english
version

Working Papers

Unioncamere
Veneto

CONSIGLIO REGIONALE
DEL VENETO

REGIONE DEL VENETO

Federalism, Subsidiarity and Tax Evasion

The role of Regional Governments
in the European decision-making process
between participation and responsibility

13

June 2011

Published "Working papers"

0/2003 Investments, research and innovation in the Veneto manufacturing sector. *Results of the 2002 inquiry based on the sample of businesses of 'The financial trends Jury'*. June 2003.

1/2003 Support for female entrepreneurs. *An analysis of the impact of the Law 215/1992 and of the Regional Law 1/2000*. October 2003.

2/2004 Technical sub-supplier SMEs in Veneto. R*esults of the 2003 inquiry by the Sub-supplier Observatory – Technical Sector*. April 2004.

3/2004 Investments and the economic cycle in Veneto. *Construction of predictive indicators and assessment of their validity*. May 2004.

4/2004 Crafts in Veneto: towards a more flexible labour market. *Evolution of occupational structures in crafts businesses 1999-2004*. November 2004.

5/2005 The new Basilea agreement on bank capital. *Methodological framing and the potential impact on SMEs in terms of capital absorption*. September 2005.

6/2006 Jobs and professions in Veneto's tourist sector. *Professional figures and work perspectives in the tourist economic activities and services*. September 2006.

7/2006 The district manager in Veneto. *The activities and competences of the managers and of the implementing actors of the district development pacts.* September 2006.

8/2007 The costs of "non-federalism". *A comparison among Veneto, Italian regions and decentralization experiences in Europe*. May 2007.

9/2008 Public spending and federalism. *The allocation of human and financial resources and the efficiency of Public Administration.* March 2008.

10/2008 Federalism and competitiveness. *Towards reform for the social and economic development of Italy*. September 2008.

11/2009 Responsibility and Federalism. *Figures, ideas and remarks to speed up the realization of fiscal federalism in Italy*. September 2009.

12/2009 Veneto read through companies' balance sheets. *Structure, economic-financial performance and taxation of limited companies*. October 2009.

13/2011 Federalism, Subsidiarity and Tax Evasion. *The role of Regional Governments in the European decision-making process between participation and responsibility*. June 2011.

14/2011 The balance sheets of limited companies in Veneto. *An analysis of economic-financial performance and taxation in the period 2006-2009.* September 2011.

english version

Working Papers

13

Unioncamere Veneto

CONSIGLIO REGIONALE DEL VENETO

REGIONE DEL VENETO

Federalism, Subsidiarity and Tax Evasion

The role of Regional Governments in the European decision-making process between participation and responsibility

June 2011

Overview

Drafted with the support of the Veneto Region's Regional Council and Government, this publication entitled "Federalism, subsidiarity and tax evasion" provides fresh ideas and suggestions to the debate on the role of regional governments in the European integration process. After the Treaty of Lisbon, the need to ensure a balanced institutional framework required each European Institution to limit their actions to the competences stated in the Treaties, and to follow the procedures, conditions and aims envisaged therein to assure fair co-operation between institutions.

This is the fifth of a series of publications that over the last four years have investigated in depth the issue of fiscal federalism and administrative decentralisation: the first edition, reviewing the costs of not implementing federalism, was followed by another three publications dedicated to the issues of efficiency in the Public Administration, federalism as a driver for competitiveness and finally accountability as a founding principle of Delegated Law no. 42/2009 (act issued by the Government under Parliamentary delegation) on fiscal federalism pursuant to Article 119 of the Constitution.

With this new publication, Unioncamere continues its survey on the actual implementation of financial and administrative decentralisation, and on the role of Regions and Local Bodies in the European decision-making process. The final aim is to set the foundations for a healthier management of public finances under the motto of "subsidiarity, participation and responsibility".

In Italy, today, the Public Administration accounts for more than 50% of public spending. However there are major differences amongst the regions: having just 48.7 civil servants every 1,000 inhabitants, the cost of the Public Administration in the Veneto is lower than in other regions, especially if compared to those in the South of Italy. The figures for tax evasion also show major differences between areas. In addition to the negative effects on the regional competitiveness, all of this is detrimental also to the fiscal residuum and the European cohesion policies.

Reducing the heavy tax burden by using the income generated from fighting tax evasion and simplifying administrative procedures fosters the development of a favourable business environment, which is also the main aim of the Chambers of Commerce. This aim can only be achieved by creating greater cohesion to enhance subsidiarity, the role of autonomous regional/local institutions and decentralisation and, even more important, an efficient Public Administration.

By publishing this paper, the Chambers of Commerce of the Veneto, which serve more than 500 thousand businesses, hope to provide a tool that might usefully contribute to the ongoing debate and support those who are working on the much needed reforms for our Country.

Venice, June 2011

Giuseppe Fedalto
President of Unioncamere del Veneto

Preface

This Survey Report is the follow up publication of the work started in 2007 by our *Observatory on federalism and public finance* with the support of Unioncamere del Veneto. The results of research activities and information on discussion platforms devoted to federalism, fiscal policies and there roles of regional governments in which the Observatory participates at regional, national and also European level are made available on the web site www.osservatoriofederalismo.eu.

Art. 117, comma five of the Italian Constitution and State Laws nos. 131 of 2003 and 11 of 2005 acknowledge the role of the Regions in the national decision-making process, both in drafting and subsequently executing national legislation. By enhancing the role of the Regional Parliament, this new national framework acknowledges broad options for the regional decision maker to actively participate in drafting Italian laws. By enhancing the importance of increasingly involving the Veneto Regional Council (elected legislative assembly) both in the bottom-up and the top-down law-making process in the European Union, it also bestows more responsibility and participation power on local institutions.

Added to the reforms required by Italy to implement the so-called "asymmetric", or "differentiated" federalism, this process is a great opportunity and a fundamental innovation for the Regions, as it offers new interesting prospects from an institutional and a financial standpoint. This process has the potential to cut the existing gap between the powers held by Ordinary Regions and the institutional framework of Autonomous Regions. "Differentiated federalism" would enable the Regions that want to, to manage further competences without damaging the principle of solidarity towards other Regions that will evidently continue to guarantee "traditionally" provided services.

To enhance the role of regional and local authorities, it is essential to heed their needs and priorities and ensure an equal and full partnership between different government levels (*multi-level governance*). Against this backdrop, our participation in CALRE (Conference of European Regional Legislative Assemblies) facilitates a European-wide discussion on the remarkable unbalance in national and regional public finance systems in some Member States. This unbalance affects business competitiveness on the Single Market and is detrimental to the strict policy imposed by the European Union on Member States to limit public spending, as a result of the Greek crisis.

To better understand the outreach of these issues, it is essential to have available more detailed information, including regional and local statistical data. To this end, the Council of the Veneto Region, which co-ordinates the Working Group on Financial Federalism, encouraged by the current Chairman of CARLE, has launched a project to collect data on financial flows generated by the Public Administration between intermediate levels of government for all regions participating in CALRE. The scope of the work is to provide a consistent picture and to constantly monitor sub-national financial flows that are currently not surveyed by official statistics.

Clodovaldo Ruffato
President of the Council of the Veneto Region

Preface

The federalist reform and the subsidiarity principle will ensure a more efficient management of public spending: in turn this will limit waste and cut the tax burden on businesses and families.

The reduction of public spending, associated to the implementation of fiscal federalism, will provide an opportunity to solve one of the main problems affecting Italy, namely tax evasion. Rigid public spending policies and a high fiscal burden have inevitably contributed to the increase of tax evasion and tax avoidance. How, therefore, should we proceed?

An essential element in the fight against tax evasion is to enhance the role of the Regions and of Local Bodies, which are more aware of the territory's specific features and related potential collection capacity. Legislative Decrees nos. 23/2011 on Municipal tax collection and 68/2011 on Regional and Provincial tax collection both envisage the direct involvement of local governance bodies in contrasting tax evasion, allowing them to retain part of the extra revenues (50% for Municipalities).

Within this context, the Veneto Region has some of the lowest tax evasion rates in the Italy and in the European Union, which is explained by the extensive social capital available in the local social networks. Figures show that the development of social capital and economic growth are closely related: economic development will be hard to achieve if civic sense, compliance with rules, collaborative behaviours and attention to people are lacking. It follows that a government system can only work if social relations are based on the common good and common interests rather than opportunistic and individualistic behaviours. To relaunch the development of Italy's less advanced areas, more ethical behaviours and stricter rules are needed: the aim is to encourage morality by building a network of social relations that will foster competition based on collaboration.

Policies aimed at fighting tax evasion must consider all the new issues that can support better and more balanced choices, to ensure economic development based on sustainability and solidarity.

Considering all these issues, in October 2009, Unioncamere del Veneto, the Chamber of Commerce of Venice and Ca' Foscari University of Venice, supported by the Veneto Region, launched a Working Group entitled "Beyond GDP" to review the traditional means of assessing wealth. Today, our lives are governed by a new economic order, which must necessarily take into account issues such as fairness and sustainability towards future generations. We are required to do much more and measure the actual quality of social wellbeing to produce policies aimed at the balanced development of economic systems and individual citizens.

Franco Manzato
Regional Minister of the Veneto

This survey was promoted and carried out in the framework of the Regional Observatory on Federalism and Public Finances*, instituted by the Regional Council of the Veneto* and Unioncamere del Veneto, with the contribution of the Regional Department for Agriculture of the Veneto's Regional Government.

The planning of the survey, in addition to the collection, processing and assessment of the data is the result of the work performed by a team co-ordinated by Gian Angelo Bellati, Director of Unioncamere del Veneto. The members of the team included: Serafino Pitingaro, Giovanna Guzzo and Francesco Lovat of Centro Studi Unioncamere del Veneto; Corrado Marchetti, Silvia Bottaro, Ludovica Munari and Alberto Tebaldi of the Brussels Department of Unioncamere del Veneto; Alberto Cestari, Catia Ventura and Andrea Favaretto of Centro Studi Sintesi; lawyer Giovanni Tarlindano and lawyer Gabriella Cerchier of the Court of Venice; Cecilia Odone, Legal consultant of Europeanlaw.it; Quirino Biscaro of the Economics Department of Ca' Foscari University of Venice.

