STUDIA IURIS

Jogtudományi Tanulmányok / Journal of Legal Studies

2025. II. évfolyam 3. szám

Károli Gáspár Református Egyetem
Állam- és Jogtudományi Doktori Iskola

A folyóirat a Károli Gáspár Református Egyetem Állam- és Jogtudományi Doktori Iskolájának a közleménye. A szerkesztőség célja, hogy fiatal kutatók számára színvonalas tanulmányaik megjelentetése céljából méltó fórumot biztosítson.
A folyóirat közlésre befogad tanulmányokat hazai és külföldi szerzőktől – magyar, angol és német nyelven. A tudományos tanulmányok mellett kritikus, önálló véleményeket is tartalmazó könyvismertetések és beszámolók is helyet kapnak a lapban.
A beérkezett tanulmányokat két bíráló lektorálja szakmailag. Az idegen nyelvű tanulmányokat anyanyelvi lektor is javítja, nyelvtani és stilisztikai szempontból.
A folyóirat online verziója szabadon letölthető (open access).

Kiadó: Károli Gáspár Református Egyetem Állam- és Jogtudományi Doktori Iskola
Székhely: 1042 Budapest, Viola utca 2-4
Felelős Kiadó: Tóth J. Zoltán

A tipográfia és a nyomdai előkészítés: Csernák Krisztina (L'Harmattan) munkája
Nyomdai kivitelezés: Prime Rate Zrt., felelős vezető: Tomcsányi Péter

Honlap: https://ajk.kre.hu/index.php/jdi-kezdolap.html
E-mail: doktori.ajk@kre.hu
ISSN 3057-9058 (Print)
ISSN 3057-9392 (Online)
URL: KRE ÁJK - Studia Iuris
https://ajk.kre.hu/index.php/kiadvanyok/studia-iuris.html

THE ROLE OF THE ITALIAN PARLIAMENT IN EUROPEAN UNION AFFAIRS
AZ OLASZ PARLAMENT SZEREPE AZ EURÓPAI UNIÓS ÜGYEKBEN

Nikolina Marasović[1]

ABSZTRAKT ■ Az olasz parlament szerepe az Európai Unió ügyeiben elsősorban abban nyilvánul meg, hogy egy összetett kétkamarás rendszert működtet, összetett alkotmányos rendelkezéseken keresztül, valamint az európai integráció tágabb összefüggésében. Jelen tanulmány elsősorban a nemzeti parlamentek EU-ban betöltött szerepét elemzi, amelyet az EU demokratikus deficitjére adott válaszként értelmez, különös tekintettel az olasz parlamentre és annak EU-integrációjára. Kiemelt figyelmet fordít az alkotmányos és jogalkotási keretre, az uniós irányelvek végrehajtásával kapcsolatos kihívásokra, valamint a nemzeti és regionális irányítási struktúrák közötti kölcsönhatásra. Külön hangsúlyt kapnak a Lisszaboni Szerződésre adott jogalkotási válaszlépések és a 234/2012. számú törvény elfogadása, amely végül hivatalossá tette Olaszország elköteleződését az EU mellett. Végezetül a tanulmány rámutat az Olasz Köztársaság és az olasz parlament korlátaira és az EU-integrációval kapcsolatos bírálatokra.

Kulcsszavak: európai integráció, nemzeti parlamentek, alkotmányos változások, kétkamarás rendszer, regionális tanácsok

ABSTRACT ■ The role of the Italian Parliament in the affairs of the European Union is manifested primarily through the fact that it is a parliament that manages a complex bicameral system, through complex constitutional provisions, and in the broader context of European integration. This paper primarily analyzes the role of national parliaments in the EU seen as a solution to the EU's democratic deficit, especially considering the Italian Parliament and its integration into the EU, with a special focus on the constitutional and legislative framework, its challenges in implementing EU directives and the interaction between national and regional governance structures. Special emphasis is placed on the legislative adjustments made in response to the Lisbon Treaty and the adoption of Law 234/2012, which ultimately

[1] PhD student at the Ferenc Deák Doctoral School of Faculty of Law of the University of Miskolc, and Intern at the Central European Academy, Budapest; e-mail: nikolina.marasovic@centraleuropeanacademy.hu.

formalized Italy's commitment to the EU. Finally, the paper highlights the limitations and criticisms of the Republic of Italy and the Italian Parliament in the context of EU integration.

Keywords: European integrations, national parliaments, constitutional changes, bicameralism, regional councils

1. Introduction

National Parliaments have recently become the subject of further research, especially because during European integration, they have been marginalized and are often called the 'losers' of European integration. However, more recently, their role has been seen as a solution to the EU's democratic deficit since it has become clear over time that the democratic deficit cannot be solved only through the actions of the European Parliament. Thus, national parliaments are often considered key actors in legitimizing EU policies and, in particular, ensuring democratic accountability at the national and supranational levels.

Among the member states, the Republic of Italy is particularly interesting because it represents a kind of paradigmatic example, given that it is one of the founding countries of the European Union, or the European Community, which was significantly late in implementing EU law into national legislation. When considering the above, special consideration should be given to the circumstances in which Italy found itself. Thus, since the founding of the EU, Italy has been characterized by an extremely complex constitutional development, a bicameral parliamentary system, and especially the interaction of its national and regional structures. Thus, historically, Italy has faced many opportunities and challenges, including adapting its legislative process to European norms, but also facing criticism regarding its effectiveness in implementing EU directives. In addition, the Italian Constitutional Court plays a special role in the interpretation of European legislation. This paper seeks to explore the evolving role of the Italian Parliament in EU affairs, focusing on constitutional changes, the implementation of the provisions of the Lisbon Treaty, and the challenges posed by the democratic deficit. By analyzing these aspects, the study aims to provide insight into how the Italian national parliament manages the complex dynamics of EU integration.

