

# **OPAL Country Reports**

## The Italian Parliament and EU Affairs

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## OPAL Country Report on the Italian Parliament<sup>1</sup>

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### I. General Position of Parliament in the Constitutional Balance of the Member State: Constitutional and institutional factors

This section looks at the role of Parliament in the political system, to help us understand the relative power position of the legislature.

1.1	What is the type of government in the political system of your member state?
	(i.e. parliamentary or semi-presidential)
	Parliamentary system
1.2	Is it a uni- or bicameral Parliament? If bicameral, is one house dominant or are both equally strong? Please briefly explain.
	The Italian Parliament is bicameral: the Chamber of Deputies (630 elected members, <i>deputati</i> ) and the Senate of the Republic (315 elected members, <i>senatori</i> ) have equal powers and actually perform identical functions (perfect symmetric bicameralism). This means that any law can be initiated in either house and must be approved in the same form by both houses ( <i>Navette</i> ). The legislative function is exercised collectively by both Houses. No mediation procedure is provided in the case of disagreement. In addition, the Government must have the consent of both the chambers to remain in office.
	Nevertheless, even if the Constitution does not make distinctions between the two houses, and the Senate has not less power than the Chamber, it is traditionally considered the upper house. On the one hand, historically (during the <i>Regno d'Italia</i> , before the Republican Constitution entered into force in 1948) senators were appointed for life by the King, while deputies were elected. Therefore, the Senate could not be dissolved. On the other hand, still nowadays, the Senate has features which are specific of other upper chambers in bicameral parliamentary system: fewer seats, a number of non elected members, a different voting system. For example, the President of the Senate stands in the role of Head of State when the President of the Republic needs to be replaced.
	Moreover, as a historical inheritance, still nowadays the Senate may have a number of non- elective members (5 eminent individuals appointed as senators for life and former Presidents of the Republic, who become life senators by right). Current President Giorgio Napolitano appointed Professor Mario Monti as life senator on November 2011. Only a week later from this appointment was Monti additionally appointed by the President of the Republic to become (with the agreement of the Parliament) the Italian Prime Minister, thus demonstrating that a very high political meaning can be given to this traditional instrument.
1.3	Is the state federal, decentralized or unitary? If applicable, is it a form of asymmetrical federalism?
	Historical unitary state, highly decentralized in the 1990s by as series of institutional reforms (1993 direct election of the mayors and heads of provincial government; 1995 reform of the regional electoral system; 1997 delegation/reorganization of local governments; 1999 direct election of the president of the regions and reform on local governance). Other important steps in search of a "quasi-federal" system have been done in the last decade, especially to grant regions the power to talk with the EU to obtain structural funds, but the implementation of this process is still uncertain. A constitutional revision produced in 2001 the most relevant reform,

<sup>&</sup>lt;sup>1</sup> This country report provides some basic data that has been collected in the context of the research for a chapter to be published in C.Hefftler, C. Neuhold, O. Rozenberg, J. Smith & W. Wessels (Eds.). (forthcoming in 2014). *The Palgrave Handbook of National Parliaments and the European Union*. London: Palgrave, Macmillan.

according to which, compared to the past, the state has more limited powers to intervene and limit the authority of the territorial bodies (concurrent and exclusive competencies on spending and taxing areas). Then in 2009 the government was delegated by the parliament to legislate on matters of fiscal federalism, according to the new art. 119 of the constitution. But the process is incomplete.

For these reasons, the concept of "asymmetrical federalism" is applicable in a very debatable way to Italy. The descriptions of Italy as a "devolutionary asymmetric federal system in the making" or a "polycentric system rather than a real federalism" have been given, therefore outlining a lot of critical points<sup>2</sup>.

