for secession and geographical reasons caused the Constituent Assembly to opt for an asymmetric regional system. With regard to the northernmost Italian territory (the Autonomous Region Trentino-Alto Adige/South Tyrol), international obligations imposed by the Paris Peace Treaty (1946) regarding the protection of the South Tyrolean German speakers had to be taken into account. Secessionist claims had to be

⁵ Ladin is a Rhaeto-Romance language spoken in the Central and Eastern Alpine region. In South Tyrol, it is spoken in the Italian Dolomite Valleys.

⁶ The different language groups – with the exception of the Ladins – are heterogeneously distributed. German speakers mainly populate rural areas while all major cities contain substantial numbers of Italian speakers. Italian speakers constitute the majority in the capital city Bolzano/Bozen and in the Southern part of South Tyrol, neighbouring the Italian-speaking Autonomous Province of Trento. Both autonomous provinces together form the Autonomous Region Trentino-Alto Adige/South Tyrol.

⁷ For detailed data consult ASTAT (2014). See also Medda-Windischer and Girardi (2010).

circumvented in the case of the small Alpine region Aosta Valley, where local authorities had already in 1943 elaborated a plan for a strong self-government, and in the case of Sicily, which had elaborated its own Constitution in 1946 before the Italian Constitution was drafted. Sardinia was to be given a special status because of its isolated position in geographic terms. All this necessitated the establishment of a regional system. In order to avoid an overly strong asymmetry between these special territories and the rest of the country, twenty regions were established altogether (Article 131 ItalConst), five of which were endowed with a higher degree of autonomy: Trentino-Alto Adige/South Tyrol, Aosta Valley, Friuli-Venezia Giulia, Sicily and Sardinia.⁸

Thus, next to Italy's *de facto* asymmetries (socio-economic frameworks and political attitudes), the Italian Constitution mandates *de jure* differentiation among its 20 constituent units (five special and fifteen ordinary regions). In practice, the small Alpine autonomous regions inhabited by linguistic minorities – Aosta Valley and Trentino-Alto Adige/South Tyrol – have for a long time been the only areas where autonomous powers were strongly claimed and systematically implemented.⁹ Within this first phase of Italian regionalism, the special regions had their own basic law approved as constitutional law of the State guaranteeing them – contrary to the 15 ordinary regions¹⁰ – far-reaching autonomy and a bilateral relationship with the Italian State, bypassing the national government with regard to the implementation of the provisions enshrined in their basic laws. This not only explains the different development concerning regional self-government between ordinary and special regions, but also the fact that special regions themselves developed differently. With regard to South Tyrol, this first phase of Italian regionalism coincided with the period of difficult and strenuous negotiations at the highest level (claims for the

⁸ ItalConst, Article 116 (1). This provision constitutes the legal guarantee of the special rights granted to the autonomous regions.

⁹ The Autonomous Region Friuli-Venezia Giulia inhabited by the Slovene-speaking minority was established only in 1963, after the end of the international control over the city of Trieste. Overall, it received a comparatively smaller degree of autonomy.

¹⁰ Out of the 15 ordinary regions, eight are in the North (Piedmont, Emilia-Romagna, Liguria, Lombardy, Marches, Tuscany, Veneto and Umbria); two are considered to be in central Italy (Lazio and Abruzzo), while five are located in the South (Apulia, Basilicata, Calabria, Campania and Molise). Although already laid down in the Italian Constitution of 1948, a full-fledged regional Italian State started, however, to develop only in 1972, when the 15 so-called 'ordinary' regions were established and legislative powers were devolved to them. After the 2001 Constitutional Reform, Italian regionalism is defined as "devolutionary asymmetric federation in the making". Ordinary regions are entitled to approve their own regional basic law and additional differentiation between ordinary regions is enshrined in Article 116 (3) of the Italian Constitution. See also Palermo (2005).

recognition of German speakers' rights by means of a strong autonomy model at the provincial instead of regional level).

Starting from 1972, an increase in the regional powers gradually narrowed the gap between ordinary and special regions, leading to a system of 'cooperative regionalism'.¹¹ This second phase of Italian regionalism coincided with further institutional negotiations between South Tyrol's political elite, the SVP, and the Italian State, aiming at the implementation of the provisions enshrined in the ASt. Italy's constitutional reform of 2001 profoundly changed the relationship between the different levels of government and reduced the disparities between special and ordinary regions, giving the latter an amount of power analogous to that enjoyed from the very beginning by the special regions.¹²

However, in institutional terms there are still profound differences between the two types of regions. The 'specialty' of Italy's autonomous regions and the two autonomous provinces of Bolzano/Bozen and Trento rests on four elements:

- their basic law has constitutional rank;
- the scope of legislative and administrative autonomy has been broad since 1948;
- the special procedures and arrangements guarantee, among other things, financial autonomy;
- the bilateral relationship and specific cooperation mechanisms with the central government, based on parity.

Moreover, differing interpretations and exercises of the autonomy led to a differentiation in the scope of autonomy powers between special regions. In practice, special regions in the North profited from the legal-institutional framework by continuously enlarging the scope of their autonomous powers, while special regions in the South did not succeed in doing so. The parallel empowerment of ordinary regions has led to some Northern ordinary regions currently being more

¹¹ For a comprehensive analysis of the evolution of Italian asymmetric regionalism, as well as the different phases of Italy's regionalism, see Palermo (2008b). As to Italy's cooperative regionalism (also with regard to South Tyrol) see Woelk (2008b).

¹² Although the special regions were not directly affected by this reform, a preferential clause guarantees them all benefits, which means all features that are 'more favourable' with regard to their powers and status.

developed in terms of autonomous powers (though technically speaking, their regional basic laws lack constitutional rank, and are as such weaker).

With regard to South Tyrol, this third ongoing phase of Italian regionalism – the further empowerment and differentiation of ordinary regions – coincides with the quest for a new power-sharing model. The minority conflict has been settled by transforming the initial emphasis on minority protection for just German speakers into a system of complex rules that governs the cohabitation of three linguistic groups (German, Italian and Ladin), including also ‘newcomers’ who – for instrumental purposes as to the functioning of the power-sharing system – affiliate with one of the linguistic groups. Legally, especially in the last fifteen years, several power provisions enshrined in the ASt have been both further extended and considerably altered by means of enactment decrees elaborated within the joint commissions.¹³ Politically, the ruling SVP applies the formula of ‘dynamic autonomy’. Accordingly, the development of South Tyrol’s autonomous powers is often a consequence of political constellations at the national level. Currently, both the formula of ‘full autonomy’ and the formula of a strong cross-border European Region Tyrol – South Tyrol – Trentino are gaining momentum within the province’s political discourse, both as a response to wrongly imposed top-down spending curbs and austerity measures (Alber and Zwilling 2012) and as a governance technique aiming at paving the way for a revision of the current Autonomy Statute (hereinafter ASt).

3. Establishment and Implementation of Autonomy

3.1. The Road towards Autonomy

The current territories of South Tyrol and Trentino were from the 14th century part of the crown Province of Tyrol within the Habsburg empire. While in South Tyrol there was a clear predominance of German and Ladin speakers, neighbouring Southern Trentino was almost entirely Italian-speaking. Although one of US President Woodrow Wilson’s 14 points foresaw the, “readjustment of the frontiers of Italy along clearly recognizable lines of nationality”, the territory up to the Brenner Pass was ceded to Italy after World War I. Both Trentino and South Tyrol were annexed to Italy with the Peace Treaty of St. Germain in 1919. Initially, the German speakers in

¹³ For the joint commission see below section 3.3.

South Tyrol were promised territorial and cultural autonomy. When the fascist regime came to power however, any such efforts were stopped. From 1922 onwards, the German-speaking minority suffered from repressive measures in all aspects of life. This led to the ‘Italianisation’ of the entire public sphere *via* industrialisation and migration from the South, but also to the prohibition of German language courses taught privately, as well as to the artificial introduction of surnames and toponymy. In 1939, Hitler and Mussolini agreed upon the so-called ‘final solution’ of the South Tyrolean conflict (the ‘Option’): accordingly, the German speakers were forced to choose between keeping their identity by moving to the German Reich and thus giving up their home, and keeping their home by renouncing the German language and Tyrolean culture and thus agreeing to completely ‘Italianise’. A large percentage of South Tyroleans decided to leave, although only a small part of them really left due to the outbreak of the war (Lantschner 2008).

After World War II, the Paris Peace Treaty (1946) confirmed South Tyrol as part of Italy, but it provided for an international anchoring of minority rights, ensuring for the German speakers special provisions to guarantee their “complete equality of rights with the Italian speaking inhabitants” and to safeguard “the ethnic character and the cultural and economic development of the German speaking element”.¹⁴ During the peace negotiations, the Allied powers were motivated to appease Italy because of larger geopolitical reasons. Therefore, the Brenner Pass, which borders Austrian Tyrol was accepted as an irrevocable border line. The reintegration of South Tyrol into Austria was no longer possible in the emerging Cold War context of post-war settlements (Steininger 1990). According to the Gruber – De Gasperi Agreement, the German speakers of South Tyrol were to be guaranteed a substantial autonomy. The agreement also acknowledged Austria’s official role as protecting power. Austria, the kin-state of the German-speaking South Tyroleans, played a crucial role in the settlement of the conflict, both with regard to the implementation of the autonomous legislative and executive powers, and to the functioning of the special mechanisms meant to safeguard the ethnic character of German speakers (e.g. the ethnic quota system).

