

Transposition of EU Legislation in Italy

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Abstract The aim of this paper is to provide an overview of the process of Europeanization on the national level. As a consequence of the governmental reforms (2005–2006) in Italy, the Europeanization process has taken shape. In this framework the impact of the institutional system and the decision-making processes within European Integration can be justified beyond doubt in the national and sub-national institutions of the Italian political system. The case of Italy shows that the integration had unambiguous effects on the national, regional, and local levels of decision-making, on coordination and governmental structures, actors, tasks, authorities, and competences, in accordance with the principles of multilevel governance. Both the increasingly frequent problems of the economic structure and the decrease in confidence in the Union and its institutions have recently brought the EU-coordination's deficiencies to the surface and have strengthened the need for reforms.

Keywords European Union, Italy, Europeanization process, legislation

Introduction

For many years Italy had a problem implementing EU directives in time. Until 1993, the Italian governments changed often because of the proportional election system and the exaggerated authority and weight of Parliament.¹ In many cases the short-time governmental work has not made it possible for the Italian foreign policy to play an important role – as German or French policies do – in the preparation of the integration's decisions and in the planning stages of the community legislation process. In 1990 Pier Luigi Romita, Minister for European Policies, declared that so far the legislation of the European Communities could come to existence in such a way that Italy had not really taken part in the preparatory phases.² Thereafter, the

¹ See more: Pankovits József: *Az olasz politikai pártok válaszüjtja a 20. század végén*. Budapest: Napvilág Kiadó, 1998.

² Resoconto stenografico 753, X Legislatura – discussioni – Seduta de 24 gennaio 1992. http://legislature.camera.it/dati/leg10/lavori/stenografici/sed0753/sed_0753.pdf pp.

country continued to contribute to the preparation of the community law with varying intensity.³

Both the increasingly problems of the economic structure and the reduction of confidence⁴ in the Union and its institutions have brought the EU-coordination's deficiencies to the surface and have strengthened the need for reforms. In spite of the institutional reforms of the last one and a half decades and the expanding role of the European Parliament and the European Commission, it is still the governments (i.e. the diplomats) who play the decisive role in the EU's decision-making system. However, the increasing role and quantity of EU law requires the member-states to rationalize the system of relations with EU institutions, and let the representatives of various special ministries and local and medium level administrative units participate actively and effectively in the preparation of the integration's decision-making processes. It was the governmental reform of 1999 that set this goal for Italy's EU policy. The new government-level sharing of the functions and authorities aimed to strengthen the role of the Prime Minister's Office in the field of the highest level EU-coordination. A further objective of the 1999 reform was to increase the coordinative role of the Prime Minister's Office both in the initial phase (*fase ascendente*) of EU legislation and in the phase of the application of EU legislation on the level of member states (*fase discendente*).

Since there is no EU regulation on the mode or process of managing EU affairs, the institutional structure and the local regulation of the management of EU issues have developed in entirely different ways in different member-states. In spite of this, concurrently with the deepening of the integration, a certain uniformity has appeared among member-states in the field of coordination procedures and the institutions involved in this process (Europeanisation). The continuous changes of the European institutions and the decision-making processes indisputably have a significant bearing on the governmental and local administrative institutions of the member states and demand the application of a more effective coordination model of joining the EU legislation process.⁵

In the course of Europeanization on the member state-level, several factors have gained influence on the role of national governments; these originate from two general sources: the multitude of the EU institutions and procedures, and the complexity and diffuseness of the actions. More concretely, such factors can be (a) the participation in the numerous works groups and committees of the Council and the European Commission, (b) the cumbersome manner or, in many cases, the total lack of

94416-94421. Federiga Bindi–Stefano B. Grassi: *The Parliament of Italy. It Would Be Active Player?* (kézirat). 2006. p. 2.

³ The paper was written in the framework of the Hungarian Academy of Sciences, János Bolyai research foundation..

⁴ Bruno Dente: „Riforme e controriforme amministrative”. *Il Mulino*, Vol. 37. No. 6. (2001) p. 1052.

⁵ See more: Vivien Schmidt: „Europeanization and the Mechanics of Economic Policy Adjustments”. *European Integration online Papers (EIoP)*, Vol. 5. No. 6. (2001), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=302780; Claudio M. Radaelli: „Europeanization: Solution or Problem?”. *European Integration online Papers (EIoP)*, Vol. 8. No. 16. (2004), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=601163; Uő: „Whither Europeanization? Concept Stretching and Substantive Change”. *European Integration online Papers (EIoP)*, Vol 4. No. 8. (2000), <http://eiop.or.at/eiop/texte/2000-008.htm>; Csaba László: *The New Political Economy of Emerging Europe*. Budapest: Akadémiai Kiadó, 2005. p. 41.

control of the meetings, (c) the weakness or shortage of coordination channels on the national level, (d) the dependence on lobbying, relation and coalition-building, (e) the effect of the EU's enlargement, (f) the ever-changing structure of EU activities, (g) the increasingly required special skills and competences, and, finally, (h) the contradiction between authorities among the various EU institutions.

The factors of Europeanization enumerated above and the tendency for a growing number of governmental institutions to be involved in proactive coordination have caused similar tendencies in different member states, such as increasing the importance of prime ministers in the field of EU-coordination.⁶ In this process the Ministries of Foreign Affairs also have a central role, as they are in direct contact with EU institutions through permanent representations, and they continue to have a determining part in the flow of information. There is an observable vertical adaptation process by particular special ministries in the EU's member states. In order to realize a more effective coordination and representation of interests, a smaller ministry has been founded in most member states for dealing with EU affairs. Owing to these processes, the importance of the executive power has increased in the executive and legislative processes. Besides all these, in many EU member states, due to decentralization processes, the sub-national institutions – to varying degrees in each member state – also join in the coordination of EU affairs on the national level. As the democratic deficit that used to be characteristic of the EU decision-making processes has decreased, the control and influence of the national parliaments in the process has increased. Another important part of the process is the more and more active participation at regional and local levels in the decision-making mechanisms.⁷

The connection between the governmental authorities and the Institutions of the European Union

In Italy, participation in the EU legislation and decision making processes works primarily through three governmental authorities (the Ministry of Foreign Affairs,⁸ the Permanent Representation of the Italian Republic at the European Union,⁹ and the Minister without Portfolio for European Policies¹⁰). Besides these three primary governmental authorities, individual special ministries also maintain direct connections with EU institutions. Beyond that, since 1967, there has been an inter-ministerial committee for economic planning on the national level working in the institutional framework of the Ministry of Economics and the Ministry of Finance (*Comitato Inter-ministeriale per la Programmazione Economica – CIPE*)¹¹, one of

⁶ Vincent Wright: „The national coordination of European Policy making. Negotiating the quagmire”. In Jeremy Richardson (szerk.): *European Union. Power and Policy-Making*. London: Routledge, 1996. p. 154.

⁷ Annamaria Poggi: „Le Autonomie funzionali”. In: Toti Musumeci et al. (szerk.): *Secondo rapporto di sintesi: Le Autonomie funzionali*. Regione Piemonte: Osservatorio sulla riforma amministrativa, January 2007 P. 11. http://www.regione.piemonte.it/oss_riforma/dwd/progetti/2_rapporto.pdf.

⁸ Ministero degli Affari Esteri. <http://www.esteri.it/MAE/IT>.

⁹ Rappresentanza Permanente d'Italia presso l'Unione Europea. www.italiaue.org.

¹⁰ Dipartimento Politiche Comunitarie. www.politichecomunitarie.it.