Actually the Constitution recognized to 5 regions out of 20 "special forms and conditions of autonomy pursuant to the special statutes adopted by constitutional law" (art. 116). Friuli-Venezia Giulia, Trentino-Alto Adige/Südtirol and Valle d'Aosta/Vallée d'Aoste have been recognized relevant ethno-linguistic minorities. Sardegna and Sicilia were conceived, as Island, geographically isolated. Moreover, Trentino-Alto Adige/Südtirol Region is composed of the autonomous provinces of Trent and Bolzano. However, in practical terms, a limited devolution of powers was implemented until 2001 for both special and ordinary regions. Also with regard to EC policies, the relationship between the central political institutions in Rome and the regions and autonomous provinces has been rather conflictual and characterised by centralist tendencies over a long period<sup>3</sup>. In the 90's the rise of the Northern League (*Lega Nord*), a regionalist independence-oriented party, converged with a party system crisis to generate an important momentum for decentralization<sup>4</sup>. But the construction of a decentralized system was - and it continues to be - sluggish<sup>5</sup>.

As mentioned, in 2001 the most important constitutional reform was approved by the parliament, then confirmed by a referendum (the first constitutional referendum in Italy) because the constitutional amendment was supported only by the centre-left majority<sup>6</sup>: the *legge costituzionale* 3/2001 changed many articles dedicated to the relationship between the state and the autonomous territorial organizations declaring all units to be "equal" and thus identifying functional spheres more than hierarchical levels of government. In particular, art. 117 was redrafted listing the matters on which the state has exclusive legislative powers and those subject to a concurrent legislative power, that means that state and regions must cooperate, with the state defining the fundamental principles and the regions producing legislation within the framework of these principles.

For instance, as regards the relations between the state and the EU, as far as the elections of the European Parliament, the state has exclusive legislative powers. On the contrary, concurring legislation applies to the international and EU relations of the regions. Moreover, the regions and the autonomous provinces can take part in preparatory decision making of EU legislative acts. They are also responsible for the implementation of EU measures. The regional statutes have been modified accordingly with different results<sup>7</sup>. Empirically, in particular the new role of regional legislatures requires to be better investigated.

In 2003 a law trying to implement the constitutional reform has been passed (La Loggia law n. 131/2003). It provides that the government may act as a substitute if a local authority or a region

<sup>&</sup>lt;sup>2</sup> See Palermo F., Zwilling C. and Kössler K. (Eds) (2009) Asymmetries in Constitutional Law – Recent Developments in Federal and Regional Systems Eurac Research, Bolzano; Bilancia P. (2011) Italy "fiscal federalism" in the context of the Italian constitutional reform, Presentation at the Special one day conference organised by the Wales Governance Centre, Cardiff Business School and the Centre for Federalism Studies, Turin, *Financing Devolved Government*, Cardiff University, 21 January 2011. See also Vassallo S. (2006) Il mito della devolution e la realtà della riforme, Il Mulino, Vol. 36, Issue 4: 650-657.

<sup>&</sup>lt;sup>3</sup> Only since 1987 Italian regions and autonomous provinces had been allowed to set up their own regional offices in Brussels and to maintain direct contacts with administrative units and political actors at the European level (see Law Fabbri n. 183/1997, which began the adaptation of structures and procedures for preparing and implementing EC decisions within the Italian political system).

<sup>&</sup>lt;sup>4</sup> Cotta M. and Verzichelli L. (2007), Political Institutions in Italy, Oxford University Press, pp. 182-194; see also

http://www.forumfed.org/en/products/magazine/vol7\_num1/italy.php

<sup>&</sup>lt;sup>5</sup> Keating M. and Wilson A. (2010) Federalism and Decentralisation in Italy, PSA Conference, Edinburgh,

http://www.psa.ac.uk/2010/UploadedPaperPDFs/930\_598.pdf

<sup>&</sup>lt;sup>6</sup> Art. 138 of the Constitution states indeed that, at the request (by one-fifth of the members of a House or five hundred thousand voters or five Regional Councils), constitutional amendments can be submitted to a popular referendum apart from the cases when *"the law has been approved in the second voting by each of the Houses by a majority of two-thirds of the members"*. <sup>7</sup> Bilancia P., Palermo F. and Porchia O. (2010) The European fitness of Italian Regions, Perspectives on Federalism, Vol. 2, Issue 2.