¹⁴ Article 1 of Gruber – De Gasperi Agreement which became Annex IV of the Paris Peace Treaty. The smallest (and oldest) linguistic group, the Ladins, are technically not covered by the Gruber – De Gasperi Agreement. The claims of the Ladin minority group have been traditionally put forward by the German-speaking group and by its most representative party, the South Tyroleans’ People’s Party.

Italy considered the obligations arising from the international treaty to be fulfilled by its having established the Autonomous Region Trentino-Alto Adige/South Tyrol. However, the ASt of 1948 ensured far-reaching autonomy at the regional level, where Italians were the majority (71.5%). For example, primary legislative powers in the economic sector were vested with the region. Moreover, the region was not obliged to delegate its administrative powers to the provinces of Trento and Bolzano. The interests of German-speaking South Tyroleans were therefore easily outvoted. Dissatisfaction and tensions grew steadily, leading to bomb attacks against symbols of Italian state (Lantschner 2008: 12). In 1960, Austria urged the United Nations to take a position on the South Tyrolean question. The UN General Assembly recommended that a solution should be found through further negotiations in two resolutions.¹⁵ Overall, strenuous negotiations at different political levels brought forward by political elites within special commissions characterised the settlement of the South Tyrolean conflict. In practice, such negotiations translated to a detailed and sophisticated autonomy system that essentially grants a peaceful and legally safeguarded parallel coexistence of the main linguistic groups. It balances ethno-linguistic claims and efficiency by power sharing. If Austria as a kin-state played a fundamental international role in settling the conflict, nationally it was the provincial-based South Tyrolean Peoples' Party (hereinafter SVP), which since its foundation in 1945 fought for the rights of the German and Ladin speakers in South Tyrol. One of the first initiatives undertaken by the SVP was the collection of 158,000 signatures for self-determination. During the course of the negotiations concerning the amendment of the first ASt of 1948 (regarding *inter alia* the transfer of legislative and administrative powers from the regional to the provincial level) the SVP played a crucial role: in 1969 it voted for internal self-determination, paving the way for the package of legislative measures which led to the ASt of 1972. Aside from the Italian and Austrian parliaments, it was the only actor voting, as neither the regional nor provincial parliament voted. By voting for the package of legislative measures, reunification with Austria was declared an unrealistic claim and internal self-determination the only practicable way forward.

¹⁵ UN General Assembly Resolution 1497 (XV) of 31 October 1960, "The Status of the German-Speaking Element in the Province of Bolzano, Implementation of Paris Agreement of 5 September 1946"; and UN General Assembly Resolution 1661 (XVI) of 28 November 1961, "The Status of the German-Speaking Element in the Province of Bolzano (Bozen)".

3.2. Trust-building and Bilateral Negotiations

A main characteristic of both South Tyrol's conflict settlement and the implementation process of its autonomy statute is mutual trust-building by means of negotiation in special commissions. The process that led to today's autonomy system has its foundation in international law and, most importantly, was the result of negotiated compromises reached at the domestic level. As previously anticipated, the two UN resolutions clearly pledged for a friendly solution to be found through bilateral negotiations. Italy and Austria, as signatories of the Gruber – De Gasperi Agreement, were to come to an agreement on how to successfully settle the conflict.

In 1961, the Italian Minister of the Interior established the so-called 'Commission of Nineteen'. Its mandate was to elaborate concrete proposals concerning technical and legal measures aimed at definitively settling the conflict. The commission was composed of 19 members: 11 Italian speakers (representing the national, regional, and provincial governments and parliaments), 7 German speakers (appointed by the regional and provincial authorities), and 1 Ladin (appointed by the province of Bolzano/Bozen). The dominant position of Italian speakers within the commission notwithstanding, an agreement was reached. The resulting arrangement ended Italian domination and established the current power-sharing system. Throughout the negotiations, the SVP was officially recognised as the legitimate representative of all German and Ladin speakers in South Tyrol.

Therefore, in 1969, the final acceptance of the 137 legislative measures meant to reform the first ASt of 1948 by transferring powers to the provincial level was not voted for *via* referendum by all South Tyroleans, but solely by the delegates of the SVP.¹⁶ After heated discussions, a slim majority of 52.8% supported the 137 measures, the so-called 'Package'. The opponents of the Package rejected it, as its approval in their opinion would have meant definitely renouncing their goal of reunifying South Tyrol with Austria. The supporters of the Package opted for internal self-determination, claiming a far-reaching autonomy for South Tyrol. Only three years later, on 20 January 1972, the ASt entered into force. In 1992, the conflict was formally closed by the handover

¹⁶ The referendum would most probably have split up the population, and even created cleavages within each linguistic group. In remembrance of the long-lasting negative consequences after the 'Option' (1939), the possibility of a referendum was rejected.

to the UN General Assembly of the so-called ‘deed of discharge’ by the Austrian government. In theory however, Austria could still take Italy to the International Court of Justice in case of severe violations of the provisions enshrined in the Gruber – De Gasperi Agreement or in the Package.

3.3. Implementation through Special Bodies and Procedures

The most important functional elements for the implementation of the Statute of the Autonomous Region Trentino-Alto Adige/South Tyrol (and thus also for the provisions concerning the Autonomous Province of Bolzano/Bozen) are two joint commissions. They were created to enable both parties, the State and the region/provinces, to jointly develop the contents of the enactment decrees. Theoretically, the ‘Package’ foresaw that both technical tools, enactment decrees and joint commissions, would cease to exist once the ASt is implemented.¹⁷ This was not the case however, as the enactment decrees have since evolved from an instrument for the implementation of the ASt into an ordinary instrument of government.¹⁸

The legal basis of the joint commissions is Article 107 of the ASt. According to this provision “the executive measures implementing the [...] statute shall be issued by legislative decrees, following consultation of a joint commission [...]”. This article forms the basis for two so-called joint commissions. The first, the ‘Commission of Twelve’, deals with issues regarding the entire region of Trentino-Alto Adige/South Tyrol, and is composed by an equal number of representatives of the State on the one hand (six members), and of the region and the two provinces (two members each) on the other. The second, the ‘Commission of Six’, is part of the former and deals with issues regarding the Autonomous Province of Bolzano/Bozen. Both commissions reflect the parity principle as the core of special autonomy.

¹⁷ In fact, after the full implementation, a so-called ‘Commission 137’ should have replaced the joint commissions and the enactment decrees. This body would have had a pure advisory role and, therefore, would not have respected the fundamental principle of parity between territories and linguistic groups. Moreover, this body would not have been able to guarantee the development of the autonomy. The abolishment of the joint commissions would have ‘frozen’ all enactment decrees, since they can be modified only by the same legal source. See Constitutional Court (Judgments no. 160/1985 and no. 37/1989) and Council of State (Opinion no. 3302/1995).

¹⁸ According to Article 108 of the ASt all enactment decrees should have been adopted within two years, but Constitutional Court (Judgement no 160/1985) declared it just an indicative time frame. See further Palermo (2008a: 146).

However, whereas in the ‘Commission of Twelve’ the State and the region have equal footing with six members each, the ‘Commission of Six’ is characterised by double parity, meaning parity between territories (the State and South Tyrol) and parity between the main linguistic groups (three Italian-speaking members and three German-speaking members). As to the appointment procedure, one of the State representatives must be from the German speakers and one of South Tyrol’s representatives must belong to the Italian-speaking group. This is one of the factors for success, as the even number of representatives makes it impossible to reach an agreement without the consent of both the institutional parties, the State and province, and the linguistic groups.

Precisely because of this equal representation of both linguistic groups and institutional parties, the ‘Commission of Six’ is not only a successful trust-building instrument, but also justifies the fact that its decisions prevail over laws democratically adopted by the Italian parliament. Although formally of the same rank in the hierarchy of legal sources, subsequent ordinary laws adopted by the Italian parliament cannot abolish, amend or overrule enactment decrees. They are by-laws of the ASst and can be modified only by the same special procedure.

As an outcome of the negotiations between the State and the province within the joint commissions, the drafts of enactment decrees are submitted to the national government, which approves them in the form of legislative decrees.¹⁹ Consequently, these enactment decrees constitute legislative acts that are part of ordinary law. They are not debated in or adopted by the national parliament. Therefore, their deliberation is kept separately from normal political processes. Experts from both sides are involved in the elaboration process of the decrees.

3.4. The Role of the Italian Constitutional Court

The Constitutional Court is significant with respect to the development of Italy’s regionalism,²⁰ especially with regard to South Tyrol. According to the case law, minority protection through the application of the negotiation and parity principles has been a red line for decades.²¹ Particularly after the reform of the Italian Constitution in 2001, the Court has evolved into a ‘platform for

¹⁹ According to Article 76 of the Italian Constitution, these are legislative acts adopted by the government through delegation by the parliament.

²⁰ In general, for already more than three decades, the Constitutional Court has been the main actor of Italy’s federation in the making. See Palermo and Wilson (2013).