This report was drawn up by Centro Studi Unioncamere del Veneto, with the contribution of all the members of the working group.

Our special thanks go to the members of the Regional Conference on Economic and Labour Trends (CREL) of the Veneto Regional Council and to all those who participated as policy makers or experts in the meetings of the Observatory on Fiscal Federalism for the ideas, advice and suggestions provided while planning and drafting this report.

Contents

Introduction[*]

European integration on the one hand, and subsidiarity and federalism on the other, are achieved by European Institutions by giving Regions and Local Bodies greater powers and enhancing their roles: is this an advantage for the Veneto and the whole of Europe?

This new Survey Report will attempt to answer this question and ascertain the adequacy of the strategy implemented at European and Regional levels.

The "Common European Home" continues in fact to be criticised despite proof that the major economic crisis that we are experiencing can only be overcome in a Europe characterised by unity and cohesion. In addition to criticism, protectionist and nationalist positions are also emerging, as testified by the obstacles posed to investments by Abn Amro in the Veneto, to Enel in France, Unicredit in Poland, Deutsche Bahn in Italy and in the north-east of Italy as a competitor to Trenitalia.

Such protectionist attitudes by European Governments emerge yearly, causing a budget crisis in the EU. It is worth recalling that just a couple of years ago, two important Member States, namely France and Holland, turned down the new European Constitution in a referendum. In addition, the EU is harshly criticised for being a Europe of banks, void of any heart or soul and solely based on sterile parameters dictated at Maastricht that hinder economic development. Who could forget the discussions against the single currency, the Euro that caused a rise in prices, against a complex and costly bureaucracy, against incomprehensible laws that inappropriately govern the smallest details of our lives? Or the recent issues associated to immigration?

What is striking in all this criticism, is that the European Union is seen as the guilty party, forgetting that the final responsibility lies with the States, with their nationalist and protectionist thrusts, as they try to deprive the European Union of powers and competences. As a result, we consider that the solution lies in reinforcing European integration, by enhancing integration amongst European regions.

This new Survey Report will attempt to understand whether the European Union is concretely leading the European continent towards forms of subsidiarity and *governance*, which will enhance roles at local and regional levels. The report specifically targets the development of a number of important Italian and European regions, starting from the Veneto, a large European region characterised by a strong drift towards subsidiarity and federalism. The issue of "competitiveness" is taken into great consideration, and more specifically whether Public Administrations can or cannot promote it, to keep the high levels of wellbeing and development of their territory.

Our discussion starts from a clear assumption: the Veneto benefits from being pro-Europe and would find greater benefit from being even more pro-Europe. Let us see why.

[*] Gian Angelo Bellati, Director of Unioncamere del Veneto and Eurosportello Veneto.

Since its establishment in 1957, the European Economic Community (EEC) has alternated times of growth and development of the European integration process between Member States (integration is still one of its main aims) to times of crisis and slowdowns in this process. Nevertheless, summarising, the result has been the peaceful creation of a large single market between sovereign States that had just emerged from a destructive world war in which more than 60 million people lost their lives. Today, we are part of a Community that follows the same rules on competition, that has a single currency, that prohibits all discrimination between nationalities and where the rule of law stands fast. Add to all this the embryo of a joint cooperation strategy in the fields of Defence, Justice e Foreign Affairs introduced from the Maastricht Treaty (1992) onwards.

Thanks to the EEC, the levels of democracy have risen unquestionably, both in the countries that were emerging from non-democratic systems, such as Portugal, Spain, Greece and the Enlargement Countries, and also in those already governed by democratic systems, that by participating in the European Community have improved their internal rules on free competition.

The results are excellent considering the short period of time and the peaceful means by which they were achieved, a precedent in the history of such diverse countries. It is no exaggeration to talk of Europe as the "Common Homeland" that we all belong to, as we listen to the notes of Europe's anthem, the Ode to Joy.

But let us go back to the harsh criticism made against Europe. Is there some truth in it or is it mere platitude? Let us see how we can object to the most widespread comments.

Let us consider the European laws: are they really too complex? If we were to compare even the most complex European law with an Italian finance bill, then we would definitely change our minds.

The cost of European bureaucracy: with a final balance for EU-27 of approximately 141 billion Euros, the so-called running expenses of EU Institutions (wages, rental, utility bills, translators, interpreters, etc.) account for less than some 5% of the total: some national Public Administrations spend at least ten times that amount!

As to the criticism that Europe is insensitive, heartless and made of bankers who dictate restrictive parameters and impose definitely strict budget rules (yearly deficit, overall national debt, inflation, etc.) and do not allow national Governments to solve problems by shifting their debts onto future generations: can we criticise an attempt to safeguard our and our children's future?

In the light of all the above considerations, the two main advantages of being in Europe for the Veneto (and other European Regions) are:

- **a) European laws implementing a Single Market, free competition and non-discrimination;**
- **b) European *governance* based on promoting subsidiarity, the role of the Regions and, finally, federalism.**

The European laws implementing the Single Market, free competition and non-discrimination constitute a first major advantage. Let us consider the Veneto region: it is an export-driven region where almost 32% of what it makes is exported to other countries; 60% of its exports are towards EU Countries. This is possible thanks to the Single Market that has removed obstacles and customs on goods. In addition, we can travel to many EU Countries without even having to show a document at the borders, there is free movement of capital and, increasingly, of services and professions.

We can also invest in other Countries or receive investments from other European entrepreneurs, comforted by the fact that the Union has shared rules, the rule of law is a firm principle and that, more importantly, EU law does not tolerate discrimination.

EU law fosters free competition. As a result, rules prohibit monopolies (see for example the recent liberalisation of the telephone sector), the so-called abuse of a dominant position (i.e. when a business blocks the development of usually smaller competitors), mergers by concentration (driving those who are not part of it out of the market), state aid (i.e. public resources granted as contributions, tax rebates, reduced charges and/or costs for some businesses that distort competition and free exchanges between Member States: recent examples are provided by the restrictions imposed on aid to Fiat, Alitalia and football clubs).

State aid is perhaps the most significant example of how ensuring free competition can promote the development of a region such as the Veneto, where 93% of production is generated by businesses with less than 10 employees. Prohibiting public aid to favour businesses (generally it is the larger companies that have privileged access to public aid) not only cuts the tax burden for each and every citizen and protects consumers, it also stops large companies from resorting to public resources that belong to all citizens to implement unfair business practices to the detriment of small firms.

Again on the topic of micro, small and medium sized businesses, it has been ascertained that EU rules have contributed to defining their adequate protection, ensuring their contribution to the development of the European economy and the establishment of legislative and funding tools to promote their growth.

The second advantage lies in a **European Public Administration that targets efficiency and effectiveness.** This is essential to ensure competitiveness and economic development. It is also the direction indicated by the Maastricht parameters and by EU-advocated simplification process, for example through the SBA (*Small Business Act).* Add the much quoted commitment towards subsidiarity promoted by the Treaty of Lisbon, which in its concrete implementation finally acknowledges the Regions and the Local Authorities, and the increasingly stronger role of Local Authorities in European *governance.*

European *governance* is founded on the principle of subsidiarity and ensures that decisions are drafted involving local communities and their citizens. Unlike the government paradigm characterised by a centralised *dirigisme*, which is typical of traditional public administrations, *governance* is characterised by the closer involvement of the beneficiaries of state initiatives and by a strategy aimed at results rather than the fulfilment of bureaucratic procedures.

There are numerous European Union laws that support the idea of inclusive *governance*, right down to the regional and local levels. For a start, there is the obligation to respect the national identity of Member States, "inclusive of regional and local self-government" (Art. 4, paragraph 2, Treaty on European Union, TEU). Secondly, according to the principle of subsidiarity, the European Union may not exercise its competences in competition with Member States if the same aims might be equally achieved by the Member State, or even at "regional and local level" (Art. 5, paragraph 3 TEU). Furthermore, **the establishment of the Committee of Regions** with the Maastricht Treaty in 1991, **has gradually increased the acknowledgement of the role of Regions and Local Authorities.**

In a Recommendation from the Commission of 12 July 2004 on the transposition into national law of directives affecting the internal market, **Member States are asked to entrust an active role to the Regions**. The Annex to the Recommendation lists the good practices that might help Member States transpose EU directives more easily. The good practices quoted include the creation and maintenance of updated national databases on the transposition of community law, accessible to all federal, regional and local ministries involved in transposition. Furthermore, during the negotiations on a Directive, the representatives of federal, regional and local institutions involved in its transposition must be kept informed.

This leads us to the **active and proactive role that must be adopted by Italian regions, which are involved in the actual implementation of the decentralisation process and the transformation of our legal framework to create a federalist system**. Within this framework, the Regions and all other forms of self-government must participate actively in both the bottom-up and the top-down processes for the drafting of Community law. It is also important to better exploit the Region's representative offices in Brussels. Another important step is the reinforcement of connections with other European Institutions (European Parliament, Committee of Regions, Economic and Social Committee, representatives of various institutions representing other European Regions, Italrap, etc.).

The Veneto Region should be at the forefront of this process and provide leadership to other virtuous regions, in order to acquire broader powers of self-governance in legislative, administrative and fiscal matters.

The need emerges to abandon the strategy of uniformity that for decades led the regionalist thrust in Italy: to treat different parts of the Country as though they were the same will necessarily drag down the potential thresholds. This would frustrate the potential development of the Regions that otherwise could act as drivers of the Italian economy.

On the other hand, the assessment of the standardised index on running costs, which mirrors the cost of the administrative machinery on an equal decentralised spending basis, clearly shows that the operating costs of **Federal States such as Germany and Spain are lower than those recorded in unitary States. Italy lags far behind in the ranking of efficient European administrations**.

