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article

Superdiversity and sub-national autonomous regions: perspectives from the South Tyrolean case

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For many sub-national autonomous territories where traditional-historical groups ('old minorities') migration is a stable and increasingly important reality. From the perspective of the autonomous province of Bozen/Bolzano in Italy (South Tyrol), I will analyse whether the interests and claims of old and new minority groups are in permanent conflict and tension, or whether they can develop through various forms of synergy and collaboration. The aim of this contribution is to provide deeper insights into the governance of superdiversity by looking at the perspective of sub-national units characterised by the presence of historical groups and new migrant communities.

key words migration • autonomous territory • regional policy • minorities

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Introduction

For many sub-national autonomous regions of Western countries, such as Catalonia, South Tyrol, Scotland, Flanders, Basque Country and Quebec, where traditional-historical groups ('old minorities')¹ live, migration is a stable and increasingly important reality. Some of these regions have attracted migrants for decades, while others have only recently experienced significant migration inflow.

The coexistence of old minorities and new minority groups originating from migration ('new minorities')² in sub-national territories adds complexities to the management of diversity and migration issues. It is acknowledged that the relation between 'old' communities and 'new' minority groups can be rather complicated. Interests and needs of historical groups can be in contrast with those of the migrant population. Moreover, the presence of new minorities can have an impact, not necessarily a negative one, on the relationship between old minorities and majority

groups at state level and also between old minorities and the central state, as well as with policies enacted to protect the diversity of traditional groups and the way old minorities understand and define themselves.³

In the past, the subject of the relationship between old communities and new minorities has been largely neglected by scholars. With few exceptions (Medda-Windischer 2009), minority and multicultural issues have been studied separately from the point of view of historical groups or migrant communities, focusing on the relationship between each of these two categories and the dominant state, and highlighting differences between the claims of old minorities, who carry on nation-building projects, and migrant communities, who are expected to integrate into the dominant society (Kymlicka, 1995).

When these two perspectives have been combined, it has often been to sustain the so-called 'threat hypothesis', namely the belief that historical groups frequently perceive large-scale migration as a danger and harbour defensive and exclusionary attitudes towards migrants due to their ethnocentric understanding of identities or due to the fear that migrants will eventually integrate into the central state culture, further outnumbering the old minorities (Kymlicka, 2001, 278–9; Jeram and Adam, 2013, 2).

In the last decade, scholars have started to look more deeply into the relationship between old and new minorities (Medda-Windischer, 2010). The 'threat hypothesis' has been opposed, since various ethno-national groups actually manifest inclusive approaches to migration. In fact, scholars argue that attitudes expressed by old minorities towards migrants follow similar dynamics to those expressed by majority groups at central state level (Carens, 1995; Kymlicka, 2001, 283).

Tensions between old and new minorities are not inescapable. Scholars have argued that these tensions can be avoided if traditional groups are given extended competence over migration and integration issues, especially in terms of volume and origin of migration as well as in terms of integration (Kymlicka, 2001).⁴ Indeed, control over integration and migration, within the competences left out by the national and, though limited, supra-national levels, is considered crucial to the capacity of old minorities to protect and maintain their identity and culture (Carens, 1995, 20). Yet it has also been pointed out that the overlapping of national and local competences can bring disadvantages and incoherent policies, and even threaten the development of multicultural and inclusive policies (Loobuyck and Jacobs, 2009, 114; Bousetta, 2009, 97, 100–1). Alternatively, tensions can be reduced when old minorities develop policies to include the migrant population in their nation-building process (Zapata-Barrero, 2005, 8).

In this regard, scholars have also set criteria and provided suggestions on how old communities should deal with migration and integration and how they can develop an inclusive approach to the migrant population. In particular, Medda-Windischer argues that international minority rights standards, primarily the UN Declaration on Minorities and the CoE Framework Convention on the Protection of National Minorities, should be extended to all minority groups, including those stemming from migration (Medda-Windischer, 2010). Zapata-Barrero maintains that the approach to migration of ethno-national communities should observe liberal and democratic principles so as not to detract from the legitimacy of the ethno-national desire to manage the matter itself (Zapata-Barrero, 2009a, 17). Instead, Kymlicka seems to argue that limited deviations from liberal practices favour the development of open forms of identity and accommodation of migrant diversity (Kymlicka, 2001; Arel, 2001).

Further analyses, including more case studies and different methods,⁵ have shown the variety and complexity of relationships between old and new minorities. In some cases, the presence of old groups seems to hinder the process of inclusion of the migrant population, because when confronted with competing nation-building projects, migrants often remain less attached to the old communities in the hosting society (Banting and Soroka, 2012). At the same time, migration is an essential issue for old minorities, parties and their local governments for several reasons (Medda-Windischer and Popelier, 2016; Jeram et al, 2015; Carlá, 2015). On one hand, migration can be a tool to criticise the central state for failing to protect the interests of old minorities (Hepburn, 2009, 529). On the other, migration triggers important social, cultural and political consequences, forcing old minorities to re-conceptualise and re-define their self-understanding and identity, as well as to rethink the basis of their self-governments. In some cases, the presence of migrants can even encourage old minorities to switch from exclusive ethnic identities to multicultural attitudes in order to win their alliance (Piche, 2002).

