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DEMOCRACY REPORT

FOR

ITALY

Dr. Leonardo Morlino
Dr. Donatella della Porta
Ms. Lisa Francovich
Ms. Serena Giusti
Mr. Fillipo Legnaioli
Mr. Pietro Milazzo

I. Citizenship, Law and Rights

1. Nationhood and Citizenship

Does public agreement on a non-discriminating common citizenship exist?

1.1 To what extent does the nation and state citizenship of those who live within the territory exist?

1.1.1 Laws

The fundamental feature guaranteeing the majority of our constitutional rights is citizenship, that is, the subjective status through which the Constitution gives recognition to a series of rights (especially political rights) and duties. The acquisition, the loss and the acquisition of citizenship are now regulated by Law No.91, 1992, which has definitively substituted the 1912 law, in force until then. Concerning the acquisition
of Italian citizenship by birth, the fundamental principle is that of the so-called *ius sanguinis*, according to which anyone born (or adopted) in any part of the world from an Italian mother or father is entitled to Italian citizenship. The principle of *ius soli*, according to which Italian citizenship is given to those who are born within the territory of the state, applies only in residual cases and to a limited extent, particularly in the case of parents who are unknown or stateless, or in the case that the newborn cannot be attributed the citizenship of his parents owing to the laws of citizenship of the countries in which his parents are citizens.

As well as acquisition by birth, citizenship may later be granted to foreigners in cases of specific individual or family situations, generally subject to defined periods of residence. Thus, citizenship can be acquired by (i) the foreign spouse of an Italian citizen, after six months of permanent residency within the territory of the state or three years of effective matrimony; (ii) foreign citizens who can prove direct second-grade descent from an Italian citizen; (iii) an adopted son or daughter of an Italian citizen, now come of age, who has lived for no less than five years in Italy; (iv) foreigners who have served the Italian state for at least five years; (v) a citizen of a Member State of the European Union after four years of residence (five in the case of stateless persons); (vi) a foreign citizen from a non-European Union country after ten years of residence in Italy. Moreover, those born outside the country from at least one Italian parent are eligible for registration as citizens when minors.

With respect to the loss of citizenship, the Constitution provides that this cannot occur for political reasons (Art.22). Law N.91/92 foresees that Italian citizenship can be *released* either by choice or automatically when the Italian citizen residing in a foreign state does not acknowledge the order of the Italian authorities to break this legal bond.

In parallel, citizenship can be reacquired after losing it – subject to the request of the interested party – when the latter carries out military service or accepts a state position, or when, within a year of having released his citizenship, he takes up residence within the Republic, or again when he relinquishes the relationship with the foreign state which enforced the loss of said Italian citizenship.

Citizenship obviously gives rise to certain rights, among which the enjoyment of all constitutional rights. In itself, however, the Constitution only guarantees to all men and women (including foreigners) the inviolability of fundamental rights. Recently, however, the number of rights recognised to non-citizen residents has been increased. For example, citizens of the European Union have now obtained the right to vote in administrative, municipal and council elections of their places of residence (Par.1, Chap.14).

Summarising, citizenship is inclusive and based on three main principles:

1) *ius sanguinis* i.e. a child with an Italian father or mother;
2) equality between women and men;
3) will to avoid situations of statelessness.

1.1.2 Implemention and negative indicators

With the entry into force of the European Union Treaty, Italians benefit from the advantages deriving from EU citizenship, in addition to national citizenship. Every person holding the nationality of a member state is automatically a citizen of the Union. Every citizen of the Union has the right to move and reside freely within the territory of the member states. Moreover, every citizen of the Union residing in a member state of which he is not a national, has the right to vote and stand as a candidate at municipal elections in the member state in which he resides, under the same conditions as nationals of that state. The same is also valid for elections to the European Parliament for which he has the right to vote and stand as a candidate (Art. 8b TEU). Moreover, all citizens of the Union also have the right to petition the EP along with the right to apply to the Ombudsman (Art.8d).

Equality between women and men is legally granted, but the UN Human Rights Committee (1998) stressed that, despite government efforts, "structural and cultural problems preventing the full enjoyment by women of equal opportunities in public and political life and in employment remain, and that equal pay is often not given for work of equal value".. First, in 1997 the Ministry of Equal Opportunities was instituted to remedy this *de facto* inequality. Some further legal measures have also been introduced, for example, a law providing for affirmative action to encourage women's access to employment. Various financial programmes support women to set up their own small- or medium-sized enterprises thanks to state incentives. However, the real breakthrough, at least in terms of customs and cultural expectations, has been the access of women to Type 2 posts in military structures and academies.

The 1998 CNEL report (*Rapporto sul ruolo delle donne nello sviluppo socio-economico*) revealed that, despite accounting only for 36% of the workforce (the European average is 58.1%), between 1997 and 1998, 67% of new employees were women, but that between 1998 and 1999 they had increased to 85%. This trend can be explained by the fact that, in most of the cases examined, the new jobs were characterised by flexibility and uncertainty. Women, who traditionally encounter more problems in finding a job, also accept more readily low profile jobs and short-term contracts (*contratti a termine)*. The peak in women's employment is recorded in the figures for self-employed work (*libera professione*), while the growth of women working in more "intellectual areas" is still low. Indeed, in 1993, they accounted for only 7.7%, and still now only account for 9.2% (a growth rate of only 1.5%). Instead, the number of doctors and engineers grew respectively, by 16% and 90%.

Italian women are also under-represented in politics. Only 72 members out of 630 are females, a smaller share than in any European Union country with the exception of Greece and France, and accounting for approximately 11% of the seats held in the Chamber of Deputies (*Camera dei Deputati*). In Sweden, on the contrary, more than 40% of Members of Parliament are women (see *The Economist*). Even in Italian local administrations the number of women occupying higher positions is low: in the 8,000 municipalities (*comuni*), only 6.2% of mayors and 13% of vice-mayors are women (CNEL). To sum up, the number of working women is constantly increasing, but women continue to find it difficult to reach the most prestigious positions, in which men still tend to predominate. While it is true to say that the "new economy" does help women to find initial employment, it is also true to say that it does not seem to help them move forwards in career terms. (See also 4.1 and 11.3)

In recent years, Italian legislation has begun to repond to the issue of harassment against women. Norms dealing with harassment and sexual abuse against women in the workplace are, for instance, now provided for in a specific law. The judiciary has also begun to treat offences concerning the trafficking of women and others (for example, minors) for the purpose of

prostitution, as acts which can be likened to slavery and as contrary to international and national laws.

Italy, however, lags behind other European countries with regard to homosexual rights and protection. The UN Committee on Economic, Social and Cultural Rights has emphasised that there is little protection for homosexuals, irrespecive of the fact that, in sporadic cases, they are allowed to share benefits. There is, for example, no special legislation providing for homosexual marriage, or for their adoption of a child. In all likelihood, this is the result of the influence on the Italian state of the Catholic Church, which has never recognised gay rights. The dispute arising from the World Gay Pride Parade, held in Rome in July 2000, between the Italian government and the Vatican clearly exemplifies this issue.

1.2 To what extent are cultural differences acknowledged and minorities protected?

1.2.1 Laws

Art.3 of the Italian Constitution establishes, among various prohibitions on discriminations singling out and highlighting the principle of equality, one specifically concerning racial and ethnic-linguistic belonging (for the prohibition on gender discrimination, see chapter 14, for religious discrimination, see chapter 3).

The Italian Constitution protects linguistic minorities "by means of special provisions". Thus, special status and conditions have been given to Sicily, Sardinia, Trentino Alto Adige, Friuli-Venezia Giulia and Valle d'Aosta (Art.116). Because of the high number of German-speaking people, the province of Bolzano has been attributed autonomous law-making powers. This special statute for Trentino Alto Adige makes extensive provision for the autonomy of the region, covering financial, administrative and legislative areas.

As far as the linguistic questions are concerned, this same statute recognises equal rights to all citizens, irrespective of the linguistic group to which they belong, and also provides for the use of German in the public sphere within the province of Bolzano. The statute also provides for teaching in the Ladin language in the primary schools in the areas where the Ladin language predominates. In addition, special provisions concerning the use of the French language have also been provided in Valle d'Aosta, where French has also been granted equal status with Italian. In Friuli Venezia Giulia, where there is a large Slovenian minority, several municipalities are allowed to use Slovenian when dealing with administrative and judicial authorities.

The current prohibition on the discrimination of different races, a reaction to previously existing racial and anti-semitic laws, is undoubtedly a general principle to which all successive legislation has been fruitfully compared. Such prohibition also constitutes a parameter for the Constitutional Court and an interpretative criterion for Italian magistrates. This ban was confirmed by Law N.654/75, which authorised the ratification and execution of the 1966 New York Convention concerning all forms of racial discrimination. More recently, the above prohibition has been enhanced thanks to the Ministerial Decree 122/93 and the ratification of the Strasbourg Convention on national minorities.

More specifically, the Ministerial Decree 122/93 bans organisations, associations, movements and groups whose aims are those of instigating discrimination or violence, on whatever grounds, towards any ethnic, racial, national or religious group. Among the foreseen sanctions, as well as imprisonment, the court may also inflict different sentences, including, for example, unpaid community work.

As far as ethnic-linguistic minorities are concerned, the Italian legislation against discrimination is highly complex, though not particularly homogeneous, for it reflects the real problems caused by different linguistic communities living together in the same areas of the country. Art.6 of the Constitution lays down that the Republic "protect with appropriate forms all linguistic minorities". Subsequently, both the Statutes of Trentino Alto Adige and Valle d'Aosta,

whose norms, having been approved by constitutional law, and necessarily conforming to the Constitution, have effectively set up two completely different bi-lingual systems. A model of "total bi-lingualism" has prevailed in Val d'Aosta, where French and Italian are both used indiscriminately by the community as a whole. In Trentino Alto Adige, however (where there have been very much greater difficulty in merging the two different communities – German and Italian), a "parallel" model has prevailed. In this case, both German and Italian can and are fortuitously used as official languages in administrative procedures, irrespective of the fact that there is no real bi-lingual context.

The complex legislation of the Trentino Alto Adige region is also of particular interest given the presence of three different linguistic communities in this area (Italian, German and Ladin). This Regional Council has enhanced linguistic equality, both through the support given to the different linguistic groups and through the norms regulating positions in the civil services.

It is important to bear in mind that so-called proportional ethnic discrimination (Art.89 St TAA) , that is, the system by which civil servants are recluted, is based on the adherence of each single candidate to one of the three communities recognised by the Region, which has a certain number of positions to assign to each ethnic linguistic group.

The importance of the new legislation concerning immigrants (Law N.40/98), though only one of the many norms aiming to encourage co-operation between the communities present on the national territory, should also not be underestimated. This new law allows for the adoption of new initiatives for multi-ethnic integration and promotes exchange between foreign citizens and their communities of origin and Italian citizens. It is especially effective in the field of education (cf. above all, chapter 14).

The recent Law N.482/99 has attempted to give juridical status to long-standing minority linguistic groups, and has tried to overcome the criticism to which Italian legislation has frequently been subject. To date, it has provided significant guarantees for only the most important and numerous linguistic minorities, tending to neglect smaller linguistic groups, even if these may be numerous over the national territory as a whole. This law, therefore, reinforces the protection of groups including Albanians, Catalans, German-speakers, Greeks, Slovenians, Croats, as well as those using French, Provençal French, Friuli, Occitain and Sardinian. This protection is conditional to the approval of the Provincial Council, which may declare the existence of a minority group within its territory if the majority of the population are in favour or if the minority constitutes more than 15% of the total population. Linguistic minorities can also establish bodies of consultation and co-ordination which local authorities may or may not recognise. Protective measures include the possibility of teaching and promoting the safeguarding of the cultural heritage of minorities in the school system (with particular care being taken to use the minority language in elective assemblies, public administration and local place-naming). More specifically, space is given to the protected languages and their related traditional cultures within the curricula of state schools at all levels.

In 1997, Italy also ratified the Framework Convention for the Protection of National Minorities adopted by the Council of Europe which entered into force on 1 February 1998.

1.2.2 Implementation and negative indicators

Over recent years, Italy has become an increasingly multi-ethnic country, due to consistent waves of immigration. In 1997, the Minority Rights Group International published a list of the main minority groups (linguistic and ethnic) in Italy, which included 1.6 million Sardinians; 600,000 Friulians; 303,000 South Tyrolese German-speakers; 90,000-110,000 Roma/Gypsies; 100,000 Slovens; 100,000 Maroccans; 100, 000 Albanians; 75,000 Franco-Provençal-speaking Aostans; 50,000 Occitans; and 46,500 Tunisians, among others.

In the past, Italy has experienced a relatively low number of racist incidents compared to other European countries. However, during recent years, owing to the growth in the number of immigrants, these incidents have been on the increase. For example, there have been episodes of

violence carried out by right-wing extremists, generally young people. Moreover, it has now also become quite common to see individuals displaying emblems or symbols of organisations and movements inciting discrimination and violence on racial, ethnic or religious grounds at sporting events.

Social and economic problems have radicalised intolerance not only between citizens coming from the North and the South of the country but also towards "non"-citizens, in particular, non-EU immigrants, whose situation is rendered more difficult when they do not hold residence permits. The fact that illegal immigrants are often prepared to accept any job, without legal protection and with low salaries, is the main reason for the discontent among Italian citizens. This is exacerbated by the fact that the most socially and economically disadvantaged strata of the population has the widespread conviction that immigrants may steal jobs from Italians, giving rise to racist tendencies. The *Lega* has largely exploited this growing intolerance towards illegal immigrants in order to reinforce its consensus, and this process has been facilitated by the numerous criminal episodes committed by immigrants. Problems of law and order are increasingly related to illegal activities and trafficking carried by some immigrants.. To date, the *Lega* has not officially endorsed any openly racist policy but it has, however, called for very much more restrictive anti-immigration measures. Indeed, the regulation of immigration is likely to be a crucial topic in the next political elections and a focal cleavage in the Italian political spectrum.

A Censis survey, financed by the Bnc Foundation, shows that 74.9% of the interviewees are convinced that there is a strong correlation between immigrants and the rise in criminal rate, although they also hold that non-EU immigrants do not necessarily represent a real threat to everyday life.

Tab. 1: Survey on the correlation on numbers of non-EU immigrants and rise in the rate of criminality, according to geographical area (%)

	North West	North East	Centre	South and Islands	Total
Correlation	85.9	71.1	68.7	72.3	74.9
No correlation	9.8	13.1	12.4	16.3	13.2
Uncertain	4.3	15.8	18.9	11.4	11.9
Total	100.0	100.0	100.0	100.0	100.0

Source: Censis survey – Bnc Foundation, 2000

Serious problems also exist in relation to the Rom camps in many Italian cities. The UN Committee on Elimination of Racial Discrimination reports that some discrimination has been recorded against the Rom minorities. For example, they were discriminated against in terms of housing and health when their camps were fenced in with wires, restricting them to staying in one place without proper running water or electricity.

In order to handle the increasing number of violent episodes of racism and intolerance more effectively, in 1993 the Government revised the standard criminal procedure and passed Law N.205, providing urgent measures against racial, ethnic and religious discrimination. This law introduced the concept of "racial premeditation" as an unjustifiable criminal offence. This same law also forbid any organisation, association or movement inciting racial violence or discrimination. Victims of any such criminal acts have the right to claim damages in the criminal procedure.

In addition, the XII final provision of the Italian Constitution forbids the reconstitution of the Fascist party, which adopted a racist policy, to serve as a permanent warning for any parties leaning towards similar policies.

As a response to the rooting of many different religions, Italy has established the National Observatory on Religious Freedom, an organisation which deals with complaints about constraints

on religious freedom. Even the recent prison reforms now contain specific provisions allowing non-Catholic prisoners to practice their own creeds.

Tab. 2: The religious beliefs of immigrants in Italy

Religion	1995	1996
Muslims	301.780	422.186
Catholics	309.349	371.658
Other Christians	249.388	275.759
Other Religions	55.032	63.091
Buddhists/Shintoists	32.387	40.768
Induists/Confucianists	19.211	28.326
Animists	12.207	17.960
Taoists	6.751	9.735
Jewish	7.065	7.084
non-classified	428	424

Source: *la Repubblica*, 7/3/00.

1.3. How much consensus is there on state boundaries and constitutional arrangements?

1.3.1 Positive and negative indicators

State territorial boundaries are not subject to disagreement. The only question left open after the end of the Second World War was the status of Triest. In October 1953, the Americans affirmed that they would leave the territory they were occupying to Italy. Tito's reaction to this, however, was very heated and both Italy and Yugoslavia started to mobilise their armies at the border. In 1954, an informal agreement was reached between these two countries: while zone A and the city of Triest became part of the Italian nation, zone B passed to Yugoslavia . National borders were definitively set with the Osimo Agreement, ratified by Law 73/1977.

Post-war Italy has a long tradition of separatist movements, some of which pursued terrorist strategies, some street guerilla warfare and some taking the parliamentary route. The action of terrorists has progressively declined due to the large autonomy recognised to the areas in which separatism was stronger (Alto Adige, Valle d'Aosta). This was also thanks to a more open and tolerant cultural and education policy and to the possibility given to these regions to express their interests through political parties (*Union Valdotaine, Sudtiroler Volkspartei*).

The only political party that has referred to secession in more recent years is the *Lega Nord*. This party uses this argument strategically to increase and maintain its internal cohesion and consensus. The *Lega* has mostly constructed its political appeal on questions of identity. The promotion of a North-Eastern "regionalism" on which it relies is not, however, deep-rooted. The fight for secession against a perceived common central enemy – Rome - have therefore been key cohesive factors. The popularity of the *Lega* in Lombardia, Piemonte and Veneto illustrates the extent to which rich areas and prosperous social groups have been frustrated at the inequities and inefficiencies of central government and, in particular, by the issues of revenue and economic development.

The claim for more regional autonomy has been converted into a Federalist project, also shared by other political forces. The newly elected President of Lombardia, Formigoni (*Forza Italia*), first swore allegiance to Lombardy and its people and only subsequently to the Italian Constitution. This caused a great deal of friction between Formigoni and the President of the Italian Chamber of Deputies. Although this so-called "devolution" *is* likely to change the Italian political system and the power relations between the centre and peripheries, it is highly improbable that the issue of secession will currently be pursued.

1.4 *To what extent do constitutional and political arrangements enable major societal divisions to be moderated or reconciled?*

See *1.2.*

In addition to the articles of Parts II and III (*Rapporti etico-sociali, rapporti economici*) of the Constitution, the newly established Ministry of Equal Opportunities and the Economic and Social Committee are more appropriate frameworks in which to examine major societal divisions.

1.5 *How impartial and inclusive are the procedures for amending the constitution?*

The Italian Constitution is characterised by rigidity in the sense that its norms can be abrogated or repealed in part only after a complex process and not through ordinary laws. Any law that is not in line with the Constitution can in fact be annulled by the Constitutional Court.

The overall design of the Constitution reflects the overriding concern of post-war political parties to prevent a return to Fascism. Opting for rigidity rather than flexibility therefore stemmed from the awareness that Mussolini had come to office through procedures of purely specious legal validity, and had been able to exploit the lack of constitutional impediments in order to overthrow the liberal state from within. The Fascist regime had been marked by disrespect for formal legal procedures and human rights, together with a blurred distinction between law and politics in a number of fields such as the government, judiciary independence, police and individual liberties. An inflexible and codified constitution guaranteeing the division of powers, was seen as a means of preventing the return of Fascism. The principle aim of such a constitution was to set up effective fences to any possible *coup d'états*. Members of the Constituent Assembly were also clearly concerned with strengthening the new Republic which had ousted the monarchy in the referendum of June 2 1946.

Only Art.138 of the Constitution provides for a revision of the Constitution: this article institutes a highly complex procedure based on a joint deliberation that must be emitted by both Chambers at a distance of at least three months.

The revised law is to be considered approved by a majority of half plus one of the members of Parliaments if the law was not approved by a majority of at least two-thirds of each Chamber. If, however, no majority is reached within three months of its publication in the *Gazzetta Ufficiale*, a national referendum on that same law can be requested by at least one-fifth of the members of one of the Chambers, or five hundred thousand voters, or five Regional Councils.

Following the above procedure, the entire Italian Constitution could effectively be reformed, the only exception to this being the form that the state takes as a Republic, and which, according to Art.139 of the Constitution is "not subject to constitutional revision". Nevertheless, the Constitutional Court has developed a doctrine which poses additional restraints on constitutional revision. The Court has identified these as being "fundamental principles of the system", which, though not necessarily coinciding with Arts. 1-11 of the Constitution are nonetheless integral elements of the constitutional pact.

Clearly, so complex a procedure, which has parliamentary activity as its barycentre, might well wish to exploit a particularly large majority as well as instruments such as referendums in order to guarantee widespread popular consensus towards constitutional reforms. In reality, on none of the numerous occasions during which the Constitution has been reformed or integrated, has a popular referendum concerning Art.138 been held. This is either because a two-thirds majority has always been reached or because no initiative has ever been taken to call for a referendum.

Over the years of the Republican state, and particularly after the seventies, there has been a growing consensus concerning the need for widespread constitutional reform and Art. 138 has often been considered as too rigid to enable change (cf. for example, the message sent by President Cossiga to the Chambers on 26th June 1991).

The goal to enact constitutional reform has been pursued with great energy by three commissions ("Bozzi", "De Mita-Iotti" and "D'Alema", after their respective chairmen). These were set up with different means and modalities to develop projects for the revision of large sections of the Constitutional Charter. None of the Commissions, however, suceeded in producing a constitutional reform.

1.6 *What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?*

In general, Italy does not have a tradition of positive discrimination for disadvantage groups. An heavy influence of the Catholic Church also restricted or delayed some individual liberties in particular on family issues and sexual behaviour. An omophobic culture limited rights for homosexual.

Although Italian legislation has showed a certain awareness towards new phenomena such as racism and intolerance by introducing ad hoc provisions, there is however a general feeling that illegal immigration might cause serious social conflicts. Although it is clear that immigration does not necessarily imply criminality or illegal activities, the government should try to eradicate criminal organisations which flourish on the exploitation of the many desperate refugees (Albanians, Eastern Europeans, and Africans) and peoples fleeing from the disasters of wars and ethnic cleansing (Bosnia, Kosovo). The general feeling of a lack of security is, in the minds of many young citizens, increasingly linked to the presence of the immigrants, encouraging a breeding ground for racist attitudes. In this perspective, the question of immigration should become focal in the government agenda along with the development of a culture of tolerance and inclusion. The European Commission against Racism and Intolerance of the Council of Europe has identified some crucial areas on which Italy should focus:

- more awareness-raising again intolerance, especially among young people;
- a prompt and adequate response on the part of the judicial authorities in cases of violent manifestations of racism and xenophobia, especially by law enforcement officers;
- more reliable and efficient implementation of the legislation against racism and intolerance;
- the creation of a specialised body responsible for fighting against racism and intolerance;
- strengthening co-operation between the state, voluntary organisations and NGOs dealing with assistance to immigrants.

To date, Italy has not instituted a special body (Ombudsman, or a special commission), unlike many other European countries, in order to monitor and contain the phenomenon of racism.

With reference to the gender equality, which is still unresolved, the UN Human Rights Committee has invited Italy to take action in the field of education and through legal measures.

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2. The rule of law

Are state and society consistently subject to law?

2.1. How extensive is the rule of law operative throughout the territory?

2.1.1 Laws

The main territorial limitation to the rule of law is represented by the presence of the various mafias. “Democratic public order” and antimafia legislation have brought about a stiffening of some preventive measures (regarding which in general see Ch. 3) adding new categories to those to which the law already applies. For example by Law 152/75, security measures can be taken against anyone putting into being preparatory acts aimed at overthrowing the State, anyone who took part in dissolved neo-fascist associations and continues to be involved in similar activities, whoever carries out acts aimed at the reconstitution of the Fascist party and anyone found guilty of arms crimes, and is considered likely to commit similar crimes. Law 575/65 and subsequent “antimafia” legislation introduced new, preventive measures such as special surveillance, restricted sojourn and some provisions regarding property (extending even to sequestration and confiscation) of anyone under investigation for belonging to criminal-type associations or who pursue the same aims or act using the same methods.

2.1.2 Implementation and negative indicators

The influence and nature of mafias have undergone many changes, and new types of mafia have emerged as a consequence of immigration and the end of the cold war. After the establishment of democracy after World War II, but actually going further back, unclear links between political parties and mafia have been repeatedly affirmed, even by parliamentary committees set up to investigate the phenomenon. The main charge was that mafia clans supported party leaders by mobilising votes in the territory under their control in exchange for ‘assistance’ in getting public works contracts and manipulating criminal procedings where mafia members were in trial. Lately, it would appear, politicians’ reduced availability to grant favours to the mafia and protect their members provoked a brutal response by organised crime. Giovanni Falcone and Paolo Borsellino, two magistrates involved in prosecuting the mafia, were killed in 1992 and bombs were placed in Rome, Florence and Milan in the summer of 1993. The State’s reaction brought some success with the arrest of the head of one of the most powerful mafia clans, Totò Riina, and also by delving into the DC-mafia links.

The substantial weakening of links to political parties has done little to hamper the mafia’s traditional affairs. According to a Report of the Association of ex members of Parliament on

organised crime and institutions (1991) there are about 106 clans in Campania with about 5,000 affiliates; 186 in Sicily; 142 in Calabria while in Apulia, the *Sacra Corona Unita* counts about 30 *"cosche"* and over 1,000 militants. According to the report of the Antimafia Investigation Organization (DIA) referring to January-June 1999, mafia structure and interests are continuously changing. The new business for mafia is money laundering which has been further developed thanks to the introduction of new technologies. The traditional features of the mafia still remain: widespread territorial control, high levels of violence in conflicts between "families" and attempts to infiltrate public administratione. Illegal activities such as usury and extortion are still very widespread and are concentrated in the south (Censis). Drug trafficking has dropped since police control has become more vigilant and other foreign groups have started to operate in the sector. According to DIA "Cosa nostra" has focused its strategy on the public tenders since, in economic terms extortion is proving less profitable. The presence of camorra clans in Montenegro is, as pointed out by DIA, an evident sign of their ability to adapt to new situations and markets. The significant autonomy of each clan, within the the camorra, explains the high level of internal struggle. In the first semester of 1999, Campania registered the highest rate of murders. In Calabria, *N'drangheta* is less conflictual than Camorra and has a vast control of the territory. It recently concluded contracts and alliances with foreign criminal groups set up in Italy in particular Kosovars, Egyptians, and Turks. Tight links have also been established with drug traffickers in South America, the Middle East, Russia, and Eastern Europe which are proving useful especially in money laundering. The most important economic activity of the *Sacra Corona Unita* is the control of all the tobacco smuggling across the Adriatic. According to the Italian Tobacco Federation (FIT), cigatrette smuggling in 1998 was about 14,000 tons amounting to 13% of the whole market. Some members of *Sacra Corona Unita* are in hiding in Montengro where they have the protection of local groups and government.

The DIA Report also mentions the increasing role of foreign mafias in Italy. Albanian criminal groups are present in the big cities of the north and in the Adriatic regions where together with the *Sacra Corona Unita* they control the traffic of illegal immigrants, prostitution and drugs. The activity of Chinese organized crime is mostly against members of the Chinese community and consists of gambling, irregular work exploitation, kidnapping, extorsion and illegal immigration. The Turkish groups active in Italy are affiliated to mafia clans in Turkey and they mainly deal with heroin traffic. Turkish activity is concentrated in Northern Italy where 50% of drug-related crime is committed by Turkish citizens. Among the groups operating in drug trafficking, Africans are also emerging. Nigerians seem to be the best organised especially in the areas of Milan, Turin, Padua, Rimini, Rome, Naples and Caserta.

Table. 2.1 Number of prisoners re organized crimes (Dec. 31, 1999), by crime*

Region	Law 416 bis C.P.P.	Law 630 C.P.P.	Law 74 Unified Text	Total
Abruzzo	188	10	83	281
Basilicata	74	1	35	110
Calabria	336	11	175	522
Campania	688	45	346	1,079
Emilia-Romagna	152	37	137	326
Friuli-Venezia Giulia	10	4	22	36
Lazio	285	81	257	623
Liguria	5	13	49	67
Lombardy	142	123	583	848
Marches	115	14	69	198
Molise	31	2	16	49
Piedmont	174	46	169	389
Apulia	451	14	321	786
Sardinia	23	68	58	149

Sicily	973	14	322	1,309
Tuscany	153	90	186	429
Trentino-Alto Adige	-	-	3	3
Umbria	133	23	40	196
Valle d'Aosta	6	-	2	8
Veneto	24	16	62	102
Total	3963	612	2935	7510

Source: Department of Penitentiary Administration (DAP)-Ministry of Justice
Note: * Art. 416(c)(p) = mafia-type association; Art. 630(c)(p)=kidnapping for extortion; Art. 74 Law 309/90=criminal association aimed at drug trafficking: N.B. The collection of data concerned physical persons involved in crimes indicated in the prospectus. In order not to count the same physical person more than once, whoever had more than one accusation was counted in one only class of crime in accordance with the following order of classification: Art 416(c)(p), Art. 630(c)(p), Art 74 Law 309/90.

Table. 2.2 The institutional activity of the Dia: Orders for preventive custody (1992-99)

Mafia	1454
Camorra	1608
'Ndrangheta	1674
Organized crime in Apulia	912
Other	188
Total	5836

Table 2.3 The institutional activity of the Dia: sequesters and confiscations in million lire (1992-99)

	sequesters		confiscations
Organizations	Art 321, Code of Criminal Procedure	Law 575/65	Law 575/65
Mafia	253,525	140,190	3,250
Camorra	2,682,500	950,501	785,993
'Ndrangheta	115,357	173,870	48,882
Organized crime in Apulia	20,998	50,911	33,328
Other	7,585	1,500	7,500
TOTALS	3,079,965	1,316,972	878,953

Table 2.4 The institutional activity of the Dia: arrests by criminal organization* (1999)

Criminal organization	*Orders for preventive custody*
Mafia	199
Camorra	213
Ndrangheta	95
Sacra Corona Unita	91
Other criminal organizations	109
Totale	707

Source: Ministry of the Interior
Note: *Results reached by the DIA from 1 January to 26 November 1999.

Table 2.5 Definitive convictions (1994-99)

Crime	1994	1995	1996	1997	1998
Kidnapping, extortion, sequestration for kidnapping or extortion	7780	7432	8466	9222	9745
Smuggling	3305	4945	3035	3500	4084

Source: Judicial year opening report, 1999

Besides, mafia Italy has also experienced what Bobbio calls "crypto-government": the interference of paramilitary forces which operated behind the scenes with segments of the secret services or, at least with their connivance. The most structured attempt to create an occult form of government was the so-called "Loggia P2". This secret lodge, headed by Licio Gelli, gathered high-level politicians, entrepreneurs, top state officials and journalists as well as members of organised crime from the early 1970's up to 1981 when the list of its affiliates was detected. Many observers, however, believed that P2 has continued to operate afterwards though in a more disguised way. The lodge offered a confidential opportunity for its members to meet, exchange information, conclude affairs and receive reciprocal guarantees. Thanks to the collaboration of Roberto Calvi, the President of Italy largest private bank, the Banco Ambrosiano, Gelli was also able to influence financial markets. Gelli's capacity to combine different means ranging from pure blackmail to corruption and coercion for influencing both institutions and economic sphere turned the P2 into a sort of "state within the state" (della Porta, Vannucci, 1999, p.169).

2.2. To what extent are all public officials subject to the rule of law and to transparency rules in the performance of their functions?

2.2.1 Laws

Elected public officials are subject to a different legal set of rules depending on the organ to which they have been elected. Members of Parliament enjoy undisputability of votes and opinions expressed in the execution of their duties. Moreover, without authorization of the Chamber to which they belong, they may not be subjected to personal or domiciliary searches, arrested or in any way deprived of their personal freedom, unless in the course of a definitive conviction or caught *in flagrante* in a crime for which obligatory house arrest is provided for. They may not be subjected to any form of unauthorized interference or have their correspondence sequestered (Art. 68). Regional council members also enjoy undisputability of opinions and votes (Art. 122).

After the reform of Art. 68 of the Constitution excluding the requirement for authorization by the Chamber to allow proceedings against individual parliamentarians to begin, the judges increasily asked the interventions of the Constitutional Court against Parliamentary decisions to define as opinions expressed "within a course of duties" what, according to the judges, is defamation crime (see the recent judgment 10 and 11/2000).

Unelected public officials (who, in turn, tend to be divided between officials who form, manifest and express the wishes of the public body, and employees who carry out these wishes) are by law selected in accordance with a publicly-held competition (as required by Article 97 of the Constitution) that must have the characteristics of publicity in selection and methods, of transparency in selection mechanism, of being made up of experts of the Commissions and of guaranteeing equality of opportunity between men and women (Law 29/93).

The Constitution itself lays down some fundamental principles concerning the content of their duties and rules of conduct in those duties: they must do their job with "discipline and honour" (Art. 54) as well as with "loyalty" as required from all citizens; they must adhere to the principle of impartiality being as they are at the exclusive service of the Nation (Art. 98). A "code of conduct" for public administration employees was recently drawn up that does not appear to have had a

significant impact on public administration practices, although it may certainly be set as a new parameter, for example relating to judgment in disciplinary responsibilities.

As provided for by Art. 28 of the Constitution, public employees are directly responsible for acts they carry out in violation of rights, and this responsibility is extended to the State. In reality responsibility of public officials takes various forms: (i) public officials have obviously criminal responsibility, by general rule personal, and they are also potential active perpetrators of a number of crimes "against public administration" (on which see chapter 9); (ii) they are subject to civil responsibility for compensation for damage they cause to public administration or private third parties, the former to be judged by the *Corte dei Conti* (Accounts Tribunal) the latter in ordinary court; (iii) there is also disciplinary responsibility, generally regulated by collective labour contracts, completely enfolded within the relationship between employee and public administration concerning employee's failure in various duties: such responsibility may bring specific sanctions to bear; (iv) finally there exists a form of special responsibility for public employees entrusted with the handling of public money or as depositories of public property. This is an accounting responsibility concerning shortfalls in money, or a culpable reduction in value of entrusted public property. These cases come under the jurisdiction of the *Corte dei Conti* (Accounts Tribunal).

A particular form of responsibility is provided for in the function of public security. As described in greater detail in point 8, on the one hand no compensation is due for damage caused by public security authorities in the exercise of their duties as authorized by law (excluding therefore the application of civil rules on responsibility), and on the other empowerments are found in public activity legislation that could conflict with the exercise of constitutional rights.

2.2.2 Implementation and negative indicators

The role played in both the economic and political systems by networks of personal trust based on blood and friendship ties or patronage relations contributed to the survival of mafia groups (La Palombara, 1994). The weak institutionalisation of distinct political and economic spheres produced a pathological association of economic and political power. Clientelism became systematic in the mid-1950s when the Christian Democrats started to buy support by taking over state resources and channelling them to its voters. The economic system was for long time influenced by these informal dynamics preventing the development of a true market economy. Confusion between legal and illegal spheres was proved by the so-called *Mani Pulite* prosecution in the 90s. This "Clean hands" prosecution highlighted indeed a widespread illegality in the administration of public power by bureaucrats and politicians. As della Porta and Vannucci put it, "The exposure of what had been the 'hidden face' of public power demostrates that the market for corruption has, for many years, represented the determining factor for a vast range of (frequently illegal) activities based on the appropriation of public resources by state functionaries, a group of entrepreneurs benefiting from political protection, and actors from the criminal world" (Della Porta e Vannucci, 1999, p.13). Corruption was particularly widespread in the field of public tenders. Careers in the public service often depended on party affiliation to the detriment of specialisation, efficiency and administrative skills. It must be stressed that clientelism is present in the way Italians use personal contacts to avoid going through the usual administrative procedures.

According to a Censis survey in Italy coexistence of a "double morality" one public, apparently strictly respectful of the legal system, and one private, more flexible and subject to the external environment still exists. Among Italians 40% of respondents admit that in particular cases they do not respect laws, 12,7% would be ready to pay a bribe to sort out a personal problem while 32% consider the employer who dodges taxation a good person who pursues not only his own but also his employees' interests. This attitude is diffuse both in the north and the south but here is inserted in a context of poor economic and social conditions with the consistent presence of criminal organisations (Censis).

A law on the regulation of information and communication activities of public adminsitration aimed at improving the communication between public administration and citizens has just been passed (7 June 2000). Among the measures which could reduce corruption are access to public services and simplifying procedures.

2.3. *How independent are the courts and the judiciary from the executive, and how free are they from all kinds of interference?*

2.3.1 Laws

The Constitution sets out important principles regarding the exercise of judicial functions and the status of magistrates. Firstly it is established that magistrates are "subject only to the law". This general principle is a fundamental precept for interpretation, and is specified in the subsequent principles of autonomy and independence of the order of judges (Art. 104), as well as independence of each individual judicial organ (Art. 101); the Constitution provides that magistrates - as other public employees - must, by law, be engaged through publicly-held competition (which assures their technical ability) and that they be untransferable from where they work. The publicly-held competition to gain access to the magistracy, for which a university degree in law is sufficient, is set by the Ministry of Justice and is composed of preliminary admission exams, three written exams and one complex oral test. Successful candidates become judicial hearers and for two years are placed alongside existing magistrates in order to become familiar with judicial functions.

The guarantee of magistrates' autonomy and independence vis-à-vis all other powers is assured mainly by the creation of a delegate body to carry out functions previously the domain of the Minister of Justice (Privy Seal). The Upper Council of Magistrates (CSM), by virtue of its composition and the powers granted it, may be described as the organ of "self-government" of ordinary magistrates; its composition is made up for a third by members elected by Parliament in gathered session and, for two thirds, by members elected by all ordinary magistrates. Moreover, three members sit on the CSM by right: the President of the Republic and two high magistrates of the Supreme Court of Appeal. The CSM's functions are substantially those concerning the career and judicial status of magistrates (postings, transfers, conferring roles of a directive nature) and also exercising disciplinary powers of its own or of the Ministry of Justice.

The organization of justice is based on the law called "on judicial order", added to and modified over the years, and can be substantially reconstructed as follows: justice of the peace, Court (also Assize Court in criminal cases) Court of Appeal (also Assize Court of Appeal in criminal cases), Supreme Court of Appeal (whose sole function is to judge legitimacy and as the most authoritative interpretor of the law).

In reality Italy does not have only one order of magistrates just as it does not have only one jurisdiction. Alongside ordinary jurisdiction, regulated by judicial order, there are other so-called "special" jurisdiction (administrative judges, Accounts Tribunal, tributary commissions, and organs of military justice). The Constitution forbids the setting up of any new special judges and provides for the review of existing ones so as to make their structure and functions compatible with new Constitutional ideas. This need for alignment was identified especially by the Constitutional Court as the need to guarantee independence vis-à-vis other powers of the State and impartiality of special judges (see judgments N° 93/65, 55/66, 30/67, 67/84 and 266/88). The aim of alignment so identified was pursued principally through the creation of *ad hoc* organs which, following guidelines laid down by the Constitution for the Upper Council of Magistrates (CSM) and by virtue of the power conferred on it and its composition that guarantees the mainly "internal" origin of the guaranteed jurisdiction of members, can assure the constitutional values of impartiality and independence for special judges. These organs are the Council of the President of Administrative Justice (Law 186/82), the Council of the President of the Accounts Tribunal (Law 117/88) and the Council of Military Magistracy. The organization of administrative jurisdiction deserves special

mention articulated over two levels of judgment; the first with the Regional Administrative Tribunal competent by territory, the second with the Council of State at jurisdiction level.

After World War II, the problem often emerged of the responsibility of magistrates in the exercise of their duties over and above their disciplinary responsibility, which, besides, does not have a precise legislative typification but is based on CSM jurisprudence. Subsequent to the positive result of the popular referendum, Law 117/88, provides for a complex system to give weight to judges' civil responsibility (against the State and not directly against individual magistrates) but only in cases where the magistrate's deceit or serious guilt can be proved.

2.3.2 Implementation and negative indicators

In pre-fascist Italy the judiciary enjoyed only limited autonomy from the government and was considered a specialized branch of the public administration. During Fascism, the judiciary was considered the longa manus of the regime. As said above, on the contrary, the democratic Constitution (Art. 104, 110) neatly separated the competences of the Consiglio Superiore della Magistratura (CSM) from those of the Minister of Justice creating in this way the so-called "magistracy self-government". Nevertheless, because of lack of identity as a corps, and discontent regarding the key areas of promotion and salaries, magistrates split soon into different associations, often with political orientations. There have been sporadic cases of alleged collusion with mafia and camorra (della Porta 2001).

Despite these deviations, the magistracy has contributed greatly to the modernisation of the country through innovative decisions especially in the labour relations and environment sectors. During the 1970s and 1980s the magistracy distinguished itself in the fight against terrorism and mafia. In the early 1990s magistrates started to be in the limelight thanks to the so-called "clean hands" operation which threw light upon a complex and diffuse system of political corruption. The "judge's revolution" contributed to the collapse of the first Republic and the disappearance of many of the traditional political parties. After only few years, due to the drop in confessions, the review of some judgments by the Supreme Court of Appeal and finally the slowness of the judiciary systems with the consequent extinction of many accusations due to time expiration, the magistratesì' role and prestige has somehow declined. Frequently, the magistracy has being accused by some politicians of abusing of its power and not being independent. The opposition, represented by Forza Italia and its political leader, Silvio Berlusconi, who was involved in various criminal proceedings, has repeatedly accused judges of acting in the interest of specific political parties and he has polemically labelled them "*toghe rosse*" [red togas] to underline their links with the Democratic Party of the Left (DS). During Berlusconi's government, the Minister of Justice, Biondi ordered an inspection at the Procura di Milano. The groundswell of public support, which accompanied the whole "clean hands" operation, has levelled off as well. At the same time, the campaign against "collaborators of justice" has finished by discrediting the judges who used them in their inquiry.

On several occasions the magistracy reported difficulty in obtaining documents from the secret services when investigating massacres. The hypothesis is that in the '70's, the secret services were somehow manipulating both right and left wing terrorism. A recent example is the serious difficulties encountered by the prosecutors in their inquiry into the massacre caused by the Ustica aircraft shoot-down.

2.4. *How equal and secure is the access of citizens to justice, to due process and to redress in the event of maladministration?*

2.4.1 Laws

The principle of a just trial, already inferable from Article 111 of the Constitution has been implemented by constitutional law 2/99. This significant innovation completes the constitutional

framework in terms of jurisdiction and trial, and hinges on numerous principles: that of pre-constitution of the judge (Article 25), that by which justice is exercised in the name of the people (Article 101), subjection of the judge only to the law (Article 101), the obligation to motivate judgments (Article 111), general admissibility to appeal to the Supreme Appeal Court against judgments for reasons of legitimacy (Article 111), right to act in justice to protect one's subjective rights and legitimate interests (Article 111), right to defence as an inviolable right (Article 24), principle of debate between parties in conditions of absolute parity, full and immediate information to persons under criminal investigation, tendency towards equality of roles in court between plaintiff and defence in criminal trials (Article 111).

These principles have been subsequently enshrined in ordinary legislation, especially in the Code of Criminal Procedure approved in 1988. Originally set on the accusatory mechanism (characterized by great simplification, the oral method, the principle of disposition, equality between plaintiff and defence, formation of evidence through debate), and was remote from the preceding system set on the inquisitorial system. Many changes and corrective measures by the Constitutional Court have however transformed the Code into a mixed hybrid; in particular the continual reform of norms regarding the acquisition during debate of declarations made in other trials has greatly sacrificed the oral principle and the formation of evidence through debate.

2.4.2 Implementation and Negative indicators

The increasing complexity of society has determined a perceptible growth in litigation, while alternative forms for the solution of low profile disputes have not yet been properly developed. As a result, the judiciary system is congested and citizens are very much dissatisfied with the way justice is administrated. The average waiting period for a trial is about 18 months, but can exceed two years. In Italy, a defendant is given two chances to appeal a guilty verdict, during which he is presumed innocent and not jailed. About 93% of people convicted in a first trial never go to jail. The average civil trial lasts between three and five years. The consequent mounting distrust for the whole judiciary system is eroding the credibility of the state itself and its institutions. Most of the people believe that justice is very difficult to attain within a tolerable space of time. The most disturbing issue is undoubtedly the proceeding length (Censis). This has also allowed the release of dangerous prisoners and mafiosi (11 members of 'Ndrangheta in Reggio Calabria) for expiry of preventive custody terms, provoking tensions between the CSM and the government. The President of the State, Carlo Azeglio Ciampi, has vigorously called the attention of the CSM to the issue.

The incredible amount of time an Italian citizen has to wait for a definitive sentence has been stigmatised by international organisations as well. The European Court of Human Rights in the course of 1999 has condemned Italy in 44 cases. In all cases the Article violated was the 6.1 of the European Convention on Human Rights (that says: " In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice").

Italy had the negative supremacy followed by Turkey with 18 condemnations, France with 16, Great Britain with 12 and Portugal with 8. Italy was also the country with the greatest number of reports for the violation of the aforementioned Convention in relation to the judiciary - no less than 3,652, followed by Poland with 2,898 and France with 2,586.

Table 2.6: Time average of the Italian judiciary system (number of days)

1. Civil cases

Work

Magistrate's court	673
Court	941

Social Security

Magistrate's court	996
Court	995

2. Penal cases

First degree

Local Magistrate's Court	303
Procurator	325
Preliminary investigative magistrate	152
Trial in court	427
Trial in Assize Court	394

Second degree

Court of Appeal	555
Assize Court of Appeal	216

Source: *la Repubblica*, 6/4/00.

The UN Human Rights Committee has expressed concern regarding preventive detention. A 1995 law allows for preventive detention in all cases where thgere is a risk of 1) flight; 2) tampering with evidence; 3) repetition of the crime. The UN Human Rights Committee emphasised that the maximum period for such detention is set by reference to the penalty for the offence for which the person stands accused, and can last up to six years; this could constitute an infringement of the presumption of innocence and the right to the principle of a fair trial within a reasonable time or to release. The Committee recommends that (1) the link between the offence with which a person has been charged and the length of detention from the time of arrest up to final sentence should not be maintained; and (2) that the grounds for preventive detention should be restricted to those cases in which such detention is essential to protect legitimate interests, such as the appearance of the accused to the trial.

In addition to all the problems related to the judiciary system, the situation of the Italian prisons is very alarming and violations of human rights have been frequently recorded. The poor living conditions of the prisoners mainly depend on the enormous number of prisoners that overrides prison capacity. The UN Human Rights Committee (1997) and the UN Committee against torture issues (1999) pointed out that the Italian prison system remains overcrowded and lacking in facilities which made the overall conditions or detention not conducive to the efforts of preventing inhuman or degrading treatment or punishment. Frequent are also the complaints of poor sanitation, inadequate medical assistance. The great crowd of prisoners makes it difficult to separate those in preventive detention from those who have already been condemned and also those who are occasional criminals from habitual ones.

Tab. 2.7: Prison population

1998	1999	
Prison population 49.267	Prison population 53.389 (14.000 immigrants from non-EU countries)	
	Awaiting sentence 14.000 (25%)	Excess 10.000

Source: Gruppo Abele, *Annuario sociale 2000*, Milano, Feltrinelli, 1999.

Table 2.8: Italy's most crowded prisons

Prison	Max. capacity	Actual occupancy	Prison	Max. capacity	Actual occupancy
Turin (Le Vallette)	872	1.073	Rome (Rebibbia N.C.)	1.176	1.546
Milan (San Vittore)	1.034	1.753	Civitavecchia (C.C.0)	285	492
Busto Arsizio	160	381	Naples (Poggioreale)	1.276	2.046
Lodi	37	74	Naples (Secondigliano)	732	1.347
Monza	322	576	Avellino(Bellizzi Irpino)	266	479
Padova	412	680	Lecce	574	1.222
Genoa	474	725	Foggia	312	463
Florence (Sollicciano1)	464	1.017	Taranto	244	566
Rome (Regina Coeli)	633	947	Augusta	300	529

Source: Ansa, July 2000

Table 2.9: Total prison population in Europe

Country	1995	1996
Austria	6,180	6,786
Belgium	7,561	....
Denmark	3,438	3,203
Finland	3,018	3,197
France b/	52,658	51,640
Germany b/	61,108	64,680
Greece	5,897	.....
Ireland	2,054	2,182
Italy	49,642	48,545
Luxembourg	469	432
Netherlands	10,329	11,931
Portugal	12,150	13,977
Spain	40,157	42,997
Sweden	5,767	5,768
UK	58,662	....

Source: UN, *Trends in Europe and North America*, The Statistical Yearbook of Economic Commission for Europe, 1998/99. (b/31 December)

Tab. 2.10: Prison population per 100,000 inhabitants

	1995	1996
Austria	82	84
Belgium	66	a 75....
Denmark	63	61
Finland	62	62
France b/	82	88
Germany b/	78	79
Greece	17	a 56
Ireland	....	62
Italy	57	85
Luxembourg	94	105
Netherlands	44	77
Portugal	87	141
Spain	85	109
Sweden	58	65
UK	94	a 100....

Source: UN, *Trends in Europe and North America*, The Statistical Yearbook of Economic Commission for Europe, 1998/99. (a/1995)

Tab. 2.11: Rate of occupancy per 100 places

Country	1995	1996
Austria	80.4	84.9
Belgium	116.7	....
Denmark	90.4	86.9
Finland	73.7	75.8
France b/	117.0	116.0
Germany b/	86.3	90.7
Greece	137.1	
Ireland	92.9	96.9
Italy	122.4	118.0
Luxembourg	99.2	
Netherlands	100.0	99.5
Portugal	147.1	155.3
Spain	130.9	...
Sweden	93.1	93.7
UK	.....	.....

Source: UN, *Trends in Europe and North America*, The Statistical Yearbook of Economic Commission for Europe, 1998/99.

The European Commission for the Prevention of Torture and Inhuman or Degrading Treatment of the Council of Europe in connection with its visit to Italy in 1995 (22 October-6 November 1995) also pointed out that a consistent number of individuals detained in the prisons of San Vittore (Milan) and Regina Coeli (Rome) have been ill-treated by law enforcement officers, in particular, by the State police and, more rarely, by Carabinieri. The UN Committee Against Torture (May 1999) confirmed that there are numerous allegations of law enforcement officers inflicting gratuitous and deliberate violence on individuals detained in relation to common criminal offences, frequently drugs-related. The allegations of ill treatment also affect the moment of arrest and the

first 24 hours in custody and concern both Italian nationals and foreigners, with an increasing number of women appearing as alleged victims.

The UN Committee against torture (May 1999) also expressed concern that the bringing of criminal counter charges against a high proportion of those alleging ill treatment by public officers might effectively dissuade genuine victims of ill treatment from complaining. It also observed that, although judicial investigations are routinely opened when formal complaints are lodged, some appear to lack thoroughness and points out that a number of criminal proceedings relating to such complaints have been subject to excessive delays. The UN Committee also recommended that all prisoners' correspondence addressed to "international bodies of intervention and settlement of disputes be excluded from "censor checks" by prison personnel and other authorities"

The hardship of life in Italian prisons is demonstrated by the following alarming data: between 1996 and 1998, there have been 151 suicides, attempted suicides have increased from 706 to 933, self-inflicted injuries have grownth from 4,634 to 6,342. 60% of the suicides have occurred in the first year of detention.

Table 2.12: Critical events in prisons: self-inflicted injuries, suicides deaths, protests and escapes (1996-1999)

	1996	1997	1998	1999
Prisoners at 1/1 and additions during the year	139,319	140,147	135,629	135,679
Critical events				
Attempted suicides	709	773	933	920
Suicides	45	55	51	53
Self-inflicted injury	4,634	5,706	6,342	6,536
Deaths	78	67	78	83
Acts of aggression				
Injuries	1,378	1,349	1,167	1,768
Murders	-	-	-	2
Prisoners committed arson	53	56	57	42
Total acts of aggression	1,431	1,405	1,224	1,812
Protests				
Hunger strikes	5389	6,920	6,228	5,522
Abstention from work and recreation	427	946	662	685
Refusals of therapy, sopravvitto, non-observance of other security measures	4,254	5,013	4,159	4,832
Total protests	10,070	12,879	11,049	11,039
Escapes				
From prison	19	31	29	19
Non-return from leave (art.30)	15	18	12	10
Non-return from incentive leave (art.30b)	122	99	141	105
Non-return from outside workplace (art.21)	5	8	6	7
Non-return from alternative measures	53	64	60	45
Total escapes	214	220	248	186
Non-return from internee leave	49	53	48	41
Grand total critical events	17,230	21,158	19,973	20,670

Source: Department of Penitentiary Administration (DAP)-Ministry of Justice

In May 2000 the debate over prisons and justice widely erupted after the protest of some prisoners in Sassari who reported having been beaten by prison guards. The former prison director and commander of the prison guards along with 22 guards received a detention order from the Sassari Procurator's office. Prison guards all over Italy protested against these measures pointing

out the difficult situation in which they are obliged to work. The prospect of amnesty, firstly suggested by the Catholic Church, has kept up the attention on the question. And parallel to this, prisoners started to protest peacefully in support of amnesty and pardon and against the inhuman conditions of life in prison. The wave of demonstration started in the prison of Trieste (23 June 2000) and rapidly spread to Milan (Opera and S. Vittore), Genoa, Bergamo, Bologna, Pisa, Naples. In a letter, the prisoners of "Dozza" (Bologna) made their unbearable situation known: "3-6 prisoners in three square metres, two showers for 100 prisoners, two minutes each shower, one day in three if you're lucky; dishes washed in the lavatory; one nurse one doctor for 650 prisoners". *la Repubblica*, 26/6/00).

2.5 *How far do the criminal justice and penal systems observe due rules of impartial and equitable treatment in their operations?*

These issues have already been discussed in 2.4

2.6.*How much confidence do people have in the legal system to deliver fair and effective justice?*

The judiciary enjoys relative low support in public opinion. The main reason for this can be traced back to the congestion of the judiciary (See 2.4) and the general low level of trust in justice. Damaging for the power of the judiciary is especially internal fragmentation along with ideological and political divisions. The judiciary enjoyed a discreet public consensus in the 1990s when the so-called "clean hands" operation brough to light a sophisticated system of corruption involving both politicians and economic actors.

According to the December 1997 Censis poll, only 14% of Italians think justice is handed down well. The remaining 86% gave a negative reply and were divided between those who think some social categories are privileged too often (42,5%) and those who believe that our legal system has capable and incapable, and honest and dishonest judges, lawyers and procurators, so legal outcomes depend on the professional ability and personality of individual magistrates (43,5%).

Table 2.13: Opinions on how justice is handed down in Italy, by academic qualification (%)

Type of reply	None/elementary school	Lower mid-school diploma	Higher mid-school diploma	University degree	Total
In a substantially proper manner	14,4	12,7	14,4	15,2	14,0
In an improper manner because too much importance is given to some social categories and some types of crime	48,6	48,4	39,3	32,5	42,5
No straight answer is possible: the quality of justice depends on the professional ability and personality of individual magistrates	37,0	38,9	46,3	52,3	43,5
Total	100,0	100,0	100,0	100,0	100,0

Source: Censis research December 1997

As a result of judicial prosecutions, the traditional party system collapsed in less than two years, causing tensions between political elites and judges. The peak of the contrast between politicians and judges was registered during Berlusconi's government when Milanese magistrates led investigations into his financial activities and publicly notified their investigations. Initially, judicial investigations into political and administrative corruption contributed to raise people's confidence in the judiciary but later because of what was perceived and presented as an "abuse of power" on the part of the magistrates, public opinion became more critical and sceptical.

According to the December 1997 Censis survey, the conflict between magistrates and politicians has drawn civil society into the fray too. Respondants on the meaning and reasons for the conflict are divided among many different standpoints: 34,1% point to politicians striving for impunity, 29,1% see the wish of some magistrates to exert influence on public life, while 36,8% take a more balanced stance pointing to the inadequacy of laws regulating the relationship between the three power bases of the State.

Table 2.14: Opinions on conflicts between politicians and magistrates, by area (%)

Conflicts between politicians and magistrates are due to:	Northwest	Northeast	Centre	South and Islands	Italy
Too much power in the hands of a number of magistrates who aim to influence politics	32,3	26,9	24,5	30,2	29,1
The desire of some politicians to guarantee themselves impunity	36,1	31,0	35,7	33,1	34,1
The inadequacy of laws governing the relationship between magistracy, government and parliament	31,6	42,1	39,8	36,7	36,8
Total	100,0	100,0	100,0	100,0	100,0

Source: Censis research December 1997

2.7. What measures, if any, are being taken to remedy. publicly identified problems in this field, and what degree of political priority and public support do they have?

In order to put serious constraints on clientelism based on interpersonal relations rather than legal channels, the Censis study recommends the development of a civic culture. The reinforcement of the state and the fight against corruption should contribute to increase citizen loyalty and trust in the institutions. The introduction of more strict codes of conduct and simultaneously the stiffening of sentences are seen as proper means for reducing corruption in public administration.

As far as the strategy against various mafias is concerned, the DIA is focusing on co-operation with its counterparts in the countries involved. The co-operation within Europol has also proved very fruitful especially in the constant flow of information.

Problems affecting the judiciary are widely acknowledged by the all political parties. Public opinion mistrust of justice should not be overlooked for the conflicts it can create in society. If people still have a positive memory of the "clean hands" operation (54%) 27,1% however think that judges may use some enquires to gain a promotion or to attack a specific political party. It seems that judges have had excessive media exposure.

Two measures have been introduced recently to better guarantee the accused, and speed up trials. Article 111 of the Constitution now includes the principles of "just trial" (Constitutional Law

2/29 passed on 23 November 1999). At the beginning of this year, reform relating to the sole, first-degree judge was also introduced along with depenalization for some crimes, transforming them from penal to administrative misdemeanours. The government has just approved a bill called "Norms for civil justice to resolve controversies and abbreviate civil trials". This has a two-fold aim: 1) to reduce the number of civil tribunals by 30% and 2) to hand down justice to litigants swiftly. The Type of cases included in the draft bill are many, and conciliation will replace trials (23 June 2000).

The most crucial problem the government is currently confronted with is the explosive situation of the Italian prisons. To remedy chronic prison overcrowding, the new Minister of Justice, Piero Fassino, has signed a decree for the allocation of 160 milliard lire for building worke for prisons. Many voluntary associations and NGOs are proposing to incentivate the so-called "alternative penalties" to reduce the density of prisoners. One of the short-term ways to alleviate the problem is to grant an amnesty or pardon during the Jubilee 200 year. Since the entry into effect of the Constitution, there have been 21 amnesties, very often endorsed by the Catholic Church. This solution, however neither encounter public opinion full support nor the consensus of the political parties. According to an opinion poll only 15% of the interviewees would be in favour of amnesty. Moreover, since the nineties, laws on amnesty requires a 2/3 majority on each single article, and the complete text.

Tab. 2.15: Are you in favour of the amnesty? (%)

Not at all, very little	73
Very, quite	15
Don't know	12

Source: CIRM, June 2000.

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3. Civil and political rights

Are civil and political rights equally guaranteed for all?

3.1 How free are all people from actual and feared physical violation against their person?

3.3.1 Laws

Freedom from physical and moral abuse is enshrined principally in Article 13 of the Constitution that prohibits all forms of restriction, even temporary, on personal freedom "unless by motivated act of the legal authorities" and only where provided for by law. Only in cases "exceptional in necessity and urgency and absolutely indicated by law" may public security authorities take temporary measures that must, in all cases, be convalidated by the judicial authorities within a very short time: failing this, they are devoid of effect. Finally, Article 13 of the Constitution lays down prohibitions and sanctions against all forms of physical and moral violence on persons whose liberty is subject to limitations, and reserves the maximum limit of preventive custody to be set by law.

On this highly "guaranteeist" setting, ordinary legislation has reconstructed a whole system that, however, has not always shown itself to be completely in harmony with the constituents' intentions. For example, the Constitutional Court has always considered preventive measures *ante o praeter delictum* generally constitutionally legitimate (cf e.g. judgment 113/75) while declaring illegitimate the norms of the Unified Text of the Public Security Law with regard to admonition and forced repatriation (judgment 2 and 11/56) as well as those relating to restricted sojourn (for whoever is suspected of being about to commit a mafia-related crime (judgment 419/94)) and obligation to appear (at a police station for football fans already involved in violent acts (judgment 144/97)). In reality the principle followed by the court is the necessary reconduction to principles of legality and to within jurisdictional guarantee of measures restricting freedom.

It has also been noted how the presence of these two parameters can deprive constitutional guarantee of meaning when the legislative formulation is too indeterminate and devoid of univocal parameters (e.g. layabouts and vagabonds). In judgment 177/80 the Court considered unconstitutional the phrase "inclined to commit crime". Other preventive measures were provided for in anti-terrorism emergency legislation and in legislation against large-scale organized crime (on which see Ch 2).

Necessary and urgent police measures can be reconducted when the Code of Penal Procedure (C.P.P.) provides for arrest *in flagrante* (Art 379) and where the suspect is "held" by judiciary police should there be a risk of flight (Art 384 C.P.P). The C.P.P. lays down still more restrictive terms than those of Article 13 of the Constitution for intimation of measures and their convalidation if necessary, and calls for two magistrates to be involved (the public accuser who requests convalidation and the preliminary investigative magistrate who may grant it). Other special security measures are the "sequester of whole buildings or blocks of buildings" and identification of anyone carrying out financial transactions of a value superior to twenty million lire (both Law 15/80).

In conclusion the C.P.P. specifies premises (risk of flight, that other crimes may be committed and that evidence may be hidden) and the maximum limit for preventive custody for anyone under investigation where there is strong indication of guilt (Art 303 C.P.P. commensurate to the seriousness of the crime for which the suspect is under investigation) as well as the discipline of other coercive preventive measures (prohibition to travel abroad, obligation to present oneself to the police, prohibition and obligation of domicile, house arrest, preventive custody in prison or hospital) and interdictions (suspension from public office and prohibition from carrying out certain activities). The Constitution states that the sentence must be served in ways not contrary to a sense

of humanity that tend to “re-educate the prisoner” (Article 27 Constitution). In this light, the law on penitentiary order (Law 354/75 modified by Law 663/86) introduced some important innovations such as “measures alternative to detention”, trial entrustment to social services and semi-liberty.

The question of obligatory health treatment may be included together with limitations in personal freedom even though the Constitution regulates it in Article 32 as a part of right to health. Constitutional rule is less strict than that provided for in Article 13 and goes no further than requiring the legislator to set out in which cases obligatory regimes may be applied (hence without requiring the participation of a judge), that, however, must not be contrary to principles of human respect. Laws 180/78 and 833/78 lay down general guidelines on the matter, specifying that while health treatment is normally voluntary, a mayor can oblige to coercive hospitalization anyone suffering from mental illness who manifests psychic derangement requiring urgent therapeutic treatment.

The right to personal freedom from abuse is protected by the Constitution even in its spatial projection: Article 14 indeed disciplines the freedom of domicile referring explicitly to the provisions of Article 13 on personal liberty adding however that “special” laws may specify cases in which checks and inspections may be allowed on health or public security grounds, or for economic or fiscal reasons. The concept of domicile was further detailed by the Constitutional Court who substantially assimilated it into the penal concept as a place where a person has the right to conduct his or her life and activities, look after his or her interests by virtue of whatever judicial relationship is in force with that place (primarily as proprietor but also by renting, habitation, hiring etc.)

Exceptions to the principle of domicile inviolability are reconducted to sequesters provided for by Article 247 C.P.P. (allowing *in situ* arrests or to obtain objects pertaining to the crime that are there) that normally are ordered by the judge, and that only in last instances and in cases of absolute necessity may be taken independently by the police.

There are also many laws that allow limited violation of domicile, for example to permit labour inspectors to carry out inspections, to allow activity by tributary police, or to allow inspections to verify the healthfulness of foodstuffs.

3.1.2 Implementation and negative indicators

As may be deduced from the crime statistics, recent developments in criminal activity in our country point in many ways to an objective increase in the problem of security in the ’90’s. It is a fact that 1995 saw the highest number of crimes thitherto reported for which the judicial authorities started criminal action (2,938,081 cases) and that this record was broken in 1996 with a total of 2,974,042 cases. The breakdown over types of criminal acts tends to confirm this. In cases of sexual violence, albeit with annual variations, the ten-year period between 1986 and 1995 marks a significant growth in crimes reported; for other misdemeanours like personal injury and ill-treatment in the family, the period between 1990 and 1998 saw a continual growth year by year (except 1996 and 1997 when there was a slight drop in cases of family ill-treatment and culpable personal injury). In other crimes (attempted and actual culpable homicide) after the peak reached in 1991, a fall was followed by a progressive realignment with the number for that year and the number of burglaries reported in 1998 was the highest in all the period under consideration.

Table 3.1. Crimes against which judicial proceedings started (1986 - 98)

CRIMES	1986	1987	1988	1989	1990
Actual culpable homicide	819	948	954	1,295	1,500
Attempted culpable homicide	1,087	1,211	1,166	1,388	1,510
Culpable personal injury	24,242	27,206	26,892	26,576	23,362

Family ill-treatment	2,255	2,600	2,424	2,316	1,163
Sexual violence	1,149	1,205	1,228	1,296	1,385
Theft	1,194,297	1,314,696	1,343,443	1,366,996	1,377,200
Burglary	41,101	42,497	39,534	46,830	54,699
Production and sale of narcotics*	-	-	21,257	20,816	18,904
Smuggling	3,105	4,736	5,575	5,897	4,741
Other crimes	762,118	809,887	791,457	800,685	503,610
Total	2,030,173	2,204,986	2,233,930	2,274,095	1,988,074

CRIMES	1991	1992	1993	1994	1995
Actual culpable homicide	1,897	1,660	1,450	1,383	1,452
Attempted culpable homicide	1,935	1,543	1,422	1,350	1,510
Culpable personal injury	27,545	34,262	35,442	36,305	38,601
Family ill-treatment	1,765	2,029	2,245	2,268	2,300
Sexual violence	1,432	1,758	1,724	1,689	1,869
Theft	1,970,173	1,693,057	1,607,243	1,675,651	1,830,237
Burglary	60,835	53,854	54,623	49,222	46,029
Production and sale of narcotics*	32,890	33,242	20,845	23,631	26,033
Smuggling	7,755	10,827	14,122	12,712	15,954
Other crimes	710,836	908,659	940,852	988,531	974,096
Total	2,817,063	2,740,891	2,679,968	2,792,742	2,938,081

CRIMES	1996	1997	1998
Actual culpable homicide	1,500	1,547	1,659
Attempted culpable homicide	1,336	1,370	1,593
Culpable personal injury	43,439	43,395	45,656
Family ill-treatment	2,290	2,440	2,829
Sexual violence	(a)	(a)	(a)
Theft	1,790,949	1,527,975	1,751,862
Burglary	49,319	49,079	61,033
Production and sale of narcotics*	27,538	28,165	30,238
Smuggling	12,727	19,960	15,780
Other crimes	84,123	87,440	88,980
Total	2,013,221	1,761,371	1,999,630

Source: Istat 1987-1998
Note: * For 1986 and 1987 included in "other crimes".
**From 1996, crimes of vice and against public morality provided for by the C.P.P., except obscene acts, publications and performances, were abolished by Law N° 66 of 15 February 1996 that introduced new Articles on sexual violence perceiving it as a crime against the person.

Significant medium-term indicators are seen in a comparison of the two five-year periods 1991-95 and 1986-90. The more recent period, with an already noteworthy increase in total number of crimes (+30%), sees an even more significant rise in actual culpable homicides (+42.2%), sexual violence (+35.3%), culpable personal injury (+34.3 %) and theft (+33%).

The territorial distribution of crime (see Table 3.2) seems to be strongly related to the size of population of where they were committed. Large towns with over fifty thousand inhabitants registered a quotient of crime in 1995 more than double the national average for thefts, burglaries, production and sale of narcotics and smuggling. (see Table 3.3.). The differences stemming from population size are seen even more dramatically when comparison is drawn between towns with a population of one hundred thousand or more, and smaller ones. The gap between cities and small

towns is also seen comparing statistics for culpable personal injury, sexual violence, theft and burglary.

Table 3.2: Crimes against which judicial proceedings started, by town population (1995)

Crime	Population less than 30,000	Population 30 - 50,000	Population 50 - 100,000	Population 100 - 250.000
Actual culpable homicide	811	52	104	108
Attempted culpable homicide	701	87	143	120
Culpable personal injury	16,110	2,742	3,971	5,211
Family ill-treatment	1,146	247	326	220
Sexual violence	832	144	197	194
Theft	682,357	36,928	100,657	228,655
Burglary	18,373	929	1,905	3,568
Production and sale of narcotics	6,951	4,376	2,458	4,169
Smuggling	6,333	632	1,226	3,747
Other crimes	390,118	49,270	89,622	110,613
Total	1,122,732	92,407	200,609	356,605

Crime	Population 250 - 500,000	Population over 500,000	Crimes committed abroad	Total
Actual culpable homicide	78	298	0	1,451
Attempted culpable homicide	122	336	0	1,509
Culpable personal injury	1,995	8,571	1	38,601
Family ill-treatment	83	278	0	2,300
Sexual violence	128	374	0	1,869
Theft	109,633	672,004	3	1,830,237
Burglary	3,424	17,828	2	46,029
Production and sale of narcotics	2,717	8,360	2	26,033
Smuggling	569	4,446	1	15,954
Other crimes	45,779	288,657	39	974,098
Total	164,528	1,001,152	48	2,938,081

Table 3.3. Quotient of crime by 100,000 inhabitants, by population size and town where crime was committed 1995

Crime	Population less than 30,000	Population 30 - 50,000	Population 50 - 100,000	Population 100 - 250,0000
Actual culpable homicide	2.6	1.0	1.6	2.6
Attempted culpable homicide	2.2	1.6	2.1	2.9
Culpable personal injury	51.2	50.4	59.6	124.0
Family ill-treatment	3.6	4.5	4.9	5.2
Sexual violence	2.6	2.6	3.0	4.6
Theft	2,166.9	679.3	1,511.4	5,443.2
Burglary	58.3	17.1	28.6	84.9
Production and sale of narcotics	22.1	25.3	36.9	99.2
Smuggling	16.9	11.6	18.4	89.7
Other crimes	1,938.9	906.3	1,345.7	2,633.2
Total	3,565.4	1,699.9	3,012.3	8,489.1

Crimes	Population 250 -500,000	Population over 500,000	Total
Actual culpable homicide	3.4	4.1	2.5
Attempted culpable homicide	5.4	4.6	2.6
Culpable personal injury	88.1	117.7	57.3
Family ill-treatment	3.7	3.8	4.0
Sexual violence	5.7	5.1	3.3
Theft	4,841.5	9,227.7	3,192.3

Burglary	151.2	244.8	80.3
Production and sale of narcotics	120.0	114.8	45.4
Smuggling	25.1	61.1	27.8
Other crimes	2,021.7	3,963.7	1,699.0
Total	7,2165.8	13,747.5	5,124.6

Table 3.4 - Quotient of crime by 100,000 inhabitants by region and crime 1995

Region	Actual culpable homicide	Attempted culpable homicide	Culpable personal injury	Family ill-treatment	Sexual violence	Theft
Piedmont	1.3	1.9	84.2	3.3	3.4	2,546.2
Valle d'Aosta	3.4	0.0	53.1	3.4	1.7	1,980.2
Lombardy	1.2	1.7	55.6	3.3	3.2	3,436.1
Trentino Alto Adige	1.1	1.3	38.4	2.6	2.7	1,953.9
Veneto	1.1	1.1	40.4	3.2	2.5	2,681.9
Friuli Venezia Giulia	1.3	0.9	141.9	5.1	2.7	3,152.8
Liguria	4.4	2.6	126.6	3.0	4.5	3,779.8
Emilia Romagna	1.1	2.5	47.9	2.2	4.0	2,869.2
Tuscany	1.1	1.3	72.3	3.7	3.3	2,833.8
Umbria	0.4	0.8	98.0	1.8	2.7	1,941.7
Marches	0.1	0.9	74.6	4.9	2.1	1,971.0
Lazio	2.4	2.6	81.5	3.0	3.5	6,234.9
Abruzzo	1.6	1.7	65.1	3.3	2.9	1,981.4
Molise	0.6	1.5	103.5	5.4	3.3	1,305.2
Campania	4.5	5.3	66.6	3.7	2.7	4,578.8
Apulia	2.4	3.5	58.7	5.3	4.0	2,379.5
Basilicata	2.3	3.4	68.8	4.4	4.9	1,152.1
Calabria	6.3	5.8	48.7	6.9	1.9	1,521.1
Sicily	6.9	4.0	61.2	6.3	4.0	2,429.2
Sardinia	2.8	2.6	92.0	8.7	2.9	2,467.4
Italy	2.5	2.6	67.3	4.0	3.3	3,192.3
Italy north	1.4	1.8	64.6	3.2	3.3	3,016.5
Italy centre	1.5	1.8	78.9	3.4	3.2	4,262.8
Italy south	3.7	4.4	62.5	4.7	3.1	3,036.3
Italy islands	5.9	3.7	68.8	6.9	3.7	2,438.6

Region	Burglary	Production	Smuggling and sale of narcotics	Other crimes	Total
Piedmont	57.9	51.2	10.1	1,567.8	4,327.3
Valle d'Aosta	18.5	33.7	1.7	1,467.3	3.562.9
Lombardy	72.9	39.6	18.6	1,709.7	5,342.0
Trentino Alto Adige	18.8	55.4	1.6	887.1	2,963.1
Veneto	31.0	50.8	0.8	1,131.8	3,944.5
Friuli Venezia Giulia	28.6	43.7	34.7	2,4109.0	5,820.9
Liguria	56.3	112.0	31.6	2,121.3	6,242.2
Emilia Romagna	59.3	52.1	10.6	1,104.9	4,153.8
Tuscany	33.9	75.3	1.6	1,746.6	4,772.9
Umbria	24.8	63.7	0.0	1,570.5	3,704.4
Marches	18.0	36.7	1.7	1,526.4	3,636.4
Lazio	121.6	53.6	19.5	4,004.8	10,527.3
Abruzzo	27.6	38.2	0.8	1,515.8	3,638.4
Molise	10.0	23.6	6.3	1,732.4	3,192.1
Campania	205.7	34.7	91.7	1,198.3	6,191.9
Apulia	81.5	31.9	126.8	1,278.5	3,972.1
Basilicata	17.5	27.4	17.2	1,245.5	2543.7
Calabria	38.1	22.0	1.6	1,389.8	3,042.2
Sicily	134.0	30.1	14.1	1,545.3	4,235.1
Sardinia	35.8	34.0	0.5	1,249.2	3,895.8
Italy	80.3	45.4	27.8	1,699.0	5,124.6
Italy north	55.6	50.9	13.8	1,520.7	4,731.7

Italy centre	72.6	59.1	10.0	2,772.9	7,266.2
Italy south	116.5	31.8	75.2	1,292.7	4,630.8
Italy islands	109.8	31.0	10.7	1,472.5	4,151.7

Source Istat 1995

The regional quotient of crime (see table 3.4) shows a diversified situation in which even some areas of a lesser urban character reach a relatively high proportion in some categories. In 1995 the increase in actual and attempted culpable homicides is greatest in the three regions where, historically, organized crime has its strongest roots, viz: Sicily, Calabria and Campania. Other types of crime against the person show a territorial dispersion greater than the levels of relative distribution: culpable personal injury is more frequent in Friuli Venezia Giulia, Liguria and Molise and sexual violence in Basilicata and Liguria. In the area of crimes reported against property, Lazio and Campania stand out for both theft and burglary, Liguria and Lombardy for theft and Sicily for burglary.

Istat statistics for cases of pickpocketing and bag snatching as a percentage of Italian population between 1993-1998 do not however show a growth trend (see table 3.5). During 1998, 1% of the population had their pocket picked and 1.9% their bag snatched. Moreover, the table shows how, at least from 1995 onwards, women were more frequent victims of bag snatchers and pickpockets.

Table 3.5. Victims of pickpockets and bag snatchers (% of Italian population) (1993-98)

Year	Victims of pickpockets			Victims of bag snatchers		
	women	*men*	Total	*women*	*men*	Total
1993			1,2			1,4
1994			1,2			1,5
1995	1,5	0,6	1,1	1,6	1,2	1,4
1996	1,5	0,6	1,1	2,0	1,4	1,7
1997	1,3	0,7	1,0	1,6	1,3	1,5
1998	1,3	0,7	1,0	2,2	1,5	1,9

Source: Istat 1998.

More worrying however is the strength of organized crime, especially in the four large southern regions: Sicily, Campania, Calabria and Apulia (see alse 2.1). According to the Ministry of the Interior, in 1998 the Sicilian mafia counted 5,500 affiliates, camorra clans 6,700, Calabrian *cosche* 6,000 and the *Sacra Corona Unita* (Holy United Crown) 2,000 (Svimez 1998 pp 642-643). The income from drug trafficking has been estimated by *Confcommercio* (Conferederation of Commerce) at 21 thousand milliard lire per year, prostitution 11 thousand milliards, illegal refuse disposal 6 thousand milliards and usury 32 thousand milliards for a total of around 140 thousand milliard lire (Centorrino, La Spina and Signorino, 1999, p 29). According to a report by *Confesercenti* (Confederation of Small Business), protection money is paid by around 80% of firms in Palermo and Catania, 70% in Reggio Calabria and 50% in Naples and Bari (ditto, p 115). A study carried out by *Confindustria* (Confederation of Industrialists) constructed an index based on the five most serious crimes (culpable homicide, attempted homicide, burglary, bombings and extortion) and the number of people reported for usury. Given the Italian average as 100, the south reaches 169 (197 in Calabria, Sicily and Campania) and the centre-north 60 (Centorrino, La Spina e Signorino, 1999, p. 27).

After the murder of Libero Grassi, a Palermo entrepreneur who had reported to the authorities that the mafia was demanding protection money from him, draft law 419/1991 was drawn up and converted into Law 172/1992 with anti-racket measures, especially providing for compensation for anyone who stands up against payment of protection money. Associations of

entrepreneurs were also set up to stand against racketeering and the mafia (80 are counted) (Centorrino, La Spina e Signorino, 1999, p. 29).

Subjective perception of security. Over and above the mechanisms of crime, there is a growing sense of insecurity. To the question "how safe do you feel walking alone in the street in the dark near your home?" no less than 29% reply that they feel not very safe or not at all safe. Confirmation that this feeling is very widespread comes from the statistic regarding those who do not feel safe when alone in their own home (11.8%). Adding to this the 8.4% of people over 14 who state they never go out alone in the evening (a choice rooted in acquired socio-cultural models but very probably associated with a fear of crime) gives an idea how vast the phenomenon is. The variables most often correlated to this fear are gender and age. The percentage of women who are afraid is far greater than of men and this is found in all indicators considered. By and large however the feeling of insecurity drops with age and reaches its lowest point among adults, turning upwards again among the elderly. On the whole, the feeling of fear is more widespread among the population of the south rather than in the centre or north. The figures are highly diversified from region to region, the feeling of insecurity being unevenly reported. If the regions whose populations feel unperturbed are Trentino Alto Adige and the Valle d'Aosta (14%), those where fear is felt the most are Campania (42.4%) and Apulia (35.2%) closely followed by Lazio (33.8%), Piedmont (29.2%) Sicily (28.6%) and Lombardy (28.7%), all in different parts of the country. A general perception of incapacity on the part of the organizations appointed for security to reconstruct acceptable conditions of security seems to be taking root.

A poll taken by ISE *(informazione sociale europea - in Eurofocus 26/99 19 - 26 July 1999 htpp:www.ise-europa.it/eurofocus/focus2699.html)* shows how violence is seen by Europeans. Around eight out of ten Europeans believe that violence towards children is highly, or quite widespread. The highest proportion of those with this opinion is in Italy, France and The Netherlands (85% and over). Next, come Belgium, United Kingdom and Portugal, all higher than the EU average. The lowest percentages are to be found in Denmark and Finland that are, however, six out of ten. Domestic violence against women is seen by three out of four Europeans as being rather widespread in their country, the highest percentages (80% and over) relating to Spain, Italy and Portugal and the British Isles - Great Britain and Ireland. Greece, too, is above the EU average below which are ranked France, Sweden, then Belgium, The Netherlands, Austria, Germany, Finland and Luxembourg. Denmark is the only EU country where a minority of those questioned (48%) thinks that domestic violence against women is widespread.. More than nine out of ten Europeans think that the EU should play a part in the struggle against violence towards children and almost nine out of ten questioned feel the same regarding violence against women.

Small-scale crime. Research carried out by Censis for 1994 and 1997 show that 34.7% of the population think that, in terms of small-scale crime, the area where they live has become more dangerous over the previous five years, 48.0% think it is equally dangerous and only 9.4% think that danger is lessening. By contrast to a growing social alarm, there is one comforting element: compared to a similar study three years ago there is a drop in those who think their area is more dangerous, in favour of those who believe the danger-level is unchanged (table 3.6)

Table 3.6. Perception of danger of one's own area of residence in the last 5 years (1994- 1997) (%)

Type of reply	*1994*	*1997*
More dangerous	48.0	34.7
Equally dangerous	42.4	48.0
Less dangerous	8.5	9.4
Don't know	1.1	7.9
Total	100.0	100.0

Source: Censis research, for 1994 and 1997

72.0% of Italians believe that they are regularly wary of strangers, 40.6% don't walk through certain areas, 32.1% don't wear valuable jewellery when they go out, 20.2% don't go out alone in the evening and 13.5%, avoid using public transport where possible. Despite being highly significant and in some cases (like in large cities) at emergency level, again comparisons with data from 1994 seem to show a reduction in social alarm (see Table 3.7).

Table 3.7. Preventive behaviour on the part of interviewees - comparison with years 1994-1997 (val. %)

Type of reply	*1994*	*1997*
I don't go out alone after sunset	23.9	20.2
I don't walk through certain areas	42.4	40.6
I'm wary of strangers	74.9	72.0
In town I don't use public transport	21.9	13.5

Source: Censis research, 1994 e 1997
Note: The total is not 100 since the research was multi-reply

The level of insecurity varies a lot from city to city (see table 3.8), with higher insecurity among southern towns (77% of Bari population declare that they are little or not at all safe in their town against 40% in a similar-sized northern city - Vicenza - and an average of 58%).

Table 3.8: What is your degree of satisfaction with the safety in your city? (%)

	Very/quite satisfied	Little/not at all satisfied	No opinion
TURIN	32	67	1
GENOA	45	52	3
MILAN	36	63	1
VICENZA	59	40	1
ROME	50	49	1
BARI	21	77	2
TOTAL	41	58	1

Source: Eurispes elaboration of Cirm data (1999)

A Cirm poll reveals that Italians consider theft and burglary the "most worrying" crimes with 43% of replies. This is followed by drug dealing (25%), aggression (11%) and exploitation of prostitution (9%) (see "Panorama", 13/07/2000, pp. 34-35,).

3.2 How effective and equal is the protection of freedom of movement, expression, association and assembly?

3.2.1 Laws

The Constitution guarantees a wide range of freedom of movement, expression association and assembly in Articles 16, 21, 18 and 17 respectively. The sole restrictions on freedom of movement allowed by the Constitution are those motivated on health or security grounds, and in any case no limitations may be put in place for political reasons. Freedom of movement within certain parts of national territory is limited because of certain natural events (such as the pollution by dioxin at Seveso).

One of the main characteristics of freedom of movement is undoubtedly the freedom to come and go from the State territory. This aspect of freedom is regulated in particular by Law 1185/67 governing the issuing of passports. Since this potentially limits freedom of movement in concrete terms, legislation has taken pains to deprive the administration of any discretion in the issuing procedure leaving the law to decide against which type of subject to apply limits on freedom of movement.

Freedom of assembly is protected as the right to assemble "peacefully and without arms". Publicly-held meetings must, by Article 17 of the Constitution, be previously notified to public security authorities who may forbid them only when well-founded reasons for security and public safety exist (without which, and they must be immediately notified, the gathering may not be dispersed even though no advance warning was given. See Constitutional Court judgment 90/70): the prohibition can in any case be imposed case by case only.

Freedom of association is protected by the Constitution in a wide range of measures both positively *(freedom of association)* and negatively (*freedom of non-association*: consider also however cases in which only by belonging to certain associations is one able to carry out certain activities): all associations that pursue goals consented by criminal law to individuals are allowed. The only two exceptions to the principle provided for by the Constitution are *secret associations* and *associations who pursue political goals by means of a military-type organization.* Both of these categories have been specified by legislation. Forbidden secret associations are, as provided for by Law 17/82, those that directly interfere with the functioning of organs of the Constitution and public administration as well as essential public services: this law acknowledged these characteristics in the P2 masonic lodge and dissolved it.

Decree 43/48 specifies the conditions by which an association with political aims is to be considered a military-type organization: the members are arranged in bodies or companies, there is a strong hierarchical order and uniforms are used.

The question of Constitutional guarantee for freedom of expression is very wide-ranging: the Constitution assures it in any case and by any means. The sole explicit limitations are those concerning vice: the Constitutional Court has only excluded that the concept be identified with morals (judgment 9/65), but has made no contribution to a more precise definition. Constitutional doctrine tends to lean towards a notion close to the criminal one in the sexual area.

Implicit limits in the exercise of this freedom, where they coincide with the emergence of other constitutional values, such as right to discretion, honour, reputation, social dignity or in the case of rights of authors or to exploit works of invention, are obviously also recognized. The question of freedom of expression and public order is rather more delicate: here, it is enough to say that there are hypotheses acknowledged by the Constitutional Court by which a person's behaviour may be considered in excess of the freedom of expression of thought (as for example in the case of defence of crime or seditious demonstration).

Furthermore the Constitution is at pains to establish norms relating to the press and forbids any preventive control or authorization of censure and excludes any possibility of sequester unless motivated by judicial authority on the basis of a law.

Legislation on public security, still hinged on the 1931 Unified Text of the Law on Public Security (TULPS), bears traces of its authoritarian origins, some of which survived impact with new constitutional principles and Constitutional Court jurisprudence (cf. point 3). Some of these have given rise to debates that the Constitutional Court has not always contributed to solving satisfactorily. In the past, especially, the Constitutional Court has used the concept of public security - incidentally never actually mentioned in the Constitution - as a general limit immanent to some of the principal Constitutional freedoms (personal freedom, freedom of domicile, freedom of expression etc.) in accordance with an "idealistic" concept (as a nucleus of ethno-juridical values on which is set the Constitutional construct) and not with reference to the concept of "material" public order (limited, that is, to situations of security, safety and health). Some measures therefore held out against the advent of constitutional principles in particular within TULPS that significantly restrict

rights guaranteed by the Constitution, such as for example obligatory accompaniment, refusal to give ones own identity, seditious shouting and demonstrations (see Ch. 8).

[For conscientious objection see also Ch. 8].

3.2.2 Implementation and negative indicators

According to the Country Reports on Human Rights Practices Released by the Bureau of Democracy, Human Rights, and Labor U.S. Department of State, the Constitution and law provide for the rights of Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation and the Government respects them in practice. Citizens who leave are guaranteed the right to return. The Constitution forbids deprivation of citizenship for political reasons. The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. It provides first asylum for refugees fleeing hostilities or natural disasters, for example. In these cases the refugees are granted temporary residence permits that must be renewed periodically and that carry no guarantee of future permanent residence". The number of refugees is however very limited: in 1996, there were 49,630 refugees coming mainly from the Balkans; in the same year 120 permits were granted in 1996 for political asylees. There were no reports of forced expulsion of any persons having valid claim to refugee status (ibidem).