¹¹ Comitato Inter-ministeriale per la Programmazione Economica. www.cipecomi-tato.it.

whose subcommittee is responsible for harmonizing national economic policies and community policies; it deals with issues of integration as well. The committee's task, as defined by the government, is to outline general guidelines for economic and financial policies for the preparation of major documents of planning and to elaborate guidelines for different sector-specific policies. In this way they ensure the consolidation of goals for economic development and employment, especially in disadvantaged regions facing economic problems, and harmonize national policies with community policies. CIPE approves the investment plans and programmes, determining the method for financing their execution. In spite of the fact that Italy was a founding member of the EU, it was only very late, in 2006, that an inter-ministerial committee for coordinating EU affairs was established.

Ministry of Foreign Affairs

Among Italian governmental authorities, the Ministry of Foreign Affairs was the first one to join the decision making process of the integration through its activity in the General Affairs Council of the EU, and its role has remained decisive. Until 1999 foreign policy and decision-making regarding integration were not divided strikingly. However, in 1999, learning from the example of the ineffective representation capacity of national interests on the governmental level, the government decided to redesign the allocation of tasks and authorities between government organs.¹² Until then it was, among the thematic directorate-generals, only the Directorate-General for Political Issues and the Directorate-General for Economic Issues that played leading parts. The task of the latter was to forward information from the European Committee to other ministries, to the Parliament, to the regions, and to other concerned organizations. However, this information flow was frequently rather slow or simply stopped. For example, the Italian Parliament has received proper information about EU legislation only since 2000.¹³ The present structure of the ministry was shaped in 1999, after the governmental reform concerning the Ministry of Foreign Affairs.¹⁴ At that time the directorate-general for maintaining bilateral relations with EU countries (DG for Europe) was separated from the Directorate-general for European Integration (*Direzione Generale per L'integrazione Europea*).

“With the exclusion of the responsibilities of the Prime Minister and any responsibilities s/he may have delegated to the Minister for EU Policies, the Directorate General for European Integration handles European integration ac-

¹² Decreto Legislativo 30 luglio 1999, n. 300. Riforma dell'organizzazione del Go-verno, a norma dell'articolo 11 della legge 15 marzo 1997, n. 59. in: *Gazzetta Ufficiale* n. 203 del 30 agosto 1999 – Supplemento Ordinario n. 163. <http://www.parlamento.it/leggi/deleghe/99300dl.htm>

¹³ „Il parlamento italiano e l'Ue: una relazione a geometria variabile”. In: Italia e Germania in Europa. Stuttgart: Universtaet Stuttgart/IZKT, 2007.

¹⁴ Decreto Legislativo 30 luglio 1999, n.300, “Riforma dell'organizzazione del Governo, a norma dell'articolo 11 della L. 15 marzo 1997, n.59”, articoli 12 e 13, <http://www.esteri.it/MAE/normative/dlegge30.7.99.pdf>. Decreto del Presidente della Repubblica 11 maggio 1999, n.267, “Regolamento recante norme per l'individuazione degli uffici di livello dirigenziale generale, nonché delle relative funzioni, dell'Amministrazione centrale del Ministero degli affari esteri”, <http://www.esteri.it/MAE/normative/dpr11.05.99n.267.pdf>.

tivities involving claims and negotiating processes regarding the treaties of the European Union, the European Community and EURATOM. In matters concerning European integration it leads on issues falling within the sectors of activity of the other Directorates. In particular it handles the following:

1. promotion of the formulation of Italian positions in the institutions and bodies of the European Union, and attending to relations with the European Commission and the other institutions of the European Union;
2. negotiations on questions regarding the European integration process
3. collaborating with the Diplomatic Institute and the bodies competent in the training of public officials in EU matters.”¹⁵

One of the important tasks of the DG for European Integration created in 2000 was to forward the information arriving from the permanent representation of Italy working in Brussels and from the European Committee to the other organisations of the Italian government and public administration. In addition, it ensured suitable representation for Italy in EU institutions and its participation in different negotiations. Its task is also to forward proposed amendments and proposals of EU legislation, and, since 1999, contribute, in agreement with the Prime Minister’s Office (minister without portfolio for European policies), to the unified representation of the Italian positions in EU institutions. The Italian Foreign Minister’s task is mainly to lead negotiations about issues related to the Common Foreign and Security Policy, to the EU’s political and economical relations, and to the negotiations of EU treaties.

The Directorate-General for European Integration is responsible primarily for the coordination of so-called “second” and “third pillar” matters, and, to a limited degree, for coordinating first pillar issues. Since the tasks and authorities of the Minister without Portfolio for the European Policies have significantly widened, the tasks of the Ministry of Foreign Affairs have been mainly these: to arrange negotiations in connection with the integration process, to facilitate in EU institutions the drafting of Italian positions, and to maintain relations with EU institutions.¹⁶

Permanent Representation of the Italian Republic at the European Union’s Institutions

One of the important tasks of the member-states’ permanent representations in Brussels is to provide a flow of information, namely, documents and information connected to issue of integration, and to forward them to foreign ministries and to the specialized ministries concerned. Furthermore, the permanent representation has to provide technical assistance to diplomats arriving from their homeland for negotiation. However, in the case of Italy it has happened quite often that the permanent representation in Brussels becomes not only the venue of the negotiations but also the location where official Italian positions are formed, mainly for the reason that the decision-making institutional structure in the homeland proves insufficient to formulate the positions.

¹⁵ Directorate General for European Integration <http://www.esteri.it/MAE/EN/Ministero/Struttura/DGIntegrazioneEuropea/>

¹⁶ Direzione Generale per l’Integrazione Europea, <http://www.esteri.it/MAE/IT/Ministero/Struttura/DGIntegrazioneEuropea/>.

The Permanent Representation of the Italian Republic at the European Union's institutions has a significant role in maintaining relations with community institutions, since this is the organization that represents the Italian government in various situations and expresses its positions in certain matters. It is in the process of EU legislation that the permanent representation plays an outstanding part. The permanent representations of the member states delegate participants to the so-called working groups and to the COREPER. The position of the individual member states appears for the first time in these institutions. At the lowest level, these institutions are the places where member states try to find compromises in controversial matters on the basis of the Commission's proposals. It is after this that the proposals get to the Commission. In order to prepare decisions regarding EU integration, the individual Italian ministries send specialized experts to the permanent representation that are responsible for certain fields. The permanent representation is in close connection with all of the community institutions.

The Minister without Portfolio for the European Policies

The department of the Minister without Portfolio for European Policies was legally founded in 1987, but it has only really worked since 1990. The establishment of a separate official structure has served several purposes: firstly, to facilitate the harmonization of national law with the EU system and the realization of a single internal market, secondly, to establish more efficient relations with community institutions, and thirdly, to control the national implementation of EU legislation and the use of the resources from EU funds. In order to fulfil these specialized tasks as effectively as possible, the government, with the participation of representatives from the ministries of industry, finances, and community politics, founded an inter-ministerial committee for coordinating matters concerning community funds. Since this solution did not prove to be efficient either, the authority was transferred to the Ministry of Economy (CIPE).