Despite the above, it is not possible to identify a general and homogeneous approach of old minorities to migration: attitudes change between regions and over time, following local, national and international dynamics. Furthermore, old minorities, like any social grouping, are not monolithic entities, but present a variety of specific aspects, and their attitude to migration is not an exception in this respect (Carens, 1995, 68). Various local factors that might explain the different approaches old minorities and their parties have developed to migration include concern about cultural reproduction linked to demographic trends, the condition of the local economy and labour market, party ideology, local party competition, the strength of extreme right parties, the degree of local party polarisation, the characteristics of nation-building narratives, old minorities' experience with processes of modernisation, the type of national identity that characterises them, the importance traditional groups ascribe to specific cultural elements, such as language, in the definition of their identity, and the extent of sub-national autonomous government powers (Hepburn, 2011, 504; Jeram and Adam, 2013; Régis, 2012, 24; Shafir, 1995). Besides these local factors, variables at national and international levels also play a role. Ethno-national approaches to migration also develop as a reaction to national migration policies and as attempts to distinguish the culture and values of the old minority and to present them as more open and inclusive than those of the dominant majority. It is also necessary to consider how the relationship between the traditional community and the central nation-state evolves, as this may modify old minorities' approach to migration and their definition of the 'collectivity' and of who belongs to it (Gagnon, 2009; Zapata-Barrero, 2009b, 138). Moreover, the presence of migrant communities in territories inhabited by historical groups reframes and transforms traditional understandings of concepts such as membership, identity, cohesion and citizenship.

From the perspective of the autonomous province of Bozen/Bolzano (South Tyrol or 'the Province') this contribution addresses the question whether it is possible to reconcile the claims of historical groups and of new communities originating from migration, and whether policies, which accommodate old and new minorities by reframing processes of inclusion and developing a more inclusive project of citizenship, help in the pursuit of a pluralist and tolerant society.

South Tyrol is an Italian province characterised by German- and Ladin-speaking old communities and measures, such as elaborate political autonomy, for protecting

their diversity. In addition to these historical groups, South Tyrol has also witnessed the arrival of many migrants from foreign countries in the last ten years (ASTAT, 2015b; Medda-Windischer and Girardi, 2011). The main political party of South Tyrol – the ruling party in the Province since the Second World War – the *Südtiroler Volkspartei* (SVP), or South Tyrolean People's Party, has so far maintained a rather defensive approach – to the point of exclusion – towards migration and the diversity it brings, which stems directly from the key mission of the party, which is to protect and promote the rights of the German- and Ladin-speaking minorities in the Province (SVP, 1993). In this regard, the SVP's political platform clearly states 'The *Südtiroler Volkspartei* features among its major commitments the safeguarding of the rights of the autochthonous population and the protection of our land and its people from *Überfremdung* (literally over-foreignisation, that is, flooding with foreigners), through artificially increased and uncontrolled migration' (SVP, 1993, 5).⁶

This is the concern of a minority who, during the Fascist period, had to endure harsh forms of 'Italianisation', and expresses the fear of becoming, demographically speaking, a numerical minority and/or suffering restrictions to the freedom of manifesting its identity. It is therefore quite clear that an analysis of the management of migration and the diversity of the new minorities originating from international migration to South Tyrol, cannot disregard the specific characteristics of the Province, which, besides the Italian linguistic group, also features two historical linguistic groups, that is, the German- and Ladin-speaking communities (Medda-Windischer and Carlá, 2015).

Combining legal and political science approaches with the contextual analysis of the South Tyrolean case, the aim of this paper is to fill existing gaps in academic scholarship by looking at three dimensions: the relationship between old and new minorities, which are traditionally studied in isolation from each other; a special focus on the South Tyrolean case that so far has been mainly studied as a successful system for the protection of old minorities; and finally, a combination of legal and political approaches in the studies of migration and (super)diversity in sub-state territories that is rarely found in this specific research field.

Relying primarily on the analysis of legal and policy documents and judgments of national and international courts as well previous literature and empirical studies on South Tyrol, I will discuss whether the policies aimed at protecting the historical traditional minorities in South Tyrol help or hinder the creation of a tolerant and pluralistic society, and enable a defensive approach so far adopted by the South Tyrol authorities towards migration and the cultural diversity of migrants and their families, to be overcome. In particular, I will focus on the competences of the South Tyrolean authorities and the measures introduced by them as regards integration and inclusion, as well as on several recent rulings, concerning the Province of Bozen/Bolzano, by the Italian Constitutional Court and the European Court of Justice. I conclude with observations on how to develop a defensible framework for the management of new and more complex forms of diversity at the sub-national autonomous level in, but also beyond, the South Tyrolean case that reconciles unity and diversity and that overcomes, at the same time, the traditional 'old-new' minority dichotomy.

Competences and institutional measures: from discovery to defence through necessity

The Autonomous Province of Bozen/Bolzano (South Tyrol) is an autonomous province situated in Northern Italy on the border of Austria. It is one of the two provinces – the other being the Autonomous Province of Trento – that compose the Region of Trentino-Alto Adige/Südtirol, which is itself an autonomous region.⁷

The population of approximately 500,000 inhabitants (corresponding to 0.5 per cent of Italy's population) consists of two-thirds German speakers, less than one-third Italian speakers and some 20,000 Ladin speakers (ASTAT, 2012). Besides the German, Italian and Ladin groups, since the 1990s, a growing share of the population is composed of immigrants. According to the latest data, the foreign population resident in South Tyrol is approximately 46,000 persons, equivalent to almost 9 per cent of the total (ASTAT, 2015b). Almost one third of the foreign population in South Tyrol come from European Union countries, another third from other European countries, 17.5 per cent from Asia, 12.5 per cent from Africa (ASTAT, 2014a). The main nationalities are Albanian (12.2 per cent), German (10.0 per cent) and Moroccan (7.9 per cent), followed by Pakistani, Romanian, and Macedonian (ASTAT, 2014a). The autonomous system operating in South Tyrol is the result of historical events dating back to the annexation of this territory – formerly part of the Habsburg Empire – by Italy in 1919, formalised by the peace treaty of St Germain at the end of the First World War. The following period saw the repression of the native German-speaking group – by far the majority in South Tyrol – by the Fascist totalitarian regime and, after the end of the Second World War, political struggles aimed at achieving a satisfying autonomous regime (Steininger, 2009).