The same international source affirms that freedom of peaceful assembly and association is also granted: "The Italian Government does not restrict the right of peaceful assembly, including protests against government policies, except in cases where national security or public safety is at risk. Permits are not required for meetings, but organizers of public demonstrations must notify the police in advance. Professional associations organize and operate freely. While allowing general freedom of association, the Constitution and law prohibit clandestine associations, those that pursue political aims through force, that incite racial, ethnic or religious discrimination, or that advocate fascism. The law provides for the right to establish trade unions, join unions, and carry out union activities in the workplace. Some 40 percent of the workforce is organized. Trade unions are free of government controls and no longer have formal ties with political parties. The right to strike is embodied in the Constitution and is frequently exercised. A 1990 law restricts strikes affecting essential public services such as transport, sanitation, and health. Nonetheless, during a year in which the overall number of work-hours lost to labor disputes was relatively low, strikes occurred in several public service sectors, especially air and ground transportation. Unions associate freely with international trade union organizations" (ibidem).

Moreover, with reference to freedom of speech and press, "the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom" (1999 Country Reports on Human Rights Practices Released by the Bureau of Democracy, Human Rights, and Labor U.S. Department of State, February 25, 2000*).*

In its 1999 Annual Report “VI periodical report on Italy and its application of the International Treaty on Civil and Political Rights”, Amnesty International mentions criminal trials against various members of the parliamentary party “*Lega*” who, according to A.I., “through having peacefully exercised their right to expression” were accused of the crime of “defamation of the Italian State” and “defamation of the national flag” for which the penalty is from one to three years imprisonment. In the hearing, held between January and April, Luca Paolini and Roberto Zaffini were tried on both counts after showing a signboard on which was written “Italy is a sewer thanks to thieves, friends, friends of friends and false enemies” during a demonstration held by the *Lega Nord* in November 1996. Photographs of leading Italian politicians were placed below each category mentioned on the board. The Procurator of the Republic [plaintiff ndt] (at the local magistrate’s court) thus accused them of contempt of the Italian nation and the colours of the Italian flag since the words were written on a background of the tri-colour. Both the accused were

acquitted in April after the Procurator of the Republic, who had requested their being committed for trial in June 1997, asked for acquittal on the grounds that “the case does not hold”.

3.3 How secure is the freedom for all to practise their religion, language or culture?

3.3.1 Laws

For protection of linguistic minorities see Ch 1.

Freedom of religion is affirmed by Article 8 of the Constitution which states that “all religious faiths are equally free under law”. Article 19 confers a special characteristic to the principle of religious freedom affirming that everyone has the right to profess their religious faith in whichever way they please, proselytize or practise in public. The only limitation is that the rites be vice-free, here in the penal sense.

It must however be said that the Constitution itself places the Roman Catholic religion on a plane making it objectively different from other faiths. The former has its relationship with the State regulated by the Lateran Pacts of 1929, while the latter must come to a special arrangement with the State. The Lateran Pacts, modified substantively by the agreements of 1984, regulate the setting of the relationship between State and Roman Catholic Church providing for, *inter alia*, civil recognition of religious marriages and religious judgments of marriage nullity, recognition and special status of church bodies and teaching of the Roman Catholic religion in public state schools.

Some other non-Catholic faiths have stipulated agreements with the State as provided for in Article 8 (to date these are the Waldensians, the Jewish Communities, the Adventist Church of the Seventh Day, the Assembly of God, the Christian Evangelical Baptist Union and the Jehovah’s Witnesses). These agreements govern aspects of freedom of religion, hospital assistance, recognition of marriages if transcribed to civil registries, abstention from work on holy days and discipline regarding religious buildings, recognition and running of bodies, tax regime applicable, financing, recognition of study qualifications.

3.3.2 Implementation and negative indicators

According to the U.S. Department of State*:* "The law prohibits discrimination on the basis of race, sex (except with regard to hazardous work--see below), religion, ethnic background, or political opinion, and provides some protection against discrimination based on disability, language, or social status. However, societal discrimination persists to some degree".

As for religion, about 85 percent of native-born citizens are nominally Roman Catholic. The second largest denomination among Italian citizens are Jehovah's Witnesses, with about 400,000 members. If we include immigrants, however, the second largest religious community is Islam--with about 1 million members. The Buddhist community counts 50,000 persons and there are about 35,000 Jews. About 80,000 people belong to smaller religious groups, most of whom concentrated in particular cities (ibidem). According to the U.S. Department of State, the Government respects the freedom of religion in practice. The Government subsidizes several religions through tax revenue collection. Taxpayers who choose to do so can donate a percentage of their income tax payment to the Roman Catholic, Adventist, Waldensian, Baptist, and Lutheran Churches, the Assembly of God or the Jewish community. Other religious groups, including Buddhists and Muslims, have initiated the procedures necessary to obtain this benefit. Missionaries or religious workers do not encounter problems in Italy but must apply for appropriate visas abroad prior to arriving in Italy.

Roman Catholicism is not the official religion but it is the dominant one, in the sense that most citizens were born and raised under Catholic principles, which form part of their culture. Symbols of these principles still permeate some major state institutions. For example, crucifixes may be found hanging on courtroom or government office walls. Catholic principles affect private

lifestyles, independently of actual individual compliance with Catholic precepts (such as strictures on birth control and divorce). Public schools provide an optional "hour of religion". However, whereas priests once taught catechism, students today encounter lay or religious teachers who offer an academic course on religion--for those students whose parents want them to have it. Those not interested in this course are free to study other subjects or, in certain cases, to leave school early. Provision is made to accommodate the dietary requirements of Jewish and Muslim students who eat at school, and absence to celebrate their own religious holidays is accepted. Non-traditional religious groups are free to practice their beliefs and proselytise, provided they respect public order and general moral standards. In August 1997, the Supreme Court repealed a previous, lower court decision that Scientology was not a religion, finding that the lower court was not competent to rule on what constitutes a religion. Moreover, the Supreme Court further found that the issue of whether Scientology constitutes a religion must be readdressed by another court of appeal, in accordance with criteria established by the Constitutional Court.

There have been no reports of religious detainees or prisoners. There were no reports of the forced religious conversion of minor U.S. citizens who had been abducted or illegally removed from the United States, or of the Government's refusal to allow such citizens to be returned to the United States. The overall tone for interconfessional relations is set by religious and government officials who, by word and practice, encourage mutual respect for differences. In view of the negative aspects of the nation's Fascist past, government leaders acknowledge and pay tribute to Jews victimized by the country's 1938 racial laws. (see the Annual Report on International Religious Freedom for 1999: Italy Released by the Bureau for Democracy, Human Rights, and Labor Washington, DC, September 9, 1999).

As already mentioned, the acknowledgement of the right to schooling in the mother tongue has been traditionally limited to few areas, such as the autonomous province of Bozen. Law 482/1999, however, widened that possibility to other areas.

3.4 How free from harassment and intimidation are individuals and groups working to improve human rights?

3.4.1 Laws and implementation

*S*ee under 3.2.

3.4.2 Positive and Negative indicators

According to the U.S. Department of State "A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views. The Government permits independent monitoring of prison conditions by parliamentarians, local human rights groups, the media, and other organizations" (U.S. Department of State, Italy Country Report on Human Rights Practices for 1996. Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997).

Dr. Giorgio Pizzari of the Study and Research branch of the Italian Foundation of Volunteer workers has stated that at present (August 2000) Italy has 479 volunteer organizations whose main area of activity is the protection and promotion of rights.

See also chap.11.

3.5. What measures, if any, are being taken to remedy publicly-identified problems in this field, and what degree of political priority and public support do they have?

A main problem of the Italian democracy is the strength of organized crimes especially in Sicily, Calabria, Campania and Apulien. According to the Interior Ministry the Sicilain mafia counts 5,500 affiliates, camorra clans 6,700, Calabrian *cosche* 6,000, and the *Sacra Corona Unita* (Holy United Crown) 2,000. (Svimez 1998, pp. 642-643). The police force is 261,082 strong with a ratio of 1 to 219 inhabitants (or 1 to 170 if besides Police, Carabinieri, Fiscal Police, Forestry Guards and Harbourmasters are counted), one of the highest in Europe. However, traditionally in Italy police have been trained for public order task more than crime prevention and investigation. The legacy of fascist legislation is still visible in the laws regulating police powers. The legislative reactions to terrorism and the Mafia included so-called "emergency laws" that sometimes suspended some garanties for people trialed or sentenced for related crimes. As mentioned, there was a delayed implementation of some civic and political rights, in particular to minorities.

The struggle against the various Italian mafias received growing attention since the eighties, thanks to some reform in the organization of the investigative actors and increasing power given to them. However, a side effect of globalization has been the development of new forms of organized crime. If the state re-gained some control on its territory, the new forms of organized crime used different modus operandi.

In the nineties, under sovranational pressures, there was an increase in minority rights and some experience of positive discrimination of weak groups. The recognition of political rights was also extended, with an increasing tolerance for unconventional forms of political participation. The lack of political rights for a large quota of immigrants is still an open question.

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4. Social Rights

Are economic and social rights equally guaranteed for all?

4.1 To what extent is access to work or social security available to all, without discrimination?

4.1.1 Laws

The public function, whose job it is to bring about fair distribution of employment opportunities by objective means, is based on the principle embodied in Article 4 of the Constitution which states that the Republic, besides recognizing the right to work, "promotes conditions that make this right effective". The Constitution, therefore, obliges legislators to pursue goals which tend towards full employment through the activation of public powers.

The tool the legislator has used for many years to assure this function is the "public" discipline of placement as a necessary meeting point between demand and supply of labour. In reality, for many years other means have been at the forefront, among which the by-now generalized procedure of hiring on a nominative-request basis. As a response to the critical state of the labour market, more recent legislation has been obliged to use types of labour contract in many ways different from the unlimited time paradigm, and that in many cases, besides offering a job, tend to place emphasis on worker training: to this end work-formation, part-time and time-limit contracts, just to mention the main ones, have been gradually introduced.

Another important aspect of public control of the labour market is surely the obligatory hiring by businesses of certain protected categories by virtue of the latters' economic and social disadvantage.

The problem of unemployment, because of its seriousness and diffusion, has been tackled amply albeit in a somewhat haphazard and fragmented manner: the main tools in the struggle against unemployment are those which tie in with the institution of *Cassa Integrazione Guadagni* (Income Integration Fund) by means of which the State guarantees an income to those workers too, whose company considers them in excess of their labour needs. This situation is responded to by laws that aim at a simpler and more direct re-insertion of the unemployed worker, or by placing him or her on special, so-called "mobility" lists, into other jobs.

Of particular importance and consequence, is the recent legislation regarding "socially beneficial" labour contracts by which unemployed workers are hired by national and local public administration while waiting to be re-inserted into the labour market.

The condition of women in the labour market is defined by Constitutional norms and an accumulation of abundant ordinary legislation (see Ch. 11).

Access to work for non-national residents is today disciplined by the new law on immigration (see Ch. 14).

4.1.2 Implementation and Negative indicators

Access to work and unemployment for immigrants

Access to work and social security is more difficult for certain categories. In particular immigrants from non-European countries, but participation rate is also lower among women than among men, and unemployment is higher among young people. Moreover Italy's significant geographical differences must be taken into consideration. The non-EU immigrant employment situation is as follows:

Table 4.1 In work, by legal status 1998 (estimate)

	Working condition					
	Legal		Illegal		Total	
Immigration status	#	%	#	%	#	%
Legal (%)	564,000	68.5	260,000	31.5	824,000	100
	100		72.3		89.2	
Illegal (%)	-		100,000	100	100,000	100
			27.7		10.8	
Total (%)	564,000	61.1	360,000	38.9	924,000	100
	100		100		100	

Source: adapted from Zincone G.,(2000), *Primo rapporto sull'integrazione degli immigrati in Italia*, Il Mulino, Bologna, p. 164.

In Italy as a whole in the late '90s, almost 61% of all immigrants had a regularized job contract, while 89% were legal from the point of view of their presence in the country (that is they were holding a "permesso di soggiorno", i.e. a residence permit). Among those who have a residence permit, 31% is still working in an non-regularized job.

Immigrants' situations often reflect local labour market reality. Where the "underground market" (economia sommersa) is stronger, immigrants find it easier to get jobs in the non-regularized economy. This, for instance, is the case of Southern Italy.

The “underground” economy in Italy has long existed although it is now in decline (in 1980, 16,3% of all Italian workers were estimated as being “non regularized”, falling to 13,6% in 1995, 15 years later). However, this statistic is estimated to be much higher for immigrants, especially non-EU ones.

Table 4.2 Non-regularized immigrants among non-EU workers (1991-98) (%)

Years Regions	'91	'92	'94	'95	'96	'97	'98
North West	39.7	32.6	43.7	45.3	50.5	-	-
Lombardy	43.9	46.8	77.8	58.2	50.5	-	-
North East	17.5	26.4	37.1	16.5	14.6	-	-
Centre	38.6	36.4	46.7	39.4	26.1	-	-
Lazio	31.9	30.5	69.1	46.9	47.4	-	-
South, excl Sicily	41.2	30.3	70.8	59.4	32.2	-	-
Italy	33.1	33.5	56.7	37.1	31.6	33.8	31.2

Source: Reyneri E. (1998), e Zincone G., (2000).

Non-regularized jobs among immigrants are more widespread in the Southern regions (25%), than in the Centre (11%) or in the North (8%). The region with the lowest share of non-regularized workers is Trentino-Alto Adige, and the highest is found in Lombardy and Lazio, because of the two main cities of Rome and Milan. The sectors more affected by the non-regularized labour market are agricultural and building (Reyneri E. 98). Moreover, Reyneri estimates that unemployment among immigrants reaches 10-15%, and their contribution to the "underground” economy was about 14% in 1996. The trend is toward a drop in numbers in the “underground” economy and an increase in the regularized economy, thanks to the regularization initiatives of 1996: from 1994 to 1996 the percentage of regularized immigrant workers increased from 37% to 60%.

Immigrant unemployment statistics show that 21.3% of holders of residence permits for employed work are actually unemployed (absolute number: 122,424). Of the unemployed, 0.7% are waiting for bureaucracy to run its course and to be hired in a regularized job, 53.7% are looking for

a job, 26.5% are on the employment register, and 19% got their residence permit for special reasons.

The regional differences in the labour conditions of immigrants are clear (see following table).

Table 4.3 Immigrants, by employment situation, by region 1998 (N° and %)

	Regularized	New permissions 1988	Registered at employment agencies	Professional training	Worker authorised from abroad	TOT
North	673,986	58,418	94,093	121,093	21,252	968,842
%	53.9	52.6	45.8	66.5	77.8	54.6
Centre	367,684	29,716	60,017	33,432	3,979	494,828
%	29.4	26.8	29.2	18.4	14.6	27.9
South	140,123	17,455	30,553	14,332	1,520	203,983
%	11.2	15.7	14.9	7.9	5.6	11.5
Island	68,421	5,377	20,930	13,114	552	108,394
%	5.5	4.8	10.2	7.2	2.0	6.1
Italy	1,250,214	110,966	205,593	181,971	27,303	1,776,047
%	100	100	100	100	100	100

Source: Caritas (1999).

The introduction of immigrants on to the labour market is more developed in Northern Italy, where the great majority are regularized or registered at employment agencies in a proportion higher than the relative geographical distribution, i.e. even considering a higher immigrant presence in the centre and north.

Access to social security for immigrants

According to statistics (World Bank, 1997), full access is available to health services and sanitation. In practice, however, this does not obtain for all social groups. Social security and health assistance are available to legal immigrants who gain access to it by paying a small fee or, if they are regularly employed, by means of the ordinary taxes they pay; they therefore enjoy the same treatment as Italian nationals. Illegal immigrants, on the other hand, receive no financial aid and, moreover, since there is widespread fear of repatriation among them, they often prefer to keep the public health system at arms length. So not only are they deprived of facilities, but they often actually turn down the offer of medical help, significantly increasing their risk of dying. Furthermore, if they fall ill they stop earning and so lose their only source of income (Todisco, 1995).

Emergency aid is, in any case, universally guaranteed by law and is normal hospital practice. A source for statistical analysis is the "Hospital departure cards" [SDO], the document drawn up when a person leaves hospital after treatment on which is registered the patient's nationality. Caritas analyzed them for 1997, and found that of the 11,695,413 SDO's examined only 0.32% (37.149) were for non Italians. Of this 0.32%, the highest number came from European countries, Germany alone accounting for 13%. Geographical differences are important in SDO distribution, and the next table shows the percentages for some of the regions where higher or lower values are recorded.

Table 4.4 SDO's in selected Italian regions (1997)

	Non Italian SDO	
	No.	%
Lombardy	6,271	16.88

Piedmont	3,391	9.13
Lazio	4,038	10.87
Campania	3,811	10.26
Italy	37,149	100

Source: Caritas (1999).

Table 4.5 SDO distribution by immigrant's (patient's) continent of origin, Italy, 1997

	Absolute number	%
Europe	17,987	48.4
Africa	6,685	18
Asia	2,170	5.8
America	3,380	9.1
Others	210	0.6
Total	37,149	100

Source: Caritas (1999).

The fact that most immigrant patients are from Europe indicates that immigrants from non-EU countries have a much more limited access to hospitals; but it is improper to discuss this on the basis of such an index; instead, an index indicating recourse to the social system by ethnic group should be used, comparing trends among immigrants of different origins. Anyway, data seem to suggest that, again, illegal immigrants (now prevalently of African and Asian origin) have limited access to health services.

Caritas points to areas of health where immigrants are particularly vulnerable, but give no statistics or specific sources; these are of particular significance: infectious diseases, psychological difficulties, pregnancies (for instance in pre-natal mortality, rates are higher among immigrant woman than among Italians) and prostitution.

Moreover the main risk factors affecting immigrants' health are: unemployment, or employment uncertainty, low work-place protection, unhealthy or overcrowded dwellings, poor hygiene, undernourishment, climate differentials, lack of physical/ psychological support, cultural shock, difficulties in communicating and fitting in, fearing failure in their migration plans, discrimination in the access to social and health services (from Zincone G., 2000).

Some indication on immigrants' living conditions emerge from a Censis survey carried out in 1997/98, where immigrants themselves were interviewed, and asked to give their own opinion about their living conditions (see next table).

Table 4.6 Living conditions of immigrants in Rome and Milan (%)

	Rome	Milan
Immigrants who believe the State should promote integration policies to help them get settled	73.3	73.9
Immigrants who suffer for solitude and loneliness	22.7	24
Immigrants who think that problems of racism and prejudice exist	37.3	20.3
Immigrants who spoke of the need for communal meeting places	44.1	42.6
Main problems pointed out by immigrants	Knowledge of the language 68.1	Dwellings 90.3
	Limited knowledge of laws and norms 59.3	Knowledge of the language 72.4

	Limited information on jobs 56.6	Legalisation of their job 58.5
Main factors easing the immigrant's life	Regularization documents 51.7	Knowledge of the language 52.8
	Being in Rome for a long time 48.7	Regular documents 46.4

Source: Censis (1997-98).

Crime among immigrants

The closure of Europe's borders to immigration from abroad in the mid '70s and its modified economic situation has transformed immigration from an "on demand" to "on supply" phenomenon in Italy, i.e. it is caused by "repelling" conditions in the countries of origin and not by European demand for workers in the destination countries. Consequently, crime in Europe committed by immigrants has reached record levels (Barbagli M., 1998). Higher levels of crimey among immigrants are a clear sign of social exclusion and difficulty in integration.

Crime statistics can help in understanding immigrant social integration and if their relative frequency in crime is higher than that of Italians.

The following table shows the absolute number of immigrants found guilty.

Table 4.7 Immigrants found guilty of crimes (1988-1996)

	1988	1989	1992	1994	1995	1996	Annual rate of increase[1]
Theft	16,645	15,682	32,356	32,232	29,718	35,675	9.14
Robbery	2,612	3,692	5,088	5,867	5,645	6,388	11.56
Drugs	4,992	5,027	18,805	15,433	16,373	20,227	24.41
Receiving of stolen good	3,991	4,108	-	9,797	8,947	10,716	13.48
Culpable injury	1,011	873	-	2,819	-	3,494	19.65
Smuggling	471	586	-	512	5,495	3,035	43.55
Arson	84	63	-	249	236	-	14.47*
Extortion	527	685	-	1,874	1,574	-	15.9*
Rape	272	-	542	586	558	1,276	29.53
Attempted homicide	143	108	-	191	235	209	3.7
Actual homicide	591	442	591	422	487	384	-2.8

Note: *calculated with 1995 data.
Source: Barbagli (1998).

Most crimes grew in the 8 year-period considered, with the significant exception of homicide. The greatest increase has been in smuggling and drugs. The most important question is whether crime rate among non-Italians is higher than that of Italians An attempt to understand this has been made by Barbagli (1998) and the results are shown in the following table.

[1] Our elaboration on data. The rate is calculated as follow: if X indicate the events and *n* the number of years considered, $(X_{96}-X_{88}/X_{88}*n)*100$.

Table 4.8 Italians guilty of crimes (per 100,000 Italian residents) and immigrants guilty of crimes (per 100,000 immigrants possessing a residence permit, i.e. regular immigrants), by sex and age (1994-95).

	Age			
	18-24	25-29	30-34	35-39
Theft				
Italians				
M	546	412	245	146
F	57	55	41	36
Immigrants				
M	1184	347	152	118
F	146	37	26	24
Robbery				
Italians				
M	147	90	48	26
F	7	5	3	2
Immigrants				
M	245	92	40	25
F	19	5	5	2
Drugs				
Italians				
M	295	235	170	97
F	25	27	15	8
Immigrants				
M	678	447	167	71
F	20	12	9	7
Homicide				
Italians M	11	10	7	6
Immigrants M	35	14	7	7

Source: Barbagli M. (1998).

In all groups, crime rates decrease with age, for women as well as for men, for immigrants as well as for Italians. In both nationality groups, women show much lower crime rates. As can be surmised, crime rates for immigrants are generally higher than for Italians, but with a clear distinction by gender: if it is true that Italian males are less inclined to crime than immigrant males, the opposite is true for women. After 25 years of age, Italian women are more often found guilty of a crime, while only young (18-24) immigrant women show a higher inclination to crime. It is also worthy of note that crime rates for male immigrants over 30 slow, often dipping below the Italian level (if we check for age. In conclusion it seems that the crime among immigrants is limited to young males by contrast with the local population; it could be inferred that this can happen because of the particular situation this group finds in certain stages of their immigration experience in Italy.

It must be added that the situation has changed since 1988-89, when Italian crime rates were much higher than those for immigrants, significant change dating from the early '90s. In addition, territorial crime rates by nationality vary a lot and appear higher in the north and centre. It is also well known that illegal immigrants (not considered in the previous table) have a higher risk of involvement in crime, as the next table shows.

Table 4.9 Immigrants with residence permits as the total of non-EU citizens prosecuted by the police (1990-1997) (%)

	1990	1991	1992	1993	1994	1995	1996	1997
	% holding a residence permit							
Theft	10.1	13.5	11.9	11.7	10.1	8.4	11.2	12

Drugs	11.5	13.5	13.5	9.9	7.1	6.4	10.1	12.4
Injuries	28.6	35.2	30.1	26.6	22.9	21.1	27.5	31.9
	Absolute numbers							
Theft	11,716	12,925	14,484	15,702	17,819	19,564	19,008	19,827
Drugs	4,996	7,053	7,356	8,175	10,359	10,018	9,393	10,076
Injuries	1,156	1,673	2,082	2,755	3,119	3,311	3,661	3,648

Source: Barbagli (1998).

Integration and the new law

In 1998, almost 111,000 new immigrants landed in Italy (Caritas, 1999), of whom 55,400 were from European countries (50%), 15,600 from Africa (14%), 23,000 from Asia (21%), 16,000 from America (14..3%), and about 600 from other nations (0,5%). These are the latest data available at the moment.

Since 1998, new Law 40/1998 on immigration has been in force that most observers see as having brought about improvements in immigrant integration and respect of basic rights. Its implementation is difficult and not uniform throughout the country. Data is almost non-existent because, by the new law, the ASL (Local health companies) must implement services of direct benefit to immigrants and the practical side of this is left to the initiative of the single ASL's, so some of them have launched some projects and others haven't.

An index of integration and penetration of immigrants into Italian society is shown by the number of children attending compulsory school; this points to a more stable presence of immigrants and the growing phenomenon of family reunification; besides, school attendance is one of the basic forms of integration of second generation immigrants, for the children themselves but also for their parents.

Table 4.10 Foreign students enrolled in Italian schools (private and public), (1989/90 and 1996/97).

	Total student enrolled	Total foreign students	% extra-EU	% tot foreign
1989/90	8.543.396	13.668	63.5	0.14
1996/97	7.798.726	56.109	57.6	0.64

Source: Caritas (1999).

Table 4.11 Distribution of non Italian students in the pre-school and elementary (public and private) schools, by geographic area.

	% foreign students		
	All	European	Extra-European
North	62.29	58.53	65.07
Centre	26.7	28.25	25.57
South	6.98	10	4.73
Islands	4.03	3.22	4.63
Italy	100	100	100

Source: Caritas (1999).

Local school population has dropped over the last decade, while, in absolute terms, the foreign student population has quadrupled. Also, in relative terms, the presence of foreign students has increased from 0,14% to 0,64%.

The presence in Italy of immigrant associations, of whatever kind, may be a sign of activity and well-being of the non-Italian communities. At present, immigrant associationism seems to be

very weak (Caritas, 1999). Hereunder are reported the number of immigrant associations in Italy (see next table).

Table 4.12 Immigrant associations, by geographical area (1999)

	Absolute values	Immigrant associations as % of Immigrant + Italian associations
North West	117	30.5
North East	102	37.9
Centre	208	69.6
South	37	31.9
Islands	6	17.6
Italy	470	42.7

Where there is a higher number of immigrants the number of their associations is also higher.

In conclusion, a synthetic integration index has been produced and is used to assess the level of integration/exclusion of immigrants by nationality (Cagiano de Azevedo R., (2000). The Human Dignity Index (HDI) is a simple arithmetic means of showing indicators such as unemployment and proportion of suspects prosecuted, arrested or imprisoned. The index ranges from 0 (maximum level of integration observed), to 1 (maximum level of exclusion observed)[2]. In the following table the HDI values are reported for the Italy:

Table 4.13 HDI values, Italy, 1995, by immigrant nationality

Nationality	HDI
Moroccan	0.795
From former-Yugoslavia	0.818
Albanian	0.616
Philippine	0.014
Tunisian	0.81
Chinese	0.036

Source: Cagiano de Azevedo R. (2000).

The ethnic group that seems to be having greatest difficult comes from former-Yugoslavia. Those with fewer problems are Philippine and Chinese, but this is only because Italian justice is unable to detect what it is going on inside the community. The Chinese community is very closed, not at all integrated into Italian society, and it has its own criminals, but they solve their own problems within their own community. Therefore this index is only valid as a kind of negative indicator of integration and dignity, not a positive one.

Woman in work and in the public arena

Total unemployment in Italy is among the highest in Europe, but that of adult males is Europe's lowest (in the mid '90s) [Reyneri E., 1998]. This means that women and young people are those most excluded from the labour market. For example, in Southern Italy total unemployment is as high as 20% but adult male unemployment is only 8% or lower.

[2] The basic indexes are so structured for the i national group, and for the j character: $Iij=Xij-Xi._{min}/Xi._{max}-Xi._{min}$.
The HDI is so structured: HDI=i/n* ?Iij

Table 4.13 Employment by gender and by age group

	1992	1997
15-64	57.8	57.7
M	74	72.2
F	42	43.6
15-24	43.1	38
M	47.7	42.2
F	38.6	33.8
25-49	74.2	75
M	93.2	91.7
F	55.4	58.3
50-64	39.3	38.2
M	60	55.6
F	20.2	22.1

Source: Eurostat (1999), *Yearbook 98/99*

Female employment is consistently much lower than male in all age groups. The low level of part-time jobs still keeps many women out of the labour market: many leave when they have children because they cannot keep a full-time job going, and later in life it gets more and more difficult to get into the market again. It is also clear from the table the extent, regardless of gender, to which the labour market is closed off to younger people (aged 15-24 years). The Italian labour market system is more protective of adult males, and treats youngest people and women unfairly.

Table 4.14 Unemployment rate by age and gender in Italy and Europe [15], (1994)

	Female	Male	Total
Age groups	Italy		
15-24	35.4	28.7	31.6
25-49	13	6.8	9.2
50&over	4.9	3.6	3.9
Tot	15.6	8.8	11.3
	Europe		
15-24	22.4	21.7	22
25-49	12.1	8.8	10.2
50&over	8.2	7.7	7.9
Tot	13	10.2	11.4

Source: Eurostat (1995).

These differences (between Italy and Europe) are mainly affected by the level of female unemployment, significantly higher than the European average. On the other hand, the Italian male unemployment rate, is in line with that of the other European countries; higher than that of France and Spain, but lower than the European average (Caroleo 1999). The gap between women and men has recently started getting wider, as the following table shows.

Table 4.15 Employment by sector and gender - Italy (Yearly percentage variation - 1993=100)

	Male	Female	Total
1994	-2.1	-1	-1.7
1995	-0.9	0.2	-0.5
1996	-0.2	1.6	0.4

Source: Quarterly Survey on Labour Force, ISTAT.

The difference between the Italian unemployment rate and other European countries is small, but specific problems are:
- increasing differences among regional unemployment rates;
- steep increases in structural unemployment for women and young people;
- sharp rises in long-term unemployment.

If the simple difference between maximum and minimum regional unemployment rate is taken as a measure of the territorial differences, Italy (and also Spain) shows very high levels compared with its European partners. In Italy, in particular, this difference was, at the time in question, 23.6 per cent on average, compared to 22.9 per cent in Spain, while in the other countries the rate never topped 13 per cent (see next table), (Caroleo, 1999).

Table 4.16 The unemployment rate of EU countries, average territorial variation (1983 – 1995) (%)

Ireland	2.2
Holland	4.4
Denmark	6.1
Portugal	7.5
France	10.8
Germany	11.3
Belgium	12
UK	12.4
Spain	22.9
Italy	23.6

Source: Caroleo 1999.

As regards the employment rate in perspective, we note:
- a marked and prolonged reduction in the regional differentials up to the beginning of the seventies;
- an increase in the differences, showing strong acceleration in the seventies and eighties as a consequence of the two oil crises;
- a substantially high-level stabilisation, in the last decade, of the differences in the regional variations in employment.

For a comparison of unemployment rates by age groups, see following table.

Table 4.17: The unemployment rate by age, OECD countries, 1983-1995

	1983			1995		
	15 to 24	25 to 54	55 to 64	15 to 24	25 to 54	55 to 64
Male and Female						
USA	17.2	8	5.7	12.1	4.5	12.1
Spain	37.6	11.5	7.4	42.5	20.8	42.5
UK	-	-	-	15.5	7.4	15.5
France	19.7	5.7	6.3	25.9	10.5	25.9
Germany	11	6.9	8.9	8.5	7.7	8.5
Italy	30.5	4.5	2.9	32.8	8.9	32.8
Male						
USA	6.1	8.2	18.4	3.6	4,4	12.5
Spain	8.8	11.5	33.7	12.6	15.3	37
UK	10.1	9.3	22.4	10.1	8.5	17.9
France	6	4.4	15	7.7	8.8	21
Germany	9	6.3	10.4	10.4	6.3	8.7
Italy	1.9	2.7	25.5	4.1	6.7	29
Female						

USA	2.9	7.7	16.8	3.6	4.5	11.8
Spain	5.1	11.6	48.7	11.4	37.5	49.1
UK	-	-	-	3.9	6.1	12.5
France	6.9	7.7	25.5	6.6	12.6	32.2
Germany	8.6	8	11.7	13.7	9.4	8.2
Italy	6	8.3	36.5	4.9	37.6	37.6

Source: OECD.

Finally, some data on discrimination between men and women in the workplace. Not much information is available, but the Index of Dissimilarity[3] (ID) has been calculated for Italy also, measuring exclusion from certain professions. Comparability is not perfectly possible across the country because of the different ways of classifying jobs, but the following table shows the data.

Table 4.18 Values of ID (Index of Dissimilarity) and ID75 (based only on 75 non-agricultural occupations), OECD countries, last available year

	ID	ID75
Canada	0.509	0.541
Italy	0.517	0.449
USA	0.548	0.463
Spain	0.57	0.569
The Netherlands	0.588	0.567
Germany (W)	0.6	0.523
OECD	0.6	0.563
Sweden	0.604	0.63
France	0.607	0.556
Australia	0.615	0.581
New Zealand	0.618	0.582
UK	0.638	0.567
Norway	0.646	0.573
Switzerland	0.654	0.581
Finland	0.673	0.616
Austria	597	0.607

Source: Anker R. (1997).

Some features of the "black labour market" in Italy are presented below.

Table 4.19 Some features of the labour market in Italy in the '90s (%)

Working typologies:	
Independent and regularized jobs	21.9
Independent, not denounced job	**4.2**
Employed and regularized jobs (private sector)	41.2
Employed non-regularized jobs (private sector):	19.8
- Illegal workers in legal firms	8.3
- Illegal workers in illegal firms	5.7
- of which third-party domicile work	5.8
Employed jobs in the public sector	12.9
Workers in regularized firms, but with contracts	

[3] ID ranges between 0 (no segregation by gender) and 1 (maximum occupational segregation by gender).

that in reality do not guarantee legal basic rights	…….11.5
Workers with two jobs (outwith the law)	9.9
Total	26.422

Source: Censis (1998).

The last table shows some cases of worker mistreatment: 11% of those working in regularized companies have contracts that do not preserve their basic rights. This is a case of discrimination in the working place that affect Italians as well as non-Italians. The non regularized labour market seems to be spread over the whole of Italy, especially in the South (see next table).

Tab 4.20 Numbers of non regularized workers and rates of non-regularization by geographical area and economic sector, Italy 1993*

	Italy		Centre-North		South and Islands	
	Num.	Rate	Num.	Rate	Num.	Rate
Agriculture	1,428,503	72.3	619,177	62.6	810,081	82.1
Industry	1,175,360	18.1	568,356	11.3	604,632	41.3
Service (selling)	2,159,537	21.9	1,370,339	19.3	786,800	28.5
Service (non-selling)	381,014	8.8	300,756	10.7	78,983	5.3
Total	5,143,843	22.7	2,867,364	18	2,281,572	33.9

Note: * Per cent of non-regularized workers by the total number of workers.

The data from 1993 show that, in absolute terms, the situation in Southern Italy is no more critical than in the rest of the country, but in relative terms it does: almost 34% of workers are non-regularized, comparing with a 18% in the rest of Italy. In particular the agricultural sector presents the least regularized situation.

Servitude

Cases of servitude in Italy are not widespread. As far as we know, there are no statistics on it. Nonetheless in recent years some cases have been reported by local and national newspapers of cases of people, often very young, who were forced to work for 12 hours a day, with no contract and a salary far below the poverty level.

No different is often the situation of may Italian and immigrant women who are forced to work in prostitution or are unable to abandon it. Their working conditions are completely outwith any control or protection. Life in a non-regularized job (i.e. without a regularized contract) can sometimes be so difficult that non-regularized work could be described as a modern form of servitude or slavery. This is true of certain ethnically dominated industries (such as Chinese leather-goods factories) or in the case of prostitution of non-EU immigrant women, or again in some areas of southern Italy where young immigrants are paid very little for hard agricultural work in the harvest period (Blangiardo in Cariplo).

4.2 How effectively are the basic necessities of life guaranteed, including adequate food, shelter and clean water?

4.2.1 Laws

Social security, defined as the situation in which protection of the needy corresponds to a specific interest of the collectivity, is a particular aspect of the wider “social dimension” of the Constitution that is expressed in many of its norms, in particular Article 38 that outlines the social

security and public assistance structures, Article 32, that specifies the right to health as a value both individual and of the collectivity, as well as all other norms regarding rights and protection of labour.

Social security activity provides pension payments mainly through an public institution set up for the purpose *(Istituto Nazionale della Previdenza Sociale)* - INPS - [National Institute for Social Security] which come from contributions made by both employees and employers, over and above contributions made by directly by the State. These payments include pensions for seniority (provided on reaching a certain number of years' service), old-age (after a certain age) and so-called "social" (to elderly workers and those in economically disadvantaged situations). Furthermore, invalidity payments and disability pensions are provided for to benefit workers unable to undertake any activity because of their personal condition.

Legislation also exists concerning injuries in the workplace and professional diseases, handled this time by another public institution, INAIL.

The value of safety in the workplace, as a reflection of the Constitutional principle of safeguarding health (Art. 32 of the Constitution) is backed by abundant active legislation both on a national and directly EU level with many and immediate directives.

The Civil Code, firstly, places the responsibility of general risk prevention in the workplace on the employer.

Secondly, the Workers' Statute (Law 300/70) disciplines this obligation stating that trade-union representatives in the workplace may verify the company's application of the norms relating to injury and illness prevention, and may also promote research, preparation and execution of measures suitable for the protection and physical well-being of workers.

Particularly important norms for worker protection in terms of psycho-physical well-being are surely those relating to the maximum timetable of actual work (eight hours per day, forty-eight hours per week generally reduced by labour contracts to forty) and weekly breaks (24 hours usually on Sundays). Furthermore, legislation exists regarding each activity (night work, work at home and site work) that provides for precise obligations on the part of employees regarding the protection of their safety, often guaranteed by penal sanctions directed towards the employer or a professional figure in charge of safety.

4.2.2 Implementation and negative indicators

Some general indicators can give an idea of the Italian population situation, along with other rich countries:

Table 4.21 Some social indicators by selected European countries, 1987-97

	Under-5 mortality rate 1996	Pro-capita 1996 GDP ($) thousand million	Net primary school enrolment/ attendance[a] (%) 1987-97	Total fertility rate 1996	Maternal mortality rate[b] 1990
Austria	6	28,110	100	1.4	10
Belgium	7	26,440	98	1.6	10
Denmark	6	32,100	99	1.8	9
Finland	4	23,240	99	1.8	11
France	6	26,270	99	1.7	15
Germany	6	28,870	100	1.3	22
Greece	9	11,460	91	1.4	10
Ireland	7	17,110	100	1.9	10
Italy	7	19,880	97	1.2	12
Latvia	20	2,300	84	1.5	40
Netherlands	6	25,940	99	1.6	12
Norway	6	34,510	99	1.9	6

Portugal	7	10,160	100	1.5	15
Russian Fed.	25	2,410	100	1.4	75
Spain	5	14,350	100	1.2	7
Sweden	4	25,710	100	1.9	7
Switzerland	5	44,350	100	1.5	6
United Kingdom	7	19,600	100	1.7	9

Note:
a. Enrolment/attendance is obtained from net primary school enrolment rates as reported by UNESCO and from national household survey reports of primary school attendance.
b. Several of the maternal mortality rates vary substantially from government estimates. A review of these data will be part of a forthcoming revision of maternal mortality estimates.
Source: UNICEF.

The only data available for Italy on low weight new born babies, apparently, is for 1980-82, and indicate that this as 7% of all babies (World Bank, 1999).

The Italian social system gives cash payments to particular segments of the population. The largest part of these is dedicated to retirement pensions. (see next table).

Table 4.22 Social protection benefits per head of population at constant prices (1990=100): transfers in cash to give relief in certain areas of need (old age, illness, childbearing, disability, and unemployment), 1988-96

	1988	1990	1992	1994	1996
Italy	90	100	109	109	111
Germany	100	100	103	106	114
France	96	100	106	111	114
UK	-	100	118	128	-
Spain	-	100	116	118	124
Eur-11*	-	100	108	111	-

Note: * 11 European countries.
Source: Eurostat (1999), *Yearbook 98/99*

Other problem situations can be added (see following table).

Table 4.23 State of housing and people excluded from good quality dwellings (1991)

	Good dwellings	Dwellings not meeting national criteria of good quality	
	% of housing	Dwelling	People
Belgium	57	1,049,440	2,623,600
Denmark	87	308,750	648,375
Spain	49	6,861,720	15,781,956
France	81	2,361,330	6,139,458
Ireland	87	135,070	472,745
Italy	52	11,383,680	31,874,304
Luxembourg	80	26,940	75,432
Netherlands	80	1,193,000	3,101,800
Portugal	77	961,653	2,307,967
UK	86	3,325,000	8,312,500
Total	-	27,606,583	71,338,137

Source: Avramov D. (1995).

In the early '90s there were still about 32 million people who had no possibility of living in a proper house (by Italian standards).

Table 4.24 Accommodation equipment (1993): % of dwelling with:

	Wc	Bath or shower	Central heating
Italy	78	76	21
North West	76	73	35
North East	81	79	19
Centre	80	79	15
South	70	65	8
Sicily	69	65	8
Sardinia	75	72	10

Another index of the population's health condition is access to safe water, reported to be 99% of the total population in 1980 (no later data available) (World Bank, 1999); and access to health services equal to 99% of the population in 1980, and to 100% in 1994/95.

Poverty

Traditionally, poverty is found among families or people whose consumption is under a level defined "poverty threshold". The poverty threshold, or poverty line, can be defined in relative terms, i.e. confronting it with the average consumption per person, or in absolute terms, i.e. confronting it with a basket of goods considered the acceptable minimum, updated in every period considered in relation to price changes. The Italian Poverty Commission (Ministero Affari Sociali; internet address: http://www.affarisociali.it/servizi/pov_rel97.htm) has the job of examining poverty in Italy, and publishing reports on it. The last one dates back to 1998 and it adopted the "international standard poverty line" which states that the poverty line for a two-person family is the equivalent of the average per-person consumption.

Data used is taken from the 1997 Istat survey. In that year, the consumption of 2,245,000 families was below the poverty line; the proportion of poverty, i.e. the ratio between the number of poor families and the total number of resident families, was 11.2 per cent. The total number of Italians living in poverty was 6,908,000, equal to 12.2 per cent of the population. In 1997, the poverty line was set at 1,233,829 lire per month per two-person family. This value shows an increase of 3.7 per cent compared to the previous year's poverty line (1,190,273 lire). To determine poverty thresholds for different size families a "scale of equivalence" is used. This scale can correct the consumption of various sizes of families, making it "equivalent" to the consumption of the two-person standard family.

From 1996, the proportion of poverty has increased by 1% (from 10.3 to 11.2 per cent). This is mainly due to increasing poverty in Southern Italy. Here, the proportion of poverty has reached of 23.5 per cent of families and 26 per cent of people; indeed in Southern Italy 77 per cent of people live in poor conditions and the living conditions of the poor are getting worse The poverty gap (a measure of how poor poor people are) is widening. In Central and Northern Italy the proportion of poverty is constant.

The danger of dropping below the poverty line is higher for big families and those whose reference family is unemployed, illiterate, or aged. The number of poor families increased, both in absolute and in relative terms, even among those whose reference person is in work (the percentage rises from 8.4 to 9.7 per cent). Among individuals the level of poverty is 12.2 per cent; higher than the percentage for families because of the concentration of the phenomenon among large families. For individuals, people under 18 years old and aged persons are the those who are at greatest risk: among young people in 1997 the proportion of poverty was about 15 per cent; and about 14 percent among those over 65.

Statistics on "Relative Poverty"1997:

Table 4.25 Poverty in Italy, 1996-1997 (N° and %)

	1996	1997	1996	1997	1996	1997	1996	1997
Absolute numbers								
Poor families	371	407	222	227	1,485	1,611	2,079	2,245
Resident families	9,549	9,566	3,891	3897	6,648	6,657	-	-
Poor persons	935	1,004	672	578	4,945	5325	6,552	6,908
Resident persons	25,089	25,222	10,871	10,862	20,562	20,484	-	-
Proportion of Poverty								
Families	3,9	4,3	5,7	5,8	22,3	24,2	10,3	11,2
Persons	3,7	4,0	6,2	5,3	24,1	26,0	11,6	12,2
Poverty Intensity								
Families	19.9	16.2	17.9	21.3	21.8	22.6	21.0	21.5
Percent Distribution								
Poor families	17.8	18.1	10.7	10.1	71.4	71.8	100.0	100.0
Resident families	47.5	47.5	19.4	19.4	33.1	33.1	100.0	100.0
Poor persons	14.3	14.5	10.2	8.4	75.5	77.1	100.0	100.0
Resident persons	44.4	44.6	19.2	19.2	36.4	36.2	100.0	100.0

Source: ISTAT, Indagine sui consumi delle famiglie

Table 4.26 Poverty incidence according to different "poverty lines", 1996-1997 (% of poor families)

	1996	1997	1996	1997	1996	1997	1996	1997
Line set at the 120% of the average pro-capite consumption	8.8	9.6	12.6	14.1	35.0	37.2	18.2	19.6
Standard line, equal to the average pro-capite consumption	3.9	4.3	5.7	5.8	22.3	24.2	10.3	11.2
Line set at the 80% of the average pro-capite consumption	1.8	1.0	1.9	2.7	10.7	12.3	4.7	5.1

Source: ISTAT, Indagine sui consumi delle famiglie

Table 4.27 Proportion of poverty by geographical areas and family features, 1996-1997 (% of poor families)

	1996	1997	1996	1997	1996	1997	1996	1997
Family size								
1 component	5.1	6.5	4.2	8.5	19.7	23.5	9.0	11.6
2 components	4.3	3.5	6.4	6.2	21.9	21.1	9.8	9.2
3 components	2.4	3.9	4.9	4.4	18.3	21.6	7.4	9.0
4 components	2.7	1.9	5.1	3.9	19.7	18.0	9.6	8.4
5 or more components	6.7	7.1	10.4	7.0	33.1	39.8	21.1	24.1

Reference person's sex								
Male	3.1	3.2	5.7	4.8	21.9	23.5	10.1	10.6
Female	6.0	6.8	5.6	9.3	24.2	27.0	11.1	12.8
Reference person's age								
Under 35	1.6	2.0	3.9	5.2	20.7	26.5	8.6	11.0
36 - 45	2.5	1.0	6.4	3.5	19.6	21.5	9.6	8.5
46 - 55	2.8	2.8	4.7	4.6	19.5	23.6	8.5	10.7
56 - 65	3.0	7.7	5.1	3.2	19.8	20.2	8.8	10.4
Over 65	7.7	6.5	7.3	11.2	30.1	29.0	14.7	14.5

Source: ISTAT, Indagine sui consumi delle famiglie

Table 4.28 Poor families and proportion of poverty, according to family features and family typology, 1996-1997. (numbers in thousands and %)

Educational level of the reference person				
	1996		*1997*	
Illiterate- no educational qualifications	476	27.5	420	30.7
Primary school	799	12.4	983	14.9
Secondary school	594	9.9	559	9.1
High school or University degree	211	3.6	282	4.7
Profession of the reference person				
Employed worker	616	8.4	698	9.7
Autonomous worker	233	6.2	216	5.9
Unemployed (looking for a job)	158	31.4	170	31.7
Retired	714	11.5	639	10.5
Number of employed persons in the family				
None	983	15.3	1,063	16.8
1 working	764	9.8	823	10.7
2 or more working	331	5.7	359	5.9
Number of persons with a salary				
None	41	19.8	51	26.0
1	1163	12.1	1,292	13.4
2 or more	875	8.6	901	8.7
Family typologies				
One-person family, under 65	77	3.9	135	6.5
Two-person family. Reference person under 65	95	4.7	68	3.2
One-person family, and two-person family, with reference person over 65	548	14.1	569	15.9
Couple with 1 child	253	6.7	307	8.1
Couple with 2 children	350	9.7	307	8.4
Couple with 3 or more children	368	23.8	451	26.4
One parent family	138	11.2	164	12.3

Family with at least one children under 18	795	12.5	842	13.2
TOTAL	2,079	10.3	2,245	11.2

Source: ISTAT, Indagine sui consumi delle famiglie

Table 4.29 Proportion of poverty, by region and age, 1996-1997 (% of poor people)

Age class	1996	1997	1996	1997	1996	1997	1996	1997
Under 18	4.3	2.6	7.4	5.1	26.6	29.4	15.0	15.2
19 - 34	2.5	3.8	6.2	4.8	23.3	25.4	10.9	11.8
35 - 65	3.0	3.9	5.4	4.0	20.8	23.3	9.4	10.3
Over 65	7.35	6.4	6.9	10.8	31.0	29.4	14.4	14.4
TOTAL	3.7	4.0	6.2	5.3	24.1	26.0	11.6	12.2

Source: ISTAT, Indagine sui consumi delle famiglie

According to Cannari e Franco (1999) there is a particular group of people who risk poverty, namely children; on the basis of their recent work they highlight some features of poverty in Italy:

a) despite the birth rate decline and the decrease in the ratio of dependent children to working-age adults, poverty rates for Italian minors are higher than for other age groups; the difference in poverty rates between minors and other family members is highly dependent on the equivalence scales used;

b) though poverty rates for the elderly declined during the eighties and nineties, rates for children did not. These trends are probably related to increases in pension expenditure and the parallel drop in support programmes for dependent family members;

c) poverty rates for households with children are higher when there are more than two children, and in single-income families; in addition, poverty rates are higher in the South;

d) poor children in single-parent households make up a small share of the total number of poor children; however, for these households, poverty rates are higher than for two-parent households with children and the poverty gap is relatively high;

e) using age-adjusted equivalence scales, poverty rates tend to increase with the age of the children.

Homelessness

The homeless is a relatively small proportion of the population.

Table 4.30 Estimated annual average number of homeless people, dependent on public and voluntary service in the early 1990s.

Country	Year	Absolute number
Belgium	1993	5,500
Germany	1992	876,450
Denmark	1994	4,000
Spain	1991	11,000
France	1993	346,000
Greece	1993	7,700
Ireland	1993	3,700
Italy	1994	78,000
Luxembourg	1994	200
Netherlands	1994	12,000
Portugal	1993	4,000
UK	1993	460,000

Source: Avramov (1995), p. 92.

In Italy, in 1994 the number of homeless is not very high in comparison with the United Kingdom or France. But in absolute terms 78,000 is not a low number, even though it is not yet at the level of a social problem. According to other figures produced for the early '90's, the figure was actually higher: the Italian National Commission on Poverty reported a minimum of about 50,500 and a maximum of about 61,700 homeless. Tosi e Ranci (1994) estimated 150,000-220,000 if immigrants, roma and mental patients are included.

It has been observed that about 80-90% of homeless people are Italian, and non foreign citizens; and about half of them are women.

4.3 To what extent is the health of the population protected, in all spheres and stages of life?

4.3.1 Laws

Right to health as the right of individuals and the interest of the collectivity, is enshrined in Article 32 of the Constitution that guarantees also "free treatment for the needy". This Constitutional commitment brought about, in 1978, the creation of the National Health Service, i.e. a framework of norms of principle in which regional regulations are set (since the competence in this field is regional), marked by the principles of universality (i.e. the promotion, maintenance and cure of the health of the whole population) equality (i.e. the availability of health services to all citizens without distinction) and tending-towards gratuitousness of medical treatment and health care.

Public structures within the National Health Service must be central within a network assuring medical assistance over the whole of Italy. The main public structures of the National Health Service were for a long time the *Unità Sanitarie Locali (UU.SS.LL.)* [Local Health Units] linked to the municipality or association of municipalities, endowed with administrative and spending autonomy. During the nineties, they evolved into the *Aziende Sanitarie Locali* [Local Health Companies] form of structure with a company-like organization and headed by a general manager.

Territorial and environmental protection is a value accepted and affirmed by the Constitution referring to it as "*paesaggio*" [landscape].

Environmental protection, which has not been on the political agenda for long, moves mainly in the direction of limitations by means of which some activities are subject to special checks or limitations, or even forbidden should they clash with environmental protection.

Because of these restrictions, freedom to modify buildings is strictly limited should they be included in the so-called landscape plans that lay down how interventions may take place in areas declared of natural beauty, or be in declared national or regional "parks", or again be subjected to hydro-geological restrictions. The plan for a complex procedure to which projects that may have a major influence on the environment are to be subjected is of special interest: indeed the *Valutazione di Impatto Ambientale* [Environmental Impact Evaluation] procedure by the regions and partly by local bodies will allow a more appropriate set up of industrial and productive activity in their environmental context.

The problem of environmental protection from pollution is today dealt with by highly complex, multi-layered legislation that envisages polluting emission gas checks, protection of water, ground and underground from toxic substances, protection against acoustic pollution and the set of rules governing ordinary and toxic waste.

Recently a national agency for environmental protection was set up whose duty it is to provide means of controlling and verifying the respect of regulations regarding pollution and environmental protection in coordination with the Ministry of the Environment.

4.3.2 Implementation and empirical indicators

To evaluate the health of the population deaths and injuries may be considered under difference circumstances. Here, we consider deaths and accidents in the workplace, those caused by motor-vehicle accidents and other specific causes, including drug use and suicide and, as a secondary indicator, alcohol consumption per head.

Table 4.31 Rate of accidents at work with more than three day's absence per 100,000 workers:

From the graph: Average in EUROPE (93): about 4500
ITALY (94): about 4600-4700.

Rate of fatal accidents at work
From graph: Average in EUROPE (93): about 6.
ITALY (94): about 4.7.

Source: Eurostat (1999), *Yearbook 98/99*.

Accidents per worker in Italy are slightly higher than the EU average, but the fatal accidents per worker are well below the European average.

As regards security on the road, the following data helps in comparing the Italian situation with the average panorama in Europe (see next table), by gender.

Table 4.32 Death in motor-vehicle traffic accidents (per 100,000 women)

	1988	1990	1992	1993	1994
Italy	6.4	6.3	6.8	5.7	-
Europe 15 (average)	6.9	7	6.4	5.9	5.7

Source: Eurostat (1999), *Yearbook 98/99*.

Table 4.33 Death in motor-vehicle traffic accidents: (% 100,000)

	1988	1990	1992	1993	1994
Italy	22.9	23.2	24.3	21.4	-
Europe 15 (average)	21.2	21.8	20.1	18.5	17.8

Source: Eurostat (1999), *Yearbook 98/99*.

Italian women die on the roads less frequently that the European average in the early '90s. Not so Italian men.

Table 4.34 People injured in road accidents (per 100,000)

	1988	1990	1992	1993	1994	1995
Italy	398	383	417	378	418	453

Source: Eurostat (1999), *Yearbook 98/99*.

The rate of people injured is not comparable with a EU average, where in 1995 the highest rate was 672 in Belgium, and the lowest was 202 in Denmark.

If suicide can be taken as an indicator of population well-being, health and general standard of living, Italy has a lower rate of "unhappiness" than the EU average (see next table).

Table 4.35 Death by suicide (% 100,000 women)

	1988	1990	1991	1992	1993
Italy	3.8	3.6	3.6	3.5	3.4
Europe 15 (average)	7	6.6	6.5	6.2	6.1

Source: Eurostat (1999), *Yearbook 98/99.*

Table 4.36 Death by suicide (% 100,000 men)

	1988	1990	1991	1992	1993
Italy	10.9	10.7	10.8	11.2	11.7
Europe 15 (average)	19	18.9	18.7	18.5	18.4

Source: Eurostat (1999), *Yearbook 98/99.*

Although Italian men risk suicide less than Italian women, the rates for both are dropping as they are Europe-wide. The Italian rate apparently is much lower than the European average. The total number of suicides in Italy in 1993 was 4,642 (634 in the North Western regions, 608 in the North East, 566 in the Centre and 362 in the South) (Source: Eurostat, 1997).

On the contrary, the absolute numbers of deaths caused by drug abuse shows neither an upward nor downward trend, even though oscillations occur from year to year (see next table).

Table 4.37 Drug-related deaths, Italy and some selected European countries

	1988	1990	1992	1994	1995
Italy	809	1,161	1,217	867	1,195
Germany	670	1,491	2,099	1,624	1,565
France	236	350	499	564	465
Spain	337	455	556	388	394
UK	1,212	1,284	1,428	1,627	1,778

Source: Eurostat (1999), *Yearbook 98/99.*

Alcohol consumption also seems to be dropping slightly.

Table 4.38 Consumption of pure alcohol: litres per person, over 15 per year. Italy and some selected European countries

	1988	1990	1992	1994	1995
Italy	11.4	11	10.6	10.1	9.4
Germany	12.2	12.5	13	12.2	11.8
France	15.7	15.6	14.6	14.1	-
Spain	14.1	13.5	13.2	11.7	11.4
UK	9.4	9.4	8.9	9.3	9.1

Source: Eurostat (1999), *Yearbook 98/99*.

If we include environmental conditions (such as pollution and so on) as an indicator of population health, we can use data relating to traffic to reach conclusions on city pollution on the one hand, and the quality of life in cities and more in general nation-wide on the other.

Table 4.39 Traffic and congestion (1980-1994). Italy and some selected European countries

	Vehicles per 1,000 persons		Million vehicles kilometers	
	'80	'94	'80	'94
Italy	334	541	226,569	362,647
Spain	239	454	-	-
France	402	517	-	-

Source: World Bank (1999).

The following table shows World Health Organisation (WHO) statistics on general health conditions in the mid '90s in Italy and selected European countries:

Table 4.40 Indicators of general health. Selected European Countries, 1996

	Cases of			% children under 12 vaccinated against measles	% Births in Health Service Structures
	Leprosy	AIDS	Tuberculosis		
Italy	-	4,891	4,155	50	99
Spain	12	5,678	8,331	-	96
France	-	3,684	7,656	82	99
UK	-	1,214	6,238	92	99
Germany	-	1,169	11,814	75	99

Source: WHO, 1998, *Rapport sur la Santé dans le Monde*, Genève.

The Italian welfare state model stresses transfer between services (Ferrera 1993). A lean towards old age benefits is noticeable (Table 4.41), rather than other areas like sickness and health care.

Table 4.41 Benefits per head for some areas of social intervention, 1988-96, constant prices (1990=100).

Sickness and Health Care benefits				
	1988	1992	1994	1996
Italy	89	104	94	91
Germany	101	103	102	107
Spain	-	120	116	121
France	93	106	109	112
UK	-	112	122	123
Disability Benefits				
Italy	93	101	106	101
Germany	97	102	113	133
Spain	-	111	115	121
France	100	101	105	113
UK	-	136	169	172*
Old Age Benefits				
Italy	90	115	119	123

Germany	98	94	98	104
Spain	-	112	118	129
France	98	107	112	117
UK	-	112	117	118*

Source: Eurostat (1999), *Yearbook 98/99*.
*- referred to 1995.

The different trend followed by Italy is clear, with however many similarities with Spain. Hence the Italian welfare state's main preoccupation with pensions is clearly seen.

Social services, from the supply standpoint, can be seen by the number of professional staff or structures per 10,000 inhabitants. Next table (TTT) shows the Italian trends and position in Europe.

Table 4.42 Main indicators per 10,000 inhabitants, selected European Countries (1988-96)

Number of physicians					
	1988	1990	1992	1994	1996
Italy	-	458	521	547	570
Germany	281	301	314	329	341
Spain	360	383	401	414	422
France	248	266	277	282	-
UK#	155	160	163	164	175
Number of Dentists					
Italy	-	-	55	60	-
Germany	67	-	70	73	75
Spain	19	27	30	34	38
France	64	68	69	-	-
UK#	38	39	38	35	-
Number of hospital beds (annual average)					
Italy	749.7	723.2	686.2	653.5	-
Germany	-	-	806	760	729.7
Spain	440	427.5	414.6	407	402.5
France	1007.8	977.1	943.9	906.1	-
UK#	652.6	590	531.7	-	-

Source: Eurostat (1999), *Yearbook 98/99*.
*- referred to 1995.
#- Only public sector reported.

Similarly to the rest of Europe, the supply of services is increasing, testifying that Italians and Europeans are making more use of social services; on the other hand Italy is average in comparison to its European partners not always on a par in effectiveness and organisation to Germany, France and the UK, but often better than Spain.

Expenditure by the public health system

There was a marked drop in public health spending in the years from 1992 to 1995: in today's lire terms, it fell from 95,921 milliard to 93,610 milliard and from 6.4% to 5.3% of Gross Domestic Product (GDP). This trend, first noted in 1992, came to a halt in 1996 and the reversing climb has brought this year's expenditure to 5.4% of GDP certified as 5.5% in 1997.

An analysis of expenditure in real terms (basis 1990) reveals pharmaceutical expenditure to have fallen the most (Prospect 1) as a result of policies limiting public spending.

From 1996 onwards there has been a substantial increase in public-health expenditure resulting from an increase in hospitalization and pharmaceutical costs. The former was influenced by the introduction of a new tariff system (DRG Diagnosis Related Groups), causing an increase in the number of hospital services while the latter is the result of an increase in demand by the public.

The trend in recent expenditure in today's figures confirms, however, the increase in spending for public and conventionalized hospital treatment (total 60,512 milliard lire in 1997 and 62,137 milliard lire in 1998) and pharmaceuticals (11,650 milliard lire in 1997 and 12,833 milliard lire in 1998)

The breakdown of health expenditure (Prospect 2) shows the conventionalized treatment amount unchanged. The increase in resources used in hospital care reflects, on the one hand, a changed payment system and on the other a possible inappropriate use of services envisaged for more serious and intensive care needs.

Table 4.43 - Public health expenditure by region and economic function - 1995

	Health expenditure directly provided.			*Administrative services, interest, taxes, insurance and other contributions.*			*Public health expenditure in reimbursement and directly provided.*		
Areas	*1000 million lire*	%	*Expenditure per capita*	*1000 million lire*	%	*Expenditure per capita*	*1000 millionre*	%	*Expenditure per capita*
North	25,546	48.33	1,004,222	3,499	46.30	137,547	43,663	46.76	1,716,408
Centre	10,861	20.55	988,527	1,612	21.33	146,718	19,151	20.51	1,743,051
South	16,455	31.13	788,763	2,446	32.37	117,248	30,556	32.73	1,464,688
ITALY	52,862	100.0	922,750	7,557	100.0	131,914	93,370	100.0	1,629,851
% on GDP	2.98			0.43			5.27		

Table 4,44 - Health expenditure by type of benefits and type of economic items since 1995 to 1998(*) (1000 million lire)

HEALTH SERVICES DIRECTLY PROVIDED	1995	1996	1997	1998
Administrative services (a)	5,244	5,520	5,823	5,918
In-patient care	41,857	44,790	49,144	49,874
Other health services (b)	10,596	11,951	12,713	12,935
TOTAL	57,697	62,261	67,680	68,727
SOCIAL BENEFITS	1995	1996	1997	1998
Medicines	9,670	10,588	11,650	12,833
General practitioners and Paediatricians	5,527	6,120	6,654	6,839
Outpatient care	4,607	4,909	5,547	5,851
Private in-patient care	7,492	7,925	8,553	9,415
Thermal springs and rehabilitation facilities	4,839	5,349	5,110	5,449
Other facilities	1,379	1,129	1,210	1,194
TOTAL SOCIAL BENEFITS	33,514	36,020	38,724	41,581
TOTAL	91,211	98,281	106,404	110,308

(*) Time series 1995-1998 have been implemented according to the system of national accounts SEC95,

(a) Remuneration of personnel and intermediate consumption,

(b) Prevention expenditure and other health services,

State of health and chronic illnesses

In 1994, Istat carried out a survey on the population's state of health. In the section dedicated to subjective health, interviewees were asked to judge their own state of health on a scale from one to five (very good to very bad). The majority of people state they are well (43.8%) or very well (20.7%) while a mere 8.4% state they are poorly or very poorly. The perception of their own state of health moves up the negative scale with increase in age.

Within the same age group, women complain of a worse state of health than men.

One interesting point is that the number of the well or very well is directly proportional to their level of education within the same age and gender groups.

Finally, the values are homogeneous over the whole territory although slightly higher in the south probably due to an average younger age.

In the course of the research into the state of health, a series of chronic illnesses was found: allergic illnesses, diabetes, cataract, arterial hypertension, mio-cardiac infarcts, angina pectoris, other heart diseases, thrombosis-blood clots-cerebral haemorrhage, bronchitis-emphysema-respiratory insufficiency, bronchial asthma, arthritis, osteoporosis, abdominal hernia, gastric and duodenal ulcer, liver or bile stones, hepatitis of the liver, kidney stones, prostate hypertrophy, tumour (including lymphomas and leukaemia) nervous disorders, paralysis and stroke, headache and recurrent migraine.

Women suffer most from almost all illnesses considered. Then, allergy is much more widespread in the northern and central regions, reaching a peak in Lombardy (104,2 per thousand) and Lazio (107,7 per thousand). Some pathologies are certainly more widespread in the centre and north: arterial hypertension, mio-cardiac infarcts, angina pectoris, abdominal hernia, liver and bile stones, headache or recurrent migraine over and above allergy already mentioned.

Disabilities

The first indications on disability distribution obtained from national population surveys in Italy became known through a first survey in 1980 on health conditions and recourse to health services. Subsequently, within the framework of the IV cycle of the multi-scope family surveys of 1990, the presence of disabilities in their various forms throughout the population was further investigated. The question of personal autonomy is however the subject of systematic annual surveys even though specific investigations into disabilities are carried out every five years in the course of surveys into health conditions, Therefore, as of today, the most recent data on the subject come from the 1994 survey "Conditions of health and recourse to health services".

In 1994, 2,677,000 people with disabilities were found in the Italian population representing 5% of the population of 6 years or over. Disability is higher among the elderly (65 and over) of whom 1,874,000 have disabilities compared with 802,000 in the age group of those younger than 65. More disabilities are found among women: 6% of females (1,649,000) have disabilities against 4% among males (1,028,000). The gap to the detriment of females is first seen in the adult age group and grows even wider among the elderly.

The most serious degree of disability, seen in the confinement of the individual, involves 923,000 people (of which 601,000 are women). The loss of autonomy and the resulting dependence emerges mainly in old age. 11.6% of the elderly of 80 years of age or over are confined to home, 4.9% confined to bed and 4.5% to a chair, If confinement is evidence of the most serious situations, 1,083,000 people, or 2% of the population, report, however, that they have difficulty in moving.

Less widespread is the type of family consisting of a couple with children: 14.3% of the former live in this context compared to 38.9% of non-disabled. Comparison with similar age groups shows, in all age categories, a smaller proportion of people with disabilities living with their spouse/companion and children. 27.5% of people with disabilities live with their spouse/companion without children compared with 14.8% of the non-disabled.

Use of pharmaceuticals

In 1997, 32.9% of the population took medication during the two days prior to the survey - 28,4% of men and 37,1% of women.

In this usage the doctor plays a crucial role: in the great majority of cases, 86.8%, medication is prescribed by him or her.

If 16.9% of the 14 year-olds or under take pharmaceuticals, consumption rises to above the national average for adults in the 55 to 64 year-old category reaching 79% for the 75 year-old and over group. If also the former follow medical prescriptions in 78.9% of cases, the others come close to 100% due also however to the effects of weight increase, age and serious illnesses and are therefore less easy to solve by self-prescription.

Table 4.45 *Use of medicines over the last two days by gender, age group and region, 1997 (quotients per hundred), both genders*

Areas	*AGE GROUPS*								
	14	15-24	25-34	35-44	45-54	55-64	65-74	*75 and over*	*Total*
North	18.3	18.2	21.8	25.6	33.9	48.9	66.3	79.8	35.8
Centre	17.4	13.9	20.2	24.6	32.5	46.7	62.0	78.0	33.8
South	15.7	12.7	16.1	22.8	31.2	47.0	63.0	74.7	28.9
ITALY	16.9	15.1	19.5	24.4	32.7	47.8	64.4	77.8	32.9

The National Health Service

The National Health Service *(SSN)* provides services and assures assistance to the whole population on three levels. Firstly, there is basic health care, through the services of general medicine (general practitioners and paediatricians, emergency doctors and conventionalized pharmaceutical assistance), secondly, specialized territorial assistance (doctors' surgeries, laboratories and other territorial services for special population groups) and thirdly, hospital care for urgent and programmed treatment.

First level assistance

There has been a sizeable drop in the number of general medicine family doctors in the years from 1991 to 1997 (from 53,223 in 1991 to 47,490 in 1997) against a 1% population increase. This explains the increase in average patient "potential load" given the average number of residents per doctor (from 1,014 to 1,086). Despite the contraction in supply, the number of patients charged to general practitioners is still well below the limit set by law of 1,500. Throughout the whole territory, the number of general practitioners per 10,000 inhabitants is not significantly different from the national average of 8,3: the supply of doctors seems to be slightly higher in central Italy (9,0) and lower in the south (8,0).

There has been a slight increase in the absolute number of paediatricians (from 6,363 in 1991 to 6,664 in 1997) and since the population of 14 year-olds and under is substantially unchanged, there has been a slight drop in the potential load of each paediatrician. The same period, however, has witnessed an increase in the actual load. The actual number of patients per paediatrician has risen from 539 to 685, in any case below the maximum level of 800 children per paediatrician. Throughout the territory, and by contrast to the situation of general practitioners, there are substantial variations in supply. Compared to 10 paediatricians per 10,000 children in Liguria, the autonomous province of Trento and Emilia Romagna, there are 5 in Campania; at general territorial division too there is a difference: compared to the national average of 7.8 paediatricians per 10,000 children, the lowest ratio is in the south, especially the mainland south (6.3).

The number of emergency medicine bases in relation to the population is highly varied throughout the territory: the national 1997 average of 5.3 bases per 100 residents is the combination of a somewhat high proportion in the south (8.6) compared to the north (3.1) and centre (4.0)

Second level assistance

The majority of health units counted in 1997 were doctors' surgeries and laboratories carrying out specialist activities of analysis and instrumental and graphic diagnoses. Recent years have seen a marked drop in supply: from more than 14,000 surgeries and laboratories in 1991 there were 9,300 in 1997 and, in relation to the resident population, from around 25 units every 10,000 inhabitants to 16. This concentration in supply is mainly the result of private sector conventionalization with the *SSN*, and in the south (where this is more numerous). The situation in Sicily is noteworthy with a drop from 3,482 surgeries and laboratories to 1,638, of which 75% attributable to the conventionalized private sector. Nonetheless, the percentage of conventionalized private surgeries and laboratories is still 64% of the Italian total and 69,2% in the south.

Third level assistance

Human and instrumental resources

SSN personnel is made up of ASL employees (including direct management treatment centres and remaining psychiatric institutes) and hospital staff. An analysis of indicators of supply for 1997 reveals a substantially equal division between doctors and dentists compared with greater diversification between nursing and rehabilitation staff. Indeed, the public sector in the south has evident difficulty in finding professionals who fill an intermediary role in assistance. The southern regions, and Lazio, who in this respect are similar, probably compensate with conventionalized private treatment, notably prevalent in those parts of the country.

An examination of hospital staff alone (public and conventionalized private clinics) show again these territorial differences: higher levels in the centre-north and lower in the south (here Lazio is not similar to the southern composition), these differentials moreover seem to extend to all professional roles and characterize the whole public sector whose staff counts for around 90% of the total considered.

Recourse to services and user satisfaction

Local Health Companies: recourse to their services

Recourse to the services of the Local Health Companies (ASL's) (formerly Local Health Units) involves, for a considerable number of users, a wait of more than 20 minutes, In the whole period under survey this parameter held for more than 30% of the population with peaks of over 35% in 1996.

The users in southern Italy and the islands are in particular those who have to deal with the inconveniences of queues: in 1997 40.3% and 48.5% respectively had to wait in queues for more than 20 minutes.

It is therefore not surprising that users in these regions are less positive in their judgment of service hours: in 1997, 44.4% of southern users considered ASL opening hours convenient as did 39.3% in the islands, compared with around 60% in the north.

Satisfaction with hospital service

Making reference to hospitalization in the three months prior to the survey, interviewees were asked to rate some aspects of their stay in hospital: quality of medical treatment, nursing assistance and hygienic services.

Generally speaking, satisfaction was high - in 1996, 88.7% of the population was satisfied with medical treatment, 85.5% with nursing assistance with a drop to 73% of those satisfied with hygienic services.

Satisfaction seems more widespread among users of structures in northern Italy where the percentage of satisfied or very satisfied users is 92.3% for medical treatment (and especially in the north-east reaches 93.3%), This falls, by contrast, in southern Italy and the islands to 83.5% and 82% respectively.

Similar trends were seen for 1997. 87.8% of interviewees stated they were satisfied or very satisfied with medical treatment and 85.1% were satisfied with nursing assistance, the satisfied

percentage drops to 73.2% in relation to hygienic services.

Table 4.46 - General practitioners and paediatricians (family doctors) by region - 1997

Areas	GENERAL PRACTITIONERS				PAEDIATRICIANS			
	Number	*Number x 10,000*	*People per General practitioner*	*Patients per General practitioner*	*Number*	*Number x 10,000 under 14*	*Residents under 14 per paediatrician*	*Patients under 14 per paediatrician*
North	21,144	8.29	1,207	na	2,607	8.26	1,210	na
Centre	9,882	8.97	1,115	na	1,361	9.35	1,070	na
South	16,464	7.87	1,271	na	2,696	6.95	1,439	na
ITALY	47,490	8.26	1,210	1,086	6,664	7.85	1,274	685

Table 4.47 - Public and private conventionalized surgeries and laboratories by region - 1997

Areas	*Total x 100,000*	*Public x 100,000*	*Private conventionalized x 100,000*	*% Public surgeries and laboratories*	*Surgeries and laboratories per Local Health Unit*	*Public Surgeries and laboratories per Local Health Unit*	*Private conventionalized surgeries and laboratories per Local Health Unit*
North	10.1	6.6	3.6	64.6	22.1	14.3	7.8
Centre	20.6	11.1	9.5	53.7	54.1	29.0	25.0
South	21.4	6.6	14.8	30.8	65.8	20.3	45.5
ITALY	16.2	7.4	8.8	45.7	41.1	18.8	22.3

Table 4.48 - Personnel employed in National Health System by region - 1997

Areas	PERSONNEL								
	Total	*Total x 1,000*	*Doctors And Dentists*	*Doctors and dentists x 1,000*	*Nurses*	*Nurses x 1,000*	*Nurses per doctor and dentist*	*Rehabilitation personnel*	*Rehabilitation personnel x 1,000*
North	311,068	12.19	43,316	1.70	124,170	4.87	2.87	9,776	0.38
Centre	125,115	11.35	18,588	1.69	49,835	4.52	2.68	2,934	0.27
South	214,711	10.26	35,926	1.72	78,158	3.74	2.18	3,970	0.19
ITALY	650,894	11.33	97,830	1.70	252,163	4.39	2.58	16.680	0.29

Table 4.49 - Public and private conventionalized hospital beds per 1,000 inhabitants by region (a) - 1997

Areas	TOTAL			PUBLIC HOSPITALS			PRIVATE CONVENTIONALIZED HOSPITALS		
	Total	*Of which for short-term treatment*	*Of which Long term and Rehabilitation*	*Total*	*Of which for short-term treatment*	*Of which long term and rehabilitation*	*Total*	*Of which for short-term treatment*	*Of which long term and rehabilitation*
North	5.7	5.1	0.6	4.9	4.5	0.5	0.8	0.6	0.2
Centre	6.2	5.2	1.0	4.6	4.5	0.1	1.6	0.7	0.8

South	5.1	4.6	0.4	4.1	3.8	0.3	1.0	0.8	0.1
ITALY	5.6	5.0	0.6	4.6	4.2	0.3	1.0	0.7	0.3

Professional staff in public and private conventionalized hospitals by region per 10,000 inhabitants and per 100 hospital beds (a) - 1997

	PUBLIC AND PRIVATE CONVENTIONALIZED HOSPITALS									
	RATE x 10.000					*RATIO x 100 BEDS*				
Areas	*Total*	*Doctors and dentists*	*Nurses*	*Technical personnel*	*Rehabili-tation personnel*	*Total*	*Doctors and dentists*	*Nurses*	*Technical personnel*	*Rehabili-tation personnel*
North	119.2	19.7	49.7	7.2	3.1	208.9	34.5	87.1	12.5	5.4
Centre	114.6	21.1	48.9	7.0	2.1	184.7	34.1	78.8	11.2	3.4
South	93.5	18.4	39.0	4.5	1.4	184.3	36.2	76.9	8.8	2.8
ITALY	109.0	19.5	45.6	6.1	2.3	195.6	35.0	81.9	11.0	4.1

Mortality of immigrants

One of the more baffling aspects encountered in analyzing the condition of the population's health is the situation of immigrants, in particular those from the lesser developed countries (LDC). Little information is available but a recent survey carried out by the National Statistical Institute (ISTAT) may give a first impression: a yet unpublished preliminary study by ISTAT, (Buzzone S. et al. 2000) for the period 1992-94, shows that all immigrant groups, in particular those coming from LDC's or East Europe, run a higher risk of violent or accidental death than Italians. Moreover, it is worth noting that women immigrants (both residents and non-residents) do not follow the same pattern, and their principal cause of death is cardiovascular disease. Among other socio-demographic-related causes of death, LDC's immigrants fall prey more to endocrine gland-related illness while Eastern Europeans to violence. Among all male immigrants, those who show a higher risk of death by trauma or poisoning are employed workers with low educational qualifications and those who are not married (by contrast this does not hold for women). Moreover, immigrants who work in the industrial sector have a higher rate of death compared to workers in other economic sectors. In conclusion, male immigrants show specific and traumatic patterns of mortality different from Italians, and female immigrants regardless of their country of origin.

4.4 How extensive and inclusive is the right to education, including education in the rights and responsibilities of citizenship?

4.4.1. Laws

The Constitution provides for the principle of freedom in teaching (Article 33 Constitution) closely linked to the principle of freedom in art and science. This implies a denial of any kind of control on the subjective aspect of teaching, viz. the teaching system used by single teachers.

School teaching in Italy is set on the principle of freedom of access to all, with a real obligation for primary education (for ten years at least or until the age of fifteen).

Indeed, the right for the deserving to attain higher levels of education is recognized by the Constitution, but our legal system still lacks a general law on the right to education (an important part is played by regional legislation that provides for systems of scholarships and exemptions).

From the organizational standpoint. the Italian educational system is in the midst of an evolutionary period. Until very recently, there was a cost-free state school system organized in

elementary, mid and high-schools (preparatory to University entrance) levels and a private system whose financing by the state was to all intents excluded. Recent Law N° 62/2000, whose approval also unleashed an important and lively debate throughout the country, completely redrew the school system, outlining integration between public and private schools ("national educational system") in which low-income families, who wish to enrol their children in private schools, may have access to scholarships in the form of tax breaks.

This new status of private schools, involving recognition of the legal value of academic qualifications, depends, however, on their respecting a standard set by the State regarding both the kind of teaching (educational projects in harmony with the Constitution and syllabuses aligned with ministerial programmes), and also their organization (publicized accounts. teachers qualified in accordance with law. admission for all).

Worthy of note, is the introduction in public schools (now also required in the "minimum statute" of private schools), of internal collegial organs as means of expression of all components of the scholastic community, students included.

University education (gained by acquiring any kind of high-school diploma) is undergoing major change also. Only recently was the constitutional principle of university independence definitively affirmed with ensuing statutes and regulations. And only in the year 2000 were the degree course structures themselves reorganized, aligning them into three-year courses plus a two-year specialization.

4.4.2 Implementation and Negative indicators

Access to education

Access to basic education is nowadays granted to everyone, and from the following statistics, it can be inferred that the diminishing illiteracy is probably concentrated among the elderly, who did not have the benefit of an easy and widespread access to education.

Table 4.50 Illiterate population by gender in Italy (1981 and 1995).

	Age group	Total illiterate population	% Males	% Females	% illiterates on total population
1981	15+	1,572,556	34.3	65.6	3.5
1995	15+	932,000	36.2	63.8	1.9

Source: ONU (1995). *Statistical Yearbook*

1999 UNESCO statistics show how the rate of illiteracy has dropped since the '70s, but point to a persisting relative disadvantage of women.

Table 4.51 Estimated illiteracy rate and illiterate population aged 15 years and over. Europe and Italy (1970-2000)

	Europe*			Italy		
	MF	M	F	MF	M	F
1970	6.9	3.5	9.9	-	-	-
1980	4.2	2.3	5.9	3.9	2.8	4.9
1990	2.3	1.4	3	2.3	1.6	2.9
1995	1.6	1.2	2.1	1.8	1.3	2.2
2000	1.3	0.9	1.5	1.5	1.1	1.9
	Population (000)					
1980	-	-	-	1,728	608	1,119
1990	-	-	-	1,115	388	727
1995	-	-	-	889	310	579
2000	-	-	-	764	263	500

Note: * Europe as a continent. not the European Union. *Source*: Unesco (1999). p. II-7.

The gap between women and man has been narrowing over the last 30 years, however women are still twice as illiterate as men, both in absolute and relative terms. Women, nowadays, however, compete strongly with men, for example in higher education (see next table).

Table 4.52 Females per 100 Males in Higher Education in Italy and Europe. 1975/76-1993/94

	Italy	Europe
1975/76	80	81
85/86	99	98
90/91	100	100
93/94 (last data available)	99	101

Source: Eurostat (1997). *Education Across the European Union.*

Cost of schooling

Tab. 4.53: Expenditure in education (% expenditure in education in OECD countries). 1995

OECD Main Indicators	Italy	Average	Difference
Expenditure for education and training as percentage of GDP	4.7	5.6	-0.9
Public expenditure for education and training as percentage of total public expenditure.	6.3	8.7	-2.4
Current expenditure (as percentage of total education expenditure)	96	92	+4
Capital expenditure (as percentage of total education expenditure)	4	8	-4
Teachers salaries (% of the total current expenditure)	71	68	+3
Other staff salaries(% of the total current expenditure)	18	13	+5
Staff salaries (% of the total current expenditure)	89	82	+7
Current expenditure per pupil (in $ standard PPA)			
(a) pre-primary school	3,316	3,239	+77
(b) primary school	4,673	3,455	+1,218
(c) secondary school	5,348	4,490	+858
Capital expenditure per pupil (in $ standard PPA)	187	313	-126
Public expenditure on for private schools (% of the total GDP)	0.1	0.4	-0.3

Source: CENSIS analysis on OECD data. 1997.

The table indicates that Italy spent less than the mean of OCSE countries for education (as % of GDP), but this is not true for the expenses for each pupil. The following table, showing that from 1970 to 1990 (last period available) in Italy, % GDP expenditure rose, and then slightly fell in the mid '90s. In 1996 this value is among the lowest in Western Europe (only Belgium is lower, but also Germany and Greece, here not reported).

Table 4.54 Total expenditure on education (% of GDP and % of total government expenditure). Italy and some selected European countries. (1970-96)

	% of GDP				% of total government expenditure			
	1970	1980	1990	1996	1970	1980	1990	1996
Italy	3.7	4.4 [1979]	5.2 [1993]	4.9	11.9	11.1 [1979]	9 [1993]	9.1
Belgium	-	6	5	3.1	-	16.3	-	6
Denmark	6.7	6.7	7.1 [1991]	8.1	16.9	9.5	11.8 [1991]	-
France	4.8	5	5.4	6	24.9	-	-	10.9
Spain	2	2.6 [1979]	4.4	5	-	-	9.4	11
Sweden	7.6	9	7.7	8.3	-	14.1	13.8	12.2
UK	5.3	5.6	4.9	5.3 [1995]	14.1	13.9	11.2 [1992]	11.6 [1995]

Source: Unesco (1999).

Total expenditure on education as a percentage of total government expenditure dropped slightly in Italy between 1970 and 1996, similar to most of other countries considered (excluding Spain). For 1996 also, this indicator is lower only than that of Belgium (Greece and Germany also considered).

4.5 How free are trade unions and other work-related associations to organize and represent their members' interests?

4.5.1. Laws

Legislation in matters concerning labour is related to that of trade-union freedom. Article 39 of the Constitution confirms that trade unions are free, and this freedom concerns both the number of trade unions and their internal organization. Article 39(2) states that trade unions duly registered may stipulate collective labour contracts with *erga omnes* effect. This second part has never been made effective because the many trade union organizations have always preferred not to be registered and the *erga omnes* effect of collective contracts has been reached by other means.

The confirmation and strength of the role of trade unions is found in basic Law 300/70 (the so-called “Worker’s Statute”) that provides for a wide range of rights directly attributable to trade union associations to be exercised within the workplace. Of these, the right to distribute propaganda and proselytize, use company premises for trade union meetings and gatherings and the right to special leave for trade union officials deserve to be mentioned.

Within the workplace, company union representation may be organized within the framework of each trade union signatory to the collective labour contract.

Article 40 of the Constitution recognizes strikes as a workers’ right, to the point of placing them within the absolute right of a person; this right relating to workers of both private and public sectors.

The Constitutional Court has affirmed the legitimacy of “political” strikes i.e. those that are aimed at solving general grievances, not directly against the employer and not necessarily containing aims of a retributive or contractual nature. The limit set by Constitutional Court jurisprudence, further set into general legislation regulating the right to strike in essential public

services, states that the exercise of this right may not be directed at the overthrow of constitutional order or hinder the normal functioning of constitutional organs.

Law 146/90 on regulation of strikes in essential public services sets itself as a discipline aimed at reconciling the exercise of the constitutional right to strike, with other constitutional values such as life, security, health, freedom of movement, assistance and social security, education and freedom of expression. To this end, together with the participation of the trade unions with highest representation, minimum levels of service deemed indispensable have been set with required advance notice in order to assure protection of these rights. Periods are decided on during the year when abstention from work is not allowed and a Commission of guarantee is called upon to oversee the application of the law and the respect of limitations on the right to strike. Recently, Law 83/2000 introduced partial innovations into the question strengthening the powers of the Commission extending the application to these regulations to areas thitherto excluded such as some professions whose proper functions can be carried out only in the presence of certain rights of freedom (such as the legal profession), and furthermore provide for procedures of obligatory conciliation and other periods of compensation prior to the proclamation of a strike.

4.5.2 Implementation and Negative indicators

There are no available data on actual discrimination of trade unions, although this was an issue until the 1970s. Some trade unions however lament discrimination in consultation. Problems of representativeness and accountability of trade unions are still open (see chapter 12).

4.6 How strict and transparent are the rules on corporate governance, and how effectively are corporations regulated in the public interest?

4.6.1. Laws

The decisive influence of Community law on Italian internal law may be seen particularly in the areas of protection of the environment, territory, worker safety and verification of company behaviour. Starting from the discipline in public intervention and control on company activity, two levels of guarantee are met.

Firstly there are guarantees dating back to the civil law discipline of the Civil Code and the laws tied to it.

Public control on company activity is exercised by imposing a minimum company capital and creating guarantees to render public (through public configuration, approval by the tribunal, publication in the *Gazzetta Ufficiale* [Official Government Gazzette]) the principal company organizational operations (changes in statute, increase in capital, mergers and splits and extraordinary meetings). There is also a stronger type of legal control in the case of serious irregularities on the part of the company's administrators or if it is no longer able to function (Article 2309 Civil Code) and this control can even allow a judge to nominate a judicial administrator.

Apart from the public interest in the proper execution of companies' activities, there is a series of new interests such as the propriety of stock-exchange transactions and transparency of companies quoted on it: to safeguard these, a special National Commission for Companies and the Stock Exchange (CONSOB) has been set up - an independent administrative authority endowed with wide-ranging powers mainly of acquiring knowledge but also able to regulate - this latter carried out ever more vigorously - and consequent control and authorisation. The main field of activity of CONSOB concerns evaluation of the requirements provided for by law to allow quotation on the Stock Exchange, verification of the *sollecitazioni* (stimulation) of public savings, and keeping check on the real estate intermediacy activities carried out by authorized companies in

accordance with the relative law which calls for strict requirements in terms of financial stability and administrative credibility. A somewhat similar role to CONSOB's, in the field of company quoted on the Stock Exchange, is entrusted to another independent administrative authority, the Institute for Vigilance of Private Insurance Companies (ISVAP) in the insurance market with relative powers of investigation and inspection.

A further important step in the direction of a new concept of public verification of company activity is taken with Law 287/90 that introduced new regulations - inspired by and whose contents are clearly borrowed from Community directives - on the question of competition relating to agreements between and accumulations of companies that could lead to a domination of single markets or abuse of acquired domination and in any case a reduction of competition.

So that the legal aims may be pursued, another independent administrative authority was set up: The Guarantee Authority for Competition and the Market (AGCM) (a collegiate organ nominated by agreement between the presidents of both chambers of parliament). The Authority has powers that, when first wielded, broke new ground in the national institutional arena: these powers enabled it to acquire knowledge relating to all areas of the market, with powers of investigation that may be triggered automatically and important authorization and sanctioning tools that may be used against single companies involved in illegal transactions. The amount of power held by the guaranteeing authority has led it to be called a hybrid, a cross between a regulatory authority for the sector and a judicial or at any rate *quasi*-judicial authority. It should be remembered however that the decisions taken by the AGCM can be challenged before the Regional Administrative Tribunal of Lazio.