The new minister's task was to coordinate activities connected with European Communities. The post of the Minister without Portfolio for European Policies was maintained by all successive governments through 1994. However, in 1995 the Dini government eliminated this position and delegated its authority to the under-secretary of the Ministry of Finance and Economic. In 1996, in the regime of the Prodi government, the tasks were completed partly by the under-secretary of the Prime Minister's Office and partly by the under-secretary responsible for European affairs. In 1998, during the D'Alema government, the position of the Minister without Portfolio for the European Policies was re-established.¹⁷

Since the Prime Minister is primarily responsible for the realization of EU-policies on the national level, the Minister without Portfolio belonging to the Prime Minister's Office has a coordinative role, primarily in the field of realization and preparation of first-pillar issues, except those delegated to the Ministry of Foreign

¹⁷ Federiga Bindi: *The Managing of EU Policy-Making in National Governments. A Comparative Analysis of Italy and Portugal*. WG Europeanization and National Political Institutions, ECPR, March 2002, Turin.

Affairs.¹⁸ However, his authority has widened gradually in the reforms of the last years.

Since 1990, the department of the Minister without Portfolio for community policies has mainly played a preparatory role in the field of legal harmonization and implementation, as, in the interests of transposing community law to the national level, the government has drafted its bills to the Parliament based on this department's proposals.

In accordance with the *La Pergola* Bill in 1989, every year, before 31 March, the Minister without Portfolio for European Policies presents to the Parliament a list of the EU directives that require national-level regulation from the previous year (the so-called "community bill").¹⁹

One of the reasons for the deficiencies in coordination concerning integration issues was that neither the Ministry of Foreign Affairs nor the special ministries interested in EU matters accepted that a minor minister, namely the Minister without Portfolio for the European Policies, should carry out the coordination. Nevertheless, until as late as 2006, no single body had been established to be responsible exclusively for the coordination of EU matters, composed of the ministers and director-generals for integration affairs of the specialized ministries – (an inter-ministerial committee, like in France or Portugal). In Italy, coordination took place for a long time among the ministers in the cabinet; however, the frequent exchange of ministers did not prove suitable for maintaining the continuity of conciliation and preparation of decisions concerning integration matters.

By the turn of the millennium, reform of the Italian coordination structure had become inevitable. In 2002, in order to create more efficient coordination of the department of the Minister without Portfolio for the European Policies, the Observatory (*Osservatorio per il monitoraggio comparativo dell'attuazione delle direttive comunitarie in Italia*) was established with the task of implementing a comparative evaluation of the transposition of community directives in Italy. The Observatory carried out comparative research about the internal law introduced in other member states as a consequence of community directives, and on this basis made proposals to the Italian organizations taking part in the national legislation and administrative process.

In 2006 the internal structure of the department changed significantly.²⁰ However, the most important change was the establishment of the Secretariat General of the Inter-ministerial Committee on European Community Issues (*Comitato interministeriale per gli affari comunitari europei* – CIACE). This major department was established in order to prepare and coordinate the work of the Inter-governmental Committee and the Permanent Technical Committee. This organization, in agreement with the Ministry of Foreign Affairs, ensures coordination among the participants in

¹⁸ Norme generali sulla partecipazione dell'Italia al processo normativo comunitario e sulle procedure di esecuzione degli obblighi comunitari, Legge 9 marzo 1989, n.86. in: *Gazzetta Ufficiale* del 10 marzo 1989, n.58. <http://www.filodiritto.com/diritto/pubblico/costituzionale/leggecomunitaria86del1989.htm> (Legge La Pergola).

¹⁹ Federiga Bindi: *The Managing...*, ibid p. 17.

²⁰ Decreto organizzazione, Organizzazione interna del Dipartimento per il coordinamento delle politiche comunitarie della Presidenza del Consiglio dei Ministri. in: *Gazzetta Ufficiale* n. 298 del 23 dicembre 2006. <http://www.politichecomunitarie.it/dipartimento/?c=decreto-organizzazione>

the preparation phase of community law so that the Italian position can be elaborated and represented in the EU institutions. During this process the Secretariat's task is to follow the steps of the EU decision-making process with special attention to the given question, to coordinate the activities of the community sections of both the Conference of the State and the Regions and the State-Cities and Local Autonomies Conference, to ensure the monitoring and facilitate the execution of the National Reform Plan (*Piano Nazionale Riforma*), and to coordinate the activities in order to realize the Lisbon Strategy. This organization also ensures that, in accordance with the bill of 4 February 2005, the required EU materials are received by Parliament, the Conference of the Presidents of the Councils, the Assemblies of Regions and Autonomous Provinces of Trento, the State-Cities and Local Autonomies Conference, and the National Council of Economy and Labour (*Consiglio Nazionale dell'Economia e del Lavoro – CNEL*)

Inter-ministerial Committee on European Community Affairs

A significant change was brought about in the management of European affairs as a consequence of the Bill of February 4th 2005²¹ that regulated Italy's participation in the EU legislation process and the execution of the obligations arising from the EU membership. The bill determined the process of the elaboration of the Italian position to be represented during the preparation of EU law and guaranteed the execution of the obligations following the principles of subsidiarity, proportionality, efficiency, transparency, and democratic participation. The second article of the bill prescribed the establishment of the Inter-ministerial Committee on European Community Affairs (*Comitato inter-ministeriale per gli affari comunitari europei*).

On the basis of the bill of 4 February 2005, a ministerial decree was issued (9 January 2006) to regulate the activities of the Inter-ministerial Committee on European Community Affairs. The committee was established within the Ministry of Foreign Affairs primarily to harmonize the political position of the current Italian government and to create the position that would be represented from then on in the preparation phase of EU and community law. The main role of the committee was to examine and coordinate the guidelines provided by the public administration and other concerned organizations and to consider the observations of the Parliament and the parliamentary organizations and the documents accepted by them, as well as the observations of regions and autonomous provinces and other territorial entities (1st article).

The second article of the decree authorized the inter-ministerial committee to form an opinion in the European Union's Council of Ministers, and to ask for parliamentary examination in problematic (and, for the country, important) questions. This guaranteed that the reflection of the observations and opinions elaborated by certain state and self-governmental institutions from the Italian position was referred to the authority of the Committee.

The president of the inter-ministerial committee is the Prime Minister or the Minister for European Policies. The president sets the items of the agenda to be

²¹ Norme generali sulla partecipazione dell'Italia al processo normativo dell'Unione europea e sulle procedure di esecuzione degli obblighi comunitari. Legge 4 febbraio 2005, n.11. in: Gazzetta Ufficiale, n. 37. del 15. febbraio 2005. <http://www.politi.checomunitarie.it/dipartimento/7183>

received by the concerned ministries, the state, and the Permanent Conference for Relations of the State and the Regions and Autonomous Provinces of Trento and Bolzano (Conference of the State and the Regions). When the issue is about questions concerning the regions and the autonomous provinces, their representative (the president of the Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano) may also attend the session. For finalizing the uniform Italian position to be represented in EU institutions, the Prime Minister's Office and the Ministry of Foreign Affairs also receive the guidelines and decisions brought in the sessions of the inter-ministerial committee.

To assist in the preparation and coordination of the inter-ministerial committee's work, a so-called "Permanent Technical Committee" was established (*comitato tecnico permanente*) within the department of the Minister without Portfolio for European Policies,²² which includes highly ranked civil servants from ministries and other administrative and regional organizations and two experts from each institution. The sessions of the Technical Committee, with the help of video conferencing, can also be attended by the permanent representative of Italy in the EU. To increase efficiency, the timing of the sessions is adjusted to the meetings of the COREPER. The Technical Committee's task is – along the general guidelines of the inter-ministerial committee and on the basis of the concerned organization's investigation results – to determinate the major elements of the Italian position to be represented in the EU institutions. The inter-ministerial committee can be convened at the technical committee's request on the urgent discussions of important matters (3rd article).