2. The importance of the role of national parliaments in the institutional framework of the EU

The significance of national parliaments in the EU has always been a contentious issue, but in light of all the (dis)opportunities the EU is currently facing, their role has become even more crucial. Many academics believe that national parliaments are the primary players in addressing the EU's democratic deficit, even more than the European Parliament. However, some other academics think that the evolution of the EU's political system is the reason why national parliaments are becoming less and less significant overall. They base their assessment of the aforementioned on a number of different presumptions. Since the EU's inception, the main concern about national institutions has been whether or not their own constitutional rights should be compromised in order to establish a supranational structure. Parliaments, however, are the primary determinants of national history and identity and the essential institutions for legitimizing political power because they are regarded as the highest representative bodies of their parties.[2]

Thus, as some scholars (M. Zalewska and O. J. Gstrein) conclude, although the lack of a democratic deficit in the EU is primarily associated with the powers of the European Parliament (in the narrow sense), the crucial essence of the democratic deficit is that the EU and its institutions suffer from a lack of democratic accountability and legitimacy and, due to their complex functioning, ultimately seem incomprehensible and inaccessible to European citizens. On the other hand (in the context of a broader interpretation), not only is the role of the European Parliament important, but also the role of national parliaments as representatives of democracy at the national level. Ultimately, the participation of both is crucial in terms of reducing the democratic deficit, regardless of the fact that they differ markedly in structure, powers, and elections, which is already evident when considering the composition of legislatures at both the European and national levels.[3]

On the other hand, legislative supervision is expected to suffer from two major negative effects of European integration. Shifting rule-making power to

[2] Andreas Maurer: National Parliaments in the European Architecture: From Latecomers' Adaptation towards Permanent Institutional Change? In: Andreas Maurer – Wolfgang Wersels (eds.): *Parliaments on their way to Europe: Losers or Latecomers?* Baden-Baden, Nomos Verlagsgesellschaft, 2001, 27–76, 28.

[3] Marta Zalewska – Oskar Josef Gstrein: National Parliaments and their Role in European Integration: The EU's Democratic Deficit in Times of Economic Hardship and Political Insecurity. Department of European Political and Administrative Studies. *Bruges Political Research Papers*, 2013 (28), 6.

a higher level first modifies the constitutional framework of the political process by depriving parliaments of their so-called legislative sovereignty, one of their most powerful instruments for executive control. Parliaments now have less influence over the policy agenda in regions under EU governance as a result of this change. National governments may be forced to enact laws they were unable to veto when the Council of Ministers votes by a qualified majority. Furthermore, governments and the European Parliament must share authority under the co-decision procedure. After that, national parliaments are entrusted with carrying out EU regulations, frequently with financial penalties as a warning, which makes many academics concerned that they risk becoming mere administrative arms of the EU. Secondly, European integration is expected to reshape the functioning of the political process itself by favoring certain executive and administrative actors while making the overall process less transparent and harder to oversee. As a result, governments remain the primary recognized actors in EU policymaking, while national parliaments are largely sidelined.[4] Essentially, if viewed from a multi-level perspective, the role of national parliaments should be to control their national representatives in the Council and the European Council, while the role of the European Parliament is to control and legitimize the European Commission.[5] It is undobtedly of vital importance that national parliaments retain control over the actions of their respective governments, for in the absence of such oversight, fundamental questions arise regarding the existence of democratic governance under the rule of law. This issue becomes even more significant when European Union law comes into conflict with national law, or when it ascends beyond the constitutional level, thereby potentionally creating space for national governments to acquire greater power that that held by thir own parliaments. Such a development may ultimately lead to a reassessment of fundamnetal questions concerning legitimacy and legality. The debate surrounding the relationship between national law and EU law has occupied both the theoretical and practical discourse for decades. Central to this debate is question of whether it is for the Member States themselves to determine the validity and domestic effect of EU law within their constitutional orders. In practice, this debate is particulary prominent in the jurisprudential tensionn between the Court of Justice of the European Union (CJEU) and national consitutional courts. The latter often invoke

[4] Thomas Winzen: Political Integration and National Parliaments in Europe. *Center for Comparative and International Studies, ETH Zurich and University of Zurich, Living Reviews in Democracy*, 2010, 2.

[5] Leonard F.M. Besselink: The Place of National Parliaments within the European Constitutional Order. In: Nicola Lupo – Cristina Fasone (eds.): *Interparliamentary Cooperation in the Composite European Constitution*. Oxford, Hart Publishing, 2016, 23–38, 27.

constitutional identity and assert their own rights to limit the effects of EU law, especially in instances where such law is perceived to threaten core national constitutional values. The complexity of the issue is further demonstrated by the development of various legal theories, including monism, dualism, pluralism, and constitutionalism, which have sought to provide a conceptual framework for understanding these tensions. More recently, one new theoretical approach has emerged, known as the 'Theory of the Legal Circle of Creators' (TLCC; introduced by Kircmair). This theory is premised on the notion that legal norms are created through a binding consensus among physical persons, and that once such a norm is established, it can no longer be unilaterally revoked. Fundamentally, the latter theory posits that the norm generated by a broader circle of legal creators prevails over the norm of a smaller one, but only insofar as all members of the small circle are simultaneously members of the larger. In such a case, the smaller circle is effectively absorbed into the large one, and the validity of the legal norm is determined on that basis.[6] Nevertheless, while TLCC offers a relatively novel theoretical framework for understanding the intricate relationship between national constitutions and EU law, the debate between the CJEU and national constitutional courts concerning the primacy of EU law and the constitutional limits of Member States remains unresolved. This ongoing contention underscores both the inherent complexity and the significant constitutional implications such questions may bear on the functioning of national legal orders.