Besides indirect protection given by norms on competition, consumers are also protected directly both in specific situations and in general terms by mere virtue of their status as consumers as beneficiaries of the discipline.

Recent Law 281/98 indeed lays down general rules regarding consumers and users that first and foremost confer to the beneficiaries health protection, the right to safety and quality-products and services, the right to adequate information and proper advertising, the right to consumer education, the right to proper and transparent contractual relationships, the right to develop free associations among consumers and users and the right to public services in accordance with standards of quality and efficiency. The law also provides for legitimacy in acting in consumer protection through registered associations and, finally, provides for the setting up of a National Council of Consumers and Users at the Ministry of Industry, Commerce and Artisans (including also delegates from the above associations as well as representatives of local authorities) with the job of expressing opinions, making proposals, promoting studies and elaborating programmes in matters of interest to consumers and users.

Prior and subsequent to Law 281/98 however many other laws (often resulting from Community directives) set higher standards of consumer protection in various fields: contracts negotiated outwith commercial premises, "all-inclusive" tourism contracts, long-distance contracts, contracts drawn up using pre-printed forms and in dishonest and comparative advertising. In any case, protection laws lay down obligations in information that "stronger parties" in contracts must respect, "minimum" contents and guarantees and lastly the possibility for the consumer to withdraw easily within certain time limits from a contract drawn up.

There are many norms that protect consumers and that provide for obligations on the part of the seller and producers in labelling, information and guarantees of product origin.

4.6.2 Implementation and Negative indicators

No statistical data are available on this subject.

II. Representatives and Accountable Government

5. Free and fair elections

Do elections give the people control over governments and their policies?

5.1 How far is appointment to governmental and legislative office determined by popular competitive election, and how frequently do elections lead to change in the governing parties or personnel?

5.1. Laws.

The regulations governing the appointment of the executive body and the election of the legislative one are mainly to be found in the Constitution.

Examining firstly the procedure for appointing the government, the President of the Republic, after consulting the political forces represented in parliament, appoints the Prime Minister. This Premier-designate selects the Ministers for his Cabinet and submits the list of them to the Head of State. After approval, the Premier and his Ministers are appointed by the President of the Republic and are sworn in. The government is now up and running for normal business but to reach full strength it must obtain the confidence of the Chambers by a debate on its political programme.

The withdrawal of parliament's confidence in the government may take place only by a vote of no-confidence in a motion (signed by at least a tenth of the parliamentarians and debated no sooner than three days after its being put before the Chamber) and must be motivated and voted by roll-call. Parliament's voting down a government-sponsored Bill does not force the government to resign: the government can however tag certain measures to a vote of confidence to ascertain how solid its majority really is or to avoid laborious debates and a flood of amendments to these measures.

To make up the legislative organ, parliament is elected by universal, direct suffrage and is composed of two Chambers: the Chamber of Deputies (comprising 630 members) and the Senate of the Republic (made up of 315 members plus a number of life-senators appointed by the Head of State who may appoint no more than 5 during his term of office for particular prestige they have brought to the nation). Legislatures normally last 5 years but can be interrupted by a decision of the President of the Republic, after consulting the Presidents of both Chambers, to dissolve it, should it prove impossible to form a government. In the case too of regular conclusion of a government's five-year term of office it is the Head of State who dissolves parliament and calls elections for its renewal, entrusting the outgoing government (or an *ad hoc* one) to manage the run-up, transitional period to the election.

There is no difference between the powers of the two Chambers; there is however in their respective electorate requirements and electoral laws. While candidates to the Chamber of Deputies must be twenty-five years old and its electors must merely be of age, candidates to the Senate must be at least forty-years old and their voters at least twenty-five years-old

5.1.2. Implementation

Throughout Republican Italy's history, governmental crises have almost always started outside parliament often taking root in rifts between allied parties, and only recently did Presidents of the Republic Scalfaro and Ciampi oblige government to redirect its demise to within the proper

parliament setting provided for by the Constitution, thus referring the government's resignation to a parliamentary debate.
In appointing Premiers-designate, Presidents of the Republic have always followed the suggestions of parties able to form alliances, with an eye to the make up of ministerial posts. In particularly thorny cases of majority coalition compositions, they have given "exploratory mandates" to holders of high institutional office, generally the Presidents of the Senate or Chamber of Deputies, to ascertain the real possibilities of forming a stable government. In some cases Prime Ministers-designate were appointed to form provisional, single-party governments - always Christian Democrat with sometimes the addition of independent "technician" Ministers - propped up by its allied parties' abstention, resigning as soon as conditions came into being for the resumption of collaboration in an "organic" coalition setting.

By the Constitution, the Premier-designate may select the Ministers for his government autonomously responding in this to the Head of State only. In actual fact it rarely happens this way because the appointment of Ministerial posts is the subject of (sometimes long and complicated) negotiations among the supporting coalition parties attributing to each the weight of its specific importance. There have always been prior discussions regarding both the number of Ministries and under secretaries to be given to each party and also the importance of the office to be given (some Ministries are considered more prestigious – Internal Affairs, Foreign Affairs, Finance and Budget – and others offering better political connections in public expenditure, useful for clientelism purposes). Issues of this nature have often decided the how many parties go to make up government, and are subject to the widest variations..

Political scientists have often described Italy as a country typified by a particular form of *party government*, inasmuch that decision-makers are tied to political parties. This has especially shown itself to be the case in the way government posts are allocated. The high turnover of those who run individual ministries, even during periods of long continuity of supporting-party coalition alliances and overall individual presence in government, bears witness to this. Prime ministerial appointments have been influenced not only by the relative strengths in inter-party, coalition relationships but also by the factions within each single party. From this standpoint however things have changed since 1992 with a more frequent recourse to Ministers (and heads of government like Ciampi and Dini) formally independent and "technical", and a strengthening of the Premier's faculty to choose his team from a list of names put before him by the coalition parties.

Some characteristics of party government however are still in place. Most of the political class in government comes from the party system. Government policies are mainly decided on the outcome of negotiations between the coalition parties. Most Ministers owe their position not to special professional capacity but to their party power base, and run the risk of not having their ministerial posts confirmed if they lose this (in other words their place in government comes *via* party support rather than electoral success). Party lines are therefore supreme in government - the parties decide the programmes - as is their power of appointment - they hold the reins of recruitment at all levels of public administration. This is even more the case, and empirically verifiable, when from government at national level we go to local level, in the Regions, Provinces and Municipalities.

The Nineties saw a change in this situation. Up until 1992, party leadership was always separate from government leadership, the former dominating the latter, weakening government and leaving it open to "blackmail" by parties with a narrow electoral base but whose parliamentary support was indispensable. The effects of many factors - the crisis in popular legitimation after the "Tangentopoli" ["Bribecity"] scandals, the growing personalization of Italian politics, the composition of coalitions aiming for government prior to elections decided under the new electoral system, the limitation of party vetoes in government policy-making consequent to the requirement to observe the so-called Maastricht parameters laid down by the European Union - freed, at least in part, governments' hands.

Another recent change is the way parties express their sway over the executive. For a long time, leaders of the governing coalition parties outside parliament exercised this control directly, so

much so that for a time “majority summits” would take place in the form of regular meetings between the Prime Minister, a number of Ministers of his government and the secretaries of the coalition majority parties to decide on policies and appointments to administrative posts that were, rather, the prerogative of the government. From 1992 until 2000 things changed. Party parliamentary groups gained more power, autonomy and representative capacity and more than once disagreement and discord emerged between a party’s (both majority and opposition) extra-parliamentary leadership on the one hand and their Deputies and Senators on the other. This made the government’s job of bargaining easier, shifting it largely to the parliamentary ambit: Commissions, Whip’s conferences, The Floor of the Chamber and informal meetings.

Concerning election of parliament, the legislative organ, it is to be noted that while these took place at regular five-year intervals between 1948 and 1968, 1972 saw the start of a habit of premature (with only one exception) dissolutions of the legislature. Parliamentary terms always ended up being shorter than they should have: 4 years (1968-72, 1972-76, 1979-83 and 1983-87), 3 years (1976-79), 2 years (1992-94, 1994-96). The 1987-1992 legislature was an exception, and the parliament inaugurated in 1996 will most likely run its full term. In any case premature elections were always held fully observing the rules.

5.1.3. Negative indicators

There are no key political posts in Italy exempt from direct public scrutiny unless this definition is not extended to include institutional positions devoid of direct political responsibilities but whose actions however determine a series of consequences within the political sphere. The most striking example of this is the Governor of the Bank of Italy whose degree of autonomy from the elected political authorities has, this past decade, been on the increase as has the position’s political clout testified by the fact that two recent Governors, Dini and Ciampi, later became Prime Ministers and a third, the present Governor, Fazio, is seen by many observers as being on the same road.

Significant experience in this sense however was gained through the Regulatory Authorities. Modelled on their British equivalent, these are independent collegiate bodies endowed with far-reaching powers of investigation, surveillance and control. Composed of a President and varying numbers of members, they gather “under one roof” a wide range of organisms some representing parliament and others orbiting around government, the latter having collegiate, consultative functions with the executive. Born of the need to protect citizens’ rights in accordance with principles of quality in services and freedom of choice, these independent Authorities act as *super partes* surveillance institutions in a move to control and regulate the more important economic and institutional spheres of the Nation. Almost anyone (private individuals, companies, public administrations, consumer protection associations) can turn to them when the need arises to point out irregularities in whatever area be it economic, public administration or supply of services.

There are presently eight Authorities in existence.

Consob (The National Commission for Companies and the Stock Exchange) set up in 1974 has the job of controlling and regulating the financial markets.

The “Antitrust” (the regulatory authority for competition and the marketplace) set up in 1990, keeps watch over competition agreements and prevents abuse deriving from positions of supremacy.

AIPA (The Authority for Informatics in Public Administration) set up in 1993, is the body that looks after the planning, drafting, realization and management of computer systems in public offices.

ISVAP, the watchdog body over private insurance of concern to the public interest created in 1982, has the job of keeping an eye on insurance companies, their agents and middlemen.

The Communications Regulatory Authority set up in 1997 counts among its duties the processing and approval of radio and television frequencies and watching over concentration on networks and resources.

The Authority for Electrical Energy, created in 1995, keeps check on the access to services in this area and sets tariffs.

The Regulator for Protection of Personal Information set up in 1996 keeps a close eye on the handling and safeguarding of personal data stored electronically or on paper. The media often calls it “The privacy regulator”.

The Watchdog Authority on Public Works was set up in 1999 to keep tabs on probity in the state-run, public building tendering system.

All these Authorities, though not subject to public election, enjoy legitimacy from parliament or investiture by government. Their presidents can be appointed by the President of either the Chamber of Deputies or the Senate, elected by parliament, or appointed by decree by the President of the Republic on proposal and deliberation by the Prime Minister and his Cabinet. It has been noted how only parliament-appointed organs are actually independent since they are not tied to the government majority line.

The spread of new Authorities in the Nineties stirred up public debate as to whether so many watchdog bodies were really needed. From some quarters, including such ex- dignitaries of the State as former President of the Republic Oscar Luigi Scalfaro and former Minister of Public Function Angelo Piazza, doubts were expressed on the Authorities’ organization and their actions, wondering whether the State did not have sufficient power and resources of its own to take care of problems stemming from the dismantling of its monopolies and the change in the nation’s social-economic trim.

As regards the alternation between parties in public appointments and the extent to which the latter hold the reins of government throughout the territory, it can be stated that, since 1994, Italy has been experimenting with moves towards partial independence by government away from parties, leading to a new meaning in the concept of partitocracy, a term used for decades to describe the relationship among executive, legislative, political and civilian society in Italy.

The term partitocracy conveys the idea of a tight hold by political parties on public administration, its resources and its decision-making processes underpinned by their penetration and extensive influence over civil society. By such an interpretation, Italy has undeniably been, for almost fifty years, a paradigm of a partitocracy regime. The “gatekeeping” role that Italian parties developed in the years immediately following the end of the Second World War, allowed them to hold great sway over the political system in two ways. On the one hand they were the essential vehicle for it to gain legitimacy and support at grass-roots level - a role that only recently has been successfully challenged in the media. On the other, they showed they were able to keep control of pressure groups, whose effectiveness was based only on clientelist or nepotistic relationships with the parties, by filtering their requests and supporting them in parliament and government. This decisive, twofold role enabled them to play a major part in policy making, helped along also by other favourable circumstances such as the vast extent of public intervention, the high number of state- or municipal-participation enterprises and the remarkably high number of political-appointees in key areas like health, finance, transport, and social security. Recruitment to administrative and political positions linked to these areas was by and large monopolized by the parties, with the result that party apparatchiks dominated the corridors of both central and regional power.

A major contribution towards strengthening basic party power in the decision-making process came from a number of debasements in the political system first and foremost corruption and clientelism. Government posts at both central and even more at local level were widely used to give jobs to civil society, and the offices taken up by party men were used to generate a parasitic income by means of a system of kick-backs and business groups that came to the public eye thanks to the criminal trials of the Nineties. Clientelism played a crucial role in this allowing parties to organize directly the distribution of public benefits. For decades, professional politicians had the habit of using public resources - that they handled on behalf of the parties they belonged to and who had got them appointed to government and sub-government positions - as though it were their own private property. This became especially visible in the so-called “lottizzazione [carve-up]”: the use of power to place appointees, close to political parties, in every available position using a system of

quota reservations pre-set in share-up agreements. This system was used to the full by parties participating in government coalitions and especially the two most important of these (Dc and Psi [The Christian Democrats and The Italian Socialist Party]), while, at the same time, assuring resources and power to other parties too, first and foremost the Pci [The Italian Communist Party], who, despite being in opposition to the national government, occupied important positions of power at local level. This state of affairs gave rise to the widespread use of the "exchange-vote": consensus in exchange for one's personal or group benefit, that was used to keep a hold on positions of power over time and hinder the opposition's possibilities of success at both national and local level, no matter what the political leaning of the government was.

The explosion of the scandals linked to political corruption from 1992 onwards directly indicted this mechanism, already under strain because of the enormous waste of resources it caused - to gain consensus it was necessary to distribute favours paid for with public money - and the resulting steep rise in public debt. This does not mean corruption and clientelism is a thing of the past. What is now beyond doubt is that the uncertainties within the transition phase embarked on by Italian politics in 1993 have made it impossible to set up stable political-business coalitions along the lines of those of the previous decades.

How the situation unfolds will depend to a great extent on how national and local government will alternate, on what coalitions will compete and what parties will go to make them up. A long spell in power will give rise to the reconstitution of clientelist and corruptive power blocs while frequent switching hampers this.

From this standpoint, it is worthwhile mentioning that despite the brevity of government terms, the Italian party system was, for a long time, marked by participation in government in a position of dominance by a hinge-party: the Christian Democrats with a coalition rotating among the smaller ones only (Psi, Psdi, Pri and Pli) [Italian Socialist Party, Italian Social Democrat Party, Italian Republican Party and Italian Liberal Party] together with a *conventium ad excludendum* aimed at keeping the biggest opposition party, the Pci, out of power. This exclusion, that was set aside during the periods of so-called "national solidarity" governments (that the Italian Communist Party supported from the outside) of the years from 1976-78 when the State was under severe attack from terrorism, was in some way compensated for by a mirrored exclusion on the right of the much smaller Msi (Movimento Sociale Italiano [Italian Social Movement]). The policies followed by Italian coalitions prior to 1992 are described on the basis of whatever parties went to make up the government in the different time frames. Hence, four periods emerge each one of which linked to a specific government formula: centralist (1948-1963), centre-left (1963-1976), national solidarity (1976-1978) and the five-party coalition of 1978-1992 that saw a remarkable increase in the Psi's power of coalition and "blackmail". Throughout each of the phases, the relationship between the political actors changed somewhat but the overall party-oriented system and the rules of the institutional game, and hence the logic behind the way government coalitions were formed, did not. Ministerial posts tended to be allocated along rigidly proportional lines among coalition parties and individual careers in government did not so much depend on party leaders' decisions as the single parliamentarians' accumulation of political resources. Until 1993 at least, when the Ciampi government made overtures (albeit brief) to the Pds [The Democratic Party of the Left] the successors to the Pci, there was, by and large, little political room for the coalition to manoeuvre in and a very limited turnover in parties and the political class in government.

The situation took on a radically different look after the elections of March 1994. From then on parties who had never taken part in government coalitions gained access to central levers of power. When Berlusconi became Prime Minister in 1994, besides a number of politicians who had previously belonged to the Christian Democrats or other smaller centre parties - now falling under the Centro Cristiano Democratico [Christian Democratic Centre] and the Unione di Centro [Union of the Centre] - members of a party created ad hoc (Forza Italia [Go Italy!]), one that had been in parliament for just a few years (Lega Nord [Northern League]) and one that had always been kept away from coalition power (The Msi now transforming itself into Alleanza Nazionale [National Alliance]) were admitted to government. Later, under Dini, a technical government was formed

underpinned by the support of the Pds, the Northern League, the Ppi [Italian Popular Party, formerly the Christian Democrats] and other smaller factions. Then, in 1996, the "Ulivo" [Olive Tree] electoral coalition paved the way for the first time for a successor party to the Pci, the Partito Democratico della Sinistra [Democratic Party of the Left] and the Greens, born in the mid-Eighties, to take part in national government together with parties containing former members of previous governments (Ppi, The Dini List, Democratic Union). The first and second D'Alema governments and the Amato one broadened the field of government parties even further to include the Party of Italian Communists, born from a split in the opposition Rifondazione Comunista (Communist Re-establishment] party, The Democrats (headed by the former independent Premier Romano Prodi), Udeur, Sdi and Rinnovamento italiano [Italian Renewal] (born from the Dini List). Government turnover over the last six years has therefore been very high in stark contrast with the preceding decades, as can be seen from the following table that illustrates the make up of every Italian government from the first legislative elections of 18 April 1948 onwards.

Table 5.1. The governments of the Republic: dates, durations, months of crisis, coalitions

Legis.	Prime Minister	Date of appointment	Date of resignation	Months in office	Parties in coalition
I	V De Gasperi	23-05-1948	12-01-1950	20	DC, PLI, PSLI, PRI
I	VI De Gasperi	27-01-1950	16-07-1951	18	DC, PSLI, PRI
I	VII De Gasperi	26-07-1951	29-06-1953	23	DC, PRI
II	VIII De Gasperi	16-07-1953	28-07-1953	1	DC (minority)
II	Pella	17-08-1953	05-01-1954	5	caretaker
II	I Fanfani	18-01-1954	30-01-1954	1	DC (minority)
II	Scelba	10-02-1954	22-06-1955	16	DC, PSDI, PLI (minority)
II	I Segni	06-07-1955	06-05-1957	22	DC, PSDI, PLI (minority)
II	Zoli	19-05-1957	19-06-1958	13	DC (minority)
III	Fanfani II	01-07-1958	26-01-1959	7	DC, PSDI (minority)
III	Segni II	15-02-1959	24-02-1960	12	DC (minority)
III	Tambroni	25-03-1960	19-07-1960	4	DC (minority)
III	Fanfani III	26-07-1960	02-02-1962	19	DC (minority)
III	Fanfani IV	21-02-1962	16-05-1963	15	DC, PSDI, PRI (minority)
IV	Leone I	21-06-1963	05-11-1963	4	caretaker
IV	Moro I	04-12-1963	26-06-1964	7	DC, PSI, PSDI, PRI
IV	Moro II	22-07-1964	21-01-1966	18	DC, PSI, PSDI, PRI
IV	Moro III	23-02-1966-	05-06-1968	27	DC, PSU, PRI
V	Leone II	24-06-1968	19-11-1968	5	caretaker
V	Rumor I	12-12-1968	05-07-1969	7	DC, PSU, PRI
V	Rumor II	05-08-1969	07-02-1970	6	DC (minority)
V	Rumor III	27-03-1970	06-07-1970	3	DC, PSI, PSDI, PRI
V	Colombo	06-08-1970	15-01-1972	17	DC, PSI, PSDI, PRI
V	Andreotti I	17-02-1972	26-02-1972	1	DC (minority)
VI	Andreotti II	26-06-1972	12-06-1973	12	DC, PSDI, PLI
VI	Rumor IV	07-07-1973	02-03-1974	8	DC, PSI, PSDI, PRI
VI	Rumor V	14-03-1974	03-10-1974	7	DC, PSI, PSDI
VI	Moro IV	23-11-1974	07-01-1976	13	DC, PRI (minority)
VI	Moro V	12-02-1976	30-04-1976	3	caretaker
VII	Andreotti III	29-07-1976	16-01-1978	18	DC (minority)
VII	Andreotti IV	11-03-1978	31-01-1979	10	DC (PLI, PRI, PSDI, PSI, PCI)
VII	Andreotti V	20-03-1979	31-03-1979	1	DC, PSDI, PRI
VIII	Cossiga I	04-08-1979	19-03-1980	7	caretaker
VIII	Cossiga II	04-04-1980	28-09-1980	6	DC, PSI, PRI (minority)
VIII	Forlani	18-10-1980	26-05-1981	7	DC, PSI, PSDI, PRI
VIII	Spadolini I	28-06-1981	07-08-1982	13	DC, PSI, PSDI, PRI, PLI
VIII	Spadolini II	23-08-1982	13-11-1982	3	DC, PSI, PSDI, PRI, PLI
VIII	Fanfani V	01-12-1982	02-05-1983	5	DC, PSI, PSDI, PRI
IX	Craxi I	04-08-1983	27-06-1986	35	DC, PSI, PSDI, PLI, PRI

IX	Craxi II	01-08-1986	03-03-1987	7	DC, PSI, PSDI, PLI, PRI
IX	Fanfani VI	17-04-1987	28-07-1987	3	DC, IND. (minority)
X	Goria	28-07-1987	11-03-1988	7	DC, PSI, PSDI; PRI, PLI
X	De Mita	13-04-1988	19-05-1989	13	DC, PSI, PSDI; PRI, PLI
X	Andreotti VI	22-07-1989	29-03-1991	20	DC, PSI, PSDI; PRI, PLI
X	Andreotti VII	12-04-1991	24-04-1992	12	DC, PSI, PSDI; PLI
XI	Amato I	28-06-1992	22-04-1993	10	DC, PSI, PSDI; PLI
XI	Ciampi	28-04-1993	16-04-1994	8	DC, PSI, PSDI; PLI
XII	Berlusconi	10-05-1994	22-12-1994	7	FI, LN, AN, CCD, UDC
XII	Dini	17-01-1995	11-01-1996	12	tecnical
XIII	Prodi	17-05-1996	09-10-1998	29	Olive Tree (PDS, PPI, Dini List, UD, Greens)
XIII	D'Alema I	21-10-1998	18-12-1999	14	Olive Tree, Pdci, Udeur
XIII	D'Alema II	22-12-1999	19-04-2000	4	DS, PPI, Democrats; Pdci, Udeur, Greens, RI
XIII	Amato II	25-04-2000	-		DS, PPI, Democrats, Udeur, SDI, Pdci, Greens, RI, Independents

Source: Prime Minister's Office (http://www.cronologia.it/governi2.htm)

5.2 *How comprehensive and accessible to all citizens are the registration and voting procedures, how independent are they of government and party control, and how free from intimidation and abuse?*

5.2.1. Laws

a) Regarding the inclusiveness of the voting procedure in Italy, Article 48 of the Constitution enshrines the principle of universal suffrage conferring the status of elector on all citizens who have come of age (18 years old) unaffected by any of the reasons for exclusion as provided for by law. The vote is personal, equal, free and secret and its use is a civil duty. It may not be limited unless by civil incapacity, by virtue of a definitive criminal sentence, or in cases of moral unworthiness provided for by law. Article 2 of President of the Republic Decree N° 223/67 that provides regulations for the electorate debars from the vote bankrupt businessmen for five years from the bankruptcy ruling, whoever is subjected to definitive detention or security measures, whoever has been subjected to a prohibition ruling against either temporarily or permanently holding public office, whoever has had a criminal judgment passed against them at the highest level, viz. whose legitimacy has been assented to by the Corte di Cassazione [Supreme Court] (third stage of judgment).

b) Regarding the ease of access, the elector may vote only if he presents him/herself at the polling station with an electoral certificate issued by his/her municipality of residence for the election or the popular referendum. There is no voluntary registration procedure: the State administration has the job of keeping the electoral rolls up to date. If anyone loses their electoral certificate, the municipal offices will, on presentation of an identity document, immediately issue a duplicate to the person concerned. Despite the Italian Constitution's affirmation that voting is a civic duty, it is no longer required of whoever did not cast their vote, as in the past, to justify their absence or impediment to their municipality of residence.

Electors who reside abroad may take part in the elections but in order to do so they must, as of now, come back to Italy to the polling station in their municipality. This is about to be changed however and the Constitutional Bill passed by the Chamber of Deputies on 29 November 1999 introduced a change to Article 48 of the Constitution providing for the setting up of a Foreign Constituency with a certain number of seats based on Constitutional regulations and the electoral law. This law states that parliamentary representatives of Italians resident abroad will be a total of 18: 12 deputies and 6 Senators elected by the proportional system and included in the total number of Deputies and Senators, presently in force, viz. 630 and 315 respectively (meaning fewer parliamentarians elected nationally). In order for this measure, passed in the Autumn of 2000 in the Senate too, to come into force, a measure regulating its implementation must be issued specifying

where (consulates or other offices set up for the purpose) it will be possible for votes to be cast abroad.

c) Security in voting is assured, as regards public order, by a security service at the polling station composed of the armed forces and police. Observance of the rules of probity is assured by: 1) the "presidente di seggio [polling station president]" appointed by the Prefect from a list of volunteers or called from a register of candidates suitable for the position (high-school qualification, a clean criminal record etc); 2) the scrutineers selected from among local authority employees and volunteers indicated by the parties who are standing for election; 3) representatives of lists and supervisors appointed by the parties who put forward candidates, who may be present during the electoral operations and vote count.

d) The independence of supervision is guaranteed, not only by the theoretically *super partes* nature of the polling station president, but also by the faculty of scrutineers and party representatives to challenge the voting procedure and the results of the ballot count declared by the polling station supervisor and sent to the municipality's electoral office that in turn sends them to the Prefecture who then sends them to the Ministry of the Interior. Disputes are examined by an *ad hoc* office of the Appeal Court of the territory concerned (Central Electoral-District Office) that may accept or reject them. A further degree of judgment on procedural regularity in the event of disagreement is granted by another judiciary body, the National Central Office. The last word rests with the electoral executives of the Chamber of Deputies and Senate made up of representatives of various parties and who meet at the beginning of each legislature prior to the official acclamation of the elected. Recourse against alleged irregularities may be made to the ordinary magistracy.

5.2.2. Implementation and negative indicators

No disturbances in the regularity of elections have been registered in Italy in recent years regarding observance of the rules. Resources and personnel have proved sufficient to guarantee the right to vote. Electoral supervision has not been accused of partiality except in isolated and unimportant cases.

No case of voter exclusion has been registered and abstentions have, as a rule, been voluntary. Some cases of intimidation have been reported in a few small municipalities in southern Italian regions and the islands (particularly Sardinia, Calabria and Campania) where the State stepped in to suspend or declare relieved of their position local administrators accused of being at the service of organized crime. In cases of this kind – limited to the election of mayor and town council – the threats resulted in no candidate lists being put forward, not even in successive elections. The State is therefore obliged to appoint special commissioners to do the job of mayor. There are very few places, around ten in all, where this has taken place. Threats to candidates or cases of violence linked to an election campaigns are also very rare.

There was some dispute regarding voter registration that arose in referendums in 2000,. The promoting committee of these accused the government of not cancelling from the electoral rolls a number of electors residing abroad on whom no information had been received for years and who could therefore have been dead. Following this dispute, the rolls were revised and no further challenges of this kind have been put forward.

Irregularities in ballot counting in the single polling stations - in particular how to count spoiled ballots - are reported at every election by scrutineers and party representatives. These, however, in general, tend to be a very low percentage, decided on by the magistracy and never causing serious disagreement among the parties. Only one recent case of electoral dispute comes to mind that has been dragging on for years with appeals to the magistracy: the direct election of the President of the Lazio Regional Council in 1995 between the centre-left candidate proclaimed the winner (Badaloni) and his centre-right challenger (Michelini) beaten by a short head.

By contrast, many cases of vote buying have been reported some of which having led to sentences by the magistracy particularly in areas where organized crime is rife. This has resulted in

parliament passing a law punishing “mafia-like political-electoral vote exchange”. This crime is perpetrated by “whoever obtains the promise of votes for him/herself or others in electoral competitions in exchange for the payment of money”. This rule is linked to the Article 416(a) of the Criminal Code that defines mafia-like association as that in which “those in it make use of the force of intimidation that belonging to it confers and the state of subordination and silence deriving from it, to commit crimes, acquire directly or indirectly the management or control of economic activities concessions authorizations tenders or public services in order to create illegal profit or advantages for themselves or others, in order to impede or hinder the free exercise of voting or to procure votes for themselves or others in elections”. Data from the National Statistics Institute (Istat) relative to the years from 1995 to 1998 reveal that in all, there were 7 cases of “mafia-like political-electoral vote exchange”, 1 in 1995, 4 in 1996, none in 1997 and 2 in 1998.

5.3 How fair are the procedures for the registration of candidates and parties, and to what extent to they enjoy fair access to the media and other means of communication with the voters?

5.3.1. Laws

Candidates’ applications to stand in first past the post constituencies must be backed by at least 500 (no longer 1,000) signatures of voters registered in the municipalities comprising the constituency. The lists of candidates for the attribution of seats under the proportional system must be backed by a number of the constituency’s voters proportionate to its inhabitants that varies from no less than 1,500 to no more than 4,500 (and in the event of elections held at least 120 days earlier than the normal term, both these requirements are halved).

Law N° 515 of 1993 provides that every candidate’s expenses for election campaigning may not exceed a certain pre-set amount (80 million lire plus a supplement proportionate to the number of electors resident in the constituency). These expenses may be borne by the candidate, the party he belongs to, the list or a group of candidates. From the day after the calling of elections, whoever intends to stand may gather funds to finance their campaign but only through an “election mandatory” selected by him. The holder of the mandate may not act for more than one candidate and must register all financial transactions concerning the candidate’s election campaign in a current bank or post-office account. Contributions or services provided by every natural person, association or juridical person may not exceed the amount or value of 20 million lire.

Access to the electoral competition, in any case open only to candidates over certain ages (and by other factors provided by Article 48 of the Constitution backed by legislation: civil incapacity, definitive criminal judgment, moral unworthiness), is further limited on the grounds of eligibility (providing for equality of opportunity between candidates) and compatibility (guaranteeing impartiality in carrying out duties as an elected representative). By law, whoever holds local government office (Provincial Presidents and mayors of municipalities of more than 20,000 inhabitants), various public officials and officers (such as chiefs of police, heads of ministerial cabinets, government commissioners), people in the service of foreign governments, anyone holding concessions in public services, directors and consultants of companies with special economic relations with the State; magistrates may not be elected in constituencies subjected to the jurisdiction of the section they have served in during the six months leading up to their standing for election. Reasons for ineligibility invalidate an election and make its result null. Some examples of incompatibility are provided for by the Constitution directly: anyone who carries out the function of President of the Republic, members of the Higher Magistracy Council and Regional Councils, and Constitutional Court judges may not stand for parliament. Other examples are specified by Law N° 60/53 that makes government-appointed public and private office-bearers, office-bearers in bodies and associations that manage services on behalf of the State, bank directors or directors of joint stock holding companies incompatible with election to parliament. From a judicial standpoint,

ineligibility results in the loss of the office only however in the event of the candidate's non elimination of the cause for his ineligibility.

The regulation of election campaigning (despite this being founded in the constitutional right of every citizen to seek election in conditions of equality) is a matter that only recently has reached the political agenda. Law N° 515/93 sets out to guarantee parity among candidates and political parties in the thirty days leading up to an election regarding equality in access to the media, electoral propaganda and diffusion of opinion-poll results. Law N° 28/2000 changed the rules setting out norms to be applied not merely to a certain specified pre-electoral period. The legislator's concern was to assure equality of conditions of access to television for all political candidates by obliging public broadcasters to air programmes with a political content in accordance with criteria aimed at guaranteeing impartiality and equality of access. This is the so-called *par condicio* issue.

The rules governing party political broadcasting during the electoral period (the period from when rallies may be held until the polling stations close) must be set by the Broadcasting Surveillance Commission and the Regulatory Authority for Communications that involve both public and private broadcasters. It is forbidden to broadcast political propaganda on radio or television and the so-called "self-managed messages" take its place. These may not interrupt programmes but must be given specific time slots. Their broadcast is free of charge and their cost is borne by the public broadcasting company (there are incentives available to benefit private broadcasters for free broadcasting).

Opinion poll results may not be made known in the fifteen days prior to the Election Day and in other periods they must be accompanied by information on how they were carried out.

The Regulatory Authority for Communications has recently (as at 1 March 2000) drawn up a set of rules for the implementation of Law 28/2000 regarding the local elections held on 16 April 2000 setting: a) when and how free-of-charge and paid "self-managed" political messages may be broadcast, b) how access may be gained to television and radio broadcasts; c) how political messages may be diffused by daily newspapers and periodicals and d) how political and electoral opinion polls are to be carried out.

5.3.2. Implementation and negative indicators

Par condicio legislation has, at least in theory, lent impartiality to the process of candidates and parties gaining access to means of communicating with the electors. Furthermore, an independent monitoring centre set up at the University of Pavia regularly publishes data on how much space each political faction represented in parliament gets in the mass media, expressed by network and single programmes (tv news, talk-shows etc). There is however a lot of disagreement on how effective these measures really are. On the one hand, dispute surrounds the decision to apportion television and radio time during an election campaign on an equal footing among coalitions - big or small - that put forward a minimum number of candidates instead of the electoral strength of the coalitions or the parties within them. On the other, the networks are accused of doling out the programme appearances of political party representatives in accordance with professional criteria in the periods between one election campaign and the next. A problem heightened by the fact that the three national television stations (Rai1, Rai2 and Rai3) are state-owned and hence more under government sway, while three others (Canale5, Rete4 and Italia1) belong to a holding company, Mediaset, whose majority shareholder is the present leader of the opposition coalition, Silvio Berlusconi. Futhermore there is another national tv station (Tmc) whose owners include an Olive tree/Ppi senator, Cecchi Gori. Such a set-up gives ample room to challenge the real impartiality of television in the run-up to elections and penalises candidates of parties not of the larger coalitions *vis-à-vis* the electorate and the balance in electoral coverage by the media. Government control over public media is limited by the its conceding to the opposition the chair of

the Parliamentary Commission on Rai Surveillance. This is the reason for much of the conflict between this commission and Rai's board of directors.

It does not happen often that, due to formal irregularities (delays in presenting the lists, too few or too many presentation signatures, mistakes in candidates' personal data etc.) individual candidates or whole lists are excluded from elections. This did happen in 1994 in Apulia however (The Forza Italia list was excluded from the proportional quota). However neither this nor any other exclusion was based on political grounds but on the lack of the signatures required by the law. There are no formal or informal obstacles to an electoral campaign as long as candidates observe the law. Access to public finance for campaigning is, as we have seen, regulated by the votes obtained and particularly with the election of at least one representative to parliament, and the relative rules have almost always been properly applied. Media access is not equal because of the differences of resources among candidates and lists and also because of the different treatment they get from newspapers, radio and tv. *Par condicio* gives protection in radio and tv to the coalitions that put forward most candidates; the others end up being unequal. Heated argument also centres on the "conflict of interest" problem surrounding Silvio Berlusconi being a political leader at the same time as the owner of 3 television networks.

5.4 How effective a range of choice does the electoral and party system allow the voters, how equally do their votes count, and how closely does the composition of the legislature and the selection of the executive reflect the choices they make?

5.4.1. Laws

The configuration of Italy's present electoral system, the result of two separate laws, for the election of the Chamber of Deputies and the Senate, can be described as "hybrid" since it gives "a proportional representation with an unproportional representation" (Sartori). 75% of each Chamber is elected with the first past the post rule (in its plurality version) while the proportional system elects the remaining 25% of each Chamber.

For the Chamber of Deputies, Italian territory has been divided into 27 Districts subdivided into constituencies. The voter gets two ballots, one for the first past the post part and the other for the proportional part. Each constituency elects directly whoever gets the most votes. The division of the proportional seats is somewhat more complicated: all the votes that each first past the post list gets are added up at District level and then from each list is subtracted the number of votes that each single respective victorious candidate needed to win, viz.: the runner-up's vote plus one. This is the so-called "dismemberment" mechanism. This amount of votes, added to those of the same list in other Districts goes into the National Electoral Total. Any list falling below 4% of the nation-wide vote is, at this point, excluded (applying the "minimum threshold" principle) and the division proceeds from then on within the "natural quotient" system that divides the each list's National Electoral Total by the national electoral quotient allocating the remaining seats in accordance with the highest remainder system.

The Senate election system is simpler. Since the Constitution states that the Senate is elected regionally, the electoral law makes no mention of the national district but only to the regional one that has assigned to it a number of senators proportional to the population. There is only one ballot paper and the proportional competition is among candidates defeated in the first past the post part, joined by their prior party or coalition affiliation. Once 232 senators are elected in the first past the post system, the proportional part is obtained by adding up each coalition's regional vote and subtracting all the votes cast for candidates in the single constituencies; at this point the Hondt method is used without the exclusion minimum principle.

5.4.2. Implementation

A suitable starting point for seeing how the new electoral system works out is the classification of the electoral systems for the Chamber of Deputies and Senate. There are at least six major differences between the two systems. Besides the difference in the number of seats allocated, there is the balloting system (the Senate has one paper but the Chamber of Deputies two); the dismemberment procedure regards the total Senate vote but part of the Chamber of Deputies vote; the proportional formula, the Hondt method for the Senate but the Hare method for the Chamber; the unit considered in allocating proportional seats, Regional for the Senate but National for the Chamber of Deputies, The threshold, formally absent for the Senate but actually higher than for the Chamber (4%); the electorate that must be older than 25 years of age to vote for the Senate while for the Chamber to be 18 is enough. The similarities can be reduced to one: by contrast to the proportional system employed over preceding decades, the present law allocates three quarters of the seats to both Chambers on a plurality basis: 475 seats in the Chamber of Deputies and 232 in the Senate. The remaining quarters (155 and 83 respectively) are allocated on a proportional representation basis to compensate, at least partially, the parties that gained no representation in the first past the post segment).

The main ideas behind the electoral system are in a way interrelated: the way the joint lists work can only be understood if the first past the post segment is set in relationship to the proportional one while bearing in mind the thresholds and structure of voting (one ballot or two) allowing separate votes for the Chamber of Deputies but not the Senate. It is practically impossible to tell the impact of the Senate electoral subsystem apart from that of the Chamber of Deputies in terms of parties and the party system. The idea behind the two laws is obvious: the proportional part aims at lessening the effects of the first past the post part without however completely doing away with it.

In first past the post constituencies, the combination of the two principles has lessened the impact on the electorate of the adoption of the catch-all criterion: since choice is limited by the existence of coalitions and the consequent threat that a vote for a minor candidate is a vote wasted, a balance has been reintroduced with the allocation of 25% of the seats under the proportional system. This has had no effect in halting the marked growth in abstentions, a part of which is to be attributed to the feeling held by many who might vote for smaller parties of their aspirations not having a real chance of being represented in parliament.

A Eurispes survey on the Italian electoral system included in the 1996 Italy Report highlighted how the 1993 referendum to abolish parts of the Senate electoral law in force at the time unleashed a general push towards the first past the post system. In a year and a half it has thus been possible to see how the different electoral methods have had a significant impact on voting shifts "right from one end to the other of the political spectrum and how it is no longer possible to see, for each party, an exact correspondence in voting trends. By the same token, the political and institutional troubles that Italy has been through in the past few years have, on the one hand, opened up wide areas to new organizations (like Forza Italia) while contemporarily pushing older, more traditional ones (like Alleanza Nazionale) towards renewal. The collapse of the 'first Republic' and the introduction of the new electoral system brought about, among the centrally-placed political factions, the disintegration especially of the Christian Democrats into many smaller parties some of whom chose to ally themselves with the right (like the CCD, that then took the name of United Democratic Christians) or the left (like the People's Party and the Democratic Pact). Other parties of the old centre (PSDI and the PRI), but not the PLI, decided to ally themselves with the centre-left. The Northern League is a case on its own: it firstly linked itself to the centre-right then decided to shift to the centre and abandon the alliance within which it had won more than 180 parliamentary seats".

For these reasons, comparing elections from 1994 to today highlights how the catch-all phenomenon has brought a polarization effect to the vote.

The following tables illustrate how the situation has evolved in this context between 1987 and 1996.

Tab. 5.2 Election results of 14 June 1987 - X legislature - Chamber of Deputies

Party	*Votes cast*	%	*Seats*
Dc	13,241,188	34.3	234
Pci	10,254,591	26.3	177
Psi	5,505,690	14.3	94
Msi-Dn	2,282,256	5.9	35
Pri	1,429,628	3.7	21
Psdi	1,140,910	2.9	17
Pr	988,180	2.6	13
Green list	969,330	2.5	13
Pli	810,216	2.1	11
Dem. Prol.	642,161	1.7	8
L.ven - P.u.	298,506	0.8	-
Ppst - Svp	202,022	0.5	3
L.lomb.	186,255	0.5	1
Psd'a	170,040	0.4	2
Uv-Adp-Pri	41,707	0.1	1
Others	429,703	0.1	-

Table 5.3. Election results of 14 June 1987 - X legislature - Senate

Party	*Votes cast*	*%*	*Seats*
Dc	10,897,036	33.6	125
Pci	9,181,579	28.3	101
Psi	3,535,457	10.9	36
Psdi	764,370	2.4	5
Radical party	572,461	1.8	3
Psi-Psdi-Pr	1,020,716	3.1	10
Msi-dn	2,121,026	6.5	16
Pri	1,248,641	3.9	8
Pli	700,330	2.2	3
Green list	634,182	2.0	1
Democrazia proletaria	493,667	1.5	1
Pensionati-Liga veneta	298,552	0.9	-
Ppst-Svp	171,539	0.5	2
Lega lombarda	137,276	0.4	1
Partito sardo d'azione	124,266	0.4	1
Als	84,883	0.3	1
Uv-Adp-Pri	35,830	0.1	1
Others	392,830	1.2	-

Table 5.4. Election results of 5 April 1992 - XI legislature - Chamber of Deputies

Party	Votes cast	*%*	Seats
Dc	11,637,569	29.7	206
Psi	5,343,808	13.6	92
Pri	1,723,756	4.4	27
Psdi	1,066,672	2.7	16
Rifondazione comunista	2,201,428	5.6	35
Pds	6,317,962	16.1	107
Pli	1,121,854	2.9	17
Msi-Dn	2,107,272	5.4	34
Greens	1,093,037	2.8	16

Lega lombarda/Lega nord	3,395,384	8.6	55
Rete-Mov. dem.	730,293	1.9	12
Pannella List	486,344	1.2	7
Referendum list	320,061	0.8	-
Lega autonomia veneta	152,396	0.4	1
Federalists	154,987	0.4	1
Ppst-Svp	198,431	0.5	3
Valle d'Aosta List	41,404	0.1	1
Others	1,150,848	2.9	-

Table 5.5 Election results of 5 April 1992 - XI legislature - Senate

Party	Votes cast	*%*	Seats
Dc	9,088,494	27.3	107
Psi	4,523,873	13.6	49
Pri	1,565,142	4.7	10
Psdi	853,895	2.6	3
Rifondazione comunista	2,171,950	6.5	20
Pds	5,682,888	17.1	64
Pli	939,159	2.8	4
Msi-Dn	2,171,215	6.5	16
Lega lombarda/Lega nord	2,732,461	8.2	25
Greens	1,027,303	3.1	4
Referendum list	332,318	1.0	-
Rete-Mov. Democratico	239,868	0.7	3
Federalists	174,713	0.5	1
Pannella List	166,708	0.5	-
Lega autonomia veneta	142,446	0.4	1
Lega alpina lumbarda	119,153	0.4	1
Ppst-Svp	168,113	0.5	3
Valle d'Aosta List	34,150	0.1	1
Molise List	48,352	0.1	1
Pro Calabria	143,976	0.4	2
Others	1,002,404	3.0	-

Table 5.6. Election results of 27 March 1994 - XII legislature - Chamber of Deputies

Party	Votes cast	*National Electoral Total**	*%*	*Seats*
Forza Italia	8,136,135	4,402,267	21.0	30
Pds	7,881,646	5,512,654	20.3	38
An	5,214,133	3,317,684	13.4	23
Ppi	4,287,172	4,209,000	11.0	29
Lega Nord	3,235,248	1,570,412	8.3	11
Rifondazione com.	2,343,946	1,645,588	6.0	11
Patto Segni	1,811,814	1,811,814	4.6	13
Pannella List	1,359283	-	3.5	-
Greens	1,047,268	-	2.7	-
Psi	849,429	-	2.1	-
Rete-M.democrazia	719,841	-	1.8	-
Ad	456,114	-	1.1	-
Ppst-Svp	231,842	-	0.6	-
Others	1,139,018	-	0.6	-

**Valid votes allocated to the parties after the application of the dismemberment procedure*

Table 5.7. Distribution of seats among lists or groupings (proportional - first past the post) following the 27 March 1994 elections - XII legislature - Chamber of Deputies

Party	*Proportional*	*First past the post*	*Total*
Lega Nord	11	-	11
Forza Italia	16	-	16
Polo delle libertà	27	164	191
An	13	-	13
Forza Italia	14	-	14
Polo del buon governo	27	137	164
Pds	38	-	38
Rifondazione comunista	11	-	11
Psi	-	-	-
Greens	-	-	-
Alleanza democratica	-	-	-
Rete-Mov. democrazia	-	-	-
Progressisti	49	164	213
Ppi	29	-	29
Patto Segni	13	4	13
Patto Italia	42	-	46
An	10	-	10
An	10	1	11
Others	-	5	5

Table 5.8. Election results 27 March 1994 - XII legislature - Senate

Party	Votes cast	*%*	*Seats*
Progressisti	10,883,507	32.9	122
Polo delle libertà	6,570,544	19.9	82
Patto per l'Italia	5,518,615	16.7	31
Polo del buon governo	4,544,671	13.7	64
An	2,079,593	6.3	8
Pannella-Riformatori	767,400	2.3	1
Lega alpina lumbarda	246,476	0.7	1
Ppst.-Svp	217,250	0.7	3
Lista Autonomista	203,177	0.6	1
Forza Italia-Ccd	150,326	0.5	1
Lista Valle d'Aosta	27,493	0.1	1
Others	1,869,350	5.6	-

Table 5.9. Distribution of seats(proportional - first past the post) following the 27 March 1994 elections - XII legislature - Senate

Party	*Proportional*	*First past the post*	*Total*
Progressisti	26	96	122
Polo delle libertà	8	74	82
Patto Italia	28	3	31
Polo del buon governo	10	54	64
An	8	-	8
Pannella-Riformatori	1	-	1
Lega alpina lumbarda	1	-	1
Ppst.-Svp	-	3	3
Lista Autonomista	-	1	1

Forza Italia-Ccd	1	-	1
Lista Valle d'Aosta	-	1	1
Others	-	-	-

Table 5.10. Election results 21 April 1996 - XIII legislature - Chamber of Deputies

Party	Votes cast	*National Electoral Total**	*%*	*Seats*
Pds	7,894,118	3,579,313	21.0	26
Forza Italia	7,712,149	5,046,792	20.5	37
An	5,870,491	3,906,213	15.6	28
Lega Nord	3,776,354	2,758,140	10.0	20
Rifondazione comunista	3,213,748	2,818,260	8.5	20
P.s.p.u.p.	2,554,072	582,768	6.8	4
Ccd-Cdu	2,189,563	1,670,682	5.8	12
Dini List	1,627,380	1,086,309	4.3	8
Greens	938,665	-	2.5	-
Pannella-Sgarbi List	702,988	-	1.8	-
Ms-Fiamma tricolore	339,351	-	0.9	-
Others	665,519	-	1.7	-

**Valid votes allocated to the parties after the application of the dismemberment procedure*

Table. 5.11. Distribution of seats (proportional - first past the post) following the 21 April 1996 elections - XIII legislature - Chamber of Deputies

Party	*Proportional*	*First past the post*	*Total*
Pds	26	130	156
Rifondazione comunista	20	12	32
Greens	-	21	21
Greens-Dini-Pds	-	6	6
Greens-Pds-P.s.p.u.p.	-	9	9
Greens-Pds-p.s.p.u.p com.	-	3	3
Dini List	8	16	24
Dini-Pds List	-	1	1
P.s.p.u.p.	4	63	67
Partito sardo d'azione	-	4	4
Lega d'azione meridionale	-	1	1
Forza Italia	37	86	123
An	28	65	93
Ccd-Cdu	12	18	30
Lega Nord	20	39	59
Pour la Vallée d'Aoste	-	1	1

Table. 5.12. Election results 21 April 1996 - XIII legislature - Senate

Party	*Votes cast*	*%*	*Seats*
Polo delle libertà	12,187,498	37.3	116
Pannella-Sgarbi List	511,689	1.6	1
Lega Nord	3,394,527	10.4	27
Ulivo	13,016,384	39.9	152
Progressisti 1996	935,298	2.9	10
Rifondazione comunista	5,682	-	-
Ms-Fiamma tricolore	748,759	2.3	1
L'Abete-Svp-Pat	178,415	0.5	2
Ulivo-Partito sardo d'azione	421,636	1.3	5
Pour la Vallée d'Aoste	29,536	0.1	1
Total	1,207,171	3.6	-

Tab. 5.13. Distribution of seats (proportional - first past the post) following the 21 April 1996 elections - XIII legislature - Senate

Party	*Proportional*	*First past the post*	*Total*
Polo delle libertà	49	67	116
Pannella-Sgarbi List	1	-	1
Lega Nord	9	18	27
Ulivo	23	129	152
Progressisti 1996	-	10	10
Ms-Fiamma tricolore	1	-	1
L'Abete-Svp-Pat	-	2	2
Ulivo-Partito sardo d'azione	-	5	5
Pour la Vallée d'Aoste	-	1	1
Total	83	232	315

5.4.3. Negative indicators

On the whole, the electoral laws adopted by Italy after 1993 is actually a hybrid system with both laws providing for two, closely-linked parts and a somewhat distorting impact. To understand this impact more clearly, we need to look at the three main, dependent variables.

a) *Unproportionality*.

Applying Rose's unproportionality index gives, for 1994, 88.4 for the Chamber of Deputies and 87.3 for the Senate but the 1996 index rises to 93.4 and 91.1 respectively. It settles around the 95 mark for the Chamber of Deputies under the previous electoral system. Loosemore and Handy's index for 1994 is 11.5 for the Chamber of Deputies and 12.7 for the Senate and in 1996 these are 6.5 and 8.9 respectively. The use of these indices are of particular interest applied to Italy in seeing how the electoral law itself can work slightly differently only two years later as a result of the party elites' decisions in terms of alliances. It is however much less fulfilling in measuring the system's overall unproportionality.

A different approach is therefore called for that, however, has the drawback of not giving a single, all-encompassing, efficient number. The fact is that the system is hybrid. A clearer idea of unproportionality can be obtained, first and foremost by a closer look at the electoral data. In this sense table 5.14 start by pointing out the difference between votes and seats divided by Chamber of Deputies and Senate, first past the post and proportional and the competing alliances.

Table 5.14. Election results by coalition, Chamber of Deputies and Senate (1994-1996)(%).

Chamber of Deputies

	1994				1996			
	first past the post		prop.		first past the post		prop.	
	votes	seats	votes	seats	votes	seats	votes	seats
Polo della Libertà[c]	46.2	63.6	46.4	41.3	40.5	35.6	44.0	49.7
Progressisti/Ulivo[d]	33.3	34.5	34.3	31.6	44.9	55.2	43.4	37.4
Others[e]	18.5	1.9	19.3	27.1	14.6	9.3	12.7	12.9

Senate

	1994			1996		
	votes	MagSeg[a]	ProSeg[b]	votes	MagSeg[a]	ProSeg[b]
Polo della Libertà	42.7	55.2	33.7	38.9	28.9	60.2
Progressisti/Ulivo	32.9	41.4	31.3	44.1	62.1	27.7
Others[c]	24.5	3.4	34.9	17.0	9.1	12.0

Note: (a) *MagSeg* = first past the post segment; (b) *ProSeg* = proportional segment; (c) The main "others" in 1994 were the Patto per l'Italia, with the PPI and the Patto Segni; in 1996, the Northern League.
Source: official election data.

More precisely, the margin between votes and seats is evident in table 5.15 that does not, however, differentiate between the first past the post and proportional segments for the Senate because of the way the ballot paper is set by that electoral law. The closeness of the margins for the Chamber of Deputies shown in this table give greater value to the indices calculated above only regarding the proportional segment. Thus if a single synthetic yardstick cannot be done without, both the Rose and the Loosemore and Handy indices can be considered acceptable, at least for the Chamber of Deputies.

Table 5.15. Lack of proportionality in the Chamber of Deputies and Senate (1994-96)

	Chamber of deputies		*Senate*	
	1994	1996	1994	1996
Polo della Libertà	+11.9/+11.7	-1.5/ -5	+ 6.8	-1.8
Progressisti/Ulivo	+ 0.5/ - 0.5	+5.9/+7.4	+ 5.8	+ 8.9
Patto/Lega	- 8.3/ - 8.4	-1.4/-.7	- 6.9	-1.8
Altri	-2.1/ -2.8	-2.7/ -1.5	- 5.9	- 5.3

NB: The Chamber of Deputy figures represent the % difference between total votes gained and total first past the post seats obtained, separated by a slash from the difference between total votes gained and total proportional seats obtained. For the Senate, the numbers show the differences between total votes gained and total seats obtained. In 1994, the third important participant was the Patto per l'Italia; and in 1996 the Northern League.

b) *Fragmentation of the party system*.

Despite its first past the post component, the new electoral system has not had the effect of reducing the number of parties. Table 5.16 shows, on the contrary, a rise in this number from the coming into force of the new law, viz.: between 1992 and 1994.

Tab. 5.16. Principal measurements in change of the party system (1946-96)

	TEV	I-BV	PF	EPN
1946	42.9	-	.79	4.3
1948	22.8	12.9	.66	2.6
1953	13.3	4.6	.76	3.6
1958	4.5	1.0	.74	3.4
1963	7.9	1.3	.76	3.7
1968	3.4	1.4	.75	3.6
1972	4.9	1.1	.76	3.6
1976	8.2	5.4	.72	3.1
1979	5.3	.7	.74	3.4
1983	8.5	.3	.78	4.0
1987	8.4	1.1	.78	4.1
1992	16.2	5.2	.85	5.8
1994	41.9	5.8	.87	7.3
1996	17.7	6.6	.86	6.3

Note: TEV = Total electoral volatility; I-BV = Inter-bloc volatility, measure the swing from left to right and *vice versa*; FP = Party fragmentation is calculated on the basis of votes cast for each party based on Rae's formula (1967); EPN = the "actual" number of parties according to Laakso and Taagepera's formula (1979).
Sources: Official election data.

There are three reasons behind this. Firstly, the impetus given by the proportional segment of the electoral system. Secondly, the expression by territory of the various parties' votes dampened any negative reaction there may have been towards the first past the post system making this deep-

seated tendency of Italian politics even more obvious. Thirdly, the need for different parties to make electoral agreements on the candidates to put forward in the first past the post constituencies gave the smaller parties the chance to put pressure on the other coalition partners, in the uncertainty of the situation, to put forward many candidates of their own.

Additionally, there is an extremely important fourth reason, if anything more weighty than the previous three, viz.: the state of disintegration and change that many parties, and the party system as a whole, found themselves at the same time as, and in the years immediately prior to, the changes that were taking place in the electoral laws. Empirical confirmation of this can be seen in the rise in the number of parties between 1987 and 1992 under an unchanged law, voter shift from one party to another right after 1987 and onwards (cf.: overall volatility in table 3), subsequent shift, with still no law change, from right to left (cf. overall bloc volatility in table 3), and the fall in numbers of parties between 1994 and 1996 when, presumably, movement lost its impetus, disintegration ceased and the pendulum started to swing back.

5.5 How far does the legislature reflect the social composition of the electorate?

5.5.1. Laws

The problem of the under-representation of women in legislative organs has been tackled more than once by the Italian parliament following the recommendations (1991) and the resolutions (1995) of the Council of the European Union for the implementation of equal rights between men and women in this field. No concrete results however have so far been reached. A law that obliged a minimum number of women candidates in local elections was ruled unconstitutional by the Constitutional Court and hence abolished.

5.5.2. Implementation

More recent initiatives to remedy the problem of the too-few female members of parliament (where women, actually present after the 1996 elections are 96: 70 of the 630 Deputies and 26 of the 315 Senators as opposed to the 124 in 1994) were proposed by the two-chamber commission for institutional reform active between 1997 and 1998. Then, the leader of the Parliamentary Commission for Equal Opportunities, the Rt. Hon. Silvia Costa put forward three possible solutions: a) rewriting Articles 55 and 65 of the present Constitution; b) incorporation into the Constitution of a transitory norm to create conditions of equal opportunity between women and men in gaining access to party lists both local and national; c) approval of a general line to be applied by parliament so that in new electoral reform laws the principle of gender representative re-equilibrium be introduced.

In particular, it was maintained that Article 55 (1) of the Constitution could be thus re-phrased “Parliament is composed of the Chamber of Deputies and the Senate of the Republic elected in observance of the principle of the electoral-roll equilibrium between male and female”. Alternatively, Article 65 could include the clause “The law sets criteria to promote the representative equilibrium between male and female”. Should new transitory norms be introduced, the Equal Opportunities Commission proposed the following “The Republic promotes legislative measures, temporary in nature, aimed at achieving the principle of equality and non-discrimination in every area of the political, economic and social organization”.

Timetables and working conditions in the legislative organ have never been debated because no parliamentarian or political party has ever perceived reasons for discrimination or under-representation of any social group. The good salaries paid to Deputies and Senators and the limit of the 4-day normal parliamentary week allows anybody elected to parliament to manage to do their job without particular difficulty.

With regard to the breakdown into social divisions of parliamentarians it is obviously not possible to give here a complete view of the variations between individual parties for the entire period stretching from 1948 to 2000. It is possible however to draw some conclusions from recent studies. It has been pointed out, by scientific research how, in the X (1987-1992) and XI (1992-1994) legislatures, a third of Christian Democrat Deputies came from the ranks of the professions and entrepreneurs while a further fifth came for the academic world of school and university. This meant a 6-7% of professional politicians that was only the tip of a vast iceberg of political semi-professionalism and especially "concealed" professionalism, a category that besides "journalists" in public and semi-public bodies included people involved in trade unions and interest groups, and association activists. Christian Democracy was no exception: in the years between 1987 and 1994 almost half of the bigger parties' parliamentarians and at least a third of parliamentarians overall came from a prevalently party background. This means a decline in the sociological representation dear especially to the Pci's heart: if, in the second legislature, a fifth of it's benches were taken by blue-collar and farm workers, in the tenth the farm workers had all but disappeared and the blue-collar representation had fallen to 7%. The Pds has done nothing to reverse this trend. The conclusion is that the Italian parliament is much more representative of the political class than of society as a whole.

The present political class appears more stabilized and homogeneous than previous ones (for example in the prevalence of politicians with a university education). The long-standing parties, despite their organizational differences, have gradually adopted criteria for selecting political personnel ever more similar one to the other. It has been written that one can "observe specific tendencies in specific parties […] outlined in the 1994 results […]. From left to right we see: The Rifondazione Comunista Party quite faithful to its tradition of recruiting parliamentarians among political officers, trade unionists and members of the working class; Pds still carrying over in parliament a hefty number of political professionals, incorporating however in its ranks staff with highly different sociological features compared with those of traditional communist apparati - members of the professions, academics and public managers make up more than a third overall of the deputies and half the senators of the largest left-wing party. Forza Italia backs a parliamentary class made up mainly of industrialists and managers and continues to recruit personalities linked to Berlusconi's group, and finally An whose representatives seem still linked to the traditionally more "high profile" social categories, especially lawyers. Within this framework [...] special mention must be made of the Northern League's elected personnel that are different in comparison both to the traditional parties and also to those born after its appearance" (Verzichelli 1995, p. 333).

The Italian parliamentary class has taken on board rather late and only to a certain extent the need for increased female representation, today the weakest of all EU countries, but with a much higher percentage of the university-educated over the whole political elite including those from the old parties of the left.

Table 5.17 gives some indications on the socio-professional breakdown of the Deputies of the X and XI legislature.

Table 5.17. Sociological-professional breakdown of the Italian Chamber of Deputies - X and XI legislatures (%)

	Dc		Pci/Pds/Prc		Psi		Others		Leghe	Total	
	X leg	XI leg	X leg	XI leg	X leg	XI leg	X leg	XI leg	XI leg	X leg	XI leg
Entrepreneurs, company managers, shopkeepers.	13	11	-	1	-	4	4	18	25	5	8
Lawyers and notaries	13	12	2	2	15	15	19	9	12	12	11
Other professions	12	16	9	8	7	9	12	26	36	10	15
Journalists	7	4	5	4	5	7	15	9	7	8	6
Civil servants	7	9	3	4	7	7	6	6	2	6	6

Public and quasi-public bodies	10	15	1	3	10	9	2	3	-	6	8
Magistrates	2	1	2	3	-	1	-	3	-	6	8
Teachers/university professors	18	18	22	23	14	17	26	21	5	20	19
White-collar workers	4	1	2	11	6	9	1	1	3	3	5
Blue-collar workers	2	-	7	4		-	-	-	-	2	1
Political staff	7	6	38	34	23	15	5	8	2	16	14
Interest groups and trade unions	6	7	6	3	10	6	6	1	1	7	4
Others	2	-	3	-	3	1	4	4	4	4	2
Total	100	100	100	100	100	100	100	100	100	100	100

Source: Deputies and Senators of the tenth parliament of the Republic. La Navicella, Rome 1988 and the Chamber of Deputies: XI Legislature, Directory of Deputies (as of 22July 1992) Rome 1992.

Research carried out regarding parliamentarians of the XIII legislature that began in 1996 came up with some interesting results: "the average age of Deputies is 52 (older than those of the previous legislature) and 59 that of the Senators; there are more university graduates at 68.1% of Deputies and 77.4% of Senators; the classics and especially jurisprudence dominate both the Chamber of Deputies and the Senate (165 Deputies and 102 senators have this education) and parliament counts many lawyers, managers, and university professors among its ranks. The main point of the survey was to see if the first past the post system and the dualistic approach had had any effect on the political classes, and if so to what extent. Taking the 1994 elections as a reference point, the percentages of the 're-elected' and 'newly-elected' within each parliamentary group were analysed in order to ascertain the degree of parliamentary renewal. Moreover within both the Chamber of Deputies and the Senate, and again referring to single political parties, the number of the re-elected in 1994 under the first past the post system was examined as well as the constituency changes, the switch from proportional to first past the post and *vice-versa*, the ratio of place of residence *v.* constituency. On a purely 'technical' level, the new mechanism seems to work (few constituency changes compared with previous elections and almost all parliamentarians elected in their home constituencies pointing to the electoral system demanding the candidates' solid rooting in their constituencies). But from a more political viewpoint, the two-pole concept, despite having gained some ground, still clearly shows its incapacity of conquering parliament: many parliamentary groups still cling on, and an analysis of the size and reasons for 'crossing the floor' so-called, shows a high percentage shift from one group to another. With regard to the 'politician content' of the major parliamentary groupings disregarding the products of parliamentary conjuring, we find, on the one hand Forza Italia and the Northern League with the lowest number of "politicians" and, by contrast, on the other the Party of the Democratic Left. It is interesting to note that it is within the least politicized parties that constituency changes and switching sides occurs most frequently". (htpp://www. eurispes.com)

The following tables give some indication regarding age and education of the present parliament's Deputies.

Table 5.18. Deputies' ages in the XIII Legislature as of 1 January1999

Age	Female	Male	Total
30-39	10	53	63
40-49	33	199	232
50-59	25	191	216
60 and over	4	115	119
Total	72	558	630

Source: www.camera.it

Table. 5.19. Breakdown by educational qualification of Deputies in the XIII Legislature

Educational qualification	*Male*	*Female*	*Total*
Lower High school	11	1	12
Two- or three-year High school	6	2	8
Middle high school diploma	163	19	182
University diploma, short course	2	3	5
Degree	375	47	422
Primary school	1	-	1
Total	558	72	630

As at 20.3.2000. *Source*: www.camera.it

With regard to recruitment, Mastropaolo (1993, p.108) has pointed out "the increase of the middle class over the last twenty years, making the legislative assemblies of the major European countries ever more sociologically similar to each other. The tertiary sector growth within advanced industrial societies has not only centralized this class sociologically but also enabled it to claim the limelight on the political stage. With the party nobility and, more recently, the apparatchiks no longer present, there has been an increase in state- and private-sector employees, technicians and teachers and a decrease of both the lower social classes and the bourgeoisie ". Hence in the moderate parties we find people from the professions, small and medium-sized entrepreneurs, public and private sector managers while the left-wing parties, with the lower classes excluded from political representation, have made increasing overtures to the intellectual middle classes. In this setting, the success of the Northern Leagues and the make up of their parliamentary representation should give food for thought. Looking at the data, the increasing similarity between Italian parliamentarians and those of other European countries seems greater than it actually is. "In the Italian parliament the political class with roots in the intermediate social strata is overly represented, and hence placed in an ideal position for self-promotion, while the productive middle classes are still under- represented " (ibidem, p.109).

In relation to this point, the data emerging from the 1996 elections shows that while there was no repetition of the 1994 phenomenon, parliamentary turnover remained high confirming the trend that had emerged over the previous three elections of a much higher turnover than in the previous forty years. It may be that in the 1996 elections the was an interparty renewal factor at play, in other words an electoral "thumbs down" to a segment of the political class due to the electoral shift away from the centre-right coalition towards the centre-left one. The political class of today in Italy may be responding, in a manner of speaking, to the settling down of the party system that obliged a number of people, defeated in the elections, to leave the scene.

5.6 What proportion of electorate votes, and how far are the election results accepted by all political forces in the country and outside?

Voter turnout in all democracies whatever their stage of development, has always been a fairly clear indicator of a political system's state of health. In all indirect democracies, such as those western ones that include Italy, the figure representing the percentage of voters taking direct part in the forming of the various legislative and/or executive bodies reveals the faculty these systems have of getting citizens involved and, through an unavoidable feedback mechanism, how much citizens' participation sways how the political managerial class is made up.

As summarised by IDEA *(http://www.idea.int/)*: "flourishing democracy presupposes citizens who care, who are willing to take part, and capable of helping to shape the common agenda of a society. Participation, whether through the institutions of civil society, political parties, or the act of voting, is increasingly being seen as an essential prerequisite of any stable democracy. Italy's figure of 92.5% represents great consistency in electoral participation maintained over 14 elections and 50 years; a figure which may well be influenced both by Italy's tradition of civic participation (however is now declining) and its system of compulsory voting. In Table 3 the Voting Age

Population (VAP) and the number of registered voters (REG) are used as indicators of political participation. The VAP figure includes all those citizens over the legal voting age while the registration rate comprises the number of people on the voters roll. In some cases the registration rate (REG) actually exceeds the estimated number of registered voters (VAP). The explanation for this apparent anomaly usually lies either in the inaccuracy of the electoral roll, or in the estimated number of eligible voters (VAP)".

Tab. 5.20. Voter turnout in Italy - Parliamentary Elections

Year	Total Vote	Registration	Vote/Reg	VAP	Vote/VAP	Invalid	Pop. Size
1946	24 947 187	28 005 449	89.1%	28 346 220	88.0%	7.7%	44 994 000
1948	26 854 203	29 117 554	92.2%	28 794 780	93.26%	2.2%	45 706 000
1953	28 410 851	30 267 080	93.9%	31 041 400	91.53%	4.3%	47 756 000
1958	30 399 708	32 436 022	93.7%	32 367 060	93.92%	2.8%	49 041 000
1963	31 766 058	34 201 660	92.9%	33 328 680	95.3%	3.2%	50 498 000
1968	33 003 249	35 566 681	92.8%	35 449 700	93.10%	3.6%	52 910 000
1972	34 524 106	37 049 654	93.2%	36 454 700	94.70%	3.2%	54 410 000
1976	37 741 404	40 423 131	93.4%	39 547 710	95.43%	2.7%	55 701 000
1979	38 112 228	42 181 664	90.4%	41 093 160	92.7%	3.9%	56 292 000
1983	39 114 321	43 936 534	89.0%	42 627 000	91.76%	5.7%	56 836 000
1987	40 599 490	45 689 829	88.9%	43 008 750	94.4%	4.9%	57 345 000
1992	41 479 764	47 435 964	87.4%	44 918 610	92.34%	5.4%	56 859 000
1994	41 461 260	48 135 041	86.1%	45 641 100	90.84%	5.9%	57 049 000
1996	40 496 438	48 846 238	82.9%	46 363 590	87.35%	7.8%	57 239 000

source: http://www.idea.int

In 1987, the abstention percentage in the Chamber of Deputy elections was 15.58%. This drops to around 12% in the North and 11.46% in the Centre, rising to 22.13% in the South. The same data for the Senate for 1987 show an abstention rate slightly higher than for the Chamber of Deputies of 16.78%. Taking each of the four geopolitical areas (North-west, North-east, Centre and South and Islands), the abstention on the Senate vote reaches around 13.5% in northern Italy, 12.52% in the Centre and almost 24% in the South.

Moving on to the 1992 elections, the Chamber of Deputies' election recorded a 17.35% abstention, higher than the 1987 total (+1.76%). This trend is seen in all four macro-areas examined North-west +0.74%; North-east +0.53%; Centre +2.11%; South and Islands +2.55%. Analyzing the data reveals how the abstention percentage shows an overall growth in the election to the Senate (+2.18%) with small increases in the North (+0.68% North-west and +0.24% North-east). The Centre and the South and Islands show the higher percentages of 2.53% and 3.58% respectively.

The first election held under the new hybrid system in 1994 featured an steep rise in abstentionism: in the first past the post constituencies 20.1% of the electorate abstained from voting for the Chamber of Deputies - a rise of three percent on the 1992 figure. The abstentionists are therefore in numbers the third most important electoral force after Forza Italia and the Democratic Party of the Left who then won 21% and 20.4% of the vote respectively. Uncast votes rose almost everywhere but particularly in the South with 4.73%. In the North-west (+1.03%), North-east (2.42% and Centre (+1.1%) there was a rise, albeit much smaller. In the election for the allocation of the 25% of seats under the proportional system there were fewer abstentions except in the South where they reached 30%. In the Senate elections, the abstention rate reached 21.11% - an increase of 2.15% on 1992..

The general election of 21 April 1996 saw the absolute highest percentage of abstention for Italy since 1948. Uncast votes for the Chamber of Deputies (under the first past the post system) were 23.59% with an increase of 3.49% over the 1994 elections. A comparison berween 1994 and 1996 shows a hefty rise in the southern regions (+4.38%) while the other three geopolitical areas show increases of 3.11% for the North-west, 3.23% for the North-east and 2.61% for the Centre. Abstention from the Senate vote rose from 21.11% in 1994 to 23.84% in 1996: an increase of almost three percent. A comparison of the 1994 data for the Senate with those for 1996 shows a strong rise in the southern regions (+3.23%); somewhat more contained in the central ones (+1.82%) while in the North-west and North-east, the increase was 2.83% and 2.75% respectively.

The data in the following table show clearly how electoral participation has fallen in Italy over the years examined, viz.: from the 1987 elections to those of 1996. The two most recent elections in 1994 and 1996, when there was a change in the political scenario and new electoral rules, strongly marked by the first past the post philosophy saw no increase in voter participation. It should be noted that the southern regions are where abstention is greatest in Italy: in the 1994 elections the gap between north and south reached 14 percent and even 15% in the 1996 general election. This trend has become stronger in recent years with the high point in the European parliament election in 1999 and the regional, provincial and municipal elections in 2000.

Table 5.21. Chamber of Deputies - Voter abstention in Italy from 1987 to 1996 (%)

REGIONS	1987	1992	1994		1996	
			first past the post	*proportional*	*first past the post.*	*proportional*
NORTH-WEST	12,59	13,33	14,36	13,44	17,47	16,93
NORTH-EAST	12,17	12,7	15,12	14,09	18,35	18,61
CENTRE	11,46	13,57	15,38	13,93	17,99	16,56
SOUTH AND ISLANDS	22,13	24.69	29,42	30,49	33,8	33,61
TOTAL	*15,58*	*17,35*	*20,1*	*19,75*	*23,59*	*23,04*

Source: processed Istat data

Tab. 5.22. Senate - Voter abstention in Italy from 1987 to 1996 (%)

REGIONS	1987	1992	1994	1996
NORTH-WEST	13,42	14,11	14,67	17,52
NORTH-EAST	13,49	13,74	15,99	18,74
CENTRE	12,52	15,05	16,24	18,062
SOUTH AND ISLANDS	23,93	27,51	31,49	34,72
TOTAL	*16,78*	*18,96*	*21,11*	*23,84*

Source: processed Istat data

As far as repressive measures, electoral or post-electoral violence is concerned there is no record of any such phenomenon taking place in Italy in the whole of the republican era. Even when violent street demonstrations and terrorism were at their height (in particular during the Seventies), elections were never disturbed.

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6. Democratic role of political parties

Does the party system assist the working of democracy?

6.1 How freely are parties able to form, recruit members and campaign for office?

6.1.1. Laws

Article 49 of the Italian Constitution states that all citizens have the right of free association in political parties. This allows the competition determining national politics to take place democratically. The role that parties can play is also foreseen in the other articles of the constitution concerning the activities of parliamentary groups; amongst these is Article 98, which provides for the possibility of placing legal limits on party membership for certain categories of civil servants. Further, the XII **"**transitional and final provision" prohibiting the reconstitution of the Fascist Party can also be included in this list. This became a specific legal provision in 1952 (Law N° 645 of 20th June 1952, also known as the so-called Scelba Law), although it was only from the seventies on that it was applied by ordinary tribunals.

Although political parties play an active role in Italy's democratic life, their legal status comes under the domain of private law, insofar as they are all deemed to be *unrecognised associations*. This means that they fall into the category described in the first book of the Civil Code for such types of association (i.e. they have freedom of constitution and freedom of internal regulation). The constraint introduced by the Constitution – and expressed by the term *democratically* - is difficult to interpret. There has been much debate over whether it refers only to the external activities of the party, or whether it can also be extended to internal matters. It would seem, however, that the first hypothesis is more likely because the general approach adopted has never promoted the checking of the internal rules of parties in this regard.

6.1.2. Positive indicators

a) Concerning the *number* of Italian parties, it should be remembered that Italy underwent a series of wide-ranging changes during the nineties. The upheaval caused by the investigation of political corruption had a dramatic effect on the party system from 1992 onwards, leading to the dismantling of some political parties and a restructuring of others. The actual number of parties, however, did not fall, notwithstanding changes in the electoral laws.

If we look at the figures for the parties that were most popular in terms of votes or that had high percentages of parliamentary seats between 1987 and 1994, we can see that only one or, at most, two new parties emerged in this period. However, when a more precise and reliable measure is applied, the fragmentation of the Italian party system becomes clearer. In other words, while a very high level of stability can be seen between 1946 and 1987, showing in the fractionalisation of the vote (VF =.79 in 1946 and .78 in 1987) (see table 5.16) and two very polarised elections in 1948 and 1976 (VF = .66 in 1948 and .72 in 1976), fractionalisation increased (VF= +.7 between 1987 and 1992) (table 5.16) in the first phase of the crisis of parties and the party system in the early 1990s. This growth was very limited in 1994, and, since the calculation has been made on the basis of the votes cast in the proportional quota, the possible impact of the quasi-majority electoral law is not very obvious.

Where the 'effective' number of parties is calculated with reference to seats, this can again be seen to have risen dramatically in 1992 after a very long period of stability and, with the first phase of the crisis of parties and party system in the early 1990s, even more so in 1994. In this case, too, the reduction that was expected as a result of the new electoral laws did not take place. On the contrary,

unlike the VF, the increase between 1992 and 1994 is very similar to that occurring between 1987 and 1992. Thus, in April 1994, fourteen parties were represented in the Chamber of Deputies, and this was also the case in the Senate. The elections held in 1996 confirmed this trend.

Notwithstanding its majority component, the new electoral system has not reduced the number of parties. Indeed, table 5.16 shows an increase in these when the new law was introduced between 1992 and 1994. This is not difficult to explain. First, there is the momentum produced by the proportional quota of the electoral system. Second, the practice adopted by political parties of establishing voting territories has blocked the possibility of a restrictive impact on the majority quota and, as a result, this old tendency on the part of Italian politics has become even more pronounced. Third, the need to make electoral agreements between the various parties in order to be able to propose candidates for single-member constituencies has allowed the minor parties to hold the other components of the coalition to ransom, given the uncertainty of the situation, and to inflict many of their own candidates on the other parties. There is also a fourth, very important, reason - the dismantling and changes affecting many individual parties. This occurred at the same time as that of the entire political system; in addition, the electoral law was revised in the years immediately prior to this, leading to wide-scale effects all round.

The changes in the Italian party system between 1991 and 2000 can be summarised as follows. The two key phases were in 1991 and 1994, but the actual onset can be traced back to the mid-1980s, when local lists abounded together with those of the environmentalist groups. These were the first fairly limited signs of crisis resulting from societal discontent and dissatisfaction.

However, it is true to say that all the components of the party system underwent a profound transformation at this time. On the left of the political continuum, the *Italian Communist Party* (PCI) changed its name and logo in February 1991, becoming the *Democratic Party of the Left* (PDS). Some members of the old party holding more orthodox communist views created a smaller party, *Communist Refoundation* (PRC), which was roughly equivalent to a third or a quarter of the electoral size of the PDS. At the same time, the extreme left-wing party, *Proletarian Democracy* (DP), on the left of the old PCI for almost twenty years (although under other names), disappeared. During the nineties, the PRC split twice, following internal disagreements over strategies for opposing centre-left governments: a first occurred in 1995, with the consequent formation of the *Communists for Unity*, which later merged with the PDS, and a second in 1998, which gave rise to the *Party for Italian Communists* (PDCI). As for the non-communist left, which formed part of an electoral coalition with the PDS in both 1994 (under the label of the *Progressives*) and in 1996 (as the *Olive Tree Coalition*), it is currently represented by at least two parties after the failure of a first partial unification within a *Democratic Alliance* in 1994, these being the *Democrats* and the *Greens*. The famous *Radical Party* (PR) has presented its own lists under different names (the *Pannella List*, the *Reformists*, the *Bonino List*) in all elections held at national level, although it has not adopted any clear or consistent attitude towards the major coalitions. In addition, other small splinter groups were created in order to modify the internal balance of both the centre-left (*Italy of Values* - headed by the anti-corruption judge Di Pietro) and the centre-right (*Secular Pole*, mainly composed of former members of the Radical Party).

The most striking feature of the changes in the party system was the dismantling of the centre parties, which led to the disappearance of the most important party in the Italian political system since 1945, the *Christian Democrats* (DC). Following a long internal struggle, the Party collapsed during 1993 and split into two rival groups: the *Italian Popular Party* (PPI), left-oriented, and the smaller *Christian Democrat Centre* (CCD), which is right-oriented. Others formed another group, the *Segni Pact* and still others entered the leftist coalition with the name of *Social Christians* (although this has now merged with the PDS). Another schism gave birth to a tiny leftist group, the *Net*, which is close to the PDS and the Greens. Later, another conflict led to a new split, this time within the Italian Popular Party, between its centre and centre-left. The temporary consequence of this split was that the CCD formed a new party, the *United Christian Democrats* (CDU), with the right wing of the Italian Popular Party. Yet another series of disagreements led, both on the right and the left, to an extreme fractionalisation of Christian Democrat MPs. These are now divided into many rival splinter parties

(PPI, CCD, CDU, UPR, UDEUR, *Italian Renewal*, the *Foundation*, led by the Christian trade union's leader Sergio D'Antoni, which is becoming a party, etc.).

The traditional governmental partners of the DC also underwent the same fractionalisation. The Socialist Party (PSI) was dismantled because of the direct impact of the judiciary prosecution against its main leaders. Some of its MPs joined the short-lived Democratic Alliance, others entered *Forza Italia*, and what remained of the party fragmented into small and varied groups after the 1994 elections. By the end of 2000, another socialist party, the SDI, had entered the Amato cabinet, while two others (the PSI and the *Socialist League*) formed part of the opposition, moving increasingly closer to the centre-right coalition, the *Pole for Freedom*. Similarly, the centre parties – *Liberal Party* (PLI), *Republican Party* (PRI) and the *Social Democrats* (PSDI) – underwent internal divisions and disappeared; small groups of these have survived by joining one of the existing coalitions using different names and symbols.

As a result of the disappearance of the traditional centre parties, two new, and successful, political actors have emerged. In February 1991 the *Northern League* held its first party conference. This new party was constituted by an association of various *Leagues* and other local lists, especially from the Veneto, Lombardy, and Piedmont, which won about 6% in the regional and municipal elections of 1990. This new party took over the space left vacant by Catholic culture following the widespread process of secularisation in these regions; it is rooted in specific territorial identities and has been successful in exploiting local, anti-centralist, anti-party, anti-southerner positions and in supporting taxpayers' protests. After leaving Berlusconi's cabinet, the Northern League also split into many factions. The first gave rise to the short-lived group of *Federalists*, quickly absorbed by the other parties of the centre-rightist Pole for Freedom coalition - mainly by *Forza Italia*, but also some other small groups, like the *Venetian Nation League*. After the 1996 elections, other MP defections led to the creation of rival localist formations, such as *Federal Italy* (1997), the *Venetian Republic League* (1998) and the *Alliance for Europe* (APE) in 1999, although these were successful only to a very limited extent. In December 1993, the TV magnate Silvio Berlusconi created a new party, Forza Italia, together with a core of intellectual and political representatives of the conservative centre, which was organised by his firm *Publitalia*. Forza Italia won a relative majority of votes in the 1994 elections and has since then become the pivotal party of the centre-right coalition.

As for the right wing, after its strong performance in the local by-elections in 1993, the *Italian Social Movement* (MSI) seized the political initiative by creating the more moderate conservative party *National Alliance* (AN), together with some rightist middle-level leaders of other parties (the DC, PLI, and the PRI) and some conservative democratic intellectuals. As in the case of the PDS and PRC, the conversion of the MSI towards moderateness led to the creation of a smaller and more radical party, the *Tri-coloured Social-Flame Movement* (MS-FT), whose poor electoral performance in 1996 was one of the factors contributing to the downfall of the centre-rightist coalition.

Overall, the period 1991-1996 witnessed dramatic changes in the new parties and movements, splits, mergers and changes that emerged *vis-à-vis* electoral coalitions. These profound changes did not, however, go hand in hand with the changes that took place in the party system. Let us examine these phenomena in terms of numbers of parties. After showing a very high degree of stability between 1946 and 1987 (demonstrated by party fragmentation (PF) where this is equivalent to 0.79 in 1946 and 0.78 in 1987 (see table 6.1), and by the two very polarised elections of 1946 and 1987), fragmentation increased in the early years of the nineties (FP= +.7 between 1987 and 1992), subsequently returning to a more stable level.

Fig. 6.1 shows all these party changes, beginning in 1985, this being the last electoral year before which crisis and change would be clearly expressed. Maybe the most interesting consideration suggested by this map is that the two phases of change are very neat and delineated. Whereas the first is explained by more long-term aspects, the second is accounted for more by short-term factors, and the concentration of change in 1994, in particular, underlines how the elections themselves were important catalysts in this process.

Fig.1: A Left-Right Map of Traditional and New Parties (1985-2000)

Note: For explanations of the acronyms see the text.

Between 1983 and 1996, the number of parliamentary groups represented in the Chamber of Deputies fell from eleven to nine, while the number of deputies from mixed groups rose from seven to 98, many belonging to many different small and medium-sized parties. Among these were Communist Refoundation, the SDI, UV, PSI, Greens, Reformers, Italian Renewal, UPR, APE, and MS-FT (tables 6.1 and 6.2). Various linguistic and cultural minorities are also represented in parliament, such as the SVP and the UV (cf. point 6.7), also including, in the past, the Sardinian Action Group and the Slovene Union.

It should be noted that of all the parties that are not currently represented in parliament, the only one to have presented enough lists over national territory to be allowed broadcasting time as a coalition in the division of space allocated for public communication on the RAI network, is the Humanist Party. This is very active throughout the country, with various local divisions, civic initiatives, and the distribution of its own publications. Despite all this, it has never reached the key l.1% in any of the elections in which it has participated.

*Table 6.1 Numerical **Consistency** of Parliamentary Groups in the XIII legislature – Senate of the Republic*

Parliamentary Groups	No. of senators at the start of the legislature
National Alliance	43
Christian Democratic Federation (CCD)	15
Christian Democratic Federation (CDU)	10
Forza Italia	48
Northern League	27
Italian Popular Party	31
Communist Refoundation – Progressives	11
Italian Renewal	11
Democrats of the Left - Olive Tree Coalition	100
Greens – Olive Tree Coalition	14
Mixed	15
Total	323

Parliamentary Groups	No. of senators on 29.7.99
National Alliance	41
Christian Democratic Centre (CCD)	12
Mixed	36
Forza Italia	41
Northern League	22
Italian Popular Party	32
Democratic Union for Europe (UDEUR)	11
Italian Renewal, Liberal Democrats, Independents, Popular Party for Europe	12
Democrats of the Left – Olive Tree Coalition	105
Greens – Olive Tree Coalition	14
Total	326

Source: Senate of the Republic, *Composition of Parliamentary Groups*
URL: http://www.senato.it/bd/comp/compgrup.htm Updated: 29/07/1999

Table 6.2 Numerical Strength of Parliamentary Groups in the XIII Legislature –Chamber of Deputies

Parliamentary Groups	No. of members of parliament at the start of the legislature	No. of members of parliament on 18.7.2000
National Alliance	92	89
CCD	30	-
Democrats of the Left – Olive Tree Coalition	172	163
Forza Italia	123	110
Communist Group (PDCI)	-	20
Democrats – Olive Tree Coalition	-	21
Northern League	59	46
Mixed	26	98
Democratic Popular Party – Olive Tree Coalition	67	57
Communist Refoundation - Progressives	35	-
Italian Renewal	26	-
UDEUR	-	21
Total	630	625

Source: Chamber of Deputies, *Composition of Parliamentary Groups*
URL: http://www.camera.it/ updated 18/07/2000

b) The geographic distribution of Italian parties is normally made on a national level (the Northern League is an exception since it is not represented below Tuscany, as are the parties representing linguistic and local cultural minorities). Differences can be perceived according to the varying cultural traditions in different areas. For example, at present, the Democrats of the Left occupy the dominant position in the so-called "red zone", traditionally the electoral basin of the PCI, formed by Emilia-Romagna, Tuscany, Umbria and some of the Marches. Consistent numbers of the electorate in certain regions of the South such as Calabria, Campania, Basilicata, Sicily and Molise continue to vote for the parties of a Christian Democrat tradition, both those of the centre left and centre right, while they are much weaker in the rest of the country. The National Alliance is strong in Lazio and has a fairly homogenous following in the rest of Italy. The Northern League has its key stronghold in Veneto, Lombardy, Friuli-Venezia Giulia but it is also fairly strong in Liguria, Trentino and in northern areas of Emilia. A large number of the electorate of Communist Refoundation is concentrated in Tuscany and Umbria, while the Union Valdôtaine and South Tyrol People's Party are majority parties in their respective areas, Aosta and Bolzano.