In 1948, an international agreement between the Italian and Austrian governments (the De Gasperi-Gruber Agreement, also called the Paris Agreement) provided for the creation of an autonomous local government under the Italian State, with special measures to protect the German-speaking population, implemented through a special First Autonomy Statute. Subsequently, in 1972, a Second Autonomy Statute was enacted, providing to the German- and Ladin-speaking population living in South Tyrol an advanced and multifarious protection system (Woelk et al, 2008). In the last decades, the autonomous management of the territory has not only guaranteed a peaceful cohabitation among linguistic groups living in South Tyrol, but has also achieved a florid economic situation characterised by high per-capita income and a low unemployment rate, especially if compared to the rest of Italy (ISTAT, 2014; ASTAT, 2014b).

Regarding its autonomy, the specific features of the Autonomous Province of Bozen/Bolzano can be summed up as follows: legislative and administrative autonomy, proportional representation – according to linguistic group – recognition of the linguistic equality of Italian and German, and last but not least, a specific financial framework for implementing these provisions (Woelk et al, 2008). It should be emphasised that the allocation of jobs in the public sector, and of financial resources in the key sectors of education, culture, social affairs and (albeit with broad exceptions) subsidised housing, is based on a proportional system – the so-called *Proporz* – according to the numerical size of the three linguistic groups historically present in South Tyrol: German, Italian and Ladin, as resulting from the latest census (Pallaoro and Colletti, 2013). The latest census, held in 2011, did not require the (EU

and non-EU) foreign nationals living in the Province to declare their belonging to or affiliation with a specific linguistic group. Clearly, however, even residents with a migrant background, when they become Italian citizens, are required to produce a declaration that they belong to or, alternatively, using a less invasive term, affiliate with one of the three linguistic groups traditionally present in South Tyrol. This has the potential to create identity problems for these ‘new citizens’, due to the fact that the system does not recognise multiple or composite identities, except to a limited extent.⁸

In terms of legislative powers in the field of immigration, according to the Italian Consolidated Act on Immigration (1998), the Italian State has jurisdiction over several migration-related aspects regarding such matters as the definition of quota-based immigration, entry requirements, residence, expulsion, citizenship, asylum and refugee status,⁹ as well as bilateral agreements for readmission to the country of origin. With regard to the quota system, in particular, the criteria and the number of migrants allowed into the country are established each year, according to the economic needs and demands expressed locally, but the State continues to have exclusive decision-making powers because the regions and autonomous provinces, including the Autonomous Province of Bozen/Bolzano, can only express non-binding opinions on these matters. Under Italian law, the competences are apportioned among the various tiers of government, with the regional and autonomous provincial governments being granted certain powers in crucial areas for migrants and for the management of their cultural, linguistic and/or religious diversity. In particular, they are responsible for planning and coordinating the policies and measures for achieving the social, cultural and economic inclusion of migrants in various fields, as well as with regard to health, education, housing, civic participation and anti-discrimination policies.

Among the above-mentioned fields, education is clearly a critical area for minorities (old and new), as an important tool for safeguarding and promoting culture and the individual and collective identity. Like many aspects of public life in South Tyrol, the educational system is organised along linguistic lines: teaching at school is in either German or Italian, but it is mandatory to learn the other language as well. In this system, migrants are free to choose whether to enrol their children in German or Italian language schools (Bauer and Medda-Windischer, 2008; Alber, 2012; Wisthaler, 2013).

As regards civic and political participation, some South Tyrol cities, such as Bozen/Bolzano and Meran/Merano – the capital of the Province and the second largest city by population, respectively – have set up immigrant councils for foreign citizens in their municipal parliaments. These bodies only have advisory powers and the municipal parliaments are under no obligation to consult them, not even with regard to issues specifically affecting migration and/or foreign nationals. They are therefore to all intents and purposes powerless and ineffectual, a sort of purely formal entity.

Despite the legislative competences enjoyed by the Province of Bozen/Bolzano in a number of areas that have a direct or indirect impact on integration, it failed to avail itself of them for a long time, as a result of which South Tyrol turned out to be one of the last Italian Regions/Provinces to adopt a specific law on migrants’ integration.

Only in the autumn of 2011 – with much controversy, due to the strong opposition of several political parties against any concessions on immigration, but also due to criticism by pro-migration organisations because of the lack of dialogue or a participatory approach in the formulation of the bill – was a bill on integration finally taken up by the Provincial Parliament and passed, after several sessions, under the title of ‘Law on the Integration of Foreign Citizens’ (Provincial Law on Integration, 2011).