²¹ For details see Constitutional Court (Judgments no. 232/1991 and no. 213/1998).

conflict management’, as the enactment provisions of fundamental parts of the modified Constitution of 2001 are completely or at least largely still missing. For the time being, the Court has taken over the role of conflict manager, solving all State-region conflicts.²² As to the autonomy of South Tyrol, the Court recently played a crucial role in defining the scope (and procedures) regarding its financial autonomy regime. This has occurred against the backdrop of fiscal austerity measures, in which the province is attempting to resist centrally-imposed financial restrictions by the State government.²³ Not only special regions, but also ordinary regions are increasingly taking legal actions against recent austerity measures (Constitutional Court, Judgment no. 188/2011). Currently, criticism has arisen as to the role of the Constitutional Court: since 2001, it vests a quasi-legislative function as its extensive case law tends to replace the ordinary legislation by the parliament.²⁴

4. Legal Basis of Autonomy

On 20 January 1972, the ASt²⁵ entered into force, transferring all legislative and administrative powers from the Autonomous Region Trentino-Alto Adige/South Tyrol to the Autonomous Province of Trento and the Autonomous Province of Bolzano/Bozen, respectively. Within Italy, these two provinces are the only ones vested with autonomous powers. The autonomous region retained an insignificant number of competences which had over the years been largely devolved to the two provinces.²⁶

Being of constitutional rank and as part of the regional basic law of Trentino-Alto Adige/ South Tyrol, the ASt has a double guarantee: interferences by ordinary laws of lower rank are excluded, as are unilateral amendments. Implementation and amendments to the ASt depend on a complex legal approval procedure, based on a continuous institutional dialogue between the central State

²² This is because the new constitutional framework is not workable, and the Court seems to be the only institution that could fill it with life. While in 1998 litigation between the State and regions made up only 2.76% of the Court’s workload, in 2006 it became 29.16%. For further information: <http://www.cortecostituzionale.it> (accessed 20 May 2014).

²³ For details see Constitutional Court (Judgments no. 323/ 2011 and no. 2/2012).

²⁴ See Palermo and Wilson (2013: 17): “In practice, the Court determined (and largely re-wrote) the division of legislative and administrative powers laid down by the reform.”

²⁵ ASt was adopted under Constitutional Law no. 1 of 10 November 1971. For the unified text see the Presidential Decree no. 670 of 31 August 1972.

²⁶ Therefore, the existence of the region as a ‘roof-structure’ is questioned, and its possible abrogation is regularly discussed at the political level. The two autonomous provinces would then be upgraded into two autonomous regions.

and the autonomous provinces. The relationship between the central government and South Tyrol is essentially bilateral. Bilateralism is also inherent to the nature of South Tyrol's special institutions in charge of both the implementation and development of its autonomy: the joint commissions (Gehler 2003). This principle of bilateralism is legally guaranteed by the principle of special treatment that is based on the Constitution. Thus, all reforms to the ASt must be bilaterally negotiated, in political as well as legal terms by means of strict procedures (Zwilling 2007). The special process of implementation is the legal masterpiece of the ASt (Palermo 2008a).

As to the amendment procedure, in 2001 a reform was introduced in order to provide the regional parliament with the right to initiate amendments to the ASt. Furthermore, in case of initiatives by the national government or parliament, the regional parliament will express its opinion, this – even if not binding – being of political importance. Moreover, no national referendum can be held on the amendments of the ASt. Even when endowed with such far-reaching guaranties, until today no sound reform proposals to the ASt have been brought forward.

With regard to the financial relations between the State and the Autonomous Province of Bolzano/Bozen, a more flexible procedure which allows for manoeuvring space regulates South Tyrol's financial autonomy. In fact, this forms an exception to the above mentioned amendment procedure allowing for faster modifications,²⁷ but it still guarantees the parity and bilateral cooperation principles in the relationship with the State (Valdesalici 2010). As a rule, with regard to finances each special region has a different agreement with the State, regulated in the respective autonomy statute.

5. Autonomous Institutions

5.1. The Provincial Council

According to the ASt the organs of the region and of the provinces respectively are the council, the government and the president (Article 24 and 47, ASt). The provincial council is the legislative body, the highest-ranking body of each autonomous province. Within the framework of powers granted to it, the council's duties comprise the election of the provincial government (the president

²⁷ Article 104 of the ASt stipulates that the part on financial relations “may be amended by ordinary State law at the joint request of the Government and, as regards their respective competence, the Region or the two Provinces”.

and the ministers), the supervision of the provincial government, public debates on problems of public concern, and, if within its legislative competences, making the necessary decisions. Therefore, the most important function of the provincial council is the legislation in the above mentioned competence fields (Avolio 2008: 63). The provincial council consists of 35 deputies, elected every five years by the population, based on proportional representation. The deputies of the provincial council are simultaneously deputies of the regional council. As such, they – together with the deputies of the council of Trento – exercise the few legislative functions vested with the Region Trentino-Alto Adige/South Tyrol. Following the strict application of parity between both territories, the province of Trento and the province of Bolzano, the regional organ is also called the ‘condominium’ organ (*Ibid.*: 56) of the two provinces. Its sessions have to be held alternatively in Trento and in Bolzano (Article 27 ASt) and its president must be elected for the first half of the legislature from amongst the Italian-speaking group and for the second half from amongst the German-speaking group, with his two vice-presidents belonging to the other linguistic group, respectively (Article 30 ASt). Moreover, the right of representation of the Ladin-speaking group in the presidency of the regional and provincial councils has been enforced since 2001.²⁸

In some cases, language groups may also cast votes in the provincial council (Article 56 ASt). This occurs whenever a draft law is judged to be in breach of the equality between the groups, or perceived to be violating the cultural characteristics of one group. It is a type of ‘alarm-bell procedure’ that can ultimately end in front of the Constitutional Court. This same right also extends to administrative acts (Article 92 ASt).

5.2. The Provincial Government

The provincial government is the executive body of the Autonomous Province of Bolzano/Bozen (Avolio 2008: 68). It implements laws passed by the provincial council and administers the province. The provincial government consists of the president, one vice-president for the German-speaking group and one for the Italian-speaking group, and the ministers. The provincial council

²⁸ ASt, Article 30 (3) specifies that Ladins have the right of representation not only in the councils, but also in the presidencies. Within the province of Trento, an own constituency has been introduced.

elects the government by absolute majority²⁹ from amongst its members, *via* a secret ballot. Article 50 (2) of the ASt foresees that the composition of the provincial government must reflect the ratio of the groups as represented in the council. A representative of the smallest group, the Ladins, can also become a member of the provincial government by means of by-election, independently of the proportional principle.³⁰ The same principles also apply to local bodies (Article 61 and 62 ASt).

As to the functioning of the government, the constitutional reform of 2001 entailed some changes. First, South Tyrol was granted free choice concerning its form of government (Zwilling 2010). Secondly, the reform also assigned to Ladin speakers a right to become members of the provincial government. The tasks of the provincial government are manifold (Avolio 2008: 69):

- it implements laws passed by the provincial council;
- it is the highest authority with regard to the provincial administration;
- it gives instructions on its own responsibility to subordinate provincial authorities;
- it participates in the legislative process, e.g. it can submit bills to the provincial council;
- it is the legal representative of the province vis-à-vis the State and the national government;
- it controls the municipalities and public bodies of the province. In other words, the government carries out the political-administrative guidance of the province

5.3. The President

The president is the representative of the province (Article 52 ASt). His main responsibilities are passing laws and regulations (Article 23 ASt), participating in meetings of the Italian government

²⁹ ASt, Article 50. As a consequence, in South Tyrol it is necessary to form a coalition with members of parties belonging to the other linguistic group also if the SVP reaches absolute majority. There is no analogous provision for the province of Trento. However, in 2003, a law introduced the direct election of the president in Trentino.

³⁰ ASt, Article 50 (3). Overall, the interests of the Ladin group are represented by the German ethnic catch-all party SVP, also against the background that the Ladin group was not explicitly mentioned in the international Gruber – De Gasperi Agreement of 1946. Only the first ASt of 1948 gave official recognition to the Ladin group (Article 87). Today, Ladins can use their mother tongue, both orally and in writing, in their relations with the public authorities in the Ladin municipalities. Moreover, the right to use Ladin with the help of interpreters is also provided in court proceedings. However, Ladins are not represented in the Administrative Tribunal, and *de jure* no representation is guaranteed within the Commission of Six. For further details on the rules of representation of Ladins in political bodies see Rautz (2008: 285).

if questions concerning South Tyrol are on its agenda, deciding upon provincial policies regarding such decisions, assigning departments to the ministers, convoking the government and acting as chair in its meetings. Therefore, his role within the provincial constitutional framework is quite significant. On the contrary, the region's president leads the less important regional government. He is elected by the regional council by its members *via* secret ballot and participates in meetings of the Italian government if questions concerning the Region Trentino-Alto Adige/South Tyrol are on its agenda. Since legislative competences have been almost completely transferred to the provincial level, his function in passing regional laws and regulations has become insignificant.

6. Autonomous Powers

To run one's own affairs independently and effectively is the primary concern of every quest for autonomy, and is a key element of successful conflict transformation (Parolari and Voltmer 2008). South Tyrol's autonomous powers are quite outstanding, not only when compared to other minority-situations, but even with regard to its northern neighbour, the Land Tyrol, a member state of federal Austria.