2.1. The Early Warning Mechanism enshrined in the Lisbon Treaty

The importance of the role of national parliaments was strengthened by the Treaty of Lisbon (2009, entered into force in 2010), which introduced a new form of participation of national parliaments in the European legislative process through the so-called early warning mechanism. This mechanism envisages for national parliaments the possibility of checking the compliance of legislative proposals of the European Union with the principle of subsidiarity. The mentioned mechanism was also present earlier under somewhat different conditions in the Constitutional Treaty itself. Thus, the early warning mechanism enables the interception of EU legislative initiatives by the national parliaments, through lodging objections, if a violation of the principle of subsidiarity is observed. In other words, with

[6] For more on this topic see: Kirchmair Lado: Who has the final say? The Relationship between International, EU, and National Law. *European Journal of Legal Studies*, 2018 (10, special issue), 47–100.

the Treaty of Lisbon, the European Commission is obliged to forward proposals for legislative acts of the union, in addition to the European Parliament and the Council as legislators, now also to national parliaments. From the moment of receiving a legislative proposal, national parliaments have the opportunity to submit an objection, or so-called 'reasoned opinion', in which they must state why they consider that a particular legislative proposal infringes the principle of subsidiarity. Thus, from the moment of receiving a legislative proposal, national parliaments have a period of eight weeks (set by the Constitutional Treaty, the deadline was shorter by 2 weeks, more precisely, it was 6 weeks) to submit their reasoned opinion. If the number of reasoned opinions reaches one-third of the votes of all national parliaments (each unicameral parliament has two votes, and in the case of bicameral parliaments each chamber has one vote), i.e. in the case of a question of freedom, security, and justice, one-quarter of the votes are cast, the so-called yellow card procedure is initiated.[7]

The effectiveness of the early warning mechanism, especially yellow cards, is questioned by some scholars, taking into account not only the fact that only three yellow cards have been issued so far (in 2012, 2013, and 2016), but some also claim that the mechanism does not give national parliaments the power to veto legislative proposals. In other words, they believe that the early warning mechanism, i.e. the yellow card, is only an advisory measure because ultimately the Commission can decide to maintain, withdraw, or amend the proposal, regardless of the proceedings initiated by the parliaments and warnings about the violation of subsidiarity. Even in the case of the orange card (for the initiation of which a larger majority of votes or reasoned opinions of the parliaments is required), the final decision or the authority to make the decision rests with the European Parliament and the Council. Criticisms of scholars certainly have a basis. Furthermore, in addition to the aforementioned yellow and orange cards as possible forms of participation of national parliaments in the legislative process at the European level, there are also proposals to introduce other mechanisms, such as the red and late cards and the green card.[8]

Furthermore, national parliaments, in regard to the principle of subsidiarity, also have the possibility to challenge the validity or legality of a legislative act of the Union before the Court of Justice of the EU, as an ex post control of the principle of subsidiarity. However, in practice, this possibility is not used, which some scholars justify by arguing that the principle of subsidiarity is not easily

[7] Philipp Kiiver: The Treaty of Lisbon, the National Parliaments and the Principle of Subsidiarity. *Maastricht Journal of European and Comparative Law,* 2008 (15), 77–83, 80.

[8] Ian Cooper: A Yellow Card for the Striker: National Parliaments And the Defeat of EU Regulation on the Right to Strike. *Journal of European Public Policy*, 2015 (10), 1406–1425, 1412.

subject to judicial review. They also point out that this is partly due to the self-restraint exercised by the legislator.[9] In this sense, the EWM is interpreted more as a political than a legal mechanism. Similarly, the Court of Justice of the EU itself is not articulary inclined to engage with subsidiarity arguments, preferring instead to rely on other legal grounds such as proportionality or the conferral of powers. Thus, the principle of proportionality also possesses the characteristic of being an ex ante political instrument (through EWM, in the phase of legislative proposal), as well as a means of ex post judicial control of subsidiarity (by initiating proceedings before the Court of Justice of the EU). In this regard, any national parliament, or individual chamber in the case of bicameral parliaments, may initiate proceedings before the Court of Justice of the EU if it is determined that the EU institutions have failed to comply with the principle of subsidiarity.[10]

In the case of Italy, neither of the two chambers has amended its parliamentary rules of procedure since the entry into force of the Lisbon Treaty. More precisely, the early warning mechanism in the Italian system was adopted in an experimental and provisional manner, since the procedures for approving reasoned opinions differ significantly both in the role assigned to the parliaments, through the source of law in which they are contained, and up to the political dialogue itself, taking into account both the direction of the government in EU affairs, but also the oversight powers themselves.[11]

3. Overview of the Italian Parliament in the process of European integration

The so-called Albertine Statute from 1848, which King Albert gave to the subjects of the Kingdom of Sardinia prior to the unification of Italy, was the primary forerunner of the current Italian constitution. The Senate of the Kingdom and the Chamber of Deputies were established as the two houses of parliament by the aforementioned statute. However, the election was based on a census that excluded women, and only the Chamber of Deputies was chosen. On the recommendation of the administration, which consisted of members of a few select social classes,

[9] Tomasz Jaroszyński: National Parliaments' Scrutiny of the Principle of Subsidiarity: Reasoned Opinions 2014–2019. *European Constitutional Law Review*, 2020 (1).

[10] https://portal.cor.europa.eu/subsidiarity/whatis/Pages/SubsidiarityintheEUlegislativeprocess.aspx?utm_source=chatgpt.com.