We may reasonably state that federalism and subsidiarity encourage greater efficiency in the administration of public institutions, by providing the best ratio between costs born and ascribed competences. This in turn leads to greater competitiveness of the entire economic system.

It appears, also based on the discussions and debates with local communities and economic and social stakeholders, that to successfully implement a federalist reform it is necessary to pursue a reform strategy that can mediate between what are at times two very opposite needs: on one hand, the implementation of the principle of subsidiarity and the shift of competences from the Central Government to the Local Government; on the other, the need to implement organisational models that can really simplify administrative procedures and enhance the efficiency of decision-making in the Public Administration.

Consideration of all these matters must nevertheless acknowledge that our Region's exceptional growth since the 1960's is associated with the European integration process that started with the signing of the Rome Treaties in 1957 and the establishment of the then European Economic Community.

We still have, of course, a long way to go. Nevertheless we must acknowledge what this Europe has achieved until today. An impartial assessment will enable us to embrace a genuinely revolutionary process which is the creation of a united Europe and to define strategies and programmes to face what has yet to be done.

We are aware that the recently implemented Treaty of Lisbon is excessively fond of a concept of a Europe of States, rather than of Regions: this concept goes against the principle of subsidiarity and real European integration, leaving space for dangerous nationalism to emerge. We also know that there are still difficulties in implementing Community law and that language diversity hinders the establishment of a shared feeling of European belonging. We know that a Europe constituted of too many States will lead to the risk of policy standstills. It might be more suitable to contemplate forms of so-called reinforced collaboration or integration (such as Schengen-type agreements between some Member States to enhance integration in specific sectors). Finally, we are well aware that we need a European policy rather than a sum of national policies. It is also clear that the European Institutions should reinforce the information networks established on the European territory (e.g. European help desks, European Information Points, etc.) and also promote information initiatives targeting the broader public to become closer to the citizens; and much, much more!

In the challenge to implement subsidiarity and federalism, Europe emerges as a major ally for the European Regions that have at heart a democratic and competitive system. This is the direction that an important region such as the Veneto is striving to move towards. This Survey Report is the Veneto's contribution to investigate these crucial issues in even greater depth, to the benefit of institutions, businesses and citizens.

1. The Treaty of Lisbon and the control over the principle of subsidiarity*

1.1 The Treaty of Lisbon and the new form of *governance*

The Treaty of Lisbon has radically changed the institutional framework of the European Union. It has also acted as a major turning point for all those who believe in institutional regionalism. Although some might consider that the novelties introduced by the Treaty are not particularly incisive, the new text introduces a series of legal issues that clearly hint to the fact that European Institutions intend to create a form of multi-level governance with the involvement of Regional and Local Bodies. Indeed, the **Treaty of Lisbon consolidates and enhances the role of the Regions and Local Bodies in the European policy-making process. It provides yet another step towards the now widespread idea of a Europe of Regions**[1]. Territorial cohesion, and harmonious economic and social development are some of the EU's main aims, also in view of the achievement of the *Europe 2020* targets (employment, research and innovation, climate change and energy, education and fighting poverty).

As a main novelty, the Treaty increases the **legislative powers held by the European Parliament**, bringing it up to the same level as the Council of Ministers. As a result, the scope of action of the European Parliament in co-decision procedures (where Council and Parliament enjoy the same tools and influence) has been broadened. The European Parliament has also been ascribed a more decisive role in defining the Community budget and is now accountable for the EU's entire budget.

The Treaty of Lisbon entered into force on 1 December 2009 to create and support co-operation amongst all levels of governance in Europe. It has enhanced and defined the details of the so-called principle of subsidiarity, whereby the European Union only acts if the aims set cannot be efficiently achieved by the central or regional governments of Member States.

Within the framework of the principle of subsidiarity, the Treaty acknowledges for the first time the importance of regional and local self-governance. It also recognises the decisive role of non-central government for creating a stronger and decentralised Europe[2].

This is explicitly mentioned in Art. 2, Section 3 of the Treaty that states: *"It shall promote economic, social and territorial cohesion, and solidarity among Member States."*. For the first time, the acknowledged aim is not simply to encourage economic and social cohesion, which was envisaged already in the other Treaties, but also territorial cohesion. The territories that make up the Member States are

* This chapter was drafted by the Brussels office of Unioncamere del Veneto.

[1] Regional Council of Piedmont, *Il principio di sussidiarietà nell'evoluzione giuridica europea*, Eurofocus no.14, May 2010, in www.consiglioregionale.piemonte.it

[2] More in-depth information can be found on: www.sussidiarietà.net

acknowledged in their uniqueness and as such must be promoted: not only because they represent the national identity of each State, but also because they represent regional and local self-government. As a matter of fact, Art. 3 bis, Section 2 states: *"The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government"*.

Further reference to the importance of ensuring a scope of action to local governments is provided in Art. 3 ter (ex Art. 5), which states: *"Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."*. Based on the new definition of the principle of subsidiarity, before acting, the Union must ascertain not only that its aims cannot be achieved by the central government, but also by the regional and local levels of government.

The new EU Treaty also highlights the role of the Regional Legislative Assemblies, acknowledging the prerogatives that make them an active partner in the community decision-making process[3]. Like national Parliaments, regional assemblies will also be involved in the new process for monitoring subsidiarity, as explicitly stated in Art. 6 of the Protocol on the implementation of the principles of subsidiarity and proportionality, whereby: "*Any national Parliament or any chamber of a national Parliament may, within six weeks from the date of transmission of a draft European legislative act, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers"*.

Therefore, the role of national Parliaments becomes central for controlling compliance with the principles of subsidiarity and proportionality. The Protocol on the roles of national Parliaments establishes that once draft laws have been examined by the European Commission, the Parliaments can supply a reasoned opinion on the conformity or lack of conformity of the proposed law with the principle of subsidiarity (the so-called *early warning*). The timeframe within which they can act will be extended to eight weeks, instead of the six currently granted. The quoted Protocol on the implementation of the principles of subsidiarity and proportionality also provides a monitoring procedure, whereby the Commission must re-examine proposals if the reasoned opinions account for one-third of the votes that national Parliaments are entitled to. Each Parliament is assigned two votes and two chamber systems are assigned one vote per each chamber. Also, when draft laws are drawn up under the ordinary legislative procedure and must therefore be jointly examined by the Council and the European Parliament, if the simple majority of Parliaments consider that the draft is inadequate, the Commission will have to re-examine it. If, at the end of the reassessment, the Commission decides to keep it as it is, it must send a reasoned opinion to the European Parliament and the Council, that may put a final stop to the draft if they consider that it does not comply with the principle of subsidiarity.

From the assessment of the new rules introduced with the Treaty of Lisbon, it emerges that the European Union is willing to promote a multi-level

[3] Office for Relations with the European Institutions of the Senate of the Republic (2009), *Il ruolo dei parlamenti nazionali nel trattato di Lisbona*, 1 December 2009, in www.senato.it

governance model, where responsibilities are shared amongst all the different levels of government, thus also enhancing the position of local territories.

As a result, subsidiarity emerges as the core principle for the distribution of competences and powers.

Let us now take a look at the Italian legal framework. The EU policy is fully consistent with the will to finally and concretely implement decentralisation, completing a process launched in 2001 when Title V of the Italian Constitution was reformed as a necessary means to ensure local self-government.

In Italy, the principle of subsidiarity is stated in the Constitution and more specifically in Art. 118. This article mentions not only vertical but also horizontal subsidiarity, whereby *"The central State, Regions, Metropolitan Cities, Provincial Districts and Municipalities promote the self-government initiatives of citizens, both as individuals and in associations, for the implementation of activities of general interest, based on the principle of subsidiarity"*.

In addition to the principle of subsidiarity[4], which includes the aim of decentralising power to the level of government closest to the citizen, Italy also acknowledges the 'financial self-governance' of local bodies. The foundations for this statement are found in the so-called Consolidating Law (legislative decree d.lgs. no. 267/2000) and in the Constitution. As a matter of fact, Art. 149, Section 2 of the Consolidating Law states: "*In the area of public finance, the Law recognises the right to financial self-governance of Municipalities and Provincial Districts, based on the certainty of own and transferred resources*"; Section 3 continues: "*This Law also gives Local Bodies the power to impose taxes, rates and fees in an autonomous way*". Financial self-governance is furthermore acknowledged by the new version of Art. 119 of the Constitution. Financial self-governance is recognised for both receipts and spending: Local Bodies and Regions are required to generate in full all the resources needed to finance their activities. Section two of the same Article states that "*Municipalities, Provincial Districts, Metropolitan Cities and Regions have independent resources"*.

The Constitutional Law thus traces a new direction, by stating that transfers should no longer be seen as resources available for Local Bodies, but as amounts that the State makes available to even out the position of regions with a lower collection capacity, or for special purposes to encourage economic development, cohesion and social solidarity.

It emerges that lawmakers had envisaged a shift towards fiscal federalism and the subsequent reorganisation of the system whereby taxes are transferred. For federalism to be implemented, the transfer system will have to be adjusted to assure greater powers of self-governance to Local Bodies while avoiding the creation of fractures between the different levels of government.

[4] More in-depth information can be found on: http://www.centroeuroparicerche.it/osservatorio-federalismo-fiscale.asp

1.2 The Committee of the Regions

The Treaty also reinforces the role of the Committee of the Regions:[5] this is a crucial European institution whose main function is to act as an interface between the European Union and the local territories of Member States, to represent the Regions and European communities. The Treaty specifically extends the powers granted to the Committee of the Regions (CoR), which is now legitimatized both to call upon the Court of Justice in the event of acts that it considers may hinder its prerogatives, and to implement tools to monitor compliance with the principle of subsidiarity. The full involvement of the CoR in the legislative process has been assured by the introduction of the mandatory consultation requirement, whereby the Commission and the European Parliament must consult it mandatorily before taking a decision on a number of issues. The consulting role of the Committee of Regions has been extended to a range of new and major fields of intervention, namely energy and climate change. Furthermore, the mandate of the members of the Committee has been aligned with that of other main European bodies: it has now been extended from four to five years while its President and the Bureau are elected for terms of two and a half years.