Generally, the provincial powers relate to economic, cultural and social matters (Woelk 2007). They include:

- the regulation for provincial offices and their personnel;
- the bilingual display of toponyms in the province, as per the bilingual language policy;
- the preservation and safeguarding of historic sites and local customs, as well as usage;
- town and country planning;
- environmental and natural resource issues;
- handicrafts, fairs and markets;
- local transport; local communications;
- local economy (e.g. agriculture, forestry, hunting and fishing, alpine pasturage, tourism);
- public and water works; public welfare;
- nursery school as well as professional education and vocational training.

Exclusive competences are freely exercised, in conformity with the Constitution, international obligations and the basic principles of the Italian legal system, as well as in conformity with the fundamental principles of socio-economic reforms. Provincial secondary legislation has, in addition, also had to respect ordinary Italian laws. Secondary legislative powers include local police issues, elementary and secondary education, commerce, apprenticeships and vocational training, employment issues, public performances concerning public order and concessions for establishments open to the public, industrial protection, water supplies, hygiene and public health (including hospital services), and sport and recreation.

7. Financial Arrangements

Financial autonomy has been crucial for conflict settlement in the Autonomous Province of Bolzano/Bozen (Benedikter 2008), and was a milestone for implementing the ASt and regulating the coexistence of the three linguistic groups. The province is effectively entitled to receive nearly all the tax revenue collected by the central State within the provincial territory. On average, the province's participation share determined by law is 90% of the revenue from State taxes collected on the territory of the province, including indirect income tax. In the field of expenditure, the province has complete budgetary autonomy, while the responsibility for collecting taxes continues – for the time being – to lie with the central administration. Most importantly, the financial system cannot be altered without the agreement of the province. The financial system of the Autonomous Province of Bolzano/Bozen provides sufficient funds to cover the expenditure requirements of the autonomy. Therefore, until recently the ruling party did not see any urgency in claiming legislative powers over taxation ('full autonomy').

Within the last several years however, calls for increased clarity concerning financial and fiscal autonomy have arisen, as a consequence of both the austerity measures the recent national governments have imposed, and of the so-called national 'fiscal federalism reform',³¹ which puts forward new rules in intergovernmental financial relations within Italy. The latter reform finally implements Article 119 of the Italian Constitution (as reformed by the Constitutional Reform in 2001). In accordance with its principles, both ordinary and special regions are required to review their financial relationships with the central government. Put simply, the 'fiscal federalism reform'

³¹ For details see Law no. 42 of 2009 on fiscal federalism.

is intended to provide all regions with increased autonomy over both revenue and expenditure. In 2001, subnational entities were provided with a myriad of new functions which required the financial means to properly performing the functions. To this end, Article 119 of the Italian Constitution provides for a re-arrangement of financial relations, as well as the introduction of financial autonomy at the subnational level. It guarantees all territorial entities financial autonomy with regard to revenues and expenditure. A series of by-laws, or governmental decrees, outline the details of the reform, which in view of the ongoing discussion over the constitutional reform bill (concerning the abolition of concurrent powers at the expense of the regions as well as the re-organization and partial abolition of municipalities and provinces) are becoming partially obsolete before having ever been properly implemented. Special regions have conducted bilateral negotiations on how to participate in the new financial framework. As a frontrunner, on 30 November 2009, South Tyrol signed a financial agreement with the central government which defines the new rules (Valdesalici 2010). Put simply, these rules consolidate the calculation of the province's acquisition of 90% of taxes collected, and have recently already been revised (Financial Security Pact 2014). Overall, in Italy, the recent austerity measures and reform packages favour re-centralisation, a trend common for most fiscal reform processes in European multi-level states (Alber and Valdesalici 2012).

8. Relations with the Government

When it comes to intergovernmental relations, a crucial differentiation has to be made between bilateral and multilateral mechanisms. Bilateralism is epitomized by the joint commissions, namely the 'Commission of Twelve' for issues regarding the region of Trentino-Alto Adige/South Tyrol and the 'Commission of Six' for matters concerning the Autonomous Province of Bolzano/Bozen.³² Even though these commission were initially planned to be abolished after the implementation of the ASt, they have been left in place beyond this process and have over time evolved into an ordinary instrument of refining the autonomy system. It is true that similar joint

³² For details see above section 3.3.

commissions exist in all five autonomous regions of Italy.³³ But especially in Trentino-Alto Adige/South Tyrol they have assumed an outstanding role for intergovernmental relations.

As far as multilateral cooperation is concerned, the only noteworthy channel is representation in the Standing Conference for Cooperation between the State, the Regions and the Autonomous Provinces (*Conferenza permanente per i rapporti tra lo Stato, le Regioni e le Province Autonome*). This conference, which was established in 1983 and formalized by Law no. 400/1988, is vested with consultative powers and meets in three different settings: the so-called “State-Regions Conference”, the “State-cities and Local Autonomies Conference” and the “Joint Conference”, which brings together the three levels of government (State-Regions-local government).³⁴ Even though the conference system serves in the first place as a forum of debate for the executives of the government levels regarding political and administrative issues, its opinion has in certain cases actually become compulsory. However, the impact of this multilateral mechanism is limited by the diversity of interests among the regions. Put differently, it has proven to be difficult to define common positions due to cleavages stemming from different political views and socio-economic differences along the North-South line. Due to these inherent limits for the effectiveness of the conference system and the joint commission as powerful alternatives, multilateral cooperation is for South Tyrol on no account as important as bilateralism.

9. Inter-group Relations within the Autonomous Entity

The foundation upon which South Tyrol’s institutionalised ethnic governance rests is power-sharing between its main linguistic groups and a set of sophisticated balances between contrasting principles. The entire institutional design of the Autonomous Province of Bolzano/Bozen is based on separation and forced cooperation of the two main language groups. The broad spectrum of special provisions which regulate relations between the linguistic groups establishes a consociational democracy model, a form of government of consensual ethnic power sharing. Its core principles are cultural autonomy, language parity and ethnic proportionality.

³³ See the specific provisions included in the autonomy statutes of the other special autonomous regions: Sicily (Article 43), Sardinia (Article 56), Friuli-Venezia Giulia (Article 65), Aosta-Valley (Article 48 bis).

³⁴ For an evaluation of these forms of cooperation from the different perspectives of “mature federations” on the one side, and of “emerging federations on the other side, and for a detailed analysis of the evolution of the Italian system of conferences, see Bifulco (2006).

The ethnically divided governance system applies to everyday life in South Tyrol, ranging from the field of public employment to the educational system, and establishes a detailed regime of linguistic rights. The system of group rights within the Autonomous Province of Bolzano/Bozen is based on the declaration of belonging to or the declaration of affiliation with a language group, which is instrumental for the ethnic quota system. The preconditions for the success of such a consociational democracy model are reciprocal recognition and dialogue. This best permits all segments of society to contribute to the development of a system that is separated in its essence but in practice permeated by forced cooperation. “Parity or equality of both the institutionally recognized groups and of the individuals is balanced by the proportional principle (representation according to numbers in population), and the personal principle (protection as group members) is balanced by the territorial principle (special status of the Region and the Provinces)” (Woelk 2008a: 212).

In sum, consociationalism in South Tyrol translates into four main elements: the participation of all language groups in the joint exercise of governmental power, a system of veto rights to defend each group’s vital interests, the principle of cultural autonomy for groups and an ethnic quota system based on a linguistic declaration (or affiliation).

9.1. Employment in Public Administration

The provincial government carries out its functions through an extensive bi/trilingual administrative structure. In 2012, the local administration counted a total of 40,440 employees (ASTAT 2015: 45). This includes, amongst others, the regional administration and regional parliament (98 persons), the provincial administration/school system (7,512 persons), the provincial parliament (59 persons), local health authorities (8,754 persons) and teachers including headmasters (8,928 persons). Posts must be assigned according to ethnic proportions, calculated on the basis of the most recent census (or, until 1988, according to the ethnic composition of the provincial assembly). The ethnic quota system is based on the Gruber – De Gasperi Agreement of 1946, and according to Article 89 (3) of the ASt it foresees the distribution of jobs in the civil

service, “in proportion to the size of the [language] groups themselves, as they appear in the declarations of the official census”.³⁵

At the time of the census, every resident makes a formal declaration, based on free choice, of his or her language group (or language group affiliation): this declaration is the basis for the right to stand for public office, to be employed in the public administration or school system, and to be given social housing. The declaration is revealed only if necessary. The declaration also ascertains the numerical strength of the linguistic groups, which then forms the legal foundation of public life (including the allocation of financial means). In practical terms this means that candidates compete for the posts reserved for their respective group only and not for the totality of the posts. Those who do not make the declaration cannot apply for public posts, offices, public housing and various other social contributions (Lantschner and Poggeschi 2008). The ethnic quota system applies to all State and semi-State bodies operating in the province, as well as to the provincial and municipal administrations. At the municipal level, the quota is based on the strength of the linguistic groups in that specific municipality. For instance, the municipal administration of the capital city Bolzano/Bozen has a majority of Italian civil servants whereas other municipalities have a majority of German civil servants (up to 100% in some villages). The ethnic quota system also applies to privatised institutions such as railroads and the postal service. It aims to guarantee both the representation of the groups and the provision of bilingual services throughout the territory of South Tyrol, and trilingual ones in the Ladin-speaking valleys. The quota system was introduced to gradually balance Italian dominance in the public State service,³⁶ thus acting as a mechanism of reparation for the Italianisation of public posts during the fascist oppression. With regard to provincial and local administration, the first ASt of 1948 and respective regional laws already foresaw the ethnic quota system (Gudauner 2013: 199-200). It was applied according to the ethnic composition of the respective assemblies.