[11] Nicola Lupo: The Scrutiny of the Principle of Subsidiarity in the Procedures and Reasoned Opinions of the Italian Chamber and Senate. In: Cornell Anna – Marco Goldoni (eds.): *National and regional parliaments in the EU-legislative procedure post-Lisbon. The impact of the early warning mechanism*. Hart Publishing, 2017, 226.

including previous ministers and deputies, ambassadors, magistrates, senior military officers, etc., the king nominated senators, whereas royal princes were senators by birth only. Shortly following Italy's unification, the Albertine Statue was extended to the entire country.[12]

In the context of historical and political development, the Republic of Italy has undergone very complex processes, starting with the first unification of smaller states and regions during the 19th century and the validity of a liberal constitution, through the fascist regime and authoritarian government during the 1920s under Mussolini, when the autonomy of the Chamber of Deputies was gradually limited, until the referendum of 1946 after World War II, when the republic was established. Italy's historical development has been characterized by the instability of governments that changed frequently, corruption scandals marked by bribery, and a series of other historical events that have greatly influenced the development and governance of the country.[13]

Numerous issues surrounded Italy's EU membership, chief among them the country's inability to adapt its economy to the common market's tax requirements and, consequently, its tardiness in putting the Union's regulations into effect. Because of all of this, the EU (then the Community) began to question Italy's sincere aspirations for European integration. In other words, Italian governments were attacked for deceptive statements and pledges that were not accompanied by real results with the purpose of full participation. However, the circumstances that Italy was in at the time, i.e. right after World War II, must be considered while evaluating the aforementioned.[14]

Therefore, the United Nations' establishment and Italy's adoption of a new democratic constitution were two significant accomplishments during the aforementioned time. On the other hand, the new centrist order in Italy was better than the cooperative era, which culminated in the Constituent Assembly's adoption of the Italian constitution. Political safeguards were required in addition to the new constitution's formal democracy guarantees. Governments under De Gasperi saw Italy's involvement in European integration as a sort of insurance policy against the risks of internal instability brought on by the Cold War. This similar worry served as one of the driving forces behind Italian support for

[12] The Chamber of Deputies, Inside the Chamber of Deputies. Camera dei deputati, Segreteria generale, Ufficio pubblicazioni e relazioni con il pubblico. (pdf). 2020 (14), www.camera.it.

[13] Ernst Hirsch – Leonard F.M. Besselink: The Italian Republic. In: Leonard F.M. Besselink – Paul Bovend'Eert – Hansko Broeksteeg – Roel de Lange – Wim Voermans (eds.): *Constitutional Law of the EU Member States*. Deventer, Kluwer, 2014, 903–966, 906.

[14] Antonio La Pergola: Italy and European Integration: A Lawyer's Perspective. *Indiana International & Comparative Law Review*, 1994 (2), 259–276, 259.

establishing the EDC.[15] The biggest issue related to Italy in terms of European integration is the area of constitutional amendments (Germany took a similar approach), where after signing the then-community treaties, Italy was forced to amend its constitutional system and adapt it to European integration.[16]

However, the Italian Constitutional Court's analyses and rulings more accurately reflect the growth of the Italian constitutional system as a result of the advancement of European integration than do changes to Italian law. Similarly, the European Court of Justice's case law has been called upon to interpret developments arising from European treaties, as well as to apply these provisions, distinguish between European and national law, and define the roles and responsibilities of the various governmental levels. However, rather than changes to Italian law, the Italian Constitutional Court's interpretations and decisions better capture the evolution of the Italian constitutional system as a result of the progress of European integration. Comparably, the case law of the European Court of Justice has been used to define the roles and responsibilities of the various governmental levels, apply these laws, distinguish between European and national law, and interpret changes resulting from European treaties.[17]

Some scholars categorize the process of integrating the Italian constitutional order with the EU legal system (then known as the Community) into three stages. Therefore, the Italian Constitutional Court invoked Article 11 of the Constitution to confirm the treaty's legitimacy for the national legal system, marking the first phase of the integration process. The Constitutional Court's ruling (No. 183 of 1973), which emphasized two essential principles – the primacy of European Community laws above national law and their direct applicability – marked the second phase, which was characterized by the customs union. However, the 1984 ruling (No. 170) marked the third phase.[18]

During the early phases of the integration process, several duties were articulated for Italian judges, chief among them being the prohibition of applying national regulations that conflict with directly applicable European Community standards. Next, the direct application of directives and regulations, as well as the European Court of Justice's interpretations and pronouncements of non-fulfillment. However, there is a chance that the law and EU regulations will depart from constitutional standards and replace them by dividing powers between the

[15] Ibid. 260.

[16] Flaminia Gallo – Birgit Hanny: Italy: progress behind complexity. In: Wolfgang Wessels – Andreas Maurer – Jürgen Mittag (eds.): *Fifteen into one? The European Union and its member states*. Manchester University Press, 2003, 271–297, 285.

[17] Ibid. 285.

[18] Ibid. 285–286.

state and the regions. Lastly, there is the requirement that public administration refrain from implementing regulations that conflict with directly applicable Community law. According to the same scholars, the Italian Constitutional Court's case law evolved to its final form with the issuance of ruling No. 168 of April 1991. The ECJ's request to be permitted to convey questions on conformity with European Community (afterwords: EC) standards that are directly applicable to regular Italian judges was finally granted after it was established that EC regulations are immediately applicable and that EC legal sources are constitutionally superior to national ones.[19]

4. Legal framework: the Constitution, the rules of procedure of the Italian Parliament, and other legal acts that govern the role and position of the Italian Parliament

Upon the question of the first Italian Constitution, there are some scientific researchers mention the 18th century as the period of the first Italian constitution, as follows:

"The first written constitution that appeared in Italy was known as the ‚Costituzione della Repubblica Cispadana', which was modeled after the French Constitution of 1795. It was adopted by the representatives of Bologna, Ferrara, Modena, and Reggio, accepted by the people, and published on the twenty-seventh of Mar 1797. Its main provisions were that the legislative power should be exercised by two councils, one of sixty and the other of thirty members. The former had the exclusive right of proposing measures, the latter of approval or rejection."[20]

Nevertheless, the Constituent Assembly enacted the Constitution on December 22, 1947, and it became operative on January 1, 1948. Since then, it has undergone numerous amendments. Because there are distinct administrative courts and regular courts, the legal system is dual. In the question of the governmental system, Italy has a parliamentary system and when it comes to a question of parliament, it is bicameral, where both chambers, the Senat (tal. '*Senato*') and the House of Representatives (tal. *'Camera dei deputati'),* have the same powers. The Senate is elected using a district system with electoral rules different from those of the Chamber of Deputies, although their composition is based on proportional

[19] Ibid. 286.