The authors discuss the differences in regional performances, in addressing the challenges and the opportunities of European integration too, especially due to the overly complex system of intergovernmental relations.

fails to meet Italy's EU obligations, or if this is required in order to safeguard the country's legal or economic unity. The government may also appoint a commissioner who will deal with substitution measures. This has been done for instance as regards the sanitary system, because of the deficit in public expenditures. The second legislation that implements important aspects of the 2001 constitutional reform is law 11/2005 (Legge Buttiglione). This legislation regulates the participation of Italy in the normative process of the EU and the procedures to implement EU obligations (Legge comunitaria). On the other hand, the constitutional reform approved in 2005 by a centre-right majority that further amended the Constitution both with regard to the form of government (introduction of the figure of prime minister) and the relationship between state and local self-governments (devolution) was rejected by the referendum and never came into force. More recently, the reform's implementation process restarted with the approval by a wide parliamentary majority of the bill on fiscal federalism (Law 62/2009). There was a large consensus about the need for regional and local authorities to become responsible for their public spending and to fight tax evasion. However, again, it is quite widely believed that the "implementation of the fiscal federalism will take several years and will have to overcome considerable technical and political difficulties, aggravated by the effects of the economic and financial crisis"8. Last, the constitutional law 1/2012 has emended art. 117 and 119 of the Constitution and stated that legislative powers both of the State and the Regions must comply with the constraints deriving from EU-legislation and international obligations and that local authorities have to contribute to ensuring compliance with the economic and financial constraints imposed under EU law. The new provisions will enter into force in 2014. Briefly describe the electoral system, if applicable, for each chamber. 1.4 Both chambers are elected by universal and direct suffrage for 5 years (till 1963 the Senate term was 1 year longer), but there are differences as regards the electoral rules: Voting age: 25 years for the Senate, 18 years for the Chamber Eligibility: senators must have attained the age of 40, deputies of 25 Seats allocation: the Senate is elected on a regional basis (each Region elects its senators), with the exception of the seats assigned to the overseas constituency (1,9% both at the Senate and the Chamber); the Chamber is nationwide elected (Italy is divided into a certain number of districts with assigned a number of seats proportionate to the population) In any case, although elected on a somewhat different basis, the political composition of the two houses has almost always been identical. After a long period (1948-1993) by a nearly pure proportional system, and a partially mixedmember system introduced in 1993 (in which 75% of seats were filled by simple plurality in single-member districts and 25% from lists), since 2005 a party list electoral system is being used in both the Camera and the Senate (Law 270/2005). A majority premium (premio di maggioranza) is given to the coalition obtaining a plurality, while the remaining seats are proportionally divided between minority parties. Even if this system has widely been referred to (mostly by politicians) as one of "full proportional representation", however it is clearly not. Hence, we agree with the label of a "bonus-adjusted proportional representation" system<sup>9</sup>. Seats are subject to thresholds so that parties are encouraged to form coalitions: at the Chamber, the threshold is of 2% for parties belonging to a coalition, 4% for parties not belonging to a

<sup>&</sup>lt;sup>8</sup> Bassanini F. (2012) Federalizing a Regionalised State. Constitutional Change in Italy, in Benz A. and Knüpling F. (Eds) Changing Federal Constitutions. Lessons from International Comparison, Budrich Publishers.

<sup>&</sup>lt;sup>9</sup> Renwick, A., et al. (2009), Partisan self-interest and electoral reform: The new Italian electoral law of 2005, Electoral Studies, doi:10.1016/j.electstud.2009.04.003.

	coalition, and 10% for coalitions; at the Senate, the thresholds are applied regionally and are set at 3% for parties in coalitions, 8% for parties not in coalitions, and 20% for coalitions. In this case, also the majority prize is applied at the regional level, with the largest party or coalition in each region guaranteed 55% of its seats.
1.5	What (f)actors can prevent the parliament agreeing on EU legislation and/or treaty reform? (e.g. a constitutional court, or public referenda on questions of EU integration)
	According to the Constitution, no referendum may be held on a law ratifying an international treaty, as the EU treaties are considered in Italy.
	Only in 1989, coinciding with the European elections, an advisory referendum took place about the possibility to delegate the European Parliament the drafting of a European Constitution project to be ratified by the Member States (Constitutional Law 2/1989). Because of the strong pro-European attitudes of the public opinion in Italy, at that time the result was highly positive: more than 80% of the electorate voted, and 88% voted in favour. Now it could be much more risky <sup>10</sup> .
	As regards the ordinary legislative process, it can happen that the President of the Republic, being responsible of the promulgation of the laws, may send to the Parliament a reasoned opinion to request that a law be considered once again. But it never happened.