With regard to party organisation, the first thing to note is that the activity of parties in civil society has fallen constantly over the last few decades. During the 1970s and 1980s, partisan élites were still the main actors in Italian politics; in addition, there was wide-scale patronage in the allocation of resources. However, party membership fell primarily because the main parties (DC and PCI) became less radical – also partly the result of an increasing lack of interest by the electorate in their ideological roots. Another interesting change also took place over this period. This took the form of a new politicised role for television, especially after 1983, when the private TV networks began to play a part in electoral campaigns for the first time. One of the results of this is that the activities of political parties in Italian civil society have become less evident in society at large; in addition, the way in which they present themselves to the public has also begun to change.

As can be seen in table 6.3 below, a basic difference between traditional parties (e.g. the PCI and MSI), and their successors (the PDS/DS and AN), and new parties emerges. On the one hand, the membership of the traditional parties has fallen radically; on the other, membership of the new parties no longer means the same as it did for the old mass parties. That is to say, parties are no longer mass parties. For example, a member of the Northern League is a militant co-opted from above, thus resembling the cadre party in some ways; for Forza Italia, instead, he is a member of a local electoral

committee, with instructions from above and with no role to play during non-electoral years (see table 6.3).

Table 6.3 Membership of Main Italian Parties, 1945-1998

	PCI/PDS		Prc	Dc/Ppi	Msi/An	Pli	Pri	Pr	Psi	PSDI
1945	1.770.896	537.582		-	-		700.000			
1946	2.068.272		602.652		-	-		860.300		
1947	2.252.446		790.771	29.893	-	-		822.000	-	
1948	2.115.232		1.095.359	-	-	-		531.031		
1949	2.027.271		766.023	-	-	-		430.258		
1950	2.112.593		882.674	-	-	-		700.000		
1951	2.097.830		917.095	-	-	-		720.000		
1952	2.093.540		954.723	-	-	-		750.000		
1953	2.134.285		1.141.181	-	-	60.939		780.000	94.443	
1954	2.145.317		1.252.524	-	-	51.911		754.000	-	
1955	2.090.006		1.186.785	-	147.000	53.656		770.000	-	
1956	2.035.353		1.377.286	-	-	47.093		710.000	128.553	
1957	1.825.342		1.295.028	-	-	50.611		477.000	150.985	
1958	1.818.606		1.410.179	-	173.722	56.166		486.652	123.618	
1959	1.789.269		1.608.609	-	-	53.258	-	484.652	121.513	
1960	1.792.974		1.473.789	191.397	-	-	-	489.837	119.167	
1961	1.728.620		1.565.185	200.348	-	55.354	-	465.259	129.125	
1962	1.630.550		1.446.500	198.995	-	49.307	-	491.216	153.717	
1963	1.615.571		1.621.620	240.063	-	52.499	-	491.676	150.717	
1964	1.641.214		1.633.003	227.214	-	54.256	-	446.250	165.980	
1965	1.615.296		1.656.428	191.029	-	45.492	-	437.458	185.269	
1966	1.575.935		1.592.134	161.890	-	56.570	-	700.964 Pus		
1967	1.534.705		1.621.866	160.043	-	58.591	-	633.573 Pus		
1968	1.502.862		1.696.182	199.950	148.562	84.280	-	-	-	
1969	1.503.816		1.745.632	175.709	-	68.476	-	-	-	
1970	1.507.047		1.738.996	188.878	-	95.368	-	506.533	-	
1971	1.521.642		1.814.578	205.794	135.000	103.105	-	592.586	250.181	
1972	1.584.659		1.828.998	239.075	139.725	-	1.300	560.187	284.772	
1973	1.623.082		1.747.292	225.030	-	-	1.500	465.183	303.026	
1974	1.657.825		1.843.515	210.018	-	-	1.200	511.741	279.396	
1975	1.730.453		1.732.501	212.120	-	-	1.635	539.339	308.211	
1976	1.814.262		1.365.187	217.110	-	-	3.827	509.388	-	
1977	1.814.154		1.201.707	160.339	25.819	108.859	3.280	482.916	149.610	
1978	1.790.450		1.355.423	152.234	37.951	107.000	1.900	479.769	148.131	
1979	1.761.297		1.384.148	174.157	29.282	104.000	2.455	472.544	217.212	
1980	1.751.323		1.395.584	165.810	44.966	106.536	2.981	514.918	108.470	
1981	1.714.052		1.385.141	176.417	41.445	106.000	2.904	527.460	199.588	
1982	1.673.751		1.361.066	159.169	43.417	106.000	2.176	555.956	126.015	
1983	1.635.264		1.384.058	165.308	59.296	108.201	3.660	566.612	207.493	
1984	1.619.940		1.382.278	180.688	39.180	96.207	3.353	571.821	165.733	
1985	1.595.281		1.444.565	141.623	61.818	97.839	2.984	583.282	165.733	
1986	1.551.576		1.395.784	156.520	36.931	117.031	10.862	593.231	133.428	
1987	1.508.140		1.812.201	165.427	26.439	107.949	11.645	620.557	133.428	
1988	1.462.281		1.693.346	151.444	17.768	99.386	5.006	630.692	110.000	
1989	1.421.230		1.862.426	160.960	19.121	83.498	2.429	635.504	110.000	
1990	1.264.790		2.109.670	142.344	44.732	72.175	3.150	660.195	-	
1991	989.708	112.278	1.390.918	150.157	50.327	71.886	2.860	674.057	-	
1992	769.944	119.094	-	181.243	18.731	71.200	10.474	51.224	-	
1993	690.414	121.055	813.753	202.715	-	76.000	42.676	-	-	
1994	698.287	113.495	233.377	324.344	-	20.916	5.281	43.052	-	
1995	682.290	115.537	181.881*	467.539	-	22.000	3.995	44.485	-	
1996	675.114	126.600	172.701	486.911	-	-	11.000	38.472	-	
1997	640.838	127.446	130.877	479.300	-	11.000	4.000	35.000	-	

1998	621.670	485.657

Note: The data for the DS for 1998 also includes the Labour Federation (FL - 14.957), Social Christians (CS - 9.100), Unitarian Communists (CU - 6.00), Republican Left (SR -5.150), Reformists for Europe (RE -5.100). The PDCI claimed to have about 30.000 members in 1999.

	DP	CDU	CCD	League	Forza Italia	MS-FT	Greens
1979	2.500						
1980	3.000						
1981	3.500						
1982	3.800						
1983	4.235						
1984	5.818						
1985	6.466						
1986	8.387						
1987	9.153			-			
1988	10.310			-			
1989				-			
1990				-			
1991				-			
1992				140.000			
1993				-			
1994				-	5.200		
1995		205.923	4.000	-		14.236	
1996		140.000	40.000	100.000	116.000	-	
1997		130.000	130.000	125.000	140.000	16.000	15.000
1998							15.000

Note: The data for the PPI for 1995 also includes members enrolled in the party at the time of its transformation into the CDU.

Sources: cf. Roberto D'Alimonte and David Nelken (eds.), *Politica in Italia. Edizione 97*, Il Mulino, Bologna 1998, appendices, C, pp. 322-324; for the data 1997, «La Repubblica», 19.2.1998, pag. 8, except for the data for PDS, RC, PPI e AN, provided by their respective national offices.

A second interesting feature is the continuing coexistence of different organisational party models. This variety has dominated the Italian political scenario since the 1940s; for example, the PCI, a mass-integration party, cohabited with the DC, a denominational, catch-all party, as well as opinion parties, such as the Republicans, Liberals and Social Democrats. This situation continued into the 1990s, with some new models being added, despite the time which has elapsed and the hypothesis that the impact of political competition has been homogenised. Of the variety of political party models available, however, it is unusual to find two types in particular in the Italian system. These are the professional-electoral model (although there is, of course, the emerging experience of *Publitalia* for Forza Italia) and the cartel party.

When the changes described above began to take place, the PDS retained some of its previous features as a mass integration party, becoming a sort of post-mass integration party, although it was clearly looking for a new model to adopt. Thus, it managed to hold onto and exploit its former structure, as did Communist Refoundation, especially in the "red areas" of Italy. In addition, even though the PDS had decided, even prior to 1991, to reduce the number of party officials, the legacy left by the PCI of offices and militants did not disappear. It should be noted, incidentally, that all the traditional parties implemented similar policies of dismissing party functionaries and reducing the size of party organisation, given their respective financial difficulties. In line with this decision, parliament passed a law in July 1993 that enabled party functionaries to take early retirement.

Contrasting this "light" party structure of the democratic left, the League has adopted a different, markedly hierarchical model. This takes the form of a strong organisational framework manned by voluntary workers – many of them young – from a variety of social backgrounds. It has a

strong leader and a central office that controls finances, electoral campaigns and party policy. To as great an extent as possible – and even *vis-à-vis* its patterns of recruitment – party organisation is managed with the efficiency criteria typical of a private business or firm. It thus reflects a variety of different organisational forms including the charismatic party and cadre party, as well as being a party movement. In addition, since 1990, it changed from being a protest to a governmental party. The impact of this governmental experience, and the increasingly autonomous role of the parliamentary party, had some significant effects on its organisation. Solidly rooted at local level, but with low institutionalisation at the national level, the party began to find it increasingly difficult to overcome the strains and pressure of internal dissent. One example of this can be seen in the challenging of the party leader, Bossi, over his participation in the Berlusconi cabinet. This took the form, at the end of 1994, of two internal splits, together with strong opposition to his leadership within the party. Despite these events, Bossi managed to regain full control of the organisation, and to turn it into a protest and movement party once again. Success in the regional and national elections of 1995 and 1996 contributed to strengthening his leadership.

Some of the organisational aspects concerning the Northern League reveal how deeply the values of entrepreneurship, efficiency, and the free market have penetrated Italian political culture, especially in Northern Italy, as a reaction against the inefficiency of the bureaucracy and the poor quality of public services. The organisation of Forza Italia shows the same characteristics. For example, most of the organisation of the party was carried out by the staff of *Publitalia*, a company forming part of *Fininvest*, the conglomerate owned by Berlusconi, and playing a major role in advertising at the national level. During the last half of 1993, plans were carefully laid, the party launched and its organisation openly built up in late January-March 1994, before and during the electoral campaign for the March elections. In a few days, about 13,000 clubs with about 80 people per club were set up all over Italy. According to official party data, there were about 6,500 members by December 1994, with about 40-50 people per club. These were vertically connected to a national association of clubs, which were expected to suggest the political lines to be adopted. *Forza Italia* is very difficult to define in an organisational sense, largely because of its binary organisation: there are the clubs, on the one hand, and there is the party with its membership (very small initially, with 5,112 members, but now quite large, with an official number of 260,000), on the other. If we look at the way in which it was set up, *Forza Italia* could be considered as having been a sort of *firm party*, given the key roles played by *Publitalia* and Berlusconi. Today, the party has established itself through maintaining all its previous structures, i.e. its parliamentary party, governmental position, and strong, undisputed leader. Since its first national congress, *Forza Italia* has become much more highly institutionalised. MPs still have a major role to play, linking the undisputed centralised leadership with the local level of the clubs.

The Italian Popular Party, in turn, can no longer depend on the political unity of the Catholic vote. Nonetheless, it can still rely on some support from various sectors of the Church hierarchy and the Catholic association (AC), as well as the Catholic worker association (ACLI). From this perspective, the PPI may be considered a neo-denominational party. However, the split in the party has also led to Catholic support for the new groups that have appeared.

Italian party organisation in the major areas (parliamentary groups, apparatus, and parties at the grassroots level) is still undergoing change. However, some features of this phenomenon are not yet visible since they will come about only in the medium to long term. What is clearer, however, is the emphasis now placed on local organisation, traditional to Italian politics and latterly increased through the introduction of single-member constituencies. Typical of electoral alliances is some sort of change from electoral unity to organisational unity in the long term**.** In the case of Italy, there are many obstacles to postponing such unification, mainly due to old organisational identities. Even so, the weakening and transformation of organisations that have come into being for other reasons, independently of the electoral system, create a favourable context for this kind of unification, which is necessarily formed mainly by elites.

6.1.3. Negative indicators

In Italy, there are no obstacles to the formation of parties. As far as activities are concerned, the only legal limitations concern, on the one hand, the limit on the presentation of electoral lists linked to the need to gather a certain number of supporting signatures and, on the other, the legislation against the recreation of the Fascist Party, strengthened in a recent norm (commonly referred to as the Mancino Law) penalising the expression of opinions which risk offending particular racial groups. As a result of the first of these norms, three neo-Fascist groups have been dissolved since the seventies: New Order (ON), National Vanguard (AN), and the National Front (FN). The second law has led to several trials, some of which are taking place now, against members of extreme right-wing skinhead movements. As far as the parties in parliament are concerned, the only one that has been investigated on suspicion of reforming the Fascist Party was the MSI in the seventies - the investigation was dropped with no further charges being pressed. There are no recorded cases of extreme left-wing movements or parties being dissolved. The only exception was, at the end of the seventies, the judicial action taken against the group known as Workers' Autonomy (AO).

6.2 How effective is the party system in forming and sustaining governments in office?

6.2.1.Positive and negative indicators

In the post-war period between 1948 and 1992, the decision-making capacities of Italian governments were greatly reduced by their instability, the usual term of office lasting an average of only eleven months. In recent years, however, this period has increased, although it still remains low. For example, between 1945 and 1984, the average length of time that ministers spent in office was 3.8 years (as against, for example, 5.6 years in Germany and 4.8 years in Britain). This has meant that, between 1945 and 1998, there were 56 governments and 23 prime ministers.

The 1994 elections can be seen as the first stage of the learning process by which political actors adjusted to a bipolar structure of competition. It is not easy to describe the structure of political competition at that time. There was one group in the centre that stood on its own, while the right wing split into two electoral alliances (*Forza Italia* and the Northern League, on the one hand, in the North, and *Forza Italia* and the National Alliance, on the other, in the South). It was precisely this split that led to the inability of the right-wing to form and support a government to sustain its electoral victory in line with the standards of democratic competition.

The elections held in 1996, however, led to new adjustments in the actors' strategies *vis-à-vis* the bipolar framework. The outcome of this, even if it was purely fortuitous, was that it contributed to the absolute majority in seats of one of the two main electoral alliances (the Olive Tree Coalition) and, indeed, to the investiture of the leader of this coalition as head of government. In both the 1994 and the 1996 elections, however, one of the members of the electoral coalition (respectively the Northern League and Communist Refoundation) hindered the consolidation of that coalition into a stable government. This was because, in both cases, it would have entailed a loss of effective power for these extremist parties, since the strengthening of the coalition would have reduced their power to block decisions. Until at least until 1994, then, the margins of manoeuvre of coalition politics were limited, favouring a high level of instability and a limited turnover of both parties and the governing political class.

It is useful at this point to describe and contextualise the effects of the increase in party fragmentation. It goes without saying that actual numbers should be related to the size of parties; what needs to be underlined is the composition of the Chambers and the related problems in the formation of the cabinet and opposition. The experiences of *Forza Italia* when it was in power in 1994 showed that it was unable to hold the same unifying and pivotal role as that of the DC. This was, however, due to a simple problem of parliamentary size: in the previous centre-left cabinets, in which

the DC played a key role, a crisis could be precipitated only by the withdrawal of the Socialists from the cabinet. On the contrary, in the 1994 Berlusconi cabinet with *Forza Italia*, the withdrawal of both the MSI-AN and the League could have caused the collapse of the cabinet (indeed, in the end, the Berlusconi government was brought down by a motion of no-confidence tabled by the League). The same happened following the 1996 elections, when the support given by Communist Refoundation in the Chamber of Deputies to the Prodi government was crucial in terms of numbers, but was in fact dependent on an agreement bargained over policies. When this agreement broke down, Prodi was forced to resign, and the PRC split into two groups as a result of internal disagreement over the withdrawal of its support from the government. Prodi's successor at the head of the government, D'Alema, extended political support for his cabinet by including members of the communist parliamentary fraction which had opposed the PRC's negative attitude toward the centre-left government, as well as those of another splitting group, the UDR, mainly composed of moderate centrist MPs who had decided to leave the rightist coalition and join the centre-right in order to ensure a more stable government for the country. Despite these attempts to shore up his cabinet, however, he too fell victim to the effects of the differences in views, and, although he reshuffled the cabinet after a first crisis, he had eventually to stand down as prime minister.

The figures below show that keeping a coalition on its feet is very difficult and that, consequently, cabinets tend to be less stable, leading to a higher fragmentation in governmental forces (see table 6.5). This is even more the case when, in addition, there is a correspondingly higher fragmentation in the opposition.

Table 6.5: Government Majorities in Italy after Elections, 1994-96

	1994				
	Chamber			Senate	
	seats	%	number	%	number
Polo		58,1	366	49,5	156
Progressisti		33,8	213	38,7	122
Patto per l'Italia		7,3	46	9,8	31
Altri		0,7	5	1,9	6

	1996				
	Camera			Senato	
	Seats	%	number	%	number
Ulivo		50,8	320	53,0	167
Rifondazione comunista		5,6	35	3,5	11
Polo delle Libertà		39,0	246	37,1	117
Lega Nord		9,4	59	8,6	27
Altri		0,7	5	1,3	4

The forming of governments and maintaining of parliamentary support are easier when parties are large, as was the case in Italy until 1987. When the DC was dissolved, three principle parties replaced it : MSI-AN (17.3% of seats in 1994, 14.8% in 1996), *Forza Italia* (15.4% in 1994, 19.5% in 1996) and the Northern League (19.4% in 1994, but a much lower 9.4% in 1996), together with various other small groups. As for the PCI, its parliamentary strength has never been equalled again, either individually or as a group, by the parties developing from it - the PDS, Communist Refoundation and the PDCI.

Overall, if we consider the "potential for coalition" and the potential for "blackmail" by the parties making these up, the party system still shows all the signs of extreme pluralism. However, from 1992 on, and especially after 1994, the situation has become even more extreme, given that the four main parties are now almost all the same size due to the disintegration of the centre and the splits in the left. Moreover, party fragmentation appears to be even more problematic in the formation of stable governments if the parties of similar sizes, making up the government, pursue

different policies. This happens if, added to the number and similarity in size of parties, so-called ideological distance is added.

This particular feature comprises many elements. These include the demise of the old parties standing apart from the system – in this case, the PCI and MSI, the successors of which have been incorporated into the democratic system; the appearance of a new party (the Northern League); a centre that is no longer occupied by one large party only but by various smaller groups, with a real possibility of alternation between these (indeed this occurred between 1994 and 1996). All this means that the ideological distance between the parties has narrowed and that they have de-redicalized, meaning that it is no longer possible to adopt the old traditional categories of right or left. At the same time a new kind of radicalisation is emerging *vis-à-vis* the break between the centre and the periphery, and a potentially even deeper division now exists between the left and right in their approaches towards the proposed economic reforms of the welfare state. Further, the dissatisfaction felt by many sectors of civil society, the subsequent de-legitimisation of the traditional governing parties, and the creation of new parties have led to an enormous increase in electoral competition, coinciding exactly with the crisis in democracy and therefore with a moment rules that are very uncertain.

Italian governments have traditionally been formed in extra-parliamentary settings; that is, they have been agreed on during summits between party secretaries or in bilateral meetings, sometimes between the secretaries of the majority and main opposition parties. Although the role played in this process by the President of the Republic has been more forceful since 1992, due to the problems which the political parties had, it can by no means be said to be decisive. The formation of coalitions that could count on a certain level of stability was even more difficult, given the strong pluralism of the party system deriving from the similar size of the two major parties (*Forza Italia* and the PDS), the parallel medium size of another group of parties (the AN, Northern League, PPI, and Democrats) and the strong power of leverage that some small parties exercised within the coalition (the CCD, CDU, Italian Renewal, Greens, Communist Refoundation, PDCI, UDEUR).

The whole process becomes even more laborious when the groups of elected parliamentarians in the parties forming the potential coalition move, in the course of the legislature, to another coalition, changing parties, and create new parties and/or parliamentary groups. This happened after the 1994 elections (when there was a movement from the PPI to *Forza Italia*, and an exodus from the Northern League). Far more accentuated were the realignments that took place after the 1996 elections (especially when the UDR was set up, since some 20 parliamentarians crossed the floor from centre right to centre left, although they subsequently split into yet two more groups, the UPR and UDEUR).

6.3 How free are opposition or non-governing parties to organise within the legislature, and how effectively do they contribute to government accountability?

6.3.1. Laws

Parties - or rather the parliamentary groups representing parties - that are not part of the government coalition are supported in their activities by a set of important guarantees provided by parliamentary rulings and the Constitution. For example, large majorities are required for the approval of particular provisions (constitutional laws and constitutional revisions, amnesties and pardons) and for the election of the President of the Republic, members of the Constitutional Court, and the Supreme Court of the Magistracy.

Parliamentary minorities have the power both to halt and to initiate certain kinds of proceedings (these include the legislative initiatives taken by parliaments, the possibility of returning legislative processes entrusted to parliamentary committees to the body of ordinary procedures in the Chamber, the possibility of tabling interpellations, questions and motions, and,

finally, that of nominating a minority representative (*relatore di minoranza*) for the drawing up of government bills). The participation of minorities in important decisional procedures is, moreover, considered vital: a good example of this is the daily meeting that takes place between the leaders of parliamentary groups – in which all the groups have the same rights, irrespective of their size – to establish the agenda for the two Chambers.

Other types of guarantees reserved to political minorities in the Italian system, relate to the conventions or rules of constitutional precision, usually also sanctioned by longstanding traditions, if not by specific laws. For example, the President of the Republic also usually holds consultations with the delegations of minority parties during the selection procedure for new prime ministers. Since the eighties, a practical measure of nominating members of the opposition parties as presidents of the Chambers has developed despite a number of difficulties and numerous exceptions - in more recent legislatures, characterised by the advent of the majority electoral system and by a greater radicalisation of the political divisions, this practice has, in fact, been suspended. The parallel measure of naming members of the opposition as presidents of the parliamentary "guarantee" committees, leading to greater control over the functioning of the government in various sectors (the Surveillance Committee for the Secret Services, investigative committees, the Control Committee for the RAI, and the Commission of Justice) has also been extended. The project for constitutional reform drawn up by the most recent Bicameral Committee also included the outline of a "statute" for parliamentary oppositions, foreseeing a series of provisions aimed at creating guarantees for them. One of the most important of these was the possibility for parliamentary minorities to appeal to the Constitutional Court in order to defend the fundamental rights protected by the Constitution, as well as the codification of some of the measures for constitutional correctness mentioned above.

Further, it is interesting to note that the regional Statutes with the status of ordinary statute drawn up in the seventies (a period during which great value was placed on the participation of the wider ranging political movements) provide for norms that give minorities a truly co-decisional role. One clear example of this are the regions that provide for the law of limited voting in the nomination of various types of competencies in the Regional Council.

6.3.1. Implementation

The rushed and negative conclusions of the work carried out by the Bicameral Committee for institutional reforms has prevented the project for a parliamentary opposition statute from being taken forward. However, the arrangements and resources provided by laws to enable non-governing parties to operate effectively seem to be adequate. The most important among these is undoubtedly the area of public financing (cf. 6.6), now undertaken via the two channels of so-called reimbursement of electoral expenses and financing of party publications. The law further allows members of parliament and senators a special economic indemnity to enable them to pay parliamentary assistants, who often, in fact, also undertake activities for the representative party to which they belong; obviously non-governmental parties also benefit from this. In addition, the parties are assigned state personnel and premises to organise their offices, not only in parliament but also in local-level bodies such as regional, provincial, and municipal councils as well as constituencies. Many of the services and much of the equipment necessary for the activities in these offices (telephone lines, computers, fax and photocopying machines, etc.) is provided by these local institutions. In addition, parties – including non-governmental ones – can sometimes use the properties owned by local municipalities at a low rent in order to be able to hold their sessions in the area. This is particularly the case in large cities where much of the property is publicly owned. Municipalities, regional authorities, provincial authorities, and constituency councils also offer the use of their own public spaces for conferences, meetings, and debates free of charge to the parties and associations linked to them. All the parties represented in parliament and in local institutions, and those that present a sufficient number of candidates also have the right to a specific amount of

space for communication free of charge on the public television and radio networks during electoral campaigns.

6.3.3. Negative Indicators

No episodes of official obstruction, intimidation, or refusal of access to information have been reported by non-governmental parties in the institutional and parliamentary sphere.

6.4. *How fair and effective are the rules governing party discipline in the legislature, and to what extent is 'floor crossing' discouraged?*

1. Laws: examine laws and internal party rules covering party discipline of legislators, including expulsion and 'floor crossing'.
2. Implementation: examine how they work in practice.
3. Negative indicators: investigate evidence of systematic stifling of inner-party dissent or criticism; frequency of 'floor crossing'.

6.4.1. Laws

Parliamentary laws and rules do not make any explicit reference to party discipline, even if each deputy or senator is obliged to state which parliamentary party grouping or mixed grouping he or she belongs to. The minimum number of members of parliament required to constitute a group is ten in the Senate and twenty in the Chamber. All the groups have access to facilities and operational resources; these are proportionally reduced for the mixed group, as is also speaking time in the Chamber. Elected representatives can withdraw from one group and join another in the course of the legislature. The parties have made several proposals to avoid “floor-crossing”, none of which have, however, been turned into law, including one by the President of the Chamber, Violante, which was rejected by members of parliament in January 2000.

All party statutes provide norms *vis-à-vis* the respect of party discipline for individuals elected to parliament and local institutions. In some cases, it is stated that a representative is expected to respect the policies voted on by the party congresses, and, when this does not happen, sanctions ranging from temporary suspension to expulsion are foreseen. To reinforce discipline and control, members of parliament and/or elected members of local institutions are under a statutory legal obligation to pay part of their salaries and indemnities to the parties to which they belong. In cases in which this requirement is not followed, disciplinary sanctions can be imposed, and might include automatic non-representation in subsequent elections. Obviously, if a party member, the elected representative must respect the rules concerning the rights and obligations of members that each party adopts for its members. In Italy, only the Radical party – and the groups deriving from them such as the Panella List and the Bonino List – allows what can be called “two-ticket membership”, enabling members (including parliamentarians) of one party to belong to another at the same time.

6.4.2. Implementation

In practice, Italian members of parliament evade group and party discipline fairly frequently, and are thus usually not subject to the sanctions foreseen by the statutes. To avoid this evasion, parties favour the election of a group of party heads who enjoy the trust of the party leaders and whose duty it is to “dictate the line” to the group on both a daily basis and through parliamentary

assemblies called to decide on the positions to be taken *vis-à-vis* certain topical arguments. The individual autonomy of elected representatives is, however, fairly broad and is manifested as much through the presentation of bills of law and amendments and the questioning of government as through voting procedures. At times, speeches are made in the debates in the Chamber in which personal disagreement with the position of the group to which the individual belongs is expressed. This is, however, the exception rather than the rule. Strong disagreement between the parliamentary group and party leadership on certain issues also sometimes occurs, but this is rare. Generally speaking, any breaking of secondary aspects of party discipline, such as the lack or late payment of the amounts foreseen by the statute, are not rigidly sanctioned - a flexible interpretation of these norms is more usual.

The most highly accredited hypothesis to explain the increase in the independent behaviour of representatives in parliament or local offices has been made by Mastropaolo (1993), which considers "institutional structure, the lack of party rotation in government, the constitutional fragility of coalitions, and the need to refrain from examining the differences between the parties in any depth" as determining factors. Another hypothesis, made by the same author, concerns "the ambition of the elected members both to recover independent spaces through the protection of various interests of which they are spokesmen, as well as by guaranteeing their political futures through this behaviour". Mastropaolo also notes that "the link between the amount of electoral support that the deputy can have from his own party and the respect for group discipline that the party is in a position to demand once the candidates have been successful is fairly tight". Members of parliament and senators who are elected on the lists of the parties that usually affect the candidates' success (or lack of it), or even their candidature, through the backing of their organisational apparatus, thereby maintaining some of the features that are typical of the classic mass party, are much more restricted by official instructions than are members of parliament coming from other groups. During the electoral campaign, these latter are likely to have the kind of party backing that is outwardly convincing but in reality only formal. Typical of the PCI until it disappeared, this way of managing things has been adopted by the parties emerging from its ashes (the DS, PRC e PDCI), although the two factions making up Communist Refoundation have questioned it.

The increase in this kind of centrifugal behaviour during the eighties was probably also due to the changing composition of political personnel, with a weakening in the choice of candidates through traditional party filtering criteria. To quote Mastopaola again, "While it is true that the Italian parties have moved more closely towards a *catch all* framework, with a much reduced ideological grip, it is also reasonable to attribute the growth of conflict within the system to the effects produced by the use of such changes. Without the braking power of ideologies, the logic of maximising consensus pushes the parties to be less selective than before, so that the candidates elected in the recent legislatures are much more homogenous in terms of social background". This trend has been challenged to some extent by changing parliamentary rules, i.e. through a reduction in the use of the secret vote, which allowed for the frequent defection of backbenchers ("*franchi tiratori*"), that is, of members of parliament who shirked party discipline through the secrecy of the ballot – and through an increase in open voting procedures.

6.4.3. Negative indicators

As is evident from tables 6.2 and 6.3 (which show the numerical make-up of parliamentary groups in the Senate and Chamber of Deputies from the beginning of the XIII legislature in July 1999 for the Senate and in July 2000 for the Chamber), "floor crossing" is common in the Italian parliament today. These figures show it to occur to a much greater extent than in the legislatures from 1948 to 1992. Indeed, it has even been referred to as a 'diaspora'.

In a study carried out on the phenomenon (Verzichelli 2000), it can be seen that at the end of December 1999, there were 458 registered cases of floor crossing (197 in the XII legislature and

261 in the XIII) within the groups registered in the Chamber and beginning with the elections of 1994. In the Senate in the same period, there were 232 cases (103 between 1994 and 1996, and 129 between 1996 and 1999). This means that the percentage of members of parliament involved in "floor crossing" was 24% for the Chamber and 22% for the Senate in the period under consideration. This data must obviously be refined, distinguishing between members that have changed groups following the splitting of the party to which they belonged (this was the case of the League after it left the Berlusconi government and, to a lesser degree, of the defections following its extraordinary congress in 1999, as well as the two occasions when Communist Refoundation split, and, finally, when the UDR split into the UDEUR and UPR) and those which instead changed party and/or coalition as the result of a personal decision. In this case too, however, "turncoating" appears to be important, since it is motivated by protest against the repression of inter-party dissension in only a few cases, while, in the majority, it is determined by personal ambitions to "escape", that is, to abandon the opposition for the majority or to leave the current majority in order to join the new one likely to emerge after the elections. Due to this parliamentary fluidity, the mixed group – constituted by members of parliament "with no party" and those from small parties, often created from splits – is now five times larger than its historical average.

6.5 How far are parties effective membership organisations, and how far are members able to influence party policy and candidate selection?

6.5.1. Laws

The rights and obligations of party members are defined by statute and greatly vary from one party to another. In some parties where there is an integrated tradition (the PRC, PDCI, AN, League and - to a more limited extent - the DS), duties are defined with a high level of precision, while in others they are referred to only vaguely. Among the more widely recognised rights are those allowing for the possibility of members to contribute to the political line and leadership of the party through local and national congresses, to participate in its activities and advance own candidatures for leadership roles that are elected internally. In some cases, members are allowed to form theme or policy groups within the party, to propose or promote candidates for elective posts, and to participate in making party choices in situations other than those of congresses.

Duties also follow the same pattern. They can be limited to the respect of the statute and payment of a membership quota or they can be extended to other fields - to voting for and promoting votes for party candidates, or candidates who have its support, in all types of consultation, to actively participating in the life of the party, to providing additional financing, which are more or less according to the internal or external duties of the member, etc. In such cases even the duty of promoting new membership is foreseen, as well as that of supporting and spreading its organs of information, by subscribing to the party press (the MSI-DN, for example, provided for this over a certain period). The Northern League represents, from this point of view, an extreme case: for many years it enforced a rigid division of rights and obligations between three categories of member (founders, militants, and ordinary members) to which different congress weightings were attributed, and even today it maintains two distinct categories of members. Its statute also provides for an internal group whose duty it is to check the effective activity of party members, and - if necessary - to sanction a "demotion" from active to ordinary membership, as well as the elimination of local branches where 2/3 of members have been demoted.

The sanctions applied to members who do not respect the duties outlined in the statute go from the written reminders (for less serious offences) to censorship and suspension for an indefinite period, and then, finally, to expulsion. In many cases, such sanctions can be used where there is a definitive criminal sentence ("for infamous crimes," according to the formula used in the statute of National Alliance), where certain types of behaviour are contrary to dignity, honour and personal decorum (this is again the case of National Alliance), for moral or political "disgrace" (Forza Italia),

and for damage to the party organisation (Communist Refoundation). The disciplinary procedure is generally initiated by one of the central leadership bodies of the party and a preliminary investigation is set up by the central organisation or through bodies specifically constituted for this purpose (Boards of Guarantee, *Collegi dei Probiviri* and Disciplinary Committees, etc.). In all cases the accused member's right to defend himself against the accusations is recognised, based on the right to be heard and to produce written reports for his defence. Any eventual procedure for expulsion must also be published. Members can appeal to disciplinary bodies when they believe that one of their rights have been denied.

6.5.2. Positive and negative indicators

The relatively high number of members in Italian parties shows that they offer their members ample scope to develop activities. The situation varies, however, considerably from one case to another. Only a few parties now ask for active commitment by their members during the periods between elections: the PRC, PDCI, DS, AN, League, Radical Party, and Greens. The others limit themselves to activating members when coming up to the elections or to using them for routine activities in the party, as spectators in debates and conventions. Other parties have very few militants, and are mainly constituted by members of parliament, with a limited executive. The drop in territorial party branches witnessed in the nineties demonstrates this widespread fall in the activity of members. The same drop is visible at congresses, with fewer members taking an active part (particularly clear in the case of the DS, compared to the PCI), and a reduced influence on decision-making procedures. For some time now party congresses have taken on the function of a 'show case', with a reduction in the time allowed for debates, especially for delegates elected from the grassroots membership, and privileging the election of members of the executive on "blocked" lists provided by the leadership. The most extreme example of this is the National Alliance, where 400 of its 500 members of the most important elective body – the National Assembly – are elected without the members having the possibility of expressing their preferences, and where 50 people are nominated directly by the party president. At the opposite extreme is the Radical Party which holds its congresses in the form of an assembly, opening these up to all members who have paid their membership quota. In 2000, it decided to elect 25 of the 1,000 members of the co-ordinating committee by whoever registered through the party's Internet site and voted for one of the lists of proposed candidates there, whether a party member or not.

Despite the profound changes that have taken place over the last few decades in Italy, the selection of candidates to externally elected duties is today characterised by the adoption of a rigidly controlled recruitment system, in which the national party leaderships continue to exercise an important role. This kind of centralised allocation of candidates seems to hold for most parties, so that not only members, but also local party units, are usually excluded from the selection procedures (although some of the intermediary structures - usually at the regional level – may be consulted by the central leadership). The most common form of recruitment is endogenous and centralised even in those parties which come closest to the model of the catch all party. In some cases (National Alliance, Northern League, and *Forza Italia*), the decision must be approved by the leader, in others it is entrusted to joint executive committees. Apart from a few exceptions, access to parliament is the last stage of the process in which joining the party is simply the first step. Today, thanks to the introduction of single-member constituencies, image and notoriety play a much more important role in the selection of candidates than before. As a result, the number of "new men" who do not have a background in political activism has increased; these are now rewarded for their social "visibility", that is, for the capital of social relations which they can offer.

It has frequently been suggested that primary elections be held in order that party members regain some say in the selection of candidates. However, apart from a limited pilot experiment carried out by the National Alliance before the provincial elections in Rome in 1998, the hypothesis has never been taken beyond a theoretical proposal.

Concerning the selection of leaders, studies carried out on the Italian political class indicate that different career models exist for each party, where more integrative parties show a preference for internal paths and less structured parties coming closer to the cadre party model adopt both types. The extensive corruption of the 1970s and 1980s has, however, accelerated a gradual weakening in the role played by party functionaries compared to local administrators (mayors, council spokesmen, and councillors), who could reinvest the resources gained from a patrimonial concept of public life in their careers. In the parties most affected by corruption, the official party hierarchy has tended to become less important, except for the top leaders. Political power has moved, firstly, towards those who controlled public resources directly so that administrators, particularly those who had more profitable duties in the public administration, acquired their own personal resources independently of the party to which they belonged. Moreover, what can be called invisible hierarchies have come into being, linked to the question of bribes: party treasurers and members' personal assistants have gained power thanks to their role in the "corruption market". Meanwhile, the formal power of determining the political line and defining general policy has lost its importance, since these are now relatively unimportant for the internal matters of most parties. The role of the party, or rather of the different heads of factions within parties, has changed to one of assigning the political personnel to key posts in the public administration. In doing this, parties seem to have followed hidden rules; they have become a kind of "stock company" where money has been used to buy membership cards, useful to obtain places on the electoral lists and the votes necessary for election to certain offices in the public administration.

The nineties witnessed a reduction in the influence of corruption on party life; in the same period, however, parties underwent a serious crisis of identity. Already weakened by the centrifugal tendencies accentuated by corruption, many of them collapsed or were forced to undergo profound internal transformations. Further, the growing personalisation of politics was underlined by a series of new features: the direct election of mayors and provincial and regional presidents; national elections based on single-member constituencies; the distribution of public financing to all groups with at least one elected member of parliament; and, above all, the organisational weakness of the new parties and the weakening of the old ones.

With regard to party organisation, the first feature to highlight is the persistent fall in the presence and diffusion of parties in civil society. As can be seen in table 6.4, the number of members enrolled in the PCI fell by more than two million in the fifties to one million 200 thousand in 1990, falling to less than 700 thousand for the PDS in 1996. The more than two million members of the DC in 1990 fell to one million 390 thousand in 1991, as only minimal numbers of people joined the new parties that emerged from the dissolution of the DC: the Popular Party had barely 205,000 members in 1995 and the CDU 130,000, the same figure declared by the CCD. The largest of the new parties, *Forza Italia*, had no more than 140,000 members in 1997, although the National Alliance did show a positive increase, the approximately 200,000 members declared by the MSI growing to nearly half a million members in the period following 1996. It should be remembered that nearly all of these official figures have been increased for propaganda purposes and, therefore, to return to reality, they should be cut by more than half.

Further, it should be pointed out that the number of interventions made by parties in civil society has not only fallen, but these have also changed fundamentally. The old top-down organisational territorial structures are no longer effective in perceiving the moods and needs of public opinion, or – to an even greater extent - in stimulating people or checking on them. With this in mind, there has been an increase in the use of surveys. Increasingly, the mass media use political branches to spread their leaders' message, increased importance being given to symbolic policies. Many in-depth studies have underlined how the role of membership has decreased in all parties, and that its influence on the revision of policies and the type of electoral campaign is now minimal. Doubts with regard to the effective importance of parties within the Italian political system have spread in public opinion, as the results of the recent survey given in table 6.6 show.

Table 6.6. Opinions on the role of parties

Despite their faults, the role played by parties is very important for the country. Do you agree?

Replies	Year		
	1997	1998	1999
Agree	48%	51%	52%
Neither agree nor disagree	5%	3%	3%
Disagree	46%	44%	44%
Don't know/no reply	1%	2%	1%

The role of the parties will continue to become less important. Do you agree? The results:

Replies	Year		
	1997	1998	1999
Agree	57%	63%	58%
Neither agree nor disagree	2%	2%	*
Disagree	37%	31%	37%
Don't know/no reply	4%	4%	5%

*The symbol * indicates a percentage above 0% but below 1%.*
The totals cannot be equal to 100% due to the multiple replies and rounding up of the figures.
Source: Diotima SWG http://www.swg.it/ricorda/partiti.html

6.6 How far does the system of party financing prevent the subordination of parties to special interests?

6.6.1 Laws

The history of the public financing of Italian parties and political movements has been chequered by strong disagreement and many sudden changes of direction.

The first systematic law on public financing, approved in only 1974, and only after numerous illicit behaviours involving various parties and political personalities had come to light, provided for the granting of large sums of public money to the parties, as well as placing limits on private financing. In 1979, after much anger over the gaps and inefficiency in the control system for this, a call was made on many sides for a referendum to be held for its abrogation; the law was not in fact changed, however. It provided for two types of financing - an annual contribution proportional to the size of the parliamentary group, with the requirement to transfer at least 95% to the group's respective party, and a contribution to electoral expenses for all elections, this time proportional to the votes obtained by the individual parties.

The referendum held in 1993 abrogated most of the above, in particular, all the provisions relative to the annual financing of parliamentary groups. As a result, a revision of the norms was begun by the legislators, leading to **Law N°** 515/93, which continued to provide for public financing. This now, however, took the form of a reimbursement for electoral expenses, and with respect to the preceding law, the total amount foreseen for such expenses was increased significantly. Specific precautionary measures were also introduced, such as a maximum ceiling for expenses per candidate for each election, the publication of parties' accounts, and the creation of a new figure, the candidate's electoral agent, who was responsible for all expenses, and whose actions were in turn checked by a new body, the regional committee for electoral guarantees.

This new law was also strongly criticised and, in 1997, Law N° 2/97 was approved, introducing a system of voluntary financing by private individuals - through a system whereby the latter could declare their intention of assigning a quota of 4 per thousand to the political parties in general in their tax declarations. Such resources would be given to the parties in proportion to the votes gained at the last elections (and as long as they had managed to elect at least one Member of

Parliament). The law provided for a series of facilities (particularly tax benefits) for the private individual wanting to contribute financially to the life of the parties. In addition, it made it obligatory for parties to publish both their budgets and their accounts, together with handing over 30% of this to the decentralised structures of the movement.

The last law modifying this issue was Law N° 157/1999, which abrogated the norms of law 2/97 on voluntary contributions to parties and created four types of funds for reimbursing electoral costs to parties in proportion to the votes obtained (for the political elections to the Chamber, for those to the Senate, European Parliament and Regional Councils) equalling the sum of 4,000 liras per person multiplied by the number of citizens enrolled on the electoral lists (3,400 for the European elections). A reimbursement is also foreseen for the organising committees of referendums, equal to the multiplication of the sum of 1,000 lire by the number of signatures collected (with a maximum ceiling of five billion liras), although this was only possible in the case that the referendum be declared admissible by the Constitutional Court and reach the participatory quota of 50% of those eligible to vote, as provided for in Article 75 of the Constitution. The reimbursement is paid annually (49% of the total due being paid in the first year, and 15% in the successive years) and it must be used to finance no less than 5% of initiatives aimed at increasing the participation of women in politics. Of particular interest is the norm stating that disbursements are suspended "until they are regularised" (a sanction legalised by the Presidents of both Chambers of Parliament) when the obligation to publish budgets and accounts stipulated in law 2/97 is violated.

6.6.2. Implementation

The introduction of the cited laws has not resolved the problem of the financing of politics in Italy. There is still much criticism over the lack of transparency in the system: the checks on the balances of payment and party expenses are held to be general and superficial. Further, the parties are also financed surreptitiously by another law dealing with the financing of the party press. This provides for large sums of money to be given to any parliamentary group (even if there are only two) declaring that a particular newspaper or magazine is a party newspaper. As the amount of money to be given is decided on the basis of the numbers of copies printed – and not on its real circulation – it is likely that the parties obtain much more money than they actually invest. If one examines party accounts, one can see that the deficit produced by this kind of support for their papers is a substantial indirect and undeclared, source of financing.

The lack of checks also leads to a lack of clarity over the real sums involved in the private financing of Italian party funding. From analyses carried out on party accounts, it emerges that the most important revenue is that of association quotas and public financing. The association quotas are the principle source of self-financing, i.e. of own resources on which political forces can draw to cover any necessary expenses, independently of individual or group decisions outside associations. Data analysed with no allowances for inflation being made show that, from 1974 onwards, incoming payments have fallen consistently, both in absolute and percentage terms. According to party declarations and an analysis of current values, the amount of public funding given to the parties has more than doubled. Public financing, therefore, now provides the most fundamental source of incoming payments to parties, especially after the law passed in 1999, which enable sums that are much higher than the electoral expenses declared to enter their coffers.

For many years in the red, party accounts can now be said to be generally healthy. The only obvious exception to this is the DS, due to the bulky and costly organisational structure that it inherited from the PCI. However, it should also be pointed out that one of the reasons underlying the parties' need to finance themselves from other sources was largely the fact that for many years the State was late in making the payments due to them from public revenues. This led the parties to be not only more dependent on the banking system (according to the published data), but it also meant that the interest allowed accrued on the deficit.

6.6.3. Negative indicators

A first distortion in the effects provided for by the current law in this area lies in the fact that by fixing the 4,000 liras per vote as the amount for each party, the legislator does not enact a simple reimbursement of costs for the electoral campaigns, as officially declared, but actually finances the parties. The press has, in fact, clearly illustrated that the derogated funds are significantly more than the costs declared in all the parties' balances of payment for the electoral campaign. This goes against the express will of the electors, who decided to abolish the public financing of politics when they were consulted on the matter in a referendum. A second distortion can be seen in the financing of any publications or audio-visual media belonging to a party (this is the case, for example, of Radical Radio, which belongs to the Radical Party) that are declared to be "party organs" by at least two members of parliament stating that they belong to an autonomous political group, represented within the mixed group. This means that funds reserved for the press can be given to same party twice, three times or sometimes even more often, usually for publications with a minimal circulation that are not, in reality, the official party organs. Moreover, the sums reimbursed are often higher than those actually spent on publishing the newspapers or magazines involved.

Another serious problem concerns the practical effect of the so-called "conflict of interests" of press, radio and television editors who also represent a party. How can the owners of the media be stopped from giving space - either in print or on the airwaves - to their own party or to others allied to it at reduced rates, violating the **"***par condicio***"** provided for in law, be stopped? There was a very heated debate on this issue during and after the elections for the European Parliament in 1999, when the three television networks belonging to the *Mediaset* group, of which Silvio Berlusconi is the major shareholder, transmitted a large number of adverts by *Forza Italia* and by parties of the coalition of which *Forza Italia* forms part, at greatly reduced rates. This opportunity had, in fact, been offered to all the political forces across the board, but the parties of the centre-left decided against it so as not to indirectly finance their main opponents. It is, however, reasonable to ask whether these discounts count as a form of hidden, and thus illegal, form of financing for the parties that benefit from them.

6.7 To what extent do parties cross ethnic, religious and linguistic divisions?

6.7.1. Indicators:

The many linguistic and ethnic divisions in Italy have led to the creation of some **"**minority-representing parties**".** The most important of these is the South Tyrol People's Party (SVP), which represents the majority of German-speaking citizens living in the Alto Adige region (in the province of Bolzano). Usually allied to the Christian Democrats, supporting many of the governments that they headed, it has been voted into all the parliaments of the republican legislatures. During the nineties, once plans for the autonomy of the Alto Adige region had been presented by the government and accepted by both the SVP and the Austrian government (which protected the interests of the inhabitants of South Tyrol in international meetings), the widespread support that it was usually given by German-speaking Italians lessened. This gave rise to wider, if limited, space for other ethno-linguistic parties, which aimed at independence rather than autonomy, such as the Union for the South Tyrol (UFS) and the *Freiheitlichen*, which are represented in the provincial council of Bolzano and in some municipal councils. The SVP has also often represented another ethno-linguistic minority in Alto Adige, the Ladins.

Other reasonably sized ethnic and linguistic minorities also have their own parties. In Valle d'Aosta, there is the Valdôtaine Union (UV). Since this has come into being it has attempted to extend its electoral basis beyond the French-speaking minorities, and managing to capture the votes

of many Italian-speaking electors favouring stronger regional autonomy. As a result, the only MP or senator that the Valle d'Aosta has in Parliament belongs to the UV, acting either on its own or in alliance with other parties. Only rarely have non-autonomist party coalitions reversed this situation. In the extreme North East provinces, Trieste and Gorizia, the Slovene Union (US) represents Slav-speaking citizens - in some small municipalities, this is the largest ethnic group. The US usually has a place on the provincial councils of the two regional capitals, and at times also on the municipal ones, although they generally have to count on joint lists with parties of the left wing (PCI e PDS) to be represented in Parliament. In contrast, a claim for political autonomy for other small linguistic minorities present in Italy, such as those speaking Albanian or Catalan, has not been forwarded.

Another example of a party representing linguistic and cultural division is the Sardinian Action Party (PSA). Although it was formed before fascism came to power, the PSA developed more fully in the post-war period, and it has generally managed to get its representatives onto the regional council - since 1970, the Sardinian provincial and municipal councils, and - at times - even into the national and European parliaments. Despite being a member of regional and local governments, it has split many times over the past few years, and this has largely weakened any force it might have. The only group that is in any position to challenge it today with any effectiveness is the small independent party, Sardinia Nation (SN), which stands regularly in local elections and gains a certain amount of electoral success.

The most important, although anomalous, example of the cleavage between the centre and periphery in Italy is the recently formed Northern League. The various regional leagues that have gone to making up this party cannot be defined as ethnic or linguistic movements in the commonly accepted sense of the term, although they have developed strategies that are very similar to those parties and groups adhering to ethno-linguistic autonomy in Europe. One of the results of their activity is that a territorial, social and in some ways cultural division has re-emerged with great strength, dividing the Northern regions from the rest of the country. Using this division, the Northern League has attempted, and is still trying, to create a territorial identity, using the threat of the creation first of a "Republic of the North" and then of an "Independent Padania". This led to much speculation between 1996 and 1999 over the risk of secession in Italy. The recent agreement between the Northern League and the parties of the centre right allied to the Pole for Freedom seems to have quashed this risk, and the League's strategy no longer officially contemplates the right to secession for the Northern regions. Instead, it has proposed a more moderate plan for devolution of the powers currently held by the central government and local government, initially to be handled at the regional level. All the same, the Northern League is very powerful, especially in Lombardy and the Veneto, in both electoral and organisational terms. Signs of the social and cultural differences between the different areas of Italy had already begun to appear on the political landscape after the war, through the formation of geopolitical areas distinguished by very different electoral tendencies: there was the "white" area of the North East, where the Christian Democrat vote prevailed, an "industrial area" in the North West, fought over by Christian Democrats and Communists, a "red area" in the centre, together with the South, which was marked by the prevalence of Christian Democrats and Socialists.

The religious division was a central factor in the politics of the Italian Republic, as support given by the Catholic vote allowed the Christian Democrats to govern in coalitions for almost 50 years. Now, however, there is more than one Catholic party and this kind of split is no longer very significant, also because other religious groups, although very minor, have not formed their own religious parties.

6.8. *What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?*

The question of the political representation of ethnic and linguistic minorities has, as stated, been resolved to some extent through the emergence of "minority-representing parties". In the

transition from the old proportional electoral system, which favoured such representations, to the new mixed system where most members are elected on the basis of a majority single-member constituency system, and to avoid any changes in the representation of minorities, specific protective norms have been provided for the areas in which they reside: this has allowed the SVP and the UV to maintain their own representatives.

The electoral success of the Northern League has led the governing class to give priority to the question of federalism: a first bill introducing this sort of change into the structure of the State was approved by the Chamber at the end of 2000. However, the political forces are still strongly divided over the interpretation of the concept of a federal state and how it might be put into practice. The centre/periphery cleavage, which came to the fore once more at the end of the eighties, after a long period of inactivity, is, therefore, still at the centre of the Italian political agenda.

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7. Government effectiveness and accountability

Is government accountable to the people and their representatives?

7.1 How well is the elected government able to influence or control issues important in the lives of its people, and how well is it informed, organized and endowed with resources to do so?

Before answering the question, some of the fundamentals of present-day Italian government need to be looked at. Only by looking back in time at the reasons that gave rise to their existence may we understand the repercussions this decade's changes have had on the way government is structured putting also into proper perspective the other questions this chapter addresses. This approach is not as off-centre as it may seem, since it is confers a basic legal framework that the Constitution, with its bare outlines, is ill-equipped to supply. Indeed from a superficial reading the affirmation of a parliamentary regime of government emerges which, in Italy's case, hinges on the commitment of trust between the executive and representative assemblies, on the supremacy of parliamentary legislation and on coalition agreements among a number of parties aimed at guaranteeing the necessary support for governments around a person assigned by the parties to head the executive who does not necessarily have to be the leader of the victorious party. In other words a parliamentary regime that strives to adhere to the majority concept of "unification of power" between Parliament and Government, through a party, guarantor of the majority, and supportive of the government despite lending a sympathetic ear to the logic behind the Italian tradition of proportional representation besides having some nostalgia for it. However, such an observation gives insufficient impetus, the more so since devising a single means of understanding the pattern of Italian governments and their effectiveness institutionally is hampered by similar ambiguities. A minimum of in-depth study is thus called for, however synthetic and schematic it may be.

Normally the principal work model against which scholars have analyzed the Italian situation and governmental efficacy is the one based on party government. But despite a rich and flexible range of classifications able to subdivide this category of interpretation into different types of party government such as *organic* (in which parties preside over both policies and institutional positions), *sharing* (essentially keeping hold on the institutional areas of government and sub-government together with those pertinent to public intervention in the areas of national economy and welfare), *programmed* (in which policies are controlled), and *residual* (exercising a weak control over both offices and policies), the most authoritative political-analytical observation concludes that the Italian situation may certainly be seen within a context of party government, but with a however distinctly Italian flavour (Cotta 1996). In reality, policy-oriented studies especially have pointed to the historical trend of government action having given rise to a growing contradiction between *"partyness of government"* and *"party of governmentness"* (Cotta 1996, p.18) as Italian democracy progressively took hold. This inconsistency stems substantially from the complexity in the formulation and implementation of public policies that absorbs the capacity to direct, coordinate and control which governments by parties have shown themselves ever less capable of over the last quarter century weakened as they have been by their coalition nature on the one hand and by systematic differences between heads of government and heads of the executive on the other. This is why instead of the *party* as a central analytical category of government structure and function during the first thirty years of republican history, it is more appropriate to speak of the *political class* (Calise 1997, p. 358) as the institutional core of the form of government. It was the latter who took upon itself both the distributive and regulatory functions that the public administration had inefficiently exercised, and also the systematic task of bonding democratization to legitimation of the State by private participation in and bestowal of interests, to which it itself had assured access and protection.

The republican period of Italian political history indeed linked the workability of its party government system, whose backbone was precisely the political professionalism of its actors, to the

progressive consolidation of Italian democracy. This came about through a vast quantity of minutely-detailed laws and measures which, despite being problematical in both efficiency and effect did however guarantee a close relationship between political and civil societies albeit at the cost of an independent legitimation of representative institutions and government. And this despite, it is worth noting in the first instance, it devolving the crucial decisions regarding the stability and efficiency of the economic system and its resources to institutions outwith the political-representative ambient: see as exemplifying all the macro-economic centrality of the Central Bank. Hence party government in Italian *lectio* expressed itself through a political class that made use of representative and governmental institutions and their capacity to express, administer and allocate and in so doing built or reinforced its network of social alliances, granted represented interests the right to freely pursue their own goals - by the ways and means they found most convenient - bonded around itself "self-management of capitalism, liberal protectionism and a society splintered into a myriad of interest groups each negotiating private benefits" (Amato 1977).

This result was notoriously arrived at by a combination of many party-government strategies as implemented by political competition throughout history in our country and on the many levels on which this has taken place.

This is where a first reply - again retrospective - to the opening question can be given.

Indeed we are well aware of how in the area of "metapolitics" - those pertaining to the fundamental options regarding the political regime in its cultural and functional relationship with political and civil society and the international collocation of the State - the competition among Italian parties has been marked by highly ideological and symbolic characteristics with fundamental and far-reaching differences between "winners" and "losers" in the mid- and long-term. We also know how this "high" level in public politics has linked itself interestedly to the level of "micropolitics", that is to the choices influencing situations, opportunities and social relationships that exist through incidental incremental changes, aimed at managing and/or protecting specific interests aimed at benefiting a vast number of groups representing categories and/or territories (see, *in primis*, the whole chapter of the "*leggine*") (Predieri 1975). Hence, on the basis of the proportional electoral system on the one hand and as a result of the need to compensate for ruptures inherent in first-level conflictuality on the other, policies are strongly characterized by distributive patronage which, as such, had no bearing on the image and standing of the respective makers of crucial choices and could therefore be easily adopted with the complicity - whether direct or indirect but certainly commonplace - of the whole party-system spectrum. The "middle" area - between these two policy-making poles - the weighty and crucial area of structural issues that we may call "mesopolitics" was for a long time sterile (albeit with important exceptions) or compressed by specific situational urgencies. In other words options that have nothing to do with upper-level policies but bring about significant long-term changes in important areas of the economic, social, institutional and international spheres:… tax collecting and administration; proportion of public *vs*. private in finance and industry and in collective utility services; organization of health services, education and social services; the electoral system, the financing of the economy and management of family-savings; urban government and territorial planning and so on. Policies that imply differing definitions of long-term problems and no-lesser different possible solutions depending on which interests are privileged, penalized, made up or considered.

In other words policies of this kind have paid the price of the amount of inter-party competition, in terms of a two-fold state of decisional uncertainty. On the one hand, in fact, there is a frequent tendency of these policies to fall into the orbit of metapolitics with a recurrent excess of ideology and a no-lesser recurrent inclination on the part of the political classes to remove or postpone these matters or split and water down the decisional consequences within the tradition of micropolitics so as not to jeopardize positions and agreements reached in first level competition. Besides, the parallel radicalization of party co-association at micropolitical level has resulted in substantive limitations, long insurmountable, in dealing with the relative areas of intervention within the terms of some sectorial redefinition or rationalization, because of the "objective" difficulty in inverting or correcting expectations, benificial protection and gains, repeatedly

legitimized and pervasively fed through micro-level policies. This in turn led parties to reduce their activities to a ritualistic renewal of electoral pledges that were then closely monitored in the policy-making phase so as to make full use of the virtual opportunities they offered in patronage. This, in turn, especially opened up ample ground in mesopolitics for institutions, interactive arenas and negotiatory circuits endowed with their own resources for legitimation and authority to function alongside, with their political "entrepreneurs" with a far from formal democratic inclination.

Thus, for instance, we have witnessed industrial policies "emerging" from the suffocating embrace between the political classes and the entrepreneurial and public service system and their extensive penetration to the most responsible managerial levels and in the most detailed options in company decision-making. But at the same time we have witnessed a continual increase in the scope given the central bank in its incisive and important governing of the country's economic policy and its cycles, and also that given to some "technical" bureaucratic bodies in areas such as defence or foreign policy management; and also to the magistracy to keep check on manifestations and forms of civil or economic conflict most directly linked to the transformation of society and its culture. However it is worthwhile bearing in mind that it was exactly these areas beyond party control that turned out to be useful for just that very prolonged sturdiness of the political class and its organized formations (a sturdiness that certainly did not fail only because of weaknesses or difficulties in adopting policies of quality), this being precisely due to the limitation and even exclusion that the political class tended to set upon itself vis-à-vis the policies that were causing disturbance at that time.

The result has traditionally been particularly complex modes of government in which more than Government *per se*, Parliament stepped forward as the main, albeit non-exclusive actor in the network of interactions that bound the structures and functions making up the political-administrative system. Parliament however was not the supreme strategic arena. Institutions and proponents of central government and political and administrative requests at local-government level, national, peripheral or autonomous political and administrative dignitaries, floods of central decisions and financial resources, and devolved, supranational decision-making and apportionment were just some of the factors in a criss-cross of political and functional relationships that has clad and impregnated both the form of government and the parliamentary élite. It was however Parliament that set itself - and *ab initio* - as an important legislative and symbolic crossroads especially when social relationships and state apparatus, and the aims and tools of long-term political action were being reformulated, at least during the planning stages.

The long-standing question of whether indeed Italy had a government is therefore not surprising, referring to the executive's ability to safeguard its policies in parliament and also exert sole control within and around the administration over parliament's ability to express and promote interests in the relationships between institutions apparatus and civil society. In other words we have long wondered if and how to endow the Government with autonomous means of policy preparation and execution.

This is a suitable moment to examine how the changes of the present decade have affected this scenario.

There are two main factors that, in our view, especially mark the recent shift in the type of government in our country in its long and still uncompleted so-called transition between the First and the Second Republic and that we shall examine here.

Firstly, the decline, in some ways is irreversible of the *political class* as a keystone in the relationship between Parliament and Government. The political class had embodied everything the political system was able to build towards the *unification of powers* joining, that is, both the characteristic and prerequisite of a party-government regime. This, in turn, halts the splitting of the Italian political party system and brakes the trend of long-standing mistrust between legislature and executive that marks such a system and that was compensated, we have seen, by the supporting and approval-giving "institutional" role of the political class. We have already recalled how the political class was the supporting factor in the life of governing parties: always weak on their own in organizing and also in their programmes and projects. It is a fact that party government here has been

synonymous with “government by the political class that held in its hands, in an unbroken continuity witnessed in no other democracy, the destinies of majority parties, Parliament and the executive” (Calise 1997, p. 352). The equally structural demise of the political class with the judicial and electoral crisis of 1992 launched a twofold trend that was a basic characteristic of the Nineties.

On the one hand, starting from a specific electoral reform, an attempt was made to build a more “authentic” party government with a multi-party, two-pole system meant as a bridge towards a two-party regime: the political class *per se* would be assigned a lesser role and the mobility of the elite would ensure that no longer would the political class be identified with government power which had brought about the radical crisis of the political system as a whole at the beginning of the decade. On the other hand the prospect, that first saw the light at the end of the Seventies and developed over the years that followed, of a progressive reinforcement of government *per se* with an increasing aggregation of decision-making powers, both regulatory and distributive, and the relevant negotiatory and administrative levers, became increasingly strong and consolidated.

Secondly, in support of this but especially as a direct result of the growing shift to Community authorities and their institutions of the power to regulate and apportion, we note a large and growing conferral of responsibility for legislative functions to Government. This is evident not only in the major strategies aimed at de-legislation, and rationalization of the gigantic law-making apparatus that accumulated before and during the republican process, but also - and here it is of more interest - so as to revitalize urgent legislative, organizational, and functional change in those areas of policy (that we have previously called “mesopolitics”) that the party system had gone to lengths to exclude or put aside from the decisional faculty of Parliament. It was the momentous modernization of the country in the Eighties and Nineties, and European integration itself that did not allow anything more to be taken from the political agenda nor simply to delegate to regulatory acts any authority except that regarding democratic investiture, or even exclusively to the “market” and its competitive nature. It is clear that only the second trend (the strengthening of the executive and the “re-centralization” of the system towards it) has taken shape and gained ground as a long-term political-institutional strategy.

The support for this recentralization of the system has gone through many stages. In particular we wish here to mention the new law (N° 400/1988) on the post of Prime Minister. It finally gave life to a constitutional precept thirty-six years after the first idea of how governmental organs should be disciplined was put before Parliament. The Premiership would cease to be an organism of hazy institutional definition, to resemble more how government leadership in other countries has been for some time. Just in terms of the number of his direct staff, the Italian Premier had, in the early Nineties, a large structure about 4,500 strong (Fusaro 1989). Especially however, the head of the executive stands and has stared to function as a sort of super-minister. This is a post with its own administrative functions that go beyond the original constitutional role of co-ordinating the general policy direction of the Government, to become a sort of “natural resource for the performance of a whole series of administrative tasks that could also be appropriately devolved to certain ministerial areas of competence” (Pitruzzella 1990, p. 373). The multiplication of Ministers without portfolio, orbiting around the office of the Premier, bears witness not only to the lack of clarity of a model of infra-governmental relationships where some ministers are linked to the Prime Minister by a direct relationship of trust, but also to the attempt to create a new “government within the government” so as to be able to carry out tasks that, throughout the years, have become of direct relevance for the very structure of government make-up and its authority: from the regulation of state employment to exceptional intervention in the South, from scientific research to civil defence, from the relationship between State and Regions to Community policies. In some cases, autonomous ministerial posts were created by the Prime Minister himself (scientific research, environmental protection etc) discorporated from his direct control for reasons of greater or lesser needs of functionality or equilibrium between the components of the coalition that underpin the executive, but that denote the “gatekeeping” role of the Premier in the organizational development of government. A role that no more than thirty years ago was so absent that the Premiership was left to an logistical appendix on the Ministry of the Interior with a staff of no more than 50.

To this, must be added the monocratic coordinating powers of the Prime Minister in publishing, information, and the State security apparatus. At once, the office of the Premier has become the political-administrative gathering and redistribution point between centre and periphery both by the council of the permanent conference between State and regions, and between State and cities, and also through the government officials in each region that respond directly to the Prime Minister. The collegial coordination of government is then handled by a specific central office for the coordination of legislative initiative and of the government's law-making activity by means of a powerful first-instance filter that, if nothing else, at least guarantees the circulation of an incomparably higher amount of information among government ministers than little more than twenty years ago. In those days, it was normal that more than 90% of measures put forward by individual ministers did not even have a general formulation but just a simple "cover page" with the title (……that was itself often provisional) (Rodotà 1977). It should also be noted how this conglomeration of new "centred" duties responds to a single structure within the office of the Prime Minister: the Secretary General to the Prime Minister created to endow the head of government with an adequate server apparatus and a self-contained direction booth.

Finally, the relationship between government and parliament has been profoundly modified by a new setting that has been developed over the last two decades through a series of regulatory laws for the lower and upper Chambers and is now finalized. Its principle is the interruption of the consensualistic system among government, majority and opposition. The principle result has been the abandonment of the unanimity principle in Party Whips' conferences in programming the Chambers' agendas. This unanimity was "in practice almost impossible and its non-attainment meant the Chambers being obliged to proceed on a day-to-day basis drawing up agendas session by session, scuppering any concept of planning" (Fazio 1991, p.32). Under the new rules, the agenda of both the lower Chamber and the Senate are on government initiative without having to be approved beforehand by the assembly, and the timing for examination and debate is guaranteed by anti-filibustering measures that go hand-in-hand with guarantees giving the opposition a preset amount of time and number of calendar periods. Furthermore Parliament work is organized (budget sessions, Community sessions, setting of times to debate decrees, "preferential lanes") that give the executive virtual dominance of its agenda in exchange for a strengthening in opposition controls. Neither should the discipline of the vote of confidence be underestimated that gives the government the possibility to constrain its majority, when conflict arises within the coalition or majority groups, for almost all the decisions possible. It should also be remembered that secret ballot has been done away with in the great majority of cases thus transforming one of the most deep-seated and wide-spread habits of the First Republic into one-off choices on one-off issues, voting within the ambit of freedom and functionality of constitutional organs.

It remains to be seen whether this collection of tools and the more generalized attempt to position the executive centrally in the form of government with a prime ministerial re-configuration at its head has led to greater government efficiency to put its policies into practice.

A first indicator is seen in government law-making. According to the Study Service of the Chamber, in 1999 "Parliament further accelerated the previous years' trend by transferring many law-making functions to the government making use of delegation and de-legislation. This year, 1999, a turning point was reached in delegation: the number of legislative decrees passed (94) was indeed higher than the numbers of laws passed by parliament (72, if we exclude ratifications and conversion into law of decree laws)". This is an important milestone in the time-worn model of policy making, and despite some thorny, still-unresolved judicial problems in both procedural and constitutional areas, it seems to place the government in a new, central position from which to conduct the planning and definition of an ever-growing list of crucial questions that especially concern the future of the administrative-political system and how it should interact with the market and society. Consider that the Bills regarding the most important structural reforms of this decade (from Law N° 59/1997 reforming the whole Italian administrative system and the relationship between State, Regions, Provinces and Municipalities, to the fiscal reform provided in Law N° 662/1996, to the State Budget reform, Law N° 94/1997 just to mention a few) normally proceed

along the following itinerary: a). a delegate law containing some essential principles and strategic aims is put forward by the government with an eye to a series of delegate laws being entrusted to the ability of government to define them together with the authorization to proceed by means of correlated decrees of de-legislation in the discipline of specific sub-disciplines, b). a bi-chamber parliamentary commission is consulted, set up *ad hoc* by the delegate law to verify the congruity of the options the executive considers possible with the principles of delegation, and, during its passage, for parliament to flesh out these same principles in greater detail, and make specifications in accordance with the framework delegate decrees drawn up by the government and c). the government drafts a final version of delegate decrees that must not ignore parliament's position if the "reforms" are to enjoy a wide enough consensus to ensure their practicability and especially if it intends compensating majority and opposition for the radical amputation of parliamentary debate. Hence a tendency emerges that perforce realigns the relationship between government and parliament pointing the latter more towards politics than policies that are clearly entrusted for their basic drafting and fitting into a normative setting to the authority and techno-structure of the Government. It is not coincidental, but rather a mark of such a functional realignment that this decade has seen ever fewer recourse, during ordinary legislative procedures, to parliamentary commissions for decision (typical of the First Republic) but rather there be ample and far-reaching plenary parliamentary debate. Parliament, therefore, is no longer the source of government policies but only the "arena" (and increasingly, the "tribune"), where majority and opposition clash to sway decisions that have been essentially defined elsewhere.

A second important indicator emerges from the increasing preponderance of government-produced legislation (over and above that delegated we have already mentioned). The data shown in table 1 is emblematic

Table 1. Bills approved definitively during the last three legislatures of the Italian Parliament.

	XI	%	XII	%	XIII	%
Converted decree laws	118	38.2	122	41.5	153	20.1
Government-sponsored Bills definitively approved (*)	118	38.2	142	48.3	464	60.7
Parliament-sponsored Bills definitively approved (***)	73	23.6	30	10.2	147	19.2
Total	309	100	294	100	764	100

Source: Senate information service; reprocessed by M. Morisi
(*) The data only considers "capofila" Bills.

This confirms both government domination of the parliamentary agenda and also the now marginal role of emergency legislation testifying to a firm governmental grip on the ordinary flow of legislation (cf. also graphs 1-3)

Graph 1 - results of legislative initiatives (XI legislature)

Graph 2- results of legislative initiatives (XII legislature)

Graph 3- results of legislative initiatives (XIII legislature)

It is obvious that only an examination of the resistance put up to government-sponsored legislation, and majority and opposition amendment initiatives is able to quantify the strength and sturdiness of such a grip. It is a pity that such an examination, even on a random sample basis, has never been done in over thirty years. There is however the feeling that the government possesses ample means to carry its legislative strategies through and to make deft use of procedural resources allowed by the new parliamentary regulations.

A further signal in support of this feeling is seen in the amount of days required for a government-sponsored Bill as opposed to a parliamentary-sponsored one. We have been able to make such a count only for the XIII legislature (presently in power). On the basis of parliamentary work at 25 November 2000, a notable difference emerges between the time needed by the government compared to that needed by parliamentary actors to bring forth a law close to their heart (tables 3 and 4). A difference that testifies both to the efficiency of the regulatory tools that protect government initiative and also the degree of co-ordination it achieves towards its majority:…apparently much greater than the daily reporting of politics in the media leads us to believe.

Table 2. Average time for a Bill's approval during the XIII legislature in the Chamber of Deputies

Sponsor	Average days	*Total days*
Parliament	370	185,462
Government	101	42,779
Regions	449	3,593
Popular	256	769
CNEL	0	0

Source: Senate information service; reprocessed by M. Morisi

Tab. 3. Average time for a Bill's approval during the XIII legislature in the Senate

Sponsor	Average days	Total days
Parliament	254	84,847
Government	60	27,782
Regions	349	698
Popular	91	91
CNEL	0	0

Source: Senate information service; reprocessed by M. Morisi.

Let us now look at the negative indicators: Policy areas outwith the control of the institutions that make up the traditional, vertical government model (government, parliament and President of the Republic) that hinge - directly or indirectly - on the principle of democratic legitimacy contain a large number of issues and problems open to political-analytical and constitutional thought and empirical research. This latter, for its own part, is still in the embryonic stage and in any case far from any systematic collection of data or analysis. Nevertheless the issue is still very much the centre of scholars' attention and it is not by chance that there is a general trend towards a strengthening of the executive in all the longer-established democracies, and, especially within the area of concrete policy processes, the need for redefinition has often been perceived for the key categories of the "democratic regime", some scholars having gone as far as to restate their mechanisms, function and legitimacy in terms of "post-parliamentary democracies" (Burns and Andersen 1998). In these, however, institutions, rules and representative actors lose ground - when the issue is policies - to a plethora of "semi-autonomous specialized segments or sectors" where interests are "directly represented by their respective organizations however structured" and regulated "by the intermediation of actors public and private, sectorial bureaucracies and experts" (Burns e Andersen 1998, p. 426). In these areas' rationale, the guarantee of legitimacy and workability of the decision-making process, rests on the twofold support consisting of a).

information of the issues in the agenda and on the technical ability of the actors involved in the regulatory and distributive functions, and b). the specialist - not generalized - representation of the interests at stake.

In this light is seen the part - ever more important throughout the ’90s - played by a multitude of *independent administrative authorities* and a plethora of regulatory *agencies* (*re* which cf. item 7.3.) whose surrogate, crucial function in economic and social regulation is now decisive, supplanting the hierarchical authority and the limits imposed by government policy with autonomous and prolonged public activity stressing activities on which the community places particular social importance. These activities are carried out by actors whose efforts are contrary to the interests controlled and whose aims and conflicts are regulated on the basis of a legitimate authority and not consequent to a government strategy but its own neutrality and technical ability (Morisi 1997).

An external factor limiting governmental capacity to lay down policies and follow up their execution is to be added to this erosion in the political/institutional system and intrinsic in its relationship with the social and cultural system, viz. the body of legislation and policy-making of the European Union. Among the mass of evidence that could be cited here, one in particular seems especially suited, i.e. the influence Community legislation has in how the government’s legislative agenda is made up (and consequently parliament’s). Indeed a look at the universe of legislative decrees put forward by the government in the last three legislatures (at 25 November 2000) shows a constant increase in Acts of Parliament stemming from Community directives, considering the present legislature (the XIII) is not yet formally ended (cf. graphs 5-7).

Fig. 4 - Incidence of legislative decrees putting Community directives into effect

Fig. 5 - Incidence of legislative decrees putting Community directives into effect

Graph 6 - Incidence of legislative decrees putting Community directives into effect

It is hence within these limitations - all of a “structural” kind - on the political capacity of government and representative institutions, that we must consider the evolution in the type of government in Italy towards a progressive strengthening of the executive that has been pointed out.

An Abacus survey on the level of confidence expressed by interviewees on political institutions in the period from 1996 to 1998 shows a clear difference between opinions on the European Union (satisfactory for between 65 and 70% of those polled), those on municipalities and regions (satisfactory for between 50 and 60% of those polled), and on government and parliament (satisfactory for between 40 and 50% of those polled). While confidence in municipal and regional administrations is growing, that in the European Union and especially in government and parliament is falling, albeit the former still enjoying a higher percentage than the latter two. Confidence in political institutions shows differing trends over the various population groups. A first variable leading to a quite distinct division between opinions of interviewees is their profession. Some professional categories, especially shopkeepers and artisans, have a level of confidence in the institutions consistently lower than that expressed by the population as a whole. This standpoint is particularly marked with reference to national institutions. By contrast, the non-active segment of the population (housewives and senior citizens) tend to express a level of confidence consistently higher than the general average. Finally, among the other professional groups, opinions are more varied depending on the type of institution and when the opinion was expressed. In particular the student population expresses a flattering level of confidence in the European Union and the government while they have a lower, or less constant confidence in local institutions. Blue-collar workers, on the other hand, tend to have greater confidence in local institutions compared to national and European ones. A territorial analysis highlights the difference between the Centre-North and the Centre-South of the country in their opinions of local institutions: while the North shows a level of confidence consistently higher than average, the opposite is true of the South. This is particularly marked in certain Regions (Calabria, Basilicata, Sicily and Sardinia). Concerning the government, on the other hand, the dividing line moves north and separates the

northern areas where confidence is low from the Centre where confidence is much higher than the average, and the South with a level of confidence slightly higher than average. An analysis of the level of confidence on the basis of how the interviewees vote shows a fairly predictable split between voters of the *Ulivo* on the one hand and those of the *Polo* and the Northern League on the other. The former, with the exception of voters of *Rifondazione Comunista* and to a certain extent also the Greens, tend to have a higher opinion of political institutions than the general population. The latter shows the opposite, particularly among the voters of Alleanza Nazionale regarding the political institutions and, obviously the Northern League whose voters have a particularly low opinion of national institutions (Natale, p. 309 and segg.).

Abacus surveys on the level of appreciation enjoyed by government activity and individual ministers during 1999 show 52% expressing a positive opinion. Greater satisfaction is expressed for single policies for Europe (60%), education (52%), women's issues (51%) and culture (49%) while a poorer result emerges for the environment (41%) and healthcare (34%) (http://www.palazzochigi.it/approfondimenti/sondaggio/).

A Eurispes survey included in the Italy Report 2000 points to a sizeable gap between the political world and society: 33.1% of women and 16.9% of men above 14 years of age state they take no interest in the affairs of national politics. This lack of interest is higher in the South (57%) than in the North where, by contrast, lack of confidence is dominant. Politics is talked about more in Friuli Venezia Giulia, Veneto, Liguria, Emilia Romagna, and Lombardy than in Campania or Calabria where a mere 24% discuss politics and no less than 55% of women never mention politics. Indirect participation in politics is more frequent by television followed by daily newspapers and the radio. Almost all the interviewees, 94.6%, get their news from television, 53.5% from friends and relations, while 51.4% prefer daily newspapers and 28.8% radio. Interest in politics (only 50% of the youth population takes an interest) the age group between 14 and 17 is more active than the 18-24 year-olds. Around 700,000 people state they have done free voluntary work for a political party and 1,360,000 have given some kind of economic support (www.eurispes.com).

7.3.*How effective and open to scrutiny is the control exercised by elected leaders and their ministers over their administrative staff and other executive agencies?*

7.3.1.Laws

For administrative responsibility cf. Item 2 of the introduction.

From the standpoint of organization and attribution of tasks and responsibilities of public administration, legislation has been moving, for over a decade, towards a more marked division between political and technical personnel, endowing the former with tasks of piloting, objective setting and checking the results achieved while to the latter is given the job of concrete administration (adoption of acts and measures, financial, technical and administrative management and organization of all available resources).

For this second, more technical role, present legislation (cf. esp Legislative decree 29/93) envisages a managerial position (who may also be general manager). Managerial posts are normally given for limited periods of time and can also be given on the basis of a fixed-time contract; they may however be revoked should the general directives given not be observed, or should the managerial results attained be unsatisfactory.

Recent reform to the central State administrative apparatus (ministries) by Legislative Decree N° 300/99 reset the structure of most ministries, giving them a departmental organization (transversal areas over which the department head detains all powers and functions) while only three ministries will carry over the classical mode of general management (i.e. with a series of hierarchically-organized offices entrusted with the various tasks, responding directly to the Minister).

The aim of this organizational reshuffle, in line with an improved attribution of management responsibilities, was achieved by creating new (or renewed) positions such as, for instance, the *agencies* (bodies with special - including financial - autonomy, set up to carry out mainly technical tasks whose relationship with the political structure is regulated by a convention with a ministry, the latter also keeping watch on the former's activity), or *independent administrative authorities* (various types of bodies who emerged mainly during the '90s with a higher level of autonomy than political organs and ministries in the criteria for staff selection, how they were organized and also for the jobs they do. These are bodies that ensure - in some cases with *quasi*-jurisdictional powers - the proper application of important sectorial disciplines too sensitive to fall under the control of political mediation and whose technical complexity requires organizational and regulatory capacity and agility above and beyond ordinary administrative procedures (cf. guaranty authority for competition and the market, guaranty authority for communications, guaranty authority for the management of personal information etc.) or of public bodies (structures typical of the era when the State was very active in economic life, many with public functions sometimes authoritarian, others mainly involved in the production of goods and services for the market).

7.3.2. *Implementation and negative indicators*

It should be pointed out that Italian public administration has, until recently, been centred and organized around the principle of ministerial responsibility where a career in bureaucracy was closed to the outside, advancement being on seniority rather than on merit and the ability to reach certain goals. An eminently techno-juridical qualification and a social profile distant from other national elites (Cassese 1984) were the dominant characteristics over time of the administrative management since the end of the Second World War. Because of the high political-ministerial instability, high-level bureaucrats managed to hold on to their specific control of day-to-day management, aligning themselves however with the party division system of administrative postings without the mechanisms of the "spoils system" rife in the distribution of institutional posts and in the sharing of leadership responsibility in public and self-governing bodies.

After decades of debate and attempts at a radical reform of the system and its administrative culture, only in the Nineties was a significant milestone reached. Legislative Decrees N° 29/1993 and 80/1998 aimed at strengthening the position of manager and defining the specific limits of its responsibility, detailing the division of tasks between *piloting*, the province of the elected representative, as opposed to *management* handled by the administrative manager. Furthermore, there followed a number of significant changes in control and evaluation of managerial performance, especially Legislative Decree N° 286/1999 within the wider context of a more general reform of the Italian administration launched with Law 59/1997 and the massive quantity of delegate and administrative laws that govern its accomplishment.

Presently, therefore, in Italian administration we can see the contrasts characteristically inherent in a radical, long-term, complex transformation in organization and function, visible throughout the whole fabric of relationships between central and local structures of the State and also within the various levels of government involved. It is an arduous redefinition of tasks, areas of competence and cultural approach that should carry Italian administration, and in particular its management, far from the long-standing tradition of the public official, guardian of State sovereignty, and his duty/right to define, control and weigh the interests of the citizenry. It is aimed towards a professional approach and culture of *public management* able to run and offer services and opportunities to a free and balanced development of citizens' rights, old and new, and sees its legitimacy measured not only in proportion to judicial propriety but also in the efficiency of its acts and the results it achieves.

Hence, many of the factors that marked the Italian situation are still alive and well but nowadays they should no longer be seen as typical and exclusive but rather as the "negative pole" in a dialectical *continuum* between innovation and conservatism along which the Italian administration

is moving all together. Unfortunately this *negative* or "backward-looking" pole is the only one visible at the moment within an array of empirical research. Indeed the Isap survey of the mid-Eighties (Isap 1988) lacks an organic research on Italian administration overall in its empirical relationship with political power. And it is with a so deep and long-standing lack of empirical analysis that we must deal since today we are called on to ponder these relationships.

In this light, we may recall how, for such a long time, the Italian bureaucrat was the expression of a culture "legalist, illiberal, elitist, hostile to pluralist habits and practices, and fundamentally non-democratic" (Putnam 1973, p. 110). Compared to the civil servants of other democracies, Italian bureaucrats had a prevalently legal education, a markedly low-mobility between private and pubic sectors and a low exposure to the outside (Aberbach, Putnam e Rockman 1981, pp. 52, 71, 230). The preponderance of staff with legal training was due to public function hinged on the principles of legality, to the exclusion of efficiency, efficacy, and economy. As a jurist, the Italian bureaucrat was above all a public official of the *generalist* kind, generally able to handle all types of jobs at his level in whatever area of public administration, since this was the only kind of training and technical competence that was ever required of him.

This legalistic attitude of bureaucracy limited its capacity for initiative and change that came its way through the many different stimuli from society and the market as Italy progressively became firstly a major industrial power and subsequently a post-industrial one, and so on as Italian society itself became ever more socially and culturally complex and mobile in line with other wealthy nations. The Italian administrative apparatus responded with a progressive functional and territorial rigidity that did not, however, go hand in hand with a parallel rise in the ability and culture at the centre of the State bureaucracy. The behaviour pattern widespread in Italian public administration continued therefore until the dawning of the Nineties, to "live and let live, procrastination, wait until you're asked, ready to compromise. Hence the opposite of the Weber model of administration. An administration with a contractual-conventional power base rather than a legal-rational one" (Cassese 1994, p. 17). The public administration's limited capacity for initiative went hand-in-hand with a widespread use of the veto: dis-application of laws, delays in handling files (Mortara 1974), and removal of the more conflictual problems from the agendas at the top of the bureaucratic ladder. A long, contorted series of checks of mere legitimacy and not efficacy often gave them a decisive excuse for blocking or setting limits, often imposed on the more innovative policies that the political sector regularly attempted to activate in order to remedy situations and sectors afflicted by structural crisis.

From a career standpoint, administrative bureaucracy was able, in exchange for political loyalty, to offer a system of advancement on anti-selectionary, mere seniority basis and hence on automatic rises in position and pay (Ferraresi 1980), that did not allow for rewards for individual ability or initiative less still towards the formation of any kind of *esprit de corps*. Affiliation or relationship to a political party or faction was a requirement *sine qua non* in order to gain prestige towards the political and administrative elite and to protect one's privileges in exchange for acquiescence to the strategy of patronage that was being pursued in both parliament and government. If until the end of last Century one could talk of high-level connivance among the political and administrative elite - since politicians and administrators all have the same social and cultural background - the relationships between the two factions were subsequently dominated by unspoken support and a contemporary reciprocal policy of non-interference. Contacts between them were mostly aimed not at working on policies and their relative decisions but rather on limited-scope administrative measures, sponsored on clientelistic grounds and in any case to the benefit of political personalities (Guarnieri 1989, 227). Therefore, the very public administrations became the humus used to cultivate privileges for the many and multifarious relationships of political clientelism (Cassese 1994, 15) besides the recurrent and deep-seated phenomena of corruption, illicit personal gain and the underhand financing of political groups and individuals.

The *summa* of this experience, it is to be remembered is still there in the present decade, now going through a far-reaching reform and process of correction both legally and organizationally, but especially culturally.

The factors required for the transformation to take place can be summarized as follows:

- a progressive trend towards privatization in the relationship between State employment with a corresponding subtraction of bureaucracy from legislative protection by politicians;
- the introduction of a system of evaluation of managerial performance and a consequent reduction in importance of automatic career advancement mechanisms;
- the sourcing of managerial skill in the market of the professions seeking technical ability over and above the mere juridical-administrative;
- the ending of protected areas of bureaucratic responsibility and an increase in incentivation of innovative, entrepreneurial abilities among managers and the structures assigned to them.:
- the development of "independent" administrative agencies and authorities more in direct contact with the market and the factors that influence selection and attribution processes to place them under constant and focussed control:
- the progressive radicalization of subventionism - both "vertical" and "horizontal" as a critical measure to define the areas of administrative action and the ways it is used interactively and contractually besides being a basic element in the reconstruction of relationships among the various administrative structures and levels of government and the respective areas of responsibility.

All together, there is enough to wonder whether Italy is perhaps experimenting, with all due care and contradictions regarding the reforms aiming high, with that "different State" that Bruno Dente spoke of a few years ago in an incisive consideration on the future of the Italian administrative State (Dente 1995). However, in just the area here under examination, the author gave reasons for some specific conundrums that are appropriate to conclude with, and that can be widely agreed on. One of his central points, was the illusion of a real containment of political interference in administration as persecuted by the best-known laws in the judicial/administrative culture of this decade. Such changes in the laws do nothing more than rehash an old, unreal model in which "politics" and "administration" would be separable through the difference between means and ends of policy making. To the politicians the setting of goals, to the bureaucracy the setting out of the tools to achieve these goals. But such a division instead of protecting administration would enshrine its inaction or inefficiency for the simple reason that the politicians would hardly ever be able to decide on the ends (for reasons not only practical but also theoretical) and that the goals could not be set independently from the means, but would be deducted *a posteriori* from the tools made available. The answer is rather to be sought in a more substantial difference in roles starting from the separation in concept and organization between those for the definition and planning of policy *innovation* and those for the management of their operational *continuity*. The former, entrusted to a recognitive, propositive and definitory ability of the political class and institutions while the latter would be attributed to a administration, capable culturally and organizationally to take on the duties and responsibilities not merely managerial but also comprising the very definition of the specific operational goals. This is the setting that appears still very far off along the road started on this decade and for which, in our country, the necessary cultural and formative foundation is still lacking.