The representation of language groups in local and provincial administration according to their respective proportions was basically already achieved in the 1980s, facilitated by the creation of

³⁵ The enactment decree no. 752 of 1976 sets forth the details of the ethnic quota system as well as a time limit of 30 years for applying the ethnic quota system to State bodies of public administration.

³⁶ According to the data of the 1971 census, there were 62.9% German, 33.3% Italian and 3.7% Ladin speakers. However, in public State administration only 13.9% of the German speakers (incl. a few Ladins) were employed, in contrast to the 86.1% of the Italian speakers (data from the year 1975). See Gudauner (2013).

public posts due to the transfer of competences, but was not achieved as quickly with regard to posts within public State administration (*Ibid.*: 191).³⁷ Overall however, the representation of language groups in the civil service according to their respective proportions is now achieved (*Ibid.*: 202-209). Since the late 1990s onwards, the ethnic quota system has been handled more flexibly, not least out of necessity. In practice, this means that in cases where it is not possible to find a qualified candidate, a candidate of the other language group can occupy the post. Such off-quota job grants are to be returned during one of the subsequent selection procedures.³⁸ In some specific cases, executive positions and highly specialised occupational profiles, the meritocratic principle may prevail. Though segments of South Tyrolean society have begun to question the limitation in time of such an affirmative action, the majority still views the ethnic quota system as a valid instrument.³⁹ However, different options as to a reform of the ethnic quota system are regularly discussed. One proposed option is to temporarily suspend such regulations for branches where the representation of language groups in their respective proportions is balanced (Palermo 2011). Another is to further strengthen the meritocratic component by the linguistic criteria. Reforms to the regulations with regard to the public examination⁴⁰ for the certification of bi/trilingualism are also regularly discussed, and implemented. All civil servants (and persons working for companies charged with the provision of public utility services) must currently be bilingual (and trilingual in the Ladin valleys), thus in possession of that exam, which, once passed, is valid for their lifetime.

³⁷ If one compares data with regard to civil servants in State administration bodies of 1975 to data with regard to public employees in State administration bodies of the years 2002 and 2010, the results show that the ethnic quota system – together with the requirement of bilingualism – was overall also successfully applied in State bodies. Regarding 2012, public State posts are less in numbers as competences were transferred to the provincial levels throughout the years.

³⁸ The Department for Labour of the Provincial Administration is in charge of all calculations.

³⁹ The fact that at the last census in 2011, from 458,641 linguistic declarations only 4,934 were invalid and 435 were turned in blank, indirectly reinforces this argument. However, only 458,641 declarations were handed in (and not 505,067, the amount of the resident population as to the census data of 2011). The difference (46,426) comprises citizens with foreign citizenship residing in South Tyrol (who are not entitled to deliver the linguistic declaration), South Tyroleans outside of the province at the time of data collection, and persons who deliberately did not want to hand in such a declaration.

⁴⁰ In *Roman Angonese v. Cassa di Risparmio di Bolzano*, the Court held that the EC Treaty precludes an employer from requiring persons applying for employment to provide evidence of their linguistic knowledge exclusively by means of one particular diploma issued only in one particular province of a member state. In May 2010, this principle was implemented by means of the legislative decree no. 86 of 2010 that indicates all other accepted evidence of proficiency in both Italian and German (including, for example, exams taken at the internationally recognised Goethe Institute).

9.2. Language Use in Administration and Judiciary

Administration must be bilingual in the whole territory of South Tyrol, and trilingual in the two Ladin valleys. This means that the use of the two official languages in South Tyrol, German and Italian, is based on the personal principle, while for the use of Ladin the territorial principle is applied. The individual makes the choice of language. In other words, the whole administration (broadly interpreted) has an obligation to “use the language of the applicant and [to] reply in the language in which documents have been started” (Article 100 (3) ASt). When documents are “started by the offices themselves, the correspondence must be carried on in the language presumed to be the mother tongue of the citizen to whom it is directed” (Article 100 (3) ASt), and documents directed to the public must be bilingual. As previously mentioned, public employees must be bilingual and trilingual in the Ladin areas, and language proficiency must be proven through a public exam.⁴¹

Overall, the provisions on the use of language best elucidate the dual nature of the ASt framework (individual and collective rights):⁴² language rights are framed as individual rights, formally reserved to the members of the minority group. Article 100 of the ASt guarantees German speakers the right to speak German in the relations “with judiciary offices and with the organs and offices of public administration located in the Province and with regional powers, as well as with concessionaires of public services in the Province itself.” Article 99 defines the territorial dimension of the language provisions, prescribing the equal standing of both languages in the province. It sets German on par with the Italian language, which is the official State language (e.g. with regard to bilingual drafting of legislative texts). Articles 99 and 100 are both based on a provision of the Gruber – De Gasperi Agreement (parity of German and Italian languages).

In practice, the 1988 enactment decree⁴³ on the use of languages does not distinguish between members of the national minority and other residents; everyone can choose their linguistic

⁴¹ See information published on the webpage of the office in charge of administrating the bi/trilingualism exams, available online (in German and Italian) at: <http://www.provinz.bz.it/kulturabteilung/weiterbildung/zwei-und-dreisprachigkeitspruefung.asp> (accessed 15 January 2016).

⁴² For an in-depth analysis of the individual as well as collective right to use languages and the specific remedies for the use of language, see Alber and Palermo (2012: 291-297).

⁴³ Presidential Decree no. 574 of 1988. All institutions affected by the decree are listed in Articles 1 and 2. Only the private sector is excluded, if not in charge of services with public utility.

affiliation, regardless of ethnic identity. The statutory principles on the use of languages, setting the rules for the use of German and Ladin languages by the public administration (bi/trilingualism) and during legal actions (the right to undertake legal proceedings in the mother-tongue), were defined only 16 years after the ASt was approved. The reason for the delay is twofold: technical difficulties and a lack of political will to accept a fully bilingual judiciary regime, and that the administration of the judiciary was viewed as a State competence. Providing for a bilingual judicial system is a complex exercise, requiring extensive human resources. It took several years before a numerically sufficient bilingual staff was able to guarantee an effective service. Moreover, legal terminology had to be developed. A bilingual regime can only function if the legal terminology in the minority languages is reliable. While this is not a problem with regard to 'everyday life-German', it becomes more complicated in fields where precise technical language is required. The legal terminology, concepts and terms in the South Tyrolean legal system differ from those used in Austria or Germany, due to the differences in their legal systems. Therefore, the decree on the use of languages has set up a special joint commission consisting of six experts, three Italian-speaking and three German-speaking. The joint terminology commission is tasked with the establishment, update and ratification of the legal terminology to be used by public entities and bodies, including the standardisation of the legal terminology in German related to the Italian legal system (Alber and Palermo 2012: 297-303). However, there is no indication concerning Ladin legal terminology (a trilingual glossary of the most used terms in administrative law exists; additionally, the regional council provided for the translation of the ASt).

As a rule, the principle of the separate use of languages applies not only to administration but also to the judiciary (Fraenkel-Haeberle 2008). Understandably, the principle of individual choice of the language is crucial in criminal proceedings, in order to guarantee the best chances for the defence, while it is partly attenuated in civil proceedings, where it is balanced against the interest of a speedy procedure. Generally, trials are conducted in one language only. There are however several exceptions to this rule. Both languages, German and Italian, are often used in a trial, which is possible because human resources are bilingual. With regard to higher legal education, the Austrian University of Innsbruck offered a series of specialisation courses in the 1970s, counteracting educational arrears. Moreover, a cooperation agreement between Austria and Italy

concerning tertiary education entered into force in 1983.⁴⁴ This agreement paved the way for the integrated curriculum on Italian Law at the University of Innsbruck, in cooperation with the University of Padua.⁴⁵ Since 1985, the integrated curriculum allows for the study of Italian law, partly through the medium of German and partly through the medium of Italian. This has contributed to the establishment of bilingual lawyers and to an increase in German-speaking legal experts employed in public administration, as mandated by the ethnic quota system. The strong cooperation between South Tyrol and the University of Innsbruck is one of the cornerstones of the identity of the greater area of Tyrol (Pernthaler 2007: 214).

In practice, German is today the dominant language in public administration, while Italian prevails in the judicial system. At the political level, the regulations on language use also envisage the alternative use of Italian and German in the meetings of the regional councils, of the province of Bolzano/Bozen and of the municipalities, and therefore the use of simultaneous interpretation at said meetings if requested. As to the Ladins and the use of Ladin language, they do not enjoy the same legal status as German speakers in South Tyrol. Article 32 of the enactment decree of 1988 determines that Ladin citizens can use Ladin only with public administration if the offices are situated in the Ladin municipalities or if the provincial/regional offices located throughout the territory are in charge of representing Ladin interests.

9.3. Education

The autonomy of the groups enshrined in Article 2 of the ASt regarding all culture-related issues and provisions for the protection and promotion of their cultural characteristics, including the proportional allocation of financial resources, are typical expressions of group protection. This includes the system of separated schools, based on monolingual instruction, as well as separated cultural offices. In the plurilingual Ladin school system however, the principle of ‘teaching language parity’ is applied (hours are given in German and Italian language in an equal amount,

⁴⁴ See Federal Law Gazette for the Republic of Austria (BGIBI) no. 423 of 1983.