These new prerogatives fulfil the requests made over the years by the Committee of Regions and help reinforce its consulting role. It can now concretely ensure the protection of the local territories of European States.

If we consider the European and the Italian legislation, it is clear that the **Italian regions must take on a more central role, in order to implement administrative and fiscal decentralisation at national level and to create the necessary involvement at European level to establish multi-level governance**. The Veneto Region in particular, much more than any other Italian region, has suffered - and is still suffering - the effects of the unbalanced transfer system which has been in place in Italy for years: being based on the regions' historical spending this system paradoxically rewarded the less virtuous Public Administrations. Now the Veneto must grasp the opportunities supplied by the EU, to gain more resources and greater powers of self-government.

1.3 The transposition of European law in Italy[6]

The reform of Title V in Part II of the Italian Constitution, that entered into force with Constitutional Law no. 3 of 18 October 2001, provides a new federalist definition of the relations between State, Regions and Local Bodies. It touches upon taxation issues and more generally all the fields of public finance. It has also amended Article 117 of the Constitution, providing equal legislative powers to the Central State and the Regions. This new role of the Regions is more precisely defined in Articles 5 and 6 of Law 131/2003 that implement Sections 5 and 9 of Article 117 of the Constitution: through Government delegations, the

[5] More in-depth information can be found on: http://europa.eu/about-eu/institutions-bodies/cor/index_it.htm

[6] Paterniti Francesco, *Le prospettive europee delle Regioni nella "fase ascendente" di formazione del diritto comunitario.* Doctorate thesis, Federico II University of Naples. (2006), in www.fedoa.unina.it/997/1/Paterniti.pdf

Regions can take part in the working groups and committees of the European Council and Commission and, when the topic of the debate falls within the competence of the Regions, Italy is represented in Brussels by a regional representative. Another provision states that for the issues falling under their competence, the Regions and the Autonomous Provincial Districts can ask the Government to petition the Court of Justice to denounce a community act that does not comply with the provisions of the treaties. Finally, again for the issues falling under their competence, international activities of Regions are governed by agreements with other States, or by agreements with territorial governments of other States[7].

European law is transposed into the Italian legal framework pursuant to Law no. 11 of 2005 entitled *"General rules on the participation of Italy in the European Union legislative process and on the procedures for the execution of community obligations"*. In practical terms, it ensures that the domestic legal framework and regulations are constantly updated to fulfil the obligations set by the European Union. Laws are updated through the amendment of national laws that do not comply with Community laws, by means of provisions to directly implement Community laws; these same provisions ensure the participation of Regions in issues falling under their competences and define Central Government actions should the Regions fail to comply.

Law 11/2005 allows the Regions to directly implement Community directives in issues falling under their competence. Nevertheless, the Central Government may replace the Regions if the latter do not fulfil their obligations. The execution of Community law is one of the duties that arises from European Union membership. However, Article 1 of Law 11 recalls that these duties must be executed *"based on the principles of subsidiarity, proportionality, efficiency, transparency and democratic participation"*.

According to this principle, the State alone is accountable before the European Union if directives fail to be transposed into national law. On this issue, the Court of Justice has often restated that the only party legitimated to answer in the event of an infringement procedure is the State, i.e. the Central Government, even if the violation is ascribed to a different body, such as a public authority or territorial government. Nevertheless, Article 16 bis of Law 11 of 2005 includes a compensating mechanism designed to ensure that Regions do fulfil their obligations arising from EU membership. As a result, the State can ask the parties responsible for the infringement to compensate it for any fines arising from a sentence issued by the Court of Justice [8].

Indeed, the Regions' role does not emerge just in the **top-down implementation of Community law (namely in the transposition and execution of community acts in the domestic legal framework) but also in its bottom-up stages (the Regions contribute to shaping EU law).**

Having briefly described the Italian system, we will now proceed to describe the situation in Germany and Spain. This comparison will highlight similarities and differences, especially with reference to the role of the Regions in shaping and executing European law.

---

[7] More in-depth information can be found on:
http://ec.europa.eu/italia/ue_italia/legislazione_ue/index_it.htm

[8] More in-depth information can be found on: www.senato.it

1.4 A comparison with Germany and Spain

The transposition of European legislation in Germany

The German State system consists of three different levels of government: the Bund (the Federation), the *Länder* (the Federal States) and the Municipalities. Germany's geographical division in *Länder* - and consequently also the principle of federalism - is older than the 1949 Federal Republic. Federalism arose in the 19th Century as a confederation of sovereign German princedoms and free cities. Nevertheless, the democratically legitimated Federal State only appeared in 1919 with the Weimar Republic[9].

Germany is the only federally organised state to have been part of the EU system since the establishment of the European Community. It is for this reason that Germany, earlier than any other Member State, experimented the specific problems that the European integration entails for a complex system based on multiple centres and levels of government.

Germany has acted, and still acts, as a model for other Member States: it is proof of how a Federal State has managed to adjust its government mechanism to European requirements. This is extremely important considering the aim of establishing a "Europe of the Regions": the idea is that the pivotal role of Central Governments in the decision-making process is being replaced by gradually recognising the importance of a plurality of local and regional levels of government, in the framework of what has been called "multi-level governance". As to the transposition of Community law, German Constitutional Judges have designed the relations amongst the different constitutional bodies to comply with European treaties. The underlying idea is to protect domestic sovereignty (understood not only as safeguarding the supremacy of the national Parliament, but also as the protection of the rights of the *Länder*) and to provide constitutional monitoring of the European integration process. For a federal legal framework such as Germany's, the transposition of Community law could have destabilised the relations between Central Government and *Länder*. Indeed, the Federal Government had granted broad powers of self-government to the *Länder*, while the Community legal framework encouraged an even closer integration. Hence the ability of the German system to strike a balance between the two levels of government[10].

Following reunification in 1990, Germany includes 16 *Länder*. They cannot be compared to "local communities" since the latter are marked by administrative self-governance, are assigned competences by the State and are built on bodies elected by universal direct suffrage). The *Länder* share sovereignty with the Federal State over issues that the German Constitution does not explicitly assign to the sole competence of the Federation (Bund).

Despite their disparity in terms of surface, population and economic power, all 16 *Länder* are entitled to take part in the federal decision-making process through the *Bundesrat* (the Senate). The *Bundesrat* is made up of the representatives

---

[9] Elena Ciani and Arianna Taroni (2003), *Quale ruolo può giocare l'Emilia Romagna nella ridefinizione istituzionale dell'UE?*, Punto Europa Editions, Forlì, in www.puntoeuropa.it

[10] Sergio Falcone (2009), *Il Federalismo in Germania. Un sistema esecutivo, unitario, cooperativo*, Storicamente Studi e Ricerche, no.5, in http://www.storicamente.org

of the *Länder* and enables their direct participation in the Federal State's legislative and administrative power, including issues associated to the European Union. Art. 30 of the German constitution states*: "Except as otherwise provided or permitted by this Constitution, the exercise of state powers and the discharge of State functions is a matter for the Länder"*. This article declares the "state-like character" of *Länder*, which do not simply represent a territory or act as subordinate state institutions[11].

After the ratification of the Maastricht Treaty, Germany amended its Constitution and changed Article 23 which was dedicated entirely to the relations between European Union and *Länder*. This article enhanced the standing of the *Länder* on the European political scene.

The participation of the *Länder* in German's policies for Europe requires their involvement on three different levels. If the matters discussed are issues on which the *Bundesrat* normally enjoys participation rights, the *Länder* take part in the debates to shape the position that Germany will defend at European level. **If the basic interests of the *Länder* are at stake, the *Bundesrat* may appoint representatives of the *Länder* who will participate in negotiations in the European Council together with the Federal Minister. Finally, when discussions touch upon European projects that directly affect areas of exclusive competence of the *Länder*, Germany is represented in the Council by a representative of the *Länder* alone, who is delegated to negotiate on behalf of the Federal State of Germany.**

This last point is extremely important and is profoundly different from the Italian system, where the Regions can only flank the State in the definition of European policies, but cannot replace it altogether. In addition, the German Federal Government must take into account the observations of the *Bundesrat* when it comes to drafting Germany's official position in the European Council, even if the topics under discussion fall under the exclusive legislative power of the Federation and *Länder* are not entitled to any power in that area.

Finally, the *Bundesrat* enjoys the right to co-decision when the discussions are aimed at changing the founding principles of the European Union. Consequently, any amendments to the founding treaties and any agreements on the entrance of new Member States must be approved by the *Bundesrat*. In other words, the *Länder* cannot transfer their sovereignty to the EU without the approval of the *Bundesrat*. **The German system thus seems much simpler than the Italian system: it envisages real participation of Local Bodies, which not only contribute to shaping Germany's official positions in the European Institutions, but actually replace State representatives to negotiate issues which are under the *Länder*'s exclusive competence.**

The question that arises now is: how is EU legislation concretely transposed into the German legal framework?

As recalled in the previous paragraph s, through the *Bundesrat*, the *Länder* enjoy consulting powers on European issues. The role of the *Bundesrat* is crucial: the Federal Government is obliged to inform it in time if EU projects are relevant for the *Länder*. To better face the issues it is involved in, the *Bundesrat* can convene a special committee on European Union issues (***Ausschuss für Fragen der Europäischen Union***), in which each Land takes part through a delegate. This committee can voice its opinion on all the documents issued by the EU Council and the Commission that touch upon the areas falling under the competences of

[11] For further information, cfr. Edoardo Panizza (2010), "Brevi considerazioni su federalismo e devoluzione: lo stato dell'arte", "Germania. Collettività locali e Federalismo" and "Il federalismo svizzero" in *Federalismo: una Realtà*.

the *Länder*. Such documents include Regulations and directives, Communications, Green Papers and White Papers drafted as a prelude to a legislative initiative, to determine to need for and the scope of the provisions required. This principle ensures constant compliance with the principle of subsidiarity. EU policies are then transposed by the level of government having national competence. As a result, the transposition of EU directives depends almost exclusively on the Federation, while *Länder* and Local Bodies are, in principle, in charge of executing them at administrative level[12].