The participation of the regions and the autonomous provinces in the determination of the Italian position is regulated by the bill of 4 February 2005.²³ In the preparation of the integrated sessions of the inter-ministerial committee, one council representative per region and each autonomous province also attend the sessions of the technical committee with the help of video conferences. The integrated technical committee is convened in the headquarters of The Permanent Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano (4th article).

The first session of the Inter-ministerial Committee on European Community Issues was held on 29th March 2006.²⁴ Its president, Giorgio La Malfa (the ex-minister for the community policies), considered this as an extremely important innovation to coordinate and formulate the national position.

The Parliament's participation in the EU decision-making process

Since the Maastricht Treaty, the role of national parliaments of EU member states has continuously grown to complement that of national governments. The parliaments have gained a more and more important part in the EU's decision-making processes and the monitoring of the processes.

²² Regolamento per il funzionamento del Comitato tecnico permanente istituito presso il Dipartimento per il coordinamento delle politiche comunitarie dall'articolo 2, comma 4, della legge 4 febbraio 2005, n. 11. 9 gennaio 2006. in Gazzetta Ufficiale, n. 28. del 3. febbraio 2006.

²³ Norme generali sulla partecipazione dell'Italia ... Legge 4 febbraio 2005, n. 11., ibid.

²⁴ Dipartimento Politiche Comunitarie. www.politichecomunitarie.it/DefaultDesktop.aspx?doc=6399.

The Italian Parliament – in spite of its traditionally strong role in internal policy – has not been able to influence significantly the EU’s decision-making, and so far has only very rarely taken advantage of the previously mentioned scrutiny procedure,²⁵ which could possibly provide early information about the details of draft legal acts of the EU and influence the decisions.²⁶ The Fabbri bill of 1987 contained the obligation of the government to forward the draft EU legal acts to parliament, and the La Pergola bill of 1989 regulated the practice of the community bill. However, since 1998 the law has obliged the government to prepare only one annual summary report of EU events (the report has to be handed in to the Parliament by 31 January).

Although the Parliament has possessed the right to express an opinion on the draft EU legal acts since 1998, it has not taken advantage of this right very often (as mentioned above). Since that year, it has even been compulsory to forward the Green and White Books and similar important documents to Parliament. In 2000 a weak model of parliamentary scrutiny was introduced, which, however, only contains one further constraint for the government, namely that it must inform the parliament about the date of decisions regarding legal acts. The Parliament can formulate its opinion about the draft up to that date, which, in turn, will determine the position of the government as well. For strengthening parliamentary control, the standing orders have also been modified. For a long time, the restriction regarding Parliament’s request for a preceding regulatory impact assessment (considered in the EU as a major element of “better regulation”) has also hindered the Parliament’s legislation, leaving them only able to require an appraisal in connection with the particular draft EU legal act. Despite the existing possibilities, the Parliament has often complained about not receiving the relevant EU documents in time. Nevertheless the number of completed examinations is extremely low.²⁷ In Italy the government has to report to the parliament about all the draft EU legal acts to be tabled at the European Commission. On the grounds of the rules of the House of Representatives the committee responsible for EU issues and the permanent parliamentary committees can hold debates with the participation of the concerned ministers, with regard to the draft legal acts proposed by the European Commission to be put on the agenda of the Council of the European Union, and concerning the issues connected to certain international agreements of the European Union.²⁸

The third article of bill no. 11/2005 establishes the role of the Italian Parliament in the process of EU legislation. According to the article, the Prime Minister or the Minister of EEC Policies is obliged to send to both houses of Parliament the true version of the texts of each regulation and modification proposal of regulation, as well as the materials ordered for their preparation and the materials of the EU Commission (green and white papers, publications, etc.). The Prime Minister’s Office’s (the department of the Minister without Portfolio for European Policies) task is to report to the Parliament in connection with the EU legislation process qualitatively and to the required extent. The government, prior to the session of the Council of the European Union, is obliged to inform both houses of Parliament about the Italian position and to

²⁵ Györi Enikő: *A nemzeti parlamentek és az Európai Unió*. Budapest: Osiris, 2004. p. 46.

²⁶ Fedriga Bindi–Stefano Grassi: „The Parliament of Italy: from Benevolent Observer to Active Player”. In: Andreas Maurer–Wolfgang Wessels: *National Parliaments on their Ways to Europe: Losers or Latecomers*. Baden-Baden: Nomos Verlagsgesellschaft, 2001. pp. 295–329.

²⁷ Györi: *ibid* pp. 250–257.

²⁸ For security issues see in details: *ibid* pp. 251–252.

discuss it in the special committees at their request. Similarly, it is the task of the Prime Minister or the Minister without Portfolio for European Policies to delineate the most important issues, already decided or still under debate, for both houses of Parliament every six months and to inform the institutions of the Parliament in whose jurisdiction the matter falls within 15 days about the decisions of the Council of Ministers of the European Union and the European Council. In connection with these, the two houses of Parliament can formulate observations and guidelines for the government. For this purpose they can ask the Prime Minister's Office to prepare a technical report about the course of the negotiations, the opinion of the concerned parties, and their impact on the regulation, public and state administration and on private and public legal personalities.

The fourth article of bill no. 11/2005 regulates the process of parliamentary scrutiny. According to the article, if the two houses have already started to revise the EU material or draft legal act, the government can start acting under its own authority to prepare the relevant EU legal act only after the examination has been completed. The government is obliged to announce the parliamentary scrutiny to the office of the Council of Ministers of the European Union. In the case of materials of special importance from a political, economical, or social point of view, the government can require the parliamentary scrutiny. In such cases the government sends the text of the draft to the two houses of the Parliament in order for the concerned organizations to express their opinions on the material in question. Then the Prime Minister or the Minister for European Policies reports to the two houses that it has announced a parliamentary scrutiny on the matter to the Council of Ministers of the European Union. 20 days following the announcement, the government is free to take a stand without the opinion of the Parliament. If the Parliament completes the examination within the deadline, then the government can take a stand only in view of its results. One of the important aspects of Bill no. 11/2005 is that it has strengthened the control of the national parliament in the legislation process on the EU level.

The implementation of EU directives

Previously, governments have tried to reduce the negative effects of directives disadvantageous to them through delaying implementation or causing it to default. This mode of action was to be ended by the judicial custom of the European Court of Justice and by the implementation of the Maastricht Treaty, which introduced fines for the states committing infringement. This meant the start of a process in which states felt increasingly obligated to comply more exactly with Community law in their national legislation. As a consequence, it has also become important that the implementation of EU law become less expensive for member states, thus the proactive participation in the first, preparatory phase of the EU decision-making process began to acquire more weight. The goal is that EU law should increasingly suit the interests of individual member states. In the extremely complex and multifaceted decision-making process in the EU, the governments' most important role is to defend the interests of their nations.²⁹ According to the 'La Pergola Bill' of 1989 intended to help foster the implementation of EU directives every year, before 31 March the Minister without Portfolio for European Policies reports to the Parliament the list of those EU regulations and directives passed during the preceding

²⁹ Bindi: Il parlamento..., *ibid* p. 3.

year that require legal harmonization on the national level. In accordance with this, several methods of harmonization were established in the Italian legal system, wherein:

- Parliament can abolish or amend bills;
- it can delegate the power of legislation to the government
- it can empower the government to regulate by decree
- it makes legislation by administrative law possible³⁰

In managing EU affairs for Italy, the biggest problem for many years was to implement EU directives. In 1998, due to the reforms Italy, jumped from last place to the ninth position in the ranking for implementation of directives.³¹