7.4. How extensive and effective are the powers of the legislature to initiate, scrutinise and amend legislation?

7.4.1. Laws

Law making is governed by the Constitution (Articles 70-82) and parliamentary regulations. Legislative initiative, or the faculty of putting a Bill, drafted in Articles, before the chambers is governed by Article 7 of the Constitution regarding the various actors: (i) the government, (ii) each single parliamentarian, and (iii) at least fifty-thousand electors. Moreover the Regions are also endowed with the faculty of legislative initiative (each regional council, Article 121 of the

Constitution) and Consiglio Nazionale dell'Economia e del Lavoro [National Economy and Labour Council] (a consultative parliamentary body representative of the various "productive" categories, Article 99 of the Constitution).

When put before the Chamber, a Bill is normally assigned, depending on its subject matter, to one of the permanent parliamentary commissions set up in one of the branches of parliament to in accordance with the proportionate weightings of parliamentary groups. The commission debates it and presents a report on it to the Chamber (sometimes integrated with a document from the minority should there be disagreement): the Chamber then proceeds to vote the Bill, article by article and then with a final vote. Should the Bill be approved, it proceeds to the other Chamber: if it approves a partly different text, this text comes back to the first Chamber to allow a final approval of a completely uniform text.

Besides this ordinary procedure, the Constitution itself provides for alternative procedures, and parliamentary regulations set out the procedure in the deliberating (or legislating) commission and the drafting commission. In the first case, the procedure is wholly self-contained in the commission that debates the proposals and approves them. Bills dealing with matters of the Constitution, the electorate, legislative delegation, authorization to ratify treaties, budget and spending programme approval may not be subjected to this procedure (Article 72 of the Constitution), nor may transformation of decree laws in second reading if sent back by the President of the Republic. In any case a fifth of a commission, or a tenth of a Chamber, may always ask that the draft be taken from the deliberatory procedure and be reinstated in the ordinary procedure.

The drafting procedure (so-called mixed), slightly different between the two Chambers is by far the least used. Besides examination, the commission also votes on the single articles leaving the final vote to the chamber.

So-called abbreviated procedures in urgent cases are also provided for.

The choice of which institution a Bill will be assigned to has, as may be imagined, a specific importance, political too, because on this choice may depend the time required for approval and the Presidents of the respective chambers have greatest powers in this.

Another extremely delicate phase in the timing of a Bill's approval is the debate and presentation of amendments. Since this is the phase with the greatest danger of obstructionism, parliamentary rules provide for many ways of regulating their presentation and discussion. The main tools available are the prior opinion of admissibility by the chamber's president, the prior approval of the budget commission for amendments of financial consequence, a precise voting order for the amendments that only the President may change.

Delegate legislation is provided for by law with two ways for the government to produce regulations effective in law.

The first (Article 76 of the Constitution) regards delegate legislation proper, by means of a mechanism of delegation law approved by parliament that contains directive principles and criteria the government has to adhere to, and then the delegate decree, that must be passed by the date set out by the delegation law. This form of delegate legislation was subjected to substantial regulation by Law N° 400/88 that, *inter alia*, gives the government the faculty to put forth more than one delegate decree for each delegation if reference is made to more than one subject, and the requirement to seek the opinion of the competent parliamentary commission along the lines of delegate decrees in course of delegation whose term is greater than two years. Recent recourse has become frequent to so-called integratory and corrective decrees by which the government may go back on measures already taken, especially concerning the ample and far-reaching reforms that are often brought about by delegate legislation.

It is to be remembered that the Constitutional Court has always reserved the right to rule on delegate decrees, over and above any reasons of illegitimacy of measures they may contain regarding respect of the law of delegation, a law interposed between them and Article 76 of the Constitution.

The other important means of legislation available to the executive is the decree law (Article 77 of the Constitution). In exceptional cases of need or urgency the government may in fact

create legally binding provisional measures with immediate effect that must however be put before the chambers for conversion into law. Failing this within sixty days from its coming into force they become forfeit, the forfeiture being backdated to their coming into force. The Constitution that, moreover, places the responsibility of adoption of decree laws on the government sets a wide range of limits and cautionary measures on them that make them absolutely residual. In reality, especially in recent legislatures, wide use was made of decree laws by the governments as a sort of legislation alternative to that provided for. The most visible abuse of urgent decrees were surely those created without there being prerequisite of need of urgency: the so-called "omnibus" decrees (viz.: decrees that gave the opportunity of regulating once and for all on a number of completely different issues) and the repetition of decree laws (by which decrees laws not transformed into law are immediately re-created identical as before: with these "chains" of decrees, measures - that should have been provisional - were stretched out for over two years).

The legislator has attempted to respond to this abuse of urgent decree laws by Law N° 400/88 providing for a series of issues for which recourse to decree laws is forbidden (among which in particular issues on which the deliberatory commission may not give approval), and has laid down that decree laws must contain measures of immediate application whose content must be specific, homogeneous and corresponding to its title. Parliamentary rules had already provided that the draft law of a decree law's transformation into law must be filtered by the commission for constitutional matters in order that the prerequisites of need and urgency be verified. Finally, the Constitutional Court, after a series of warning pronouncements ruled, N° 360/96, that repetition of unconverted (for whatever reason: whether voted down or expired) decree laws was illegitimate. From then on the number of decree laws has dropped dramatically.

Government regulation has recently come to the fore as a source of a more malleable power than that granted by law, more suitable in many cases to changes in society and real life. On this basis, starting with Law N° 400/88 and then more vigorously with Laws N° 537/93, 59/97 and 50/99 there has been a wide-ranging process of de-legislation, viz.: the transfer of material sectors of rules from law to regulation. The procedure for this is similar to that for delegate legislation: indeed a law must authorize the government to create regulatory norms in certain matters automatically abolishing the existing relative legislation and proving for the fundamental principles that must continue to regulate the matter. The general procedure of de-legislation now under way is widespread and not without its contradictions since authorization laws do not always provide basic norms of particular clarity, and often the choice of the legislation to be abolished is not made by the legislator but directly by the government with the regulations.

Recently, there has been an increasing tendency (most clearly seen by Law N° 50/99) for governments to be authorized to compile unified texts of legislative norms or regulations for greater legal simplicity and clarity. These have still to be put to the test of reality (indeed only the unified text of measures relating to protection of the cultural heritage has been published - also provided for by a law preceding N° 50/99, and further unified texts on health and local bodies are presently being prepared). This doctrine has already highlighted how the provisions of Law 50/99 can create substantial uncertainties especially regarding how the unified texts should be collocated in the scale of legal sources (since unified texts are provided for that comprise also legislative and sub-legislative measures.

7.4.2. *Implementation and negative indicators*

Since they have been already covered in sub para. 7.1 we shall not repeat here the most significant features of the form of Italian government and its development within the political system, but merely outline some indicators supporting the theme of this paragraph noting how some empirical data already mentioned can have a specific bearing here.

It has already been noted how in Italy, legislative production has been massive and widely used as the principal tool of social regulation and we have also mentioned what logic lies behind this (as well as its implications on the working of the administrative system).

At the root of such a pervasive legislation there lies an "alluvial and spongy" impetus (Morisi 1992, 36) that was always considered constituent part-and-parcel of the profession of parliamentarian in Italy irrespective of the strategies of individual parliamentary groups, since typical of the Italian political system has always been the absence of real discipline inside the groups regarding the commitment of single parliamentarians, whether of the upper or lower Chamber, of "whom", "how" and "how much" to represent. This is the reason for the thousands upon thousands of Bills on whatever area of social, economic and cultural life and for whatever fragment of social grouping or territory. These Bills continue to be drafted and put before parliament despite the relatively low success rate over the years and decades, at least from the fifth legislature onwards. This is an obvious sign that the first four legislatures were the ones where the description of co-association may be attributed with greatest empirical pertinence. In any case, the amount of legislation produced is in itself staggering (table 7.6.)

Table 7.6. Quantity and success rate of legislative initiative of government and parliament

Legislature	Government Bills	Approval obtained %	Parliament Bills	Approval obtained %	Total amount of government & legislative initiative	Monthly average
I	2547	80.6	1375	18.9	3922	63
II	1667	84.8	2514	19.1	4181	72
III	1569	82.8	3688	13.0	5257	87
IV	1569	75.4	4414	17.5	5983	100
V	977	64.2	4189	5.1	5166	103
VI	1255	67.7	4597	5.9	5852	122
VII	1022	55.5	2646	3.7	3668	102
VIII	1358	55.6	3980	7.2	5338	116
IX	1287	44.1	4642	4.8	5929	124
X	1471	50.3	6920	4.6	8391	150
XI	862	27.9	4269	5.3	5131	221
XII	1143	23.0	5020	0.9	6163	257
XIII at 10.96	541	11.8	3620	0.9	4161	693
XIII at 07.98	949	36.3	7144	2.2	8093	311

Source: C. De Micheli; reprocessed by M. Morisi.

Equally impressive is the number of government-sponsored initiatives that puts it on a level with the scrappy, favour-granting action of parliament, the former showing, throughout the long spell of the republic, a substantial lack of any kind of strategic planning in the executive's legislative action. This has already been pointed out in para.7.1. In the Nineties (XI-XIII legislature) Italian legislative procedure changed profoundly by virtue of the ever greater decisional autonomy the government carved out for itself by means of delegate legislation, the regulation of de-legislation and the more solid regulatory guarantees to its own parliamentary authority. But the number of legislative initiatives is still inordinately high, giving the impression of a persistent difficulty faced by the executive in putting representative supply and demand on a more hierarchical scale.

Moreover the gradually diminishing trend in the government's parliamentary action is also to be noted: from 75-80% in the first four legislatures it dwindles progressively to levels often far below 50% of initiatives that become law. This is also a well known, substantial Italian anomaly indicating the lack of a specific "statute" for government in parliament according to constitutional experts, and also a fragility in decision-making in the Italian party-government system, according to

political analysts that, for almost three decades, fed attempts to reform the Constitution. It is also worth noting how the decreasing success of government-sponsored initiative may be closely linked to the exponential increase in urgent decree making: a tool republican governments have used with incredible frequency from the second-half of the Seventies onwards to all intents outwith the specific constitutional precepts, and progressively with increasingly constitutionally-illegitimate practices and procedures, especially with the systematic repetition of decree laws that were not converted into law within the prescribed sixty days of their coming into force. This practice was commonplace until the 1996 Constitutional Court ruling that made it unuseable (Simoncini 1997). It was indeed the very difficulty faced by government in having its legislative strategies passed in parliament that induced it to resort to an abuse of urgent decree legislation with the spin-off of an increase in the capacity of both majority and opposition parliamentary groups that were able to take advantage of the executive's needs to have their own urgent decrees, often containing far-reaching amendments or even *ex-novo* versions, approved within the required two-month term. In this way, urgent decrees lost their original nature as did the pre-requirement of an overload in governmental responsibility implicit in urgent decree making since parliamentary scrutiny of decrees resulted ever more in their no longer being attributable to the executive's political desire. It should also be noted that the very recourse to urgent decree-making, leaving that government open to "blackmail" forcing its conversion within sixty days not only encouraged the amendment propensity of parliamentary forces both as groups and individual deputies or senators, but also subjected that government to opposition filibustering depending on the political necessities of the moment, that was also favoured by the still-unreformed legal regulations. All this brought extremely negative consequences on to the proposing governments who witnessed, especially during this decade, an enormous widening of the gap between decrees put forward and those transformed into law (graph 7). Consideration has also given to the more general trend of government initiatives by and large understanding that its increasing lack of success would last at least until - in the present legislature - such excessive recourse to decree legislation was no longer made (see also para. 7.1)

All this observed and noted however there remains the fact that the great majority of the mass of Italian legislation is government-produced despite a sizeable amount produced also by parliament (table 7.7) This is testimony to the Italian parliament being a high-profile policy arena in which governmental identity and responsibility take prime place over the need to integrate and make equally responsible, within the functioning of the political system, parties and actors who may be opponents, and differing interests as distant within society and conflictual they may be.

Tab. 7.7. Production of laws in republican Italy

Legislature	Total laws	Monthly average	% Incidence of government-sponsored legislation by ordinary Bills and decree laws	% Incidence of government-sponsored legislation by ordinary Bills only	% Incidence of parliament-sponsored legislation
I	2314	37	88.7	87.5	11.3
II	1894	33	74.6	71.5	25.4
III	1781	30	73.0	71.4	27.0
IV	1769	30	66.9	61.8	33.1
V	841	17	74.5	66.7	25.5
VI	1122	23	75.7	66.1	24.3
VII	666	19	85.1	64.7	14.9
VIII	1042	23	72.4	54.5	27.6
IX	789	16	72.0	48.9	28.0
X	1065	19	69.6	52.0	30.4

XI	314	14	74.8	37.3	25.2
XII	295	12	89.2	47.8	10.4
XIII	402	15	84.0	60.0	16.0

Source: C. De Micheli, reprocessed by M. Morisi.

Besides, it is precisely this that leads to an understanding of the consolidation of Italian democracy (Morlino 1990). Its being a sizeable heredity from a period in history when parliament carried out this role can be seen also from the progressive drop in parliament-sponsored legislation as the political system became aware of its own strength and stability. It is by no coincidence that the monthly average of ordinary legislation dwindles from the Eighties onwards, nor that more directly governmental law-producing sources saw a parallel increase (as seen in sub para 7.1.). It falls also within this scheme of things that there is a substantive drop in recourse to deliberatory legislative commissions with their ability to supply informality fluidity and swiftness in the parliamentary negotiating practice in the parliamentary legislative process. This had always been a classic procedure and the main way for parliamentary decisions to be reached so as to endow the legislative production with as easy an interaction as possible between majority and opposition forces and actors, parliament's involvement in the sharing of government responsibility, and finally the massive amount of legislation. A progressive decrease in the launching of legislative procedures in commission has been seen from the end of the Seventies onwards (graph 8) a trend that answers both the slow progressive attempt of the government to redefine its institutional *habitus* and where its responsibility as policy maker ends and also the tendency of parliament, no less slow and progressive, to exert greater control and influence over the execution of government legislative policies rather than a direct co-participation in their construction. From this stems the consultative commission's practice in the formulation process of delegate legislation already referred to

In conclusion two points are worth mentioning about the negative indicators regarding the issue faced in this paragraph.

Firstly, it would indeed be amazing if such a high legislative production was of an equally high technical-regulatory level and this, in fact, is not the case, and it also explains why the issue of *quality* of the legislation is still debated, devoid of a regulated practice and producing results worthy of note. It is also stands to reason that such a flood of legislation, so traditionally marked by reasons of "….extraordinary necessity and urgency" cannot be immune from run-of-the-mill faults of superficiality and hurry.

The second regards the possibility for governments to adopt procedures or practices in the pursuit of a desire to hinder debate and parliamentary scrutiny. This, in contemporary constitutional jargon, is called "the guillotine". Something along these lines is provided for in the Italian parliamentary regulations, in particular Article 55(5) of the Senate regulation where it is stated that in agreeing the assembly's agenda and in organizing the debate of individual issues in the agenda, the conference of party Whips, who have the job of approving it, must set out the total time each group may dispose of and fix the date by which the issues on the agenda must be voted on whether or not it has run its parliamentary course. It is clear that this is an anti-filibustering measure that is however used as a programming measure by means of a strongly parliament-oriented procedure. It is however interesting that this procedure was applied only 6 times between November 1996 and November 2000.

7.5. *How extensive and effective are the powers of the legislature to scrutinise the executive and hold it to account?*

7.5.1. Laws

The legislature exerts control over government's activity by many ways and means all aimed, directly or indirectly at keeping check on how the confidence the government enjoys is

reflected in the congruity of its actions as compared to the commitments it has taken on before parliament.

This is done through the classical way of questions and consultations by means of which parliament checks on the conduct and desire of the government, not in general (as with the confidence vote) but on specific issues and sometimes on single episodes. In particular parliament questions government so that it takes certain standpoints on single important issues that can be discussed in commission. Consultations have a more complex structure and require government to take stances especially regarding the reasons for it to have maintained a certain line of conduct on a given issue, that by virtue of its political importance must be debated in the chamber.

Question-and-answer-time is a fairly recent innovation in parliamentary regulations taken from other systems: on given days, and following a criterion of rotation among the parliamentary groups and of difference of issues it is possible to question the government orally and the relative Minister replies within a short period of time. In any case the questioner may reply to the governent if he or she so desires and should satisfaction not be had from a consultation in the chamber, the consultation may be transformed into a motion on which the chamber votes.

Extreme importance is attached to the power of investigation provided for by Article 82 of the Constitution and given to the chamber who may request inquiries on matters of public concern, often calling personal and sometimes governmental political responsibility issues into question. The inquiry commissions that, in practice, have often been jointly set up by both Chambers, have the same powers and limitations that the system confers to the judicial authorities (hence respecting professional and institutional and especially State secrets that may be bypassed perhaps only where the commission is set up under laws providing for exceptions to these limitations). Among the many inquiry commissions set up under law or other measures (resolutions) many have had an enormous impact on public debate but with more doubtful results on government policy and activity in certain areas. At the same time, we must also consider the power of parliamentary commissions to initiate enquiry investigations on issues in their legislative or preliminary inquiry agenda.

7.5.2. *Implementation and negative indicators*

There are no empirical up-to-date, sufficiently-processed data, available for a synthetic idea on the control of parliament over the government. However, a first examination of the information available from the Senate points to a significant increase in senators becoming more involved in the informative process of an investigative rather than inquiry nature. (table 7.8)

Table 7.8. Non-legislative Senate activity

	LEGISLATURE		
	XI.	XII.	XIII
Investigative/fact finding	44	37	100
Consultations:			
Presented	420	384	1181
Satisfied	105	122	323
Questions:			
Written, presented	5422	8598	21309
" satisfied	1613	2428	7360
Oral, presented	975	1201	4131
" satisfied	422	358	1839
Bi-Chamber inquiry Commission	2	4	4
Single-Chamber inquiry Commission	1	2	1

Special Commission	-	-	1

Source: Republic Senate, Information office - Processed by G. Abagnale, M. Morisi.

A steep increase is seen in the XIII legislature regarding the recourse to more classic tools of parliamentary inspection, i.e., questions and consultations. The reasons for their popularity are to be sought not only in their simplicity and immediacy but more especially on their actionability by *individual* parliamentarians who, in this way achieve a higher profile, at least in their electoral seat and the direct beneficiaries in their territorial and/or functional area of influence. They can therefore benefit from this increased visibility in the relationship represented↔representee consequent to the new, prevalently "first past the post" electoral system.

The need to acquire knowledge autonomously without going through the government's information channels so as to check the information it supplies, especially concerning the financial consequences of expenditure decisions, is then the reason for setting up, within both chambers of parliament, two separate budget services. These two bodies were set up immediately after Law N° 362 of 1988 reformed the State's general accounting law N° 468 of 1978 so as to make parliamentary decision autonomous and to make the executive more directly responsible for the information it gives. In this sense it is correct to see the main goal of Law N° 362 as that of reorganizing the setting of the form of government with reference to the economical/financial decision process.

The link between Law 362 and the creation within the two chambers of the Budget service can be included in a cause/effect relationship. Law 468 (11)(b) (2), (3), (4), (5), and (6) that Law N° 362 introduced, obliged government to provide for a technical report on the financial consequences of the rules contained in the Bill and submit them to parliament to be checked. This led to the need to back up the bodies who were to examine these reports and especially the Budget Commissions, with technical checks and evaluations by specialized structures. Into this framework for instance, the Senate Budget Service (set up on 22 December 1988 by a President of the Senate decree) acts through two separate offices: the first to gather and classify documentary information regarding legislative texts for which a verification of financial effects is required and the second to draw up a report, on the basis of information it receives from the first, on the quantification of the financial burden deriving from legislative texts of expenditure or reduced income.

The obligation to accompany with a technical report drawn up by the proposing ministry and verified by the General Accountant of the State every Bill or amendment presented by the government involving new or less expenditure, or a decrease in income and the burden of a technical verification in parliament by this brings about corresponding procedural limitations in addition to punishing Bills and legislative decrees by allowing them to go no further, amendments that do not correspond to these requirements by not being put forth (Article 76(a)). Whether or not parliament has effectively developed the potential of this tool remains to be seen. In any case it is clear that if it emerged that proper use had been made, we would have an important indicator to discover whether parliament is getting over its long-standing tendency to sacrifice its controlling capacity on the altar of a direct co-participation in the execution of political-governmental aims. Perhaps the Italian parliament is taking its first steps towards a system of government hinged on the separation of power.

7.6. *How rigorous are the procedures for approval and supervision of taxation and public expenditure?*

7.6.1 Laws

The procedures provided for gathering resources for finance and expenditure are only partly outlined in the Constitution.

All incomes and expenditures are comprised in the highly complex State budget procedure that involves the presentation and approval of various documents: (i) the economic-financial programming document (that traces what moves will be made in the area of public finance), (ii) the annual budget forecast (that indicates financial flow in and out, both regarding areas of competence and amounts), (iii) the multi-year budget (that inserts the State budget in a medium-term decisional ambit), (iv) the financial law (the organic coordination between the moves in finance and expenditure legislation, taking account of the relative political background in a cohesive budget procedure), (v) the year-end statement of accounts (specifying the preceding year's financial activity).

The financial/accounting trim that emerges from these documents must be adhered to throughout the coming year: Article 81 of the Constitution, in fact, provides that every law involving a financial burden (expenditure or less income) non envisaged in the budget must indicate the means it intends to cover it.

As far as taxation is concerned, Article 53 of the Constitution provides that all are called upon to contribute towards public expenditure in accordance with their capacity to give, and the tributary system is formed on progressive criteria, in other words structured in such a way that whoever earns more contributes proportionately more compared with who earns less.

The indices by which the contributory capacity of individuals is calculated are mainly the plus variations in patrimonial wealth during the previous solar year hence the taxation may not directly involve the contributors' patrimony. It is moreover taken that the progression is sufficiently assured even though, in reality, it is present only in the main income tax for natural persons and bodies corporate.

The Italian tax system is extremely complex and diversified and is comprised of taxes *direct* that bear on earnings (e.g. IRPEF and IRPEF) and *indirect* that bear on financial transactions of transfer of wealth (e.g. VAT and Estate Tax).

Taxable amounts and tax amounts (especially in direct taxation) are calculated by a series of declarations made by the contributor directly, then verified by the financial administration.

Other rules against tax evasion are equally applied and in particular there is an apparatus that applies penalties (partly of a criminal nature) against cheating or even omitting declarations of single tax liabilities, placed within the framework of verification powers entrusted to the financial administration (and which may be extended up to measures counter to certain constitutional rights, like, for example, inspections).

Many rules have been drawn up against the more refined and complex ways of evading taxes generally built around a reduced fiscal responsibility available in certain foreign countries (e.g. there are precautions and limitations governing transactions made with countries included in a special list drawn up by the Ministry of Finance, the so-called "tax havens").

The relationships between organs that have influence on national political economy and the government of expenditure and income in Italy are crucial, especially regarding the gathering of financial resources and management of savings and the currency, from the Central Bank of Italy which, for most of the republican era has been the principal architect of the most far-reaching macro-economic manoeuvres in the country. Indeed its autonomy margin is enormous compared with other organs, even constitutional ones, both *vis-à-vis* the government and also parliament. The bank is headed by a directorate composed of the Governor, the Director General and two Vice-Directors General elected by a college inside the Bank in a procedure involving the government in a formally ratifying capacity and not as the depository of any specific primary exclusive competence. Moreover, their mandate has no time limit (and may therefore survive any government majority changes) nor do they have to establish any kind of binding relationship with parliament, which places the Governor especially in a position of semi-monocratism at the head of the banking system. The Bank of Italy has indeed the job of defining and pursuing the realization of financial and monetary policies to safeguard the value and stability of the currency and to formulate and carry out

strategies and ways of directing and controlling the entire national banking system so as also to ensure proper competition on the credit market. The means at its disposal are those typical of currency government (de- and revaluation, increase and decrease in lending rates), with, moreover, the faculty of emanating binding directives on the public and private banking system together with its own duties as antitrust authority in the sector. Today, with the introduction of the Euro, and the start up of the European Central Bank, the roles of single national central banks (hence also the Bank of Italy) in currency government are much diminished; the Bank of Italy too exercises its powers through its participation in the central banking system and the activities of the European Central Bank even though its responsibilities as an currency-emitting Institute in invigilating over national banks are still deep and strong.

Relationships between the Bank of Italy and the Treasury Ministry are especially complex and have developed a lot over the last twenty years. In the beginning, the Bank of Italy was the State's "last-instance creditor" when financial difficulties appeared so that the Bank was called upon to give financial bases to the wishes of the Treasury Ministry. These goals were attained by means of a Treasury current account at the Bank and through the use (in practice until 1981) that obliged the Bank to make itself available to become the residual acquirer of State bonds put up for auction and left unsold.

Community regulations however forbid central banks to grant the States any facilitations so from 1993 onwards, it has been established that in Italy too, the bank of Italy may not grant advances of any kind to the Treasury.

The legal framework containing the means provided to limit the executive's discretionary use of public money and the setting of its financial strategies would be incomplete if it did not include - at least - the role of a control and accounting justice body. In other words the Corte dei Conti [Accounts Court]. It is worthwhile going into this in greater depth because the Court represents the principal window for the observation of checks and verifications presently in force in Italy in the management of public finance and that includes the very relationships between representative organs and government.

Set up during the Kingdom of Sardinia by wish of the Cavour government "to concentrate within itself the attributes of prior and judicial control", the Accounts Court was based on the ideological principle that "a magistrate composed of fixed members…will lend greater strength to the controls it has to carry out and can reconcile itself...with the freedom of action, on which ministers' responsibility depends": this is the reason behind the main attribute of the Accounts Court (and that has continued to characterize it until the present day): the prior control on the accounting regularity of all acts of State expenditure.

In accordance with Constitution Article 102(2) and ordinary legislation (in part dating back to before the Constitution), the Accounts Court auxiliary to the Government (and the Chambers) but independent of the Government (cf. Constitution Article 100(3)), carries out:

a) prior control on legitimacy of governmental acts by "*visaeing*" and successive registering provisions (registration). Law N° 400/1998 (16) abolishes this control on decree laws and legislative decrees;
b) a further control (after their execution) on autonomous State administration financial management acts.
c) a further control on general, State year-end accounts to be done before the parliamentary debate on the budget and final accounts presentation (Constitution article 81 (c) (1)).
d) a control on financial management of bodies to whom the State makes contributions ordinarily (including joint stock companies born from the privatization of economic State bodies such as Iri, Enel, Ina, and Eni).

Law N° 20/1994 provides for the re-ordering and simplification of the Court's control on government acts: only the most important ones are to be subjected to prior control, such as measures following decisions of the Council of Ministers, regulatory acts with external repercussions, planning acts requiring expenditure, general acts to implement Community directives, authorizations to countersign collective State employment agreements, decrees to

approve important State administration contracts etc. the acts "*visaed*" under reserve are sent to parliament for a political verification.

The Court has also the task of checking the working of public administration internal management control, and ascertains, also on the basis of the results of these checks, how the results of administrative activity correspond to the aims set out by law doing a comparative evaluation of costs, means and times of the administration's actions. The Court itself annually presets control programmes and criteria. Furthermore, management control by the Court involves also regional administrations. In all, the control consists of an *ex post* verification on whether procedures and means used respond to the best possible choice in terms of economic costs, speed in execution and organizational efficiency not forgetting the efficacy of results. In short a control aimed at marrying economy of management of public resources with the quality and effects of administrative action.

It is also worth noting that the Court's activity, besides being auxiliary to the administrations, and supportive and stimulatory towards their improving their performance, it is also auxiliary to the function of political control of parliament. Indeed besides sending decrees to the Chamber registered under reserve, the Court refers directly to them on the results of its verification activity of State budget management and also refers annually to the Presidents of both lower and upper Chambers the outcomes of controls on bodies. Again, the Court may communicate at any time to the Treasury Ministry and the Ministry invigilating on a certain body its results on management regularity. It is to be added also that in relation to management control, the Court refers annually to parliament and to the Regional Councils on the outcome of verifications carried out. At once, the administrations subjected to findings by the Court communicate to the Court and the elective assemblies of reference the corrective measures it has consequently adopted. Finally, the Court also carries out jurisdictional duties in accounting in order of officials' and State employees' responsibility, setting itself out, for the purpose (in accordance with Law N° 19/1994) in jurisdictional sections in every Region.

In order to safeguard its impartiality and neutrality, the Constitution ensures the independence of the Court before Government (Art 100 last sub para). As a further guarantee, Law N° 117/1988 provides for the Court as for other organs with judicial powers, a specific body of self-government with responsibility for disciplinary rulings and provisions regarding, in general, the magistrates of the Accounts Court.

7.6.2. *Implementation and negative indicators*

No empirical surveys have been carried out on the efficiency and functionality of these organs even if there is no lack of highly interesting investigations on the correlation distinguishable between the action of parties and the political class and that of the organs and bodies on which in Italy depends the government of public finance (Verzichelli 1999). However, they evaluate prevalently the effects of this correlation much more than its concrete, precise future. In particular, the parliamentary magnifying glass seems to have been used in its scientific-research context very little. The case of the Accounts Court and its relationship with Parliament is emblematic. There is a collection of documents of great complexity but also of great completeness: re-reading them systematically would lead to a substantive re-writing of the history on the relationships between the political class, public administration, and management of national resources in Italy for the whole post-war period. But nobody has ever done it with the required systemacity. In mitigation of such a vacuum that empirical research has not filled, it must be said that this documentation has, over the decades, been piling up on kilometres of parliamentary shelving without anybody from the Chambers or the Party rooms deciding to give it the political attention it deserves, turning their back on a signal tool of knowledge that would allow a parliamentary check on the executive and a credibility check on the opposition. Since always, with monotonous punctuality, the Court has drawn up its ponderous and meticulous reports always with the same effect: scandalized cries by some newspapers on defects, shortages, errors and embezzlements of the administrations and the

no-less usual posturing in the media of some politician or another, hardly ever front-line. Then from the next day onwards, everybody's attention switched off until the following year. In living memory no great debate has taken place as a result of a message from the Accounts Court…..an organ that obviously even more than antipathy, is viewed with indifference by the political world.

But let us move on to the workings of the fiscal system.

Italian tax gathering is more than aligned with other countries' systems under European fiscal pressure and has a notoriously high position in the scale (table 7.9) albeit in continual decrease

Table 7.9 - European fiscal pressure trends

Revenue as % of GDP	1999	2000	2001	2002	% Difference
Sweden	53.0	51.7	50.7	50.3	-2.7
Denmark	50.6	49.5	49.2	48.9	-1.7
Belgium	46.4	46.4	46.3	46.0	-0.4
France	46.0	45.5	45.0	44.9	-1.1
Austria	44.5	44.0	44.7	44.6	+0.1
Finland	46.3	46.0	44.8	44.1	-2.2
Italy	43.5	43.3	42.7	42.2	-1.3
Germany	42.7	43.0	41.7	41.5	-1.8
The Netherlands	41.7	41.4	39. 6	39.2	-2.5
Portugal	36.5	37.3	38.1	38.6	+2.1
Greece	38.4	38.9	38.7	38.4	+0.0
U.K.	38.0	38.2	37.8	37.5	-0.5
Spain	35.2	35.7	35.8	35.8	+0.6
Ireland	32.5	31.5	30.8	30.0	-2.5
EU-14	42.4	42.3	41.6	41.3	-1.1

Source: Eurostat.

Italian fiscal pressure increased until 1997 then fell into a slow phase of decline presently at the centre of Government strategy and Italian political and electoral competition

Table 7.10. Fiscal and parafiscal gathering of Italian public administration and the EU

	1995	1996	1997	1998	1999
	Absolute values in milliard lire				
Public administration					
Indirect taxation	215,935	224,852	247,286	318,303	326,421
Direct taxation	263,494	290,923	318,466	296,914	321,587
Capital taxation	10,214	5,577	13,942	8,086	2,254
Effective social contributions	232,928	278,359	296,935	258,980	263,003
Figurative social contributions	30,881	7,807	7,696	7,685	7,816
TOTAL PUBLIC ADMINISTRATION	753,452	807,518	884,325	889,968	921,081
Indirect EU taxation	11,691	12,041	9,933	11,467	10,296
TOTAL PUBLIC ADMINISTRATION AND EU	765,143	819,559	894,258	901,435	931,377

			% Relationship to GDP		
Public adminsitration					
Indirect taxation	12.1	11.8	12.5	15.4	15.3
Direct taxation	14.8	15.3	16	14.3	15.1
Capital taxation	0.6	0.3	0.7	0.4	0.1
Effective social contributions	13	14.7	15	12.5	12.4
Figurative social contributions	1.7	0.4	0.4	0.4	0.4
TOTAL PUBLIC ADMINISTRATION	42.2	42.5	44.6	43.0	43.3
Indirect EU taxation	0.6	0.6	0.5	0.6	0.5
TOTAL PUBLIC ADMINISTRATION AND EU	42.8	43.1	45.1	43.6	43.8

It places, (and will continue to place according to government forecasts) Italy among the countries with the heaviest fiscal pressure. This said, it stands to reason that the level of pressure by itself is an indicator neither of fiscal system efficiency nor equity. On the contrary it is certain that especially from this decade on, efforts have been made to greatly extend the range of Italian contributors towards the categories included in the autonomous and free-profession areas where fiscal evasion and avoidance have, over history, been of gigantic proportions. However, the fighting initiatives launched by State administration are still a long way from bringing positive and especially credible results. If gathered taxation revenue has increased substantially for the State in the latter part of this decade, it is mostly due to a remarkably positive upturn in the national economy and corresponding fiscal pressure that, as been earlier noted, puts Italy among the European countries with the highest rates of revenue extracted from earnings for the benefit of the State and whose rate of decline is the slowest and most sluggish (cf. again table 7.9). Much less is due to a real expansion of the range of contributors and, especially, to an efficiency in inspection and repression of tax crimes.

On this score, it is to be noted that the data on which the relevant State apparatus publishes the outcome of these initiatives is to be taken with a sizeable pinch of salt. Not because they are not true but rather because they are not a true signal of what they are trying to prove, or, in other words, especially a significant increase in the reversal of tax evasion. Indeed if we consider (table 7.11) the information regarding the checks carried out by the Fiscal Police, we see a remarkable number of checks especially partial audits together with the number of instrumental checks.

Table 7.11. Controls by the Fiscal Police

Type of activity	1998	1999
Checks initiated by the Fiscal Police	9,252	9,265
Partial fiscal audits and checks	42,556	61,457
Audits carried out on significant entities	409	409
Instrumental controls	1,345,985	1,040,574

Source: Annual report 2000, Fiscal Police.

It is also significant that the total number of tax evaders caught rose from 1,107 in 1993 to 3,306 in 1999; just as it is remarkable that the findings of the crime of tax evasion resulted in a proposal of fiscal recovery, between direct taxation and VAT of 5,220 milliard lire (against the 4,539 of the previous year). Violations in the legal obligation were found in 16% of checks carried

out regarding the emission of the fiscal receipt (80,000 irregularities in 500,000 shopkeepers checked) and 11% of checks carried out on the emission of the fiscal bill (159,375 activities checked and 18,344 irregularities found). However it is the correspondence between the quantity of inspections and the quantity of penalty action that continues to be ignored. Many indicators however shed light on some notable inconsistencies.

A first indication is given in the results of the activity of Secit (Servizio Centrale degli Ispettori Tributari del Ministero delle Finanze) [Central Service of Ministry of Finance Tributary Inspectors]. This organism, that should be the recognitive and propositive intelligence of the State's financial administration's capacity in order of the supervision of the efficiency of its extractive acts complains systematically about the lack of organizational, political and punitive responses to 40% of the violations it reports. (table 7.12)

	1998	1999
Reports for structures of financial administration	90	267
Replies received	47	81
Initiative taken up by the financial administration further to Secit reports		
- Launch of control activity (N° of subjects)	6	2
- Disciplinary measures	2	1
- Organizational measures	8	10
- Proposals to modify rules	-	1
- Launch of inspections by regional inspection offices	3	4
- Sending of memorandums	-	2
- Other initiatives	30	61

Source: Secit - Annual report 1999 on the Service's activity.

A second indication comes from the fiscal reform presently in course in Government, Parliament, and State Council (on the basis of Law N° 662/1996). Here, faced with the difficulty in defining efficient standards of control and retroactive sanctions, the proposal *sic et simpliciter* is to substantively abolish the control system and entrust special agencies with the task of achieving - "by whatever means" - pre-set aims of revenue. This is tantamount, after decades of debate and experiment, to the State giving up the expression of its direct and explicit tributary authority and sovereignty to re-qualify the function of revenue gathering to be efficient, compatible with circumstances. Or, in the same vein, it is tantamount to betraying the intrinsic synergy between the citizen's right for political representation to further his aspirations, and his duty to contribute towards the formation of the resources of collective interest.

7.7. *How comprehensive and effective is legislation giving citizens the right of access to government information?*

7.7.1. *Laws*

The problem of gaining access to information held by public administration was partially removed by the milestone Law N° 241/90 that assures citizens involved in administrative procedures a number of rights (e.g. the right to gain access in procedures concerning building concessions and in administrative procedures in local bodies was already recognized but it was only with the introduction of Law N° 241/90 that the principal became generalized).

Law 241 provides, therefore, that administrations must firstly give notice to whoever is involved, the name of the official responsible for whatever procedure may be in course concerning him, this official being the person to whom the citizen will refer in the successive stages of the procedure and especially in the context of participation. Furthermore, so as to guarantee the highest level of transparency in administrative action, the right of whoever is interested (to safeguard important juridical situations) in gaining access to administrative documents (internal also) in

whatever shape of form whether at public administration level or with autonomous or public bodies or concessionaires of public services is protected.

Right to gain access is exercised by examining or making copy extracts of acts, subordinate to specific motivated requests.

Certain cases that exclude administrative documentation from right to access is provided by the law - over and above government regulation (in particular Presidential Decree 352/92) and in certain cases by the individual administrations. Secrecy can be imposed, for reasons of security, national defence and international relationships, economic and monetary policy, public order, criminal repression, discretion towards third parties that must always be on the basis of events and circumstances provided for by law. In particular, against State secrets, recourse is possible according to Law 801/77 regarding all acts, documents and information whose common knowledge would be such as to cause damage to the integrity of the democratic state, the defence of constitutional institutions, the unhampered functions of constitutional organs, the independence of the State and the military preparation and defence of the State. In any case, documents testifying to facts undermining the constitutional order may not be covered by State secret.

If a public administration office pleads State secrecy to a judge, the person responsible is no longer required to testify before the judicial authorities just as there is no requirement for the public administration to submit acts and documents to the judge. Should the judge decide to proceed in any case, he applies to the Prime Minister. Should the latter confirm the need to secrecy, he must advise the appropriate Parliamentary Commission. If not, the previously mentioned obligations to testify and submit acts and documents come into force. During the Nineties, the so-called “Bassanini” laws and delegate decrees from the name of the Minister for Public Function who put them forward (and especially Laws N° 59/97 and 127/97) significantly broadened the area of citizen participation in administration, but they especially aimed at reducing the complications inherent in many administrative procedures, in itself an obvious cause of exclusion (or better preclusion) not only of participation but also with regard to the mere civic attention to how public apparatus works. Among the many simplifying mechanisms there are those regarding administrative documentation. These are based on the twofold principle by means of which a) the administration must not ask citizens for documents or certificates for acts already effectively in its possession; b) the requirement of certification must be reduced and where possible done away with for natural persons and bodies corporate who need the services of the administration or who must interact with its procedures while, by contrast, the categories of personal status is to be increased and may be made and proved by self-certification. We must not forget the changes in verification. Those regarding decision-making have been substantially reduced especially when only regarding legitimacy, redefining events for which the opinion of the State Council is still required and this aiming to do away with the great and pervasive amount of duplicate functions already rife in the structural and procedural organization of public administration.

The Bassanini laws are thus a crucial turning point in the history of Italian administration (despite doubts as to whether they have traced a new model of organization and activity in public administration). Their implementation however is extremely complex and technically laborious precisely in the decision-making phase, where the programme of innovation introduction must be tempered not only with a reasonable dose of prudence but is also made obligatory by the matter itself: a long series of delegate rules and regulations resulting from de-legislation in a broad range of sectors implying the expectation that the Government on its own manages to reformulate the rules of the sector by means of delegate decrees or draw up authorizations for de-legislation, that Parliament - in consultation in the formation stage of the required legal action consequent to this manages to participate in the law-making process without upsetting the framework of the regulations but enshrines its own specific capacity to express and negotiate with the executive. In other words the laws of administrative innovation that first saw the light in the second half of the Nineties in Italy launched a decision-making season so broad and complex that at the present time it is impossible to foresee how the consequences will come out in the end let alone what organizational and social impacts they set out to have.

7.7.2. *Implementation and negative indicators*

In Italy, to the continental tradition of an administrative management inaccessible to citizens has been added a tendency to exclude representatives of collective interests from the decision-making processes (Bobbio 1996). By comparison with Europe there are few non-jurisdictional means of resolving conflict much more widespread in other countries such as Sweden (where the role of ombudsman was born), Great Britain, the Netherlands and Spain. A 1990 Ispes survey in Italy showed the widespread opinion of "non-transparency" in public administration (77% of those questioned) with a particularly negative opinion regarding the sufficiency of information especially in the health service agencies (96% of replies were negative) and municipal and tributary offices (with 92% of replies negative).

The question of lack in transparency has often been linked to the phenomenon of Italian legislative hypertrophy in that it is imperative that a normal person make use of professional interpreters when he needs to understand the legal and procedural terminology related to the bureaucratic matters that dog his existence - many laws means many reciprocally contradicting ones. In Italy, there appears to be an abnormally large quantity of laws compared to other democracies. Indeed some 150,000 laws are talked of against 7,325 in France and 5,587 in Germany (Franchini 1994: 198; Rcpa: 23). Other studies (and this uncertainty confirms how the question is in itself non transparent for scholars) mention a mere 12,725 laws in force (as at 31 May 1996) to which however must be added 15,279 regulatory acts, 5,160 decrees of the President of the Republic and 17,800 regional laws (Cdss 1996: 7-9; cf. also Ainis 1997). However it has been said that too many laws are made, with 250 coming yearly from the Italian parliament compared with 80 in Great Britain (Barbera 1999, p. 76).

The excess of laws is a phenomenon that tends to turn in on itself. As the "Report on the condition of public administration" (Rcpa) of the Department for the Public Function states: *"superfluous laws generate the need for more laws and hyper-regulation changes administrative action into mere implementation, paradoxically transforming administrative decision-taking into subjective discretionality as to what rules to apply and when to apply them in each instance, or even selecting instances where no rule is to be applied …. Too many safeguards, for employees and citizens, cause both to be caught up together in a tight mesh of rules that the crafty manage to elude but cause harm to whoever means to respect them"* (Rcpa: 10).

Not only are there too many Italian laws but they are also unclear. Not only is the form of their structure extremely complex (containing sometimes literally hundreds of clauses), but their substance is often confused, piling different issues up within the one law, and expressed in obtuse terminology (appalling examples can be seen in Ainis 1997). It is not a coincidence that the Constitutional Court ruling 364/1988 established citizens' rights to not respect a law drawn up unclearly, bending even the scholastic proverb *ignoratia legis non excusat* to safeguard a person's ability to comprehend. The number and complexity of laws - seen as a decided obstacle to the access of public information - has been linked to many factors. Historically, it can be seen how the systematic and pervasive involvement of parliamentary legislation regulating even the most minute relationship between population and administration was the "a need to assemble" consequence of firstly the rifts and then of exclusion from political representation that fascism brought. In short an antiparliamentarian reaction on which it fed culturally and strategically (Pasquino 1991). It was however also linked to the need to allow politicians excluded from government for the first thirty years of the Republic, a certain amount of integration in parliamentary deliberation, interests and give them decisional negotiation powers especially in the less important areas of lower and upper Chambers, viz:. the deliberatory Commissions. The goal was however to ensure their loyalty and opposition co-responsibility even though they were ideologically counterposed to the majority parties in the underpinning of the democratic system and the smooth functionality of its main institutions. The quest for compromise this integrative process sought was seen in the issuance of

deliberately confusing laws, whose legal value was not so much their prescriptive or attributive value, but rather their capacity to ratify agreements reached case-by-case between majority and opposition. From this stems the inevitable result of further legislative measures on how to interpret the previous ones, called "little laws" by scholars, measures aimed at specific beneficiaries and often clientelistic that swelled the mass of Italian law production causing no little difficulties in the Eighties and especially the Nineties to the politicians and administrators who attempted a "thinning-out" process.

The multiplication of laws has roots also inside public administration that often uses laws to regulate specific issues like internal procedures that in other countries (such as France) are governed by the executive, or make use of laws passed by the Parliamentary Commission they are related to in order to overcome resistance and friction towards other administrations (Rcpa: 24).

However, whatever the causes, faults or reasons, there remains the fact we have already mentioned: the negative consequences on the relationship between population and State in the multiplication of laws and judicial measures. In the first place, more laws means an even greater number to correct or update them with a constant danger of duplicating and overlapping of provisions. Secondly, "the administrations become more rigid, less flexible and sclerotic but at the same time more arbitrary because they can select the rule to be applied case-by-case". Indeed legal inflation produces also a frequent, habitual or strategic disapplication of regulations produced by that very administration (Rcpa: 24-5). As the Antitrust authority has confirmed *"the rigidity and the complexity of regulations is accompanied in many cases by their widespread disapplication that gives a certain amount of flexibility"*(Agcm, 1996). Similarly to an excess of money in circulation that reduces its purchasing power, legislative inflation too dampens the value of judicial measures as a model of conduct and framework of reference for the population's personal choices. Not only does it generate uncertainty but it ingrains the habit of not respecting the law and erodes the culture of legality that has always been a problem in Italy.

Moreover, the proliferation of laws not only produces an endless number of limitations and remedies but also - and this is especially relevant here - an extremely high and widespread level of uncertainty in which, on the one hand administrators can select the rule to apply and how to interpret it in favour of or in compensation to one party or another; on the other, citizens and companies and the many interest groups, support and feed an enormous volume of business in the field of legal administrative and fiscal consultation that in turn sets off more legal and regulatory proliferation, not to mention social discrimination between those who have the money to pay for access to the administration and penetrate its arcane maze of rules and regulations by buying private expertise and others who are, perforce, left to their own devices. As Piercamillo Davigo has recalled, the citizen of a State that has too many laws must adapt himself to an infinite, and variable over time, number of rules and obligations whose systematic breach is tolerated. But when some authority suddenly decides to bring him to book, the poor person is completely defenceless because formally, in fact he has broken the law (Davigo 1998: 135).

This is obviously a problem mirrored also in the workings of the market and its distributive efficiency. It is not a coincidence that the Antitrust authority has pointed out that economic operators would need to *"have a clear idea of what they can and cannot do. The grey area of uncertainty must be curtailed as far as possible; swiftness in carrying out administrative tasks simplifies the decision-making process of companies and does away with unjustified advantages that some operators manage to obtain artificially speeding up the procedural process"* (Agcm, 1997).

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8.Civilian control of the military and police

Are the military and police forces under civilian control?

8.1. How effective is civilian control over the armed forces, and how free is political life from military involvement?

8.1.1. Laws

The Constitution does not provide many instruments with which to discipline and control the armed forces and, as a result, there are few constitutional duties or rights which the state may subject these corps to. Article 52 of the Constitution does, however, provide a general principle, on the basis of which all armed forces are organised and structured in accordance to the democratic spirit of the Italian Republic. This means that armed forces have two specific responsibilities: one towards society and the other dealing with the right to individual freedom. To ensure these are respected, as well as the Constitution, subsequent legislation has also provided a series of norms which guarantee the armed forces from the inside (thus impeding that they become "separate bodies") and regulate their "special" position, with respect to rights and duties.

Article 52 of the Constitution also provides for the regulation of conscription as well as, albeit indirectly, for the general military structure and organisation. Article 87 of the Constitution then leaves the President of the Republic in command of the armed forces (a power which has often

been considered by observers as pure formality or as an expression of the principle of national unity, of which the President of the Republic is a guarantor). Moreover, the President of the Republic is automatically given the Presidency of the Supreme Council for Defence (the discipline of which lies mainly in Law N.624/50).

The Supreme Council for Defence, called on to "examine general political and technical problems relating to national defence" is a body with a mixed composition of political and military members (among whom we find the President of the Republic, the President of the Council of Ministers, five Ministers and the Head of State for Defence). This demonstrates the willingness of the legislator to ensure that the command of the armed forces is not exclusively military; on the contrary, armed forces are called to answer to a body in which numerous politicians have a place. By setting up the Supreme Council for Defence, the Constitution allowed for military policies, which had previously answered solely to specific military powers, to find alternative reference points as in, for instance, the President of the Republic. These civilian reference points are of relevance in the collection and use of information as well as in the elaboration of a real and proper policy.

Article 52 of the Constitution states that the defence of the motherland is the "sacred duty" of all citizens. Today there is more than one way through which to carry out this duty while, in the past, it had only been interpreted in terms of obligatory military service for male citizens. Although those serving military service (today compulsory conscription covers a period of 10 months), have rights which are guaranteed by the Constitution, the limits of current legislation affect the (unclear) legal position of military volunteers and professionals.

In order to ensure that military forces adhere to constitutional provisions , it has been necessary to evolve an organic legal framework for military discipline. The objectives of Law N.382/78 were to delineate some of the rights and freedoms of the armed forces, for whom there is a veto on participating in political meetings and protests, on holding meetings and assemblies in military areas, on the right to strike, and on expatriation. With certain exceptions these are, however, principles which do effectively guarantee all military personnel, irrespective of their grade or function, by confirming the right to freedom of thought, the right to reply and the right to defence in cases of disciplinary sanctions. Constitutional rights for those who belong to the armed forces are generally provided for in Law N.382/78. This same law also provides for "military representatives" from all hierarchical ranks. Such representation is legitimated both by an electoral procedure and by the fact members from all ranks and grades of the armed forces, from the highest officers to the conscripts, are called on to participate.

Since the seventies, the issue of conscientious objection came more and more to the fore, and the rights of conscientious objectors not to have to serve in the army were more and more acknowledge with the institution of a "servizio civile" in substitution for the military conscription. The Constitutional Court has repeatedly sentenced that "alternative services" are a real and proper right of the individual. Law N.230/98 brought to an end a long and difficult diatribe, and confirmed that conscientious objection is a right, and that the citizen may fulfil his constitutional duties by carrying out civil as well as military service. The acknowledgement of conscientious objection as a right and no longer as an "interest" of the citizen (as was the case in the law establishing the alternative service in 1972) has led to the disappearance of every form of discrimination from state administrative procedures. The only restrictive condition being that the citizen does not use certain objections which the law considers obstructionist as, for example, penal sentences, licences for the possession of arms or, more simply, having previously asked to undertake military service in a different corp.

One important distinguishing factor of the Italian armed forces is undoubtedly that of putting military personnel under a different jurisdiction from the "natural one constituted by law" applying to the majority of citizens. There exist a system of military law (which differs in times of war and of peace) and a military jurisdiction, constituted by military judges and courts. Only recently, in 1981, has there been an attempt to reform military jurisdiction. Irrespective of the independent standing of the body as whole, military magistrates are in any case subject to the same controls as civil ones.

Moreover, it is always possible to make recourse to the Court of Cassation against the provisions of military courts.

8.1.2 Implementation and negative indicators

Traditionally, the Italian armed forces have enjoyed much autonomy from the central political power. It has been argued that due to the incapacity of the political establishment to define national interests precisely and to the lack of a serious and long-term strategic agenda, the role of the armed forces has never been clearly defined. In addition, the internal division among the military and policing forces, the scarce resources at their disposal and the lack of consensus towards mandatory conscription has prevented any major changes from taking place. These same factors also explain the lack of success in the use of coercion to solve the problem of lawlessness and criminality in Southern areas.

Attempts to modernise and re-organise the armed forces were first made in the years 1975-1977 but transition was so uncertain and slow that it did not stir much surprise or lead to a strong reaction even among the armed forces themselves. Furthermore, any kind of frustration deriving from the overall reduction of the armed forces was compensated for by the plans and projects made involving the Italian army in international affairs (see Giovanni Spadolini's White Book, 1985). From 1979 with the mission in Middle East, the Italian armed forces began to take an active part in a number of international operations of peace-enforcement and peacekeeping.

All the episodes in which the military tried to influence politics and civil society date back to the Cold War period and are to be interpreted within the overall framework of the competition among political "blocks", a competition which produced deep divisions in Italian society. There is some evidence that the CIA played an important role in anti-Communist strategy by helping to set up the *Gladio* organisation, the aim of which was to "protect" the country in the event of a Soviet occupation. The "Solo plan" conceived of by General Giovanni De Lorenzo, an ex-head of SIFAR (Information Services for the Armed Forces - *Servizio informazioni forze armate*), in the early months of 1964, also aimed at preventing the Italian Communist Party from having any role on the national political scene. Junio Valerio Borghese was suspected as the organiser of a plan for a *coup d'état* in December 1970. In the case of Borghese, however, the Court of Cassation established his innocence, stating that "the fact does not exist" (*"il fatto non sussiste"*).

In the Italian context, the term *coup d'état* does not have the same meaning and implications as in Latin America. For Italy, as stressed by Giannuli and Cucchiarelli, the best term to use would be an *"intentona"* (intention), involving the threat of violent action affecting the political scene. Yet, it is clear that the ultimate objective was not a return to Fascism but the establishment of an authoritarian regime which Italian Communists were to be completely excluded from.

Recently, the *Associazione funzionari di polizia* (the Association of Police Officers) has strongly criticised the reform of the *Carabinieri* even through paid advertisements in national newspapers on the grounds that this reform (justified by the risk of a *coup*) did effectively transform the *Carabinieri* into a fourth armed corp, and placed them alongside the army, navy and airforce. Some criticism was so strong as to compare this reform to the "Solo plan". There were obviously criticisms and recriminations that the positions and roles of *Carabinieri* and *Polizia* changed because of corporative competition, other issues were also caled into played also emerged. This was particularly evident after the publication of four dossiers in which the President of Central Council of Representation (*Consiglio Centrale di Rappresentanza* -COCER), and the spokesman of *Carabinieri* syndicate, Antonio Pappalardo, encouraged the strengthening of the *Carabinieri*. In the opinion of the latter, the *Carabinieri* are to be considered as the new cornerstone of the Italian state, and the competencies and powers of the corp extended, since Carabinieri are "more suited" than political parties to protect citizens. Pappalardo was immediately dismissed from his position and strongly criticised from within. This is partially explained by the fact the Presidency of the COCER is not an elected position so Pappalardo's standpoint was not necessarily representative of shared

and widespread viewpoints. (Interview- 3/7/00 - Hon. Valdo Spini, President of the Defence Committee of the Chamber of Deputies).

8.2 *How accountable are the police and security services for their activities to the public at large?*

See also 2.4 and 3.1.

8.2.1. Laws

The structure of police forces in Italy is particularly complex. There is, in fact, a first of all a distinction between security police function, referring to the prevention of criminal acts and "social damage" in general, and judicial police function, referring to investigation into criminal activities. The security forces – cf. Art.1 T.U. Law of P.S., Art.2 Regulation of Carabinieri– guarantee the respect of existing laws, regulations and norms, ensure the safety and security of citizens, and lend assistance, where necessary, in resolving minor disagreements between private individuals. The judicial police, instead, is dependent on the Judicial Authority (as sanctioned by Article 109 of the Constitution). No special body of judicial police exists at a national level, but divisions of judicial police do exist under the jurisdiction of the *Procure* in separate geographical areas.

In terms of organisation, Italian armed forces are divided into distinct separate bodies. First, there is the *Polizia di Stato*, responsible for public security, dependent on the Ministry for Home Affairs, and completely demilitarised after Law N.121/81. Second, the *Carabinieri*, which is an autonomous military body. Third, the Revenue Guard (*Corpo della Guardia di Finanza*), which answers to the Ministry of Finance, and whose main duty is the prevention and repression of the violation of financial laws although it does, at times, also participate in maintaining law and order at large, as do other bodies such as the State Forestry Guard (*Corpo forestale dello Stato*) and the correctional officers (*Corpo degli agenti di custodia*).

This highly complex and divided structure has inevitably given rise to numerous problems of co-ordination and discipline. Why such a situation has come about is mainly due to the Constitution, which deliberately provided for the division between armed forces and policing bodies, a division which cannot but lead to an overlapping of roles and duties between civil and military corps. Irrespective of the fact those general constitutional principles on administrative activities apply to all forces of law and order. In other words, all bodies must adhere and conform to general public law with impartiality and with the exclusive aim of serving Italian democracy. It needs to be pointed out, however, that certain significant exceptions to this principle do exist. For example, a law passed in 1975 provides for special procedures in penal actions taken by the Public Prosecutor for crimes committed by officers and public security agents. When the latter receives notice of such crimes, he does not necessarily have to take immediate penal action against those responsible, but may pass on his findings to the general Prosecutor of the Court of Appeal, who may, in turn, derogate the investigation, and thereby limit its undertakings only to more urgent cases. The powers of all police bodies provided for in ordinary law are also restricted by the constitutional rights governing police intervention.

Recently, another significant reform of the security forces has been passed. This reform attributes to the *Carabinieri* the role of a fourth "armed division", thus turning it into a military corp. Irrespective of this, however, the *Carabinieri* still answer to the Home Office for their public security duties, which are viewed as a civil responsibility. The whole situation is further complicated by the fact that there are other bodies, such as the State Forestry Guard and Revenue Guard, which also play a central role in co-ordinating and directing public security and answer to the Department for Public Security, a branch of the Home Office. This reorganisation has come about thanks to a "reshuffling" of all these forces, which are now to be headed by the civil *Polizia*. The result is that the *Carabinieri* are directly dependent on the Ministry of Defence from an

organisational point of view and for military questions, but still have duties in the field of civil public security.

One frequent criticism of the administrative structures for public security concerns the inefficiency of complaint procedure forwarded by citizens. In reality, while dissatisfaction is largely justified in terms of "inefficacy", in a strictly legal sense, several efforts to bring such procedures into the general arena of procedures against the public administration as a whole has been made. Before the Decree of the President of the Republic N.1199/1971, this procedure allowed for a very limited time span. In fact, it was obligatory to bring a complaint against the higher office within ten days. Moreover, the citizen had to be heard by two hierarchical offices before having right of access to any judicial protection. Such procedures obviously only took place when all other paths of administrative recourse had not come to a head. After 1971, all these procedures of were cancelled. To date the citizen has been granted a 30-day period in which to forward complaints or take legal action against administrative bodies. The issue of damages has not, however, been fully cleared, for another norm states that the citizen has no right to indemnity when damage was caused by a public security authority official while the latter was carrying out his or her legal duties.

Obviously, the activities of public security authorities sometimes come into conflict with more important constitutional rights. The "humus" giving rise to these conflicts is undoubtedly the Consolidate Act of Laws on Public Security (*Testo Unico sulle Leggi di Pubblica Sicurezza--TULPS*), which goes back to 1931. Given the questions posed by contemporary society, it is understandable why the Constitutional Court has so often been called on to update this text. Unfortunately, most of the sentences emitted by the Court have often proved unsatisfactory.

Regulations dealing with "suspect" cases are yet another particularly "critical" constitutional issue. In fact, even the earliest sentences issued by the Constitutional Court tried to counteract the TULPS norms (norms regulating obligatory repatriation, admonishment, confinement, and so on), and to limit the powers of the police and thereby guarantee the freedom of individuals. Article 15 of the Constitution also regulates *accompagnamento* (custody without charge), namely, coerced personal freedom, which can only be enforced by judicial authorities and not by any public security body. The situation is further complicated by the fact that the Constitutional Court has stated that the judicial authority must intervene when a person is held in custody for an excessively long period.

Some norms restricting personal liberty remain standing as, for example, those which allow for arrest *in flagrante delicto*, even though the new penal procedure considers arrest to be mandatory only in cases of serious offences, and facultative, for the less serious ones. Moreover, arrest has been denied in cases when a person refuses to provide information to the police or to the magistrate. Indeed, the Constitutional Court only admits detainment when it does not affect the "moral" liberty of the person in question. Recent legislation has also introduced norms on search warrants which are now necessary to discover whether, for example, arms have been hidden, as well as on the mandatory custody of any suspect who refuses to collaborate.

The activities of public security officials have a direct effect on a wide range of individual rights which are not always adequately covered by the law. Such cases go from dealing with house arrest to the activities carried out by work inspectors and by the tributary police, who, among their numerous duties, may even be called upon to inspect fraud in food production. Article 16 of these regulations draws up the general norms to which public security officials must adhere, and therefore ensures that investigations are carried out in observance of the law. Such checks concern, for example, the privacy of correspondence, the *fermo postale* (impediment of exchange) provided for in the penal code, and the interception of telephone calls, although this usually occurs only in particularly serious cases and always with the authorisation of a judge. In even more urgent cases, the authorisation of an investigating magistrate is necessary. Another of these norms regulates the freedom of assembly: despite the fact that no substantial differences are now made between public or private meetings, the widely debated category of so-called *omesso* (unreported/secret) meetings still constitute a grey area in which authorities and the police continue to have a greater number of discretionary powers of intervention. Article 2 of the TULPS allows the *Prefetto* (Prefect) to adopt

the provisions which he considers indispensable to protect public law and order in cases of "urgent or serious public necessity".

Concerning information and security, it is important to strike a delicate balance between constitutional principles guaranteeing the freedom and privacy of correspondence, the freedom of expression and of thought, the secrecy of information, the subjection to the magistrate and to the law of the land, and so on, all of which must be consonant with constitutional values such as democratic order and national unity.

The bodies responsible for acquisition, management and treatment of reserved information hasve been a constant source of worry for the legislative. In the past the so-called "security services" (SIFAR, later called SID) depended on now defunct structures; today (after Law N. 801/77) information and security services are articulated at various levels, from the President of the Council of Ministers who exercise vigilance and management, to a purposeful Inter-Ministerial Committee with the consultative tasks aforementioned, to the Ministries of Defence and of Home Affairs. Currently there are two distinct operational structures dedicated respectively to the Security of the Integrity of State on a Military Level (SISMI, dependent on the Ministry of Defence) and for "internal" State Security and for Democratic Institutions (SISDE, dependent on the Ministry of Home Affairs).

To prevent security services deviating from their functions, and with the aim of ensuring greater control and transparency, a Parliamentary Committee of Control has been set up,. This committee may ask the President of the Council and the Inter-ministerial Committee for information concerning all policies implemented. It is also responsible for providing proper guide lines and proposals.

8.2.2. Implementation and negative indicators

Traditionally the image of the Italian policing forces has always been that of a "police of the government", which defends the political order against the opposition. Only gradually, after the second World War, have some elements of a "citizens' police", which protects citizens' rights, been introduced and the public's perception of the police (the most important of the many police forces existing in Italy) been modified.

Attempts to render police forces more democratic after the end of Fascism were abruptly halted when the Cold War identified the political enemy as the Communist Party and the organisations of the working class. For a long time to come, the police legitimised itself through its duties and responsibilities in maintaining "political order" rather than through its efficiency in fighting crime. Continuing the pre-Fascist and later Fascist traditions, the police remained a militarised institution: policemen lived in barracks, blind obedience to the superior in command was enforced, the formation and membership of trade unions was prohibited. The organisational structure as well as the training was aimed mainly at coercive control of mass riots; in fact, especially in the forties and the fifties, the public image of the police was strongly influenced by the often brutal interventions at public gatherings and protest marches. About one hundred protesters and bystanders lost their lives on such occasions.

Although numerous police corps existed, with overlapping tasks and an overall lack of co-ordination, the organisational structure answered to a centralised power, the Ministry of Home Affairs. This was, between 1947 and 1994, under the firm control of the party who held the relative majority, the Christian Democratic party. Notwithstanding a steady increase in the number of the officers, the level of professional qualification remained very low. Poor salaries and bad living conditions, including isolation from the population, made recruitment in the police a sort of last resort for the less educated. Police powers were extremely wide. Within a tradition of strict control and preventive intervention, the police had the right to impose restrictions on the movement, residence and activities of Italian citizens. Only from 1956 onwards, the newly created

Constitutional Court started to declare the illegitimacy of many provisions of the police law which dated back to the Fascist regime.

Some indications of change in the self-image of the police and in the public perception of the armed forces emerged in the early sixties, when the Socialist Party joined the government, commencing a period of (hoped for) reforms. In police activities, the political transformation was reflected in a less brutal control of political protest. Between 1963 and 1967, no deaths through casualties occurred owing to police intervention in demonstrations. This move towards a different perception of the police role came however to an abrupt stop when a long cycle of protest – starting in 1967-68 in the universities, and then spreading to the working class in the "Heated Autumn "of 1969, and, later on, to varying social and political groups – again polarised the political culture. Yet cries for overall reforms, which were voiced by various institutions and bodies, caused a negative and hard reaction in some sectors of the establishment. A series of bomb attacks by right-wing terrorists and various (although unrealistic) plans for coups d'état to radicalise many opposition groups, some of which ended up by becoming underground movements. In a situation characterised by a strong call for "law and order", the police forces were again deployed in the repression of protest. Demonstrators again lost their lives during police interventions. In the second half of the decade, emergency laws to fight terrorism and organised crime increased police power, thus reducing the rights of citizens and defendants.

The seventies were not, however, only years of "escalation". A most unexpected outcome of the protest of the late sixties and early seventies was an increasing awareness, within police forces, of the necessity for a long-delayed reform. Already at the beginning of the decade, and against the will of their superiors, police officers started to denounce their poor living and working conditions, the arbitrariness of the hierarchy, and their inefficient training. These complaints were further fuelled for various reasons. First, working conditions would deteriorate even more when, for example, policemen were sent from one end of the peninsula to the other, or used as guards and thus immobilised for days in police wagons. The police also had to face the growing hostility of the population at large. The mobilisation of various social groups - including those that, a few years ago, would have never gone onto the streets - contributed to the legitimisation of protest. At the same time, the struggle against terrorism increased the need for more professional training. Calls for police reforms did not, however, always find support; not even among those political forces traditionally considered "police friendly". Almost another 10 years were necessary before a law reforming all armed forces was passed in Parliament (1981). The main effects of this reform were the demilitarisation of the *Polizia* (not of the *Carabinieri* or the *Guardia di Finanza*) and unionisation of the corp. The police was also opened to women, who were recruited en masse. The salary as well as the self respect of its members increased and with them the level of education and the social background of new recruits. Attempts to improve the training and qualification of policing forces continued throughout the 80s and also led to the creation of special bodies.

After the fight against terrorism, the struggle against the Mafia further legitimised the police, thereby contributing to its "new" public image and to a more positive rapport with the population at large. The violence characterising the seventies led both protesters and the police forces to greater self-examination, and efforts to defuse violence on both sides considerably reduced the radicalism of protest. The image of the policemen as a "citizen in uniform" emerged, as did a growing sensitivity towards "legitimisation from below". This democratisation of the police forces has not yet been completed, however. While the state police is demilitarised and more open to society, the *Carabinieri* and *Guardia di Finanza* remain military, and secretive, bodies. Moreover, police reform was a reform promoted from within, which focused more on the living conditions of officers than on police accountability towards society. The police force has also remained extremely centralised, under the control of the Ministry of Home Affairs, and with no deployment of powers to the Region and/or to the city councils (della Porta 1999; Reiter 1999).

So far public opinion is given little information about the activities and behaviour of the police and of security services in general, except in cases where there has been an evident abuse of power such as, for example, the killing of a young man in Naples who was not wearing a helmet in

July 2000. Many allegations have been made against police ill-treatment of people during identity checks and these episodes are particularly frequent in the case of immigrants (see.2.4 and 14.3). During 1997 and 1998 Amnesty International received allegations of ill-treatment inflicted by prison guards from 10 Italian prisons. The UN Committee Against Torture has also received reports in which racial prejudice is indicated to be a major factor in abuse carried out by policing forces in Italy. The representative of the Senegal community in Florence has repeatedly affirmed that police and security services mistreat coloured street-sellers ("hawkers"): "they are hit, thrown to the ground, immobilised with a policeman's foot on their head, threatened with a gun, and chased by police cars with great risks for passers-by "(*la Repubblica*, 12/4/00). The UN Human Rights Committee has condemned Italy for the inadequacy of sanctions against police and prison officers who abuse their powers.

As for the secret services, doubt has emerged about their actions on many occasions - so much so that the term "deviated services" ("servizi deviati") was coined to stress that part of the secret services were not carrying out their institutional duties in defence of democracy.

From the end of the sixties to the early seventies, Italy was subjected to a dramatic wave of right-wing terrorism. Neo-fascist groups attacked not only their political adversaries, but the general public as well. In December 1969, for instance, a bomb in the *Bank of Agriculture* in Milan killed 17 people; in July 1970, a bomb on a train killed six people; in 1974, eight people died when a bomb exploded during a union demonstration in Brescia, and another 12 people died when a bomb exploded on another train, the "Italicus". The repression of right-wing terrorism was so ineffective that only very few of those who committed these crimes have been sentenced in the last 30 years. This inefficacy is explained, above all, by the protection that the neo-Fascist groups received from the Italian secret services (Violante, 1984; De Lutiis, 1992; 1996; Della Porta, 1990, 1993 and 1995). In the first three decades of the Italian republic, the secret services were, in fact, described as being characterised "first by lack of accountability to Parliament, second by dependence on the policy decisions and resources of Italy's NATO allies, in particular the United States, and third by a vigorous anti-Communism" (Furlong, 1981, p. 84).

In 1964, General De Lorenzo, the head of the military intelligence service *Servizio Informazioni delle Forze Armate* (SIFAR), was accused of having planned a coup d'état and forced to resign. Despite the reforms passed, the reliability of the intelligence services did not improve. From the end of the sixties to the beginning of the seventies, a strategy to deal with Italy's increasing social and political conflicts was the so-called "strategy of tension", that is, the threat of the violence between "opposing political extremes" - Communists and neo-Fascists – in order to induce public outcry and a growing demand for law and order (Della Porta 1995). A main feature of this strategy was the above mentioned protection of right-wing groups. According to a research carried out on parliamentary acts: "More or less relevant evidence of direct action or involvement of the secret services can be singled out in all the trial records referring to the most serious crimes of right-wing terrorism, such as the massacres of Piazza Fontana, Piazza della Loggia, the Italicus train, the Bologna railway station, the attempted coup of the Rosa dei Venti and the Borghese coup d'état" (Rodotà, 1984, p. 83).

Because of the alleged protection to neo-Fascists and number of officials involved in coup d'états (*golpisti*), the *Servizio Informazioni Difesa* (SID) was dissolved in the mid-seventies, and in 1977 new secret services were organised, namely the *Servizio Informazioni Sicurezza Militare* (SISMI), for national and international military security, and the *Servizio Informazioni Sicurezza Democratica* (SISDE), for internal security. However, 'deviations' of the newly organised services from their institutional tasks were to emerge in the following years. The names of both the Generals-in-Chief of the SISMI and the SISDE - respectively Santovito and Grassini - were found in the secret list of members of the Masonic covert Lodge P2 (see below). Moreover, much literature has been written on the many obscure episodes concerning the security force activities carried out during the kidnapping, by the left-wing terrorist group *Brigate Rosse* (BR), of the President of the Christian Democratic Party (DC) Aldo Moro. Neither the courts of law, nor a special parliamentary committee have been able to clarify these episodes. Many questions have also

remained unresolved concerning the disappearance of important pieces of evidence: among these we can recall Moro's briefcases, containing top secret documents, the minutes of Moro's 'interrogations' by the BR, tapes with telephone interceptions made by the police, a film shot by an amateur photographer, and records of the meetings held by the Technical and Operational Committee (Ministry of the Interior) during the kidnapping (Flamigni 1988). Another episode evincing the misconduct of the services was the kidnapping, again by the BR, of the DC member of the Regional Council of Campania, Ciro Cirillo. According to the investigating judge, a ransom was paid by members of the DC, thanks to the mediation of the secret services and the Neapolitan *Camorra.* In an official report, the President of the Parliamentary Commission for the control of the intelligence services condemned the secret services' misconduct in the Cirillo case (Rognoni, 1989, p. 127). It was, therefore, difficult to deny that "there is a clear need to inquire into the secret services on the basis of the realistic consideration that these bodies, at least as far as some of their members and sectors were concerned, offered protection for or were directly involved in terrorism" (Rodotà, 1984, p. 83). It has further been suggested that the action of the secret services was engineered by groups within the governing political parties (Galli 1986). Although no strong evidence supporting this hypothesis, has, at least until now, come to light, it should not be forgotten that the Masonic Lodge P2 had important ramifications inside many parties. In fact, the P2 offered a confidential arena in which entrepreneurs, members of the liberal professions, intermediaries, functionaries and politicians could meet, get to know each other, propose business deals, negotiate and work out agreements and guarantees.[4] Indeed, secret Masonic lodges generally represent a *market* for individuals interested in making clandestine contacts, legal or otherwise. Another characteristic of freemasonry is to strongly reinforce the bonds of loyalty among members, thereby reducing the risks involved in transactions. Being a member provides a "certificate of trust" in exchanges, and failure to respect agreements has a direct economic cost: the exclusion from future opportunities for exchange.

The existence of the secret P2 Masonic Lodge came to light on March 17th 1981, when documents were confiscated by the Milanese magistracy in a villa belonging to its Grand Master, Licio Gelli. Gelli's activities were geared towards é*lite* concealed proselytising on a national scale (Magnolfi 1996). The Lodge membership roll - a list of 962 affiliates discovered during the sequestration - was not deposited with the secretariat of the Grand Orient, the main Italian Masonic order. Nor did this Lodge hold regular meetings or elect its officials. Moreover, secrecy inside the Lodge was carried to an extreme through its tentacle-like structure. Members included three government ministers, thirty members of parliament, more than fifty generals (some of whom belonged to the highest ranks of the secret services), high-level functionaries, diplomats, journalists, financiers and industrialists. At the centre of the web stood Gelli, who maintained the contacts among the members, thus ensuring his exclusive power as a mediator: "Able to capitalise on tentacles that skilfully linked bankers involved in illegal financial dealings, the entire top echelon of the country's secret services, the conspirators behind the right-wing 'strategy of tension', and the world of organised crime, Gelli and the P2 had become - or were on the verge of becoming - the centre of the system of 'occult power' that constitutes the dark underside of Italian democracy" (Chubb and Vannicelli 1986, p.126).

An essential resource for Gelli was the control of *confidential information*. Thanks to General Allavena, former head of the SIFAR, he received confidential files which enormously increased his archive of compromising material on representatives of the political, economic and financial worlds. Moreover, to be initiated, Gelli imposed a "fee" on would-be adepts in the form of information regarding "eventual injustices, abuses, persons responsible" (CP2, p.53). In this way the information in his possession steadily increased. Gelli was thus able to create a *monopoly* of blackmailing power on a range of individuals and, thanks to that power, obtain access to further

[4] In 1992 there were 597 official lodges of the Grand Orient of Italy, the most important Masonic order (a *Gran Loggia di Piazza Gesù*, originating from a schism in 1908, also exists). According to the then Grand Master, in 1992 there were 18,000 masons "all at the top of their professions" (Mola 1992, p. 873).

resources--in particular, through Roberto Calvi, the President of Italy's largest private bank, the Banco Ambrosiano[5]: "[the financier] Sindona in particular provided Gelli with the documentation that could have definitively exposed Calvi. From that moment on, Gelli's power multiplied because, with Calvi and the *Banco Ambrosiano* in his hands, the Grand Master was able to operate financial transactions on a large scale" (Galli 1983, p. 207). The *Banco Ambrosiano* became the financial arm of the covert Lodge, acting as an intermediary in numerous transactions. The bank also permitted the Lodge to extend its influence into the field of media through the acquisition of the Rizzoli group and the placing of P2 affiliates in prominent positions in Italy's leading daily newspaper, the *Corriere della Sera* (CP2, p. 121). As the case of the faked kidnapping of the bankrupt financier Michele Sindona demonstrates, a number of channels of communication with the Mafia created the possibility of exercising violent sanctions (CPMF, p. 16).

Gelli also used this mix of blackmail, corruption and coercion to extend his network of connections in the economic and political realms (CP2, p.109). The P2 thus came to resemble a "state within the state", and had the power to influence prominent sectors in both institutional and economic life (Teodori 1986). As a result of these resources, the role of Gelli went beyond that of a simple intermediary. Indeed, he was frequently *guarantor* of deals he had himself helped to set up, and even took actions on a scale that transcended the confines of Italy. The Lodge operated in a plurality of, at times illegal, markets: national and international finance, publishing, corruption, and arms trafficking. Various P2 affiliates - such as Duilio Poggiolini, Luigi Bisignani or Silvio Berlusconi, who was, for some months in 1994, the Premier of the Italian government, have been investigated in corruption cases. In fact, the P2's Grand Master offered "an extra-legal system of handling rather murky dealings " (CP2-bis/1, p. 43). The financing of political parties increased Gelli's power as a guarantor of illegal transactions. As the Grand Master himself explained: "The *Banco Ambrosiano* financed political parties, who more or less covered their debts - all except the PSI [*Partito Socialista Italiano*]. At the beginning of 1980 the PSI owed Calvi 15 billion. He wanted to get it back and I [Gelli], being a guarantor of good faith for all concerned, suggested a viable transaction" (*La Repubblica*, 19/2/1993, p.8). Calvi, the President and Vice-President of the ENI, Giorgio Mazzanti and Leonardo Di Donna, all belonged to the P2.

The marked presence of representatives belonging to the military hierarchy in the ranks of the P2 can be explained in a similar fashion, for appointment to senior posts in the military apparatus depends on discretionary political decisions and thus permanence in the job is not guaranteed. As a result, it was necessary to safeguard or advance career prospects by political means, as happened in the case of the appointment of General Giudice, a member of the P2 and leading protagonist in the "Second Oil Scandal",[6] as Commander-General of the *Guardia di Finanza*. Gelli's activities were undoubtedly aimed at incrementing his "resources" (compromising information) and at weaving a web of reciprocal obligations involving the centres of economic, political, financial and military power. It was these very activities which permitted him to offer his services on an ever expanding scale. Moreover, whoever advanced in their careers or obtained profitable dealings in the public or private sector thanks to his P2 affiliation in turn favoured, through the filter of Gelli, the success of other members. In this way, the overall influence of the secret organisation in the economic and political fields was further extended.

8.3. *How far does the composition of the army, police and security services reflect the social composition of society at large?*

[5] After the bankruptcy of his financial empire, which had been a channel of reinvestment abroad for Mafia as well as Vatican capitals (through the Vatican's bank, Istituto Opere Religiose), Roberto Calvi was found dead in London, probably killed, on June 18, 1982 (see Cornwell, 1983; Canosa, 1995, p. 195).

[6] A number of oil businessmen, some of them belonging to the P2 lodge, were illegally importing oil from Saudi Arabia without paying the necessary duties. Politicians and elements in the *Guardia di Finanza*, also belonging to P2, received pay-off in return.

8.3.1. Laws

It has already been said that admission to policing forces is not regulated by the same norms which regulate state work in general, but by specific ones (largely provided for by Law N.121/81). In particular, in order to be admitted to the state exam for police agents, Italian citizenship is required as well as a level of education corresponding to obligatory schooling, the enjoyment of civil and political rights, psychological, physical and attitudinal prerequisites, and a more general prerequisite of "good behaviour". Until Law N.121/81 women were excluded from the *Polizia* and up to the recent reform of 1999, they were also excluded from the *Carabinieri* (cfr. also introduction point 11).

8.3.2. Implementation and negative indicators

The composition of the army, police and security services is characterised by a prevalence of Southern citizens. This is not the result of exclusion of other social or geographical groups but reflects the fact that, due to scarcity of jobs, people in the South are more inclined to work for the state. Another characteristic of relevance to the armed forces is that educated young people from the North prefer to become conscientious objectors rather than serve in the army (see table 8.1 and 8.2).

Tab. 8.1. Geographic Location of requests from conscientious objectors presented in 1997

	N. of requests	% of total
North	27,033	49.27%
Centre	18,161	33.10%
South	9,673	17.63%

Source: Association of Non-Violent Conscientious Objectors, Data from the Ministry of Defence

Table 8.2. Level of Education of Conscientious Objectors (data relating to 1996)

University	58%
Secondary School	35%
Compulsory	7%

Source: Association of Non-Violent Conscientious Objectors, Data from the Ministry of Defence

The fact that the armed forces have opened their doors to women should put an end to gender discrimination, but not to other cases of ill-treatment. In fact, in recent years, there have been many serious cases of bullying ("*nonnismo*") against new recruits (see Table 8.3 and 8.4). These episodes were not caused by racial, gender or social discrimination, but by a traditional "macho" attitude and by an aggressive mentality. The death of a soldier belonging to the paratroops (in the Gamerra prison in Pisa), in circumstances yet to be clarified, provoked a strong public outcry and political reaction towards this phenomenon. (Interview -22/06/00- Nicola Labanca, Researcher of Contemporary History, Department of History, University of Siena; interview-3/7/00- Hon. Valdo Spini, President of the Defence Committee of the Chamber of Deputies). Most episodes of ill-treatment were perpetrated by less educated persons or unskilled workers against others of their same social class (see Table 8.5 and 8.6).

Table 8.3. Episodes of Ill-treatment

1997	1998	1999
99	268	122

Source: Chamber of Deputies, 4th Defence Commission, *Episodes of violence and quality of life in the barracks of the armed forces*, Rome, 2000.

Table 8.4. Types of Prevarication

Aggression and blows	22,2%
Aftershave	22,2%
Lacerations	13,9%
Wounds on the arms	9,7%

"Block"	8,3%
Injuries	5,6%
Forced to bed	2,8%
Water thrown	2,8%
Threats	1,4%
Other	11,9%

Source: Family Information Centre, SME, 1998

Table 8.5. Level of Education of aggressors and victims

	Aggressor	Victim
Primary school	3,2%	8,0%
Lower secondary school	65,6%	60,0%
Higher secondary school	25,0%	28,0%
Degree	6,2%	4,0%

Source: Family Information Centre, SME, 1998

Table 8.6. Profession of aggressors and victims

	Aggressor	Victim
Blue collar worker	65,6%	64,0%
Student	15,7%	12,0%
Unemployed	9,4%	20,0%
Tradesmen	6,3%	-
White collar worker	3,1%	4,0%

Source: Family Information Centre, SME, 1998

8.4. *How free is the country from the activities of paramilitary units, private groups, warlordism and criminal mafias?*

Besides the traditional activities of the mafia (see 2.1.), new kinds of businesses have also been set up, usually carried out by criminal groups connected with the mafia. One of these new fields concerns illegal environmental acts such as the illicit trafficking of rubbish, which is on the increase. Symptomatic of this is the that fact that 42,1% of illicit environmental acts are committed in the four regions which traditionally have always had the highest number of mafia affiliates (Campania, Puglia, Calabria and Sicily). This illustrates the connection between illegal environmental acts and organised crime. Among the specific activities handled by mafia clans are also those linked to abuse in construction works, trafficking and disposal of special and dangerous waste, animal rackets and trafficking, robbery and the trafficking of artistic and archaeological treasures. The impact of illegal and abusive construction, although on the wane, is still very serious. It has been calculated that in 1999 the number of illegal buildings constructed occupied an area of more than 4,5 million square metres.

If in the South, control of the waste cycle by organised crime constitutes a serious social danger for society at large, in the North the criminal phenomenon takes on a different connotation. In fact,it is more a question of devious entrepreneurs seeking the complicity and support of local administrations and corrupt bureaucratic offices. Taken together these illegal activities amount to a total cost of 13.413 billion lire (in 1998 they totalled 9547). Investments at risk, management of tenders for the collection and disposal of solid urban wastes and investments in public works amount to 12 billion lire. Summing the illegal costs and risky investments of these so-called "businesses" carried out by the *ecomafia* the total sum of money involved has been estimated as amounting to more than 26 billion lire, with an increase of about 17% in comparison to 1998.

Organised crime, both Italian and non-Italian, also controls the trafficking of radioactive material, particularly uranium and enriched plutonium, raw material necessary for the production of nuclear arms. Thanks to criminal groups Italy is now one of the crucial gateways for radioactive material coming Eastern Europe. Other criminal activities involve the recycling of radioactive

waste produced by hospitals, radiological and analytical laboratories, research centres, and industrial structures, which in total produce about 2000 cubic metres a year (Environmental League-Legambiente, *Ecomafia Report 2000*, Rome 23 March 2000).

The so-called *archaeomafia* is also very widespread i.e. organised crime groups which deal in archaeological goods. It is calculated that every year the number of stolen art pieces causes Italy damage amounting to 300 billion lire.

8.5.*What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?*

After the recent serious cases of “ill-treatment” against soldiers in Italian barracks, civil society has started to question the internal organization and discipline of the armed forces and the government has presented a bill to strengthen the "legal protection" of victims . The bill provides that:

- Crimes of private violence, mistreatment and extortion be introduced in the military penal code;
- Blows/strikes, serious personal injuries, insults and threats are considered aggravating circumstances
- Recourse is not made by the single individual, but is the responsibility of specific offices and authorities

In order to restrict the phenomenon of ill-treatment, important measures have also been adopted by the General Staff of the Armed Forces (*Stato Maggiore dell’Esercito*) (SME: Prot. N.844/AGPI/22-2, 24 March 1999). These measures include:

- The establishment of a permanent body to control the quality of life in barracks and to report on the discomforts of the personnel;
- The installation of a special telephone line in the Family Information Centres of the SME to deal with cases of ill-treatment;
- A policy of openness and transparency towards mass media which all members of the armed forces are called to adhere to;
- Meetings held by those in command with those responsible for misconduct and ill-treatment;
- Policies to better the quality of life in barracks, reserving particular attention to comrades.

The abolition of conscription was passed in both the Chamber of Deputies and in the Senate with the contrary vote expressed by *Rifondazione Comunista* and the abstention of Greens and of Italian Communists. As a result, by 2006, Italy will have an army entirely composed of professional soldiers, both men and women, and the total number of military personnel will be 190,000 compared to the current 270,000.

As far as police abuses in prison are concerned, remedies indicated include: human rights education and more careful recruitment policies. Since most of the episodes of ill-treatment recorded are connected with prison overcrowding and, therefore, a reduction in the number of prisoners and the improvement of their living conditions during detention is expected to make a significant improvement in the relationship between prison guards and prisoners. The UN Committee Against Torture has, however, stressed that five days of detention without access to legal counselling may in some way continue to foster malcontent and even procedural irregularities.

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9. Minimising the effects of corruption

Are public officials free from corruption?

9.1. *How effective is the separation of public office from the personal business and family interests of office holders?*

9.1.1. Laws

The norms regulating the separation between public and private interests of subjects working in the state administration are subject to a rather fragmentary legislative framework. First, the Consolidated Act concerning civil servants (Decree of the President of the Republic, N.3,10 January 1957) foresees a series of cases of incompatibility between work for the State and work in other sectors. The public employee must carry out activities in commerce or industry, practise any other profession, accept jobs in the private sector, or hold positions in profit-making companies. In addition, these same regulations also prohibit, with the exceptions foreseen by the law, the individual from holding down more than one state job at a time. If a situation of incompatibility does arise, the administration for which the employee works must give him warning to stop. If the employee does not follow this warning within fifteen days, he will be suspended.

The effect that personal economic interests may have on state activities is dealt with in Work Decree N.29/93 and even more fully in the Ministerial Decree emitted on 31 March 1994, called "Employee Behaviour in the State Administration".. These norms provide for numerous

obligations with regard to state employment, and aim at avoiding situations of conflict in interests. Among these it is worth citing: (i) the prohibition on the employee to receive gifts, unless of low value, from subjects that might or have benefited from decisions taken by the office; (ii) the obligation to inform the head of office and all higher administrative levels of membership or participation in associations whose interests might be of relevance to the same administration; (iii) the obligation to inform the head of office in writing of any financial or non-financial interests that he or any of his relatives or cohabitants, which might be of relevance to the activities or decisions taken by the office in which he works; (iv) the obligation to inform the head of the possession of shares, or of other financial funds from which a conflict of interests may result, or of having been paid by subjects whose activity might be of relevance to the activities of the office; (v) the obligation to give notification of any relationship or cohabitation with subjects who exercise political, professional or economic activities which might have dealings with the office; (vi) the obligation on the employee to abstain from participating in decisional procedures of the office in which he belongs which might involve, either directly or indirectly, financial or non-financial interests of himself or the persons close to him (even where the conflict is only potential, his participation in the decisional process might generate mistrust towards the impartiality of the administration); (vii) the same obligation to abstain is also valid when the decision involves other subjects in some way connected to the employee: such as those arising from previous work relationships, financing for electoral campaigns, or where the employee is a member of a club, or a counterpart in any legal action, is a debtor or creditor, guardian or holder of a proxy, and, last but not least, when he is an administrator or manager of some body.