The transposition of European legislation in Spain

Turning to Spain, this country only recently became a democracy: its young constitution is dated 1978. Franco's regime was characterised by an extremely centralised organisation of power. The country's democratisation process therefore required an overhaul of its territorial organisation and the acknowledgement of its Regions' autonomous thrusts. Article 2 of the Spanish Constitution acknowledges and ensures the right to self-government of the Nationalities and Regions that constitute the State. Title VIII establishes the so-called *Comunidades Autónomas*, which have the right to determine their own competences and institutions during the process for the approval of their Autonomous Statute.

Despite their specificity, the Autonomous Communities are similar, for many reasons, to the German *Länder*: their autonomy is assured by the Constitution and their Statutes, the latter acting as the Constitution of each Community. In addition, while some competences are exclusively held by the Central State, there are a number of shared competences defined at national level and developed locally that fall within the exclusive competence of the Autonomous Communities.

Section 1 of Art. 149 lists a number of issues of national importance that are exclusive competence of the State (for example international relations and immigration), while the issues that do not explicitly fall under State competence can be managed by the Communities, as long as they are stated in their Statutes. The only restrictions for an issue to fall under the competence of the Communities are those stated in this Article. **This can be defined as being a differentiated and asymmetric system: within the possible spectrum of legislative competences, each Community that feels ready and able to autonomously exercise specific competences can ask the Central Government in Madrid to shift specific legislative issues to the Regions.**

Law 2/1997 established the Conference on issues relating to the European Community (***Conferencia para asuntos relacionados con las Comunidades Europeas***), to keep the Autonomous Communities updated on EU issues that involve them directly. This Conference is chaired by the Minister of Public Administration and each Autonomous Community is represented by a councillor. The Central Government is represented by the Secretary of State for European Affairs and by the Secretary of State for Territorial Administration [13].

---

12 More in-depth information can be found on: www.bundesregierung.de and www.bundesrat.de

13 More in-depth information can be found on: http://www.es-ue.org

Co-ordination between the Central Government and the Regions is assured by committees on specific issues. These ad-hoc committees bring together the Minister and Councillors of the Autonomous Communities on that specific topic and, chaired by the Minister, they co-ordinate their actions to determine the official position that will be held by Spain before the EU Council.

This results in a number of agreements between State and Autonomous Communities – now transposed in the new Statutes – providing for the involvement of the latter in the Spanish delegations participating in the meetings of the Council, of permanent representatives and different European working groups.

In the top-down process, Spain is very similar to Germany. The Communities are directly involved in the execution of directives or Regulations on issues falling under their competence, while the Central State takes care of executing the directives falling under its areas of competence. **Unlike Italy, the failure to transpose directives in Spain does not entitle the State to take the place of the Regions.** The law does not envisage that European Union law can cause such an impact as to justify derogation to the traditional distribution of competences between State and Regions[14].

The compensation system, on the contrary, is similar to Italy's: the Government is entitled to demand compensation from non-compliant bodies, should it be sentenced by the Court of Justice to pay any fines or sanctions.

[14] Igor Benati, Giuseppina Meli (2004), *La Public Governance in Europa. Spagna*, Formez, Rome.

2. Regions, federalism and European Union law[*]

2.1 Introduction

Section Four of Art. 117 of the Italian Constitution on residual exclusive competences states that *"Regions are entitled to legislative power on all matters not explicitly falling under the legislative powers of the State"*: as a result, the definition of the competences assigned to the Regions on both exclusive and shared matters leads to numerous new problems of interpretation, especially in view of implementing a **federalist** system.

In the specific sections dealing with regional competences, both Law 11 of **4 February 2005,** providing the general rules on Italy's participation in the EU legislative process and on the execution of duties arising from EU membership, and Law no. 131 **of 5 June 2003** on the adjustment of Italy's legal framework to Constitutional Law no. 3 of 18 October 2001 **do not comply with the principles of federalism**. More specifically,

- the powers of the Regions, for example to enter into trans-border agreements and treaties, are too limited;
- the timeframe for the Regions to express their opinion on European Acts is too short;
- Regions are not allowed to express their positions directly but must do so through the Conference of Presidents of the Regions and the Autonomous Provincial Districts of Trento and Bolzano, or the Conference of Presidents of the Assembly of Regional Councils and Autonomous Provincial Districts;
- finally, since the EU Treaty does not entitle Regions to directly bring an action before the EU Court of Justice, it does not entitle them to ask the national Government to do so, if required.

The limitation of regional competences in implementing European Union law and in establishing agreements with territories belonging to another State can no longer be justified by the principle that, in international issues, the only legally entitled parties are the States that sign the Treaties and answer for their execution. The implementation of this old and much criticised rule, which dates back to the times in which there was no other territorial entity other than the State and those existing had extremely limited powers, **means that the Regions are completely subjected to the choices made centrally, regardless of their exclusive competences.** The two laws mentioned above mirror this position that does not admit the intrusion of territorial entities other than the States in international relations.

[*] This chapter was drafted by lawyers Giovanni Tarlindano and Gabriella Cerchier.

The responsibility for executing EU directives and EU law in general in issues of exclusive competence cannot rely on central controls which are absolutely in contrast with the spirit of federalism. While in the area of shared competences it is only right for the central State to supply the general direction, or founding principles, in exclusive competences there is no reason to deprive the Regions of their own organisational and legislative powers.

This issue emerges clearly whenever the transposition of a directive implies broad regional competences and the central power nevertheless imposes the general rule even before the Region have had the chance to comply.

The need to transpose EU law means that the Regions must engage in both regulatory and legislative processes. They can do that either by issuing dedicated laws or regulations, or else by resorting to administrative provisions that set the general guidelines for territorial and local administrations to implement. To tell the truth, it is the **Regions which often fail to make full use of the competences they are assigned, and either do not activate or use the procedures in place for them to implement self-governance and their legislative competences.**

More awareness of the **procedure to disapply internal laws**, with all its limits and all its opportunities is also needed. Some rules and principles of the EU legal framework are directly applicable, and there are rulings of the Court of Justice that act as *jus superveniens* in their interpretation of EU law: these rules cannot wait for the uncertain and lengthy times of domestic legislation, **as the failure to implement them would cause an indemnifiable damage and would fall under the responsibility of the non-compliant administrative body**. This concept is restated in the principle of responsibility of all Public Administrations stated in Law 42/2009 implementing fiscal federalism. In addition, Judgement C-424/97 of 4 July 2000 issued by the ECJ states that the damage caused to individuals arising from internal provisions adopted in contrast to EU law must be indemnified by the Member State, nevertheless stating that the ***"Community law does not preclude a public-law body, in addition to the Member State itself, from being liable to make reparation for loss and damage caused to individuals as a result of measures which it took in breach of Community law".*** The direct management of the reparation thus seems to be necessary, with reference also to the compensation envisaged by Art. 16 bis of Italian Law no. 11 of 4 February 2005.

Finally, it is worth highlighting that the prohibition of reverse discrimination (namely the right for the subject of another Member State to enjoy more rights than an Italian citizen), envisaged by Article 14 bis of Italian Law no. 11 of February 2005 (introduced by Community Law 2008) is jeopardised by the failure to implement EU law, denying citizens the right to equal treatment enjoyed by the citizens of other Member States, at the highest levels.

2.2 Foreword

The procedure for implementing European Union law is based on Judgement no. 170 of the Italian Constitutional Court dated 8 June 1984, the legal bases of which are found in Article 11 of the Italian Constitution.

Unlike other Member States that emended their Constitutions and introduced a specific law, Italy's legal framework still bases membership in the Union solely on the aforementioned article of the Constitution. The rule stated in Article 117, Section One, of the Constitution, introduced with the 2001 reform, includes a principle that conceptually goes beyond those rules: it focuses on the legislative powers of the State and the Regions, which must be exercised *"compliant with the constraints arising from the Community legal framework (now the European Union)",* as these constraints are in place solely as a result of the quoted Article 11 of the Constitution.

To understand the concept of "non-application or failure to apply" a domestic law in contrast with the EU legal framework it will be necessary to take a closer look at the aforementioned judgement of the Constitutional Court: what follows are the basic concepts of it, adapted to the way subsequent jurisprudence evolved.

One mainstay of the jurisprudence concerning relations between European law and domestic law is that they have to be seen as two independent and distinct systems, albeit co-ordinated, according to the division of competences set and ensured by the EU Treaty.

When there is a clear contrast between the domestic rule and the EU rule, the latter always prevails.

Any contrast arising between a directly applicable EU law and the domestic law does not cause the abrogation or derogation to the contrasting law, nor does it cause the contrasting law to be annulled or cancelled for invalidity. On the contrary, it generates the **obligation to disapply the domestic law** if non-compliant**. This process legally involves all subjects who are entitled to implement laws according to the Italian legal framework**, whether they have the right to make pronouncements on legal issues, such as jurisdictional bodies, or not, as in the case of administrative bodies (Constitutional Court, 11 July 1989, no. 389).

This is applicable only if and up to the extent in which the powers transferred to the European Union are expressed through an immediately applicable set of laws. Outside the areas of law and time limits in which the relevant EU law is applicable, the national law maintains its value and is effective.

Also consider that, to eliminate so-called inverse discrimination, Community Law 2008 (Art. 6 Section 1 letter d of Italian Law no. 88 of 7 July 2009) introduced Article 14 bis – equal treatment – into Law 11/2005.