Notwithstanding further significant reforms, 2006 saw Italy drop back again to 22nd place. Italy failed to comply with Community Law in its national legislation in a staggering 2.2 percent of the directives to be implemented within the given deadline. This figure is almost the double the EU average (1.2 percent). Surprisingly, however, this still meant an improvement over the 3.2 percent average of the previous year. In view of these data, Emma Bonino, Minister without Portfolio for European Policies, wanted to carry out additional reforms in order to improve Italy's position:

Table 1. Transposition of directives by member states

member state	number applicable directives	number transposed directives	number <i>not</i> transposed	% <i>not</i> transposed directives
Spain	2428	2414	14	0.6%
Denmark	2413	2392	21	0.9%
Finland	2406	2383	23	1.0%
Ireland	2424	2398	26	1.1%
UK	2407	2379	28	1.2%
Portugal	2449	2418	31	1.3%
Austria	2413	2373	40	1.7%
Sweden	2395	2354	41	1.7%
Belgium	2465	2415	50	2.0%
Netherlands	2412	2359	53	2.2%
Germany	2411	2357	54	2.2%
Luxembourg	2414	2355	59	2.4%
France	2411	2349	62	2.6%
Italy	2419	2355	64	2.6%
Greece	2414	2346	68	2.8%
Mean	2419	2376	42	1.7%

Source: number of applicable and transposed directives from Secretariat General, European Commission (29 February 2004): http://europa.eu.int/comm/secretariat_general/sgb/droit_com/pdf/mne_country_20040229_en.pdf

³⁰ Federiga Bindi: *The Managing...*, ibid p. 22.

³¹ Györi: ibid p. 257.

“The incorrect transposition and implementation of legal acts concerning the single market will remain a problem in the future too. Three times more infringement procedures were initiated against Italy, compared to the EU average, because of incorrect transposition and implementation of legal acts concerning the single market.”³²

Article 8 of bill no. 11/2005 re-regulates the Community Bill. In accordance with this amendment, the Prime Minister or the Minister for Community Policies reports to the two Houses of Parliament in the required measure, and, through the Conference of the Presidents of the Regions and Autonomous Provinces of Trento and Bolzano and the Conference of the Presidents of the Councils and Assemblies of Regions and Autonomous Provinces of Trento and Bolzano, to the regions and autonomous provinces about EU legal acts. The state, the regions, and autonomous provinces implement the EU directives in the fields under their own jurisdiction. The Prime Minister or the Minister for Community Policies – collaborating with the concerned local administrations – revises the harmonisation status of the national legislation and the political goals of the government every quarter. They forward the results of the examination – which already contains the measures required for harmonisation – to the parliamentary organizations concerned in the matters, to the Permanent Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano, and to the Conference of the Presidents of the Regions and Autonomous Provinces of Trento and Bolzano for them to make relevant observations. The regions and the autonomous provinces revise the harmonisation stage of their own legislation in the fields under their jurisdiction and forward the results of the examination to the Prime Minister’s Office and to the department of the Minister without Portfolio for European Policies together with the measures to be taken.

The national implementation of community law is ensured by a bill (the so-called "Community Bill") to be introduced by 31 December each year, "to fulfil obligations deriving from Italy's membership of the European Communities." The Government reports to Parliament on the compliance of national **legislation** with community law, the existence of any infringement proceedings, and the sentences passed by the Court of Justice; it also provides a list of directives implemented or to be implemented by Government agencies or through regulations. It explains why any directive whose deadline for implementation has expired or is about to expire has not been included in the bill; and it provides a list of regulatory measures through which regions and autonomous provinces implement directives on matters under their jurisdiction.

The Community Bill also ensures that national legislation is regularly harmonised with community legislation

- by amending those national provisions that do not comply with community obligations and those measures implementing community regulations that have become the object of infringement proceedings;
- by passing measures implementing community legislation and through an act enabling the Government to implement such legislation or to delegate implementation to its agencies and regulatory bodies

³² <http://www.politichecomunitarie.it/DefaultDesktop.aspx?doc=14246>

- through measures including the main principles for implementation by regions and autonomous provinces of EU measures on matters under their jurisdiction;
- through provisions enabling the national government to pass legislative measures in default of compliance by regions.

In conjunction with the Community Bill, the Government introduces before Parliament a yearly report on the development of the European integration process, the participation of Italy in the regulatory process, the implementation of economic and social cohesion policies, the opinions and recommendations of Parliament, the opinions of the Conference of Region Presidents, and the trends of financial flows to Italy and how they are put to use.

Senate Rule 144-*bis* establishes that the community bill and the Government's Yearly Report should be tabled simultaneously before the EU Policies Committee and any other committee having jurisdiction over the subject matter dealt with therein. The two documents are examined together until the Community Bill and the resolutions on the Yearly Report are passed by the Senate.

Another important tool for parliamentary scrutiny of Government action in the implementation of community law is Senate Rule 144-*ter*, establishing that the main sentences of the Court of Justice of the European Communities be sent to the EU Policies Committee and to any committee that has jurisdiction over the subject matter of the sentence. After examining the contents and appraising the consequences of the sentence in consultation with a representative of the Government and a rapporteur appointed by the EU Policies Committee, such a committee may adopt a resolution requesting the national authorities to take appropriate measures.³³

The list is forwarded to the Prime Minister's Office by the Conference of the Presidents of the Regions and Autonomous Provinces of Trento and Bolzano by 25 January every year.

In the fields listed in the Constitution (Article 117, Section 2) that are not or not fully regulated by the law, the directives can be implemented also by decree, if the community law orders it so. Together with the Community Bill, the government introduces to the two Houses of Parliament the list of the directives that require jurisdiction to be transposed. Besides ensuring more effective and faster transposition, this also shows the strengthening of the Executive Power against the Legislative Power.

The government is obliged to call in the opinion of the Council of the State concerning the draft decree, which has to be forwarded within 45 days. If the Community Bill orders it so, the opinion of the competent parliamentary organization also has to be called in. This has to be forwarded also within 45 days from the receipt of the draft and the opinion of the Council of the State. Should these documents not arrive within the deadline, the decree can be passed in absence.

In the fields under the jurisdiction of the regions or autonomous provinces, if the local levels do not fulfil the obligations arising from their EU membership, the government should regulate by decree. Consequently, state decree comes into force in the regions or autonomous provinces if no legal measure on the local level has been passed.

³³ Transposition of Community Law, <http://www.senato.it/english/internationalaf-fairs/28049/28052/genpagina.htm>

Article 15 of bill no. 11/2005 deals with the annual report for the Parliament, which is to be forwarded by the government not later than 31 January every year. The report contains the progress of the European integration process, with accentuated regard to the activity of the European Council and the Council of Ministers, institutional questions, the EU relations, cooperation in the area of justice and home affairs, and the general guidelines for EU policies. The report relates to the participation of the country in the community legislation process (primarily the main trends of the Italian policy in the preparatory phase of legislation), as well as the government's guidelines concerning every single community policy or group of community legal acts. Furthermore, the report summarizes the realization of social and economical cohesion policies in Italy, the financial resources allotted to the country, and the status of their implementation. It contains the opinions, observations, and guidelines of the two Chambers and the observations and initiatives of the Conference of the Presidents of the Regions and Autonomous Provinces of Trento and Bolzano, the Permanent Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano and the Conference of the Presidents of the Councils and Assemblies of Regions and Autonomous Provinces of Trento and Bolzano. The report has to contain a clear summary of the completed activities and the governmental directions planned for the given year.