The reluctance on the part of the Provincial Government and Parliament to approve a comprehensive law on the issue of immigration and integration in South Tyrol could be due not only to the presence, in the Provincial Parliament, of right-wing parties such as *Freiheitlichen*, *Süd-Tiroler Freiheit*, *Unitalia* and *Lega Nord* (the *Northern League*), which, like similar parties in other Italian regions or European countries, are generally opposed to immigration, but also to a specific feature of South Tyrol, the ‘mirror effect’,¹⁰ that is, the fear of opening up a Pandora’s box of all the unresolved divisive issues underlying the relationship between the main German- and Italian-speaking linguistic groups.

Finally, as mentioned above, in the autumn of 2011 the Provincial Law on Integration was adopted, providing legal grounds as well as operational guidelines for the Immigration Coordination Office, and also creating an Anti-Discrimination Centre (Provincial Law on Integration, 2011, art 5) and a Provincial Immigrant Council (Provincial Law 2011, art.6). In the Provincial Law ‘integration’ is understood as ‘a process of mutual exchange and dialogue’ (Provincial Law on Integration, 2011, art.6),¹¹ in line both with the European Council’s Hague Programme (European Council 2004), in which integration is defined as ‘a dynamic, two-way process of mutual accommodation by all immigrants and residents of EU countries’,¹² and with the Italian Consolidated Act on Immigration that defines integration as a ‘process aimed at promoting the cohabitation of national citizens and foreign nationals, in accordance with the values set out in the Constitution, with the mutual commitment to take part in the economic, social and cultural life of society’ (Consolidated Act on Immigration, art 4 bis).¹³ Furthermore, it should be highlighted that the Provincial Law on Integration includes, among the primary goals of the Province, ‘the mutual recognition and valorisation of cultural, religious and linguistic identities’ (Provincial Law on Integration, 2011, art 2).¹⁴

A few months after the Provincial Law on Integration was adopted, the Italian government filed an application with the Constitutional Court against several articles of the Provincial Law, concerning the assignment of competences and the introduction of criteria for entitlement to certain welfare benefits (President of the Council of Ministers, 2012). About a year later, the Constitutional Court upheld all the observations raised by the Italian government and declared the non-constitutional nature of the relevant provisions (Italian Constitutional Court, 2013). In particular, the Court found that certain requirements of the Provincial Law imposed only on non-EU foreign nationals for entitlement to certain economic benefits ‘violate the principles of reasonableness and equality’ under article 3 of the Italian Constitution; these requirements are, in more detail, at least five years of continuous residence on a stable basis in the Province of Bozen/Bolzano for entitlement to some specific welfare benefits, five years of continuous residence for entitlement to benefits relating to attendance of schools located outside the Province of Bozen/Bolzano and of university, and one year of continuous residence for entitlement to subsidies for learning foreign languages (Italian Constitutional Court, 2013, 3.2, 6.2, 7.2).¹⁵

In addition to the above, another example of the defensive approach adopted by the Province of Bozen/Bolzano towards third-country nationals, even if long-term residents, is the recent judgment by the European Court of Justice (ECJ) in the case of *Servet Kamberaj v Istituto per l’Edilizia sociale della Provincia Autonoma di Bolzano (IPES) and Others* regarding housing benefits (ECJ, 2012). The ECJ issued its ruling in 2012, in the wake of the recent decisions by the Constitutional Court on the subject of

welfare benefit restrictions applying to resident foreign nationals in various Italian regions (ECJ, 2012).

The ECJ judgment concerned the case of an Albanian national, Mr Kamberaj, resident in the Autonomous Province of Bolzano since 1994 and holder of a residence permit for an indefinite period, who had received the housing benefit in the period 1998–2008 (Provincial Law on Public Housing Benefits, 1998). The benefit is defined by the relevant provincial law as a contribution to the payment of rent for low-income tenants and is allocated to EU citizens – whether Italian or not – and third-country nationals or stateless persons, provided they have resided lawfully and continuously in the province for at least five years and – unlike in the case of Italian and EU applicants – have worked there for at least three years. The dispute concerning Mr Kamberaj arose following the decision, by the Provincial Government in 2009, to change the criteria and multipliers for determining the allocation of the funds for the housing benefit, according to whether the application was made by EU or third-country nationals, as a result of which the funds allocated for the latter group were used up before those for the former (Autonomous Province of Bolzano, 2009a).

With its judgment of 24 April 2012 (ECJ, 2012), the ECJ ruled that a national or regional law, which – with regard to the distribution of the funds allocated for housing benefits – provides for different treatment for third-country nationals, compared to that accorded to nationals residing in the same Member State, is in breach of EU law, in so far as such a benefit (i) falls within one of the categories requiring equal treatment, as laid down in Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents (EU, 2003) and (ii) constitutes a core benefit, within the meaning of the said Directive, with respect to which it is for the national court to decide.

According to the ECJ, a third-country national who has acquired the status of long-term resident in a Member State is in a comparable situation, regarding the housing benefit, to that of a citizen of the Union (whether Italian or not) with the same economic need. The ECJ observed that the effect of applying different multipliers is to disadvantage the category of third-country nationals, since the budget available to satisfy their demands for housing benefits is smaller than that for Union citizens (whether Italian or not) and thus likely to be used up more quickly than theirs (ECJ, 2012, 70–5).