EU law therefore is always applicable, regardless of whether it was implemented before or after the ordinary laws with which it is in contrast. The national judge who is in charge of the domestic implementation of the EU law is supported by the preliminary interpretation tool, pursuant to Art. 267 TFUE. The basic need of the certainty of law is thus satisfied: it enforces equal and uniform criteria for the implementation of European Union law within the legal framework of all Member States.

However, these remarks do not imply that all relations between European Union law and domestic law no longer fall under the competence of the Constitutional Court. The law implementing the Treaty can be subjected to the Court's judgement when it refers to the founding principles of Italy's constitutional framework and to inalienable human rights. The primacy of European Union law over domestic law means that domestic laws, even if older, must be disapplied by the judge if found to be in contrast with EU law, while EU law cannot be subjected to a judgement of constitutional legitimacy, unless it is in contrast with the Constitution's founding principles (Court of Appeal of Rome, 2 July 2002).

Note that a State Decree that is constitutionally illegitimate because it hinders or jeopardises the observance of the Treaty, either as a whole or in its core principles, will be judged by the Constitutional Court, as it is in contrast with the provisions of Article 11 and the First Section of Article 117 of the Constitution. An altogether different scenario emerges when domestic laws and directly applicable EU provisions are in contrast (Constitutional Court, no. 170, 8 June 1984).

We will now take a look at the issues of loyal co-operation, the principle of effectiveness, conform interpretation, disapplication and compensation for damage: these are crucial issues in a system that can really be called a federalist system, as self-government implies new responsibilities.

2.3 Loyal co-operation

Pursuant to the general obligations imposed on Member States by Article 10 ECT (now Art. 4 TUE), at the domestic level the latter must act consistently with their membership to the Community (now European Union), taking all appropriate measures to ensure fulfilment of the obligations arising out of the Treaty (ECJ, 8 February 1973, C-30/72).

The competent public authorities are in charge of ensuring that the laws or practices are applied pursuant to the aim stated in the provisions of the Treaty (ECJ, 28 April 1977, C- 71/76).

There is therefore a general duty to be diligent in the execution of EU acts and a general duty to co-operate. All national bodies are involved in these duties: they are bound to the general duty of the State to co-operate with the European Union and their duties include making available the tools needed to ensure the full and effective implementation of EU law (ECJ, 14 November 1989, C-14/88).

All Member State Authorities, regardless of whether they belong to the central State, Federal States or other territorial authorities are obliged to ensure compliance with EU laws in the framework of their competences (ECJ, 12 June 1990, C-8/88).

The principle of loyal co-operation, now included in Art. 4 TUE, underlies not only relations between Member States and national institutions but also between EU Institutions and other territorial entities, be they national or not.

While Member States are bound to adopt all measures needed to ensure the scope and effectiveness of EU law, European Institutions are bound by equal duties of loyal co-operation with Member States (ECJ, Sec. V, 04 March 2004, C-344/01).

Any contrasts between domestic law and the rules set out in the Treaty or with regulations or self-executing directives, will require both administrative and jurisdictional authorities to disapply the rules and regulations based on domestic law, with no need for any further national laws for their transposition or integration (State Council Sec. VI, 2 February 2001, no. 430).

When implementing domestic laws, the national Judge shall interpret such laws with reference to EU law, regardless of whether they entered into force before or after the European Union provisions, thus ensuring the full effectiveness and achieving the scope of EU law and also complying with Art. 288 TFUE (Civil Court of Cassation, Single Sec., 17 November 2008, no. 27310).

As to the directives, according to the general principle they are not directly implemented by Member States and require a dedicated transposition law, even if the term for their transposition has expired. On the contrary, self-executing directives, for example in the event of specific, detailed and unconditional laws, are applied directly (Regional Administrative Court of Tuscany Florence, Sec. I, 23 June 2008, no. 1651). Non self-executing directives contain binding general objectives but leave to the States the choice of form and methods to achieve said aims. Their specific character means that they are not directly implemented in the national legal framework and individuals cannot invoke their immediate application: indeed, to be legally enforced they require the adoption of specific domestic implementing measures (State Council, Sec. VI, 13 March 2008, no. 1061).

Directives can be directly implemented in the legal framework of Member States if the terms for their transposition have uselessly expired, and if the EU Act includes detailed provisions that, as such, are applicable without any further implementing measure (self-executing); if a national provision is in contrast with the principles stated in a previously implemented self-executing directive, such national provision shall be disapplied to ensure the proper implementation of the directive (State Council, Sec. VI, 8 March 2006, no. 1270).

The conflicting domestic law cannot be disapplied by the Italian Judge if the directives are non self-executing: consequently, any contrast between a non self-executing EU law and a domestic law will cause the national judge to raise the issue of the constitutional legitimacy of the conflicting domestic law (Criminal Court of Cassation, Sec. III, 04 March 2005, no. 17836).

Failure to transpose self-executing directives leads to vertical rather than horizontal responsibility, causing the State to become non-compliant (Milan Court of Appeal, 18 July 1995).

Based on the principle of loyal co-operation, Member States must eliminate the unlawful consequences of the violation of European Union law, as is the violation of provisions contained in the directives; otherwise they will be liable to compensate all damage. As a result, the duty to adopt all general and specific provisions to remediate the failure to act falls on Member States, within the framework of their powers.

2.4 The principle of effectiveness

The provisions of EU Treaties are directly applicable by virtue of the principle of effectiveness of European Union law arising from Art. 4 TEU (Civil Court of Cassation, 15 May 2008, no. 12168).

The effectiveness of the provisions arising from European Union law is guaranteed through the mechanisms envisaged by the domestic legal framework (State Council, Sec. VI, 6 May 2008, no. 1994).

Based on the principle of loyal co-operation (Art. 4 TEU), it is up to the national judges to ensure the jurisdictional protection of rights bestowed upon individuals through the provisions of European Union law.

To this end, the Treaty does not envisage any mechanisms to appeal before the national judges other than those contemplated by domestic law.

The effectiveness of jurisdictional protection is a general principle of European Union law, which arises from the constitutional traditions shared by Member States. This principle is stated in Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and is also restated in Art. 47 of the Charter of Fundamental Rights of the European Union.

2.5 Conform interpretation

National judges are obliged to interpret the national law they are called upon to apply in conformity with the principles of European Union law.

If the consistent application of the national law is not possible, the national judge is obliged to implement European Union law in all its parts and to protect the rights it bestows upon individuals. This could result in the disapplication of all provisions whose application, considering the specific circumstances, would be in contrast with European Union law (ECJ, 27 October 2009, C- 115/07).

Community directives that have not yet been transposed but which are sufficiently clear, precise and unconditional integrate domestic law, as a result of the broader principle whereby national laws must be interpreted so as to conform to European Union law.

The obligation for national judges to refer to EU law when interpreting the laws of their own country is limited by the general principles of law, more specifically, the principles of certainty and non-retroactivity. However, an interpretation that conforms to the principles of the Treaty can only be admitted when the conform interpretation to the Treaty is plausible, namely it is compatible with the text of the provisions and not specifically hindered by the latter (Regional Administrative Court of Lombardy Brescia, Sec. I, 9 December 2008, no. 1727).

However, European Union law requires Member States to transpose directives, providing them with an interpretation that suitably ensures a balance amongst the different fundamental rights protected by the Union's legal framework.

In addition, during the process for the transposition of these directives, Member State authorities and judges not only must interpret their national law to conform to these directives, they must also restrain from resorting to an interpretation in contrast with fundamental human rights (ECJ, Grand Chamber, 29 January 2008, no. 275).

National judges, resorting to the discretion they are granted by their national legal framework, must interpret domestic laws in such a way that they conform to European Union law. When a conform interpretation cannot be achieved, national judges must apply the EU law in full, if necessary disapplying any other contrasting provision (ECJ, Cham. IV, 18 December 2007, C-357/05).

The provisions of directly applicable directives may only be invoked in a case before a national Court against the State, and thus finds vertical application (ECJ, 5 October 2004, C-397/02).

Finally, by virtue of the principle of loyal co-operation stated in Art. 4 TEU, Member States are obliged to remove the illicit consequences of the violation of EU law: as a result they shall compensate for all damages caused by their failure to fulfil an obligation (ECJ, Cham. V, 7 January 2004, C- 201/02).

2.6 Disapplication

Following a judgement made in response to a request for a preliminary ruling that has highlighted the contrast between a domestic law and the EU law, the authorities of the Member State concerned must adopt general or specific provisions to ensure compliance with EU law on their territory, ensuring that the national law is rapidly adapted to EU law, in order to ensure the full implementation of the rights it guarantees (ECJ, Cham. I, 21 June 2007, no. 231).

It is worth recalling that according to the jurisprudence, the principle of the primacy of EU law requires the disapplication of all national and regional provisions in contrast with a European Union law, regardless of whether domestic provisions were implemented on an earlier or later date than the EU law. The obligation to disapply conflicting national and regional laws falls upon the national judge and all the State bodies alike, including administrative authorities. This implies the duty to adopt all provisions needed to facilitate the full effectiveness of the EU law (ECJ, Joint Cham., 9 September 2003, C-198/01).

Any contrast arising between a directly applicable EU law and the domestic law does not cause the abrogation or derogation of the conflicting law, nor does it cause it to be annulled or cancelled for invalidity. On the contrary, it generates the **obligation to disapply the domestic law. This process legally involves all those who are entitled to implement laws in our legal framework**, whether they have the right to make pronouncements on legal issues, such as jurisdictional bodies, or not, as in the case of **administrative bodies** (Constitutional Court, 11 July 1989, no. 389).

The jurisprudence arising from Art. 4 TUE, implies that Member States have the duty to adopt all general or specific provisions to ensure the execution of obligations arising from EU law and this is true for all Member State authorities, including jurisdictional and administrative authorities within their specific areas of competence.

The principle of the primacy of European Union law thus requires that not only the national judge, but the same Member State and all its bodies, including its administrative authorities, ensure the full effectiveness of the Community law. In the event of any contrasts, relevant authorities are required to disapply the domestic law (State Council, Cham. VI, 23 May 2006, no. 3072).