[20] Charles Albert – S.M. Lindsay – Leo S. Rowe: Constitution of the Kingdom of Italy. *The Annals of the American Academy of Political and Social Science, Sage Publications, Inc. in association with the American Academy of Political and Social Science*. Supplement: Constitution of the Kingdom of Italy, 1894 (9), 1–44, 11.

representation with a premium for the comparatively larger party. There has been and continues to be political controversy about the electoral system and its proportional representation.[21] It is also important to emphasize that Italy's prolonged political instability is closely linked to the structure and composition of its Parliament. Specifically, the different electoral systems for the Chamber of Deputies nad the Senate, although both based on proportional representation, lead to divided majorities and legislative deadlock. Since both houses hold equal powers and require confidence votes to form a government, the stability of the execuitve branch is often jeopardised. Numerous electoral reforms to date have failed to resolve the fundamental problem of a fragmented parliamentary composition, which favors weak coalitions and frequent government collapses, ultimately causing Italy's political instability.

Regarding the parliament's right to information on European issues, the Italian government has only been required to provide the parliament with yearly reports on European affairs since 1965. However, legal reforms in 1987 gave the parliament a legal foundation for the possibility of regularly receiving information about European Community laws, whether those laws have already been passed or are still in the planning stages. This allowed both houses of parliament to formally have the right to information. Additionally, the parliament has the authority to request that the government or specific ministers evaluate how well EC law aligns with the domestic legal system, hear from the government or ministers on particular political matters, and provide updates on the overall development of the Union, including the Italian system's advancement. However, the parliament also has the authority to provide the government with feedback on the aforementioned matters. Additionally, the Community laws of 1996 and 1998 gave the Italian parliament the ability to obtain information during the stages of drafting European laws, guaranteeing its right to know about draft legislation before it is discussed at the European level.[22]

Nevertheless, Article 11 of the Italian Constitution (which is among the fundamental principles of the Constitution) stipulates the following: *"Italy shall agree, on equal conditions with other States, to the limitations of sovereignty that may be necessary for a world order ensuring peace and justice among Nations; it shall promote and encourage international organizations pursuing such ends."* Although the provision was originally intended for membership in the United Nations, it was

[21] Leonard F.M. Besselink – Monica Claes – Šejla Imamović – Jan Herman Reestman: National Constitutional Avenues for further EU integration. Italy. *Directorate General for Internal Policies. Policy Department C: Citizens' rights and Constitutional Affairs. Legal Affairs*. European Parliament PE 493.046. 2014, 147–157, 147.

[22] Gallo – Hanny 2003, 280–281.

nevertheless formulated in such a way as to enable the extension of the provision to a number of European integration projects that took place after World War II. The Italian Constitutional Court should gradually adjust its jurisprudence to the early affirmation of primacy and direct effect by the European Court of Justice back in the 1960s. This is made possible by the constitutional reference to sovereignty and its limitations, which allowed Italy to guarantee the ratification of all European treaties through ordinary legislation and the legal effectiveness of EU law in the domestic legal order. More recently, the Italian Constitution has made a few specific references to the European Union and several of its institutions in addition to Article 11. When Article 122 of the Constitution was changed in 1999 as part of a thorough restructuring of the regional system of governance, the first step was made.[23]

Among other modifications, the European Parliament, one of the EU institutions, made the first explicit reference to the new incompatibility rule, which prohibited concurrent participation in elected assemblies at various governmental levels. In 2001, the second and more important step was taken. Here, the reference to 'limitations arising from Community law' is outlined in Article 117(1) along with the Constitution and 'international obligations' as limitations shared by State and regional legislation, as part of a broader rethinking of the division of legislative powers between the State and the regions. It was most likely meant to serve as a simple restatement of the restrictions on state and local laws that the Constitutional Court had already acknowledged in its case law.[24]

The Constitutional Court's approach to national legislation has evolved, particularly in relation to the principle that international treaties traditionally held the same legal status in the domestic system as the laws implementing them (ordinary laws). Under this principle, such treaties could be overridden by subsequent legislation based on the lex posterior rule. It is also interesting to note that in rulings number 348/2007 and 349/2007, the Constitutional Court established that the European Convention on Human Rights (ECHR) could also serve as a benchmark for reviewing national laws, provided its provisions, as interpreted by the European Court of Human Rights, align with the Constitution.[25] This positioned the ECHR at an intermediate level between ordinary laws and

[23] Nicola Lupo – Giovanni Piccirilli: Conclusion: 'Silent' Constitutional Transformation: The Italian Way of Adapting to the European Union. In: Nicola Lupo – Giovanni Piccirilli (eds.): *The Italian parliament in the European Union*. Oxford, Hart Publishing, 2017, 317–333, 323.

[24] Ibid. 323.