The above-mentioned cases examined by the Constitutional Court and the European Court of Justice are emblematic for understanding the South Tyrol authorities' approach to the issue of immigration: several welfare benefits have in fact been extended under provincial law to include third-country (that is, non-EU) nationals, but only under certain conditions (at least one or five years of residence, unlike in the case of other applicants, whether Italian or EU citizens) or not at all. Regarding these issues, the national and EU Courts have laid down clear interpretation criteria: the benefits which 'enable individuals to meet their basic needs such as food, accommodation and health' (ECJ, 2012, 91), and which 'ensure a decent existence for all those who lack sufficient resources' (ECJ, 2012, 92), cannot reasonably be related to the length of residence of the applicant, in order to avoid 'further unreasonable discrimination' (Italian Constitutional Court, 2013, 3.2).¹⁶

In the light of the above, the approach that seems to emerge from the legislative measures approved by the South Tyrol authorities regarding the issues of immigration and integration cannot yet be defined as post-ethnic or intercultural. Although

other views, from very open to xenophobic approaches, are expressed in this field by various social and political actors in South Tyrol, such as the Green party and the *Freiheitlichen* (Carlá, 2015), the dominant approach of the South Tyrolean authorities is best represented by the main ruling party – the SVP – in power since the Second World War in coalition with the Italian party, PD (Democratic Party), with large percentage of votes though recently in slight decline (Carlá, 2016).

The currently dominant orientation of the South Tyrolean authorities can be described as defensive, an attitude that privileges assisting migrants in their countries of origin, as clearly stated in the political platform of the SVP (SVP, 1993, 5), and that allows migrants to enjoy certain services and benefits, but only on a conditional and limited basis, without eroding or impairing the welfare state in any way. Thus foreign nationals resident in the Province of Bolzano are to be kept at a suitable distance, despite the fact that they contribute, through their work, to the well-being of the province where they have chosen to live. Migrants are in fact an absolute necessity for the local economy, due to the ageing of the local population (ASTAT, 2015a) and the difficulties in finding low-skilled workers among local population especially in the hospitality and agricultural sectors (Autonomous Province of Bolzano, 2016).

This *defensive* approach to migration, evidenced by the foregoing Provincial Law and the restrictions imposed on foreign nationals with regard to certain welfare benefits, as publicly expressed by many parties in South Tyrol, cannot, however, be entirely attributed to the legitimate concern of protecting the German and Ladin linguistic minorities, but as mentioned previously, it is also the result of the more general growth of the far-right parties and their anti-immigration campaigns at national and local elections in many European countries and regions, including South Tyrol.¹⁷

The South Tyrolean authorities have clearly overcome the discovery phase of migration and now acknowledges the necessity of migration flows. Yet when addressing cultural identity issues and policies which go beyond the more practical and immediate needs of migrants, the approach becomes a rather defensive one, even bordering on exclusion: multiple or composite identities are accepted reluctantly and the same reluctance applies to the granting of equal treatment in the field of social and political rights as well as to the deployment of initiatives aimed at involving the communities of foreign nationals and migrants in decision-making processes.

Residence documents and language tests: towards greater openness?

Despite the rather timid and, at least until the adoption of the Provincial Law on Integration, half-hearted and unconvincing signals with regard to migration and inclusion, the actual track record with regard to migrants and their families is considered by various sources to be largely very positive. Recent surveys conducted in South Tyrol among foreign nationals from low-income countries show that they generally have good relations with the local communities, especially in terms of participation in social life, use of the Italian language (much more than German), widespread interest in local politics and the local media, and contacts with the autochthonous groups, especially the Italian-speaking group (Medda-Windischer et al, 2011; Lainati and Saltarelli, 2007).

These results have been confirmed by a number of nationwide studies carried out by the *Consiglio Nazionale dell'Economia e del Lavoro* (CNEL) (the National Council

for Economics and Labour) on the inclusion of migrants in various Italian provinces, according to which the Province of Bozen/Bolzano is at the forefront for integration in Italy today, based on a complex set of measurements and ratios that include suitable housing, employment, family reunification and crime rates (CNEL, 2010).

Several initiatives implemented by the South Tyrol authorities highlight that the province is moving towards a greater degree of openness as regards the cultural, language and religious diversity of migrants and their families. This new attitude was showcased in the last-term investiture speech by the former President of the Province of Bozen/Bolzano, Luis Durnwalder. The speech contains some useful indications on the issue of diversity and the meaning of integration policies: 'integration should not mean assimilation. Migrants will not, and should not, become Tyroleans. Everyone must keep and indeed cultivate their different identities, respecting others and observing the law' (Durnwalder, 2008).

This approach seems to have inspired certain provisions of the Provincial Law on Integration, in particular those specifically addressing diversity: 'The Autonomous Province of Bozen/Bolzano...fosters the mutual recognition and valorisation of the different cultural, religious and language identities, inspired by the principles of equality and religious freedom' (Provincial Law on Integration, 2011, art 2).¹⁸

Along the same lines is the Protocol of Understanding signed within the framework of the Euroregion Tyrol – South Tyrol – Trentino on cross-border collaboration, exchanging good practices and the implementation of common actions on intercultural policies, which however, by its very nature, is left to the discretion and good political will of the contracting parties (EVTZ/GECT, 2011).¹⁹

The most significant sign of change by the South Tyrol authorities, however, could emerge from an amendment introduced by the Provincial Government in the recent nationwide legislation on residence documents. This amendment provides for the inclusion, albeit limited to South Tyrol, of a non-mandatory German language test for obtaining a residence permit (Presidential Decree, 2011, arts 6(2) and 12(2); Medda-Windischer, 2013). Some foreign migrants may indeed prefer a German language test to the other credit-earning systems, particularly if they live or work in German-speaking areas, such as the hotel industry in the mountains (Autonomous Province of Bolzano, 2009b).