Administrative or jurisdictional bodies of the Member States are entitled to disapply a domestic legal provision in contrast with the European Union law not only following a ruling by the Court of Justice of the European Union, but, theoretically, each time a domestic law is in conflict with a self- executing directive (State Council, Sec. I, 09 April 1997, no. 372).

The Public Administration, on equal standing with the national judge, is obliged to disapply any domestic legal provision conflicting with a EU law if the latter is self-executing (Regional Administrative Court of Lombardy Milan, Sec. I, 25 November 1989, no. 554).

Should a domestic law be in contrast with the European Union law, the latter is applied directly to replace the internal law to be disapplied. The disapplication can be performed not only by the Judges but also by the Public Administration in the performance of their administrative duties. They may also proceed as a matter of regular procedure, without the need for third-party requests or encouragement: as a result, any acts or provisions made in reference to the rule to be disapplied must be annulled (State Council, Sec. IV, 18 January 1996, no. 54).

The disapplication of a conflicting domestic law can only be implemented by the bodies specifically appointed to do so under the domestic law (State Council, Sec. V, 29 April 1991, no. 700).

A domestic provision, which has been reported as being in contrast with the general principles of the EU Treaty, cannot be disapplied if there is no specific and directly applicable Community law that can replace it. This is justified by the fact that the interpretation of the general principles of the Treaty and the assessment of the domestic law's compatibility with the same is not allowed and must be brought before the Court of Justice pursuant to Art. 267 TFUE (Regional Administrative Court of Latium Latina, 17 October 2005, no. 1071).

The national judge is nevertheless required, as far as possible, to interpret the national law to be applied pursuant to the principles of European Union law, including the provisions of the Treaty that are immediately and directly effective. If conform interpretation cannot be achieved, the national judge is obliged to apply the European Union law in full, and to protect the rights it bestows upon individuals, if necessary, through the disapplication of all provisions the application of which, in the specific circumstances, would be in contrast with European Union law (ECJ, 27 October 2009, C-115/08).

If the domestic law is in contrast with the general principles of the EU Treaty and not with a specific sector law issued by the competent European Union bodies, or with directly applicable provisions of the Treaty, that law cannot be disapplied as there is no directly applicable Union law. The judge, in fact, is not required to disapply a domestic law which is considered to be in possible contrast with a provision of the European Union's legal framework, if the latter is not directly applicable (State Council Sec. IV, 8 August 2005, no. 4207).

According to the jurisprudence, directives that have not yet been transposed, but which are nevertheless clear, precise and unconditional, contribute to integrating domestic law, also in consideration of the broader principle of the interpretation of national laws in conformity with the European Union law (Court of Civil Cass., Sec. I, 6 April 2004, no. 6760). The Constitutional Court has also stated that the integration into domestic law of *self-executing* and expired directives is in line with the principle of the rights in law (Constitutional Court, 27 November 1988, no. 383).

As to the correct interpretation of European Union law, the issue relates to the proper identification of the self-executing quality of the directive's provisions and their possible integration into the domestic law (thus prevailing over contrasting laws and compensating for any vacuums), in addition to their application by administrative authorities endowed with regulatory powers (State Council, Sec. VI, 3 September 2009, no. 5197).

The issue of the disapplication or not of a domestic law in contrast with an EU law arises also whenever the latter has not been completely applied, namely when the national provisions are not sufficient to implement the European Union provision (State Council, Sec. VI, 23 February 2009, no. 1054).

The immediately and directly effective provisions of the European Union framework are an immediate source of rights and duties for all the subjects affected by EU law, namely for both EU Member States and citizens (Regional Administrative Court Lombardy, Sec. II), 24 January 2003, no. 130).

2.7 Compensation for damage

The liability for the damage caused to individuals arising from the violation of European Union law ascribable to a national pubic authority is a principle underlying the system of the Treaty which assigns obligations to all Member States (ECJ 19 November 1991, C-6/90 and C-9/90; 5 March 1996, C-46/93 and C-48/93; 26 March 1996, C-392/93; 23 May 1996, C-5/94; 8 October 1996, C-178/94, C-179/94, C-188/94 and C-190/94; 2 April 1998, C-127/95).

It is up to each Member State to ensure that individuals are compensated for the damage caused by the failure to observe European Union law, regardless of the Public Authority that has committed the violation and regardless of the Authority which in principle is liable for compensation, pursuant to the laws of the Member State involved (ECJ, 1 June 1999, C- 302/97).

As a result, Member States cannot avoid their responsibilities; nor can they invoke the internal distribution of competences and responsibilities amongst the Local Bodies existing under their national legal framework; nor can they maintain that the public authority responsible for the violation of European Union law did not have the competences or the knowledge or the necessary means.

Nevertheless, it does not emerge from the jurisprudence that the compensation for damage caused to individuals by domestic provisions adopted in contrast with European Union law must necessarily fall upon the Member State itself in order for it to comply with its obligations under the EU Treaty.

In consideration of the above, European Union law does not preclude a public-law body from being liable to compensate for the damage caused to individuals as a result of provisions which it took in breach of Community law, in addition to the Member State itself.

If a national law is in contrast with European Union law or non-compliant with a directly applicable EU law, the jurisprudence of the Court of Justice envisages the serious and patent breach of all the rights protected by EU law.

A Member State is liable also for the damage caused by a Public Administration body at the following conditions:

1) the European Union law bestows rights on individuals;
2) this law is self-executing, if it is a directive;
3) there is a "serious and patent" breach of European Union law, to be ascertained by the judge case by case, taking into account those factors that might exclude the illicit nature of the provision (previous EU Court of Justice sentences, acts or guidelines issued by the Commission, previous provisions);
4) the existence of a direct casual relationship between the conduct and the damage to the individual.

All these conditions are necessary and sufficient to acknowledge an individual's right to compensation. Nevertheless the State's liability may be ascertained in less restrictive terms based on the national law.

The assessment of the conditions will depend on the specific case.

In any case these conditions must be in place both when the damage for which compensation is demanded arises from the failure to fulfil (for example the failure to transpose a Directive) and when it arises from a legislative or administrative act in contrast with European Union law, be it adopted by the **same Member State or by a legally independent public-law body.**

The EU Court of Justice has stated that the breach of European Union law is serious and patent if the Member State, in exercising its legislative powers, has seriously and manifestly violated the limits within which it may act. In addition, if the Member State in question, at the time of the breach, only had slight or even nonexistent discretionary powers, the simple breach of European Union law can be considered sufficient to ascertain a serious and patent violation.

It must be recalled that the obligation to compensate for the damage caused to individuals cannot be made conditional on a concept of malice or negligence that goes beyond the manifest and serious breach of European Union law.

The margin of discretionary powers available to a Member State, their same existence and breadth, must be set with reference to the European Union law and not the domestic law. The margin of discretionary powers possibly granted by national law to the Institution that violated European Union law is uninfluential.

To ascertain whether the breach of European Union is serious and manifest, the national judge hearing a petition for the compensation of damage must take into account all the elements of the controversy he is called upon to judge. These elements include the clarity and the precision of the breached law, the intentional or involuntary transgression or cause of damage, the excusability or not of an error in law, the circumstance that the behaviour of a European Union institution might have contributed to the adoption or the enforcement of national provisions or practices in breach of EU law. It emerges from the jurisprudence of the EU Court of Justice that the national Judges are, in principle, entitled to ascertain the existence or not of these elements, pursuant to the guidelines provided by the same Court.

The Member State's liability for the conduct of its domestic judicial bodies is justified by the fact that they are in charge of implementing EU law by ascertaining that it is compatible with domestic law.

It is then up to each Member State's legal framework to designate which judge is in charge of resolving any controversies associated to the compensation (ECJ, 30 September 2003, C-224/01).

The principle whereby a Member State is liable for the damage caused to individuals by the breach of European Union law for which it is responsible underlies the system of the Treaties: it is a reference principle for any breach of European Union law committed by a Member State, regardless of which of its bodies or institutions originated the breach through its acts or omissions.

While the right to compensation holds true and is directly justified in European Union law in the presence of all the above conditions, the State is required to remediate the consequences of the damage caused according to the national laws that govern the State's specific responsibilities. Nevertheless, the conditions set by national legal frameworks on the compensation of damage shall not be less favourable than those recalled in similar domestic claims, nor shall they be construed so as to make the obtainment of the compensation practically impossible or excessively difficult (ECJ, 30 September 2003, C-224/01 e Grand Chamber, 13 June 2006, C-173/03).

3. How should the Italian Regions reorganise to create a "Europe of the Regions"?*

3.1 From a Europe of States to a Europe of Regions: available tools

The process for the decentralisation of competences in the Italian administrative system and the extension of the EU's competences, with the associated reduction of State sovereignty, is a major step towards building a *Europe of Regions*. It is, more than anything else, **a path leading to the acceptance of greater responsibility**.

In Italy, at least from 2005 onwards, many Regions have shown an interest in taking on such responsibility. At least fourteen [15] Regions currently have appropriate procedures in place, with internal laws and regulations that provide for the adaptation of the mechanisms envisaged by the State to the regional scale. Nevertheless, only a small number of these Regions have translated the abstract procedures identified into practice and applied them systematically so as to take on the active role to which they are entitled.

There are of course a number of political, technical and organisational issues that slow down a systematic approach and hamper the effectiveness of political actions undertaken in the Regions.

However, the Treaty of Lisbon, that entered into force on 1st December 2009, definitely promotes this process. The legislative reform introduced by Italian Law 11/2005, now before Parliament, is expected to provide a further chance to perfect the system, based on the experience gained by both state and regional entities in the use of existing and experimented tools and strategies. That provides useful food for thought.

As a starting point, it is worth considering the inseparable link between *information and participation*.