“The Internal Market Scoreboard examines how quickly and how well each of the Member States writes Single Market directives into national law. It also highlights the number of infringements proceedings that are under way against Member States. The Commission starts these proceedings when it considers that a Member State has not implemented an EU law correctly or indeed at all. Usually the Member State is able to rectify the situation soon after the Commission has made a formal request, but in some cases the Commission may, if necessary, refer the case to the European Court of Justice.”³⁴

TRANSPOSITION

Table 2 • EU-27 Member State transposition deficit, as at 13/05/2008 – 1687 directives

Ranking	1	2	2	2	5	6	7	7	9	9	11	12	12	12	12	16	17	17	17	20	20	22	23	23	25	26	27	
Member State	B	S	R	D	L	L	D	S	E	N	S	E	F	M	F	U	H	I	A	I	B	E	C	L	P	P	C	E
	G	K	O	E	V	T	K	SI	S	L	S	E	R	T	I	K	U	E	T	T	E	L	Y	U	L	T	Z	U
Transposition deficit (%)	0.0	0.4	0.4	0.5	0.6	0.6	0.7	0.7	0.8	0.8	0.8	0.9	0.9	0.9	0.9	0.9	0.9	1.0	1.2	1.2	1.4	1.4	1.7	1.8	1.8	1.9	2.5	1.0
Number of directives not transposed	0	6	7	9	10	10	11	11	14	14	14	15	15	15	15	15	16	17	20	21	23	24	29	31	31	32	42	
Missing notifications to reach the 1.5% objective																							3	5	5	6	16	

³⁴ Internal Market Scoreboard: best result ever – Member States reach new target ahead of deadline, <http://www.eubusiness.com/events/EUcalendar/eu-week-ahead.08-07-04>

Table 3 • EU-25 Member State performance in meeting 0% target for Directives whose transposition is over 2 years late, as at 13/05/2008

Member State	IE	LV	NL	SK	FI	DE	IT	LT	HU	MT	UK	DK	EE	ES	FR	PT	SI	SE	EL	CY	AT	PL	CZ	BE	LU
Number of directives not transposed	0	0	0	0	0	1	1	1	1	1	1	2	2	2	2	2	2	2	3	3	3	3	6	7	12

INFRINGEMENT CASES**Table 4 • EU-27 Member State number of open infringement proceedings, as at 1/05/2008**

Member State	RO	BG	LT	CY	SK	SI	DE	HE	LV	CZ	LU	FI	SE	MT	NI	IE	AT	UK	PL	BE	PT	DE	EL	FR	ES	IT	
Number of open infringement cases	9	14	18	18	22	23	25	26	26	28	31	31	33	43	45	48	53	54	57	58	64	68	87	88	94	108	127

The European Commission published the Internal Market Scoreboard on 9 July 2008. It focuses on three fields: on the implementation of Internal Market Directives in national law, the results of infringement procedures against member states, and the effectiveness of alternative dispute settlements. Member states have so far performed best in implementing agreed Internal Market Rules in national law, since on average only 1.0 percent of Internal Market Directives for which the implementation deadline had passed were not written into national law, down from 1.2 percent in December 2007. This means that Member States were already in line with the new 1.0 percent target agreed upon by Heads of State, which was to be achieved by 2009 at the latest. The ranking of Member States according to the number of infringement cases remained almost unaltered from December 2007, with Italy accounting for the highest number of cases.

Despite the fact that the EU average of 48 open infringement procedures almost equals the result of 49 cases half a year ago, the overall trend is positive. 15 Member States managed to reduce the number of infringement cases, compared to 10 Member States last time. The highest reduction in open infringement procedures was recorded in Italy (7), followed by the United Kingdom and Ireland (6).³⁵

The role of the regions in EU decision-making

In several Western European Countries, because of the reforms of decentralisation, more and more tasks have been delegated to the regional level. Regionalism has grown stronger due to some important factors such as the increase of support from society concerning movements based on ethnicity and culture, the growing role in the regional representation of interests, the changing functions of the various territorial

³⁵ Internal Market Scoreboard: best result ever - Member States reach new target ahead of deadline, <http://www.eubusiness.com/events/EUcalendar/eu-week-ahead.08-07-04>.

entities in social governance, and, last but not least, the significantly growing weight of regional policies in the EU.

Since the late 1980's, the role of the various levels of government in the integration process has been described and interpreted based of the model of multilevel governance.³⁶ According to this model, the level of sub-national government is also becoming an increasingly effective actor in the Union's decision making process, shaping its own bargaining and lobbying activities through direct, informal and formal, channels.

During the past decade, governments on the regional and local levels have attempted to influence the decision-making process and get involved in the extremely complex network of various actors representing different interests, through new channels besides traditional government routes. They have established formal and informal contacts in the centres of decision-making, that is, with experts of the European Commission, which owns the exclusive right of initiating legal proposals, and with the members of the European Parliament, who, owing to the co-decision process, have been gaining a more important role in codification procedures. The goal of the present paper is to analyse and introduce the ways in which the institutional conditions and legal background of multilevel government are building up in Italy, one of the founding members of the EU, with special attention to the aspect of regions.

In European communities the 1980's saw the start of the process through which regions and local governments have become increasingly involved in the institutionalised frameworks of the decision-making process concerning the Europe's regional policy that was made necessary by the spread of 'bottom-up approaches' to regional policy. The reason for this is the acknowledgement of the fact that preparing and applying regional development plans based on the local economic situation and following the historical and cultural tradition is impossible without the proactive participation of regional and local governments. Consequently, this novel regional development philosophy tends to build on local resources and self-contributions instead of, as in previous trends, installing large-scale industry on the base of *Taylorist* and *Fordist* methods of production (top down), ignoring local resources in modernizing the underdeveloped areas. Since, owing to previous enlargements, the territory of the European communities has become more heterogeneous both in its economic development and its social conditions, the enforcement of regional policy on the European level and its total reform have become inevitable.

In order to apply the principle of partnership in Italy, the regions are involved in the preparation of decisions relevant to them through the Community Section (*Sessione Comunitaria*) within the Permanent Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano (Conference of the State and the Regions). This body gathers twice a year to form their opinion regarding union affairs that concern the regions. The Conference's political legitimacy and the importance of its activities have significantly grown since the introduction of the direct election of regional presidents. Prior to the preparatory negotiations of the Agenda 2000, in the year 1999, the Conference of the State and the Regions met four

³⁶ See more: Keating, Michael – Jones, Barry (1995): *The European Union and the Regions*. Clarendon Press. Oxford. Keating, Michael. (1997): *The Political Economy of Regionalism*. In: Keating, M.–Loughlin, J. (ed) (1997): *The Political Economy of Regionalism*. Frank Cass, London. Pp. 17–40.

times with the goal of formulating their standpoint regarding the use of the resources from the Structural Funds.³⁷

In 2001 the principle of partnership became part of the modified Italian Constitution. As Article 117 of Chapter 5 of the Constitution declares, the regions and the autonomous provinces of Trento and Bolzano own the right to participate, prior to the Community legislation, in decision-making in the fields of their competence; they are responsible for the implementation and realization of legal acts initiated by the European Union and international agreements according to the procedural norms defined by the State, which, in the case of non-fulfilment, identify the practice of substitution competence.³⁸

Thus in recent years regions have gained an increasingly large role in the European Union. For better implementation of the resources provided by Structural Funds, it has become necessary to make decisions about strategically important problems concerning economic development in the most underdeveloped fields. Although the role of the regions has significantly increased, the national governments, especially via the Permanent Representations of the member states to the European Union, still play an important role in forming the dialogue between the Commission and the Regions.³⁹ Regions can take part in the codification process in three ways: through the Committee of the Regions, within the legal framework of their own country, and through their own Brussels Representations.