⁴⁵ On the establishment, development and current status of the integrated curriculum on Italian law at the University of Innsbruck (Austria), see Alber and Palermo (2012: 303-308).

and Ladin itself is also taught and used as a back-up language while teaching). Tertiary education has been recently established and is based on trilingualism (German, Italian and English).⁴⁶

The *status quo* of the threefold provincial schooling system must be considered through the lens of South Tyrol's history. After the annexation to Italy in 1919, the fascist occupation (1922-1943) prohibited the German language. Instruction in German was slowly re-introduced after 1943. However, the first ASt of 1948 vested the Autonomous Province of Bolzano/Bozen with primary powers only in relation to specialised courses in agriculture and commerce⁴⁷; for primary, secondary and upper-secondary education the province was only granted secondary legislative powers⁴⁸ (Alber 2012). The ASt of 1972 attributes to South Tyrol primary and secondary legislative powers with regard to the school system.⁴⁹ According to Article 8 of the ASt, South Tyrol enjoys exclusive legislative power over nursery schools, school welfare, school buildings and vocational training. Furthermore, the province is entitled to issue laws concerning primary and secondary education (and teacher training) in conformity with the principles established by State legislation.⁵⁰ Article 19 of the ASt provides for regulation on the language of instruction, in accordance with the principle of monolingual instruction; it reads, "instruction in the nursery, elementary and secondary schools is indeed given in the Italian or German mother tongue of the pupils by instructors for whom that language is also their mother tongue". In practice, teachers must be native speakers of the language they teach. These group rights are, however, balanced by the individual right of the parents to choose the school system that they wish their children to attend (according to the principle of free choice over whether to enrol the pupil in a German- or Italian-speaking school).⁵¹ The teaching of the second language is compulsory. Article 19 of the

⁴⁶ Tertiary education follows the path of linguistic integration. In 1992, the research seat European Academy of Bolzano/Bozen (EURAC) was established as a non-profit private entity aimed at the promotion of applied research and the creation of expertise in sectors of special relevance for South Tyrol. Furthermore, the trilingual (Italian, German and English) Free University of Bolzano/Bozen was founded in 1997, breaking for the first time with the principle of segregated education.

⁴⁷ Article 12 of the first ASt of 1948.

⁴⁸ *Ibid.*

⁴⁹ Articles 8, 9 and 19 of the ASt.

⁵⁰ Articles 30, 33 and 34 of the Italian Constitution refer to the general principles applicable to education, State schools and the right to free education within the cycle of compulsory education.

⁵¹ The school authority has the right to refuse enrolment if the pupil's linguistic ability is insufficient to attend classes in the language of the school, and the parents can challenge the school's decision in front of the administrative court. As a matter of fact, during the first years after the enactment of the ASt, in the early 1970s, in several cases pupils were denied enrolment (especially in the German-speaking schools), whereas in more recent times this safeguard provision has been handled in a much more flexible way by the school authorities.

ASt also provides for special measures in the educational curriculum, as well as for the structure and administration of the provincial school system, which are exempt from the principles established by State law but functional for the needs of South Tyrol. This results in three independent school authorities (the Italian, the German and the Ladin) and the obligatory teaching of a second language.

Each of the school departments, under the control of its respective ministry in the provincial government, is responsible for the administration of its own school system, for the management and partial design of the curricula, and for teachers' salaries. Diplomas obtained in German language secondary schools are equivalent to those earned in schools having Italian as their language of instruction. In order to guarantee this equivalence, the National Higher Education Council must be consulted with regard to the teaching programs and examinations. As to the administration of South Tyrol's school system, since 1996 the provincial government appoints both the superintendent (in agreement with the National Ministry of Education) as well as the German and Ladin school inspectors (upon prior consultation with the National Ministry of Education).

In the rest of Italy, the regional level is responsible for the implementation of the overall national education and schooling offer, while provincial offices fulfill some administrative tasks. As already mentioned, special arrangements are in force for the schools situated in the Ladin valleys: the principle of teaching language parity applies. The Ladin population has always fought for the elaboration of a trilingual primary school system. The debate continued and increased in scope with the entry into force of the ASt in 1972. The ruling SVP, led by its demands for full autonomy in the school system, was demanding either a German- or Italian-speaking school in the Ladin valleys (in conformity with the right of education in the mother tongue throughout all subjects during obligatory education). The dispute culminated in an appeal against Article 7 of the enactment decree no. 116 of 1973, concerning the principle of teaching language parity and the use of Ladin as a vehicular language. The Constitutional Court (Judgment no. 101/1976) dismissed the appeal and the parity model of Ladin schools became the official one in the Ladin municipalities. In practice, the judgment excludes the possibility to choose an Italian or German language school and confirms the *de facto* discrimination of German- or Italian speaking-children in the Ladin valleys with regard to mother-tongue instruction. According to the Constitutional

Court, the right to attend German or Italian language schools (as guaranteed in Article 19 of the ASt for the rest of the province) is directly precluded in the Ladin municipalities. As to the teachers in Ladin schools, they must have knowledge of Ladin, German and Italian to be employed in Ladin language schools, while employment in nursery and primary schools is preconditioned by teachers' declaration of affiliation with the Ladin language.

10. “Quasi-citizenship” through Special Rights

As far as special rights are concerned, reference has to be made to the rules concerning the active right to vote. For both elections to the Provincial Council and at the municipal level Article 25 (2) of the ASt foresees as a particular requirement for the exercise of this right continued residence in the region for at least four years. On the one hand, this provision pursues the goal of preventing an immediate effect of changes concerning the proportions of the linguistic groups. Insofar the clause is intended to serve as an instrument of minority protection, a function that was also recognized by the Italian Constitutional Court.⁵² On the other hand, Article 25 (2) of the ASt is of course for Italian citizens, both members of other minorities and the majority population, a temporary restriction of an essential political right.

11. General Assessment and Outlook

Since few autonomy arrangements in the world have functioned well for more than four decades, some important lessons can be drawn from South Tyrol's experience. It is worth mentioning that although the implementation process has been predominantly domestic, Austria's continuous and constructive role as South Tyrol's kin-state has been crucial in enhancing Italy's interest in fully implementing the ASt. Overall, the foundation upon which South Tyrol's autonomy rests is reciprocal recognition and compromise. The tools to achieve it were bilateral negotiations at the highest institutional level. They led to the establishment of a system whose basic rules are unilaterally unchangeable against the will of South Tyrol, and ultimately of its dominant population, the German speakers.

⁵² See Constitutional Court (Judgments no. 240/1975).

The international Gruber-De Gasperi Agreement – more precisely the envisaged equality of the rights of German speakers with Italian citizens, and the set of special provisions which safeguard them – can be seen as the very essence of the compromise which led to a system of detailed legal guarantees, in accordance with the principles of consociational democracy. The 1992 deed of discharge formally ended the conflict between Austria and Italy. South Tyrol's autonomy, however, continued to develop by means of its special procedures, based on parity and bilateralism, though originally put into place only for implementing the ASt. Therefore, South Tyrol's autonomy arrangements are today an evolving work in progress and need to be revised against changing political, linguistic and socio-economic landscapes. The 2013 provincial elections marked a turning point in South Tyrol's political landscape, reinforcing the debate over the necessity of a third autonomy statute. Current debates surely are seminal with regard to the development of the relationships between linguistic groups within the autonomous province, complicated further by increasing (im)migration.

The case of the small Alpine province of South Tyrol serves as an example both for the development of a detailed institutionalised system and for the assessment of the impact of political dynamics and changing social realities. German is the majority language in South Tyrol, having the status of a minority language and all legal guarantees attached to it. A good knowledge of German (and its South Tyrolean 'dialects') is a determining factor for understanding and experiencing South Tyrol and its most authentic characteristics (Tyrolean mountain traditions). It is also the decisive language for societal inclusion and professional opportunities. However, a good knowledge of Italian is also necessary if one desires to understand and experience South Tyrol's (separated) public spheres in their entirety. Otherwise, South Tyrol continues to be a well-administered condominium where "living apart in the same room" and being part of a "relational zero-sum game, where the growth of one group is believed to be a threat to the other linguistic community" are the rule (Carlá 2007). Even if interactions between groups increased considerably in the last years, the principle of separation is still present in the public sphere. Recent surveys also confirm that the second language is – contrariwise to English – not yet perceived as an enrichment for one's own culture but rather as a foreign language one must study because it is part of the system; accordingly, the second language is perceived as something "pasted on us" (Baur and

Larcher 2011).⁵³ The rather limited proficiency⁵⁴ of the second language confirms this attitude, despite the fact that the second language is taught for many years. Assuming that the principle of mother tongue education is important for guaranteeing groups' rights in South Tyrol, one cannot deny the importance of bi- and multilingualism for professional reasons provincially, but also on a European and global scale. In economic terms, South Tyrol is located in a strategic geographic position at the edge of several economically strong regions. Thus, knowledge of additional languages is a determining factor in South Tyrol, not only in the public sector (according to the ethnic quota system) but also in the private one. Surveys confirm strong desires for linguistic integration between the groups in South Tyrol, as well as for the development of an integrated model of language teaching.⁵⁵ Given the importance of German in professional life, it is especially, though not exclusively, the Italian-speaking population which is pressing for a more integrated language education. In (provincial) political terms, all parties agree on the accretion of additional platforms and means of second language apprehension as the lowest common denominator for achieving socio-cultural success. This also reflects the opinion of the ruling party, the SVP. However, new methods for language learning as for example the 'Content Language Integrated Learning' (CLIL) are discussed controversially.