#### 2. General Position of Parliament in the Constitutional Balance of the Member State: Political Factors

This section is about the basic political factors which might influence parliament's strength in relation to the government.

2.1	What is the type of government after the most recent elections e.g. single party, minority, coalition, oversized coalition government?		
	Coalition cabinet (Berlusconi IV) May 2008-November 2011. Since 16 November 2011 a "technical" government has been appointed (Prime Minister M. Monti, former EU Commissioner; other Ministers are unelected professionals) <sup>n</sup> . The government is supported both by the biggest parliamentary group (PdL), previously in the coalition cabinet, and the one at the opposition (PD). When the Parliament passed the motions of confidence, the Northern League (previously in the coalition cabinet together with the PdL) voted against.		
2.2	When were the most recent general elections and what were the results? Could you please give a short list of the parliamentary groups, their no. of seats in parliament and ideological position?		
	Latest election in the LOWER HOUSE:		snap election, after President of the ved the parliament following the di II)
	Name of the party	No. and percentage of seats in parliament	Ideological position (e.g. Communist, left liberal, socialist, liberal, right liberal, conservative, Christian democrat, extreme right, ethnic minority or

<sup>&</sup>lt;sup>10</sup> A recent overview about the attitudes towards Europe of both the political elites and the public opinion in Italy can be found in Bellucci P. And Conti N. (Eds.) (2012) Gli Italiani e l'Europa. Opinione pubblica, elites politiche e media, Roma, Carocci. <sup>11</sup> Precedents of technical (or technocratic) governments can be found after the collapse of the party system in 1992: the Ciampi government, composed to a significant extent of non elected politicians and with a programme highly defined under the supervision of the President of the Republic Scalfaro. Again, in 1995, after the fall of the Berlusconi I, another such government guided by Dini, a former Bank of Italy officer, was appointed (sse Italian Politics, various years, New York, Berghahn).

			regionalist party)
The	<i>Il Popolo della libertà</i> (the People of freedom)	276 (43,81%)	Centre-right Christian democrat and liberal
Berlusconi coalition	<i>Lega nord</i> (Northern League)	60 (9,52%)	Federalist and regionalist
(344 seats; 54,6%)	Movimentoperl'autonomia(Movement(MovementforAutonomy)(Movement)	8 (1,27%)	Regionalist and Christina democrat
The Veltroni coalition	Partito democratico (Democratic party)	217 (34,4%)	Social-democratic and Christian left
coalition (246 seats; 39,05%)	<i>Italia dei valori</i> (Italy of values)	29 (4,6%)	Centrist, anti-corruption and pro- justice
	<i>Unione di centro</i> (Union of the Centre)	36 (5,7%)	Christian democratic
	Others	4 (0,63%)	
	Latest election in the UPPER HOUSE:	The same than the LOWER H	IOUSE.
	Name of the party	No. and percentage of seats in parliament	Ideological position (e.g. Communist, left liberal, socialist, liberal, right liberal, conservative, Christian democrat, extreme right, ethnic minority or regionalist party)
The	<i>Il Popolo della libertà</i> (the People of freedom)	146 (46,35%)	Centre-right Christian democrat and liberal
Berlusconi coalition	<i>Lega nord</i> (Northern League)	26 (8,25%)	Federalist and regionalist
(174 seats; 55,24%)	Movimentoperl'autonomia(Movement(MovementforAutonomy)(Movement)	2 (0,63%)	Regionalist and Christina democrat
The Veltroni	Partito democratico (Democratic party)	118 (37,46%)	Social-democratic and Christian left
coalition (134 seats;	<i>Italia dei valori</i> (Italy of values)	14 (4,44%)	Centrist, anti-corruption and pro- justice
42,54%)	Others	2 (0,63%)	
	<i>Unione di centro</i> (Union of the Centre)	3 (0,95%)	Christian democratic
	Others	4 (1,27%)	
2.3		liamentary debate over ratific ups supported and which oppo	ation of the Lisbon Treaty? Which osed ratification?
	permissive consensus i	n the parties' attitudes: in p	reed the ratification); decreasing of articular the Northern League was nt coalition - voted in favour of the

Treaty<sup>12</sup>.