The cited provisions imply a further set of principles of great importance, all concerning the obligation on the employee to carry out his or her activities in conformity with the principles of impartiality and smooth functioning of the state administration. Among these are the prohibition on carrying out other activities which may come into conflict with the smooth running of the administration, the obligation to deal well and appropriately with citizens and any requests they might formulate, the obligation to resist illegitimate pressure, and the prohibition to exploit his or her position in order to obtain undue gains.

The head of office is responsible for ensuring that all these provisions are upheld. Clearly, the violation of any one of these gives rises to disciplinary action; more serious violations can lead to civil, penal or administrative action. It should, however, be pointed out that the above-cited provisions refer exclusively to non-elected managing staff (i.e. civil servants) and do not include those holding elected offices. Therefore, they refer only to a given number of non-elective positions, the military services, state lawyers and magistrates having their own *ad hoc* disciplinary norms.

9.1.2. Implementation and negative indicators

Internalised norms and beliefs, such as professional pride, "sense of the state", and “public spirit” and the prevailing political culture or attitude towards illegality, influence the “moral cost” of corruption - which can be “operationalized” as the benefit lost because of the illegitimate or immoral nature of a certain action (Rose Ackerman 1978). This benefit increases in the presence of systems of values that sustain respect of the law, declining in sub-cultures characterised - as in the Italian case - by mistrust of the state. If the criteria of moral recognition of the social circle to which the individual belongs are analogous to those sustaining public authority, the possible exclusion from these circles, as a result of involvement in corruption, will be extremely expensive. This occurs because, for such an individual, there where “the moral cost is lower, the criteria for the respect of the law will appear more ephemeral” (Pizzorno, 1992, p.46). In an administrative system such as the Italian one, pervaded by mistrust towards the impartiality of promotional mechanisms, by a scarce *ésprit de corps* and by a fragile "sense of the state", the moral barriers against corruption

are weak. Moreover, the fact that corruption is so widespread reduces its moral costs, and a large number of administrators tend to justify their practices by creating a "culture of corruption".[7]

One of the principal ways of raising the moral cost of corruption is through “ethical codes” of conduct. These codes of conduct regulate a series of behaviours that, even if not necessarily illegitimate in themselves, do, however, come close to the boundaries of illegality. Given their position, somewhere between juridical norms and moral rules, these codes are obviously difficult to implement, for they require a framework of effective control and sanction. Their long-term aim, nevertheless, is to favour an internalisation of their prescriptions, which need to be felt by individuals as morally irreprehensible in order to be effective.. In Italy, on March 31st 1994, a decree emitted by the *Ministero della funzione pubblica* (Ministry for State Office) defined the code of conduct to which public employees must adhere. This code, however, has had a very limited application, because of the resistance inside the public administration and the limited knowledge of its contents. No code of conduct has yet been approved for elected politicians, notwithstanding a promise to tackle this issue made by the Ciampi government in 1993.

The tendency to accept bribes is higher in low wage levels, as well as in cases where there is an imbalance of “status”.. This is particularly true where, for the same level of education and qualifications, the private sector pays more than the public (Rijckeghem and Weder 1997; Goel and Nelson 1996). Inadequate salaries make corruption more tempting for public administrators, and at the same time they devalue the social consideration and connected reputation of the administration, thereby demolishing moral resistance towards illegitimate actions. A rise in the salaries of public administrators should be promoted, as should an increase in the (moral and economic) costs for violating the law.

Along these lines, Law N.59/1997 foresees the possibility of special contractual norms for state jobs requiring solid professional skills. There are, indeed, now some initial signs of an opening towards the recognition of professional competencies in public careers. All the same, there is still much levelling out of public salaries and political protection is still as important as it has been since the beginning of the twentieth century. Nonetheless, the Italian state sector, in comparison to the private sector, continues to undercompensate specialised and technical competencies.

9.2. *How effective are the arrangements for protecting office holders and the public from involvement in bribery?*

9.2.1. Laws

Penal provisions, one of the other legislative instruments used in the fight against public officials, are particularly important. The Penal Code includes an entire chapter on crimes against the state administration.

The most important case of this is embezzlement (Art.314 C.Cr.P.): these are cases in which the public employee embezzles money or other things to which he has access on account of his position. Embezzlement also takes place “by profiting from the errors made by others”, when a third party erroneously believes that he must deliver the thing or the money in question to the state employee.

The state employee is guilty of extortion (Art.317 C.Cr.P.) when, abusing his status or power, he convinces a subject to give or promise to give either himself or a third party money or some other benefit.

[7] If moral aversion to corruption is correlated to the behaviour (more or less corrupted) of others, expectations of a widespread corruption are self-fulfilling (Hirschman 1983:135). The more diffused is corruption, the lower the risks of being denounced for those who decide to engage in illegal practices, and the higher the cost to be paid by those who try to remain honest, and thereby get marginalized. There is not only a rational calculus of interests beyond this process, but also a weakening of moral constraints, accompanied by the emergence of informal “norms” which regulate the market for corrupt exchanges (Vannucci 1997a, della Porta e Vannucci 1994 e 1999a).

According to Art.318 C.C.P., corruption by a public official takes place when he, while carrying out duties, receives either for himself or for others undue retribution, or when, on the basis of Art.319 cp, he accepts the promise of any such retribution. This is valid even cases in which he is compensated for having omitted or postponed official acts, or for having carried out acts contrary to the administration.

The most controversial question which has been widely debated in recent years (leading to the reform of Law N.234/97) concerns abuse of office. Nowadays, this crime is described as the behaviour of a civil servant who, in carrying out his duties while violating legal norms and regulations, that is, by omitting to abstain in the prescribed cases, deliberately gives himself or others a patrimonial advantage or deliberately inflicts unjust damage on a third party.

The 1977 reform attempts to pinpoint with greater clarity and precision the penal issues involved. While the previous version provided by Art.323 simply foresaw the culpability of the public official, who had “abused of his position”, in order to gain patrimonial benefits for himself or to unfairly damage others, the norm, in opinion at large, had the effect of generating a widespread uncertainty concerning the boundaries of its applicability. This norm also generated fears among public administrators over their discretional activities. Today, the newly formulated Art.323 C.Cr.P. sanctions behaviours which explicitly violate existing norms and regulations, and contributes to rendering the applicability of these norms easier. However, the reform – still too closely tied to the notion of crime as the acquisition of a specific advantage – has not managed, at least in the view of some observers, to handle one of Italy’s most crucial problems, that is, those created by situations in which the corruptor does not necessarily recompense a specific act (or for its omission), but nonetheless recompenses with an eye to the creation of an overall condition which goes in his favour.

As well as penal sanctions, the administrative sanctions handed out by the single state administrations are important. In this field, the last few years have witnessed a twofold phenomenon: on the one hand, the tendency to pass from purely formal and legitimate controls (often preventive by nature) to controls on the managing of overall activities (which, by nature, follow on one from the other), especially concerning the achievement of predefined results. On the other, there has also been a strengthening of “internal” control mechanisms through the setting up of special offices and groups for evaluation and control. Together with this, there has been the trend to establish ad hoc authorities in state administration (a phenomenon also common to other sectors), whose aim is to control the activities of specific offices. Such authorities are characterised by their independent status, a good example being the Supervisory Authority for Public Works established by Law N.109/94.

The difference in the provisions taken towards non-state companies, with the aim of reducing corruption, seems to reflect a less rigorous interest by legislators. Indeed, their interventions have primarily addressed issues of finance and accounts. For example, the new framework for budgeting company accounts, foreseen by Arts..2432 and ff. of the Civil Code, has attempted to give greater transparency to the resultant accountability. The behaviours considered as criminal by Art.2621 of the Civil Code can be included in this framework, as can the corrupt behaviours of public officials. In such cases, the underlying hypothesis is that the reports on budgets do not correspond to truth.

Some norms have been set up to prevent this kind of corruption, and in particular tax evasion. However, at times, it may still be feasible (although not necessarily desirable) to cover up the source of the funds.

One surprising aspect of the norms on corruption is that often the same action - the payment of a bribe - is severely punished if it happens inside the country, but is perfectly legal if it takes place abroad. The development of trade and economic co-operation on a global scale has produced a proportional "globalisation" of international corruption. On December 17th 1997, 29 countries members of the OCSE signed a Convention to oppose the phenomenon of corruption of foreign public officials in international transactions. This provision was implemented on February 15th,

1999. Although Italy has undersigned it, it is one of the few countries that has not yet ratified this convention.

9.2.2. Implementation and negative indicators

February 17th 1992, the date on which the judicial investigations of Clean Hands (*mani pulite)* officially began, certainly neither marks the beginning or the end to corruption in Italy. What, however, did begin on that day was an unprecedented public exposure of corruption, that is, of a scandal that hit the highest levels of the Italian political and economic system, causing one of the most serious political crisis ever known to the Republic.

The investigations began in a Milanese hospice, with the disclosure of the payment of a small bribe. Following this, judicial investigations spread not only to the core of central public administration and institutional powers, but also to their peripheral ramifications. In fact, this investigation went on to touch over 500 members of parliament, dozens of ex-ministers, six former Heads of Government, thousands of local administrators, the army, the finance police, numerous principal public bodies and enterprises, as well as large sectors of the magistracy. Some idea of the sheer size of the investigation can be gleaned from the statistics on the charges of corruption and extortion: between 1984 and 1991, the average number of court cases was 252 per year, and involved 365 individuals. Between 1992 and 1995, this number increased to 1,095 cases involving 2,085 individuals. Subsequently, 1,065 charges were brought against 2,731 persons. As the statistics show, the number of people involved in political corruption was higher than the number of cases, thus highlighting the complexity of corrupt networks. By December 1993, 400 judges (i.e., about 5% of all Italian judges) had examined some questions concerning political corruption (Nelken 1996a, 111). The Public Prosecutor of Milan alone produced 2,319 demands for formal charges related to corruption crimes between 1992 and October 1996 (*Procura di Milano*, 1996).

The Clean Hands inquiry devastated the party system, which had up to then been characterised by stability. It can also be held partially responsible for the disappearance of the party of relative majority, the Christian Democratic Party that had governed Italy for over 45 years, as well of its main allies. Thus, after 45 years of uninterrupted government, the country’s largest single party, the DC, along with its leaders, was eclipsed, accompanied by other parties of the ruling coalition, the PSI included. Among the prominent political leaders facing criminal investigation were the Secretary of the Socialist Party, Bettino Craxi, and the leaders of the Christian Democratic Party, Forlani and Andreotti - the latter even being indicted for association with the Mafia.

On July 3, 1992, the leader of the Socialist Party, Bettino Craxi, in a renowned parliamentary speech, admitted to the interweaving of corruption and party funding. His speech, to all intents and purposes, constituted an act of self-incrimination (the magistrates later called it an "extra-judicial confession of the offences [he had] committed"). It sketched a political line of defence to which he would adhere firmly over the following months and years. In more general terms, his attempt to play down the significance of the scandal with a generic declaration that "everybody knew" what was going on, sounded like an indictment of the functioning of the democratic system itself. "The political parties," Craxi claimed, "have been the body and soul of our democratic structures ... Unfortunately, it is often difficult to identify, prevent and remove areas of infection in the life of parties ..... Thus, under the cover of irregular funding to the parties cases of corruption and extortion have flourished and become intertwined ... What needs to be said, and which in any case everyone knows, is that the greater part of political funding is irregular or illegal. The parties and those who rely on a party machine (large, medium or small), on newspapers, propaganda, promotional and associational activities ... have had, or have, recourse to irregular or illegal additional resources. If the greater part of this is to be considered criminal pure and simple then the greater part of the political system is a criminal system... I do not believe there is anybody in this hall who has had responsibility for a large organization that can stand up and deny what I have just said. Sooner or later the facts would make a liar of him" (TNM, pp. 87-8).

Judicial investigations would go on to indicate, in fact, that corruption had transformed not only party financing, but also party life. Most of the bribes were illegal contributions to politicians and political organisations, given to secure influence on public decisions.

Among modern Western democracies, the case of Italy is singular owing to the intensity of corruption and the seriousness of its political repercussions. Nevertheless, Italy does not appear to be an isolated case. During the nineties, a new awareness emerged at an international level about the gravity of the problems deriving from corruption, which are part of a more general "democratic question", and whose symptoms include the decline of political participation, mistrust in the functioning of democracies and in the political class, and a crisis in “democratic values".

Corruption comes into this picture as one of the most dramatic expressions of the contradictions of the democratic model, which had appeared as triumphant after the fall of the Berlin Wall in 1989. At the same time, given its effects on public opinion, corruption increases the awareness of such problems. If the studies of economists have shown that political corruption hinders economic development, the investigations of political scientists have not only underlined that political corruption reduces trust in institutions, but also that mistrust in the institutions is, in turn, a precondition for the growth of corruption. Rather than declining or disappearing, corruption has developed in original forms in the democratic systems, insinuating itself into the increasingly complex relationships between state and market, feeding itself on the needs created by the new mechanisms of consensus building, and benefiting from the application of traditional brokerage techniques to international trade. The official statistics, which only show the iceberg of the phenomenon, indicate that in 1998 the number of persons denounced for corruption was still nearly five times higher that the average before 1992.

The Italian experience confirms that the repression of political corruption presents specific problems in comparison to the repression of other crimes. Such specificity is linked, to a large extent, to the potential limits which the executive power imposes on the judicial power as well as to the potential collusion between controllers and controlled. To this we must add the specificity of corruption as a crime, for it does not entail a victim: neither the briber nor the bribee has an interest in prosecuting their case since they can share the benefits of the corrupt exchange. However, the costs of this illegal activity are widespread (and not easily perceivable) among the public at large.

The repression of corruption requires guarantees of independence from the political power not only for the judges, but also for the prosecutors. It is necessary, however, to balance these needs with those of democratic control on the discretionary decisions referring to the politics of justice. On these themes in Italy, the debate has been distorted by a polarisation between a party for the judges and an anti-judicial one. On the one hand, part of public opinion took sides in defence of the *status quo*, fearing that the political class might tame judges. On the other hand, the centre-right parties, and particularly *Forza Italia*, orchestrated a campaign against the magistracy, accused of “polluting” the democratic process by supporting one political wing over the other. This situation has jeopardised the *iter* of reforms that are essential to restrict the traditional lengthiness and inefficacy of the Italian judicial system. At the same time, it has reduced the legitimisation of the magistracy, over-exposed as an organ aiming to "control the righteousness" of the political class (Pizzorno 1998).

The cross vetoes intrinsic to the reform of the judicial system have not resolved a series of problems related to the chronic insufficiency of the judicial system. As has been recalled recently, "the judicial apparatus has been, for decades, in a catastrophic situation. The problems of chronic ineffectiveness that torment such organisms have been increased by the probative difficulties that the new code of penal procedure has introduced … The new trial requires lengthy periods of debate (not counterbalanced by the possibility of recourse to appropriate alternative rites) and weighed down by the systematic use of all three degrees of judgement" (Davigo 1994: 43). It is no coincidence that the European Court of justice has, on more than one occasion, reproached Italy for the length of its judicial procedures. Obviously, the ineffectiveness of the judicial system reduces the function of punishment as a deterrent, as does the expected lightness of the sentence. This situation illustrates the weakness of the administration and also attenuates the expectations citizens

have for support in the legal battle for their rights, thus pushing them to look for individualised protection.

The envisaged reform of the judicial system has not yet been approved by Parliament. The result, in terms of the repression of corruption, is that the investigative efforts of public prosecutors risk being lost given the repeated delays over trials. The likelihood that a crime will be prescribed (several important corruption trials have not been carried through owing to the norms on prescription) has discouraged many defendants from making use of procedures of negotiation or alternative punishments, a measure introduced recently, as a means of speeding up the judicial process. The over-exposure of the magistrates involved in investigations against members of the political class has led to a call for more serious measures to protect the defendant parties. Such measures were approved in 1998 and retroactively applied to ongoing trials of crimes concerning organised crime and corruption, thus causing further delay.

During the last decade little has done in Italy in the field of the norms regulating the repression of specific crimes of corruption. This is partly because there can be no intervention in this field that does not take into account the precarious equilibrium between different interests. Sentences should be sufficiently severe to discourage corrupt behaviour, but it is also likely that more severe sentences will simply lead to an increase in the size of the bribe in order to compensate for the higher risks involved. Not only must society feel greater certainty that the sentence be carried out, but provisions must also be taken to break up the “conspiracy of silence” that often exists between bribers and the corrupted. While crimes must be punished, rendering sentences more severe might well reduce the sanctioning ability of social control agencies. The definition of the “crimes against the public administration” is particularly delicate, also owing to the European Union norms which have imposed a series of special penal norms on matters once entrusted to the public administration, such as health, environment, landscape, archaeological heritage, and so on (Franchini 1998: 36).

Numerous proposals have been put forward to balance these apparently incompatible interests. As well as the infliction of more severe penalties on those sentenced for corruption, the repression of corruption also requires a new definition of crimes against public administration, simplifying and clarifying these types of crimes in the Italian penal code. Such descriptions would include concussion, extortion, “direct” and “indirect” corruption, etc. There have also been proposals to introduce mechanisms guaranteeing those who report cases of corruption in which they have been involved. These measures increase the risk for those who do not collaborate by "breaking the convergence of interest and solidarity between the corrupter and the corrupted in the maintenance of silence" (Davigo 1998: 153). A remedy to the spread of new forms of corruption based on an exchange between an entrepreneur and representatives of a political party, with no official position in the public administration, would be classed as *corruzione ambientale* (situational corruption), as would also those cases in which political parties (or sectors of them) have sufficient control over public agents to be able to blackmail entrepreneurs and extort money from them (Castellucci 1994: 239). None of these proposals have yet been approved.

One of the most delicate problems in the Italian administrative system, according to all experts, is the system of controls (Cassese 1993). Internal checks, traditionally entrusted to inspectors, are no longer carried out "for the ignoble reason that the inspections jeopardised the interests of politicians" (*Dipartimento per la funzione pubblica*, 1993, p.55). There are, however, still too many external checks (in 1990, there were 100 thousand control procedures), most of which are ineffective, quite simply because they merely verify the formal regularity and legitimacy of public activities, and not their efficiency in achieving objectives. This model, on the one hand, allows administrators to maintain low levels of performance; on the other, it places them in a position whereby they do not risk incurring sanctions. The ineffectiveness and inefficacy of public activities - when not corrupt - is the direct consequence of this.

Over the last years the legislature has implemented various reforms in the system of controls. In brief, checks have been decentralised, favouring mechanisms from within administrations, the results of which are increasingly considered to be important (Battini 1994). The

lines along which these reforms are going are promising, even if some areas continue to be problematic. In particular, this is due to the lack of adequate staff training and to the insufficient co-ordination between the bureaucratic offices responsible for these new duties (Ferrero 1996; Mattarella 1998:116-17).

In order for controls to be more effective, different countries have set up a series of organs that are independent of political power, such as auditing services, citizens' committees, and civic defenders (Bardhan 1997: 1338). In Italy, a bill approved on January 21st 1998 by the Chamber of Deputies, but not yet by the Senate, has set up the *Commissione di garanzia* (Guaranteeing Committee) to check the personal possessions of public employees. However, to fight corruption other rules, procedures and controls need to be introduced. The problem is that the excessive number of norms, procedures and controls is in itself one of the factors that instigation corruption in Italy. The risk inherent to a new organ of control, with the power to collect and select reserved information, to investigate and inflict sanctions, is that it might itself become a means of corruption. Moreover, the collection of information of public contractual activity could slow down an already complex procedure, with few advantages in terms of real control.

Law N.109 of 1994 provides for the institution of another Authority with supervisory responsibilities in a sector which is particularly vulnerable to corruption, that of the public contracting procedures. Ignored for almost five years, some decisive steps have been taken for its implementation only after repeated normative changes regarding the nomination of its components (June 1995, November 1998, and at the beginning of 1999). The new Authority has the power to sanction public agents for their lack of collaboration or for the transmission of untruthful information, but it can only *report* the irregularities committed during the contractual procedures of selection and execution to magistrates.

The establishing of this authority represents one of the few measures directly aimed at counteracting corruption taken by the Italian Parliament after the Clean Hands investigations. Nonetheless, despite the multiplication of formal controls, corruption has, in fact, developed around contracts that were formally correct, precisely in order to avoid problems with magistrates (Dente 1994: 447). In reality, corrupt dealings occur in waste, dumping grounds, low-quality constructions, breaches and delays in procedures, and unforeseen increases in costs: "when the price paid by the administration for the construction of a building amounted to almost thirty thousand per meter, it was evident that, beyond of the regularity of the procedures, something was not working" (ibid). This means that only an evaluation of the *consequences* give a clear indication of the existence of corrupt dealings around a public bid. To date, none of the actions taken by the new Authority have demonstrated the effectiveness of its control on the final result of public contracting activities.

Given the connection between corruption and administrative inefficiency, the fight against corruption requires a radical reform of the administrative system (Vannucci 1997b).[8] Some measures that have been approved (or put on the political agenda) recently, irrespective of their limits, seem to be moving along the right lines, i.e. the distinction between political choice and administrative management, the prevalence of substantial controls on the results as against those on the formal legitimacy of the public activity. Moreover, a reduction of the redundant set of norms and regulations is a precondition if there is a desire to increase the efficacy of the public administration, given its limited resources (Dente 1995).

9.3. *How far do the rules and procedures for financing elections, candidates and elected representatives prevent their subordination to sectional interests?*

9.3.1. Laws

[8] As observed by Gray and Kaufmann: “Responses from more than 3000 firms in 59 countries, surveyed in the World Economic Forum’s Global Competitiveness Survey for 1997, indicate that enterprises reporting a greater incidence of bribery also tend—even after taking firm and country characteristics into account—to spend a greater share of management time with bureaucrats and public officials, negotiating licenses, permits, signatures, and taxes” (1998, p.8).

See also 5.3 and 6.6. (in particular, 6.6.1)

Hindered for many years by the internal conflicts of the centre-left governments, the law on public financing was finally passed in 1974, following a wave of scandals which revealed the illegitimate sources of money with which the governing parties funded their activities, i.e. their principal funding had come via contributions from public enterprises as well as large corporations (Turone 1990). Law N. 195/1974 regulated for the first time the financing of politics in Italy, by establishing public funds to cover both the expenses for electoral campaigns as well as for general party activities. Money was distributed to all the parties, in proportion to their support in election results. This same law has also introduced limits on private funding, by forbidding contributions from companies with more than 20% of public capital, by establishing the obligation for all parties to declare any contribution higher than a million liras in their annual budget, and by introducing penal sanctions for those who either received or offered funds to some party illegally.

Only in the eighties did a series of laws (particularly the Law N.441/1982) oblige MPs and others in public positions to declare the sources of their income, as well as expenses incurred during electoral campaigns. Subsequently, more rigid rules have been drawn up on the publication of party expenses, thereby establishing some criteria for the distribution of public finances between the party at the national level and their local branches.

Some limits on funding from private actors and on the type of expenses allowed for party activities have been introduced by two laws, Law N. 515/1993 and Law N. 2/1997, which were approved after a referendum had abrogated the 1974 Law (see 9.3.2).

First applied during the 1994 electoral campaign, Law N 515/1993 introduced a series of norms relating to the so-called "electoral system of contour", and regulating the electoral campaigns *vis-à-vis* costs and information. These norms deal with access to means of information and electoral propaganda, opinion polls, electoral expenses and public funding (direct and indirect) of candidates and parties. The norms relating to access to information and surveys aim to protect the autonomous formation of electoral preferences. The law also regulates party access to mass media, by establishing a Guarantor to develop and check the rules for electoral broadcasting. Furthermore, it prohibits, during the 15 days before the vote, the publication of electoral surveys as well ensuring that surveys on political issues published in non-electoral periods be accompanied by useful information (see also chap.10).

More directly connected to the theme of corruption are those norms that regulate public financing and electoral expenses. While the referendum repealed public funding for party expenses, Law N.515/1993 foresees a contribution for electoral campaigns, extending, for the Senate, the public contribution also to the single candidates. It takes the total sum for reimbursement from 30 billions to around 45.5 billion for each of the two chambers, establishing a distribution between the lists proportional to the number of votes. There are also measures of indirect financing such as facilitated postal rates, tax reductions and the obligation on local authorities to provide for spaces in which to carry out electoral campaign activities. Subsequently, Law N.2/1997 has reintroduced an ulterior form of public funding, by giving citizens the possibility to devolve 0.4% of their income taxes to political parties or movements. In order to benefit from public funding it is necessary to have at least one elected member in parliament. The same law foresees tax relief on contributions to parties and political movements by physical persons or corporations.

Law N.157/1999, approved after heated debate, foresees the attribution of 4,000 liras for each elector in national elections and 3,400 liras for European elections, a total of 663 billion liras. The threshold to have access to financing is only 1%. It is also foreseen that 5% of the received sum must be used in order to support the participation of women in political life. A contribution of 1,000 liras pro signature is assigned to the promoting committees of referendums when they reach the quorum of voters (for no more than five referendums a year). Electoral reimbursements are distributed every year: 40% in the first year after the election, and 15% in each of the following four

years. Fiscal facilitation is foreseen for the management of properties, political demonstrations, legal actions, donations and inheritances.

Concerning electoral expenses, Law N. 515/1993 has fixed a maximum both for candidates and for electoral lists. In the case of candidates, this limit is calculated on the basis of a fixed quota of 80 million liras, a certain sum for each citizen resident in the electoral district - with a maximum of 120 million liras. For the lists, the limit on expenses is established by multiplying by 200 the number of inhabitants in the electoral district (constituency).

As for private contributions, Law N.515/1993 establishes that an individual can contribute a maximum of twenty million liras, and an obligation to collect funds via a mandatory guarantor of the truthfulness of the declarations. It has also confirmed Law N. 659/1982), that is, an obligation on holders of public positions to notify their properties, obliging candidates, and also parties, to publish an account of contributions and expenses. According to Law N.2/1997, the legal representative or treasurer of the party or movement that has received funding for electoral expenses must draw up an account of exercise, accompanied by a report on the economic situation of the party or movement, published in the press and the Official Gazette (Art. 8).

The control mechanisms exclude the ordinary magistracy, and found Regional Seats of Electoral Guarantees headed by a president from the Court of Appeal, who nominates six members, three of which are ordinary magistrates and three of which are experts (chartered accountants (*commercialisti*) and university teachers). Their assignment is to verify the regularity of the accounts that the candidates are obliged to deposit at the Electoral Seats. In the case of breaches, it applies monetary sanctions; it can recommend that the Member of Parliament in question forfeit his seat. The electoral expenses of parties or political movements, and lists or groups of candidates are controlled by a special Board appointed by the Court of Accounts, and formed of three magistrates from the same Court. While previously violations of these laws were punished with prison sentences, after 1981- following the new criterion for the reform of the penal code established by Law N.689/1981 - imprisonment has been replaced by administrative sanctions (CDSS N.78/1996: 11-13). Only in most serious cases is a Member of Parliament obliged to forfeit his seat. In other cases, (according to Law N.2/1997) access to funding may be cut.

9.3.2. Implementation and negative indicators

Political financing is extraordinarily important in a democracy. A first concern is that money in politics can introduce inequalities, thereby jeopardising the democratic principle of equality in the access citizens have to taking part in public decisions. The constraints introduced through legislation on private financing of politicians and political parties impinges, however, on the principle of freedom of preference, for some citizens may wish to make voluntary contributions to specific parties of their choice. And, as is well-known, political actors have an increasing need for economic resources to carry out political activities in a democracy. In Italy, as elsewhere, the delicate equilibrium between contrasting interests has made it difficult to intervene in the issue of political financing.

As in other Western democracies, for many years a liberal concept has prevailed according to which parties are private voluntary associations, whose survival must be guaranteed by activists and sympathisers. In the initial phases of liberal democracies, bourgeois parties were committees, mainly activated in electoral periods, suffrage was limited to small groups of the population, and politicians were rich enough to survive on their own private resources. Even after the extension of the electoral body and the growth of working class parties, party funding remained an internal question, mainly solved via membership subscriptions, which were considered as a means not only to collect money but also to strengthen the collective identity of the group (Melchionda 1997). Already at the beginning of the post-war period, however, contributions from affiliates and sympathisers soon proved insufficient to cover the expenses of parties and of increasingly expensive electoral campaigns (Heidenheimer 1970).

At the same time, the formal recognition of the public role of parties has led to more focus being placed on their internal organisation and financing. Between the end of the fifties and the mid-seventies, forms of public funding were adopted in most Western democracies (Landfried 1990)and, in many cases, public funding was introduced after political scandals related to the private financing of the parties in the hope that it would correct such behaviour.

All counties are concerned about finding a balance between the principle of liberty and that of equality and have tried to achieve this in different ways. Policies enacted in Anglo-Saxon countries tend to privilege private contribution, and limit the costs of politics through laws that placed precise restraints on candidates' expenses for electoral campaigns (UK) and/or "allowing for the economic system to freely introduce resources into the political system, and guaranteeing that this occur with maximum transparency" (Borrello 1997: 22).

In general, there are constraints on both the sources of funds and on their use. Private financing is also subject to a series of restrictions related to a) the source, given that not all subjects can afford to donate funds; b) the entity, by introducing a maximum on contributions; c) the means, by attempting to ensure transparency. Attempts to limit the amount and type of expenses for each electoral seat are can be found in other countries, all of which hope to avoid an escalation in the costs of electoral propaganda.

In countries such as the Federal Republic of Germany (but also Ireland, Austria, Sweden, and the Netherlands), private financing has been generously supplemented by public funding. Public funding is given to candidates through the reimbursement of electoral expenses, or through ensuring their access to the media. In addition, public money is also given to parties through direct funds, on the condition that (a) they effectively put forward a candidate, (b) are funded in proportion to their standing in Parliament and (c) the amount of private funding is dependent on the amount from which they have already benefited (ibid: 41-42). Italy, together with Belgium and France, has a mixed system. This system was formally mainly characterised by private contributions to the electoral campaigns, and subsequently by the public funding of parties.

As said above, investigations into corruption have highlighted the weaknesses of Law N.195/1974, the very law which introduced public financing in Italy for the first time. Among these weaknesses was the fact that the law had not foreseen a maximum amount the private contributor could give, nor imposed any efficient means of control on the financial declarations of the parties. Another weakness was that, with the exception of the Communist Party, most funds given to other parties went to the central office, and consequently, local federations were often forced to "finance" themselves in illegal ways. Although controls have traditionally always been weak, the violation of the provisions of Law N.195/1974 was one of the major charges made during the previously mentioned Clean Hands judicial investigation on corruption. Even before the scandals of the nineties, however, Law N.194/1974 had been submitted to a repeal referendum. This first referendum, held in June 1978, failed, although with a very narrow margin: 43% of voters opted for abrogation, despite the fact that all parties, with the exception of the very small Radical Party, were in favour of maintaining the law.

The disclosure of a system of capillary corruption clearly illustrated that public funding had not discouraged illegitimate financing. Although not responsible for the system of corruption, public funding had effectively strengthened the position of corrupt politicians and their parties as the Clean Hands investigations had, in fact, revealed by demonstrating the connection between crimes of corruption and illegitimate party funding (cf. figure 2).

The public funding of parties, initially justified as a possible solution to the problems deriving from private financing, has recently been questioned (Alexander 1989). There is, for example, the risk that the availability of money increases the needs of political subjects and that such large sums, rather than help parties carry out their democratic functions, will transform politics into a business. The political scandals of the nineties paved the way for a series of reforms aimed, above all, at ensuring transparency in finances and incentives and in the reduction of electoral costs. By adopting the United Kingdom as a model, where the prohibition to acquire political publicity has been in force for some time (Adonis 1995) and with highly positive results - the costs for electoral

campaigns today being about 5% of what was spent in the last century and 100 times less than in the USA (Pizzorno 1997: ix), a check on the expenses sustained in electoral seats has been introduced in several other countries. In Italy, after the scandals following the Clean Hands investigation, the 1974 Law was in part abrogated and public funding of party expenses was repealed by the electorate by means of a referendum which took place on April 18th 1993, and obtained a majority of 90.3% of all valid votes.

The Italian experience illustrates, however, that although public financing does not automatically reduce corruption, it is not wholly responsible for it; on the contrary, public funding seems a necessary institution in order to avoid social inequalities being reflected by an unequal access to politics. The Committee appointed by the Italian Parliament to study solutions against corruption did *not* recommend the abolition of public financing, but instead stressed the importance of indirect financing in illegal activities (CSPC: 47). Indeed, their suggestions against corruption were: "to limit the possibility of (a) funding of the political subjects, intervening at the same time on the necessity of expense; b) to ensure that both expenses and financing are made public" (CSPC: 47).

The provision of Law N.2/1997 that allowed a voluntary attribution of 0.4% of income taxes to the political parties, has failed miserably. At the end of 1998, when the estimation of the 0.4% contributions were published (showing an actual amount of 20/40 billion liras as against an expected 110 billion liras per year), the parties sped up the procedures to pass a new law to re-establish the automatic attribution of a fixed contribution per voter. Concluding, in Italy the control over party funds has traditionally been very weak. Law N.195/1974 introduced public funding as a remedy against corruption, but without providing any suitable tools either for the application of the law or for the repression of its abuse.

The 1993 referendum forced parliament to intervene in the sector. Laws N.515/1993, 2/1997 and 157/1999 have increased the sums now available to parties. Together with these they have introduced some elements of reform directed towards stimulating private financing, to increasing indirect financing through free services or facilitated rates, to limiting expenses, and to improving the possibilities of checking the budgets of both candidates and parties. There are thus some positive aspects to the new legislation. Law N.515/1993, in effect, "has assured a notable degree of transparency. Never before would a citizen have known in detail the electoral expenses of candidates and parties only a few weeks after voting" (Fusaro 1995: 143). In addition, it seems that expenses for electoral campaigns have been reduced: in 1996, 38% of government contributions were spent (34 billion out of 90 assigned) (Caravita di Torritto 1998: 6).

The application to the Italian case of a series of interventions already experimented abroad has highlighted a number of limits, however. As already mentioned, the norms on political financing have to take into account the delicate balance needing to be created between the principle of equality for citizens (that is, limiting the influence of the richest) and the principle of liberty (that is, supporting one's chosen party), and between the provision of sufficient resources for the parties to carry out their assignment, without having recourse to abuse. Mediation between these principles becomes easier, of course, when widespread, generous and transparent private financing allows public financing to be contained. In the Italian case, however, the problems are increased, since a referendum calling for repeal of these mechanisms has delegitimised the most direct forms of public support for the operation of the parties. This has induced parties to try, albeit rather clumsily, to avoid this obstacle, by reintroducing public financing through semi-voluntary mechanisms such as the 0.4% rule or by increasing the amount of funds given to the electoral campaigns. The general lack of trust in parties has, however, made the mechanism foreseen by Law N.2/1997 untenable. In the same perspective, Law N.157/1999 overcame the limits imposed by the repeal referendum, by disguising the contribution to the operating of the parties as electoral financing, but in reality it risks further delegitimising the parties. Moreover, the raising of the limits on expense, the weakness of the controls, and the general increase of the public money destined to the parties give rise to the serious risk of feeding the inflationary tensions of the political market of which the corruption is, at the same time, both the cause and the consequence.

Yet another element adds to the difficulties of imposing effective rules to the financing of politics: the *internal weakness* of the parties. Widespread corruption has contributed to shattering the party organisations into personalised factions, where one competes with the other, and this increases the costs of political activity. In political competition, the resources deriving from corruption obviously increased the opportunities of success of corrupt politicians, not only by increasing expenses for the electoral seats, but also by running an expensive political machine organised around the distribution of material benefits. Although having led to an ample renewal in the political class (Cotta and Verzichelli 1996), the recent scandals have certainly not strengthened party structures. With only a few exceptions, the organisational structures of new parties are fragile, subject to continuous divisions, deprived of internal democratic control, and, often, lacking in membership. It is thus organisational weaknesses that have contributed to making Law N.194/1974 ineffective, by reducing the possibilities of inside control over the parties (Rhodes 1996: 2). The new formulas for financing has further increased the fragmentation of the party system, through distributing financing to single candidates or to elected ones. In particular, the creation of new parties in parliament has been facilitated by the attribution of funds to parties with just one member in parliament (Melchionda 1997: 207).

From this point of view, to date, the legislation has not succeeded in making the regulation of party activities more transparent, nor in making as candidate politicians who carry out public duties and are given money by the state, have greater respect for obligations and accountability.. In Italy, the virtually atavic mistrust in the state has pushed the parties to reject any form of regulation of their internal procedures - to the point where, in some cases, the political financing of organisations can take place without any obligation for there to be a formal statute. Only a few bills have been presented to parliament about financing and party democracy, dealing with issues such as the choice of candidate, primary elections between the electors, and equal rights for each member.

The absence of internal regulation of the parties brings us to the crucial issue of what activities are worth financing. Political corruption has led to large amounts of resources being invested in competition among individuals within the party, between so-called “bosses”.

Although it cannot solve the problem of corruption, legislation on political financing should also address the problem of which political activities deserve public support. From this point of view, German legislation is innovative in that it attempts to actually create a democratic tradition through funding parties. It has managed to bypass the most pressing material requests made by parties, by allocating some of the public funds available to research and training activities, which, though inevitably tied to parties themselves, do also attempt to maintain some kind of autonomy.

As a result of the difficulty of imposing rules on the organisation structures of the parties, and of regulating the connected theme of the conflicts of interest, the laws on political financing have been attributed improper functions. In particular, they introduce complex mechanisms of "*par condicio*" during electoral campaigns which, besides infringing constitutionally protected freedoms, are certainly difficult to put into practice, given the absence of any suitable legislation on the incompatibility of some charges and an effective implementation of the rules against the monopolies on information (Fusaro 1995: 128).

The control mechanisms provided for by the existing laws are insufficient. Even the obligation to notify the funding received has not guaranteed "that the general public is informed of the names of single contributors" (CSPC: 48). This had to the proposal "to take into consideration the obligation to publish in the press the lists of the contributors to the various parties" (ibid). The early experiences of application of the law have indicated that some parties tend not to conform to these norms. The Court of Accounts has frequently intervened, although arousing scarce public interest, to sanction violations of parties and groups (Rhodes 1996: 19). Finally, the recent laws on political financing have removed the ordinary magistracy from the overseeing of crimes concerning illegitimate financing, thereby weakening repressive penal measures, and at this point making these crimes punishable only through fines.

9.4. *How far is the influence of powerful corporations and business interests over public policy kept in check, and how free are they from involvement in corruption, including overseas?*

9.4.1. Laws

Irrespective of the fact that no new norms have been drawn up, the issue of conflict of interests between public offices (especially those with elected officers) and economic power has been an important political issue over the last few years. The only substantial constraints left standing are the norms which regulate incompatibility and ineligibility (on which cf. introduction, section 5). The bill which Parliament has discussed on numerous occasions in recent years gives the holders of particular public offices (including government members) who also own goods of a value over 15 billion liras the possibility of either selling these goods or handing over their running (so-called “blind management”) until the end of their term in office.

9.4.2. Implementation and negative indicators

(see also 4.7).

Corruption increases when, for various reasons, bribers have many incentives to, and weak constraints against, offering bribes. In Italy, the specific features of the entrepreneurial system have favoured the systematic recourse to corruption. These features include the prevailing models of state and family control over enterprises (which have led to long-standing relationships between public administrators and entrepreneurs, and therefore to the perpetuation of corruption), the weakness of internal checks within companies, the absence of protection for shareholders (given the many illegal funds from which bribes are taken), and the dominance of the state in numerous sectors (Barca 1994: 183). In such contexts, where it is particularly difficult to carry out anti-corruption policies, corruption is nurtured by bureaucratic ties, and the attempt to fight such practices by imposing ulterior checks often worsens the situation. Reform proposals move on slippery ground. On the one hand, there is the will to discourage corruption by enforcing new rules and regulations and enhancing awareness, but, on the other, illegality is fuelled by the unconstrained proliferation of administrative ties. If measures are to limit corruption, they should restrict the bureaucracy with which the citizen has to deal, rather than increase the number of checks.

The entrepreneurs’ ability to build up hidden reserves of the "commodity” (money to pay for the bribes) necessarily depends on their illegal dealings, since bribes can hardly be included in an official budget. One measure which has been suggested to punish companies that have "black funds", is *blacklisting* - that is, the creation of a public list of enterprises that have been banned from public contracting procedures (Savona and Mezzanotte 1998: 144). In Italy, with the exception of Law Decree N.58/1998, which increased the powers of control carried out by minority partners as well as the syndicate over management, no real measures have been taken in this field. Nonetheless, the fight against fiscal evasion has given some positive feedback..

Corruption obviously thrives where privileges are gained through political protection, i.e. where rents are allocated by the state through discretionary decisions or opaque procedures. It might thus be necessary to have political protection when exchanging goods and services of particular interest to public administration. Such protection is also influential in the discretionary assignment of authorisations, permissions, concessions and licenses, and in cases when companies prefer to be subtracted from legal checks and controls.

The opportunities for carrying out corrupt activities can be reduced by reforms limiting the area of rent allocation and the possibility of acquiring political rent in exchange for bribes. In this sense, the effects of European integration, on the economic level, have been positive in that they have determined growth in competition in critical sectors such as public contracts and telecommunications. Following the European directives, Law Decree N.114/1998, implementing Law N.59/1997, has led to the liberalisation of markets in various sectors and has increased competition.

The role brokers play as third-party intermediaries in the market for corrupt exchange is often decisive, since they take on some of the high risks of illegal exchanges, thus reducing the

costs of reciprocal mistrust. By having access to "privileged" information about public procedures, mediators strengthen their reputation of reliability, thereby reducing the high *transaction costs* of corruption (della Porta and Vannucci, 1999a, pp.153-165). Despite the proposals formulated by the Parliamentary Committee in order to discipline the use of reserved information and to sanction the activities of illegitimate brokerage, no bill has yet been introduced in Italy in this field. To date, nor does any law exist on the related field of lobbying activities: a proposal on this issue was rejected by the Chamber of Deputies in January 1998.

A particularly delicate question for any democracy is the potential "conflict of interests" within the administration. The overlapping roles between individuals operating in the political arena and on the market makes it difficult to define any clear boundaries, and consequently produces a dangerous "concentration" of political and economic power. In Italy, the lack of a general set of norms which discipline such conflicts - the limits of the existing law, dating back to 1957, are evident - have been stigmatised, in particular, after the media tycoon Silvio Berlusconi entered the political arena as the leader of the party *Forza Italia*, becoming Prime Minister from May 1994 to December 1994. On April 22nd 1998, the Chamber of Deputies approved a text obliging members of government, administrators of public companies and components of Guaranteeing Authorities, who owned goods amounting to more than 15 billion liras, to sell their properties, or to entrust them to a manager. The Senate did not approve this bill and the debate on the legal regulation of the conflict of interests is currently at a standstill.

In conclusion, in Italy, the political response to corruption has to date appeared extremely weak. Specific measures taken to prevent the action of bribers have been few and not very incisive.

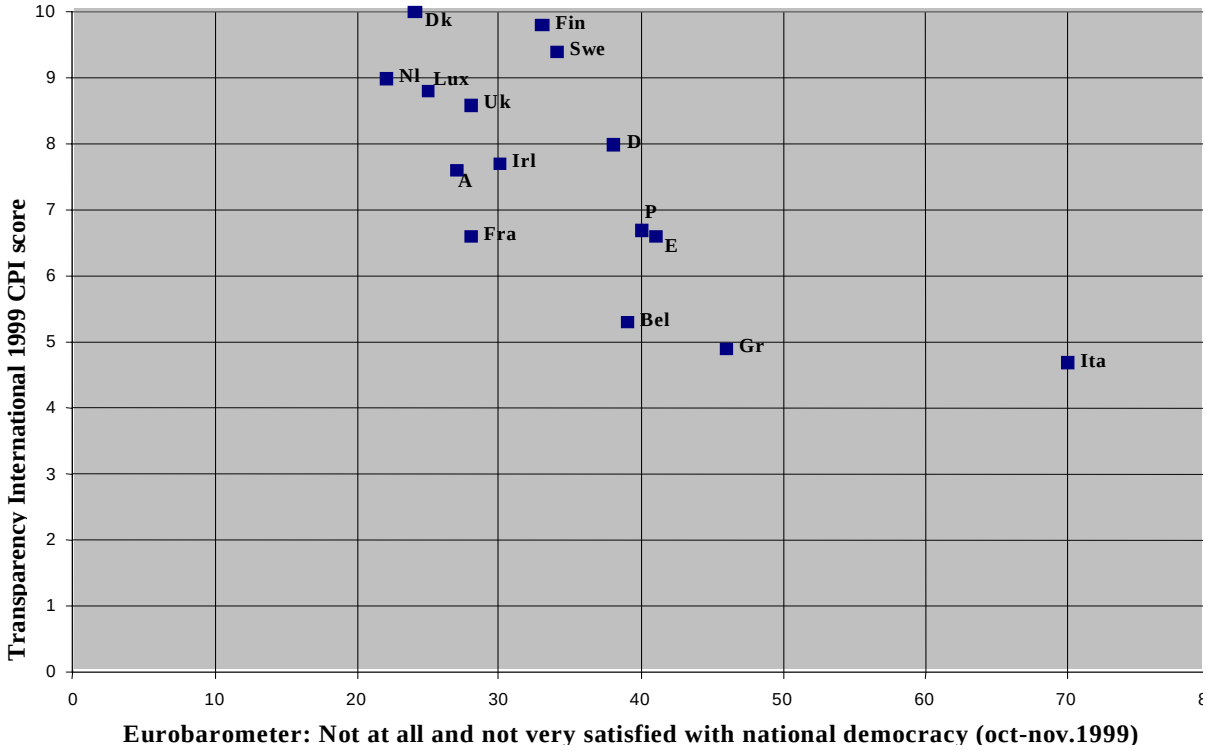
9.5. *To what extent do people believe that public officials and public services are free of corruption?*

9.5.1 Positive and negative indicators:

Assess opinion poll surveys and other relevant indicators of public confidence in the integrity of public officials and services

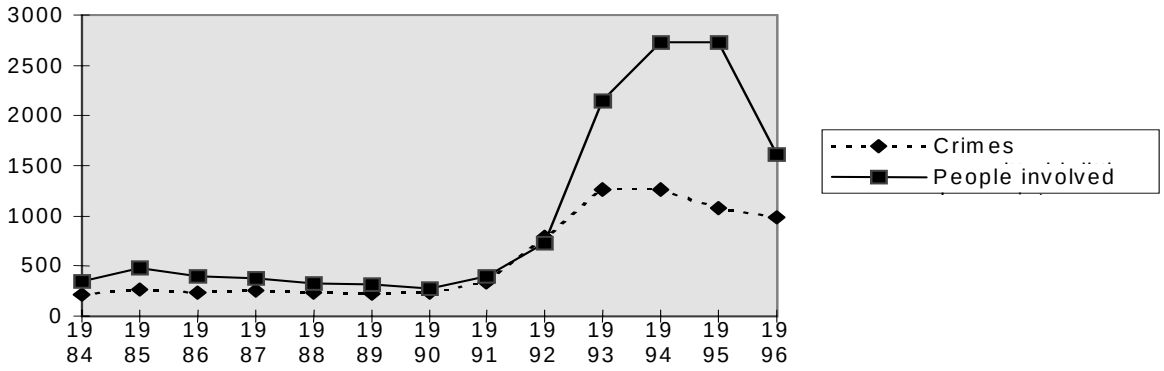
Within the European Union, Italians have the highest perception of corruption (according to the International Index of Transparency) and, at the same time, the lowest consensus rate towards democratic procedures (on the basis of the Eurobarometer data). Among EU countries, the correlation index is as high as r= –0,73 (see Table 9.1).

Table 9.1: Correlation between T.I. Corruption Perceptions Index (CPI) and Eurobarometer



If we compare the Italian trend of dissatisfaction over the functioning of democratic procedures with the official statistics on corruption (Italian Statistical Institute, ISTAT) presented in Figure 9.2, it can be seen that the relationship between "uncovered" corruption and trust in government does not have a "straight" inverse correlation.

Table 9.2: Corruption crimes in Italy: 1984-1996



Source: Official statistics on requests for judicial action and people involved in corruption crimes. Elaboration from Istat (in della Porta and Vannucci 1999b).

In Italy, the lack of confidence in democracy declined in the eighties, irrespective of the fact that the number of corruption crimes revealed by the statistics was more or less stable. Confidence subsequently increased, together with an initial rise in the number of corruption crimes and later declined, when the curve of crime was still at its peak. This means that trends of mistrust towards democracy seem to be related to visible political corruption, especially when scandals emerge, while the intensity of judicial actions against corrupt politicians (owing to the "forced" reforms of

the political systems which followed these investigations) have increased confidence in the state, even if the number of crimes disclosed continues to be on the rise, and is still high. After an initial "shock", the discovery of cases of corruption has been positively viewed by the public, who interpreted these events as signs that the authorities were effectively engaging in a struggle against corruption.

In brief, if we compare the curve of distrust towards Italian governments with that of cases of corruption that have been uncovered, it can be observed that, when corruption increased in the eighties, the curve of distrust in government followed a different path. As Leonardo Morlino and Marco Tarchi (1996, 54-55; see also Morlino 1998, chap. 7) have pointed out, by comparing the curves of totally dissatisfied citizens with those who were only slightly dissatisfied, there are in fact two types of distrusts, each following a different pattern: (i) *ideological distrust* in democracy tends to decrease, with a legitimation of democracy even in the eyes of supporters of the opposition; (ii) *instrumental distrust* in the effective performance of democratic government, instead, increases even among the supporters of the governing parties. In the eighties, there was a decline in the ideological dissatisfaction which left-wing supporters felt with democracy; both left-wing and more moderate centrist supporters account for the increase in instrumental dissatisfaction in the nineties (Morlino 1998, 305-307).

On the basis of two surveys carried out by the Confesercenti-SWG, in 1995 and 1997, concerning small entrepreneurs, 70% of interviewees were shown to believe that the levels of corruption were equal or even superior to those of the past. It would effectively seem that the average number of bribes had increased in order to compensate for the higher risks of being charged and arrested (Benassi and Sganga 1994: 48).

9.6. *What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?*

The struggle against corruption would appear to be important not only for good administration, but also for any legitimisation of democratic institutions, given that corruption attacks the fundamental principles of transparency and equality of political rights, and in the principle of equal access to the state for all citizens (Pizzorno 1992: 17). The Italian Clean Hands investigations have shown that neither a free market nor democratic procedures are sufficient to impede illegitimate practices. Given that corruption inevitably destroys people's defence mechanisms, denaturalises values, and alters their perceptions, the fight against corruption is, therefore, necessary for the wellbeing of the state and its citizens, as well as for the market. Consequently, democratic institutions should be open to self-criticism and reform.

Corruption in Italy seems to be more widespread than in other democracies, but it has also been more openly treated in the public forum by the judicial investigations. The scandals of *tangentopoli* ("bribe-city"), as well as illustrating the extent of the crisis of the "First Republic", also showed - paradoxically - the sensitivity and responsiveness of Italian citizens and of some political and institutional actors to corruption. The institutional answer was not restricted to the judicial level. Public opinion, especially in the first few years of the investigations, gave much support to judicial activity; this was particularly true in the more critical moments, when the corrupted parties lost out in the elections.

The Italian case can be considered as a sort of "magnifying glass" for the analysis not only of the mechanisms of corrupt exchange, but also for the ability to react against corruption of civic society and the institutional system. These scandals offered an exceptional occasion on which to reform the rules of the political game. Faced by a serious crisis of legitimacy, the political class has, in the last eight years, implemented reforms that were lagging well behind on such topics as the constitutional change to parliamentary immunity, to the electoral system, to the administrative system, and reforms enhancing the accountability of state auditing. Predictably, following the Clean Hands investigations, the question of potential anti-corruption policies has come to the fore on the

public agenda. Indeed, in some years it was almost “fashionable” for some political factions and politicians, who obviously tried to exploit its potential for votes and consensus. Even a Clean Hands Party appeared on the scene in 1994, but the cathartic power of its voice was not sufficient for it to win the elections. Only in the last four years, however, has this issue been dealt with in a more concrete and focused manner.

The Italian process of reform has always been, and still is, characterised by ambiguity and indecision; in addition, the problem of corruption has not been resolved – indeed, it is, according to statistics, on the rise again. From 1992 to 1999, after discovering the extent of capillary corruption, the Italian political class came up with a number of very limited and unclear legislative or administrative measures, aimed at preventing corruption. In the years immediately following these scandals, some reforms were made in the attempt by the political class to find answers to this institutional emergency. However, since then, the interest of the public has declined, and more recent investigations have led to divisions and even mistrust - instead of creating consensus, and, since they have been perceived as an intervention by the magistracy in "spheres of electoral legitimisation", the theme of anti-corruption policies has gradually disappeared from the political agenda.

In 1996, under the government led by Romano Prodi, the fight against corruption came to the fore. On September 26th 1996, a special Anti-Corruption Commission (with the exclusive aim of examining and presenting anti-corruption projects) was set up in the Chamber of Deputies, and supported by a special Committee of Experts (*Comitato di studio*, 1996). Its activity, however, ceased within two years. In addition, from May 199l to December 1998, 72 bills - either directly or indirectly correlated to the phenomenon of corruption – were put forward in the Italian Parliament. Of particular importance were the above-mentioned judicial investigations, which led to the establishing of a Parliamentary Committee of inquiry into corruption (netting 20% of the total proposals).

Proposals for a new penal code to discipline the crimes of corruption were backed by 17% MPs, some of them wanting to increase the penalties, others to break the so-called "iron pact" between bribers and bribees, by encouraging people to report corrupt activities. The creation of a special anti-corruption authority was proposed by 10% of these bills. Another 10% of the proposals called for penal trials to replace what were then only administrative sanctions, in order to solve the paradox of Italian civil servants who, having been sentenced for serious crimes of corruption continued to remain in office. Other fields of reform concerned the seizing of properties of corrupted persons (8%), the transparency of public bids (7%), the earnings of public employees (7%), checks on private companies (7%) and firms (5%), the funding of political parties (5%), and the regulation of lobbies (4%).[9]

The rapidity with which the Italian legislature tried to resolve the phenomenon of terrorism in the seventies or the Mafia in the eighties is in stark contrast to what has happened in areas concerning corruption: no bill on this issue has, as yet, been approved. Is the current picture, however, really completely negative? Despite appearances, some changes *have* taken place, in line with the trends evinced by foreign case-studies and experiences on the struggle against corruption. In the field of public contracts and within the administrative system, for instance, important reforms have tried to deal with administrative procedures and the civil responsibility of public employees, as well as to simplify norms, and give a more modern asset to organs of administrative control.. Paradoxically, however, it is clear that in Italy institutional reforms have been very much easier to carry out when they have not touched on the issue of corruption. In fact, every time there has been an attempt to discuss any political measure explicitly aiming at the prevention of corrupt activities, a system of reciprocal vetoes, blackmail and cross-oppositions have blocked all reforming efforts.

In conclusion, the Italian political class has not fully exploited the Clean Hands investigation in order to launch a reform that might have regained the full trust of citizens. Alongside sectors

[9] For a more detailed analysis of the anti-corruption activity of the Italian Parliament during the ‘90s, see della Porta and Vannucci (1999b).

where something has actually been done, or is beginning to move, there are vast areas which are still strongly reticent towards change.

There are many possible explanations for the weaknesses of Italian anti-corruption policies. First of all, after the initial reactions to the scandal, public opinion has become increasingly disinterested in the topic of illegality. The public at large was on the whole disgusted by the extent of the corruption illustrated by these scandals, and a highly cynical attitude towards politics spread among many sectors of the electorate. Nonetheless, politicians sentenced on charges of corruption have still kept their immediate entourage, while, ironically, the activities of the "anti-corruption committees" now receive very little media coverage.

All actions taken against corruption are, perforce, highly complex and delicate. It is therefore comprehensible that there is great temptation to return to policies having a high symbolic impact, even if they are not very effective. The proposed Authority against corruption - with its wide powers but unclear competencies – might well end up as having few concrete effects but being one of the only "visible" measures provided.

A further explanation for the inefficacy of the political class in the struggle against corruption dates back to the traditional difficulties that the Italian state has always had in developing and implementing regulative policies, that is, policies which set out norms rather than distributing benefits (Dente 1990: 17-23). If we look at the party system, many scholars of the Italian political system have complained about the lack of "planning" of political parties, underlining that parties often appear to be more concerned with gaining "rewarding" positions than with policy-making procedures (Cotta 1996). This may explain the weakness manifested by Parliament towards approving laws on such issues dealing with corruption.

The somewhat better records of recent governments - in particular, the Ciampi and Prodi governments - can perhaps be explained by a general tendency towards the strengthening of the executive institutions *vis-à-vis* parliaments, highlighted in many studies, and not only on Italy (see section 7). Moreover, in the field of deregulation, privatisation, and market competition, a far-reaching reform has been imposed by the norms of the European Union. For example, the EU has spurred Italy into meeting the standards set by the Maastricht Treaty in order to join the Euro monetary system. Nonetheless, even in sectors where state intervention has appeared more incisive, the question of how to effectively implement these reforms is still open.

Moving from a discourse of repression to one of prevention, anti-corruption policies must treat the crucial and delicate themes of the transparency and efficiency of public administrations, the role of money in politics, and the division of powers between politicians and bureaucrats with greater acumen. This will no doubt be a most difficult task, but is essential to the healthy development of any democratic system.

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10. The media and open government

Do the media operate in a way that sustains democratic values?

10.1. How independent are the media from governments, how pluralistic is their ownership, and how free are they from subordination to foreign governments or multinational companies?

10.1.1.Laws

A lengthy and complex series of processes have led to the establishment of the current Italian media system. Both national and communitarian legislators have played a part in this development, and even the Constitutional Court has had a crucial role. For obvious historical reasons, the Constitution does not foresee any particular norms guiding the discipline of media, other than those directly concerning the press.

As far as the advertising of ownership and the regulation of crossed ownership goes, the legislation seems, after a long period of debate, to have recently found a balance.

The theoretical-constitutional departure point of this is the importance attributed to pluralism, which the Constitutional Court has asserted on numerous occasions; a pluralism that, in its "external" form (viewed as the possibility of access to the market given to the widest band of actors holding different ideological, cultural and political inclinations, cf. for example, judg.420/1994) comes very close to the principle of free competition regulating the general economic sphere.

The Italian Constitution lays down that the means of funding of the press may be rendered public (Art.21, Comma 5). This principle of transparency concerning ownership has also been upheld by the Constitutional Court (cf. judg. 826/1988) and is applicable to all agencies operating in the field of information.

Recently, Law N.249/97 has unified the norms that previously regulated the press and broadcasting services, i.e. Law N.416/81 and Law N.223/90. A single Register has been set up for all those working in communications by a new Authority; private and state agencies, companies dealing with the production and distribution of programmes, advertising agencies, publishing houses, news agencies, and firms offering services in telecommunications are obliged to register.

Registration, which guarantees the transparency of market ownership, is not the only obligation on those operating in this field. Indeed, agencies are obliged to "inform" the Authority on many different issues. In particular, publishing houses and broadcasting and advertising agencies must render the names of their shareholders and their capital public. Should a shareholder be a company, the names of its controlling shareholders must also be communicated together with the names of all its shareholders, an indication of its gross capital, and the shares in its possession.

It is also necessary to inform the Authority when operations involve the transfer of all capital, or a significant part of it, to third parties. In order to identify the effective asset of the company, the law also lays down that operations when only one subject (or more than one associate) buys more than 10% of the capital of a registered company must be communicated. In addition, take-overs, even through a third party, new social agreements, and pools having the right to vote must also be rendered public. The violation of these obligations annuls the legality of the operation itself (and Law N.223/90 also provides for penal sanctions in cases of non-compliance), while late notification is punished with administrative fines. In particularly serious cases, the Authority may even suspend or revoke the licence.

To date, as we have seen, the law only enforces obligations on rendering public the effective asset of all agencies working in the field of information and communication. There is, however, a set of norms the main aim of which is to prohibit the establishing of positions which would significantly restrict market plurality and competition (with the risk of limiting the constitutional principle of pluralism in the field of information).

The new anti-trust norms in the field of communications are currently regulated by Law N.249/97. This law, however, is integrated by the general provisions of Law N.287/90, prohibiting

the abuse of dominant positions and banning restrictive agreements concerning market competition. The two Guaranteeing Authorities set up by the above-mentioned laws (the first of which guarantees communications, the second market competition) have different roles. While the former applies general anti-trust norms to broadcasting (see chapter 4), the latter instead ascertains that no "dominant positions" are established in this sector and has the power to take repressive action if need be.

In order to understand the anti-trust legislation in this field, it is necessary to clearly grasp the legislator's position towards the control of agencies. Such position implies a broader framework than that foreseen by Art.2359 of the Civil Code (i.e. a majority holding of shares or votes and/or the influence deriving from binding contracts), and goes as far as to include agreements that agencies make by means of fiduciary share-holding or parasocial relations. It even contemplates cases in which the choice of managing directors has been taken by subjects different to those legitimated on the basis of ownership assets, or in which the powers conferred onto a single subject are greater to those to which he could reasonably aspire given the number of shares in his possession.

Within this wider notion of control, Law N.249/97 formulates a prohibition which applies overall, for it prohibits all transactions linked to the establishing or perpetuation of dominant positions. Any dealings violating this principle are considered legally null.

The law gives a broad definition of what it considers to be a "dominant position" in relation to two sectors: (i) in relation to network holdings: the law must guarantee that licences conceded to one or more associated subjects will not allow the latter to have control of more than 20% of either analogue networks or digital programmes; (ii) in relation to funding: the general rule is that one or more associated subjects must not receive an intake of more than 30% of the resources of the broadcasting sector; such resources come from the RAI fee, revenue from advertising, television sales, sponsors, subscriptions to pay-television, and arrangements with public bodies.

A special norm refers to what can be defined as "cross-multi-medial holdings". That is, a situation in which one or more associated subjects holds shares from both broadcasting and publishing. In such cases, their revenue must not exceed 20% of the total sum of the resources from all the sectors in which they operate.

Violations of the norm regulating dominant market positions are sanctioned by the Guaranteeing Authority, which imposes an administrative fine going from 2 to 5% based on the company's invoices from the previous year. In more serious cases, the concession or licence given to the company in question can be revoked.

Last but not least, there are some anti-trust norms which refer exclusively to the publishing sector. These norms, originally established by Law N.416/81, have been modified various times. They prohibit operations which would lead to one or more associated agencies (although the concept of association is less rigid than described above) from owning more than 20% of the daily newspapers sold on the national market during the previous year (there are also regional limits).

10.1.2. Implementation and negative indicators

I) The press

Ownership of the press is fairly pluralistic, in spite of the presence of some groups which hold a number of newspapers in their hands. Table 10.1 illustrates the main groups and the total circulation figures for their respective newspapers.

Table 10.1. Ownership of newspapers

Caltagirone Group	
Newspapers	% of total national

	circulation
Il Messaggero	4.51
Il Mattino	1.58
Quotidiano di Lecce - Brindisi - Taranto	0.27
Total	6.36

R.C.S. Group	
Newspapers	% of total national circulation
Corriere della Sera	9.87
Gazzetta dello Sport	6.90
Corriere del Mezzogiorno	0.32
Total	17.09

Monti-Riffeser Group	
Newspapers	% of total national circulation
Il Resto del Carlino	2.68
La Nazione	2.26
Il Giorno	1.45
Total	6.39

L'Espresso Editorial Group	
Newspapers	% of total national circulation
La Repubblica	9.14
Il Tirreno	1.35
La Nuova Sardegna	0.88
Messaggero Veneto	0.73
Il Piccolo	0.68
Alto Adige	0.59
Gazzetta di Mantova	0.52
Il Mattino di Padova	0.43
Il Centro	0.35
La Provincia Pavese	0.31
La Tribuna di Treviso	0.27
Gazzetta di Reggio	0.23
La Nuova Ferrara	0.20
Nuova Gazzetta di Modena	0.19
La Nuova Venezia	0.17
La Città Quotidiana di Salerno e provincia	0.11
Total	16.15

(Source: Guaranteeing Authority for Communications, *Parliamentary Report, 2000*)

As the table shows, twenty-five daily newspapers (out of the existing 136), representing 45.99% of the national circulation of newspapers, are owned by four groups, none of them reaching the 20% limit imposed by law on the concentration of ownership. On a regional basis, the concentration is much more evident, with RCS reaching 35.48% in the North-west, and L'Espresso reaching 35.67% in the Centre.

Rather than the actual concentration of ownership, it is the interests which such ownership involves which are worrying. It is historically characteristic of the Italian news business that there has rarely been what could be termed a "pure" publisher, i.e. a publisher without businesses outside the sphere of journalism. For example, Francesco Gaetano Caltagirone, developer, entered the news

business in the mid-nineties. RCS is owned by HDP, a holding society, which is in turn owned by Gemina (a holding society formerly owned by FIAT, which also owns the newspaper *La Stampa*, and is now controlled by C. Romiti) and other industrial groups; Monti-Riffeser is owned by Andrea Riffeser, the head of several industrial activities; the Espresso group (which is named after the weekly newsmagazine which it also publishes) is owned by CIR (a holding society which is partly owned by C. De Benedetti and thus linked to Olivetti), and by Caracciolo (an in-law of Agnelli, owner of FIAT). Even *Il Sole-24 Ore* - the most important economic newspaper, representing 5.82% of the total circulation - is owned by Confindustria, the association of industrialists and manufacturers, and ANSA, Italy's main press agency, is owned by a co-operative society formed by the publishers themselves. The situation described above clearly illustrates that industrial interests will be over-represented in the press.

Support for specific political parties is in many cases a secondary consideration, heavily dependent - especially over the past decade, given the crisis of ideological party politics - on the positions such parties take concerning economic policies;[10] on the contrary, there has by tradition been much condescension towards the political élite. This is also because industrialists-turned-publishers do not necessarily run their businesses with an eye to profit through sales, but, rather, by paying much greater attention to the "political market", which they are quite willing to influence and gain from. The fact that as many as 74 Members of Parliament (55 Deputies, 19 Senators)[11] are professional journalists is simply another aspect of the close relationship which exists between journalism and politics.

It is evident that editorial policies stem directly from ownership interests: the national contract of journalists provides that the editor of a newspaper be appointed by the publisher, his or her only responsibility being that the name of the new editorial director be communicated at least 48 hours before the effective change takes place. At the same time, the publisher and editor-to-be illustrate the new editorial (and political) policies to the staff, as well as all informing them the workers on other agreements concerning the running of the office.

Inside the office the powers of the editor could well be described as those of an "absolute monarch". The editor is responsible for hiring and dismissing staff, scheduling work and making decisions over the tasks handed out to each journalist. The editorial committee, elected by the assembly of the editorial staff, has the power to express opinions on several issues, although such opinions are not binding.

II) Radio and TV

Ownership of television networks is based on a substantial duopoly (see Table 10.2). Silvio Berlusconi, developer, challenged the RAI monopoly in the highly unclear legislative context which characterised the mid-eighties, and, in a very short space of time, managed to create the situation which still sees the dominance of RAI and Mediaset over all other networks, in terms both of advertising and audience (the former obviously being a direct consequence of the latter).

Table 10.2. The income of television networks in 1997 and 1998

	1997		1998	
	Income (bn. Lire)	%	Income (bn. Lire)	%
RAI	3995	49.2%	4166	47.4%
licences	2219	27.1%	2266	25.8%
advertising	1652	20.3%	1767	20.1%
State funding	124	1.5%	133	1.5%

[10] Interview with Giorgio Acquaviva
[11] L'Espresso, n.29, anno XLV, 20.7.2000; p.157

MEDIASET	2975	36.6%	3284	37.4%
TMC	139	1.7%	152	1.7%
TELEPIU'	508	6.2%	579	6.6%
subscriptions	473	5.8%	540	6.1%
advertising	35	0.4%	39	0.4%
RETE A	19	0.1%	28	0.3%
STREAM	4	0.0%	23	0.3%
LOCAL TVs	470	4.7%	549	6.3%
Total	8109	100.0%	8781	100.0%

(Source: Authority - AC Nielsen Italia)

The Authority, which is responsible for the implementation of the laws on limiting ownership, has recently judged that the present duopoly, while blatantly contravening the limits imposed by L.249/97, is still legitimate because, first of all, it is the outcome of spontaneous expansion of business; secondly, because it does not impair pluralism and free market competition, which is guaranteed by the future growth of cable and digital TV. Furthermore, as the Authority has stated, Law N.249/97, which provides for the change of one of Mediaset's channels to cable and one of RAI's to non-commercial television, has yet to be fully implemented. Until then, the duopoly can continue.

In the course of the proceedings, the Authority heard both parties. Several associations and companies reported that unfair competition had been practised in the field of advertising by the two major corporations, especially in relation to the audience-survey agency, *Auditel*, which is, in fact, owned by both corporations. However, not enough evidence was brought in order to sanction them.

Local TVs, as the table shows, receive just over 6% of the resources of the TV market. This figure points to a situation of pulverised ownership, in which 793 concessions were released by the Ministry of Communications in 1995;[12] of these concessions, 546 were for commercial TVs, 247 for the so-called "*TV comunitarie*" (run by non-profit associations and organisations, and with severe restrictions on advertising). The number of channels which actually operate is hard to define: estimates range from 550 to just over 700.[13] The size of most of such broadcasters is extremely small, with very little potential for expansion, and no real possibility to invest in the quality of programming; the local market is "*limitato, asfittico, scarsamente dinamico, con scarse o nulle prospettive di sviluppo*".[14] National and local radio is not much better off, with 2,108 concessions in 1995 (1,699 of which were commercial and 409 *comunitarie*) and an advertising market of only 560 bn. Lire,[15] which suffers from the wide range of very small firms.[16]

III) RAI – The public-service broadcasting company

Direct control is exercised by the national government over RAI, the national broadcasting corporation. The company is now owned by IRI, a state institute of industrial investment, which has itself been recently dismantled following EU directives, and is still being liquidated. Nonetheless, no final decision has as yet been taken about the future of RAI, and irrespective of the fact that a referendum in 1995 opened the way for privatisation, state control over all decisions concerning RAI is still guaranteed by law (see 10.2.1).

Political choices still have a strong influence on the composition of the Board of Governors, and hence over editorial choice. Until the early nineties, the main parties (Christian Democrat (DC),

[12] FRT - Federazione Radio Televisioni, *Studio economico del settore televisivo locale italiano*, Roma, July 1999.
[13] Respectively: R. Porro, *Il sistema radio-TV locale*, Prob. Info. 2/99; Millecanali, *Annuario* 1999.
[14] R. Porro, *op. cit.*
[15] Autorità per le Garanzie nelle Comunicazioni, *Relazione 2000*, p. 251
[16] A. Cuzzocrea, *L'evoluzione delle ricerche quantitative sulla radio*, Prob. Info 1/97, p.188.

Socialist (PSI) and Communist (PCI)) agreed to distribute all offices and positions among themselves, thus leading to a form of pluralism that was morally unacceptable given its nepotistic aspects and economically inefficient given the size of the bureaucracy. This process was defined by Ronchey in 1968 as *lottizzazione*, a word taken from agriculture and meaning the "parcelling out" of a piece of land. The general assumption was that it would end when responsibility for appointing the Board of Governors passed from the hands of the Chambers of Parliament into those of the Presidents of each Chamber in 1993. And indeed, the appointments made in late June 1993 - in a political environment that was under radical transformation and excited by the hope of eliminating the corrupt structures of the recent past - were quite unusual in several respects. First, the appointments were made by the two Presidents of the Houses of Parliament completely on their own, without their consulting any party leaders.[17] Consequently, out of five members of the Board of Governors four were University professors, the fifth a publisher. None of them had had any previous experience in RAI or in the political arena. Indeed, the names of the new governors reported in the newspapers over the following days had no links to any political party, and it did seem that the newly-elected governors were more committed to the economic recovery of the RAI budget than to placing themselves in strategically important political positions.

After only four weeks in term of office, however, some observers realised that very little had changed. The appointment of Locatelli as Director General was seen as a political measure to satisfy the DC, in order to counter the President of RAI's affiliation with the PSI.[18] This was in line with the old concept of *lottizzazione*. The illusion of change began to fade, and successive appointments of Governors (1994, 1996, 1998) were reported on by newspapers with an eye to party politics. In 1994, this was clear in the squabble which took place between Pivetti and Scognamiglio (respectively President of the Chamber of Deputies and President of the Senate) concerning the role that the Prime Minister (then Berlusconi) was to play in these choices. Pivetti did not want the Prime Minister to take part in the choice of the Governors, while Scognamiglio actually went to visit him to ask for advice.[19] In 1996, the newly appointed Governors were defined as "exponents of cultural areas" rather than as party representatives,[20] but the evaluation of weights and counterweights were so pernickety and detailed, and the description of which party leader supported or vetoed which candidate were so heavily stressed, that there was little doubt as to the influence of government.

Finally, in January 1998, Enzo Siciliano, who had been appointed President in 1996, resigned, stating that *"I partiti dovrebbero fare due passi indietro dalla RAI, perché la politica ne faccia molti avanti, in Parlamento, verso la strada di una riforma complessiva del sistema"*.[21] The subsequent resignation of the entire Board of Governors (which took place over several days, with the involvement of numerous party leaders) was described by newspapers using the journalistic term "*quota*", a word implying the "share" that each party was entitled to have in the Board of Governors and that had not been used since the end of the "*Prima Repubblica*". Even today, each new appointment is labelled as the "quota" of some party; once again, the latter are the leading actors in the distribution of offices and positions: *"Il PDS…mette le mani su una poltrona decisiva…"*,[22] and "*RAI: Intesa PDS-PPI*".[23]

IV) Foreign control

Foreign presence in Italian media has started recently in two specific areas. The first of these concerns the periodical press, where the purchase of Rusconi's magazines[24] by the French company

[17] Ferretti and XXX report that S. Napolitano and G. Spadolini retired to the latter's villa near Florence in order to draw up the list of names in complete privacy; party leaders were displeased with such behaviour (Mamma RAI, p.438).
[18] La Repubblica, 24.7.93; "Passa il direttore che piace alla DC".
[19] Corriere della Sera, 12.7.1994
[20] La Repubblica, 9.7.1996
[21] La Repubblica, 22.1.1998
[22] La Repubblica, 30.1.2000
[23] Corriere della Sera, 30.1.2000
[24] Guaranteeing Authority for Communications, *Report 2000*, p. 226

Hachette Filipacchi Medias was made possible by a decision taken by the Authority applying Law N.416/81. (This law allows European companies to operate in the Italian press sphere.) This purchase may well be significant in that it constitutes a precedent for the further penetration of foreign companies in the Italian communication system. The second area concerns the field of cable and digital TV, as can been seen by the recent involvement of News Corp in Stream and of Canal Plus in Telepiù.[25] It is highly probable that foreseeable expansion in this field will offer foreign companies, whose role is at present negligible, an important future role in Italian TV.

10.2 *How representative are the media of different opinions and how accessible are they to different sections of society?*

See also 3.2 and 5.3.

10.2.1. Laws

In Italy the public broadcasting service is entrusted to a shareholding company "of national interest", the RAI, the shares of which are at present virtually all in public hands, through the legal concession of licences.

From an organisational point of view, the RAI is governed by an Administrative Council, whose five members are, according to Law N.206/93, jointly nominated by the Presidents of the two Parliamentary Chambers. The Administrative Council elects its own President. Both the President and Council as a whole share responsibility for running the RAI, laying out its editorial policy, and also have the power to appoint and dismiss staff members. They are also responsible for controlling "the correct accomplishment of the aims and obligations" of the service, as these have been established by law and specified by the Supervisory Committee. Furthermore, the Council appoints its Managing Director, who has wide administrative decisional power.

Concerning the content of programmes, the RAI follows the guidelines drawn up by the Parliamentary Supervisory Committee but is also subject to a series of obligations (not only based on the Italian Law but also on the working contract it has with the Ministry) that characterise its role as a public service. It must therefore broadcast programmes which are highly informative, and which, according to the dictates of the Constitutional Court, are "objective, complete and impartial". It must also broadcast bulletins issued by public bodies for the "common good" (with a maximum of 2% per hour of transmission and totalling 1.1% of the weekly schedule), as well as messages by constitutional organs. In addition, it must guarantee access to viewing, broadcast political and electoral forums, and give space to information about referendums. Furthermore, it must inform the general public on matters such as strikes in essential public services, road conditions, and develop systems enabling disabled people to enjoy and benefit from the service.

10.2.2. Positive and negative indicators

While most of the press is owned by the industrial élite and represents its interests, a counterweight has historically been represented by the political press. In the past few years, however, the "historical" political newspapers - organs of political parties - have been cut back severely (see Table 10.3). The collapse of the Socialist Party brought about the closure of *Avanti!* in October 1992 (in 1997 it started up again as a weekly magazine); *Il Popolo* (Christian Democrat Party, now the *Partito Popolare*) is still in publication, but with a circulation of under three million a year; *l'Unità*, the former organ of the Communist Party (now Left-wing Democrats), has been in financial straits for years: it was privatised in 1998 after having closed down all its local editions, and only recovered some of its circulation through intense marketing; as of July 29th, 2000 its

[25] Guaranteeing Authority for Communications, *Report 2000*, p. 111

publication has been suspended. *Il Secolo d'Italia*, organ of the *Alleanza Nazionale* (extreme right-wing party), has a circulation of nearly 7 million a year. *Liberazione* is the organ of *Rifondazione Comunista*, *La Voce Repubblicana* that of the Republican Party. *Il Manifesto*, a "communist paper" as it defines itself, is not the organ of any specific party; it has been included in the table below because of its strong political connotation, which assimilates its decrease in circulation to that of the other papers.

Table 10.3. The political press: copies sold per year (1996-1999)

	1996	1997	*%97/96*	1998	*%98/97*	1999	*%99/98*	*%99/96*
- L'Unità	79,809,656	63,090,000	*-20.95*	31,741,373	*-49.69*	43,227,123	*+36.18*	*-45.84*
- Liberazione	0	0	-	12,694,658	-	12,699,583	*+0.04*	-
- Il Secolo d'Italia	12,437,008	9,257,368	*-25.57*	7,742,581	*-16.36*	6,861,390	*-11.38*	*-44.83*
- Il popolo	3,161,902	3,142,595	*-0.61*	2,793,299	*-11.11*	2,924,129	*+4.68*	*-7.52*
- La Voce Repubblicana	2,752,380	2,517,000	*-8.55*	962,620	*-61.76*	2,008,504	*+108.65*	*-27.03*
- Il manifesto	28,520,000	26,008,129	*-8.81*	25,911,144	*-0.37*	24,676,537	*-4.76*	*-13.48*

(Source: 1996-1998 - "La Stampa in Italia 1996-99", FIEG; 1999 – *Authority Report* 2000)

Public funding has only partially alleviated the financial strains that these papers have encountered (see Tables 10.4 and 10.5). Specific funding for the organs of political parties was first instituted by a law passed in 1981 law (see 10.1), and has subsequently been extended in such a way as to have given rise to some obvious cases of misuse, owing to the fact that any newspaper or journal which can rely on the support of at least two members of Parliament (or EU Parliament) is entitled to apply for subsidies (Law N.250/90). This norm immediately led to an increase in the number of papers registered as party organs, although many of them have no direct connection with the parties or movements to which their MP supporters belong. In some cases, the two supporters have even belonged to substantially different political areas.

Table 10.4. Public funding of newspapers in 1998

Categories of newspapers and magazines	Expenditure by *Dipartimento per l'Informazione e l'Editoria* for the funding of newspapers and magazines (1998*)
Newspapers and magazines registered as organs of political parties**	L. 44,236,000,000 (22,845,987 Euro)

Newspapers and magazines published by co-operatives of journalists	L. 66,542,000,000 (34,366,075 Euro)
Newspapers and magazines published by non-profit organisations and foundations	L. 4,597,000,000 (2,374,152 Euro)
Special newspapers and magazines for the blind	L. 912,000,000 (471,009 Euro)
Newspapers and magazines published by Consumer and Customer Associations	L. 1,000,000,000 (516,457 Euro)
Total	117,287,000,000 (60,573,680 Euro)

(Source: *Dipartimento per l'Informazione e l'Editoria, Presidenza del Consiglio dei Ministri*)

*data refer to the sums relative to 1998 that were paid off by July 2000, representing - according to an estimate by *Sole24Ore, 21.7.2000* - 61% of the total figures to be liquidated.

**see next table

Table 10.5. Public funding of the political press

Newspaper	Political area	*Expenditure*
Angeli	Ali	75,144,354
Aprile	Movimento dei comunisti italiani	307,972,983
Area	Area	267,977,330
Avanti della Domenica	Socialisti italiani	522,179,650
Avvenimenti - Ultime Notizie	L'altritalia	2,950,475,887
Borghese	Il principe - Destra di popolo	637,160,343
Città che vogliamo	Mov. politico Andria che vogliamo	12,033,324
Comuni regioni feder.	Lega delle Regioni	17,093,721
Cristiano Sociali news	Cristiano sociali	231,104,031
Denaro	Europa mediterranea	959,810,772
Discussione	Cristiano democratici uniti	1,824,296,225
Duemila	Unione di centro	488,961,891
Foglio	Convenzione per la giustizia	3,883,550,124
Italia democratica	Italia democratica	16,045,816
Labour	Federazione labourista	80,345,305
Liberazione giornale comunista	Partito della rifondazione counista	4,072,886,707
Linea	Mov. sociale - fiamma tricolore	1,239,929,712
Milano metropoli	Ass. Milano metropoli	140,744,238
Notizie verdi	Federazione dei verdi	829,428,427
Nuova cronaca	Informazione democratica	370,262,428
Opinione delle libertà	Mov. delle libertà per le garanzie e i diritti civili	2,082,996,429
Opinioni nuove	Movimento monarchico italiano	12,134,828
Padania	Lega nord per l'indipendenza della Padania	4,813,411,563
Patto	Patto Segni	304,116,764
Peuple valdotain	Union valdotaine	264,077,441
Popolo	Partito popolare italiano	1,352,416,228
Quattropagine quotidiano Cdu	Cristiano democratici uniti	713,945,963

Ragioni del socialismo	Mov. per le ragioni del socialismo	74,334,568
Roma	Mediterraneo	2,506,220,353
Secolo d'Italia	Alleanza nazionale	3,702,624,279
Sinistra Oggi	Coord. naz. dei repub. per l'unità della Sinistra democratica movimento pol.	85,541,580
Unità	Partito democratico della sinistra	8,145,773,414
Voce repubblicana	Partito repubblicano italiano	1,336,248,641
Zukunft in Südtirol	Südtiroler Volkspartei	430,308,924

(Source: *Sole24Ore, 21.7.2000*)

As far as radio and TV are concerned, one form of public commitment in the pluralism of the media is that of "*Programmi dell'accesso*" ("access programmes"). These are radio and TV slots allocated to all sorts of movements and associations wishing to broadcast brief documentaries or interviews on their views and activities (technical support for filming and recording is provided by RAI free of charge). National TV channels broadcast such programmes daily (that is, all weekdays, except in summer), although national radio has only two weekly slots (owing to an effective lack of applications, since most associations prefer TV broadcasts).[26] The Parliamentary Commission (see 10.1) is in charge of the allocation of these slots, which are unfortunately extremely brief and take place at somewhat inconvenient times. Data collected on these programmes, which are shown daily from 9.45 to 9.55 am, illustrate that, in a sample week, the average audience is not large (939,000 people, 1.7% of the total national population) [Auditel]. However, they do demonstrate that televiewers are interested in the programme, since a third of those watching TV at that time of day are in fact watching "*Programmi dell'accesso*". It is therefore quite likely that if the RAI were to change the scheduling of such programmes to more "popular" hours (which would not exclude all those working in morning!), the service would be significantly improved. Regional *Programmi dell'Accesso* are also provided for by law, but only three regions (Tuscany, Liguria, and Friuli-Venezia Giulia) actually broadcast them.[27]

More generally, a study[28] on the RAI's service programming[29] shows that the choices made in the advertising of such programmes and in their production and scheduling, there is a strong tendency towards what Tichenor defined as a "knowledge gap": people who are more aware of their environment and need less help from the media in finding their way through institutions and social life tend to benefit most from these programmes. Furthermore, a vicious circle of scarce interest is set up: the broadcaster's choice of a "weak" programming time (morning programmes aimed at school-children are the most blatant example of this!) leads to a reduced audience, which in turn leads to the virtual nullification of the efficacy of such programmes.

The few exceptions (RAI-Radio1 and RAI3) are clearly insufficient to guarantee the media a full-standing role in securing rights of citizenship. They also highlight that it is unlikely that there will be any move forward in this field if so few resources continue to be invested. This is confirmed by the fact that popular, as well as clever and committed; anchormen as well as more favourable scheduling *have* made experiences such as *Mi manda Lubrano* or *Radio Zorro* (now *Radio a colori*) very valuable.

One of the aims of Law N.103/75, art. 4 was to give greater space to political and social pluralism by means of specific programmes (*Tribuna Politica, Tribuna sindacale*). These were to be regulated by the Parliamentary Supervisory Commission, in which parties and trade unions

[26] Dott. Malinconico, Comm. Vigilanza, al telefono (25.7.00)
[27] Dott. Nicola Barbato, Corerat Toscana (25.7.00), confermato da Malinconico
[28] S. Marcelli, L. Solito, *I Programmi di servizio della RAI*
[29] The authors' operative definition of service programme is that of any programme which has "the conscious purpose of responding to the specific needs in organising daily life, with effects reaching beyond the circuit of communications" (p.209). The research only focuses on the RAI (by which it was commissioned); mention is made of private networks (p.42), which limit their service programming to weather forecasts or other programmes and which are fairly popular and strictly politically and socially "neutral".

would be able to express their views and confront one another in conditions of substantial parity. The number of such programmes has, however, gradually decreased. At present, political programmes are only broadcast during election campaigns, while no specific space is allocated to trade unions. The consequences of this are that all political communication (except for campaigns, see below) is based on media market policies, with no substantial guarantees. The proliferation of talk-shows and other programmes which deal with politics is only partly positive with regard to the pluralism of political information: the way such programmes are constructed, responding to the logic of mass-media market, often means that it is the TV-performance and ability of the politician which are being tested and put forward to obtain public consensus, rather than "the dignity of his or her ideas".[30] How one appears on the screen is all the more demanding the more varied the "formats" are, each having specific "rules of the game": only wealthier politicians and parties can afford to have "spin doctors" and image managers to work with them in order to fully exploit the opportunity to speak to the public through such media.

However, while it might be claimed that parties at large seem not to suffer from under-representation - their role being rather exalted by the media, the absence of specific slots is detrimental to, for example, trade unions. Only the largest and those led by strong personalities have the opportunity to talk on television, and this on a very occasional basis. Moreover, this often occurs in negative terms when, for instance, the inconveniences caused to customers by a strike (reported through interviews to passers-by) are compensated neither in news broadcasts, nor by other programmes explaining the reasons for the strike.