Against this background, politics is also searching for answers on how to better integrate the increasing diversity as a result of migratory flows. In the educational sphere, migrant children are subject to a double challenge, or opportunity, if they do not possess German or Italian as their

⁵³ In a study, Baur and Larcher (2011) interviewed 70 young South Tyroleans from all geographic areas of South Tyrol (more precisely, 70 young high school graduates of the school year 2009/2010, two thirds German speakers, one third Italian speakers and an equal number of women and men). Even if the qualitative study is not representative due to the low number of interviews, it exemplarily shows that the second language is perceived as something mandatory and not part of one's own identity as a South Tyrolean. Even though institutions but also private associations employ many resources in enhancing bilingualism, the output is rather negative, in deficit. Only in presence of real intercultural relations (friendships, mixed families), is the second language perceived as part of one's own culture. Not even in urban areas where both linguistic groups live closely together, does contact between the linguistic groups seem to be regular. Young people apparently prefer to stick to their own language group.

⁵⁴ A study by European Academy of Bolzano/Bozen tested high school pupils one year before their graduation. It shows that out of 1,800 pupils who were tested, a large percentage of German speakers were proficient in Italian at the B1 (44%) or B2 (40%) level of the European Common Framework of Reference for Languages, while among the Italian speakers the percentage of those who have very limited knowledge in German is relatively high (28% at the level of A2; 47% B1, 13% B2). Proficiency in the second language should at that schooling stage amount to the equivalent of at least B2. See Mair (2011) and Abel *et al.* (2012).

⁵⁵ For example, the results of the survey conducted by the research institute Apollis on behalf of the weekly German-language journal *FF* show that 81% of South Tyroleans would welcome a bilingual school policy (16% are against it); this is the opinion not only of 98% Italian speakers, but also of 73% German speakers and even of 74% of sympathizers of the SVP. For details see *FF – Das Südtiroler Wochenmagazin* (2008).

mother language. They are required to simultaneously learn both the minority and the majority language, in addition to their mother tongue. In contrast to the autochthonous population, for immigrants or those born to immigrant parents, the apprehension of Italian and German language is not a matter of identity building but primarily a tool for integration into the local labour market.⁵⁶ By being obliged to choose between the German- or Italian-speaking school system, they automatically follow the logic of linguistic separation in their schooling. With regard to immigrants' relational interactions, a study shows that immigrants prefer to interact with Italian speakers over German speakers (Medda-Windischer *et al.*: 2011). A likely reason is that immigrants tend to live in Italian-speaking urban areas.

The question today is not over whether or not South Tyrol is multilingual, but how its evolving socio-linguistic landscapes and legal uniqueness will be governed in the future. While generally quite positive, the case of South Tyrol also shows how delicate institutionalised ethnic governance is, how much 'daily maintenance' it requires, and how easy it is to upset the balances. Issues such as the 'majoritarisation' of minority rights, where a locally dominant minority abuses its majority position by not being sensitive to the consequences, (whether German speakers at the provincial level or Italian speakers in the capital city of Bolzano/Bozen), can easily lead to tensions.⁵⁷ Both the results of surveys and the observance of political discourses show that there are still unresolved resentments and issues in the legal and societal arrangements of South Tyrol. Currently, South Tyrol is clearly in a state of flux, attempting to look towards a new era of governance based on continuity and change.

Politically, the autonomy of South Tyrol entered a "period of normalization and Europeanization" (Atz and Pallaver 2014: 186) since the 2013 elections when the SVP lost the absolute majority for the first time in its history. The phenomenon is linked to both the increasing influence of other

⁵⁶ For the time being, there is no data on how immigrants educated in South Tyrol integrate in the local labour market. Too few immigrants have concluded their schooling in South Tyrol, and there is not yet a second or third generation of migrants.

⁵⁷ For example, when symbols such as toponymy are at stake. The official denomination of place names is one of the currently discussed open wounds of the South Tyrolean conflict and is still extremely sensitive. During the fascist regime, Italian place names (often artificially created) were made official, banning the use of German traditional names. Article 8 of the ASt attributes to the province the exclusive legislative power on "place names, without prejudice to the requirement for bilingualism".

actors on the political stage⁵⁸ and the internal re-structuring of the SVP due to the generational change in its leadership. The ethnic pattern still prevails in the South Tyrolean political landscape, at the expense of the Italian speakers. Currently, only five out of the 35 parliamentary representatives originate from the Italian language group. Scholars argue that this “leads to a systemic problem because it puts at risk the principle of maximum involvement of all language groups in central decision-making processes” (*Ibid.*). The elaboration of a new model of integrated decision-making is thus a top priority for South Tyrol’s future development. According to the coalition agreement, the work towards a third autonomy statute will be done within an *ad hoc* autonomy convention. The outcomes of a concerted reform process at the provincial level is especially important in view of possible direct or indirect implications for South Tyrol’s autonomy, following the currently discussed Italian constitutional reform bill (May 2014). The proposed national reform package aims at abolishing concurrent legislation, thus making clarity as to the distribution of legislative powers between the two orders of government, the State and the regions. By doing so, in the State’s view, the source of constitutional litigation and legal uncertainty would be eliminated. Accordingly, within the dual system of independent areas of legislative powers, most powers would be vested with the State. In South Tyrol, the political elites agree that the ASt should be soon revised provincially in order to be best prepared for the challenges stemming from such a centralist constitutional reform bill. Something a large majority of South Tyroleans agree upon is the debate that revolves around the expansion of autonomy towards the empowerment of the cross-border European Region Tyrol – South Tyrol – Trentino, within the context of a European Union with strong(er) regions.

Bibliography

ABEL Andrea, VETTORI Chiara and FORER Doris, "Learning the neighbour's language: the many challenges in achieving a real multilingual society. The case of second language acquisition

⁵⁸ The party *Die Freiheitlichen* currently is the second-strongest party in the provincial council, a position that had always been held by an Italian-language party.

in the minority-majority context of South Tyrol", *European Yearbook of Minority Issues*, 9 (2010), Martinus Nijhoff, Leiden–Boston, 2012, 271-303.

ALBER Elisabeth, "South Tyrol's education system: plurilingual answers for monolingual spheres?" in PALERMO Francesco and ALBER Elisabeth (eds.), *Journal of Studies on European Integration and Federalism*, 363 Spring Issue – *A New Era of Federalism*, Centre International de Formation Européenne, Paris, 2012, 399-415.

ALBER Elisabeth and PALERMO Francesco, "Creating, studying and experimenting bilingual law in South Tyrol: Lost in interpretation?", in ARZOZ Xabier (ed.), *Bilingual Higher Education in the Legal Context*. Martinus Nijhoff Publishers, Leiden–Boston, 2012, 287-309.

ALBER Elisabeth and VALDESALICI Alice, "Reforming fiscal federalism in Europe: where does the pendulum swing?", in PALERMO Francesco and ALBER Elisabeth (eds.), *Journal of Studies on European Integration and Federalism*, 363 Spring Issue – *A New Era of Federalism*, Centre International de Formation Européenne, Paris, 2012, 325-365.

ALBER Elisabeth and ZWILLING Carolin, "Das 'System Italien' zwischen Notstandmaßnahmen und Föderalisierungsvorhaben", in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.) *Jahrbuch des Föderalismus*, Nomos, Baden-Baden, 2012, 292-309.

ASTAT Provincial Statistic Institute, *Demographisches Handbuch für Südtirol*, Autonome Provinz Bozen – Südtirol, Landesinstitut für Statistik, Bozen, 2014. Available online at: http://www.provinz.bz.it/astat/de/bevoelkerung/439.asp?demographischestruktur_page= (accessed on 15 January 2016).

ASTAT Provincial Statistic Institute, *South Tyrol in Figures 2015*, 2015. Available online at: <http://www.provinz.bz.it/astat/it/service/845.asp> (accessed on 15 January 2016).

ATZ Hermann and PALLAVER Günther, "Die Normalisierung Südtirols – Die Landtagswahlen 2013: Ergebnisse, Trends und Perspektiven", in PALLAVER Günther (ed.), *Politika 14: Jahrbuch für Politik*, Südtiroler Gesellschaft für Politikwissenschaft, Edition Raetia, Bozen, 2014, 149-193.

AVOLIO Giuseppe, "Institutions of Self-Government", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 53-76.

BAUR Siegfried and LARCHER Dietmar, *Fit für Europa. Erfahrungen mit Mehrsprachigkeit in Südtirol*, Edizioni Alfabeta, Meran, 2011.

BENEDIKTER Thomas, "The Financial System of the Autonomous Province of Bolzano/Bozen", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 105-119.

BENEDIKTER Thomas, "Ehrenamt im Bereich Politik und bürgerschaftliches Engagement in Südtirol unterbewertet", in PALLAVER Günther (ed.), *Politika 12: Jahrbuch für Politik*. Südtiroler Gesellschaft für Politikwissenschaft, Edition Raetia, Bozen, 2012, 437-455.