3. New Provisions of the Lisbon Treaty on Direct Contact with EU Institutions	
instituti	oon Treaty provides national parliaments with new opportunities for direct contact with the EU ons. This section addresses the incorporation of the new Lisbon provisions into national law and e procedures. Questions 3.3 to 3.5 investigate in how far these procedures have been used.
	Have there been any regulations adopted by your member state to incorporate the new powers that are entrusted to the national parliaments by the Treaty of Lisbon? If so, please list the regulations in their appropriate categories:
	a. Constitutional provisions
3.1	b. Legal provisions - Statutory provisions
	c. Parliamentary Standing Orders
	d. Other (please specify)
	Is this process complete or ongoing?
Lower	No constitutional modifications were adopted. The participation of Italy to the EU is still ruled by Art. 11 of the Constitution: "Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations. Italy promotes and encourages international organizations furthering such ends".
house	On October 2009 the Committee on the Rules of Procedure issued an opinion which establishes an experimental procedure for subsidiarity check. Still modifications of the Rules of procedure are expected.
	Important the deeply revision of Law 11/2005, which is still pending at the Senate.
Upper house	See above. Also in this case the revision of Senate Rules is highly recommended by the administrative staff but it is still lacking <sup>13</sup> .
3.2	What exactly are the rules (i.e. parliamentary bodies involved, procedure, regional parliament's involvement, cooperation in bicameral systems) for
3.2 i	The "Political Dialogue" with the Commission
Lower house	On the basis of the opinion issued by the Committee on the rules of Procedure on 6/10/2009, the EAC has been entrusted with the subsidiarity check, under which in some sense also the "political dialogue" is embedded. No. of submitted opinions: 2011= 28; 2010= 25; 2009= 9.
Upper house	Fundamental role of the EAC and its surrogate power in the upward stage of EU legislation, as stated by art. 144 of the Senate Rules (see 3.2, 3.4). The same power is not acted by the EAC at the Chamber, even if at the Chamber the EAC is the only one responsible for the subsidiarity check. No. of submitted opinions (which are actually Senate resolutions): 2011= 76; 2010= 71; 2009= 17.
3.2 ii	The Early Warning Mechanism (EWM)
3.2 ii Lower house	The Early Warning Mechanism (EWM) The procedure designed by the opinion of the Committee on the rules of procedure on 6 October 2009 is completely different from the Senate: in this case, only the EAC can approve opinions in the framework of the EWM, while the sectoral committees intervene only with an opinion addressed to the EAC, before its deliberation. No idea to modify the procedure <sup>14</sup> .

<sup>12</sup> See Cavatorto S. (2012) Il trattato di Lisbona nel Parlamento italiano, oltre il permissive consensus, in Bellucci And Conti (already quoted), pp. 85-111. <sup>13</sup> See Cosac Bi-annual Report May 2010. <sup>14</sup> Interviews with RUE and EAC staff at the Chamber, July 2012.

house	applied also to the EWM. According to this procedure, again, the President of the Senate forwards the EU draft legislation to the competent standing committee and also to the EAC. The Committees examine the proposal and approve a resolution according to the normal legislative procedure (art. 144 Senate Rules). Considering the period of 8 weeks for delivering the opinion, the EAC surrogates the competent for the subject-matter in case of its inactivity.
3.2 iii	The "Passarelle clause"
Lower house	Not yet stated modalities and procedures. New provisions are set up in the bill of revision of the Law 11/2005, not yet approved by the Senate.
Upper house	See above.
2.2 iv	The action of annulment before ECJ on breach with the subsidiarity principle
3.2 iv	(What quota of MPs is needed to enforce the action of annulment?)
Lower house	Not yet stated modalities and procedures. New provisions are set up in the bill of revision of the Law 11/2005, not yet approved by the Senate.
Upper house	See above.
3.2 V	Accession of new member states to the EU
Lower house	Not yet stated modalities and procedures. New provisions are set up in the bill of revision of the Law 11/2005, not yet approved by the Senate.
Upper house	See above.
3.3	How actively does the parliament engage in the political dialogue and "early warning mechanism" with the Commission?
Lower house	More activation in the political dialogue than in the EWM <sup>15</sup> . Increasing attention and politicization (trend to be better explored).
Upper house	Same considerations <sup>16</sup> .
3.4	Has parliament ever threatened to bring a legislative act to the ECJ because of subsidiarity concerns?
Lower house	No
Upper house	No
3.5	If applicable to your member state, how does parliament proceed on the ratification of: a. Treaty Establishing the European Stability Mechanism, signed 2 Feb 2012 b. Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, signed 2 March 2012
	The Italian Parliament has definitively ratified both the treaties. As it is clear looking at the legislative procedure of each bill in the Chambers (see below for details), the EACs played an advisory role – since the bills were primarily assigned to the standing Committees concerning Foreign Affairs, in a reporting capacity. In addition to that, the bills were examined by the Parliament simultaneously. a. On 12th July 2012 the Senate has definitively approved the bill concerning the ratification of the ESM (European Stability Mechanism) [S.3240]. The Chamber of Deputies followed this approval on the 19 <sup>th</sup> of July 2012 [C.5359]. The law 116/2012