The 1990's witnessed the start of the process in which the competence of regions was significantly broadened in Italy. The expanding process of integration largely contributed to the acceleration of these events. A gradual increase of importance at the level of sub-national governments within the European integration has been a general phenomenon. Along with the growing societal need for the federalisation of the state, this also was responsible for the launch of the public administration reform in Italy. The modification of the Constitution in 2001 provided a wide range of competences in the legislative process for ordinary statute regions, which can also participate in adopting EU regulations. As stated in article 117⁴⁰ of the Italian Constitution, 'Legislative power belongs to the state and the regions in accordance with the constitution and within the limits set by European Union law and international obligations.' It is one of the most important innovations of the modification that since 2001 the Constitution regulates only those matters where the State has exclusive legislative power; in other matters the legislative power belongs to the regions. In accordance with this article, the exclusive legislative power belongs to the relations of the state with the European Union. International and European Union relations with the regions, however, are subject to concurrent legislation of both the State and regions. According to paragraph 2 of Article 120 'The Government may act as a substitute for regional, metropolitan city, provincial, or municipal authorities whenever those should violate international rules or treaties or community law, whenever there is a serious danger for the public safety and security, and whenever such substitution is required in order to safeguard the legal or economic unity of the

³⁷ The Conference of the State and the Regions: www.governo.it

³⁸ La Costituzione della Repubblica Italiana. <http://www.governo.it/Governo/Costituzione/principi.html>

³⁹ Horváth Gyula (2001): Decentralizáció és regionalizmus Európában. Pécsi Tudományegyetem Közgazdaságtudományi Kar. Pécs. p. 25.

⁴⁰ http://www.servat.unibe.ch/icl/it00000_.html

nation, and particularly in order to safeguard the basic standards of welfare related to civil and social rights ... The law defines appropriate procedures in order to guarantee that substitution powers are exercised within the limits set by the principles of subsidiarity and fair cooperation.’⁴¹

Paragraph 1 of Article 118 already includes the principle of subsidiarity: ‘Administrative functions belong to the municipalities except when they are conferred to provinces, metropolitan cities, regions, or the state in order to guarantee uniform practice; the assignment is based on the principles of subsidiarity, differentiation and adequacy. ...’ Thus, the second important innovative aspect of the modification is that it regulates the municipal level as general from the point of view of carrying out administrative functions, as stated under Paragraph 2 of the same Article, ‘Municipalities, provinces and metropolitan cities have their own administrative functions and, in addition, those conferred to them by the law of the state or the region according to their respective fields of competence’. If, however, a higher level of government is more adequate for the realization of the given task, the task should be delegated there. This is why the Constitution regulates only the exclusive legislative power of the State, and the other matters belong to the lower levels of government. Another significant innovation is marked by the promotion of initiatives by citizens and their associations, this way including them in the legislation based on the principle of subsidiarity. This paragraph supports competition between the private and public spheres.

Recent years have witnessed a growing demand, at the level of society as a whole as well as on the level of local communities, for the increased participation of the regions in both the initial phase (*fase ascendente*) of EU legislation and in the phase of the application of EU legislation on the level of member states. This has been made necessary by the increasing weight of the local levels in governance processes in Italy, just as occurs in many other member countries

It was the “La Loggia” bill (bill no. 131 of 5 June 2003) that made it possible for the regions to participate more effectively in the initial phase of the EU decision-making process. This Bill was already shaping the decision-making process according to the modified Constitution, and it created the possibility for the regions to take part in matters concerning their field of competence in the work of the Brussels Representation of Italy to the EU. On 16 March 2001, in the framework of the general agreement about cooperation the participation of the regions in the EU councils, the working groups, and in the various committees of the Council and The European Commission was defined within the matters belonging to their competences. The delegation of regional experts to the Council working group and the Commission’s committees took place in 2007. Beside these, the Permanent Representation of Italy expects further experts from the regions to join the present group of four experts.⁴²

The Bill of 4 February 2005, ‘The general norms of participation...’ (bill no. 11/2005) brought about significant changes in the administration of EU matters. This

⁴¹ La Costituzione della Repubblica V. Capitolo. www.governo.it

⁴² Rocco Cangelosi: Il ruolo del Comitato delle Regioni nel processo decisionale comunitario e l’attività delle regioni italiane presso le istituzioni comunitarie. In: Il ruolo delle autonomie locali italiane nell’europa delle regioni. Atti del Convegno, Roma, 11 maggio 2007, Palazzo Brancaccio, p.o.r.e., progetto opportunità per le regioni in europa, Presidenza del Consiglio dei Ministri, Dipartimento per gli Affari Regionali. <http://www.pore.it/smartPublish/v.2006.03/Download.aspx?ExtAttach-ID=715>

Bill regulated the involvement of Italian political institutions in the EU legislation process and the execution of Italy's obligations based on the EU membership. The Bill regulates the process of elaboration of the Italian standpoint to be represented during the preparation of EU regulations and guarantees the execution of obligations according to the principles of subsidiarity, proportionality, efficiency, transparency, and democratic participation.

Article 5 of the bill of participation (11/2005) discusses the role of regions and autonomous provinces in EU legislation. According to this article, the Prime Minister or the Minister of EEC Policies is obliged to send the true version of the texts of each regulation and modification proposal of regulation, as well as the materials ordered for their preparation and the materials of the EU Commission (green and white papers, publications, etc.) to the Conference of the Presidents of the Regions and Autonomous Provinces of Trento and Bolzano, and to the Conference of the Presidents of the Councils and Assemblies of Regions and Autonomous Provinces of Trento and Bolzano. This is also when the deadlines for shaping the relevant organisations' opinions should be set. It is the task of the PM's Office (the department of the Minister of EEC Policies) to provide information of adequate quality and quantity for the regions and the autonomous provinces concerning matters of their competence regarding EU legislation. For the purpose of elaborating the Italian national standpoint, the regions and autonomous provinces have to send back their opinions to the Prime Minister or to the Minister of EEC Policies via the Conference of the Presidents of the Regions and Autonomous Provinces of Trento and Bolzano, and to the Conference of the Presidents of the Councils and Assemblies of Regions and Autonomous Provinces of Trento and Bolzano within 20 days of receipt. In case a draft EU regulation is related to matters concerning the legislative power of regions or autonomous provinces, and one or more regions and provinces request this, the government summons the Conference of the Permanent Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano to arrive at an agreement within 20 days. After the expiration of this deadline or in case of unexpected emergency, the government, according to the principle of substitution, can act without the official opinion of the regions.

In case the Permanent Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano requires it, the government can announce a scrutiny at the EU Council of Ministers. 20 days after the announcement the government can act without the opinion of Conference toward the elaboration of EU regulation. If the comments of the regions or autonomous provinces concerning matters falling into their competence do not arrive the day before the discussion of the matter at the EU institutions, the government can act without the comments.

On matters regarding the legislative power of the regions or autonomous provinces, the Office of the Prime Minister (the department of the Minister of EEC Policies) summons the representatives of the regions and autonomous provinces to negotiate the Italian national standpoint in agreement with the Minister of Foreign Affairs and the Minister of the matters concerned.

The prime Minister or the Minister of EEC Policies continuously informs the regions and the autonomous provinces via Conference of the Presidents of the Regions and Autonomous Provinces of Trento and Bolzano about the matters and proposals belonging to their area of competence that may be put forward for decision to the EU Council of Ministers. The Prime Minister or the Minister of EEC Policies previously to the meeting of the European Council informs about their standpoint the

Permanent Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano. The same procedure has to be followed on request by the Conference as well.