Immigrants are also very weakly represented on the media. Indeed, newspapers and TV newsreels constantly report the number of clandestine immigrants landing on the shores of Italy with a very strong sense of alarm which is not always justified.[31] More serious still is the tendency to stress alleged links between immigration and criminality as an ongoing phenomenon, to which virtually all TV and newspapers contribute. For example, a study[32] on TV newsreels of the first ten days in 1999 (during which a series of crimes took place in and around Milan) shows that, while mixing together events that were in no way linked to each other in order to create a "wave of criminality" scoop, all the newsreels soon started linking these criminal episodes with the increase in immigration, and based this connection on the declarations made by several politicians. The fact that most of the crimes were committed by Italians did not prevent further allegations: in one such case, journalists asserted, without any proof, that "it is likely that the weapons used were supplied by Albanian criminals"; in another case, a journalist went on to describe how the area where the crime took place was controlled by North Africans. Referring to the same period, the study stressed that all crime news were dealt with either just before or just after the news of illegal landings. The use of interviews with politicians substituted the need for data (which were very rarely mentioned, and were often contradictory and unclear); interviews to passers-by (a technique often exploited by TV newsreels) were - as is their nature, given their brevity and the limited number that can be broadcast - only used to confirm the message the journalist wished to convey.

Very few programmes deal systematically with the issue of immigration or host immigrants. Although some such programmes have been experimented (*Permesso di Soggiorno*, *Non Solo Nero*), there is no ongoing commitment to tackling the issue, not even by the RAI. No TV channels or radio stations are run by immigrant minorities, because of the high purchase costs (50 million Lire for radio, 300 millions for TV).[33] The only active presence of immigrants is therefore in specific slots which are either sold to them by (local) commercial radios and TVs or given for free, in the case of non-commercial broadcasters, on grounds of solidarity, as is the case of Catholic or left-wing movement radios (*Radio Popolare*). These forms of active participation (often more

[30] F. Rositi, *Una ricchezza di "formati" poco rassicurante*, in M.L. Bionda, A. Bourlot, V. Cobianchi, M. Villa, *Lo spettacolo della politica: protagonismo e servizio nel talk show*, Rai-Eri, 1998.
[31] L. Tateo, *Il Giornalismo italiano e l'immigrazione: un "caso" di Santoro*, Prob. Inf. 2/99.
[32] Osservatorio della Comunicazione Radiotelevisiva di Pavia, *Criminalità e immigrazione nella televisione*, a cura di A.M. Koshin, M. Azzalini, M. Malchiodi
[33] L. Mauri, S. Laffi, D. Cologna, E. Salamon, E. Brusati, *Così vicini, così lontani: per una comunicazione multiculturale*, Rai-Eri, 1999; p.74.

*intra*ethnic than *inter*ethnic) are not uncommon, but their voluntary nature and their dependency on the personality of one charismatic member of the immigrant community, as well as a lack of an editorial structure, often implies that such experiences cannot but come rapidly to an end.[34]

The space allocated to and the image given of women is another sore point: suffice it to say that the studies on this topic made by the *Osservatorio di Pavia* were bought exclusively (*in esclusiva*) by the RAI which, in turn, when questioned on the findings, refused to render them public due to the bad light they would throw on the company.[35]

What we do have are data on the employment of women in RAI, and an elaboration of the data by the *Osservatorio* on electoral campaigns. The former are hardly comforting: the overall percentage of women in RAI was 30.75% (3,293 over 10,708) in 1998; this hides the fact that the number of women managers is as low as 13.1%, and the percentage of 24.2% among journalists is possibly even more worrying, particularly if we consider the role TV journalists play in everyday information.[36]

The latter survey also indicates the amount of time that women candidates are given on TV during electoral campaigns. During the 1996 campaign for general elections, of the total time of presence of a candidate on the screen only 7.2% was for women, while the remaining 92.8% was, of course, for men. Taking each TV network separately, the data are 6.3% for RAI, 4.3% for Mediaset, 13.5% for TMC. Furthermore, it should be noticed that such low scores are only partly justified by the fact that there are fewer women in politics than men: in 1996, 13.1% of Members of Parliament were women, so that the presence of women is *both* small and underrepresented. In the 1999 campaign the general score was even lower, 7% vs. 93%, with a slight improvement in RAI and a decrease in TMC.

The start of Silvio Berlusconi's political career at the head of *Forza Italia* clearly posed a threat to pluralism in TV news and programmes, and led to a new set of laws regulating political communications during electoral campaigns.

Let it be noticed, first, that in 1999 during the campaign for the election of the European Parliament, Mediaset broadcast 34.5% (in minutes), with the RAI at 58.5%, and TMC at 6.9%, of all national transmissions dealing with political leaders, candidates, or groups, in any newsreels or other programmes.[37] The data concerning Mediaset for the 2000 Regional elections is slightly lower (32.8%), but is still high enough to justify closer examination (see Table 10.6).

Table 10.6. TV Broadcasting during electoral campaigns

	1999		2000	
Parties:	Newsreels	All programmes	Newsreels	All programmes
Forza Italia	14.1	15.1	21.7	15.9
Alleanza Nazionale	7.9	5.3	3.9	4.8
Patto Segni - Elefante	0.6	1.0	0.3	0.2
CCD (+CDU)	1.2	1.8	1.7 (+0.5)	2.7(+1.6)
Polo per le libertà	2.7	1.5	2.9	3.7
Total right-wing	*26.5*	*24.7*	*31.0*	*28.9*

[34] ibid.
[35] Dott.ssa Carla Salvatore, al telefono 26.7.00
[36] Annuario RAI 1999, Rai-Eri.
[37] This, and all following data on electoral campaigns: Osservatorio della comunicazione radiotelevisiva di Pavia; *si ringrazia* Dott. Alfio Nicotra.

Udeur	0.8	2.3	1.4	2.4
Democratici	4.0	4.1	1.2	2.6
PPI	3.7	4.5	6.4	5.4
Rinnovamento Italiano	0.2	0.9	0.0	0.8
Verdi	1.5	2.6	0.7	2.0
SDI	1.0	1.5	2.0	2.3
DS	6.1	5.6	7.4	8.0
Comunisti Italiani	1.3	2.1	0.8	2.0
L'Ulivo	2.1	2.0	2.7	3.0
Total left-wing	*20.7*	*25.6*	*22.6*	*28.5*
Rif. Comunista	3.4	3.4	1.6	2.9
Lega Nord	2.8	3.2	2.4	4.0
Bonino-Pannella	3.7	4.0	3.1	5.3
Time during which each party is spoken of, or a member of it is interviewed; % over total time of political communication on 7 national channels (RAI, Mediaset, TMC); May 14th - June 25th, 1999; March 2nd - April 7th, 2000				

Source: *Osservatorio della comunicazione radiotelevisiva di Pavia*

The space given to small parties in programmes other than newsreels (mainly secured by *Tribune elettorali*) helped the left-wing coalition reach, and, in 1999, even surpass, the right-wing coalition, which had been given a larger amount of space in news broadcasts (see Table 10.7). This advantage which, as in 1996,[38] was mainly due to the position of *Forza Italia* and did not apply to other right-wing groups: Mediaset newsreels (*TG4* and *Studio Aperto* in particular) strongly favoured *Forza Italia* and its leader, and so did - to a lesser degree - all their other newsreels. Suffice it to say that during the 2000 campaign Silvio Berlusconi effectively appeared on the screen for 367.8 minutes, while Massimo D'Alema (Prime Minister, DS) only "scored" 131.5, and Walter Veltroni (leader of DS) 112.7.

Table 10.7. TV coverage of party leaders in 2000

	RAI			Mediaset			TMC	
	TG1	TG2	T3	TG4	TG5	Studio Aperto	TMC news	total
FI	13.7	19.4	10.2	56.4	25.7	57.4	6.7	27.4
AN	7.7	9.7	5.0	4.3	4.7	8.2	6.0	6.5
DS	7.4	6.7	7.6	3.0	17.7	2.7	15.1	6.9

[38] G. Sani, P. Segatti, *Programmi, media e opinione pubblica*, in R. D'Alimonte, S. Bartolini, *Maggioritario per caso*, Bologna, 1997; p.29.

PPI	4.5	4.0	4.4	5.5	2.3	1.0	9.7	4.6
Amount of time party members appeared on TV news; % over total newsreel time allocated to party members; March 2nd - April 7th, 2000								

Source: *Osservatorio della comunicazione radiotelevisiva di Pavia*

Access to the media as "customers" is widespread as far as TV and radio are concerned; this can be seen by the number of families who own a TV set and pay the TV licence fee (the cost of which is now 171.600 Lire, 88.62 Euro, the lowest in Europe), although it should be added that there is a very high level of evasion (see Table 10.8).

Table 10.8. Density of TV Licenses

year	number of licences	density (per 100 families)
1954	88,675	0.73
1960	2,213,336	16.66
1970	9,979,001	62.48
1980	13,982,841	76.86
1990	15,001,516	72.66
1995	16,091,345	80.70
1996	16,114,572	80.73
1997	16,071,964	80.35
1998	15,911,970	79.15

(Source: "*Gli Abbonamenti alla televisione 1998*", RAI)

No significant patterns are to be found in the density of licenses according to the size of towns, while a clear pattern is visible along the North-South line. This, again, may be due to patterns of evasion as well as different levels of socio-economic development (see Table 10.9).

Table 10.9. Density of TV licences by Regional Area

area	number of families	number of licences	density (per 100 families)
North	9,580,158	8,098,540	84.53
Centre	3,916,765	3,233,582	82.56
South	4,398,225	3,102,073	70.53
Islands	2,207,270	1,477,775	66.95
Italy	20,102,418	15,911,970	79.15

(Source: "*Gli Abbonamenti alla televisione 1998*", RAI)

As far as the immigrant population is concerned, an estimated 95% have access to a TV set, either their own or a friend's or that of the family for whom they work. This percentage drops to 85% if we only consider immigrants who have been in Italy for up to three years. It is important to notice that the survey was carried out on a sample of only 1,095 people who had permanent residence, and therefore overestimated the quality of immigrant social and economic conditions.[39]

However, daily papers are not read as much as in most other countries (see table 10.10), the national average being 102 copies per 1,000 inhabitants and with extremely marked differences between the North and South (see next table). Italy is classed 13th in the EU15 rank order, with only Portugal and Greece scoring lower (72 and 64 respectively; the average is 317 in the UK, 303 in Germany, and 145 in France).[40] Such a low readership can in part be explained by the total absence of tabloid papers -*L'occhio* in 1979, and *Il Telegiornale* in 1995 were two attempts to create some type of tabloid, but they were both absolute fiascos, by the very strong presence of television in both information and entertainment, by the relatively high price of newspapers (just under 1 Euro),[41] by the extremely low levels of subscriptions (8% as opposed to 41% in the UK, 52% in France, and 70% in Germany)[42] - which may be partly due to the inefficiency of the Italian postal service.

Table 10.10. Newspaper sales by region in 1998

Region	Newspapers sold (per 1000 inhabitants) 1998
Piemonte	106
Valle D'Aosta	119
Lombardia	132
Trentino Alto Adige	183
Veneto	110
Friuli Venezia Giulia	166
Liguria	181
Emilia Romagna	146
Tot. NORTH	132
Toscana	128
Umbria	86
Marche	88
Lazio	133
Tot. CENTRE	122
Abruzzo	72
Molise	41
Campania	47
Puglia	50
Basilicata	39
Calabria	45
Sicilia	47
Sardegna	124
Tot. SOUTH	55
Tot. ITALY	102

(Source: "*La Stampa in Italia 1996-99*", FIEG)

[39] L. Mauri, S. Laffi, D. Cologna, E. Salamon, E. Brusati, *Così vicini, così lontani: per una comunicazione multiculturale*, Rai-Eri, 1999; chap.11.
[40] *Stampa Italiana* p.48
[41] Publishers complain about the high cost of paper, which accounts for 19% of publishing costs (FIEG, *Stampa Italiana* 96-99, pag. 42)
[42] FIEG, *Stampa italiana* pag. 47

A slow but constant increase in readership took daily copies to a maximum of 6.8 million in 1990, but the trend has been negative ever since (partly due to the creation of Mediaset's TV newsreels[43]). During 1997 and 1998, a slow recovery seems to have taken place; this became even clearer in 1999 with an increase of 54%[44] (see Table 10.11). New legislation issued in early 1999 extended the number and kinds of shops allowed to sell newspapers (up to then, this had been the exclusive right of news-stands) to supermarkets, petrol stations, bars and bookshops. Implementation is, however, slow[45] and data show that the habits of Italians have not undergone any radical change.

Table 10.11. Newspaper sales by year 1980-1999

Year	copies printed (daily average)	% variation	copies sold (daily average)	% variation
1980	7.427.213	—	5.341.970	—
1981	7.475.266	+0,6	5.368.815	+0,5
1982	7.571.807	+1,3	5.409.975	+0,8
1983	7.708.165	+1,3	5.580.394	+3,1
1984	8.135.157	+5,5	5.860.691	+5,0
1985	8.378.753	+3,0	6.068.407	+3,5
1986	8.992.407	+7,3	6.365.661	+4,9
1987	9.337.653	+3,8	6.618.481	+4,0
1988	9.562.563	+2,4	6.721.098	+1,5
1989	9.651.225	+0,9	6.765.715	+0,7
1990	9.763.197	+1,1	6.808.501	+0,6
1991	9.492.087	-2,8	6.505.426	-4,4
1992	9.429.250	-0,7	6.525.529	+0,3
1993	9.245.797	-1,9	6.358.997	-2,6
1994 (*)	9.030.007	-2,3	6.208.188	-2,4
1995 (*)	8.599.394	-4,8	5.976.847	-3,5
1996 (*)	8.503.177	-1,1	5.881.350	-1,6
1997 (*)	8.199.547	-3,6	5.884.432	+0,05
1998 (*)	8.185.900	-0,2	5.888.894	+0,1
1999 (**)	*8.187.537*	*+0,02*	*5.936.595*	*+0,8*

(*) From 1994 onwards, data have been rectified after the elimination of five papers, the circulation of which was only estimated; one further newspaper was left out after 1996, because data were not submitted;
(**) Estimate based on data submitted by 61 daily newspapers;
(Source: "*La Stampa in Italia 1996-99*", FIEG)

It is interesting – and worrying – to notice that a decreasing number of young people are now reading newspapers (see Table 10.12). It is likely that the situation would improve a little if Art.15 of Law N.416/81 was enforced, i.e. if all secondary schools provided students with newspapers and a reading room.

Table 10.12. Readership of newspapers among young people: 1997 and 1999

	1997			1999		
	population	readers	penetration	population	readers	penetration

[43] P. Murialdi, *La stampa italiana dalla Liberazione alla crisi di fine secolo*, Bari, 1998; p. 255.
[44] *Autorità*, Report 2000, p.163
[45] FIEG, *Stampa Italiana*, p. 46

Age 14/17	2.941	1.129	38,4%	2.424	797	32,9%
Age 18/24	6.135	2.831	46,1%	5.880	2.510	42,7%
Total population over 14	49.130	20.834	42,4	49.634	19.678	39,6

(Source: *Audipress*; absolute figures: .000 persons)

It is probably not surprising, but still worth noting, that the percentage of people who read newspapers among those 3.7 million people that have no educational qualification is as low as 8%.

As far as the Internet is concerned, access is spreading quickly. Assinform[46] reports that the number of "heavy users" (4-5 times a week) were 1.5 million in 1998, twice as many as in 1997. The number of people who used it "in the past three months" totalled 2.6 million, doubling the previous result. A Censis study[47] on people over the age of 18 reports an overall 9.4 million users (21.3% of the total population) in the year 2000, 4 million having access to the Net from their homes. On the other hand, an estimated 3 million people are completely excluded by not having a phone, and another 4.9 million do not know what the Internet is or what services are offered on-line.

The percentage of users is remarkably low among house-wives, pensioners, and the unemployed (respectively 2.9%, 6.2% and 8.3%). These same categories are also those with the highest percentage of people who are unaware of the existence of the Internet, or who do not have access to a phone line. The fact that 38% of the unemployed lack the basic abilities for using a PC (compared with a still remarkable 25% of the total population) is particularly worrying, because it can only lead to a vicious circle of social marginalisation.[48]

10.3 *How effective are the media and other independent bodies in investigating government and powerful corporations?*

1. Positive indicators and negative indicators

Investigative journalism is unfortunately much less common compared to the widespread use of press-releases, interviews, and editorial comments on news.

In trying to attract readers, newspapers have taken up the style of television news-making: "harsh language, sensationalism, strong titles at all costs, non-events turned into scoops", in a word, "TV-addiction"[49] prevails in newspapers, thus excluding the less immediate communication, and more long-lasting impact of in-depth enquiries.[50] Most papers belong to what is called the "omnibus" genre; a genre that caters for all sorts of flares and tastes, dedicating an increasing amount of space to television, sport, and crime news, and sticking to that old style of Italian journalism which - more interested in the "political market", in the 1,500 readers of Forcella's famous article, than in the editorial business – privileges the so-called "*pastone"* (*mash*), i.e. a mixture of news, description, and commentary all in one article.[51]

There are a few significant examples of investigative journalism coming from the past: in the mid fifties, the new-born news magazine *L'Espresso* published a series of reports on property speculation and corruption. Its impact was such that new legislation was passed within a matter of weeks. In 1957, another new-born paper, *Il Giorno*, published a report on the adulteration of foodstuffs. Later, in the early seventies, Italian investigative journalism came to the fore, although

[46] Stampa italiana p. 27
[47] Censis, *Internet, la chiave dell'innovazione amministrativa*, Rapporto di ricerca, Forum della PA, Roma, 8 Maggio 2000
[48] ibid.
[49] P. Murialdi, *La stampa italiana dalla Liberazione alla crisi di fine secolo*, Bari, 1998; p. 299.
[50] cfr. G. Pansa, *Si fanno poche inchieste: ecco cinque ragioni*, Problemi dell'Informazione n.3/85, pp.403-411.
[51] P. Murialdi, *La stampa italiana dalla Liberazione alla crisi di fine secolo*, Bari, 1998; p. 75

unfortunately in tragic circumstances: the bombs in Milan and Rome, and the subsequent death of an anarchist in a Police Department in Milan, all triggered off a series of campaigns of condemnation of "State lies" and "State slaughter". This led to inquiries into the workings of the secret services, and to the establishing by a few hundred journalists of the Democratic Journalists' Movement, and to the Committee for the Freedom of the Press and the Fight Against Repression. In recent years, Vittorio Feltri has carried out investigations into the leasing of state-owned real property, Andrea Purgatori on the 1980 air-crash in Ustica, and Bellu and D'Avanzo have examined the secret paramilitary organisation *Gladio*.

Indicative of the difficulties which Italian journalism faces, is the latest Mediaset campaign accusing the government of malpractice. Such accusations, coming from a somewhat unorthodox milieu, reported dramatic inefficiencies in the supplying of humanitarian help in Kosovo by the government-run organisation *Arcobaleno*. This was a particularly delicate issue since it brought to the fore the question of the Italian participation in the war. *Striscia la notizia*, the Mediaset programme in question, more widely renowned for its raw satire and scantily-clad, pretty assistants than for the reliability of its editorial staff, initiated this campaign. The programme cannot be said to be informative, since it is heavily subject to audience and advertising indexes, broadcasts superficial scoops with no depth of inquiry and little continuity. At most - in the words of its director (quoted in S. Giudici, *Prob. Inf.* 3/98), it can be defined as a "pedagogical project to demolish the credibility of TV".

Nor did journalists play a decisive role in unveiling the corruption on which the former PSI and DC had thrived. In 1992, when the official judicial investigation was under way, journalists relied on information coming from Prosecutors' offices and started writing either in support or in condemnation of the work of the magistrates according to the connections that each paper had to the parties. They did this rather than carry out investigative journalism, and this was judged to be a sort of *militant* journalism.[52] This *Authority* itself had a very clear idea of this, and acknowledged "the substantially partisan character of Italian journalism" (*Relazione 1998*, p.257). Few media means, such as, for example, *Diario*, a weekly newsmagazine, and some TV programmes, for instance, *Report*, attempt to nurture the more lively tradition of past investigations, but the political and social impact of their inquiries is limited.

There are several reasons for the dramatic decline in investigative journalism. First, it requires too much work and efficiency-maximising editors and journalists do not always have this kind of time. Moreover, the constant increase in the size of newspapers, and in the number of press releases – many on the Internet - that reach the journalist's desk have all contributed to transforming the journalist into a news-processing machine. This is what the FIEG, the federation of newspaper publishers, meant when it claimed so provocatively that "information can do without journalists" (*FNSI Informazioni*, 7/99). This, again, is what has pushed the major press agency in Italy, ANSA, to write up news reports, so that it now offers articles on the background circumstances, precedents, and comments, and has thus reduced the necessity for the journalist's involvement in the search for raw material. Furthermore,[53] the publisher's interests are not primarily concerned with readership but with political and economic considerations; journalists themselves do not possess the freedom of judgement that investigative work demands, but are rather inclined to partisan support or condemnation of governments and parties; finally, the ever-increasing abilities required for investigation are not common in journalists.

Thus, information on the activities of government mainly relies on what is willingly disclosed by the political élite and the press offices of public administrations; only recently has a law been passed about the organisation of such offices, which have until now been run quite "casually", only 10% of all the Regional, Provincial, and Municipal administration actually having press offices[54] (AGI, 11.5.00). The effectiveness of the new law (Law N.150/00) will depend on the rules for enforcement that the Executive issues according to Art. 5 of the same law, and on the

[52] Intervista con Giorgio Acquaviva.
[53] cfr. G. Pansa, *Si fanno poche inchieste: ecco cinque ragioni*, Problemi dell'Informazione n.3/85, pp.403-411.
[54] AGI, 11.5.2000: *Giulietti: "Legge importantissima"*, press release.

national contract between the journalists' trade union (FNSI) and ARAN, the agency representing public administrations.[55] The principle aspect of the new law is that press offices be run by professional journalists (i.e. those on the National Register of journalists, see 10.4), their role being quite separate from that of public communicators (who organise all advertising and information campaigns) and of spokespersons.

Detailed and specific regulations are likely to solve the problem of institutional public communication, which has until now been left in the hands of the media – which, in turn, base their reports on the comments made by politicians on government activities. These include comments on major reforms which are (or should be) taking place and about which the public only learns through the interviews with individual MP's or party leaders in newspapers.[56] There seems to be some confusion between State and politics which leads all such matters to be dealt with in the media-oriented terms of personal conflict and antagonism.[57]

The establishing, in February 1998 (following Law N.223/90, Art.24, and the 1997 RAI-Ministry of Communications Convention, Art. 14), of *GR Parlamento*, the RAI radio station which broadcasts daily Parliamentary sittings live, can be considered as a means of creating greater transparency. Data on its audience are not surveyed by Audiradio (presumably because the station does not broadcast advertisements, and hence there is no interest in knowing how many people listen to it!), but they would surely not be very comforting.

10.4 *How free are journalists from restrictive laws, harassment and intimidation?*

10.4.1. Laws

See also 3.2 and 4.6.

There are several significant restrictions on journalistic activities - one of the most important areas of general freedom of thought and speech – in the national legal code. Among these provisions is the Order of Journalists which was set up during the Fascist period and is now regulated by Law N.69/63. This law, on the one hand, guarantees journalists the freedom to inform and to criticise (within the respect of the truth), but also imposes an administrative procedure governing the enrolment to the Order. Enrolment takes place after a trial period of activity and includes a final exam. The Order also exerts administrative and supervisory functions on both the journalists enrolled and on those who have no professional right to carry out this activity.

The code and activities of the Order of Journalists have often been considered as going against the principles of thought and speech, and the organ itself has on numerous occasions been taken to the Constitutional Court. The latter, however, has judged it to be compatible with Art.21 of the Constitution, cf. judg.11/68. Moreover, in 1997, a referendum to repeal the Order was held.

Concerning the norms regulating the secrecy of sources of information, Law N.63/69 states that secrecy must be kept when the source is such that a relationship of trust requires it. Yet, the Code of Criminal Procedure affirms that the journalist is required to disclose the identity of his sources when asked to do so by a judge under specific circumstances (Art. 200, c.p.p.); if the journalist refuses to do so, he or she is open to prosecution according to Art 371/bis c.p.

10.4.2. Negative indicators

Italian journalists enjoy a system in which their role in the law and in professional institutions is clearly identified. This system revolves around four main bodies:

[55] *Agenzia per la Rappresentanza Negoziale delle Pubbliche Amministrazioni*
[56] A. Contri, in *La Comunicazione Pubblica in Italia*, a cura di S. Rolando, p.173
[57] ibid. p.162 ss.

- *Ordine dei giornalisti* (Order of Journalists): the professional association set up and regulated by Law N.63/69 (see 10.4.1);
- *Federazione Nazionale della Stampa Italiana* (FNSI): the federation of the regional trade unions of journalists (*Associazioni regionali della stampa*). The FNSI and its regional sections represent the only existing trade union for journalists; subscription is voluntary and its main function is to represent journalists in negotiations with the FIEG (the federation of publishers) over national contracts. Like all other trade unions in Italy, the FNSI is not subject ot the regulation of the law (Art 39 of the Constitution never having been enforced), but has a statute of its own;
- *Istituto Nazionale di Previdenza e Assistenza Giornalisti Italiani* (INPGI): the journalists' social security institution, which manages the benefits for unemployment, accidents, retirement, and grants loans and scholarships. The fact that the INPGI is autonomous is exceptional in the Italian system, where all other professional categories usually come under the same institutions (INPS, INAIL, etc.);
- *Cassa Autonoma di Assistenza e di Previdenza Integrativa dei Giornalisti Italiani* (CASAGIT): a provident fund supplementing the national health service.

While the last two institutions protect the financial security of journalists (which indeed is not irrelevant in guaranteeing independence), the first two are more directly involved in protecting the right to information.

The Order, by filtering professionals and exercising disciplinary powers, is aimed at establishing and maintaining that authoritative standing that the journalistic class must enjoy in order to represent a democratic force. In practice, however, the Order itself is not authoritative enough to justify the powers it has: its judgements in disciplinary matters are "dreadfully discretionary".[58] In some cases, it is highly indulgent, as, for example, when a TV journalist who ran an advertisement filmed in the TV news studios and broadcast during the news, thereby contravening all norms on the transparency of advertising, only received a "warning" from the Order. The advertisement was obviously declared deceitful by the Antitrust.[59] On other occasions, the Order has been very severe and has immediately released its judgements to press agencies.[60] An unclear definition of proceedings and lack of legal expertise add to the low efficiency in judgement, and the absence of "influential people" on the councils is but one symptom of the lack of legitimisation from which the Order suffers.[61] In June 1997, Marco Pannella (former Radical Party member) called for a referendum to repeal the Order. However, this was not successful because the 50% quorum was not reached.

The FNSI, being involved in the negotiations for the national contract, is principally concerned with the running of editorial offices in which the rights of journalists tend to collide with the powers of editors. It is worth noting that in the contract platform presented in June 1999 no request was made for better pay. Instead, attention was focused on aspects concerning the "quality of information". The tendency of publishers to hire temporary workers (to which the national contract and the requirement of registration do not apply) is particularly true for the sector of Internet information, but also for freelance journalists and contributors, and has often been disputed on the grounds that the lack of contractual guarantees is also a threat to the journalist's freedom. The same goes for the powers of editors: votes of confidence towards editors, while now possible, have no formal weight, but are simply used as indications which may or may not be taken into account. The FNSI has, however, tried to give greater weight to the journalists' opinion concerning the editor's editorial and political choices, expressed by this vote.

A further point included in the platform is that of civil liability for damages caused by publications, which lies entirely on the writer with no form of third-party insurance involving the editor or publisher. The increase in the number and size of actions for damages is dramatic; such actions having largely substituted the number of libel cases which, being a criminal offence, would

[58] C. Bovio *Spunti e Prospettive*, in *La Deontologia del Giornalista*, p.20 (controlla pag.)
[59] L. Boneschi, *Costruzione (e distruzione) del Codice*, in *La Deontologia del Giornalista*, p.67
[60] C. Bovio, p. da controllare (23?)
[61] ibid.

involve the liability of the editor. The fact that the individual journalist is called on to answer for such damages becomes a very strong form of intimidation. These legal proceedings are also easily subject to misuse, such as the sueing of Wladimiro Settimelli by Erich Priebke, unrepentant Nazi General, for hundreds of millions of lire, as reported by *FNSI Informazione*, 3/2000.

A survey carried out by the Order[62] reports that the total figure of damages requested is presently estimated to be around 3,000 billion lire (1.55 billion Euro), with most requests being for several billion lire. Although judgements tend to reduce such sums dramatically to more tolerable figures, the total discretion that the judge has in fixing such figures does lead to an unjustifiable variability in outcomes and has prompted allegations of favouritism towards the many magistrates who have recently taken up the "habit" of suing journalists. This habit was set off by the collapse of the tacit non-aggression pact between the judiciary and the media following the *Clean Hands* investigations, which saw the judiciary somewhat responsible for radical changes in the political system and, hence, involved in the political (and journalistic) conflict.

Evidence that such claims for damages are not strictly aimed at the restoration of "honour" comes from the fact that in the vast majority of cases no rectification of the publication has been requested. Moreover, many of these court actions have been taken many years after the publication of the allegedly false and damaging article.

The introduction of the so-called "*Legge sul giudice unico"* (Legislative Decree N. 51/98), an act aimed at simplifying legal proceedings, has worsened the situation by excluding the possibility of appeal against decisions in criminal matters when the penalty is pecuniary, and by providing that trials, such as the ones discussed above, be held in front of one single judge and without a jury. This has made allegations of favouritism far more credible.

Direct intimidation by political leaders is reported as being fairly common, albeit subtle: phone calls to the editor, reports on the behaviour or "unwelcome" opinions of the journalist and so on, are frequently made by politicians.[63] This is particularly serious given, as has been seen above, the influence the political environment has over editorial policies, and the unchecked powers of the editor.

Recently, doubts have also been raised concerning the norms regulating the secrecy of sources of information (see 10.4.1).

10.5 *How free are private citizens from intrusion and harassment by the media?*

10.5.1. Laws

Specific to professional journalism (see also 10.4.1) is the mechanism of self-regulation implemented through the approval of deontological codes, both "inside" single newspapers and through those adopted by the Order and the Federation of Journalists, that is, from the "outside". The latter external codes, based on the general principles given by Law N.69/63, have led to the creation of a specific system of sanctions. The major problem with this concerns the efficacy and binding power of these codes. An example of this can be found in the Treviso Charter. Aimed at guaranteeing the particularly weak category of minors, this Charter has clearly not constituted a sufficiently strong deterrent.

This issue is obviously linked to the protection of privacy. The right to privacy, which was not explicitly stated in the Constitution (unless it can be inferred by interpreting the inviolable rights specified in Art.2 as an "open clause"), has, however, been strongly confirmed in recent legislation.

Law N.675/97 (adopted in order to comply with the Schengen Agreement and the Strasbourg Convention) has set up a Guaranteeing Authority for the protection of personal data. The aim of this is to guarantee the correct use of personal information by those with access. More specifically, there are certain obligations, such as that of asking for the consensus of the person

[62] *Citazioni e Miliardi*, (ed) R. Martinelli, in corso di pubblicazione
[63] M. Caprara, *I politici? Vogliono tutti la stessa cosa!*, *Prob. Inf.* 2/99, p.159 ss.

from whom one is collecting the data. The subject from whom the data is being collected is also guaranteed the rights of access, control and correction. Particular attention must be paid to "sensitive data" (e.g. race, religion, religious beliefs, trade union or party membership, health and sexual preferences).

The Guaranteeing Authority ensures that these obligations and rights are respected. It also has the power of intervention and sanction, even on request of the individual concerned.

10.5.2. Implementation and negative indicators

I) Privacy

The protection of privacy in all contexts, including that of the media, is secured by the *Garante per la protezione dei dati personali* (see 10.5.1). As far as journalism is concerned, the right to privacy is moderated by the demand for information: consent of the person involved is not necessary for the publication of personal data (i.e. those concerning racial and ethnic origins; religious, philosophical, political or other beliefs; trade union, party, association membership; consent is, however, needed for the publication of data concerning the person's health and sexual life), as long as the use of such information is strictly functional for the purpose and relevance of information (Art.25).

Further norms are found in the *Codice di deontologia sulla privacy*, an ethical code drawn up by the Order of Journalists and approved by the Guaranteeing Authority, as provided for by Law N.675/96, August 1998. The explicit aim of this Code is to reconcile the right to information with the right to privacy, the collection of data in the journalistic profession being quite different from that in the marketing business and such like. Again, the essential relevance of the personal information to the work is stressed as a prerequisite for its use, but indeed – when thought relevant – almost any piece of information ("even if detailed") can published (Art.6). Only one, very clear, exception is made: "a minor's right to privacy must always be considered as primary over the right to information and to critical evaluation" (Art.7). Explicit mention is made of the Treviso Charter and its principles, adopted in 1990 by the FNSI and Order, have been transferred into the new Code. In fact, there must be no information such as can lead to the identification of any child involved in a crime, or attempted suicide, or other violent actions, be it as offender, victim, or witness. Nor should identification be possible in all cases of adoption or fostering. The Treviso Charter only provided for the institution of a committee that would report breaches to the Order; however, this has proven totally ineffective, as shown by the fact that a second charter was agreed in 1995 (Treviso Charter – *Vademecum 95*) which acknowledged the continual breaches, but did not (could not) amend the system of sanctions.

The fact that the media has recognised the legal right of privacy, and included the Charter in its Code, supposedly solved the problem. Thus, the Guaranteeing Authority can order that data or information, once published, must not be used again, while the Order (Art.13 of the Privacy Ethical Code) is called on to take all the disciplinary measures that Law N.63/69 calls for. Nonetheless, the first provision is virtually pointless, since by the time the order has been issued, all the information has already been published, and the fact of not being allowed to publish it a second time is no real deterrent at all. The enforcing power of the Order could possibly work as a more significant deterrent, but its judgements are not renowned for their reliability (see 10.4).

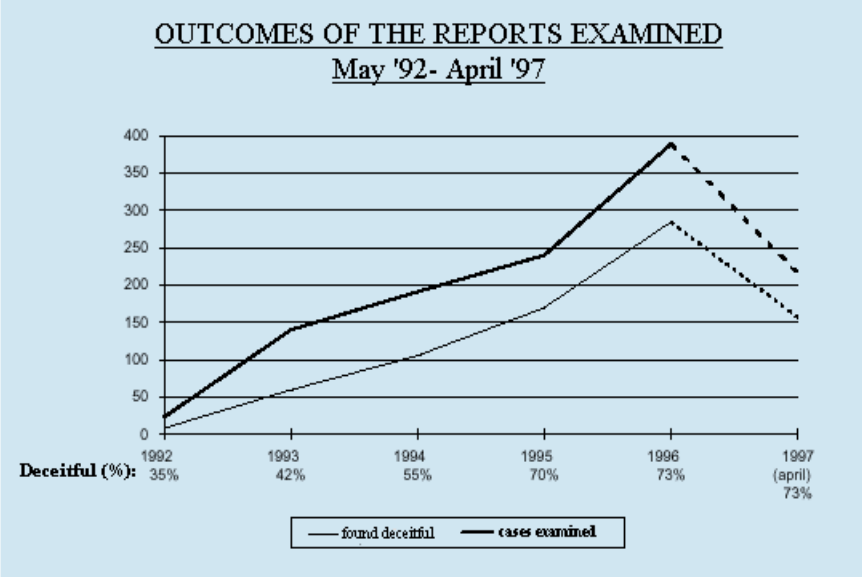
II) Advertising

Intrusion by the media into citizens' lives also occurs through advertising. The advertising business is becoming stronger and stronger, and while it has so far been mainly connected with radio and TV (where advertising is the sole source of income, except for RAI licence fees and some pay-TV subscriptions), it has now also become increasingly influential in the press. For the first time, in 1998 the income from advertising was higher than the income from sales, and this trend seems to be confirmed for 1999 (see Table 10.13).

Table 10.13. Income from advertising of the Italian press by year (1996-1998)

	income from advertising	income from sales
1996	1.962.670.877	2.511.893.739
1997	2.140.040.529	2.504.761.562
1998	2.393.368.149	2.343.034.212

(Data: "*La Stampa in Italia 1996-99*", FIEG)



The growing importance of advertising requires close scrutiny of the underlying contracts and agreements, which threaten to favour firms at the expense of the citizen. There are limits to the percentage of time that radio and TV reserve for advertising, and a strict regulation forbids all kinds of deceitful advertising.

The principles state that advertisements must not induce dangerous behaviours (for example, the advertising of tobacco is prohibited, and that of medicines and alcoholic drinks is restricted), that they be truthful, unambiguous, and easily distinguishable from information (Legislative Decree 74/92). Society at large is protected by the Antitrust authority, to which any citizen, association or firm (whether or not damage has been caused to them) can report suspected cases of deceitful advertising. The number of cases reported is fairly high, and on the increase, as is the number and percentage of cases in which advertisements are found to be deceitful (see Table 10.14; source: *Pubblicità, Regole e Controlli*, Antitrust leaflet). In such cases, their publishing or broadcasting is prohibited, and in some of these the Antitrust authority has also demanded that a notice be published or broadcast to inform the public of its decision. Such enforcement seems to be fairly effective, since the limited incisiveness of this action, due to the fact that measures must necessarily follow publication of deceitful advertisements, is somewhat compensated by the relatively short time these proceedings take. There is a limit of seventy-five days, which can be extended to 165 days if technical advice or expert testimonies are required.

As for limits on time and prohibitions on advertisements, rules for the enforcement of the law are still being drawn up by the Guaranteeing Authority. To date, its activity in this field has, however, been virtually non-existent, and the most problematic area in this field, that of advertisements in children's programmes, has raised much concern over the frequent breaches that have occurred, mainly on Mediaset channels.[64]

10.6 *What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?*

[64] On. Vincenzo Vita, in ANSA 1.10.1999

Some of the problems identified in the course of the previous sections would be fairly easily solved if the political will to do so were present:

- a clearer distinction between the role of the editor and that of the publisher would prevent the interests of the latter from influencing the contents of the final product; the present trend seems to be in the opposite direction, with the editor's job becoming more and more like that of a dismissable manager rather than that of a journalist (see 10.1.2);
- stronger forms of protection of the journalist from unfair dismissal would guarantee the autonomy and freedom of his/her work; this applies to all journalists, but most notably to those not employed with the National Contract (e.g.: those working in the new media; see 10.4.2);
- a clearer regulation by law of the secrecy of sources of information, and of the right to privacy, would remove some of the obstacles to investigative journalism (see 10.3.1);
- ethical codes should be made more binding, either by reform of the Order of Journalists making it judgements more reliable, or by inclusion of their norms in law and judicial enforcement (see 10.5.2);
- the presence of a "readers' guarantor" - now limited to few newspapers - should be extended, and a space on the paper should be reserved for rectifications and intervention of such guarantor;
- the reform of press offices in public administrations will have to ensure that the distinction between institutional activity and political evaluation of it are kept separate (see 10.3.1)

Various proposals for new laws have been put forward to Parliament concerning the media. One of these concerns the reform of news publishing, especially where State funding can be granted. The principles underlying this proposal are quite different from those which inspired the present law (Law N.416/81), in that the money-for-all system, (fundamental in the eighties to help convert publishing houses from lead to linotype) would be transformed into a form of strictly targeted aid for specific projects. Priority funding would be given to support technologically innovative projects, and would take the form of loans with easy terms of credit. It is unlikely that the new law will be passed in the near future, and in the meantime the old provisions made by Law N. 416 are periodically renewed.

An overall reform of radio and TV broadcasting is also on the agenda, the present laws being generally considered inadequate. Law N. 223/90, aimed at regulating the whole system by acknowledging the end of the State monopoly in 1990, was immediately found inadequate. No serious steps towards making any real changes have taken place, although, if fully implemented, L. 249/97 could represent a move forward. This law foresees the change of one of Mediaset's channels to cable, and one of the RAI channels to non-commercial, thus encouraging the pluralism of TV. The law also allows for new concessions, based on the plan drawn up by the Guaranteeing Authority. This had seemed to be imminent, but has been repeatedly postponed. Even the creation of the National Register of Communications should have been completed by now, but the offices of the Register have only recently been moved to Naples (site of the Guaranteeing Authority) and it is difficult to consult. Planning new laws of reform would seem to represent a further excuse for the postponement of decisions, as can be seen in the judgement by the Guaranteeing Authority on the concentration of ownership or in the non-implementation of the existing norms on advertisements during children's programmes. It is unlikely that the situation of "permanent temporariness", with which the Italian TV system has lived for the past fifteen years, will end soon.

The most urgent problem, however, is that of the conflict of interests which a victory of *Forza Italia* in a general election would create. Since the beginning of Berlusconi's political career in 1994, the subject of media has been much debated both in and out of Parliament, without, however, reaching any conclusions. A bill that was approved by the Chamber of Deputies at the beginning of the present legislature was put aside, but is now being reviewed for approval in the Senate. This text, which does not deal with ownership as such, only provides for blind trust in management, and is therefore considered by many to be insufficient. The importance of the issue of media is widely acknowledged in Italian society and generates heated debate.

III. Participation and Government Responsiveness

11.Political participation
Is there full citizen participation in public life?

11.1 How extensive is the range of voluntary associations, citizen groups, social movements etc, and how independent are they from government?

11.1.1 Laws

Article 2 of the Constitution states that the Republic must guarantee the inviolable rights of citizens at both individual level and also within the social environments in which they express their personality. Among these social formations, significant importance must be attributed to those of the so-called third sector where the non-profit element is substantially paramount. Their set-up is obviously free (through freedom of association) but the law reserves the right to verify certain characteristics as to the appropriateness of fiscal, social security contribution or other benefits.

Besides associations, foundations and common law rights committees whose activities are of a solidarity nature, the system has many regulations recognizing defined associative types in this area. The most significant include:

Voluntary organizations set up by Law 266/91 are associations in which, by definition, voluntary activity, defined as the giving of service on a personal, spontaneous and unpaid basis by the associates, without profit and exclusively towards providing solidarity, prevails.

The association may be of any form except as provided for by law regarding associations whose aims are not for solidarity. In order to be eligible for benefits, of which further mention will be made, voluntary organizations must be registered (with the Regions). To be registered a series of conditions must be met: the organization must avail itself prevalently of the personal, unpaid and voluntary service of its members, the non-profit character must be expressly provided for, its organizational structure must be democratic, providing for the election and non-payment of officials and the criteria for admission and exclusion of associates. Subsequent modification to law 266/91 regulated means of insurance for associates. The advantages recognized by law to voluntary organizations are fiscal (giving exemption from certain taxes and excluding income tax should this income be shown to have been ploughed back into the institutional activity of the organization) and organizational (granting the State, and especially the Regions and local authorities the possibility of drawing up agreements with these organizations enabling them to carry out certain functions). A sizeable part of legislation regarding voluntary organizations delegated to the Regions (Law 266/91 is itself a framework law).

Another category of interest is that of *Recognized appropriate non-governmental organizations*, set up by Law 49/87. These are organizations active in the fields of co-operation and development, viz. in accordance with the law that states they must be “aimed at satisfying primary needs and, in the first instance, at saving human life, at proving self sufficiency in feeding, making the most of human resources, conserving environmental resources, carrying out and reinforcing the endogenous development processes and economic, social and cultural growth of developing countries”.

The Ministry of the Interior may establish by decree the “entitlement” of these organizations to the benefits provided for them only if they embody a number of conditions including *(i)* being set

up as provided for in the Code of Civil Procedure (CPP) for associations, non-recognized associations and committees, *(ii)* having the scope of carrying out activities in favour of developing countries, *(iii)* being non-profit, *(iv)* ploughing back any income into their own institutional activities, *(v)* being un-connected to interests of any profit-making organization, *(vi)* guaranteeing their capability of providing the institutional activities set out in terms of organization and staff and having at least three years experience in third-world countries, *(vii)* accepting periodical checks, *(viii)* presenting analytical year-end accounts and reports on their activity.

Ministerial recognition entitles organizations to have their projects partially financed (even up to 70%).

The profile of social co-operatives has been regulated by Law 381/91 for those organizations whose aim it is to pursue public interest in human promotion and social integration. Their organizational structures are typical of co-operatives (although their aim is different, which sets them apart from the co-operative mainstream), and the activity they carry out is in the management of educational, social and health services or other such activities all aimed at integration of the disadvantaged: in this light, co-operatives are made up of both the disadvantaged, and voluntary associates (whose number may not exceed half the associates and whose services are unpaid).

The disadvantaged among the members (the law considers disadvantaged anyone suffering from physical, psychological and sensorial disabilities, former inmates of psychiatric hospitals, drug addicts, alcoholics, minors in difficult family situations and prisoners who have access to measures alternative to detention) must be at least thirty percent of the total members of the co-operative.

Social co-operatives, once registered as co-operatives with the Regions and the Ministry, may draw up conventions with public administration and public bodies to create employment opportunities for their disadvantaged members, and are subject to a favourable fiscal regime (exemption of some direct taxation and the reduction of Value added Tax to 4% in many cases).

Laws have recently been approved bringing widespread reform to the matter, starting with decree law 460/97 aimed at creating a common legal structure for all existing realities in the third sector. This has led to the creation of ONLUS (Non-profit organization for social solidarity), a particular kind of non-commercial, non-profit body subject to a number of checks and conditions provided for by law but that enjoys strong incentives, especially in taxation status. ONLUS bodies may be foundations, associations, committees and co-operatives who work exclusively in the field of solidarity, and social co-operatives, and voluntary organizations (who chose this structure) are in any case also ONLUS's.

The conditions for eligibility to ONLUS status are substantially the following: the body must *(i)* have the exclusive aim of carrying out activities of social utility in specific areas (assistance, charity, development co-operation, education, research, health, nature conservancy, environment, sport or culture), and that any other activity be purely instrumental to this end, *(ii)* hold elections among all its members to decide on office bearers and that the right to vote be extended to all the organization's members unless these are foundations or religious bodies, *(iii)* draw up annual budgets and plough all profit and management surpluses back towards its institutional aims, *(iv)* on its closure, dissolution or extinction devolve all residues to other ONLUS's or in any case to public utility, *(v)* use the expression "ONLUS" in every means of communication and *(vi)* carry out activity prevalently in favour of people disadvantaged by their physical, psychological, economical, social or family situation even though they may not be members of the organization.

Once these conditions are met, the law provides for favourable treatment in different areas. For example, benefits are give to whoever makes donations to an ONLUS (that can reach a certain amount in tax deduction) and a wide range of tax breaks is provided for the ONLUS's themselves up to actual tax exemption (from registry tax, government concession tax, death duties, performance taxes etc.).

In order to avoid abuses, the law also provides for the setting up of a register at the Ministry of Finance listing ONLUS's (non-registration can cause the loss of the tax benefits stated) and an *ad*

hoc control body. Penal sanctions may also be taken against administrators who abuse the qualification of ONLUS.

11.1.2. Positive and negative indicators

The number of voluntary associations is in Italy quite high and, especially, growing.

Table 11.1. Volunteer associations reported by the "Centro Nazionale del Volontariato", by regional area and sector of assistance (last update 01/01/2000).

	Sector							
	Health	Social	Socio-Sanitary	Civil Protection	Cultural Heritage	Environ-mental heritage	Intern. Vol. Ass.	Total
Liguria	494	217	206	84	62	44	22	1,129
Lombardy	1,920	980	910	350	193	92	106	4,551
Piedmont	1,063	499	380	266	132	70	62	2,472
Valle d'Aosta	51	14	24	10	2	4	3	108
North West	3,528	1710	1,520	710	389	210	193	8,260
Emilia Rom.	928	489	502	129	90	125	53	2,316
Friuli VG	127	65	350	39	40	14	9	644
Trentino AA	157	55	154	46	15	15	8	450
Veneto	1,012	574	973	218	134	78	47	3,036
North East	2,224	1,183	1,979	432	279	232	117	6,446
Lazio	474	265	272	115	121	60	65	1,372
Marches	395	133	145	69	75	27	9	853
Tuscany	1,604	597	411	158	269	137	59	3,235
Umbria	147	135	133	23	31	18	8	495
Centre	2,620	1,130	961	365	496	242	141	5,955
Abruzzi	210	84	111	51	47	28	8	539
Basilicata	75	58	45	10	15	12	3	218
Calabria	168	104	101	24	25	23	7	452
Campania	289	211	243	106	95	38	24	1,006
Molise	59	44	20	18	14	10	1	166
Apulia	482	175	257	141	81	40	17	1,193
Sardinia	326	258	141	79	69	48	14	935
Sicily	425	193	282	61	88	50	23	1,122
South & Islands	2,034	1,127	1,200	490	434	249	97	5,631
Italy	10,406	5,150	5,660	1,997	1,598	933	548	26,292

Source: Fondazione Italiana Volontariato (Fivol), 2000

The highest number of voluntary associations is located in North-west Italy, and the most important sector is health care. We have to add, however, the in percentage on the population, the central regions have a very dense associational network.

According to a survey carried out by Censis (on behalf of Fondazione Italiana per il Volontariato), around 1998, voluntary associations benefited various groups of people (see Table 11.2) (http://www.crs4.it/HTML/Solidarity.html).

Table 11.2. Percent distribution of volunteer association, by Region, sector and beneficiary.

Who benefits	
Sick people	23.3
Prisoners or ex-prisoners	12.9
Families with difficulties	32.2

Alcoholics	11.9
Immigrants	16.3
Handicapped people	37.7
Drug users	27.2
Homeless	12.1
Teenagers and children	45
Elderly	21.7

Source: http://www.crs4.it/HTML/Solidarity.htm

A 1997 survey carried out by Fondazione Italiana per il Volontariato on 12,909 groups indicated the following characteristics of the Italian "Third Sector":

1- the phenomenon is quite recent: only 10% of the associations are 50 years old or more and more than 50% were established in the last 10 years.

2- the greatest proportion of associations per inhabitants is in the Islands (23 per 100,000), followed by the North East (22 per 100,000), the North West and Centre area (20 per 100,000), and finally the South (10 per 100,000).

3- most associations are active at a very local level.

4- they present a strong vertical hierarchical structure linking them with major organisations: 35% of associations are linked to only 14 organisations (like AVIS, CRI, Legambiente, WWF, AUSER, ANPA, etc.), without this having excessive influence on their activity, and they are basically independent.

5- unlikely the rest of Europe, financial aids and supports are mainly private and not public. Only 19.3% of the groups are financed exclusively by public funds (see table 11.3) (Frisanco and Ranci 1999).

Table 11.3 Percent distribution of the typology of financial support to voluntary associations in Italy, 1997

	%
Exclusively private	47.6
Mainly private	24.2
Equally private and public	4.3
Mainly public	19.3
Exclusively public	4.6

Source: Frisanco and Ranci 1999.

The main means adopted by associations to obtain private financial aid are: fund-raising (58.3%), company contributions (21.5%), membership fees (77.1%), and financial aid promotion initiatives (56.7%) (Frisanco R., 1998).

In general, participation in politics in Italy is on a par with other Western European democracies. As can be seen in table 11.4, participation in elections has been slightly higher in Italy than in Germany and France. Moreover, political participation (voting apart) is on a very similar level in Italy as France and Germany, and shows growth (from a very low 10% in 1959) between 1981 and 1990 at a similar rate. Participation in “unconventional” activities is also on a comparable level as the other two countries, as is its growth rate. Forms of peaceful protest — signing petitions, joining boycotts, and attend lawful demonstrations — are very much on the rise. More disruptive activities, such as occupy buildings, takes place with similar frequency as in France (but Germany’s rate is lower). Union density rates are very high in Italy compared with Germany and, especially, France. Union density declined steadily in France and remained stable in Germany, but in Italy, after a drop in the sixties, it increased again in the seventies and was almost stable in the eighties (Alacevich 1996, 81).

A fall in political party membership over the last few decades (in particular, since 1976) (see Morlino 1996: 14; on parties, see also point 6 below), trend is not confined to Italy. Indeed the

number of Italian political party members, as a percentage of voters, dropped from 12.7% in the beginning of the sixties to 9.7% at the end of the eighties. This percentage is however much lower in Germany (4.2% at the end of the eighties), and the decline was much more dramatic in other countries who were not hit by a wave of scandals (for instance, in Denmark it went from 21.1% in the beginning of the sixties to 6.5% at the end of the eighties) (Katz et al., 1992).

Table 11.4. Political behaviour in Italy, France and Germany

A: Average participation in voting for the lower chamber between 1960 and 1995

	Italy	France	Germany
Voter participation	90	76	86

Source: Pasquino 1997, 49.

B: Political Participation voting apart

	I 1981	I 1990	F 1981	F 1990	D 1981	D 1990
Political participation	50	56	52	57	48	57

Source: European Value Survey 1981; World Value Survey 1990, as reported in Topf, 1995, pp. 69.

C: Participation in "unconventional" actions

	I 1981	I 1990	F 1981	F 1990	D 1981	D 1990
Signing petitions	42	44	45	54	47	57
Joining boycotts	6	11	12	13	8	11
Attending legal demos.	27	36	27	33	15	21
Unofficial striking	3	6	10	10	2	2
Occupying buildings	6	8	7	8	2	1

Source: European Value Survey 1981; World Value Survey 1990, as reported in Topf, 1995, pp. 88-90.

D: Union Density Rate

Union density	1950	1960	1970	1980	1985
Italy	50	35	38	54	51
France	21	19	21	17	15
Germany	35	38	38	41	39

Source: Visser 1990, in Aartes, 1995, p. 239.

Italy has a history of sustained protest, which peaked in the seventies, with the development of quite radical social movements (della Porta 1995, della Porta 1996; della Porta and Diani 1997). In Italy, the first wave of strikes in the large factories of the North that took place at the beginning of the sixties was a prelude to the widespread mobilization that developed later in the decade. The economic boom of the early sixties and the (almost) full employment of the labour force had strengthened the structural position of the working class. Nevertheless, although the trade unions and the Communist Party (PCI) had gained some access to institutional power, criticism still emerged on their left. From the mid-sixties on, new types of social movements emerged. Up to 1973, collective action expanded into different sectors of society in what Tarrow (1989) has described as part of a "cycle of protest". In the mid-seventies protest declined, leaving small and radicalized left-libertarian movements in its wake. In the eighties, protest did not reach the peaks of disruption attained in the sixties and the seventies, but we witness instead the growth and "institutionalization" of the new social movements.

Until well into the second half of the seventies the Italian protest movements were characterized by the prevalence of a traditional Marxist stance. At the beginning of their protest, the students used forms of action that combined traditional means of exerting pressure (that is, within

the institution), with more innovatory forms of action (sit-ins and go-ins). The repertoire of action and the ideology of the protest gradually changed as the movement interacted with other groups: from the hostile right-wing groups to the supportive factory activists. Violence occurred in the attacks by the neo-fascists, and in some brutal assaults by the police. Consequently, a spontaneous type of violence developed. The "need for self-defence" became a relevant--albeit contested--issue.

By the end of the decade, the New Left emerged in the process of coordination of protest activities in the various universities and, later on, in the expansion of the protest beyond the universities. In building an alliance with the Old Left, the student movement also politicized its initial demands for reform.

Two major elements characterized the first half of the seventies: the decline of mobilization within the universities and the growth of protest beyond the academic world, in particular regarding urban problems and gender discrimination. The expansion of protest to the most diverse social groups heightened political tensions and favoured the dominance of the New Left in the left-libertarian movements. The activists--particularly the student movement, which had expanded to include highschool students--couched their hopes for radical social change in the traditional discourse of class conflict.

After the demobilization of protest in the universities, some of the student activists refused to return to normal, everyday life. Like most European student movements and the American New Left, the Italian student movement held "the firm belief that the expansion of the struggle outside the university had to bring about the encounter with the working class" (Ortoleva 1988:185). Accordingly, the students attempted to link their anti-authoritarian position with working-class revolution, and sought allies in the large factories. But, in contrast to what took place in other countries, in Italy, for reasons that had little to do with student activism, the ties between students and workers became close and frequent. At the same time, the forms of the industrial conflict became increasingly radicalized.

After 1969 the New Left consolidated. Even the women's movement, which was initially composed of very small "study groups" and other informal associations, took on the prevailing New Left orientation and acquired contacts with the Old Left. Where the early groups, modelled on the American and European women's movements, had developed forms of civil disobedience and concentrated on problems of contraception (still illegal at the time) and women's health, the women's collectives, which had formed within the New Left from 1972 onwards, took up more strictly-speaking political issues.

In Italy, more than any other country in Europe, the left-libertarian movements--under the hegemony of the New Leftist discourse--used symbols and frames of reference that were known and accepted by the Old Left. So although the Old Left and the New Left competed for the support of leftist activists, the goals and strategies of the two sides to a large extent coincided. At least until 1973, the larger part of the left-libertarian movements perceived the Old Left, and in particular the PCI, as their main ally and support. Trade unionists, PCI activists, and New Left activists launched campaigns on such themes as housing conditions and the price of public transport. Generally, the hope for radical political change fuelled cooperation between the left-libertarian movements and the Old Left, while a fierce antagonism characterized the movements' attitudes towards the state.

Political violence developed throughout this period. According to the data reported in della Porta and Tarrow (1986), from Autumn 1968 to the end of 1971: "The number of both total and violent events was in constant increase, with periodic peaks this time in the autumn and winter--the seasons of national contract negotiations for many categories of workers--followed by decrease in spring and, especially, in the summer. But the increase in the proportion of violent events was much less steep that the growth of non-violent ones". After 1971, there was a decline in the number of both protest events and violent events, but "the decline [was] much less sharp for the violent component of the protest curve. Here, in fact, the percentage of violent cases was higher than the average of the entire period" (della Porta and Tarrow 1986:615-6 passim).

Not only did dynamics of violent events appear to differ from those of peaceful events but also the type of violence itself changed. The quantitative data show that the more spontaneous

violence of the beginning of the cycle tended to be substituted by semi-military forms of violence, carried out by more and more organized groups. In their daily confrontations with the radical Right and the police, the branches that specialized in the use of violence--the *servizi d'ordine*--gained increasing influence within their organizations.

The process of radicalization, however, did not involve all components of the left-libertarian family, and during this period we witness an increasing strategical differentiation between movement organizations. Some wings of the movements criticized the use of violence, even for defensive ends, as this tended to increase the risk of isolation; whereas other wings thought that "the best form of defence is attack" and shifted to a model of organized violence. According to this model, specialized groups were to use violent repertoires in order to "win" battles, in a strategy of continuous confrontation. At the margin of the student movement, the emergence in 1970 of the first underground group, the Red Brigades (Brigate Rosse, BR), expressed this last strategy in its most extreme form.

In the second half of the seventies, the left-libertarian movements underwent partial institutionalization and experienced a *riflusso*, or withdrawal. At the same time, there was an increase in some forms of radical protest. As mobilization declined, particularly in the factories, relations between the New Left organizers and the trade unionists (and, more generally, the Old Left) deteriorated. Some movement organizations began to take advantage of the new channels of political participation; others faced up to severe state repression by adopting a radically confrontational posture vis-à-vis the state.

Semi-military violence escalated more in Italy than anywhere else in Western Europe. The various organizations within the movements split over the question of "the level of violence" appropriate to the "historical phase". Small groupings of the New Left radicalized their ideology and strategy, preparing the ground for the development of the autonomous type of violence. In particular, a new form of radicalism--more anarchist and spontaneous than its predecessors--developed in the groups that intervened among marginalized youth. It was in this environment that the radicalized leaders of the previous movement wave sought their new recruits. While the Red Brigades carried out their first premeditated murder, other groups also began to organize underground.

From 1977 to 1980 the mass movements were generally dormant, except for a wave of youth protest in 1977 and an anti-nuclear campaign that gained momentum at the end of the decade. Simultaneously, terrorism gradually undermined the possibility of using strategies of non-violent collective action and protest. Although a few of its constituent groups took advantage of the new institutional opportunities and began to operate as interest groups, the majority of the participants in the women's movement succumbed to a pessimism generated by both the economic crisis and the loss of mobilization capacity. The movement split into a number of small, informal collectives--including consciousness-raising groups--that turned inwards (concentrating on the "search for the self"), and showed no interest in advertising their existence or recruiting new members. A wave of anti-nuclear protests marked, in the mid-seventies, the beginning of the environmental movement. Ecological issues, however, inspired a mainly (counter) cultural strategy. Individuals concerned about animal rights and environmental protection mobilized, under the auspices of the Radical Party, small groups of intellectuals and scientists. The activists of the New Left were instead very slow to become interested in ecological issues.

The movement organizations that retained a more political orientation had to operate within a hyper-radicalized atmosphere. Many small groups, still influenced by the New Left, radicalized their tactics and adopted an "autonomy" ideology, precariously combining old Leninist ideological frameworks with pessimistic images of a totalitarian society. For these groups, the working class became less and less important as a point of reference, and the Old Left was looked upon as an enemy. The revolutionary actors were to be found in the most marginalized social strata. The leverage to mobilize these groups was militant discourses and praxis, the appeal to a strategy of loosely organized acts of extreme violence. But the autonomous groups that had tried to promote youth protest failed to articulate political campaigns. Their daily fights with neo-Fascists, drug

dealers, and policemen led to a rapid radicalization of protest in the shape of dramatic forms of violence.

The youth groups provided new recruits first for the various tiny underground organizations and, later, for the larger terrorist organizations, such as the Red Brigades, Front Line (Prima Linea, PL), and the Communist Fighting Formations (Formazioni comuniste combattenti, FCC). They were often drawn from the para-military groups within the autonomous collectives. Clandestine organizations often emerged within these latter groups.

Protest activities collapsed, particularly following the kidnapping and assassination of the president of the Christian Democratic Party, Aldo Moro, by the Red Brigades, in 1978. Until 1980, the only organizations that seemed to be on the increase were terrorist groups. This period witnessed the greatest number and highest concentration of left-wing terrorist attacks of any of the six periods. It was, however, in this period that non-violent forms of direct action started to be discussed, and implemented within the left-libertarian movement family.

The situation began to change between 1981 and 1983 as the protest campaign against the NATO plan to deploy Cruise missiles in various European countries gained strength. The peace movement remained highly visible throughout the period 1981-1983. With its nearly 600 peace committees and a few coordinating meetings, the peace movement was able to (re)mobilize the collective actors active in previous years--student activists, feminist groups, some surviving youth centers, and the environmental groups. Unlike the mobilizations of the previous decade, this campaign relied on conventional forms of pressure (petitions, parliamentary initiatives, conferences, tax boycotts) together with the first non-violent direct actions (for example, the occupation of the military base at Magliocco in January 1982); violence was rare.

In the early eighties most of the terrorist organizations disappeared, and even the two major groups--the Red Brigades and Front Line--experienced serious setbacks when some of their members began to collaborate with the police.

When collective action reappeared in the eighties, after the "lull" in the late seventies, it had very different characteristics from those of the previous decade: the impact of socialist ideology waned with the decline of the New Left groups, and many of the organizational and cultural characteristics often described as peculiar to the New Social Movements emerged.

The most important event in this phase was the rise of the ecological movement with its pragmatic political orientation. This movement developed a distinct identity, campaigning for the protection of nature without advocating measures that would inhibit technological progress. In general, the ecological movement did not seem to be interested in organizing national campaigns. It usually limited the scope of its actions, focussing on a neighbourhood or other small area, although some attempts were made to coordinate campaigns at city level. The campaigns were often defensive (protest against laws that would endanger the natural and/or artistic heritage), but occasionally took an offensive tack as well (for instance, the campaigns to establish and expand pedestrian areas in city centers). The environmental activists used mostly conventional forms (petitions and debates) but also quite innovative symbolic actions, such as "constructive" exemplary actions (for example, working as volunteers to manage a park, organizing "work camps" in poor areas), or direct action (such as "harassing" hunters by making noise to alarm the birds). Members of the ecological movement never engaged in, or incited, violence.

The relationship between the left-libertarian movements and their allies were marked by pragmatism, and a frequent cooperation on single issues. The decentralized structure of the ecological movement--it had about 2,000 groups in 1987--increased the opportunities for collaboration with the Old and the New Left. New political divisions emerged, evident in the appearance of various Green lists. A meticulous study of the organizational networks in the environmental movement has shown, however, that the ideological cleavages had very little effect on the coalition-building strategies of the movement organizations (Diani 1990).

In addition, the movements' attitude towards their opponents was moderate and open to bargaining on single issues. In order to obtain concrete results, members of local government elected on various Green party tickets were quick to join local governments of different political

persuasions, occupying the newly-created *assessorati all'ambiente* (local ministries for environmental issues). Virtually all environmental groups welcomed collaboration with institutional actors and accepted financial support from the state. Relations with the administration were defined as "constructive". Besides participating directly in local governments and parliaments, the environmentalists formed alliances with politicians from a wide spectrum of political parties to carry out single-issue campaigns (for instance, animal protection, phosphate-free detergents, and unleaded gasoline) (Diani 1990:167-75). During election campaigns the movement's press invited to vote for candidates of various party lists that were sympathetic to the ecological issues. The movement appeared satisfied with its policy success and the support gained on some issues, attested to by votes of up to 80 percent against nuclear energy in a national referendum in 1989. The countercultural dimension of the environmental movement was weak, limited to sensitizing the public to practical issues and developing alternative technical and scientific knowledge.

Other movements--especially the student movement and the women's movement--joined forces with the environmentalists in various campaigns, among them, the anti-Mafia campaign of the late eighties. Both conventional and unconventional forms of action were used, but none were violent. Especially in the nineties, the social movements found easy channels of access to the public administrators and the press, acquiring a more formal structure, moderate repertoire and pragmatic identities (della Porta 2000; della Porta and Andretta 1999).

Comparative analyses, particularly in the ecology movement, have highlighted that however it may be calibred by the press, protest in Italy is average. For example, analysis of one daily newspaper for each country for the years between 1985 and 1995 register, on environment and peace issues, 980 protests in Italy, 972 in Switzerland and 1485 in the United States (Giugni 2000 p. 48). The radicalism that marked Italy in the seventies has significantly waned, bringing it par. in the use of violent protest, with the other two countries traditionally considered as having open political opportunities and being moderate in protests. If the ecology movement is responsible for a percentage of violent protest (2.9%) slightly higher than that of its Swiss counterpart (1.6%) the situation is reversed for the peace movement (2.6% in Italy against 4.9% in Switzerland). Conflictual action varies between 10% for the two movements in Italy and reaches 17% in the USA (Giugni 2000, p 59). Particular to Italy also is the decentralization of protests, and high political content through stable links with left-wing parties.

Moreover the number of members of associations that started in the movements has increased greatly. For example, seven ecology associations saw their membership climb from 21,000 in 1975 to 52,000 in 1995 (Giugni 2000, p.63).

11.2 How extensive is citizen participation in voluntary associations, self-management organisations, and other voluntary public activity?

11.2.1. Positive and negative indicators

See also 11.1.

In 1991, 21% of the Italian population aged between 18-74 years old was member of one association or another, and, of these, 39% participated in associative activities at least once a week (Recchi, 1995). During the '80s, there was an increase in the number of associations, many of a voluntary nature (11% of Italians participated in activities of this kind in the early '90s; of which 59% were male. (Meo in Ginsborg 1994). In the mid '90s, about 3 million people were involved in some kind of non-profit activity (Ranci 1999).

According to the Eurispes *Italia ’91* Report, the highest percentage participation in political parties and trade unions is among males, in central Italy, with a high-school education and aged between 25 and 65 (for trade unions) and over 65 (for political parties). Least participation is seen

among females of the south, with a university degree, very young or retired in the mid- to low-income bracket. (http://www.eurispes.com).

11.3 How much do women participate in all levels of political life and public office?

See also 5.5.

11.3.1. Laws

Articles 3 and 51 of the Constitution set out a clear framework for women's role in public life. The first, in general, prohibits any form of discrimination by gender and the second affirms that citizens of both sexes are eligible to public office and elected posts in conditions of parity set out by law.

Today, it is generally accepted (by Constitutional Court jurisprudence also) that Article 51 reinforces Article 3 hence no law may be passed containing provisions of discrimination in eligibility to public office.

Besides, by law 326/67, Italy ratified the Convention on women's political rights (New York 31 March 1952) that contains clear statements regarding admission to the active and passive electorate and on the right to occupy positions and exercise public functions. In 1980, Italy also signed the Convention aimed at combating all forms of discrimination against women (CEDAW) adopted by the UN General Assembly in 1979, ratifying it in 1985. The Convention requires all member States to set up, both at constitutional level and also in ordinary legislation, forms of recognition and concrete implementation of the role of women in a state of equality with men, referring also to maternity.

The condition of women and the quest for uniformity with men is taken up in relation to legal capacity and capacity to contract, political rights (active and passive electorate, participation in national and international public life), right to employment (in particular forbidding discrimination and measures against maternity), right to education, access to health services and banks, the role within the family, rights connected to marriage; an ambitious aim of the Convention was that States commit themselves to attempt to modify the social-cultural frameworks that discriminate against women.

Each State must send an annual report on the implementation of the Convention to an *ad hoc* Committee that the Convention itself set up; the most recent report by Italy to the Committee is the Third report dated 1998 (drawn up by the Ministry of Equal Opportunities on the basis of declarations of programmes and implementation resulting from the 1995 Conference of Beijing).

Very recently, the optional Protocol to the CEDAW Convention was approved, allowing women who maintain that a legal position of theirs, protected by the Convention, has been violated direct recourse to the Committee when all internal means have been exhausted.

But while the right for women to join the active and passive electorate is set out by the Constitution (Article 48 and 51), in other areas, the affirmation of the principle of non-discrimination has not been so simple. In order to inject vigour into the achievement of real equality between the sexes in all its various aspects, among other things a national Commission was set up and also, recently, an *ad hoc* Ministry.

For a long time, women were not allowed into important positions, jobs and functions in public life such as a diplomatic-consular career or the magistracy. After the milestone judgment 33/60 of the Constitutional Court, lawmakers were obliged to act accordingly, in the sense that the Constitution does not allow women to be excluded in general from a whole sector of public employment, and by Law 66/63 it regulated admission of women to all public office except the armed forces and the so-called "special corps".

More recently, this latter has been partially done away with and women are now allowed to join the police (from 1981) and very recently (decree law 24/2000) volunteer for the armed forces as officers, non-commissioned officers and enlisted personnel.

A persistent problem is that there is an under-representation of women standing in national and local elections. Legislation attempted to ease this with new electoral provisions obliging parties and political movements standing for election to present lists with a minimum number of women (so that to all intents and purposes, they reached parity with men).

The Constitutional Court however considered this legislation in non-conformity with Article 51 of the Constitution, affirming that any form of discrimination on a gender basis in criteria governing the passive electorate (hence also candidatures) is objectively discriminatory. The court indeed also judged that the same measures it held illegitimate, if adopted in law, would even be appropriate if taken on board by each individual party or movement as an internal code of conduct (and indeed some parties have adopted measures of this kind).

The role of women in other areas too emerged late compared to Constitutional precepts. For example in the area of family rights, it was only by Law 151/75 that measures objectively restrictive to the moral and legal equality attributed women by the Constitution, including the exercise of parental authority by the father alone, and his sole right to extraordinary administration of children's and family assets and to decide on place of residence, were finally abolished.

Finally, many laws have long been in conflict with the provisions of Article 37 of the Constitution that states that a woman worker has the same rights and, for doing the same job, the same pay as her male counterpart, and that her special family role must be duly considered and protected.

By Law 903/77 any discrimination between men and women is forbidden *(i)* in access to jobs except one involving "particularly heavy" duties to be specified in collective contracts, *(ii)* in retribution when duties carried out are identical or of identical value, *(iii)* in conferring qualifications, duties and career advancement.

Protection of working mothers has developed on another level providing for leave from pregnancy up till one year after birth in which the mother may not be sacked, and other periods during which she may not be made to work but continues to be paid. There are other regulations for leave during the child's first year, and rest periods (recently this was extended to include father workers).

Further in this direction is legislation that does not only forbid discrimination but provides initiatives aimed at a more-than formal equality in the workplace between men and women. Particular mention is made of Law 125/91 (providing for incentives and reimbursements to companies who commit themselves in the field of "positive action" aimed at doing away with the inequality women are in effect subjected to at all levels in the workplace, from training and diversification of female professions to the integration of women in activities and areas where they are under-represented) and Law 215/92 (that provides financing for female entrepreneurs).

11.3.2. Implementation and positive/negative indicators

Participation of women to public life is, in Italy, quite low by comparison to other Western democracies. The Inter-Parliamentary Union, on the basis of information provided by National Parliaments, provides information on 177 countries classified in descending order, of the percentages of women in the lower or single chamber. The following table has been limited to European or developed countries appearing in the first 60 rankings (see table 11.5).

Table 11.5. Countries classified in descending order, by the percentage of women in the lower or single House, 2000.

Rank	Country	Lower or single chamber				Upper chamber or Senate			
		Elections	Seats	Women	% W	Elections	Seats	Women	% W

1	Sweden	09 1998	349	149	43	---	---	---	---
2	Denmark	03 1998	179	67	37	---	---	---	---
3	Finland	03 1999	200	73	37	---	---	---	---
4	Norway	09 1997	165	60	36	---	---	---	---
5	Netherlands	05 1998	150	54	36	05 1999	75	20	26.7
6	Iceland	05 1999	63	22	35	---	---	---	---
7	Germany	09 1998	669	207	31	01 2000	69	41	59.8
8	South Africa	06 1999	400	120	30	06 1999	90	17	31.5
10	Bosnia-Herzegovina	09 1998	42	12	29	09 1998	15	0	0
12	Austria	10 1999	183	49	27	N.A.	64	13	20.3
18	Belgium	06 1999	150	35	23	06 1999	71	20	28.2
19	Switzerland	10 1999	200	46	23	10 1999	46	9	19.6
24	Croatia	01 2000	151	31	21	04 1997	67	4	6
26	Canada	06 1997	301	60	20	N.A.	105	32	30.5
28	Portugal	10 1999	230	43	19	---	---	---	---
30	United Kingdom	05 1997	659	121	18	N.A.	666	105	15.8
45	Slovakia	09 1998	150	21	14	---	---	---	---
46	United States of America	11 1998	435	58	13	11 1998	100	9	9
47	Poland	09 1997	460	60	13	09 1997	100	11	11
48	Israel	05 1999	120	15	13	---	---	---	---
56	Italy	04 1996	630	70	11	04 1996	326	26	8
57	France	05 1997	577	63	11	09 1998	321	19	5.9
58	Bulgaria	04 1997	240	26	11	---	---	---	---

Source: http://www.ipu.org/

Italy has only 11 and 8 percent of women in both chambers, and is in 56th place followed by France (respectively 11 and 5,9 per cent), and behind the United Kingdom (18 and 15,8 percent), and many Northern, Central and Eastern European Countries.

11.4 How equal is access for all social groups to public office, and how fairly are they represented within it?

There is no legal discrimination of social groups and no statistical data are available on discrimination of social groups. For composition of parliament, see 5.5; for party membership, .see chapter 6.

11.5. What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

In Italy, political participation has been traditionally mediated by the political parties that developed relationship of “protection” with social movements and voluntaristic associations. Rates of membership in political parties were quite high, although with serious differences in the meanings of membership. Participation to various kinds of association was low in comparison with other European countries. However, the number of people who took part in unconventional forms of political participation was quite high. In some periods, protest radicalized, even into terroristic forms. Voluntary associations were traditionally associated with the Catholic Church and had only informal and sporadic relations with the public administration.

The pattern of political participation changed in the eighties and in the nineties. In the eighties protest became much more moderate. In the nineties, the breakdown of political parties that followed the exposure of political corruption dramatically affected political participation. Protest

increased, although keeping mostly moderate forms. Social movements' organizations multiplied, but remaining usually very small and loosely connected with each other. The voluntary associations grew too, in number but not only. New forms of "associational life" developed in the so-called Third Sector with increasing, although sometimes conflictual, relations with the public administration, especially at the local level.

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12.Government responsiveness

Is government responsive to the concerns of its citizens?

12.1.How open and systematic are the procedures for public consultation on government policy and legislation, and how equal is the access for relevant interests to government?

See also 9.4.

12.1.1. Laws

One of the main forms of access that citizens have to the legal system is provided for by Article 75 of the Constitution, viz. the abrogative referendum. If the majority of the voters, in a valid referendum (see below) is in favour of the abrogation, the law (or decree, or delegate degree) in question is repealed. The Constitution expressly limits the matter relating to which a referendum may be called: Indeed Article 75 states that a referendum may not be called for tax or budgetary laws, laws authorizing ratification of international treaties, and laws concerning amnesties and pardons. The Constitutional Court has developed ample jurisprudence on where these limits lie, for example stating that the limit of laws authorizing ratification of treaties extends to other unrelated laws.

A referendum is triggered by gathering five hundred thousand signatures, or by a decision of five regional councils; its formal legitimacy must be approved by a central office and its constitutional admissibility by the Constitutional Court. Once declared admissible the referendum is held. For it to be valid, at least half plus one of the electorate must take part and for abrogation to succeed it must be voted by at least half plus one of valid votes.

The Constitutional Court, with the specific aim of making the abrogative referendum a tool for free and exact expression of opinion, has denied several referendum requests that aimed at too diversified a range of disciplines or lacked clearness and intelligibility .

One of the areas where public consultation on government activity has been developed most, albeit not always in a homogeneous way is the so-called “concertation” on public politics in particular areas. Normal practice is to consult associations’ representative of the interested parties prior to setting major norms or disciplines involving a wide range of categories of people. Obviously this kind of “agreed” legislation is used in economic matters especially measures with consequences on dependent workers and, sometimes, industrialists.

12.1.2. Implementation and negative indicators

In Italy, relationships between government representatives and representative organizations have given life to a pluralistic system, politicized and fragmented. Only recently was talk made of a move towards a concertational model.

All told, the structure of interests has been described as highly fragmented: “A structure of interests, segmented by history, has been broken down even further by public-sector policies pursued after WW 2” (Lange & Regini 1987, 327). In general, interest groups may have different types of relationships with the political parties that they may influence by financial contributions or support for individual candidates, or through more organic alliances between them and the party. In the Italian context, a well-known survey (LaPalombara 1964) spoke of “clientele” and “family” relationships between groups and parties. A “clientele” relationship is established when one or more groups succeeds in being acknowledged as having privileged access to public administration. The

"family" situation is defined as the setting up of privileged relationships with a political party (for example between Catholic associations and the Christian Democrat party, or the CGIL trade union and the [then] Italian Communist Party). Some interest groups traditionally had a major say in the nomination of ministerial posts: Catholic associations in the Ministry of Education, the association of farmers in the Ministry of Agriculture, the Cisl in the Ministry of Labour (Pasquino 1995, 67)

Lacking neo-corporate channels "without a stable counterpart in government and a firm institutional recognition in accordance with the neo-corporate formula, interest groups whether or not organized, weave a complex tapestry of relationships both with individual representatives of government and opposition, and also with heads of political parties, exacerbating even further the poli-centrism of a system in continual movement striving for compromises, even provisional, among the many protagonists involved in the political process" (Mastropaolo 1990, p.35). Where industrial relations enjoyed a low institutional profile, trade unions sought an additional resource through a privileged relationship with parties.. They however also contributed to that low institutional profile, given the low faith in the State.

Weakness in labour contracting - organs appropriate for it were long lacking - was compensated for by a quest for class representation. As Aris Accornero pointed out (1992), until the eighties, blue-collar trade unionism gave the illusion of universal representation. The denial that the blue-collar class (identified as "mass workers") could pit their interests not only against those of the capitalists but also against other "non-antagonistic" risked the possibility of "specific interests [becoming] confused with the general interest. This is the costly mistake Cgil, Cisl and Uil made in the ambivalence between the interests of class and the interests of the nation due to the idea that the class trade union had of the blue-collar working class as the general class" (Accornero 1992: 73). Again, Accornero states that the Italian situation had the peculiarity of "trade unions handling the wave of protests and struggles that started with the 'hot autumn' more as a political than a social movement … social movements seemed to need legitimation and political-style leadership that in Italy came from trade unions who, in turn, gained momentum from it" (1992: 56). Contractual manifestos started to make requests for social reform while political strikes became an ever-increasing means of pressure. Taking on a substitute role in the political arena and in particular with regards to left-wing political parties, trade unions made their own and garbed as labour disputes a range of issues such as housing, fiscal policies, health, disarming police in the area of public safety and industrial development investment. The disputes enhanced trade unions' room for political manoeuvring, requiring in turn greater political ability to manoeuvre which in the event clashed with their low inclination to mediation and compromise. If by playing this substitute role, trade unions tended to increase the pressure they brought to bear on ever new issues, their political stance pointed them towards seeking a monopoly in representation of interests opposing capitalism.

A high level of fragmentation has also been seen in the organizations representing entrepreneurs due to party and political alliances, resulting in a weakening in capacity for collective action and concertation (Chiesi and Martinelli 1987). In the fifties, the industrial middle-class gave support to parties in government in exchange for liberalist and anti-trade union legislation, while associations representing small businesses set up organic relationships with political parties. During the fifties, in particular, in opposition to the public industry sector and unified in autonomous organizations, Confindustria (Confederation of Industrialists), Confcommercio (Confederation of Commerce) and Confagricoltura (Confederation of Agriculture) came together under Confintesa (Confederation of Understanding) with the explicit approval of the Christian Democrats and later the Liberal party. In the sixties and seventies the more labour-intensive industries, who felt a greater need to negotiate with trade unions, distanced themselves from the more intransigent political line of Confindustria dominated by the interests of capital-intensive industry. One of the results of the 'hot autumn' was an increase in influence of labour-intensive industry more open to negotiating, and institutionalizing industrial relations (Alacevich 1996, 65-67). In the seventies, faced with conflictual relations on a national scale, there was greater openness among small firms too, to involving trade unions at company level aided by opting for restructuring strategies based on technological innovation.

The system of industrial relations in Italy has been traditionally defined as of "low institutionalization" (Cella 1987). A model of modestly-institutionalized and formalized industrial relations is however woven into a high level of interventionism on the part of the state besides indirect legislative intervention (in matters of economic and social policy) (Baglioni 1988). The law does not regulate procedures or institutions nor does it acknowledge actors in industrial relations "which makes their actions less foreseeable and stable than in other countries, or at least apparently so." (Alacevich 2000, p. 11).

State intervention in the relationships among social actors was initially weak. If the fifties saw state intervention especially in public-sector industry, the years of centre-left government pushed these industries towards more autonomy compared with private-sector companies, paving the way toward company contract negotiations and institutionalized confrontation with workers' representatives. From 1969 onwards, besides Law 300/1970 - the Statute of Workers recognizing and protecting trade union organizations in the workplace - coming into force, Ministers of Labour and of Industry mediated in a number of cases.

It wasn't until the late seventies and during the eighties that concertation in industrial policy was talked about. In the second half of the seventies, negotiations took place between trade union representatives and Confindustria, often with government participation, on index-pegged pay, youth employment and professional training. In the eighties, *quasi*-institutionalization was first mooted; indeed collective bargaining among social actors and the various practices in concertation and consultation with the state developed informally and on a voluntary basis even though some rules and practices were introduced by the social actors. Furthermore, "by indirect action - through specific policies like industrial and economic ones - legislation generally underpinned collective bargaining and interaction between social actors" (Alacevich 2000, p. 11).

In the nineties, increasing institutionalization was witnessed both in collective bargaining and social concertation so that talk was made of a move towards a corporate model, albeit decentralized. In 1993 in particular, a trilateral protocol was signed on incomes and employment policy, contract set-outs, labour policies and support to the productive system described by the then Minister of Labour Gino Giugni as "a new constitution of Italian labour relations", that launched a series of concerted initiatives between social actors. Furthermore, interaction between the actors, both bi- and tri-lateral, grew substantively at local decentralized level especially in particular areas of the country. In the nineties there was also an increase in state intervention to regulate situations previously left to agreement between parties (see Law 146/1990 on the right to strike in the public sector; and Law 421/1993 and Decree 29/1993 introducing significant changes in public sector industrial relations). In 1998 the social Pact for development and occupation (also known as the "Christmas Pact") saw social actors seeking greater institutionalization in the social co-concertation system. At national level, important trilateral agreements, despite not being actual law, were, besides the 1993 Protocol and 1998 Christmas Pact already mentioned, the 1996 Labour Pact and the Agreement on Welfare Reform of 1997. Law 196/1997 relating to norms regarding promotion of employment recognizes that collective bargaining has an important role between social actors and in concertation and, consequent to the latter, eighteen technical boards and two consultative committees have been set up.

On a local level, negotiated programming has been developed, aimed more at local development and employment (by means of territorial pacts and area contracts). Regional committees on programming have been set up as well as regional councils on economy and labour. Bilateral bodies were created to provide assistance to companies and training schemes. Mention has also been made of a trend in regional government, parallel to central government, to delegate authority to social actors (for example on matters such as equal opportunity or employment policies).

The European Union has given a major push to the process both by the participation of the social actors in labour policies and material incentives (especially in support of territorial pacts) (Alacevich e Burroni 2000). The new tendency has been viewed with favour in terms of wage moderation inflation control and lowering of conflictuality. The undoubtedly thorny question of

interest organization representativity is still unanswered and this, in the meantime, causes a lot of parties to become involved in the concertation process producing negative consequences in decision making. Moreover, “the low level of formalization of the institutions of participation produces a situation in which a clear differentiation of the responsibilities of those involved and efficient coordination are often lacking” (Alacevich 2000, p. 19). The modest institutionalization again leads to the agreements being breached and there is a lack of *super partes* participants able to arbitrate in the negotiations (Alacevich e Burroni 2000).

12.2. How accessible are elected representatives to their constituents?

12.2.1. Laws

There is only very scarce legislation referring to the availability of elected public officials to their electorate, and most of it refers to members of Parliament. In the Italian legislation, parliamentarians, just like other elected officials, are not limited by mandate vis-à-vis their electors.

However, there are measures attributing indemnity to parliamentarians in order to give them the possibility to be in touch with their electors—in particular, the enjoy free tickets in train and airplain. Recently, each parliamentarian received an e-mail box in order to facilitate contacts with the citizens.

12.2.2. Implementation and negative indicators

Although systematic data is not available, random evidence suggests that the main hindrance to constituents gaining access to their elected representatives is especially the informal, individualistic and selective way this access is granted. Access seems to be granted especially along clientship lines (especially in the South) (see for instance Putnam 1993). Only very recently, at local level, have some municipalities started to develop websites, offering citizens information and channels of interaction with local administrators (della Porta and Andretta 2000).

See below (12.3.2) for data on dissatisfaction with elected representatives.

12.3. How accessible and reliable are public services for those who need them, and how systematic is consultation with users regarding the providing of service?

12.3.1. Laws

Awareness of the need to improve the quality of public services, or those in any way considered in the public interest, has marked recent Italian legislation. The tendency over the last few years has been to entrust matters concerning the guarantee of the quality of services provided to independent administrative authorities set up for the purpose, shifting their control away from ministerial structures or any governmental framework, toward bodies considered more suitable because of their purely technical-administrative character, devoid of any political leaning.

In particular, Law 481/95 set up an Authority for the regulation of public utility services (not yet implemented), an Authority for electricity and gas and an Authority for the control of communications. To the first and second, which the law states, “operate fully autonomously and with independence of judgment and evaluation” have been entrusted real powers of regulation in their areas of competence (including fixing tariffs and minimum service conditions), and the power of handing down sanctions and procedures detrimental to the patrimony of companies on the market. For example, the Authority for electricity and gas (like the Authority for the control of communications) has introduced several regulations of a mainly regulatory nature (authorizations,

means of liberalization of the electricity and gas market, conditions of access to cable and satellite television etc.).

The activity of these Authorities is of great interest in terms of general public participation in the exercise of public functions because both the law setting them up and also the disciplines the Authorities later took on have greatly opened participation to groups and individuals in every type of procedure relating to the Authority. For example, the Authority for electricity and gas has adopted a rule (N° 56/99) regulating the periodical hearings given to associations of consumers and users, environmentalists, trade unions and entrepreneurial, as well as disciplining periodical surveys of user satisfaction and service efficiency, even by specialised institutes.