[25] Note: It is importante to point out that the European Court of human rights is not an organ of the EU, but a court of international organization, the Council of Europe, and it is based on the European Convention on Human Rights (ECHR). Here is mentioned because of the

the Constitution. The constitutional reform of 2012, which introduced the principle of a balanced budget in Article 81 of the Constitution, also amended Article 97, concerning fundamental principles of public administration. A new paragraph was added, mandating that all "general state entities" (subjective public administration) ensure balanced budgets and debt sustainability in compliance with European Union law. However, unlike Germany's amendments to Article 23, Italy's constitutional changes did not alter the substance or text of its original European clause in Article 11.[26]

Some legal scholars and Constitutional Court decisions have linked Article 117(1) with Article 11, arguing that these articles jointly provide a constitutional foundation for aligning domestic law with EU law. However, relying solely on Article 117 is insufficient, as it imposes limitations only on internal legislators (the state and regions). In contrast, Article 11 addresses broader sovereignty constraints, encompassing constitutional sources and other branches of governance. In cases where the Constitutional Court has emphasized the key features of the European constitutional framework from an Italian perspective, reference to Article 11 alone has sufficed to confirm the primacy of EU law over national legislation, barring the so-called *tal. 'controlimiti'*.[27]

When it comes to a question of regular legislative procedure, it is precisely prescribed in Article 70 of the Constitution. So, according to Article 70 of the Italian Constitution, the legislative functions shall be exercised jointly by both Houses of Parliament. The regular legislative procedure in Italy starts with a bill that must go through several stages in both houses of parliament. Thus, a bill is proposed by the parliamentarians and delivered to the House of Representatives, where it is referred to the appropriate committee for consideration. The committee may, however, revise or add to the plan before sending it to the entire chamber for debate and vote. Additionally, after passing the House of Representatives, the bill is forwarded to the Senate for additional deliberation and vote. However, the Senate has the authority to add or alter the plan before sending it back to the House of Representatives. The law is then forwarded to the President of the Republic for final approval after passing both chambers. Although the President can veto a measure, a majority vote in both houses can override the veto. In Italy, the law becomes law after the president signs it. That is not the end of the process, though. The appropriate state authorities should then put the law into effect after it has been published in the Official Gazette. Looking at the complexity of the

importance it had for the Constitutional Court in terms of understanding or serving as a benchmark for reviewing national laws.

[26] Ibid. 324.

[27] Ibid. 324.

entire law-making process, it's might seem too hard to imagine that a law can be passed quickly, especially considering the fact that the Italian government operates on a coalition system, which involves multiple parties having to reach an agreement on a proposed law before the process can even move forward.[28]

One of the most important laws regulating Italy's participation in the process of implementing EU legislation is Law 234/2012 (tal. *'Legge Europea'*), which primarily enables the transposition of EU directives in Italy. Another law, which includes current effective measures aimed at ensuring the compliance of Italian legislation with EU legislation, especially in cases of incorrect transposition, is the 'Law on European Delegation'. An extremely important provision of Law No. 234/12, namely Article 30, paragraph 3, regulates the situation when the government, within the framework of the procedure before the infringement or the infringement itself, in matters of proposing a European law, recognizes that the Commission's argument is well-founded, stipulates that the government will take into account the provisions that correct the incorrect transposition. The communication channel through which such procedures are discussed between the Commission and the Member States is through the so-called 'EU pilot', which was set up by the Commission to facilitate the correct implementation of EU legislation and ultimately prevent infringements.[29]

As one of the important sources for the functioning of the Italian parliament, it is essential to mention the parliamentary rules of procedure, which regulate the issues of both the Chamber of Deputies and the Senate. The previous rules of procedure date back to 1922; however, they were amended by an amendment to the constitution, and the rules of procedure were actually codified for the first time in full in 1971. Thus, the Constitution establishes in Article 64 that the parliamentary rules of procedure equally regulate the internal organization, legislative process, and work of both houses of parliament, and also states that the rules of procedure reflect the principle of parliamentary autonomy, the adoption or amendment of which is provided for by an absolute majority of representatives, regardless of which house is concerned. Furthermore, the rules of procedure of the Chamber of Deputies include provisions on organization, legislative procedure, policy creation, and supervision, including final provisions. In terms of organization, the rules of procedure define the rights and duties of members, the election, and responsibilities related to leadership positions, but

[28] The Chamber of Deputies, The passage of a law through Parliament. 2025. Official webpage: https://en.camera.it/4?scheda_informazioni=15.

[29] Department of European Affairs, Presidency of the Council of the Ministers. European Law (Legge Europea), 2025. Official webpage: https://www.affarieuropei.gov.it/en/legislation/european-law-legge-europea/.

also the course of the procedure for discussion and voting on supervisory and legislative issues. While interpretation and implementation are dependent on the president, who has the assistance of the Rules Committee.[30]

It could be summarized, therefore, as follows. Italy aligns its national legislation with EU law through European law and the European Delegation Act, under Law No. 234/2012. These laws empower the Government to issue legislative decrees implementing EU acts, introduce sanctions for non-compliance, and amend laws to ensure compliance with EU decisions. The decrees are proposed by the relevant ministries, reviewed by Parliament, and approved by the Council of Ministers before being published in the Italian Official Gazette. This streamlined process ensures regular updates to maintain consistency with EU regulations.[31]

5. The role and importance of the Italian regional councils[32]

The Italian political structure has a complex system with different branches and levels of government. Thus, there is a system of regional and local administrations in addition to the federal government. Furthermore, Italy's form of governance is distinguished by its twenty distinct regions, each of which has an elected regional council and its own regional administration. Regional administrations have jurisdiction over everything from healthcare and transportation to education. Ensuring a balance of representation and power distribution among political parties and the various areas of the nation is one of the goals of a complicated political organization like the Italian one. For a long period, Italy was the only country that had regulated constitutional-level positions and institutions of regions.[33]

[30] Chamber of Deputies, Italian Republic. Rules of procedure. 2025. Official webpage of the Italian Parliament. https://en.camera.it/4?scheda_informazioni=31.

[31] Department of European Affairs, Presidency of the Council of the Ministers. Transposition of EU Acts. 2025. Official webpage: https://www.affarieuropei.gov.it/en/legislation/transposition-of-eu-acts/.