The request to introduce a German language test as an optional, additional element for obtaining a residence permit can be viewed in the broader context of the relationship (or smouldering tensions) between the nation-state – Italy – and the German language community, and hence the need to uphold a status or even a sense of linguistic pride.

Another interpretation of this amendment could be the justification underlying the amendment proposal, namely, the principle of language equality between Italian and German in the Province of Bozen/Bolzano. However, the formal equal status of the two languages does not automatically mean that foreign residents in the Province all speak both languages. According to a recent survey, only 15.1 per cent of all foreign interviewees from EU and non-EU countries declared that they were proficient in German, compared to 58.7 per cent who declared that they were proficient in Italian (Medda-Windischer et al, 2011, 77).

Furthermore, recent studies have identified the cause of a certain distance between foreign nationals and the members of the German-speaking community, precisely in this limited knowledge of German by foreign residents (Medda-Windischer et al,

2011). It emerges from these studies, in fact, that the principal factor hindering the creation of contacts between foreign nationals and the German-speaking community in South Tyrol is primarily failure to understand the language. This is also indicated by foreign nationals who have been living in South Tyrol for a relatively long period of time (Medda-Windischer et al, 2011, 61). On the other hand, with regard to contacts between foreign nationals and members of the Italian-speaking community, language does not pose any particular problem. The causes for the lack of contact between these groups are, first and foremost, the lack of opportunities for mixing, and second, different habits, especially in terms of leisure activities (Medda-Windischer et al, 2011). Moreover, from answers to the question about the level of identification of foreign nationals with the historical ethno-linguistic groups of South Tyrol, it is interesting to note that over half the interviewees feel closer to the Italian language group (53.9 per cent), while only 11.4 per cent tend to identify primarily with the German language group (Medda-Windischer et al, 2011). This trend has also been confirmed by interviewees living in areas with a German language majority, most of whom feel closer to the Italian language group (Medda-Windischer et al, 2011, 66).

It is therefore evident that this proximity between the foreign residents in South Tyrol and the Italian-speaking community, with regard to knowledge of the language and sense of identification, could be an unexpected factor in the relationship between the historical linguistic groups in South Tyrol. This concern was well expressed by the Secretary of the SVP, Richard Theiner, when he declared: 'Let's not leave migrants to the Italians' (Alto Adige, 2010).

From this point of view, although inclusion of German alongside the mandatory Italian language test is not the result of a genuinely open and sincere dialogue between the *old* groups and the *new* communities living in South Tyrol, it may nevertheless represent a first (timid) step in the direction of bringing these groups closer and narrowing the current gap between migrants and the linguistic groups historically present in South Tyrol (the old minorities), as a foundation on which to build social peace and cohesion.

Conclusions: the way forward

The relationship between the traditional historical communities – old minorities – and those originating from migration – new minorities – can be very complex and hampered by tension (Medda-Windischer, 2009; Medda-Windischer, 2011). Large-scale immigration has typically been seen as a threat to historical minorities because migrants have often shown a tendency to integrate into the dominant culture, which usually offers greater opportunities for social mobility and economic improvement. When migrants settle in a territory that is traditionally inhabited by historical minorities and integrate into the larger group at the national level, sometimes encouraged by the central government, the national minority may fear being gradually outnumbered and therefore to become powerless in political life.

Nevertheless, the old and new minorities do not necessarily inherently find themselves in a state of permanent conflict, as many might think. There are numerous historical minorities, in fact, that are in favour of the arrival of migrants and allow them to maintain and express their identity, while at the same time encouraging forms of inclusion into the traditional historical minority. An emblematic example in this respect is Quebec, which has in fact adopted a proactive policy towards immigration,

in conjunction with some strong measures aimed at protecting and promoting the francophone community (Kymlicka, 2001).

In the case of South Tyrol the policies and measures that should be introduced to open up the system towards a more inclusive framework on migration and integration include, on one hand, further extension of competences regarding integration and migration planning, to the extent that the latter is allowed by the system of the division of competences between the central and the regional/provincial governments. On the other, they include a serious struggle against stereotypes and use of foreigners and migrants as scapegoats, bringing the latter closer to the historical communities of South Tyrol, especially the German-speaking community, through linguistic policies and intercultural exchange (Medda-Windischer and Carlá, 2013).²⁰

Regarding the provincial decentralisation of new competences in the fields of integration and migration planning, in particular through effective participatory methods, binding for decision-making processes, this would enable harmonisation of national migration control policies with the linguistic, cultural and institutional peculiarities of South Tyrol, ensuring at the same time that extension of these competences does not lead to the introduction of harsher criteria than those established at the national level (Medda-Windischer and Carlá, 2013). It is quite clear that even the mere opening of negotiations on this matter would be a difficult endeavour, as shown by the recent ruling of the Constitutional Court against the Province of Bozen/Bolzano, examined in the foregoing pages, in which the exclusive competence of the State in planning migration quotas was further re-iterated.