BIFULCO Raffaele, "The Italian Model of State-Local Autonomies Conferences (also) in the light of Federal Experiences", in LUTHER Jörg, PASSAGLIA Paolo and TARCHI Rolando (eds.), *A world of second chambers. Handbook for constitutional studies on bicameralism*, Giuffrè, Milano, 2006, 1051-1083.

CÁRLA Andrea, "Living apart in the same room: analysis of the management of linguistic diversity in Bolzano", *Ethnopolitics* (Formerly *Global Review of Ethnopolitics*) 6 (2), 2007, 285-313.

FF – Das Südtiroler Wochenmagazin, "Umfrage: Die Stimmen des Volkes", no. 23/2008, Bozen, 2008, 20-31.

FRAENKEL-HAEBERLE Cristina, "Linguistic Rights and the Use of Language", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 259-278.

GEHLER Michael, "Vollendung der Bilateralisierung als diplomatisch-juristisches Kunststück: Die Streitbeilegungserklärung zwischen Italien und Österreich 1992", in CLEMENTI Siglinde,

WOELK Jens (eds.), *1992: Ende eines Streits – Zehn Jahre Streitbeilegung im Südtirolkonflikt zwischen Italien und Österreich*, Nomos, Baden-Baden, 2003, 17-83.

GUDAUNER Karl, "Zu Unrecht verteufelt – Eine Zwischenbilanz zum Proporz als Garantieinstrument", in PALLAVER Günther (ed.), *Politika 13: Jahrbuch für Politik*, Südtiroler Gesellschaft für Politikwissenschaft, Edition Raetie, Bozen, 2013, 181-200.

LANTSCHNER Emma, "History of the South Tyrol Conflict and its Settlement", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 3-15.

LANTSCHNER Emma and POGGESCHI Giovanni, "Quota System, Census and Declaration of Affiliation to a Linguistic Group", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 219-233.

MAIR Georg, "Auf der Schwelle", in *FF -Das Südtiroler Wochenmagazin*, no. 17/2011, Bozen, 2011, 32-37.

MARKO Joseph, *Autonomie und Integration. Rechtsinstrumente des Nationalitätenrechts im funktionalen Vergleich*, Böhlau, Graz–Vienna–Cologne, 1995.

MEDDA-WINDISCHER Roberta, "Protection of Minorities under International Law and the Case of South Tyrol", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 17-49.

MEDDA-WINDISCHER Roberta, FLARER Heidi, GIRARDI Rainer and GRANDI Francesco (eds.), *Condizione e prospettive d'integrazione degli stranieri in Alto Adige: relazioni sociali, lingua, religione e valori. Indagine analitica / Standbild und Integrationsaussichten der ausländischen Bevölkerung Südtirols. Gesellschaftsleben, Sprache, Religion und Wertehaltung*, EURAC Research, Bolzano/Bozen, 2011.

MEDDA-WINDISCHER Roberta and GIRARDI Rainer, *Jahresbericht über Einwanderung in Südtirol 2010*. EURAC Research, Bolzano/Bozen, 2010.

PALERMO Francesco, "Italy's long devolutionary path towards federalism", in ORTINO Sergio, ŽAGAR Mitja and MASTNY Vojtech (eds.), *The Changing Faces of Federalism: Institutional Reconfiguration in Europe from East to West*, Manchester University Press, Manchester, 2005, 182-201.

PALERMO Francesco, "Implementation and Amendment of the Autonomy Statute", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008a, 143-159.

PALERMO Francesco, "South Tyrol's Special Status within the Italian Constitution", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008b, 33-49.

PALERMO Francesco, "Transfrontier co-operation as a means to maintain ethno-cultural diversity", in GÉMESI Ferenc (ed.), *Minorities in a Seamless Europe: The Role of Transfrontier Cooperation in Maintaining Ethno-Cultural Diversity*, Proceedings of the international conference in Budapest, 15 September 2009, Prime Minister's Office, Budapest, 2010, 12-18.

PALERMO Francesco, *Censimento e proporzionale: istituti in evoluzione*, Speech at the 'Di dla cultura ladina', 9 October 2011.

PALERMO Francesco, "Italy: a federal country without federalism", in BURGESS Michael and TARR G. Alan (eds.), *Constitutional Dynamics in Federal Systems: Sub-National Perspectives*. McGill–Queen's University Press, Montreal–Kingston–London–Ithaca, 2012, 237-254.

PALERMO Francesco and WILSON Alex, "The dynamics of decentralization in Italy: towards a federal solution?", *European Diversity and Autonomy Papers (EDAP)*, no. 4/2013. Available online at: <http://www.eurac.edu/edap> (accessed on 15 January 2016).

PALICI DI SUNI PRAT, Elisabetta, *Intorno alle minoranze*, Giappichelli Editore, Torino, 1999.

PALLAVER Günther, "The Südtiroler Volkspartei: from irredentism to autonomy", in DE WINTER Lieven, GÓMEZ-REINO Margarita and LYNCH Peter (eds.), *Autonomist Parties in Europe: Identity Politics and the Revival of the Territorial Cleavage*, Aleu, Barcelona, 2006, 161-188.

PALLAVER Günther, "South Tyrol's Consociational Democracy: Between Political Claim and Social Reality", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 303-327.

PALLAVER Günther, "Südtirols Parteien und Parteiensystem: Ethnisch, fragmentiert und zentrifugal", in PALLAVER Günther (ed.), *Politika 09: Jahrbuch für Politik*, Südtiroler Gesellschaft für Politikwissenschaft, Edition Raetia, Bozen, 2009, 245-270.

PALLAVER Günther, "I partiti italiani in Alto Adige. Frammentati e deboli in cerca di una nuova identità", in PALLAVER Günther (ed.), *Politika 13: Jahrbuch für Politik*, Südtiroler Gesellschaft für Politikwissenschaft, Edition Raetia, Bozen, 2013, 247-282.

PAROLARI Sara and VOLTMER Leonhard, "Legislative and Administrative Autonomy", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 77-103.

PERNTHALER Peter, *Die Identität Tirols in Europa*, Springer, Vienna–New York, 2007.

RAUTZ Günther, "I Media in Alto Adige", in MARKO Joseph, ORTINO Sergio and PALERMO Francesco (eds.), *L'ordinamento speciale della Provincia autonoma di Bolzano*, Cedam, Milan, 2001, 815-820.

RAUTZ Günther, "A 'Minority within a Minority': the Special Status of the Ladin Valleys", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008, 279-290.

STEININGER Rolf, "Back to Austria? The problem of South Tyrol in 1945/46", *The European Studies Journal* 7, 1990, 51-83.

VALDESALICI Alice, "L'intesa finanziaria per il Trentino-Alto Adige/Südtirol tra specialità e solidarietà" in WOELK Jens (ed.), *Federalismo fiscale tra differenziazione e solidarietà*, EURAC Research, Bolzano, 2010, 95-114.

WOELK Jens, "From compromise to process: the implementation of the South Tyrolean autonomy", in BOLTJES Miek (ed.), *Implementing Negotiated Agreements – the Real Challenge to Intrastate Peace*, TMC Acer Press, The Hague, 2007, 157-176.

WOELK Jens, "Individual and Group Rights in South Tyrol: Article 2 as 'Grundnorm' of the Autonomy Statute", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008a, 203-217.

WOELK Jens, "What it Means to be Special in Relations with the Central State: Institutions and Procedures", in WOELK Jens, PALERMO Francesco and MARKO Joseph (eds.), *Tolerance through Law: Self Governance and Group Rights in South Tyrol*, Martinus Nijhoff Publishers, Leiden–Boston, 2008b, 121-142.

ZWILLING Carolin, "Die Spezialität der Autonomen Provinz Bozen innerhalb der italienischen Verfassungsrechtsordnung", in PALERMO Francesco, HRBEK Rudolf, ZWILLING Carolin and ALBER Elisabeth (eds.), *Auf dem Weg zu asymmetrischem Föderalismus?* Nomos, Baden-Baden, 2007, 116-129.

ZWILLING Carolin, "Regionales Wahlrecht in Italien: Die Sonderstellung der Autonomen Provinz Bozen – Schranken durch das Spezialitätsprinzip?", in GAMPER Anna (ed.), *Entwicklungen des Wahlrechts am europäischen Fallbeispiel*, Springer, Vienna, 2010, 541-557.

Case law

Constitutional Court:

Judgment no. 101 of 1976, Official Gazette (1st Special Series) no. 118 of 5 May 1976.

Judgment no. 160 of 1985, Official Gazette (1st Special Series) no. 131 bis of 5 June 1985.

Judgment no. 37 of 1989, Official Gazette (1st Special Series) no. 8 of 22 February 1989.

Judgment no. 232 of 1991, Official Gazette (1st Special Series) no. 5 of June 1991.

Judgment no 213 of 1998, Official Gazette (1st Special Series) no. 26 of 1 July 1998.

Judgment no. 323 of 2011, Official Gazette (1st Special Series) no. 50 of 30 November 2011.

Judgment no. 2 of 2012, Official Gazette (1st Special Series) no. 3 of 18 January 2012.

Council of State: Opinion no. 3302 of 1995.

European Court of Justice:

Roman Angonese v. Cassa di Risparmio di Bolzano. ECJ Case C-281/98, 6 June 2000. ECR I-4139.