 <sup>&</sup>lt;sup>15</sup> Interviews with administrative staff from RUE at the Chamber, July 2012.
 <sup>16</sup> Interviews with administrative staff from RUE at the Senate, July 2012.

	entered into force on the 23 <sup>rd</sup> of July 2012. b. On 12 <sup>th</sup> of July 2012 the Senate has definitively approved the so-called "Fiscal Compact" (also known as "Treaty on Stability, Coordination and Governance in the Economic and Monetary Union") [S.3239]. The Chamber of Deputies followed this approval on the 19 <sup>th</sup> of July 2012 [C.5358]. Two laws n.114/2012 and n. 115/2012 entered into force on the 23 <sup>rd</sup> of July 2012.		
Lower house	<i>The same procedure for a. &amp; b.:</i> in a reporting capacity, the bills have been examined by the III Standing Committee (Foreign Affairs, Emigration), which has worked along 3 sessions (17-18 July 2012). In an advisory capacity, the following standing committees expressed their opinions and gave positive outcomes: I Committee (Constitutional Affairs): 2 sessions; II Committee (Judiciary): 1 session; V Committee (Economic Planning, Budget): 3 sessions; XIV Committee (EU Policies): 2 sessions. Finally, the Plenary examined the bills in 2 sessions, approving them on the 19 <sup>th</sup> of July 2012.		
Upper house	<ul> <li>a. In a reporting capacity, the bill has been examined by the III Standing Committee (Foreign Affairs, Emigration), which has worked along 8 sessions (17/4-3/7/2012). In an advisory capacity, the following standing committees expressed their opinions: I Committee (Constitutional Affairs): 2 sessions, positive outcome; II Committee (Judiciary): 1 session, outcome: no impediments; V Committee (Economic Planning, Budget): 5 sessions, outcome: no impediments with observations; VI Committee (Finance and Treasury): 4 sessions, outcome: no impediments with observations; XIV Committee (EU Policies): 2 sessions, positive outcome; Parliamentary Committee on Regional Issues: 1 session, positive outcome. Finally, the Plenary examined the bill in 2 sessions, approving it on the 12<sup>th</sup> of July 2012.</li> <li>b. In a reporting capacity, the bill has been examined by the III Standing Committee of the Senate (Foreign Affairs, Emigration), which has worked in 7 sessions (17/4-21/6/2012). In an advisory capacity, the following standing committee: 1 session, no impediments; V Committee: 3 sessions, no impediments; VI Committee: 4 sessions, no impediments; VI Committee: 3 sessions, no sessions, positive with observations; Parliamentary Committee on Regional Issues: Parliamentary Committee on Regional Issues: 1 session, positive with observations; Finally, the Plenary examined the bill in 2 sessions, no impediments; V Committee: 2 sessions, no impediments; VI Committee: 4 session, no impediments; V Committee: 3 sessions, no impediments; VI committee: 4 sessions, no impediments with observations; XIV Committee on Regional Issues: 1 session, positive with observations; Farliamentary Committee on Regional Issues: 1 session, positive with observations. Finally, the Plenary examined the bill in 2 sessions, approving it on the 12<sup>th</sup> of July 2012.</li> </ul>		