With reference to the relations between migrants and the historical linguistic groups of South Tyrol, further incentives should be foreseen for learning and using the local languages, German in particular, also through campaigns to help people better understand the advantages this entails, especially in terms of social mobility and earning capacity. Moreover, policies for promoting the learning of languages should provide for adequate measures aimed at transforming the local languages into a 'real-life experience' (that is, the 'languages of everyday life') (Medda-Windischer and Carlá, 2013).

The above measures would be however insufficient per se unless accompanied by initiatives focusing on how the majority population perceives migrants, on the issue of multiple and composite identities and on the sense of belonging to South Tyrol society. Actions and campaigns aimed at the entire population are needed to raise awareness about the issue of immigration, underlining the positive role and contribution of migrants and persons with a migration background as an integral part of society, and not as 'foreign competitors' who subtract local resources and are a burden for society. Everybody should come to perceive the need to respect and valorise diversity as a source of enrichment for the community as a whole (Medda-Windischer and Carlá, 2013).

Despite the 'legal institutionalisation of ethnicity' (Marko, 2008, 386), through what Marko defines as the 'ethnic Midas effect' (Marko, 2008, 388) – according to which the legal recognition of ethnicity cements ethnic separation in the public sphere, but also spreads out and penetrates certain aspects of the private sphere – as well as the defensive approach seen above towards diversity originating from immigration, in South Tyrol 'there is ongoing change in attitudes and basic values of civil society that sees ethnic difference not only as a separate asset worthy of protection but cultural diversity as 'mutual enrichment' and as 'added value' and competitive advantage in

an emerging European market of regions' (Marko, 2008, 387–8).²¹ A number of sociological studies (albeit not recent), also indicate how the 'ethnic gap' is narrowing in South Tyrol, gradually being replaced by a common identification with the territory shared by the different groups, especially among the younger and middle generations (Marko, 2008, 387–8).²²

This common territorial identification in South Tyrol may be nurtured by a common moral and emotional identification with a specific area, sharing key constituent principles and a collective concept of self: in the mainstream communities, this concept of identification could be stretched to include new minorities originating from migration. In a nation organised as a social community, whose members consider themselves a *nation* (Renan's 'daily plebiscite') (Renan, 1882), there is no need for a shared language or religion, nor indeed are they sufficient; it is the sentiment of the members of a nation that define it as such, and this sentiment can only spring from one or all of these traits, or from something totally different, such as a common territory. In other words, the consciousness of belonging to a common territory and a common political organisation, and sharing a common destiny with the rest of the society, is at the core of the common territorial identity, instead of culture or other criteria based on descent.

Common territorial identification, like that adopted in Quebec or Catalonia (Medda-Windischer and Carlá, 2015), could bring together and unite all those who live in South Tyrol, regardless of their language and/or ethnic background, and represents a form of post-ethnic minority pro-sovereignty, in which the nation is viewed as the result of progressive creation by the groups, through forms of free and spontaneous union, which entail voluntary acceptance of common principles, a common sense of belonging, loyalty to one's adopted community and concomitant feelings of mutual trust among the individuals who belong to this political organisation and live in the same territory. This approach is reflected in the (former) President of South Tyrol Luis Durnwalder's speech encouraging 'a tolerant society, but which does not make the mistake of confusing tolerance with giving up one's identity' and concluding: '...in short, we must become a single society' (Durnwalder, 2010).²³

The current process to reform the Autonomy Statute of the Province of Bozen/Bolzano (Provincial Law on Autonomy Convention, 2015), called for by many parties as a necessary passage for adapting this important legal instrument to present and future challenges (Palermo, 2012; SVP, 2011), is an opportunity to introduce an interlocutor who can no longer be ignored into the political and public debate, namely the 'new citizens' of South Tyrol, foreign citizens and citizens with migration background. These individuals may not yet have 'historical' ties with the territory, but have nonetheless chosen South Tyrol as the centre of their existence, or as in the case of the second or third generations, were born and grew up there and consequently see themselves as part of it. South Tyrol politics and society must necessarily open up a dialogue with them to bridge the gap and modify the defensive approach, otherwise this could eventually lead to a sense of alienation and disaffection not conducive to social cohesion: social cohesion that through openness to dialogue and mutual settlement, with many difficulties and not always in a straightforward manner, South Tyrolean society has managed to maintain between the historical linguistic groups, despite their cultural differences and divisive history.

Fair management of migration and cohabitation of culturally different groups, together with debate on identity and sense of belonging, are challenging and intricate

matters, especially in territories inhabited by historical-traditional minorities, like South Tyrol. As seen above, the relation between historical groups and new minority groups originating from migration is complex, sparking various normative and empirical questions.

The analysis of the South Tyrol case confirms that it is not possible to speak of a fixed and monolithic approach of old minorities to migration. Just as there are differences between and within nation-states (between 'migrant-friendly' and 'migrant-hostile' countries and between national parties promoting inclusive policies and those sustaining restrictive measures), old minorities are differentiated between and within themselves. Nor is it possible to analyse the issue as a two-actor game between old and new minorities: the game interacts with relations between old minority and central state, especially with regard to issues of political competence on migration matters; it also interacts with the central state's approach to migration.

Increasing interactions and overlap between the needs and concerns of old and new minorities, and between policies to include the migrant population and to protect old communities, have been central themes of this contribution. Understanding how old minorities deal with the arrival of new migrant communities offers key insights for building a genuinely inclusive society respectful of diversity, where cultural differences and people's cultural background are valorised and not seen as challenging social stability.