[32] Note: It is important to mention here that, according to two decisions of the Italian Constitutional Court from 2002, regional legislatures have a kind of ban on calling themselves parliaments. For more, see: Cristina Fasone: Italian Regional Councils and the Positive Externalities of the Early Warning Mechanism for National Constitutional Law. In: Anna Jonsson Corell – Marco Goldoni (eds.): *National and Regional Parliaments in the EU-Legislative Procedure Post-Lisbon: The Impact of the Early Warning Mechanism*. Hart Publishing Ltd., 2017, 157.

[33] See: Report by the Steering Committee on Local and Regional Authorities (CDLR) and Gérard Marcou: Regionalisation and its effects on local self-government. Local and regional authorities in Europe. *Council of Europe Publishing*, 1998 (64), 5. Also see Article 114 of the Italian Constitution.

The complicity of the system can be seen just by looking at its organization. So, besides the mentioned 20 regions (which include 15 ordinary and 5 special status regions), the country has also 2 self–governing provinces (*Bolzano/Bozen and Trento*), and then there are 110 provincies, 15 metropolitan areas, and unbelievably 7960 municipalities. The legislative and administrative powers of regions, however, are outlined in their respective statutes, including also establishment of their government and the fundamental principles of the organization and functioning of the region. Italy is a regionalized nation despite being a unitary one. In the 1990s, regionalism was especially prevalent due to special so-called *'Bassanini regulations'*, which further encouraged the modernization of sub-national institutions. Regional legal autonomy was also expanded as part of the constitutional reform at the end of the 1990s, and a significant constitutional amendment in 2001 altered the allocation of legislative authority between the state and the regions, distinguishing between exclusive and simultaneous regional competence. While the constitutional amendment at the end of 2016 had a large-scale plan of changes, for example, by reducing the number of senators significantly, eliminating many levels of provinces, and a series of other changes that did not see the light of day, given that the constitutional reform was rejected.[34]

6. Limitations and criticism of the Italian Parliament

The Italian Parliament illustrates a pragmatic approach to gradual adaptation to the institutional changes of the EU. Although it was one of the first to create a dedicated collegial body for European affairs within the Senate back in the 1960s, it was also among the last to fully implement the parliamentary powers introduced by the Lisbon Treaty. These powers were only formalized with the adoption of Law No. 234/2012 in December 2012. Looking back, one might conclude that in particular, the period following the Lisbon Treaty and the changes in the EU's economic governance has led to significant changes in the Italian constitution and legislative framework.[35]

In addition to the Ministry of Foreign Affairs, the Permanent Representation of Italy to the EU and the Minister for European Policies are also significant players in EU legislative processes and decision-making in Italy. In addition to the

[34] European Committee of the Region, Offical webpage, Division of powers. Italy. 2025. See webpage: https://portal.cor.europa.eu/divisionpowers/Pages/Italy-Introduction.aspx.

[35] Nicola Lupo – Giovanni Piccirilli: Introduction: The Italian Parliament and the New Role of National Parliaments in the European Union. In: Nicola Lupo – Giovanni Piccirilli (eds.): *The Italian Parliament in the European Union*. Oxford, Hart Publishing, 2017, 11.

aforementioned, certain ministries also have direct connections to interministerial bodies and EU organizations. Therefore, since 1967, the Ministry of Economy and Finance has been home to the Inter-Ministerial Committee for Economic Planning (CIPE), whose mission is to coordinate national and EU policies with an emphasis on employment and economic growth and development, particularly in underprivileged areas. However, it's noteworthy that even though Italy was one of the founding members of the EU, the first inter-ministerial committee for the coordination of EU affairs was only established in 2006. Through its involvement in the EU General Affairs Council, the Italian Ministry of Foreign Affairs has maintained a pivotal position in EU integration efforts. Before 1999, it was difficult to distinguish between EU integration decision-making and foreign policy. The Italian government reorganized its duties, including revamping the Ministry of Foreign Affairs, after realizing how ineffective it was. In order to coordinate Italy's involvement in EU institutions, communicate EU information to Italian organizations, and provide a consistent representation of Italian viewpoints, this reform established the Directorate-General for European Integration in 2000. With an emphasis on EU treaties, a shared foreign and security policy, and economic and political links, the Directorate-General for European Integration handles the 'second' and 'third pillar' concerns of the EU as well as some 'first pillar' issues. In addition, the Ministry of Foreign Affairs supports the expanding involvement of the Prime Minister's Office in European policy by coordinating Italy's stance in negotiations with the EU and facilitating communication between Italian entities and EU institutions.[36]

7. Conclusion

The Italian Parliament is an example of a pragmatic but challenging adaptation to the evolving constitutional and institutional dynamics of the European Union. Although it has made significant progress, notably with the adoption of Law No. 234/2012 and the gradual implementation of the provisions of the Lisbon Treaty, its role remains marked by limitations in fully exercising its influence within the EU framework. The persistent tension between national sovereignty and supranational governance highlights the complexity faced by the bicameral system in aligning Italy's domestic legal framework with EU legislation. Despite criticisms of delayed response and procedural rigidity, the case of the Italian Parliament

[36] Anna Molnár: Transposition of EU Legislation in Italy. *Acta Scientiarum Socialium*, 2011 (33), 21–43, 24–25.

remains paradigmatic in understanding the broader role of national parliaments within the EU's multi-level governance structure. By bridging the democratic deficit and strengthening accountability, the Italian example provides a basis for comparative analyses that can serve as a basis for reforms in other Member States. However, achieving a more balanced and proactive engagement will require ongoing constitutional, procedural, and institutional improvements to ensure Italy's meaningful participation in the ever-evolving process of European integration.

Bibliography

Charles Albert – S.M. Lindsay – Leo S. Rowe: Constitution of the Kingdom of Italy. *The Annals of the American Academy of Political and Social Science, Sage Publications, Inc. in association with the American Academy of Political and Social Science*. Supplement: Constitution of the Kingdom of Italy, 1894 (9), 1–44.