It is the duty of the Prime Minister or the Minister of EEC Policies to inform the regions and the autonomous provinces, again through the Conference of the Presidents of the Regions and Autonomous Provinces of Trento and Bolzano, about the decisions of the EU Council of Ministers and the European Council meetings on matters of their competence within 15 days.

The Community Section within the Conference of the State and the Regions is treated under Article 17 of the Bill of Cooperation (11/2005). According to the article, the Prime Minister has to summon the special Community Section of the Permanent Conference for Relations Between State and Regions and Autonomous Provinces of Trento and Bolzano at least once every half year or any request by the regions or the autonomous provinces that deals with community matters concerning the regions and autonomous provinces. After this the government is obliged to inform the Parliament about the results of the section meeting. The Conference is free to express their opinion regarding community regulations and draft regulations which concern the regions.

Simultaneously with the appearance of state level regulation, individual regions started to create their new statutes adjusted to the constitutional reform, which already contained their enlarged relationships to EU institutions as well as the major elements of their involvement in the process of EU legislation. The Statute of the Region of Piemonte, accepted in March 2005, declares that the region, in accordance with the Constitution, directly participates in defining the common policies of the EU, in the process of community legislation, and in the application of community laws. The Region's representations in the relevant EU institutions provide the possibility of executing the above-mentioned tasks.⁴³

Recently, various regions have been busy creating local legislation in order to facilitate the development of the methodology to get directly involved in the EU legislation process based on the constitutional reform. For instance, the goal of regional legislation in the Region of Emilia Romagna is to enable the local political institutions to participate as efficiently is possible in the preparation of community legislation in their fields of competence. In order to achieve this goal, the region appoints its representative in the Committee of Regions, or, if necessary, to the Council working groups, the various committees of the Commission, or the Council. The region has the right to draft and send to Parliament and the Government their opinion regarding matters in its own competence, and to initiate the gathering of the meeting of the Communities Section of the Conference of State and Regions for establishing the regions' standpoint on a given question, which consequently the government is obliged to represent in the process of EU legislation. The region selects and delegates its representatives in working groups on the national level. Their task is to elaborate the Italian standpoint. It can also recommend that the government turn to the European Court of Justice in case of community regulations considered against

⁴³ L.R.Stat. 4 marzo 2005, n. 1 (1). Pubblicata nel B.U. Piemonte 7 marzo 2005, n. 9, supplemento straordinario. In: Prof. Toti Musumeci, Prof.ssa Annamaria Poggi, Dott. Alberto Corsini, Dott.ssa Ombretta Zanasi (a cura di): Secondo rapporto di sintesi: Le Autonomie funzionali *ibid* p. 61.

the law. The regional regulation specifically includes the role of the University of Bologna as a background institution in the decision-making process.

Regions, however, do not only participate in the initial phase of the EU legislation, but also play an active role in the application phase of EU regulations. In order to adopt EU directives concerning their own areas of competence, the regions and autonomous provinces yearly codify a so-called “Regional Communities Bill” (*Legge comunitaria regionale*), which is drafted by the Executive Committee (*giunta*) and codified by the Regional Council (*consiglio regionale*). The Regional Communities Bill lists all the EU regulations, primarily directives, that belong to its area of competence and require legislation and regulation at the regional level. It contains the verdicts by the European Court of Justice concerning the regions in connection with the adoption of community legislation. Additionally, it comprises all the regulations that are necessary for the execution of community programs co-financed with the EU.⁴⁴

Not only has the role of the regions increased in the field of legislation, but also radical changes have taken place in the utilization of resources from the Structural Funds. In the 2000–2006 program cycle, the use of 70 percent of the available resources was under the control of the regions. This task has been carried out by regional development agencies. Despite the significance of the reform, the lack of adequate political intention and budgetary support means that the majority of these agencies are able to fulfil merely administrative jobs.⁴⁵

Summary and Conclusions

As part of the process of Europeanization, national governments, for the sake of a more effective operation, adjust to the European decision-making processes. These processes, however, do not take place independently from one another. As a consequence of the recent (2005–2006) governmental reforms in Italy, the Europeanization process has taken a new shape. In this framework the impact of the institutional system and the decision-making processes within the European Integration can be justified in the national and sub-national institutions of the Italian political system. Thus, the case of Italy shows that the integration makes an unambiguous effect on the national, regional, and local levels of decision-making, on the coordination and governmental structures, actors, tasks, authorities, and competences, in accordance with the principles of multilevel governance.

Before the governmental reforms in Italy, the efficiency of operation and interest representation often received a secondary role behind the day-to-day fighting between coalition parties. It was also due to this fact that the model successfully implemented in other member states could only be transposed into the Italian governmental structure in a delayed and, in certain cases, purely formal fashion. This led to policy transfer to be realized only partially and with a delay. The efficiency of representation of interest on the level of the Italian government, despite the previously

⁴⁴ Riforma del sistema regionale e locale. Unione Europea e relazioni internazionali. Innovazione e semplificazione. Rapporto con Università. Legge regionale n.6 del 24 marzo 2004. http://www.regione.emiliaromagna.it/autonomie/collana_riformeperidiritti/PDF/7leg3.pdf.

⁴⁵ Nagy Sándor Gyula: Az európai uniós támogatások felhasználásának összehasonlítása egyes tagállamok esetében .pp. 99-100.. in: Európai Tükör. January 2007 pp. 94-102.

executed reforms, continued to be reduced by the political fragmentation so characteristic for the political party system, as each successive government has been built up of the coalition of several smaller or bigger parties. According to Federiga Bindi, a stronger position of the Prime Minister would greatly increase the efficiency of coordination with the institution of integration policies.⁴⁶ The reason for a rather low level of coordination between the individual special ministries was to be found primarily in the fragmented party structure and the difficulties of coalition.

Up to 2006, the rivalry between special ministries under the leadership of different political parties made it impossible to establish in Italy an inter-ministerial committee whose exclusive task would be to deal with affairs of integration and coordination.

The Italian political decision-making structure had been characterized by the primacy of Parliament. This has also added to the instability of the Italian governments, since they are easily replaceable through no-confidence provisions.

All the reasons above motivated the present government to lay a large emphasis on the strengthening of their political role, since this could facilitate the creation of a more efficient system of representation of interests.

It can be considered a sign of the strengthening of role of the Prime Minister's office that during recent years the role of the Minister without Portfolio for European Community Affairs has gained much authority in dealing with integration affairs. Nevertheless, the role of the Ministry of Foreign Affairs has remained significant.

For many decades, Italian politicians used to attribute secondary importance to the integration affairs, compared to domestic policies. This attitude may have contributed to the fact that Italy never played a decisive role in shaping the development of integration. Nevertheless, it is important to note that with her "follower" EU policy, Italy has always supported all the institutional reforms aimed at deepening the European Integration.

Despite its dominant role in the domestic political structure, the Italian Parliament has only played a limited part in the European legislation process. However, there is a growing need to reduce, on behalf of the society, the democratic deficit and to increase the national parliaments' control over the preparatory (first) phase of EU legislation (see Lisbon Treaty).

The increasingly active participation at regional and local levels constitutes an important part of the decision-making mechanism. Through this process, the goal of the European Commission to create an indirect link to the EU's Citizens through the middle and lower governmental levels can be reached. The implementation of the multilevel model of governance thus enables the regions and lower level administrations, through institutionalized partnerships, to participate actively in the decision-making processes as well as the shared practice of policies.

⁴⁶ Federiga Bindi: *The Managing...*, *ibid* 15. p.