The ultimate aim in contemporary societies, whether inhabited or not by old and new minorities, where superdiversity is the norm rather than the exception, is to create a plural and tolerant society in which different communities interact with each other in a spirit of equality and openness. The process, however, is onerous for all parties involved. New minorities and individuals with migration backgrounds must learn to negotiate, often in an unfamiliar or even hostile environment, where minority status makes them vulnerable to marginalisation and segregation. Old minorities, having negotiated protection of their cultural and linguistic characteristics with the central state and the majority, must now cope with enhanced diversity in their schools, workplaces, housing, public spaces and neighbourhoods, displaying tolerance and broadmindedness. This is not easy to achieve and has its own problems: some groups may not be open and experimental and others may jealously guard their inherited identities. In the end, sincere willingness for continuous interaction, mutual adjustment and accommodation on all sides lies at the heart of any successful model.

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Notes

¹ In this contribution, the terms 'old minorities' or 'traditional-historical minorities' are used to refer to communities whose members have a language, culture and/or religion distinct from that of the rest of the population, and who became minorities as a consequence of a re-drawing of international borders in which their area changed from the sovereignty of one country to another or who for various reasons did not achieve statehood of their own but came to be part of a larger country or several countries (Medda-Windischer, 2010; Harff and Gurr, 2004).

² With the term ‘new minorities’ we refer to groups formed by the decision of individuals and families to leave their original homeland and emigrate to another country, generally for economic and sometimes also for political reasons. Thus they consist of migrants and refugees and their descendants who live, on a more than transitional basis, in a country different from that of their origin (Medda-Windischer, 2010).

³ For a detailed account of the theoretical concepts related to old, established, traditional groups and new minorities originating from most recent migration, see Medda-Windischer, 2009.

⁴ Extending competence over migration to old minorities so that they can maintain their identity raises the vexing but still unresolved question of whether minority rights have a collective or individual dimension. For the former, the minority group itself is the beneficiary of the protection to be afforded, while for the latter, the beneficiary is individual members of the group. A third position uses the formula of individual rights ‘collectively exercised’ and represents a *via media* between the rights of individuals and full collective rights. In the current debate on the individual or collective dimension of minority rights, a pragmatic position holds that as human experience is such that human beings possess both individual and social dimensions, there is no dichotomy between individual or collective dimension and therefore no need to choose. As Marko puts it: ‘These two forms of rights not only can, but even must be used cumulatively when organising equality on the basis of difference’ (Marko, 1997, 87). Ultimately, the real issue is whether the groups that human beings form are free and whether members of those groups are able to live in dignity, including with regard to maintenance and development of their identity.

⁵ The most studied cases are Quebec, Belgium and its territorial entities, Catalonia and Basque Countries in Spain and Scotland.

⁶ Translation of the quote from German by the author.

⁷ The competences of the Region Trentino–Alto Adige/Südtirol are very limited: the exclusive competence of the Region is exerted only in three out of 58 subject areas as most competences are assigned to either the Provinces of Bolzano/Bozen and Trento, or the Italian central state. Due to the limited competences assigned to the Trentino–Alto Adige/Südtirol region, its abrogation and the consequent upgrading of the Autonomous Provinces of Bolzano/Bozen and of Trento into autonomous regions is regularly discussed at the political level (Alber and Zwilling, 2014).

⁸ The system includes the possibility of selecting ‘other’, but only for statistical purposes. To exercise the rights and interests that the law associates with the fact of belonging to a group (for example, taking part in public competitions, applying for welfare benefits), affiliation with one of the three recognised groups is *compulsory*.

⁹ As of asylum and refugee status, the competences of the EU member states are guided by general principles enshrined in various EU legal instruments, such as the Directive 2013/32/EU of 26 June 2013 on common procedures for granting and withdrawing integrational protection and the Dublin Regulation III 604/2013 of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection.

¹⁰ It is acknowledged that the response of a society to immigration is intimately linked to its conception of itself (Carens, 1995).

¹¹ Translation by author.

¹² The European Council also proposes a series of common basic principles (CBP) for integration, including the fundamental values of the EU, fundamental human rights, frequent interaction and dialogue between members of society, non-discrimination policies (European Council, 2005, 1.5).

¹³ Translation by author.

¹⁴ Author's translation.

¹⁵ Author's translation.

¹⁶ Author's translation.

¹⁷ Among the many examples, see the recent electoral results for the European Parliament obtained in France and the UK.

¹⁸ Author's translation.

¹⁹ This agreement is the result of the network activities conducted in the framework of the Interreg Italy/Austria-funded Migralp project led by Eurac, www.eurac.edu/en/research/autonomies/minrig/projects/Pages/projectdetails.aspx?pid=6355.

²⁰ This work, elaborated by Eurac, in collaboration with NGOs, social workers and decision makers, contains a series of recommendations for improving the cohabitation of the different groups present in South Tyrol, focusing in particular on communities resulting from international migratory movements.

²¹ Note that the Treaty of Lisbon includes an 'additional' citizenship instead of the 'complementary' citizenship of the Maastricht Treaty (art 8). An additional citizenship is a true dual citizenship so that EU citizens will be both national and EU citizens.

²² Marko quotes a study by S Böckler, *What can we learn from others? The case of South Tyrol*, unpublished paper, 2000; see also *Manifesto Alto Adige 2019* written by intellectuals from the various groups historically present in South Tyrol to overcome barriers between the three linguistic groups, <http://manifesto2019.wordpress.com/manifesto>

²³ Author's translation.

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