From the mid-eighties onwards, there has been acceleration in legislating trilateral agreements: agreements on programming (on transport, environment and economic development) aiming to take responsibility for a given project, but also service conferences (to get authorization from administrations involved in a given project). These practices became more widespread from the mid-nineties with negotiated programming. Territorial pacts, framework programming agreements, town neighbourhood contracts, area contracts, voluntary environmental agreements and safety contracts are basic tools of principle in negotiating between interested parties, often aided by public incentives.

12.3.2. Implementation and negative indicators

The traditional culture of Italian public administration has been described as consensual, closed to the outside, and hierarchic. Traditionally, users have no means of participation, and recourse to magistrates has long been the only means of “complaint and redress”. Indeed recourse to the magistracy has been high and is rising.

Judicial investigations have shown that corruption in Italy was fuelled by administrative inefficiencies and, in a vicious circle process, bribery itself contributed to deterioration in public administration (della Porta and Vannucci, 1994). The slowness of procedures, the inadequate mechanisms of personnel selection, the difficulty in interpreting legal aspects and the inadequacy of executive controls all contributed to a serious structural deficiency of the Italian public sector that is now very difficult to cure. In some cases, this got even worse after the corruption investigations, because public administration officials, by then exceedingly wary, preferred inaction to the pitfalls of wrong action.

Over the last decade, Italian politicians have made some far-reaching reforms whose origins precede (and are therefore independent from) the corruption investigations. The law 142/1990 have consolidated in the Italian administrative system the principle of distinction between political choice, belonging to elected politicians, and of administrative management, belonging to the bureaucratic leadership. A more rigorous separation between politics and administration also emerged from the legislative decree n. 29/1993 that specifies the duties of public executives. Law 127/1997 opened the door for mayors and presidents of provincial governments to nominate professionals to aid them.

Major changes were introduced, in particular by opening the administrative procedure to allow intervention by private actors. In Italy the continental lack of administrative trust towards the citizens was added to a long standing tendency to keep interest groups away from the decision process (Bobbio 1996). Within a European context there is a noticeable lack of non-jurisdictional tools to resolve conflicts, often more commonly used in other countries such as Sweden, the United Kingdom, the Netherlands and Spain. The reforms of the nineties however seem to have marked an inversion of tendency. Before the scandals of the nineties, Law 142/1990 already mentioned had established the right of access to administrative documents, invited the setting up of "means for citizen participation in local administration" (art. 6) and gave municipalties and provinces the faculty to write into their statutes the setting up of an ombudsman "who will develop the role of guarantor of impartiality and good administration of the municipality or provincial administration"

(art. 8). In the same year, Law 241/1990 introduced, for the first time, regulations concerning the administrative procedure "giving maximum importance to transparency in administrative action" (Sandulli 1994: 102). The principle of participation enables intervention in procedures and obliges public administration to intimate the start of a procedure to anyone to whom it may bring prejudice. Tools for participation and negotiation are introduced between various involved parties including the *conferenze dei servizi* (conference of services) that guarantees a simplification of the procedures by rendering the decisions collegial (ibidem: 108). To offer guarantees to the citizen, the law requires the employee entrusted with the procedure to be identified obliging him or her to conclude the procedure in the shortest possible time, and obliges the administration to motivate its decisions. The right of information and citizen access to administrative documents has been seen as a major innovation towards transparency in relationships with public administration. The legislative decree 29/1993, that delegating to the government reform of public-sector employment fixed by Law 421/1992, obliges in every administrative organization to create an office with responsibility for the body's relationship with the public. Law 127/1997—significantly called "Urgent provision for the simplification of administrative activities and decisional procedures"--enlarged the concept of transparency, confirming that the public may produce self-certification when dealing with the public administration. It also enlarged the concept of regional civic defenders, introducing the role of ombudsman (Article. 16).

Despite far-reaching innovations, some problems have emerged as a result of the attempt to reform the Italian public administration. Firstly, the rapidity of the reform process caused some difficulties in the implementation of such profound changes (Capano 1998: 24). Secondly, the process of simplification of administrative procedures and the elimination of many laws, by means of other lengthy and complex laws risks complicating the relationship between citizen and state even further. The problem of legislative inflation is worsened by the characteristics of administrative reform in Italy. In a systematic comparison with the United States, the reform of public administration in Italy emerges as a top-down process, driven mainly through laws (Regonini 1998). The quality of the law--in terms of clarity of its content--remained also very low (Mattarella 1998: 109). In this way, public administration reform even runs the risk of recreating the pre-existing conditions of legislative inflation and confusion on new bases

In the nineties there was a dramatic increase of public administration recourse to contracts - i.e. "some public choices that had been previously unilateral (on the basis of legal or technical-scientific criteria), are now conducted on a bi- or pluri-lateral negotiation basis (Bobbio 2000, p. 111). Contracts, pacts, protocols and understandings all highlight the role of concertation in public-sector decision making - they are written agreements containing a commitment given publicly and voluntarily, to participate in a common initiative often aimed at public well-being. Contractual procedures are public, formalized and aimed at reaching agreement. In some cases, they strove toward greater decision-making capacity and the simplification of complex procedures, sometimes causing a centralization of power (indeed talk has been made of perversion of consensual mechanisms through authoritarianism). In other cases, delegation of competence was symbolic and did not give sufficient resources to those involved in the decision-making process. Finally, negotiations have been most frequent between strong collective parties while the tools (for example the Charter of services) that should have guaranteed right of participation to weak parties (users and citizens) have been little effective.

Opinion polls indicate a long-standing dissatisfaction of Italian citizens towards their administrators. A 1990 Ispes survey that directly questioned the opinions of 2,200 resident citizens supplies some indicators of the perceived *"responsiveness of public service"*. The survey asked two specific questions concerning the relationship between public administration and its users: the setting-up of an ombudsman, and the rendering responsible and recognizable each individual public administration employee by means of a personal name tag. A first result of the survey was that the role of ombudsman is little known (a mere 40% of those questioned, and almost exclusively in the better-educated category, resident in the centre-north of the country). Even though to the question "Do you consider this role important?" all of those familiar with it (north and centre-north) replied

affirmatively expressing a positive opinion as to the validity of the ombudsman's role, the majority of interviewees think that he or she would be unable to act against public administration (35.7%) and 33.7% thinks the ombudsman would be literally submerged by requests hence unable to operate actively to protect citizens who apply to him or her even despite his or her goodwill. The opinion of interviewees on the advantages of the obligatory personal name tag for public administration employees revealed that although only 10% declared their opposition to the initiative ("a useless rendering of responsibility") the highest percentage (35%) deemed it insufficient and 29% thought is was "a small step in the right direction" for a more direct relationship with institutions. Only 26% of those questioned believe that the personal name tag for public employees makes them really responsible giving transparency to the service provided. The less-appreciated means of getting to grips with the root of the problem is "more participation in a party" (5.4%) while moderate consensus was mooted by joining a user association (19.2%) or by obliging public administration to set up a complaints office (16.2%) set up an ombudsman (15.7%) or, *ultima ratio*, by recourse to the magistracy (13.9%). 17.3% see the best solution as "knowing the right person in the right place"(Eurispes CD-ROM "Italy under the magnifying glass 1982-1997: fifteen year of research into Italian society", MGE Communications, 1997).

Another 1990 Ispes research confirmed the negative opinion held by the population on public-sector companies and private companies proving principal services with a level of dissatisfaction in direct relationship to the frequency of usage of the service. To the question "which are the most inefficient service sectors?" replies pointed to "health" first of all, then transport, relationships with public administration, work etc. In the view of those questioned, there are two main causes of inefficiency: the low level of staff training and formation (25%) and the clientship policies of parties (23%). It is no coincidence that the low level of quality in services offered to the population is attributed by over 30% of the interviewees to a lack of making staff responsible (16.5%) and a more general lack of sufficient information (14.2%). 41.8% quoted reasons of a subjective nature viz. closely linked to the culture and quality of the person providing service within public administration, the low quality level of the service itself (25.3% insufficient staff preparation and training - 16.5% lack of staff being responsible). To the question "what is needed to improve the relationship between service and users?" 90% of interviewees replied "competence" (Eurispes CD-ROM "Italy under the magnifying glass 1982-1997: fifteen year of research into Italian society", MGE Communications, 1997).

Ten years down the line, a 1998 Datamedia survey aimed particularly at the operational management of services provided by municipalities in some sample towns confirms the high level of dissatisfaction (see table 12.1). There are however striking regional differences, Rome and the south showing higher dissatisfaction. For example the percentage of citizens satisfied with goods and services relating to the environment and public green areas drops from 62% in Turin, 60% in Bologna to 29% in Naples and 24% in Bari, with communication with the population from 55% in Turin and 52% in Bologna and Florence, to 31% in Naples and 26% in Bari. The level of dissatisfaction also varies considerably over the various areas of services provided: while people are quite satisfied with the supply of culture and performances (between 48% in Bari and 78% in Milan) the figures dwindle on road use and traffic (21% in Turin and 5% in Rome).

A survey carried out by Eurispes for its 1994 Report on Italy looked at the quality of services provided by the public administration as seen by those who work on the inside. Around one third of staff states they have no relationship with the public. Public administration is held to be completely or sufficiently efficient by 57.9% of its employees. Practices of clientship in the workplace is extremely widespread in one way or another according to a significant 62% of staff questioned, determining career and transfer decisions in 41 percent of cases and, in the view of the remaining 21%, falls within a "normal" provider-user relationship in public utilities. Bodies with the most widespread use of "recommendations" are transport (according to 78.7% of employees) and regional institutions (58% of interviewees). To the question "how should public administration be organized locally to function best?" frequent mention is made of the separation of management and political competence from those more strictly speaking executive (or technical); management

with greater citizen participation and control and greater decentralization. According to the report, "almost all the replies confirm the worrying gap between public administration on the one hand and the need for transparency and undeniability of users' rights on the other. For the staff themselves, administrative provisions and decisions are inaccessible to those whom, in the final analysis, they are aimed. In every town and institution examined, this point reached 80% on average, rising even higher in some cases for example in Palermo where it peaks at 92%. Transparency in public administration seems indispensable in the procedure relating to hiring, where probably greater improper influence and interference are felt. Almost 50% of the replies point in this direction. A similar percentage (46.8%) concerns contract competitions for large-scale public works that are, as is well known, a source of illegal activity and personal enrichment for both administrators and politicians". (htpp://www.eurispes.com)

12.4. How much confidence do people have in the ability of government to solve the main problems confronting society, and in their own ability to influence it?

12.4.1. Negative and positive indicators.

The level of confidence of Italian citizens in the ability of government to solve the main problems confronting society is, according to opinion polls, extremely low.

A survey carried out by Eurispes in January 1998 involving 1,070 individuals, shows politicians' credibility as being extremely low despite having slightly risen over one year. Indeed in 1997 the number of those who thought that politicians were more aware and able compared to those of a few years previously was 37.5% while in 1998 this percentage rose by 6 points to 43.6%. In 1998, moreover, 40% of those questioned judged politicians more honest than in the past. Between 1997 and 1998, however, those who thought that present-day politicians are more interested in personal power rises from 24.2% to 28.6% even though the same percentage (28.5%) believes that politicians' interest in political power is less than some years ago.

Table 12.2. Interviewees opinions of present-day politicians compared to a few years ago 1997-98

Opinion of politicians	1997		1998	
	A.V.	%	A.V.	%
More aware and capable	401	37.5	467	43.6
Less aware and capable	259	24.2	242	22.6
Like some years ago	410	38.3	299	27.9
Don't know/No reply	-	-	62	5.8
Total	1,070	100.0	1,070	100.0
More honest	462	43.2	448	41.9
Less honest	141	13.2	136	12.7
Like some years ago	467	43.6	378	35.3
Don't know/No reply	-	-	108	10.1
Total	1,070	100.0	1,070	100.0
More interested in personal power	259	24.2	306	28.6
Less interested in personal power	340	31.8	305	28.5
Like some years ago	471	44.0	356	33.3
Don't know/No reply	-	-	103	9.6
Total	1,070	100.0	1,070	100.0

Source: Eurispes, 1998

Table 12.3. Institutions that Italians trust most, by age

	Age group									
	16/30 years		31/45 years		46/60 years		> 60 years		Total	
	A.V.	%	A.V.	%	A.V.	%	A.V.	%	A.V.	%
Parliament	52	16.8	53	18.0	46	16.5	23	12.9	175	16.4
Government	43	13.9	30	10.2	29	10.4	30	16.9	135	12.6
Magistracy	70	22.6	61	20.7	43	15.5	24	13.5	201	18.8
Police	60	19.4	60	20.3	46	16.5	50	28.1	216	20.2
Carabinieri	64	20.6	67	22.7	73	26.3	56	31.5	260	24.3
Fiscal police	20	6.5	22	7.5	17	6.1	13	7.3	72	6.7
Secret services (intelligence)	6	1.9	1	0.3	0	0.0	0	0.0	7	0.7
Antimafia investigation organization (DIA)	16	5.2	12	4.1	2	0.7	1	0.6	31	2.9
Church	28	9.0	13	4.4	22	7.9	14	7.9	78	7.3
Trade union	10	3.2	6	2.0	6	2.2	11	6.2	33	3.1
Partities	6	1.9	3	1.0	5	1.8	1	0.6	15	1.4
Voluntary organizations	76	24.5	68	23.1	60	21.6	19	10.7	223	20.8
Nobody	47	15.2	50	16.9	68	24.5	33	18.5	199	18.6
Don’t know/No reply	23	7.4	34	11.5	29	10.4	26	14.6	116	10.8
Total	310	100.0	295	100.0	278	100.0	178	100.0	1.070	100.0

Source: Eurispes, 1998

Carabinieri (24.3%), Voluntarary organizations (20.6%), Police (20.2%) and Magistracy (18.8%) enjoy more trust than Parliament (16.4%) or Government (12.6%). While voluntary organizations have a highly positive image in the public eye with a percentage qualifying it as the most trusted institution at 20.8%, parties and trade unions rate only 1.4% and 3.1% respectively. The younger age group tends to single out voluntary organizations as the institutions to be most trusted while the elderly place more trust in the Carabinieri and Police (cf. table 12.3). University graduates trust parliament more (29.7%) compared to the survey average (see table 12.4). The Church scores rather low throughout all groups (7.3%).

Table 12.4. Institutions that interviewees trust most, by academic qualifications.

	Academic qualifications							
	University degree		Upper mid school		Lower mid school		Total	
	V.A.	%	V.A.	%	V.A.	%	V.A.	%
Parliament	33	29.7	94	19.8	45	9.8	175	16.4
Government	18	16.2	63	13.3	52	11.3	135	12.6
Magistracy	23	20.7	87	18.3	89	19.4	201	18.8
Police	28	25.2	110	23.2	76	16.6	216	20.2
Carabinieri	39	35.1	125	26.3	92	20.0	260	24.3
Fiscal police	8	7.2	39	8.2	25	5.4	72	6.7
Secret services (intelligence)	0	0	6	1.3	1	0.2	7	0.7
Antimafia investigation organization (DIA)	4	3.6	21	4.4	6	1.3	31	2.9
Church	7	6.3	31	6.5	37	8.1	78	7.3
Trade unions	1	0.9	18	3.8	14	3.1	33	3.1
Partities	18	1.8	10	2.1	3	0.7	15	1.4
Voluntary organizations	17	16.2	105	22.1	98	21.4	223	20.8
Nobody	17	15.3	69	14.5	108	23.5	199	18.6
Don’t know/No reply	5	4.5	41	8.6	63	13.7	116	10.8
Total	111	100.0	475	100.0	459	100.0	1.070	100.0

12.5. What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

Italy has been characterized by a strong gate-keeoing role of political parties that traditionally mediated, either in a countercultural or clientelistic way, citizens demands to the public administration. Following the continental bureaucratic model, the Italian bureaucracy was closed to citizens' access, but permeated by distorted relations with representatives of political parties. Industrial relations have been weakly institutionalized: the organized interests followed a pluralistic model, with each economic interest represented by various organizations. Concertation developed only occasionally.

In the nineties reforms emerged also in this field. Research on corruption shows that reforms aimed at simplifying the laws and easing access to the administrative process would help to reduce the possibility of corruption. Indeed, the nineties saw many reforms of this kind in public administration. In 1993, an OECD document on the "*Evolution dans la gestion publique*" states, for instance, that in most member States reforms are in progress aimed at curbing or reorganizing the public sector by privatization, liberalization, decentralization and the introduction of market mechanisms, minimizing regulation and keeping tabs on output (Dipartimento per la funzione pubblica, 1993, p.11).

For once, Italy is not behind. A review of the administrative reforms between 1992 and 1998 indicates a clean break with the past. Triggered by budget problems, public administration reform subsequently tackled additional questions, such as decentralization and democracy, and also -- although only indirectly-- corruption (Capano 1998). These laws have enhanced citizen access to the administrative documentation that concerns them, increased the possible means of opposing unpopular executive decisions, simplified the relationships between private and public administration, set in motion a process that will reduce the number of laws and make them more simple, given greater room for interest group participation in public decision making and improved the visibility of public decisions.

Industrial relations had already started a proces of modernization in the seventies. In the ninenties, concertation developed more and more, although with the maintainance of a pluralistic, fragmented system of interest representation.

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Table 12.1. Satisfaction with public utilities provided by municipalities

Environment - public green areas

City	*satisfied citizens*
Turin	62.0 %
Bologna	60.0 %
Venice	57.0 %
Rome	55.0 %
Florence	51.0 %
Milan	38.0 %
Genoa	35.0 %
Naples	29.0 %
Bari	24.0 %

Libraries

City	*satisfied citizens*
Turin	75.0 %
Genoa	67.0 %
Milan	64.0 %
Bologna	63.0 %
Florence	60.0 %
Venice	52.0 %
Naples	50.0 %
Rome	48.0 %
Bari	20.0 %

Comunication/ information to citizens

City	*satisfied citizens*
Turin	55.0 %
Bologna	52.0 %
Florence	52.0 %
Milan	51.0 %
Venice	43.0 %
Genoa	39.0 %
Rome	36.0 %
Naples	31.0 %
Bari	26.0 %

Days and opening hours of municipality service offices

City	*satisfied citizens*	*City*	*satisfied citizens*	*City*	*satisfied citizens*
Bologna	64.0 %	Milan	78.0 %	Milan	79.0 %
Genoa	63.0 %	Rome	77.0 %	Bologna	68.0 %
Milan	61.0 %	Naples	72.0 %	Venice	67.0 %
Venice	58.0 %	Turin	71.0 %	Turin	63.0 %
Rome	57.0 %	Florence	69.0 %	Rome	63.0 %
Naples	52.0 %	Bologna	68.0 %	Florence	60.0 %
Bari	50.0 %	Genoa	63.0 %	Genoa	57.0 %
Palermo	49.0 %	Venice	55.0 %	Bari	56.0 %
Turin	42.0 %	Bari	49.0 %	Naples	49.0 %

Culture and performances

Registry office

Roads and traffic

City	*satisfied citizens*
Turin	21.0 %
Venice	19.0 %
Bologna	13.0 %
Milan	12.0 %
Naples	12.0 %
Florence	10.0 %
Genoa	9.0 %
Bari	7.0 %
Rome	5.0 %

Surface transport

City	*satisfied citizens*
Bologna	53.0 %
Milan	44.0 %
Venice	43.0 %
Florence	39.0 %
Turin	38.0 %
Genoa	31.0 %
Naples	29.0 %
Bari	19.0 %
Rome	17.0 %

Refuse disposal

City	*satisfied citizens*
Bologna	63.0 %
Florence	49.0 %
Milan	45.0 %
Venice	45.0 %
Turin	43.0 %
Rome	36.0 %
Genoa	30.0 %
Bari	30.0 %
Naples	13.0 %

***Source*: Datamedia: htpp//213.140.0.66/citymonitor1.htm**

13. Decentralisation

Are decisions taken at government level the most appropriate for the people affected?

13.1 *How independent are the sub-central tiers of government from the centre, and how far do they have the power and resources to carry out their responsibilities?*

13.1.1. Laws

The Italian Constitution provides for at least three levels of regional autonomy: Regions, Provinces and Municipalities and others (such as mountain communities) of lesser importance.

The common characteristic of these bodies is their autonomy, viz. their capacity, acknowledged as individual exponents of citizen communities, to self-determination within the framework laid down by the Constitution and the laws of the land. In other terms, Regions are bodies to whom a legislative function has been delegated over and above the administrative one while municipalities and provinces carry out substantially administrative duties.

The fifteen Ordinary-Statute Regions are disciplined by the Constitution (Articles 114 and further), by law (in particular Law…..), and by their statutes adopted first by the Regions themselves then approved by the lower chamber of parliament. The statutory powers are exclusively handled by the regional council without interference by national parliament.

They legislate autonomously on the affairs provided for by Article 117 of the Constitution but this function must be in accordance with the "fundamental principles" laid down in Italian law. The law may attribute legislative powers to the Regions even in matters not provided for in Article 117 but however still in accordance with the principles laid down by the same law.

Each Region has a representative organ entrusted with legislation and other matters of an administrative nature, elected by universal suffrage in a prevalently proportional system. Up till constitutional reform by Constitutional Law 1/99, the representative council also elected from among its members the President of the executive council thus within a relationship of trust. From 1999 however, the president of the Regional executive council has been elected directly by the electorate and enjoys ample freedom to nominate the executive council members. To the executive council thus constituted are entrusted important administrative duties and, since 1999, regulatory powers.

The Regional Council can be dissolved only for the reasons specified in Article 126 of the Constitution (inability to continue functioning, committing acts contrary to the Constitution, serious breach of law or reasons of national security) by the President of the Republic on the government's initiative.

Among the Regions, there are however five with a special statute which, by virtue of their particular geographical or social-economic situation or ethno-linguistic composition, enjoy a higher degree of autonomy than the others with some material questions entrusted to their legislation, to the exclusion of the State's.

Their statutes, defined as "special", are enforced by constitutional law with the procedures as provided for by Article 138 of the Constitution, and may only be modified in the same way. This difference from Ordinary-Statute Regions, stemming originally from the requirement of the Special regions for greater guarantees, is producing an effect opposite to that intended, viz. a significant inflexibility of the Special-Statute Regions who are turning out to be less able than the Ordinary-Statute Regions to react to and follow the consolidation of the Regions themselves and their overall transformation into states.

The procedure for approval of regional laws involves a point where verification by the government takes place and it may send the law back to the Regional Council either for reasons of legitimacy or content. If the Council re-passes the law by an absolute majority, the government can

only appeal to the Constitutional Court (for reasons of legitimacy) or before the chambers (for reasons of content). Never, in the history of the Republic, has a regional law ever been brought before the chambers for reasons of content while recourse to the Constitutional Court has been very frequent, denoting government tendency to maintain its conflict with the Regions on a legitimacy level without getting involved in content.

The most interesting aspect of regional autonomy, besides legislative power, is surely that of executive functions that regions are called upon to perform. The Regions only started functioning effectively in the early seventies so a large proportion of executive functions had to be transferred from the State, who exercised it, to the Regions.

This transfer of functions and consequent financial resources to make them work took place in several stages, and to a certain extent is still taking place now. By means of the first delegate decrees, the State transferred single functions and offices to the Regions keeping to itself all residual functions thus seriously hampering real regional autonomy.

From Decree Law 616/77 onwards up to Degree Law 112/98 the situation was progressively turned around attributing no longer single functions to the Regions but organic sectors by subject within which regions can create any legislation it considers necessary in greater autonomy. Decree Law 112/98 brought about a complete reversal of the previous situation to give gave precise definitions of the functions remaining within state power, all the rest being left to local bodies. It is hence up to the Regions to pass laws stating which of these functions are of regional interest and which exclusively local to be consequently transferred to municipality and provincial level.

In the original intentions of the constituent, the Region was to have been a “lightweight” body substantially for programming, directing and checking other local bodies but in practice devoid of a large-scale bureaucratic structure of its own. In reality, the regional bureaucratic apparatus has grown much more than was bargained for and the Regions themselves have in many cases preferred to take on a lot of functions themselves rather than entrust them to local bodies.

Many *ad hoc* organs in different areas were created in order to coordinate state and regional activities; the permanent mixed Commission between government and regional executive that deliberate (and in part agree) on measures of a regional interest the government intends to legislate on.

Municipalities and provinces have the same structural organization as Regions. They too have a Council that functions within the political sphere carrying out checks on the activity of the executive organ and has the power to adopt basic measures as provided for by law (statute, regulations, budget and basic measures committing the body’s finances etc) and a head of the executive (Provincial president for the provinces or mayor in the case of the municipality) who has an executive council to carry out the functions. It was the shift from indirect to direct election of the Mayor and Provincial President that came about by law 81/93 and that was found positive on the whole, that was taken as an example for the reform of 1999 already mentioned providing for direct election of Regional Council Presidents.

The mayor and executive council have thus residual powers compared to the competence of the Council, specifically laid down by law.

Law 142 of 1990, often later amended and added to, finally laid down organic rules for local bodies called upon to perform important executive functions.

Firstly, their authority being statutory, they have the faculty of giving themselves a statute, the tool that lays the basic guidelines for every local body, then regulating office organization, empowering of functions, ordering of public services, deciding on forms of direct participation for citizen access to information etc. Legislative authority is also conferred.

Municipalities have recognized by law significant powers in terms of release of licences, provision of social assistance services, promotion of tourism and also on matters regarding the set and use of municipality territory.

The province, on the other hand, carries out duties, particularly in programming, regarding protection and management of the environment, transport, education and professional training.

From the standpoint of obtaining financing, while it is true that local bodies tend towards autonomy in the area of money out, viz. expenditure, it is not so in for income. Indeed the Constitution states that regions and local bodies benefit from both their "own taxation" and "quotas of national taxation" hinting therefore at a double channel for local income. In reality this system has never got off the ground and there has been a resulting dependence of local economy on local taxation.

Indeed in principle, local financing is supported by "quotas of national taxation" that the state is willing to recognize by applying equalizing mechanisms to richer and poorer Regions (rotation funds).

Taxation however has always been the State's prerogative (even where the taxation itself was defined as "regional" or "municipal": cf. cases of regional taxes on production activities set up with Decree Law 446 of 15th December 1997 and municipal taxes on real estate set up by Decree Law 504 of 30th December 1992) fixing their basic tenets; who was to pay them, quotas and amounts and all other essential parts, leaving regional autonomy the limited job of choosing which quota to apply from those within a preset range.

Moves have recently been afoot to reform taxation under the name of "fiscal federationalism" (Decree Law 56/2000). By this measure, national transfers to the Regions, (in particular the National Health Fund) will be abolished and replaced by "co-participation" of the Regions in the income of some important taxes (VAT and income tax). An "equalizing fund" will also be set up between administrations who, today, are financially self-sufficient, and those whose budget has deficits small or large, aiming at the principle of solidarity between regions.
Moreover, Regions also have the possibility of extending the range of their existing taxation.
Measures of this kind are envisaged to increase the income of regional administrations by means of local taxation.

The State keeps a number of controls to itself, as a check on the activity of both Regions and other local bodies. Besides the checks on regional laws already mentioned, there is a State control commission whose job it is to carry out preventive verification only on the most significant regional administration laws, only for reasons of legitimacy and very swiftly (while up until the reform of the '90's, the Commission could verify all regional legislation and for content also). The *Corte dei Conti* (Accounts Tribunal) carries out further checks on budget management and regional administration. Verification on content of local bodies' administrative legislation has been gradually done away with by present legislation: today, State verification of local bodies is carried out by control commissions set up for the purpose who act only in terms of legitimacy within defined parameters and only with regard to the main laws of the body (statute, regulations, budget and accounts).

13.1.2. Implementation and negative indicators

The 8,104 municipalities represent the fundamental institutions of local government, both in the number of employees (80% of all local administrations, provinces and regions equally sharing the other 20%) [Della Porta, 1999; 257], and in terms of the tight historical and cultural bonds they have with their respective communities, according to the principle (inherited from the French Revolution) of having one *Comune* for each community, no matter how small: indeed, over half of the municipalities have fewer than 3,000 inhabitants [Vandelli e Mastragostino 1998, 14].

The 104 *Province* have, over the past century, evolved from peripheral districts of central administration into bodies of local self-government, albeit with very limited real importance in terms of either competence or expenditure; the relevance of their territorial dimension, though, is still great, since most of the peripheral activities of central government (prefectures, police administration, revenue offices, electoral constituencies, as well as the episcopal dioceses and the main local structures of political parties [Dente 1989, 138]) are still run on a provincial basis; however, the separation between such activities and the provincial bodies of local government is

now virtually complete (except for the remnants of power still held by the Prefect) [Vandelli e Mastragostino 1998, 20 ss.]. The incongruity of such limited executive powers within the context of substantial perceived political importance has only partly been reduced by extending and specialising the real possibilities of action at provincial level by Law 142/90 to give impetus to the role of provinces mainly in the fields of environment and land use, and as intermediary bodies between municipalities and regions [Dipartimento della Funzione Pubblica 1994b, 14].

The 20 Italian Regions were first set up by the Republican Constitution, because of practical needs and as a reaction to the unpopular centralization that had so strongly characterized the monarchy era of a unified Italy and the fascist regime [Bartole e Mastragostino 1999, 15]. But whereas the executive structures of the so-called Special-Statute Regions (that enjoy extended autonomy because of their strong ethnic minorities or because of separatist tensions within them) were quickly set up (except for Friuli-Venezia Giulia, which included the city of Trieste long governed by the allied forces after the end of World War II), the Constitutional provisions creating the 15 Ordinary-Statute Regions were only implemented in the 1970's. It may be argued [Dente 1989, 129] that the constitutional measure providing for them and also the delay and timing in actually setting them up did not so much stem from real administrative needs as being the outcome of a "*ridefinizione dei rapporti di forza tra i partiti politici*" (a re-alignment of inter-party strengths), since different parties at different times had differing interests in the existence of further centres of power. However, the devolution of powers to the new bodies in varying stages over the 1970's was not organic or generous enough to confer a specific role except as an intermediary between the State and the older institutions of local government, an undoubtedly awkward and often ambiguous position [ibid., 136]

The present organization in levels of government is the result of the accumulation of overlapping legislation dating back to the early decades of the 20th century, that the 1990 law on local government, and the reforms of the subsequent ten years have only partly rationalised. On the unification of Italy in 1861, the Napoleonic model was extended from Piedmont to the new State [Sanantonio 1987, 107], and a "dualistic" pattern of division of powers was operating up until the 1950's: local institutions were responsible for a certain amount of compulsory functions, to which they may add further ones if willing (and able) to do so; while the peripheral organs of the central government were prevalently functional (e.g. superintendents) or served as links with local powers (e.g. prefects) [Cammelli 2000a]. The implementation of the Constitution and the subsequent laws outlined a somewhat different model based on "integration", so that in virtually all matters where competence lies with local authorities, State (or Regional) intervention is asked for either directly, in terms of approval, authorisation or drawing up of standards, or indirectly in the form of financial support or planning [ibid.].

Regional competences can be identified in three main fields: social services (mainly the health service), educational assistance, culture, professional training, territorial planning and use, management of the economy especially in the areas of tourism, commerce, agriculture, local fisheries and small industry. Provinces are competent in the areas of psychiatric assistance, schools, assistance for the disadvantaged, roads and communications, environmental control, coordination of municipal activities in certain areas (in particular transport and territorial planning). Municipalities have exclusive responsibility in the fields of local police, registration of births, marriages and deaths, statistical services, land and housing hygiene and environmental protection. Town and country planning, social services, public building, civil defence, roads, sequesters, public works and protection of the territory are shared between several levels of government. [Della Porta 1999; 247, 257]. This description outlines in part that which is seen more clearly in the actual decision making; boundaries are not definite, and the sharing of responsibilities is the rule; in the case of health care, for example, the matter is regulated by national laws and funded by the national government; funds, though, are administered by the regions as are most of the appointments; health service units (USL's) are organised on a provincial basis, and are subject to municipal administrative intervention [Vaciago 1998]. Far from setting a clear definition of individual competence or a hierarchical system imposing certain decision making processes, present legislation tends to bring

in “all levels involved in all matters all at the same time” resulting in a blurring of responsibility, both political and administrative [ibid.].

Proper co-ordination among different levels of government, vital to both responsibility and efficiency, is not guaranteed by such arrangements that give rise to a “negative co-ordination” [Bobbio 1996] that comes from the power that each level has to veto a decision and make the whole process come to a halt. The political resources available to parties over the previous decades had, somehow, given a working cohesion to these levels, but the fragmentation of consensus resulting from the crisis in party government in the early 1990’s diminished this cohesion and has created the urgent need for alternative institutional arrangements. The *accordi di programma* and *conferenze di servizi* (negotiating tables where several administrations come together to confront their respective stances that would otherwise be expressed in a chain of actions on the same subject) respond to this need, but in spite of their reasonably widespread use (no more than 9% of municipalities had ever used this instrument up to 1994, as opposed to nearly 40% of provinces [Dipartimento della Funzione Pubblica 1994b, 27]) their strict formality and the way they are used (often late in the proceedings, and therefore somewhat veiled with “blackmail” orientation) make them quite insufficient [Bobbio 1996, 85].

In such a situation of interdependence in decision making, local government autonomy is very much impeded. A significant example of the effect central administration and legislation can have on local bodies is visible in the regions, originally seen as fairly “lightweight” structures set up to administer the local application of national planning, that in the end had no clear idea as to their role because of a lack in the national planning policy in sectorial, let alone general, legislation [Dente 1989, 135]. More generally, the legislative power that regions enjoy has always been prevented from full political and administrative autonomy due to its inherent limitations and especially the way it has been interpreted: central government’s power to formulate guidelines in matters of regional legislative competence has been used in such a way that the so-called *leggi cornice* (“framework laws”) “*sembrano spesso orientate a spingere molto avanti l’interferenza direttiva e coordinatrice dello Stato in ambiti regionali, riducendo notevolmente le opzioni normative a disposizione del legislatore regionale*” (often appear to give vigour to State directive and coordinative interference at regional level significantly reducing the number of legal options open to regional legislation) [Bartole e Mastragostino 1999, 211]

In local administrations there is a widespread feeling of “being victims of central (and regional) government” because of “having to bear the consequences of central-level fickleness in decisions”; a feeling confirmed by the fact that some 40% of decisions made by municipalities are the consequence of national or regional provisions (or changes in provisions) [Bobbio 1997, 46]; direct intervention of central administrations in the decisions of municipalities takes place in 23% of decisions, regional intervention in 28% (rarely together, so that the two figures basically sum up to nearly 50%) [ibid.].

Overall reform of regional competencies, also involving the Regions identifying the optimal level for each area of competence, has been set in motion by executive decrees following Law 59/97 (“The “*Bassanini I*” Law) (see 13.1.1), but implementation is still far from complete; it is interesting to note that once again, as was the case in regionalization’s early days, central government inactivity may be the cause of delays in strengthening regional empowerment: the transfer of resources (financial as well as human and organizational) is slower than planned, and may prevent the actual take-over of state functions by the regions by the December 2000 deadline [Osservatorio Legislativo Interregionale 2000, p.13] (note that inefficiencies in the provisions for the transfer of an estimated 60,000 units of personnel had already been (fore-)seen in 1997, when it was pointed out that no study of the feasibility of such transfer was being made, and no scheduling worked out [Rebora 1997]). Still, it is rather more realistic to suppose that the cause of regional refusal to implement such legislation is an unwillingness of the regional bodies themselves to yield powers to provinces and municipalities [Rossi 1999, 181ss; cf. Dente 1989, 136].

Previous attempts at the identification of more rational divisions of competencies have failed completely: in particular, the institution of *Aree metropolitane*, *Unioni di comuni*, *Consorzi* as

different forms of association between local bodies for the carrying out of services on more efficient levels have hardly been implemented at all. The issue of *comuni polvere* ("speck-of-dust" municipalities, i.e. the innumerable municipalities of extremely small size) was faced in legislation with the provision that regions regulate (and provide incentives for) the fusion of municipalities, but this has never been effectively done; so that the present territorial arrangements reflect historical patterns with no concern for functional efficiency (let alone economical distribution, essential for the application of financial autonomy) [Merloni1995, 462 ss.].

Central control over regions is exercised for administrative and legislative acts, as regards of both legitimacy and merit. It is through such controls that central government has curbed regional legislative innovation [Dente 1989, 131] citing "national interests" and "the interests of other regions" as the justification for setting limits on regional laws; never, though, has any regional law been challenged on merit, thus seeming to intervene for reasons of formality without actually going as far as overt political conflict; the composition and running of committees judging on administrative acts is also a matter of controversy: the presence of members of the central administration ("*amministrazione attiva"?*), and the lack of co-ordination and uniformity in their judgement (one committee operates in each region) are particularly sore matters - the latter not being fully remedied by the creation of a further committee co-ordinating the others on a national basis (D.L.40/93) [Bartole e Mastragostino 1999, 257].

Controls over administrative acts of provinces and municipalities are exercised by regional bodies (Co. Re. Co.), and no longer by the Prefects (who only detain powers of control over organs, limited to very specific cases); appointment to such bodies tends to reflect relative party strengths [Vandelli e Mastragostino 1998, 142), and the excessive load of acts to be analysed favours (political) discretion in their processing [Della Porta 1999, 262]. Laws 142/90 and 127/97 have reduced the categories of acts to be verified, and have introduced a "professional" role into Co.Re.Co's, but persistent delays and inconsistency in judgment are still criticised by local administrations [Vandelli e Mastragostino 1998, 143].

The financial autonomy of local administrations has only recently been developing towards a regime of local financing, most of their income having been represented over the past decades by transfers from the central government. The overall tax reform of the early 70's was based on the two principles of centralization and the monolithic management of public finance, and put an end to the previously significant tax income of provinces and municipalities; the coincidence of the creation of the regions together with the introduction of tax reform meant that since the beginning the interpretation of the constitutional provision for regional financial autonomy was very restrictive: over the 1980's, the percentage of regional self-financing of total income dropped to a low of 1.4%. Transfers from the centre could have made up for such limited autonomy, but the regulation of these transfers was too unsteady and unreliable to allow either planning or fulfilment of regional and local functions; special funds for the equalization of regional resources (*Fondo comune* and *Fondo di sviluppo*) were unequally apportioned, and most transfers were instituted by laws which strictly limited their use (*Fondi settoriali*, reaching 80% of regional resources in the late 1980's and mainly including the funding of the health service); only in 1990 did a reform start the process of rationalization of local finance, but its implementation is still far from complete, most provisions not being immediately enforceable; the process is further confused by new legislation concerning functions of regional and local administrations (Law 59/97 and successive decrees and regional laws) and the so-called fiscal federalism introduced in February 2000. [Bartole e Mastragostino 1999; Vandelli e Mastragostino 1998]

In 1999, the percentage of tax revenues in the total local administration income neared 41% [data: Banca d'Italia], but it must be noted that this is mostly due to IRAP, the regional tax on productive activities introduced in 1996 (tied to the 1997 budget), the destination of whose revenues is bound to the funding of the health service [Petretto 1997, 778]; thus, together with the persistent uncertainty of incomes regulated by national laws introduced every so often aiming to definitively reform marginal areas of general local finance, there is a very modest increase in the room left for regional and local programming. Local administrations, sharing 13.3% of GDP (146,413,000,000

euro), have a net debt of .2% of GDP [Banca d'Italia], a legacy of the dramatic financial crisis experienced by local administrations in the 1980's.

13.2 *How far are these levels of government subject to free and fair electoral authorization, and to the criteria of openness, accountability and responsiveness in their operation?*

13.2.1. Laws

Regions, provinces and municipalities are all representative bodies, with councils and executives elected by universal suffrage; the regulation of the right to vote, and its limitations, are equivalent to those operating on general elections (see chap. 5).

At present, for the elections in Provinces, and in Municipalities with fewer then 15,000 inhabitants, the voter expresses one vote which is comprehensive of both the list (or coalition, in provinces) and of the candidate mayor/president supported by that list; the nomination of mayor/president takes place with plurality rule (with a second ballot, in the case of provinces, if no candidate reached 50% of votes), while the allotment of seats (*assegnazione dei seggi*) is done by granting 2/3 of the seats in municipalities, 3/5 in provinces, to the list supporting the winner, the rest of the seats being allotted proportionally with the d'Hondt method.

In larger municipalities, the voter can express two votes, one for a candidate mayor and one for a list; it is possible to express the vote for a candidate mayor only, or to vote for a list supporting a different candidate from the one voted for, but it is not possible to vote for a list only, as this vote is automatically valid for the candidate supported by such list; if no candidate mayor reaches 50% of votes, a second ballot takes place between the two candidates that received most votes; once the mayor is elected, the list or coalition supporting her/him is granted 3/5 of the seats, while the rest are allotted with the d'Hondt method; but it is also possible that all seats are allotted with the d'Hondt method, thus eliminating the *premio di maggioranza* (majority bonus), if the list or coalition linked to a candidate mayor who wins at the first ballot (i.e. reaches 50%) does not itself reach that quorum, or if a coalition different from the one supporting the winner reaches 50% of votes.

Regional elections are based on a system which allots 80% of the seats proportionally among all competing lists, and grants the other 20% to the list that wins the separate plurality-based vote. The voter thus expresses two votes on the same ballot, one for a proportional list, and one for a plurality list (the first name on the latter being that of the candidate president); it is possible to vote for lists which are not linked together (*voto disgiunto*), as it is possible to vote only for the plurality/president list; it is not possible to vote only for a proportional list, as such vote is automatically transferred to the plurality list linked to the one voted for. The most complex aspect of this system is the allotment of the 20% extra seats to the list winning the plurality competition (i.e. supporting the winning president): such seats are reduced by half if the proportional lists linked to it reach 50% of the proportionally allotted seats; if they don't, the *premio di maggioranza* (majority bonus) is granted, and can be increased (by the addition of further seats in the council) to guarantee that a majority of 55% (or 60%, depending on the number of votes) is held in council by the coalition of lists supporting the president.
See also 13.1.1.

13.2.2. Implementation and negative indicators

With the suppression of the *podestà* (authority) in municipalities, and the limitation of the powers of the Prefect in provinces, as well as in the drawing up of the new regions, the Constitution set a model of local government which fundamentally followed the national structure: elected councils were in charge of the appointment (and annulment) of the executive boards; the powers of

executive boards - which were, and are, organised on a ministerial model, with several departments - were mainly administrative, while general competence was the prerogative of the council. Such wide scope of competences in the hands of the council followed a parliamentary form of government which came very close to an assembly system [Martines 1997, 848]. Undoubtedly a fairly confused system, especially in municipalities, where the composition of executive boards [*giunte*] was the result of careful post-electoral coalition engineering and bargaining among the myriad parties and *grupppi consiliari* (not infrequently composed of only one councillor!), where the councillors in charge of administrative departments [*assessori*] dominated a weak bureaucracy with an eye for party interests and visibility rather than administrative needs; a system where the division of roles between council and executive board was blurred by the frequent use made by the latter of its power to decide on matters outside its formal scope on grounds of need or urgency, or of a delegation by the council. [Vandelli 1997, 8 ss]

The only force capable of regulating such a complex tangle of roles was the political parties that held the strings of the relationship of trust between the two main organs [Agosta 1998, 19] and tended to guarantee to the executive boards (or, rather, their single members according to their party affiliation) that their undertakings were passed in the council… or even better that powers were delegated to them; the lack of initiative in councils, and their subjection to the executive [cf. Balducci 1997], though, was not enough to guarantee stability of government.

Reforms in the early 1990's radically changed the framework of local government. First, Law 142/90 reversed the relationship between council and executive board in provinces and municipalities by specifying the scope of the former' activity (basically limited to fundamental acts, such as the statute and the annual budget) and attributing all other powers to the latter. These powers, though, are reduced in favour of a stronger role of the bureaucracy, in that the power of the executive is limited to direction and verification. But the main changes in the local forms of government came with the introduction of the new electoral laws for all levels, introducing direct election of the mayor, and of the presidents of provinces and regions. These laws (81/93, 43/95) aimed, first of all, at guaranteeing the stability of regional and local executives by ensuring that the winning coalition always had a clear majority in the council; secondly, at creating a figure of easily identifiable responsibility in the person of the mayor or President, who now has sole responsibility for the appointment of all members of the executive board. (As far as regional elections are concerned, constitutional provisions prevented such an arrangement, so that a revision of the Constitution was made in 1999: until then, only a sort of "informal" direct election was possible - see below; the recent revision allows single regions to change the form of government, but this has not been done as yet)

Several critical considerations have been expressed about the reform of the local government (see also 13.2.1 on the electoral laws). First of all, the attempt to guarantee stability of the executive has led to a reduction of the capacity to represent which damages smaller parties and minorities unwilling to join in coalitions (it is with an eye to this very aim that the number of councillors has been reduced [Grilli 1997, 157]); nevertheless, stability still does not seem to be attained, if indeed the number of early dissolutions of town councils has increased since the introduction of the new law [Vandelli 1997, 24]; nor has the fragmentation of councils been reduced, since the lists composing coalitions tend to safeguard a visibility of their own which has led to an actual increase in the number of competitors at elections: a slight decrease in the average number of lists competing in large municipalities occurred in 1993 (8.1, compared to 8.6 in the previous round of voting), when the new Law was first put to the test, but the figure for 1997 (10.5) is higher than before the reform. The response of voters also points in this direction, for in 1997 the concentration of vote was as low as 67.8% for the first four lists (73.3% in 1993). So that one of the main aims of the reform seems to have failed. [quaderni 38 e 39]

Secondly, the existence of such complex arrangements for the mixing of proportional and majority principles into the system of local (as well as national) representation, and especially the fact that each level of government has a completely different set of rules, leads to assert that "*la complessità dei meccanismi nel loro insieme è tale da inficiare lo stesso diritto di voto*" (the

procedure as a whole is so complex as to invalidate the right to vote itself) [D'Alimonte 1995, 524]. The fact that in some cases the voter can express two votes on the same ballot, while in others this same behaviour would make the ballot void, is probably the most evident source of confusion; the large number of void ballots in recent regional and provincial elections is a proof of the difficulties encountered by voters [ibid.; Agosta 1998, 30].

Thirdly, it must be noted that the very complexity of the electoral laws hides some technical defects which have a strong impact on the voter's consciousness of his/her choice, and on the actual outcome of such choice; specifically the violation of the criterion of monotonicity. Such a defect (very effectively summarised by D'Alimonte [1995, 525] as "*meno voti, più seggi*" - fewer votes, more seats) is present in the regional system, in that a coalition reaching 50% of seats in the proportional competition will receive only half the *premio di maggioranza* (majority bonus), thus ending up with fewer seats over all (50%+10%) than if it had only reached 49% (49%+20%). The "paradox" identified in the law for large municipalities [Grilli 1997, 163] is in fact a similar defect in the representative mechanism: a mayor elected at the first round of voting, with over 50% of votes, is more likely to have an unstable majority in the council than if he/she had been elected by second ballot: more votes (to the mayor), less seats (to his/her majority). Far from representing strategic opportunities for electors (as suggested by Grilli [1997, 164]), such faults in the transposition of votes into representation pose a threat to the control that citizens have over their own right to vote.

Apart from electoral arrangements, and in close connection with them, the recent reforms have changed the form of government at local level; the prominent position enjoyed by the directly-elected mayor/president is stressed by his/her responsibilities in the formation of the executive, while the role of the council is limited to control over the operation of the executive; a vote of no-confidence by the council leads to the dissolution of the executive (which is why the system cannot be defined as presidential [Martines 1997, 200ss]) and of the council itself (but, as earlier mentioned, this does not seem to be enough of a deterrent to ensure stability); membership of the executive and of the council are incompatible. This weakening of links between the executive and the council, in connection with the disillusionment with the pre-1990 party system, led in the first application of the law in 1993 to a wave of consensus over the rise of a new administrative élite that "*intendono la politica solo come un momento e un periodo della loro attività e non come professione di tutta una vita*" (perceive political participation as being related to a specific period of their life and not a life-long profession) [Vandelli 1997, 27; quoting P. Flores d'Arcais]; the success of many candidate mayors who had no party background, and came from different professions, was wide and significant, and their "executive teams" were authoritative in their autonomy from the much-detested world of party politics. One of the clearest symptoms of such success is the fact that in the 1993 municipal elections 9% of voters voted only for the candidate mayor, and not for any list [quad 38, p206]. It is interesting to notice that this figure is rather higher in *comuni capoluogo* (13.1%), which tends to confirm the idea that the phenomenon was somewhat over-estimated because it happened to a greater extent in larger centres [Vandelli 1997, 17]. Indeed, cases such as Naples, Rome, or Venice had a resonance which eclipsed the permanence of much of the old system in smaller centres.

Since 1993, though, things seem to have changed again; a gradual return of parties to the political stage was felt in subsequent municipal elections, and even in towns where no new executives were formed, new members were inserted in them who had a fairly strong identification with one party or another; the engineering of coalition balances seems to have become the rule again, and disillusionment has struck both the new class of administrators and the electorate. Only 37.5% of (a sample of 103) mayors would repeat such experience, and even fewer *assessori* would [Vandelli 1997; 41, 46].

On the other hand, in those instances in which the experience is still continuing (e.g. Rome, Naples) the tendency towards personalization is ever increasing, and is comparable to the leading role that many regional presidents have been assuming; strong electoral legitimization is linked to somewhat populistic and often "symbolic" policy making (cf. Cilento [1998, 55], who defines

symbolic policies as those which "*determinano un tale clamore ed impatto sulla cittadinanza da porre in secondo piano le eventuali conseguenze scaturite dalla loro implementazione*") (cause such a sensation and impact on the population that any consequences stemming from their implementation are overshadowed). An indication that the role of the mayor is so pre-eminent and unifying, is seen in many people's support for Bassolino in Naples in continuing to vote for him while strongly criticising the actions of his executive [cf. Savino 1998].

If one of the aims of electoral and organizational reforms was to confer greater legitimacy to local government by the introduction of clearly identifiable and accountable figures, then this seems to have failed in terms of popular response: electoral participation has in no way been boosted by the new electoral arrangements. Thus, abstensionism at local elections has been constantly increasing in the past decades and gives no sign of declining. It is a phenomenon that hits both local and national institutions, but the level of turnout in local election is lower at the national level.
From an average of 85% in the 1980's [Allum 1997, 459], participation in municipal elections was 80.2% in 1993, 79,9% in 1997, 78.5% in 1999 [quad. vari]; smaller towns have higher levels of participation than larger ones, while the territorial characterisation, which typically sees the South more prone to abstention, is losing its relevance. Provinces continue to be the most affected by lack of participation (72% in 1999). Regions (see table 13.1) are slightly better off, but a look at the trend over the past three decades shows how dramatic the decline in turnout is.

Table 13.1. Participation in regional elections

	2000	1995	1990	1985	1980	1975	1970
Piemonte	71,6	83	89	91,4	91,5	93,9	94,5
Lombardia	75,6	84,2	91,2	92,8	92,5	95	95,5
Veneto	75,6	85,3	90,8	92,4	91,9	95,1	94,6
Liguria	70,5	79,6	84,8	88	89	93	92,8
Emilia Romagna	79,7	88,3	93	94,6	94,5	96,6	96,6
Toscana	74,6	85,2	89,6	92,8	93,1	95,8	95,9
Umbria	76,8	85,6	90,6	92,5	92,6	95	94
Marche	74,3	84,6	89,5	91,2	91,6	94,8	94,1
Lazio	71,6	81,3	83,2	89	89	92,1	91,7
Abruzzo	70,7	76,7	82,6	83,4	82,3	87,7	85
Molise	67,3	72,2	76,7	76,9	75,4	84,3	80,1
Campania	69,4	73,9	81,2	84,3	85	87,3	86,8
Puglia	70,1	75,7	84,3	86,9	86,3	89,4	88,7
Basilicata	72,7	78,6	84,9	86	84,5	87,4	85,5
Calabria	64,6	68,6	75,8	78,7	77,1	83,1	81,9
ITALIA (ordinarie)	73	81,3	87,1	89,7	89,6	92,7	92,5

(*Source*: Ministero dell'Interno; Istat)

The openness and accountability of local administrations are fairly sore issues; dominating the Italian bureaucracy are "*cultura della conformità alla norma, indifferenza alle esigenze dei cittadini utenti*" (rigid application of norms - indifference to the requirements of users) [Dipartimento della Funzione Pubblica 1997, 17], and the legislative reforms of the 1990's have found it difficult to impose new principles on the running of offices and proceedings. Such principles, namely and most importantly those of *economicità, efficacia e pubblicità dell'azione amministrativa*, of *certezza in ordine al termine di conclusione del procedimento e identificazione del responsabile di procedimento*, (running public administration in an economic, efficient and transparent fashion and, with regard to any given proceeding, respecting deadlines and making known who is responsible for carrying it through) have been in most cases passively transposed by regions into their own laws, without actual implementation; and have been generally ignored by provincial and municipal administrations [Dipartimento della funzione pubblica 1994a, 24]. So that

formal identification of individual responsibility for the completion of proceedings, and the right of the citizen to follow the progress of acts which concern him/her, are made impossible by the actual non-existence of formally identified proceedings, and by the strong prevalence of the role of the personal commitment of single officials over the structure of offices [Balducci e Gennai 1997]. In the absence of formalised procedures, all attempts to extend the use of computers and information networks are virtually pointless, and the creation of specific offices (*URP, Uffici relazioni con il pubblico*) responsible for informing citizens about acts, proceedings, or more general issues, rather tends to interpose a further layer of red tape between the citizen and the administration; in fact, it might be argued that the institution of such new offices solely responsible for transparency is but a demonstration of the general confusion and opaqueness of administrative action [cf. Zamberlan 1997]; the creation of *Difensore civico* (a local ombudsman) has encountered many obstacles, in terms of attribution of both powers and personnel [Della Porta e Vannucci, 110].

A feeling of lack of transparency in public administration was expressed by 77% of the people interviewed in a survey by Ispes, with particular dissatisfaction regarding USL's and municipal offices [cf. Della Porta e Vannucci, 108].

13.3 *How extensive is the co-operation of government at the most local level with relevant partners, associations, and communities in the formation and implementation of policy, and in service provision?*

13.3.1. Laws

Citizen participation in regional and local administration, in Regions and local bodies is set out expressly by Law N° 241 of 1990 and all Regions have adopted laws of application of the general law on procedure. Moreover, regional legislation - as is also true of provinces and municipalities - provides the means to maintain links with society by means of consultation, conferences, polls etc.
Indeed it should be stated that Law 142/90 provides for means of citizen participation, such as the consultative referendum and the possibility of presenting petitions and proposals, as well as taking part as associations in administrative procedures that are the competence of the local body.

13.3.2. Implementation and negative indicators

Formal institutions of direct participation in the processes of policy making are rather weak at the levels of local government; referenda, petitions, popular initiatives are in various ways regulated, and their importance stressed, by the Statutes of territorial bodies of government, but the use that is made of them is very limited. Nor do local administrations show much concern in the strengthening of such forms of participation, since very few of them have adopted the regulations provided for in Law 142/90. Indeed, even less attention is paid to these issues than to the guaranteeing of access, or protection of individuals by the ombudsman [Dipartimento della Funzione Pubblica 1994b, 20]: collective participation may be thus identified as a more sensitive - and less easily attainable - goal, than the "mere" protection of individual rights.

Relevant influence over policy making, on the other hand, is exercised in various forms by the interests of specific categories which enter the decision-making process with enough resources to impose much of their will on weak, disorganised bureaucracies. Local development policies are generally characterized by a prevalence of *politiche distributivo-erogatorie* [distributive-bestowal politics] (as opposed to *estrattive* [lot-drawn] or *regolative* [regulative]), by a constant state of emergency (justifying special national legislation or bureaucratic short-cuts), and by a reactive - rather than proactive - attitude of administrations [Della Porta 1999, 263ss]. A lack of strong long-

term planning by local administrations, and a subordination of most policies to the chance of some financial opportunity coming either from the centre, or from external actors, lead private actors (be they firms, or just architects and experts) to take on initiatives that ought to be strictly controlled by local and central government.

A careful survey of several cases of policy making on the issue of urban transformation [Morisi e Passigli 1994], shows that national special provisions regulating the formal process tended to deal with intergovernmental relations while virtually excluding all participation of private interests; this, though, overestimated the technical (and, possibly, even political) potential of local administrations, and - if anything - actually favoured the phenomenon of "*delega al privato di una complessiva e surrogatoria funzione progettuale pubblica*" - devolution to the private sector of a comprehensive substitute function in public planning [ibid., 92]. The availability of big capital, technical strength, the opportunity of getting other relevant interests involved, and support from the national political élite (often across party lines) [ibid., 99], make it possible for private (or public-sector) companies to hold an almost exclusive power of initiative and management in most public works projects; the role of local authorities in the regulation of urban development and land use (through the instrument of *piano regolatore*, "town-planning scheme") is easily overridden by the fame of the architects involved in the project, or more simply by the political connivance linking industrial to political and administrative élites; a connivance prone to corruption, given the way such policies are handed out, and the attitude of administrators who "*[si mostrano] sostanzialmente interessati ad ottenere risultati tangibili e ad alta redditività di consensi "specifici""* - show themselves desirous of getting tangible and "specific" vote-winning results [ibid., 85]

A relevant form of influence by citizens in public work policies is that of local opposition to undesirable infrastructures; it is an opposition which takes the form of *comitati* (groupings) which emerge after the announcement of a project, and has no roots in any previous organisation (environmental association, political party), and rapidly gathers enough people and resources to erect an often insurmountable obstacle in the way of administrations who see their continuance in power threatened by such protests [Bobbio e Zeppetella 1999, 199]. The forms of these protests are many, ranging from traditional protest marches to more unconventional occupations and sit-ins; but institutional acknowledgement of opposition is limited, considering that referenda are seldom made and are not binding (the case of Snam in Monfalcone, where the company committed itself to respect the outcome of a referendum, is quite an exception; and it shows how much depends on the good will - or the rash management - of private companies [cf. Bobbio e Zeppetella 1999, 53ss]).

But if the only purpose of such protests is that of opposition (nor could it be otherwise, given the resources they have), then private citizens cannot be said to be winners even in those cases where success is theirs: preventing the construction of undesirable structures leaves all other problems unsolved, and brings us back to the distinction between protection of right and actual collective participation. The very occasional involvement of environmental associations or local committees in the decision-making process does not generally allow contribution from below, nor does the institution of representative assemblies in districts of large towns (*consigli di quartiere*), which have been "invaded" by parties [Vandelli e Mastragostino 1998, 81 ss.] and have taken up a general form of representation which does not channel popular mobilization towards specific issues or projects; nor, finally, have the civic networks - which many municipalities have set up on the Internet - ever been used as means of two-way communication: their top-down conformation has led to their being "*più uno strumento di informazione e di teleservizio che di interazione e comunicazione, e ancor meno di partecipazione democratica all'adozione di decisioni di interesse pubblico*" - more a one-way means of conveying information and tele-service than for interaction and communication, and even less as a means of democratic participation in public-interest decisions[De Rosa 1998].

A phenomenon which has recently increased in frequency and relevance over several different fields of central and local administrations is that of *regolazione o gestione contrattata*; the drawing up of a contract between administrations, or between administration and private associations is spreading as a means of policy making in various sectors: mention may be made here

of *patti territoriali* [territorial pacts], or the more limited *contratti d'area* [area contracts], in which local administrations, trade unions, and firms agree on special incentives or on derogations of the national labour contract (*contratto nazionale di lavoro*) aimed at the promotion of local economic development [Bobbio 2000, 125 s.]. It is to be ascertained, though, whether the undoubted impact on economic development of such forms of consultation is and will be accompanied by an actual increase of democratic participation, or rather by pressure on weaker contracting parties (the weakest not being admitted at all, as exemplified by the exclusion of *sindacati di base* [spontaneous trade unions not officially linked to political parties] from *patti territoriali*) and blurring of the responsibilities of each of them [ibid.].

Finally, mention should be made of a token protection of individual rights in the supplying public services: the transfer of direct management of most services to private companies has led the legislator to seek a safeguard of the quality of such services in the issuing by each provider (and by each administration) of a *Carta dei Servizi*; the creation of such charters has been very widespread, the normative production vast, but "*il seguito dato a questi atti nei rapporti con gli utenti risulta ancora scarso*": many of the standards set are either not verifiable by the citizen/user, or subject to derogation in various forms; more attention is paid to the prescription of specific timing for completion than to the consideration of the quality of service; more generally, the tendency to give greater room to *contenuti informativi e ricognitivi* [content of informative/recognitive nature] over the *assunzione di impegni puntuali verso gli utenti,* [taking on of specific commitments towards users] has distorted the very nature of such charters and made them virtually harmless for the companies and administrations. [Vesperini 1998].

13.4 *What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?*

The issue of decentralization has been on the political agenda over the whole past decade, and has been faced by Parliament on several occasions; the beginning of the 1990's saw a reform of local administrations (provinces and municipalities), soon followed by the new electoral law for those same levels of government (1993), and successively also of regional councils (1995) and presidents (1999). The new electoral systems have introduced a *quasi*-presidential form of government at all levels, with a bottom-up process that was the only viable way of renewal of the state given the confusion and instability that characterized central government [Cammelli 2000b, 447]; this has two main consequences: first of all, such process of strengthening and personalization of sub-national administrations has given rise to an administrative élite which, on the grounds of its strong electoral legitimisation, has been demanding a new role for itself, and using its own stability and innovative potential to stress and exploit the weakness of the Rome-centred state; the newly-elected *governatori* (as the journalistic jargon has named them, referring - with some rhetorical exaggeration - to the governors of American states) have imposed their presence on the national stage and have been taking an active part in the formation of the most recent acts. Secondly, such electoral strengthening of local executives has instilled new expectations of concrete autonomy in the local authorities and populations, thus making further delays in the direction of "federalism" politically unjustifiable.

But it must be said that the concept of "federalism" in the Italian political debate has been stretched to include virtually any form of dissent from the "old" centralised model which has proved so inefficient and corrupt; "*il federalismo [è] diventato un'idea, o una parola, buona per tutti gli usi*" - federalism has become an idea or a word that can be used in any circumstances [Dente 1997, 1].

The most significant steps in a process which should make the system of sub-national government consistent with the new political background created by electoral reforms are still to be taken, while more are being planned. The constitutional mini-reform of 1999, while introducing direct election of the president of the Region (*rectius* of the Regional council: again, a linguistic use

denoting the political relevance of such figure), also granted the right of regions to adopt their own statutes - with no limitations to the forms of government to be established, and wide ranging autonomy in defining many aspects of the central-local government relations; this, in connection with the reform of 1997 introducing the so-called administrative federalism, and that of February 2000, concerning financial federalism, leave much of the opportunities set-up of Italian local government open to different possible outcomes, to be defined in the implementation.

The future model of regional forms of government, to be regulated by the statutes, is most likely to stick to the provisional presidential form - at least in most regions; but the definition of the respective roles of council and executive is an issue that will have to be very carefully monitored: will the councils be willing to adopt statutes that significantly curtail their power in favour of a strong executive, capable of having direct relations with other regions, with the central government, or even with European partners? Will they be able (as well as willing) to define a role for themselves that is meant to be mainly of strict control over the operation of a virtually uncontrollable executive - a role not known to Italian political systems at any level? Previous experience, on a smaller scale due to the more limited powers of self-regulation, represented by provincial and municipal systems is not very encouraging: the first having witnessed no significant change, the second having substantially fallen back into the old state of chaos.

A very significant innovation already seen in the reforming process is that of an ever-increasing relevance of regional executives in the decisions taken in Parliament regarding the future set-up of regional autonomy: they have been able to promote the passing of such reforms by their formal representation at the centre, as well as through political pressure at all levels, with strong territorial connotations - the North-South fracture being stronger in this field than the rightwing-leftwing one [Bordignon 2000, 324]. This prominent role, albeit very much desirable in itself, has causes and effects which are not very promising: the failure of the attempted constitutional reforms in 1997, the impossibility of implementing administrative federalism in the present situation of regional dependence on central transfers, the political need for the leftwing government to re-establish its relationships with the northern electorate, are the main reasons which make it absolutely necessary for the national government to gather the consensus of regional executives; a consensus which, in such a state of emergency, has been assembled into a decree law which, while rather innovative in many aspects, is unclear and contradictory in many others [Bordignon 2000, 326 ss].

The present discussion over further progress towards some form of “federalism”, mainly a legislative federalism starting from a revision of Article. 117 of the Constitution is, in many ways, similar to the one just described, with the addition of the imminence of general elections in 2001 (after which, by the way, it is likely that a coalition government will include Lega Nord, the party that from original secessionist demands has now moved to more moderate positions but still represents the strongest decentralising force); the government’s interest to have something done by the end of the legislature, and the opposition’s declared willingness to impede such reform until the new elections, make most propositions quite unreliable, and prompt fear of hurried decisions more than inactivity.

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IV. Democracy Beyond the State

14. International dimensions of democracy

Are the country's external relations conducted in accordance with democratic norms?

14.1. How free is the country's government from subordination to external economic, cultural or political agencies ?

See also 7.1 and 10.1.

Italy is a member of all the main international organizations including the United Nations agencies (see Table 14.1 for overview). It has ratified, *inter alia*, laws providing for its participation in the United Nations, International Monetary Fund (IMF), World Bank, World Health Organization (WHO), Food and Agriculture Organization (FAO whose headquarters is in Rome), International Labour Organization (ILO), Organization for Education in Science and Culture (UNESCO), International Civil Aviation Organization (ICAO), International Maritime Organization (IMO), Union Postale Unverselle (UPU), World Intellectual Property Organization and Organization for Economic Cooperation and Development (OECD)

Table 14.1. Overview of Italy's involvement in international organisations

Council of Europe	1949
NATO	1949
EC/EU	1957
WEU	1954
UN	1955
OECD	1961
G7	1975
CSCE/OECD	1975
WTO	1995

Italy is a member of the most prominent international organisations and belongs to the so-called Euro-Atlantic community (NATO+EU). Therefore, many of its political and economic choices are influenced by decisions taken in multilateral bodies. However, these forms of external constraint cannot be categorised as "subordination" or "dependency". Italy, voluntarily as an independent and sovereign state, decided to take part in various international organisations on an equal footing with the other member states.

EU membership has certainly the most concrete and consistent implications at national level. First of all, Italy is required to incorporate into its system all the legislation produced by the EU (direct applicability). The creation of the EMU with a European Central Bank and a common currency obliged Italy to respect strict economic criteria (inflation, interest rate, exchange rate, budget deficit, and public debt). The EU is also progressively touching sensitive matters such as justice and home affairs (JHA) and, as a consequence of the abolition of border controls (Schengen area), Europe-wide police forces co-operate closely in the control of external borders and crime prevention. Moreover, if the Fifteen proceed on the European Security and Defence Identity (ESDI) project, the Italian foreign and defence policy will be further subject to EU prioritising and strategy. The extension of the EU in terms of competences and decision-making procedures has always met Italy's consent by both political approval or, in the case of the introduction of significant changes, treaty ratification. Although the EU cannot be properly defined a supranational entity, it is, however, gradually developing some features typical of a federation. Under pressure from Member

States this centralization of power has recently been conditioned by the inception of the "principle of subsidiarity", which states that in all areas outside its exclusive competence, the Community can take action only if, and in so far as the objectives of the proposed action cannot be sufficiently achieved by member states (Art 5 Consolidated Treaties).

Nevertheless, the growing prevalence of intergovernmentalism over sovranationalism in the European integration process contributes to stretch out the so-called democratic deficit. An perceivable discord is definitely felt in Italy also between the fundamental requisites of democracy and the conditions upon which the governance of the EU rests. The voter turnout for the European Parliament elections despite a slight and constant decline is still high in comparison with the other EU member states (see Table 14.2), although declining (see Table 14.3).

Table 14.2. Voter Turnout, European Parliament, 1999 elections

Belgium	90.2%	France	47.0%
Luxembourg	85.8%	Germany	45.2%
Italy	70.8%	Portugal	40.4%
Greece	70.1%	Sweden	38.3%
Spain	64.3%	Finland	30.1%
Ireland	50.5%	Netherlands	29.9%
Denmark	50.4%	Britain	24.0%
Austria	49.0%		

Source: The Economist, Pocket Europe in Figures, Third Edition

Table 14.3. Italian Voter Turnout, EP, 1979,1984,1989,1994 elections

	1979	1984	1989	1994
Italy	85,7	83,4	81,5	74,8

Source: L.Bardi, P.Ignazi, *Il Parlamento europeo*, Bologna, il Mulino, 1999, p.63.

According to a survey on Italian attitudes vis-à-vis the State, conducted in the year 2000 by Ilvo Diamanti and produced by LapoliS for *Il Sole-24 Ore*, the institution that in absolute terms has lost consensus among Italian citizens this year is the EU: its support dropped from 72% to 57%. Only 44% of people think that the introduction of Euro is "necessary and advantageous", substantially less than the previous year (54%) (quoted in L. Caracciolo, "Il boom allarmante degli eurodelusi", *la Repubblica*, 21/7/00).

In the military context, Italy is a member of NATO and, should one of its fellow member states be attacked, it can decide to take action individually or in concert with other parties, including the use of armed forces which, however, is not automatic (Art. 5 The North Atlantic Treaty). In this way, Italy is able to maintain its freedom to decide which measures to adopt depending on the circumstances. National military strategy certainly needs to be co-ordinated in the context of NATO's strategic concept and all its implications. Some political parties opposing the air campaign in Kosovo argued that Italy is too dependent on the US and other powerful states within the alliance. The government, headed by Massimo D'Alema, had to find a compromise between loyalty to NATO and satisfying dissidents even within the ruling coalition (*Comunisti italiani*). As a result, Italian Tornado aircraft did not take part in the bombing and the Italian Ambassador stayed on in Belgrade; Italy did not break off diplomatic relations with Serbia, as did the other NATO members. The Italian weakness within the Alliance is not only ideological, reflecting a critical stance of a part of the population, but also stems from economic disparities and commitment differentials within the alliance itself. During operations in Kosovo the US provided 80% of air power and this offers a

primary explanation for American leverage within NATO. At European level there is widespread feeling that no real sharing of responsibilities between Europe and the US is possible as long as the disparity in the means toward action continues to grow.

Italy is a member of G7, composed of the major industrial democracies, that deals with macroeconomic management, international trade and relations with developing countries. Italy is also part of the so-called “quint”, a newish piece of jargon which means America plus Britain, France, Germany and Italy. The authority of this group was seen during the Kosovo crisis and later at the OECD meeting in Istanbul in November 1999. Currently governed by a centre-left coalition, Italy is also taking part in the “Network of Progressive Nations” (progressive government for the XXI century) composed of France, Great Britain, Germany and the US plus Brazil, Argentina and New Zealand.

The Italian economy has, for a long time, been dominated by a form of “state capitalism” in which the state controlled various companies and monopolised the main services (energy, television, telephone). The state-owned public sector company IRI (Istituto per la Ricostruzione Industriale) was, for long time, a major player in the Italian economy. Only recently, with the launch of a consistent move to privatisation, did foreign capital have the chance to penetrate the Italian market. However, Italy’s economy does not risk domination by foreign companies since FDI inflow is modest. According to the 1999 *World Investment Report*, published by UNCTAD, Italy attracted FDI worth just $2.6bn in 1998, a fall of almost 30% from $3.7bn in 1997. FDI to Italy was lower than to any other EU country except Greece, Luxembourg and Portugal although a broad range of grants and tax incentives are available to investors especially for the south of Italy.

FMI is urging Italy to reform the pension system in view of the progressive ageing of its population. Italy is also under pressure to cut public expenditure in the sectors of health and the number of public-sector employees. This kind of action is in line with the aims of the organisation and matches Italy’s desire to improve the overall economic and financial system.

Ownership and control of the broadcasting media (radio and television) is largely in the hands of national ownership both private and public.

14.2. How far are government relations with external donors based on principles of partnership and transparency?

No relevant "external donors". See 14.1 and 14.3.

14.3. How far does the government support UN human rights treaties and respect international law?

14.3.1. Laws

Besides participating in United Nations agencies, Italy has also signed important international contracts in the area of human rights. The Convention on safeguarding human rights and fundamental liberties (done in Rome in 1952, and ratified in 1955) comes to mind as do the Convention against torture and other cruel, inhumane and degrading punishments or practices (done in New York in 1984 and ratified in 1988) and the European Convention with the same aims (done in Strasbourg in 1987 and ratified in 1989).

In particular, the 1950 European Convention of Rome with its many optional protocols is worthy of note as the first large-scale international experiment in the field of human rights (including legal rights) protection. Indeed the Convention provides for individual or collective recourse to the European Commission on Human Rights to plead violation of any one of the rights listed in the catalogue that forms the first part of the Convention itself. Should the Commission - whose members sit in an individual capacity and not as representatives of the State who nominated them - give the case a hearing (i.e. when it has been shown that all internal recourse to the State has

been exhausted), and decide there has been a breach of rights as provided for by the Convention, then the controversy may be judged by the Ministerial Committee of the European Council (from the political standpoint) or, in the second instance, by the European Court of Human Rights.

More recently, Italy ratified (in 1997, with entry into force on March 1 1998) the Council of Europe's Framework Convention for the Protection of National Minorities, and (in 1999) the Ottawa Convention for the banning of landmines.

14.3.2 Implementation and negative indicators

As a member of the EU, Italy is compelled to "...the respect of fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they appear in the constitutional traditions common to the Member States, as general principles of Community law" (Art.6 Consolidated Treaties.

Amnesty International and the UN Commission for Human Rights (Amnesty International, *Italy: a Briefing for the UN Committee Against Torture*, EUR/30/02/99, May 1999) pointed out, however, that delays continue to occur in legislation in: 1) the introduction of the offence of torture as defined in international law (art.7) into the Code of Criminal Procedure; 2) the provision for both criminal and civil penalties for domestic violence (arts.3, 23 and 24) and 3) the introduction of measures to enhance the rights of ethnic, religious and linguistic minorities and in particular to protect the rights of the Slovenian minority (art.27).

14.4. How far does the government respect its international obligations in its treatment of refugees and asylum seekers, and how free from arbitrary discrimination is its immigration policy?

14.4.1. Laws

The legal status of foreigners is disciplined in general terms by Article 10 of the Constitution requiring it to be regulated by law in accordance with international norms and treaties. The Constitutional Court has established that the "inviolable human rights" extended by the Constitution and guaranteed to "all" are to be recognized and guaranteed to the same extent to both citizens and foreigners. Taking the Court's judgment to its logical conclusion, according to a part of the doctrine all constitutional rights, except those of a political nature, must be extended to foreigners too. In reality, for foreign citizens from European Union countries, the exclusion also from political rights is partially eased by the right to vote in local elections in the municipality and province where they reside.

Law N° 39 of 28 February 1990 removed the previous so-called "Italian geographical clause" added to the Geneva Convention on Asylum of 1951 (until 1989, Italy accepted as a general rule only asylum-seekers coming from Europe).

The legal position of foreigners from within the EU is, besides, subject to a different set of rules than those (see below) regarding non-EU foreigners. In particular there are numerous obligations to non-discrimination in access to employed and autonomous work in Community countries for nationals of other EU countries (recognition of academic qualifications and admission to professional registers) and there is, especially, complete freedom of movement for people (amounting to total abolition of internal frontiers) within the European Community by those countries, including Italy who ratified and put into practice the provisions of the treaty of Schengen.

The Constitutional provisions are today fleshed out by a new law on immigration and legal status of foreigners (Law 40/98, now part of the Unified Text of Decree Law 286/98). The Law, in the first instance, provides for "rights and duties of the foreigner". The foreigner is ensured the basic human rights provided for by internal law, international conventions in force and generally

recognized principles of international rights. That means he or she enjoys the same rights in civil matters as Italian nationals, including that relating to work, participation in local public life and protection by law.

Questions regarding entry, stay and departure from state territory are regulated by entry visas released by consular authorities for entry, while stay in Italy needs a stay permit released by police headquarters (for tourism, seasonal work, and study) or a stay card (for foreigners who have been resident in the country for more than five years and can show they have the means to maintain themselves and their families). Entry at the frontier is refused when the pre-requisites for the stay document to be issued by police headquarters are lacking. Should subsequent breach of the immigration laws be committed, the foreigner is expelled from Italy by the police prefecture, unless the foreigner is a national of a country where he or she may be persecuted on the grounds of race, language, nationality, political opinions or personal or social conditions.

The new law on immigration also sets a limit to the influx of non-EU citizens to employed labour: this limit is set annually by Prime Ministerial decree (within the framework of the three-year programme set out by the Prime Minister after consulting all Ministers concerned, the State-Region Conference, bodies and national associations principally involved in immigrant assistance and integration, and the principal representative worker organizations, conditional on the opinion of the competent parliamentary Commissions). On labour guarantees, the law provides for a number of obligations that foreign workers and employers must respect so as to ensure the regular performance of duties in terms of both social security and also insurance (the setting up by the Social Security organization of a register of non-EU workers, their admission to the register of the unemployed even on losing their job), and also in the workplace itself (recognition of professional training qualifications obtained abroad, application of the norms of the Worker's Statute, and other laws regulating the workplace).

The new set of rules on immigration also protects the family unity of foreigners who have possessed one of the required stay documents for at least one year: requests for re-unification can be made for one's spouse not legally separated, underage children, dependent parents and dependent relatives to the third degree unfit for work. The pre-requisites are that the foreigner making the request must have a suitable place to stay and a yearly income from legal sources not less than the yearly amount of social benefits (for re-unification with spouses), or not less than double, triple or quadruple if request is made for reunification with more than one relative. Reunification gives entitlement to public assistance services, admission to the unemployed register and the right to employed and autonomous labour. Legal recourse is provided for against denial of "*nulla osta*" [authorization].

The law provides for access to social services for foreigners in terms of *(i)* recognition of full parity with Italian citizens in treatment and equality in access to the health service, *(ii)* obligation to register with the National Health Service, with the consequent monetary contribution calculated in the same way as for Italian citizens, *(iii)* obligation for underage children to attend school in accordance with the same provisions as those regarding Italians, *(iv)* organization of courses to learn Italian and to read and write, *(v)* protection of cultural differences within the school structure, *(vi)* access to university, *(vii)* setting up, by Regions, Provinces, Municipalities and voluntary associations, of acceptance centres for those foreigners temporarily unable to provide for their own housing needs *(viii)* provision for means aimed at social integration and exaltation of cultural, social, economic and religious expression. In order that these measures be carried out, a Consultative body for the problems of foreigners is set up and composed of members of government and representatives of associations and bodies of assistance, non-EU workers, trade unions, employers and numerous experts.

In general, all forms of discrimination tending to destroy or compromise the enjoyment and exercise of human rights and basic freedom in all areas (political, economic, social and cultural) are forbidden: in particular, behaviour by a public official or public service employee who, in the function of his or her duty commits acts that unjustly discriminate against a foreigner because of his or her ethnic, religious or national background, is considered discrimination. Against this

discrimination (that could be also directed against Italian or EU citizens) civil court action is provided for with ample procedural freedom on the part of the judge and power to present evidence on the part of the plaintiff that may result in a legal order to desist discriminatory behaviour, removal to all effects of it and order of compensation for damages suffered.

14.4.2 Implementation and negative indicators

In 1997, there were allegations that between 1993 and 1994 some Italian paratroopers, who were in Somalia as part of a UN peacekeeping mission, had inflicted torture and mistreatment on Somalis. The government found that the practice was not widespread but this did not make it any less serious. Members of the armed forces attempted to cover up the incident. The UN Committee against torture (May 1999) also reported that information supplied by the Italian government on the case was very scanty and considered the government commission of inquiry's failure to carry out a single visit to Somalia a "major shortcoming". In response, the government delegation argued that conditions on the ground in the collapsed state of Somalia prevented any on-the-spot investigation and gave this as the reason for the government not taking Amnesty International's recommendation for the establishment of an effective complaints mechanism for Somalis into consideration. In relation to alleged torture and ill-treatment in Somalia, the UN Committee Against Torture (May 1999) expressed concern about the "lack of training in the field of human rights", in particular the lack of training highlighting "the prohibition against torture" given to the troops participating in the peace-keeping operations in Somalia and "the inadequate number of military police accompanying them". The Committee considered these factors "responsible for part of the incidents that occurred in Somalia".

During the Albanian economic and political crisis in 1997, Amnesty International expressed concern at reports that the Italian government had forcibly returned almost 300 asylum-seekers to Albania and it called on the Italian authorities to ensure that no asylum-seekers be turned back at its borders. Italy was also criticised for giving residency permits only to the most vulnerable for up to 60 days, with renewals only allowed for a maximum of 30 days while, according to Amnesty, time should not be a parameter for ending protection. Protection to Albanian asylum seekers should have been granted for as long as the situation required. Italy must also respect the principle of *non-refoulement* which implies non rejection at the frontier and returning people to a country where they would be at risk of serious human rights violations.

There have been several reports of ill treatment by police, prison guards or other prisoners towards immigrants and non-EU citizen detainees. Amnesty International has received a number of allegations regarding law enforcement officers inflicting gratuitous and deliberate violence on individuals, many from Africa and a number of Roma, especially at the moment of arrest and during the first 24 hours of custody. The European Commission for the Prevention of Torture and Inhuman or Degrading Treatment in connection with its visit to Italy in 1995 (22 October-6 November 1995) pointed out, as in during its 1992 visit, that individuals and in particular immigrants arrested for drugs related offences are more likely to be mistreated. Some NGOs have reported that authorities react to such reports slowly and that penalties imposed are minimal and often suspended (ECRI, 1997). (For the data concerning immigrants condemned in Italy see L. Francovich 4.1)

According to the European Commission against Racism and Intolerance of the Council of Europe, discrimination often occurs in housing for non-EU citizens. In many towns it has been reported that there is no real urban policy and that discrimination exists in the allocation of public housing. In addition, disadvantaged segments of the population sometimes view immigrants as a competitor for social benefits. In particular, the Roma/Gipsy community faces problems in the field of accommodation.

14.5. How consistent is the government in its support for human rights and democracy abroad?

14.5.1 Implementation and negative indicators

Last year, the most evident and, at the same time, questionable case of Italian commitment in favour of human rights protection was its participation in the NATO bombing campaign in Serbia. The government counteracted the critics on its involvement in the "war" by citing to humanitarian reasons.

Italy's substantial contribution in Albania was part of a multi-track project in which security measures were accompanied by actions to promote democracy and human rights. As the political and social situation in 1997 rapidly deteriorated, the EU member states were compelled to take a decision and eventually intervene before a civil war with dangerous external consequences erupted. Despite the gravity of the situation, a consensus could not be found. Italy, who for geo-political and historical reasons was particularly aware of the risk of instability in the country, decided to take responsibility and in April led the so-called *Alba* mission. This was the first mission to be carried out without the direct participation of US troops, but nevertheless none of the European organisations agreed to officially head it. Both WEU and NATO failed in this respect. Germany and the UK did not wish to take part and subsequently blocked the EU-WEU effort. The US was only offering logistic support. Therefore, the *Alba* mission went ahead with the participation of those who wanted to make a contribution, the "coalition of the willing" (Italy, France, Turkey, Greece, Spain, Romania, Austria and Denmark). The main objectives of the multinational protection force in Albania were to facilitate the safe and prompt delivery of humanitarian assistance and to help create a secure environment for the missions of international organisations in the country, including those providing humanitarian assistance.

In 1996 Italy took part in NATO operations in former Yugoslavia under UN Security Council resolution N° 1031 for the re-establishment of peace in Bosnia-Herzegovina. Italy was also deeply involved in the process of reconstruction in the whole area affected by war.

Italy is fairly active within the Office for Democratic Institutions and Human Rights of the OECD in charge of monitoring elections and developing national electoral and human rights institutions. In 1999, Italy gave 689 million lire to OECD for Italian long-term observers (about 50, plus an additional 13 in Kosovo from October 1998 to March 1999). Other 48 experts work in various OECD missions (Kosovo, Bosnia, Croatia, Albania, Macedonia, Turkmenistan and Tajikistan). Italy has also taken part (with 7 long-term observers plus 32 short-term observers) in monitoring election operations in Slovakia, Armenia, Kazakhstan, Macedonia, Ukraine, Georgia, Russia and Croatia. (Information provided by the OECD office, Italian Foreign Ministry)

At the UN, Italy is strongly supportive of Security Council reform in order that it respond adequately to the needs of new States and the changes in the international system. Italy, in particular, supports the opening of the Security Council to new members so as to improve 1) geographic representation; 2) democracy; 3) efficiency and 4) transparency.

By requesting the authorization to start criminal proceedings against 5 Argentinian officers accused of the culpable homicide of 3 Italian citizens during the dictatorship, Italy has contributed to clarifying this obscure period.

By contrast to Italy's commitment in the promotion of democracy abroad, is its quantitative increase in arms exports (1,715 milliard lire in 1999) to countries that are either involved in war or have poor human rights records like Eritrea, Ethiopia, India, Pakistan, Algeria, Turkey and Columbia. In 1999, total authorizations for arms exports amounted to 2,596 milliard lire, up by 41.22% from 1998. According to the *Osservatorio italiano sul commercio di Armi (Oscar)* the Italian defence industry receives sizeable orders from countries such as Emirati Arabi Uniti (1,274 milliards), Cyprus (62 milliards), Ghana (10 milliards), India (8 milliards), Algeria (4 milliards) none of which are paragons of democratic virtue. Italian arms contribute to heighten conflicts and perpetuate human rights violations. The Italian section of Amnesty International also pointed out that on December 29 1999, the government signed a draft law modifying Law 185 embodying one

of the most far-reaching and strict set of rules in the matter. As a consequence, industrial co-production of armaments with EU, WEU and NATO member states is no more regulated by Article 185 but by intergovernmental agreements. Furthermore, the role of the Italian Foreign Ministry will be reduced in favour of the Defence Ministry. The consultative role of the NGO's in monitoring the respect of human rights in the destination countries against armament matériel updating is likely to be eliminated
(Amnesty International, "La Sezione Italiana di Amnesty International ed il commercio delle armi", *Report 2000* http://www.amnesty.it/pubblicazioni/rapporto2000/armi2000.htm)

14.6. What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

Various international organisations (UN, Council of Europe) have urged Italy to introduce the teaching of human rights and humanitarian law in armed conflicts to the police and the military. The Council of Europe encourages, for instance, any project aimed at introducing the teaching of human rights to police forces like that introduced during the 1990s in the teaching of human rights to the Carabinieri. After what happened in Somalia, the UN suggested that ethics be included in military training and that in future similar missions should include more military police and at least one magistrate.

In order to make Italians more sensitive to human rights and to avoid discrimination and diffusion of a culture of exclusion and intolerance, the UN Committee on Economic, Social and Cultural Rights invited Italy to incorporate a human rights curriculum into higher education. The UN Human Rights Committee (1997) also urged Italy to create an Ombudsman empowered to receive complaints of discrimination.

A Commission on integration policy has the job of drafting a yearly report on the state of implementation of the policies of immigrant integration, and tables proposals for action. The European Commission against Racism and Intolerance of the Council of Europe has requested Italy to gather more comparable and reliable statistics, using a standard national form of categorization of ethnic origin as the basis of all relevant studies in full accordance with European regulations and recommendations on data protection and privacy.

It seems that local administrations can play an important role in improving the conditions of immigrants especially where their initiatives are co-ordinated with the voluntary organisations.

Italian civil society has proved very sensitive to the issue of arms exports as the third-largest world producer and on 29 February, 2000 a campaign on small arms was launched within the International Action Network on Small Arms (IANSA). Supporters of the campaign are: Amnesty International, Archivio Disarmo, ARCI, ASAL, Associazione per la pace, Banca PopolareEtica, Campagna chiama l'Africa, Comunità di S.Egidio, CTM-Altromercato, Lega Obiettori di coscienza, Missionari Comboniani di Padova, Movimondo, Nigrizia, Pax Christi, *C'era una volta*-RAI3, Tavola della Pace.

Interviews

-Dott. Nicola Labanca, Researcher of Contemporary History in the History Department of the University of Siena, 22/06/00.

-On. Valdo Spini, President of the Defence Committee of the Chamber of Deputies, 3/7/00.

-Prof. Marco Tarchi, Political Science, University of Florence, 21/6/00.

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