Ian Cooper: A Yellow Card for the Striker: National Parliaments And the Defeat of EU Regulation on the Right to Strike. *Journal of European Public Policy*, 2015 (10), 1406–1425.

Leonard F.M. Besselink – Monica Claes – Šejla Imamović – Jan Herman Reestman: National Constitutional Avenues for further EU integration. Italy. *Directorate General for Internal Policies. Policy Department C: Citizens' rights and Constitutional Affairs. Legal Affairs*. European Parliament PE 493.046. 2014, 147–157.

Leonard F.M. Besselink: The Place of National Parliaments within the European Constitutional Order. In: Nicola Lupo – Cristina Fasone (eds.): *Interparliamentary Cooperation in the Composite European Constitution*. Oxford, Hart Publishing, 2016, 23–38.

Cristina Fasone: Italian Regional Councils and the Positive Externalities of the Early Warning Mechanism for National Constitutional Law. In: Anna Jonsson Corell – Marco Goldoni (eds.): *National and Regional Parliaments in the EU-Legislative Procedure Post-Lisbon: The Impact of the Early Warning Mechanism*. Hart Publishing Ltd., 2017.

Flaminia Gallo – Birgit Hanny: Italy: progress behind complexity. In: Wolfgang Wessels – Andreas Maurer – Jürgen Mittag (eds.): *Fifteen into one? The European Union and its member states*. Manchester University Press, 2003, 271–297.

Ernst Hirsch – Leonard F.M. Besselink: The Italian Republic. In: Leonard F.M. Besselink – Paul Bovend'Eert – Hansko Broeksteeg – Roel de Lange – Wim Voermans (eds.): *Constitutional Law of the EU Member States*. Deventer, Kluwer, 2014, 903–966.

Tomasz Jaroszyński: National Parliaments' Scrutiny of the Principle of Subsidiarity: Reasoned Opinions 2014-2019. *European Constitutional Law Review*, 2020 (1).

Philipp Kiiver: The Treaty of Lisbon, the National Parliaments and the Principle of Subsidiarity. *Maastricht Journal of European and Comparative Law,* 2008 (15), 77–83.

Antonio La Pergola: Italy and European Integration: A Lawyer's Perspective. *Indiana International & Comparative Law Review*, 1994 (2), 259–276.

Kirchmair Lado: Who has the final say? The Relationship between International, EU, and National Law. *European Journal of Legal Studies*, 2018 (10, special issue), 47–100.

Nicola Lupo – Giovanni Piccirilli: Conclusion: 'Silent' Constitutional Transformation: The Italian Way of Adapting to the European Union. In: Nicola Lupo – Giovanni Piccirilli (eds.): *The Italian parliament in the European Union*. Oxford, Hart Publishing, 2017, 317–333.

Nicola Lupo – Giovanni Piccirilli: Introduction: The Italian Parliament and the New Role of National Parliaments in the European Union. In: Nicola Lupo – Giovanni Piccirilli (eds.): *The Italian Parliament in the European Union*. Oxford, Hart Publishing, 2017.

Nicola Lupo: The Scrutiny of the Principle of Subsidiarity in the Procedures and Reasoned Opinions of the Italian Chamber and Senate. In: Cornell Anna – Marco Goldoni (eds.): *National and regional parliaments in the EU-legislative procedure post-Lisbon. The impact of the early warning mechanism*. Hart Publishing, 2017.

Gérard Marcou: Regionalisation and its effects on local self-government. Local and regional authorities in Europe. *Council of Europe Publishing*, 1998 (64).

Andreas Maurer: National Parliaments in the European Architecture: From Latecomers' Adaptation towards Permanent Institutional Change? In: Andreas Maurer – Wolfgang Wersels (eds.): *Parliaments on their way to Europe: Losers or Latecomers?* Baden-Baden, Nomos Verlagsgesellschaft, 2001, 27–76.

Anna Molnár: Transposition of EU Legislation in Italy. *Acta Scientiarum Socialium*, 2011 (33), 21–43.

Thomas Winzen: Political Integration and National Parliaments in Europe. *Center for Comparative and International Studies, ETH Zurich and University of Zurich, Living Reviews in Democracy*, 2010.

Marta Zalewska – Oskar Josef Gstrein: National Parliaments and their Role in European Integration: The EU's Democratic Deficit in Times of Economic Hardship and Political Insecurity. Department of European Political and Administrative Studies. *Bruges Political Research Papers*, 2013 (28).

Department of European Affairs, Presidency of the Council of the Ministers. European Law (Legge Europea), 2025. Official webpage: https://www.affarieuropei.gov.it/en/legislation/european-law-legge-europea/

Department of European Affairs, Presidency of the Council of the Ministers. Transposition of EU Acts. 2025. Official webpage: https://www.affarieuropei.gov.it/en/legislation/transposition-of-eu-acts/

European Committee of the Region, Offical webpage, Division of powers. Italy. 2025. Webpage: https://portal.cor.europa.eu/divisionpowers/Pages/Italy-Introduction.aspx
Report by the Steering Committee on Local and Regional Authorities (CDLR)
Chamber of Deputies, Italian Republic. Rules of procedure. 2025. Official webpage of the Italian Parliament. https://en.camera.it/4?scheda_informazioni=31
The Chamber of Deputies, The passage of a law through Parliament. 2025. Official webpage: https://en.camera.it/4?scheda_informazioni=15
The Chamber of Deputies, Inside the Chamber of Deputies. Camera dei deputati, Segreteria generale, Ufficio pubblicazioni e relazioni con il pubblico. (pdf). 2020 (14), www.camera.it
https://portal.cor.europa.eu/subsidiarity/whatis/Pages/SubsidiarityintheEUlegislativeprocess.aspx?utm_source=chatgpt.com