The participation of the Regions in the European decision-making process would in fact not be possible in the absence of adequate information on the acts being drafted, on the time plans and the activities of the European Institutions. Since 2006, the Italian Government has launched a system that makes readily available information on the acts and proposals of the European Union. This information is stored in a dedicated data base managed by the Department for European Policies (europ@ database). This strategy is

* This chapter was drafted by Dott.ssa Cecilia Odone, Europeanlaw.it

[15] As of March 2011, regional procedural laws updated to welcome the novelties of Title V were in place in the following Italian Regions: Abruzzo, Basilicata, Calabria, Campania, Emilia – Romagna, Friuli Venezia Giulia, Marche, Molise, Tuscany, Sardinia, Sicily, Umbria, Valle d'Aosta. Sardinia and Sicily have more recent laws in force that incorporate also the provisions of the Treaty of Lisbon. Despite not having approved any specific procedural law, Lombardy should be added to this list since its Regional Council's Statute and Rules of Procedure contain a detailed and thorough description of the mechanism that ensures the Region's participation in drafting and implementing EU laws.

compliant with the obligation to provide information laid down by Law 11/2005; in addition, it is a necessary prerequisite to concretely implement the constitutional rule whereby the Regions have the right to take part in forming EU regulatory acts in the matters falling under their competence[16].

In 2009 alone, this system allowed the Government to make available 38,466 European Union acts and proposals to the Regional Governments and 30,714 to the Regional Councils.

Some have complained of an excess of information (can *too much* information be tantamount to *no* information?). Others have complained that the material is far too technical and that there are too many working languages: this is perceived as a further complication that deter the constant and successful use of information.

For a start: there can never be too much information.

It should be highlighted that the availability of all European acts is a novelty for both the Regions and the Parliament. In fact, Law 11/2005 is particularly advanced even in the European scenario: its aim has been to place all law-makers on the same level, ensuring equal dignity to the parliamentary activities performed regionally and centrally: Indeed, the Regional Councils are included, alongside the Regional Governments and the national Parliament, as recipients of the preliminary information supplied by the national Government.

As a result, it is essential for the Regions to hold on to the current availability of all European acts as they are supplied today and to cherish the opportunity to inform the Government of their Region's opinion, even individually[17].

The difficulty in examining the information and the acts made available - whether arising from the amount of information or their technicality - cannot be overcome by asking the Government to supply less information. On the contrary, the Regions will have to identify effective means for reading the technical information supplied and select it based on their policies. This would allow them to speed up the work performed by the technical offices that support the political bodies, allowing them to supply their opinion as soon as possible, within the set deadlines and addressing them to the most suitable interlocutors.

As to timelines, **the national law states that the Regions can address their observations concerning an EU act or proposal to the Government within 20 days of its reception[18].** As to controlling subsidiarity, **the Treaty of Lisbon provides national Parliaments eight weeks to supply their reasoned opinion on a legislative proposal[19].** If parliamentary regulations introduced a term for the Regional Councils to send their reasoned opinion to the Government, it would necessarily have to be shorter than eight weeks. It would nevertheless be a little longer than the twenty days currently envisaged by Law 11/2005 for observations. In any case, the timelines provided are very short for the assessment of issues relating to subsidiarity.

[16] See Article 117, Section 5, and Article 5 of Law 11/2005.
[17] The reform of Law 11/2005 could represent an excellent opportunity to improve the tools made available to the Regions. The Senate is currently examining a bill of law that has already been approved by the Lower Chamber. The bill consolidates various texts including four presented by the Parliament and one by the Government (see AS 2646).
[18] Article 5, Section 3, Law 11/2005.
[19] Protocol no. 2, Article 6.

To quickly react in the short time available, each Region must endow itself with a system that can anticipate and simplify the subsequent work of both technicians and politicians, at least to some extent.

The Region's assessment of the European Commission's annual work programme can be a useful tool[20].

This document provides basic information, for a start. By communicating the European Commission's work programme for the following year, albeit in general lines, it enables identifying upcoming EU legislation that will affect regional competences, including acts and regulations related to the Region's priority policies. That will help authorities pinpoint relevant acts within the lists sent weekly by the Government during the year, so that political and technical preparatory work can start well in advance. Overall, the Regional Executive or the Regional Council will find it easier to *grasp the technicalities of information* first, and make *political use* of information at a later stage.

The early detection of EU legislation of interest for the Region encourages the Regional Executive and Regional Council to agree a common stance in exercising their prerogatives, in full compliance with the functions specifically assigned to each body and with the opportunity to play an enhanced role in EU matters.

That can be beneficial also for the dialogue between different parliamentary levels. Indeed, as yet, there are no set procedures governing the consultation of regional legislative assemblies (Regional Councils) by the national Parliament within its task of monitoring subsidiarity: a dedicated Protocol annexed to the Treaty of Lisbon refers the consultation mechanisms to the discretionary powers of each Parliament, both as regards whether (*an*) and how (*quomodo*) it is implemented. The political guidelines supplied by each Region following their assessments could prove useful for the national Parliament to be aware, at the beginning of the year, of which initiatives will require the consultation of the Regional Councils: this could in fact become a specific request by the Parliament, rather than being simply a form of spontaneous collaboration shown by each Regional Council.

The examination of the European Commission's yearly work programme is becoming widespread in the Italian Regions (for example, in Emilia – Romagna, Lombardy, Abruzzo).

In order for this examination to concretely contribute to making the domestic system more effective, it must focus on distinctly regional issues. Its aim must be first and foremost to express the Region's general political stance on the European policies for the year in question. From the start of the process, the Regional Executive and Council must agree on the activities that fall under the competences of each body based on Law 11/2005. Furthermore, the political results of the examination should be notified to other Regions, both Italian and European, to the Lower Chamber of the Parliament and to the national Government: the aim is to promote the vertical and horizontal exchange of information, paving the way for discussion during the examination of single EU acts and proposals as soon as they are made available.

The specific co-ordination between Regional Executive and Regional Council will require careful consideration also during this second phase, when the political assessment will focus on the individual acts and proposals announced in the work programme. Indeed, the enhanced role of the Regions introduced by

[20] For 2011 see: COM (2010) 623 def. of 9/11/2010 and its Annexes.

Law 11/2005, with the further promotion of the role of Regional Parliaments by the Treaty of Lisbon, gives equal dignity to Regional Executives and Councils in communications *from* and *to* the Government, at least in the early decision-making process.

Co-ordination must be carefully planned to avoid overlaps. Regional Governments are also quite rightly involved in the work of executive bodies, from the Conference between State and Regions, to technical panels, the integrated technical committee of Ciace; they are also entitled to take part in the technical and political work of the European Council, within the powers delegated to them by the national Government[21]. Having sent their observations, if any, to the Government and their assessments on subsidiarity to the Parliament, it is therefore the task of the Regional Councils to guide policies and monitor their own Regional Executive by requesting information on how the decision-making process is progressing. This is even more important when the discussion is on a legislative proposal: the Regional Council will exercise legislative power for all issues falling under the regional competence.

Co-ordination is a prevailing requirement at all levels. Since 2005 and even more so after the entry into force of the Treaty of Lisbon, the enhancement of parliamentary tools and provisions has strongly reinforced the role of the Chambers[22] in Italy.

Both Chambers have constantly monitored European Union acts to provide the Government with support on European Union matters. This same activity is at the heart of the political dialogue entertained by the Lower Chamber and the Senate with the European Commission (the so-called "Barroso Dialogue" launched in 2006). Add to this the implementation of the procedures to monitor subsidiarity. The Parliament is thus allowed to fulfil its mandate to provide political guidance and monitoring, having a remarkable political weight in the Government. In this regard, a recent amendment to Law 11/2005 has clarified the relations between Government and Parliament. The Law requires the Government to ensure that Italy's representation in the Council of Ministers takes into account the guidelines outlined by the national Parliament. This is not a binding mechanism as the law envisages scenarios in which the Government must not necessarily heed these guidelines. Nevertheless, when it does not, it is obliged to report to the Parliament and motivate its decisions[23].

As to regional co-operation with the Parliament, it is clear that this role is ascribed to the Regional Councils, which are the elected legislative assemblies: this further enhances the role of the Regions.

This co-operation is legally justified in the Treaty of Lisbon with reference to monitoring subsidiarity. Nevertheless, it must not disregard all the issues on which each Regional Council is entitled to express its opinions. In addition, the Parliament should also be informed of the results of the assessment of an EU legislative proposal, even on substantive issues. The Parliament might in fact be in the process of examining those Acts, or it might decide to start its own assessment process having received a resolution approved by a Regional Council, that might even be taken into consideration in the framework of the political dialogue between national Parliament and European Commission[24].

---

21 Law 11/2005, Article 5, Law 131/2003, Article 5, Section 1.

22 The latest figures available on the bottom-up activities of the two Chambers are provided in the Government Report to the Parliament for 2009 and presented pursuant to Article 15 of Law 11/2005.

23 Article 4 – bis, Law 11/2005, emended by Law 96/2010 (Community Law 2009).

24 Note that , until today, the activity of national Parliaments has focused much more on the consideration of the substantive issues of acts, rather than on monitoring subsidiarity. In 2009, the European Commission

3.2 Operational solutions and possible strategies

All the issues mentioned, namely political and technical co-ordination, timely action and also the need to synchronise the top-down and the bottom-up processes, can be better implemented by creating a "network" of reference people in the regional administration, to support the organisation of regional participation.

In 2005[25], among the good practices for the proper and timely transposition of directives on the internal market, the European Commission included the appointment of officials acting as contact point in each *Ministry and each federal, regional and local body in charge of such transposition.* It also suggested the establishment of a national network among these officials. The Commission also added that *as far as possible, national officials in charge of negotiating a Directive should participate in its transposition into national law. If it is not feasible, these officials must closely co-operate with those responsible for the transposition (…).* This Recommendation shows how the Commission shares the need to keep a close link between the top-down and the bottom-up process, also as regards the organisation of the process.

The European Commission's indications can also be useful at regional level, if translated into dedicated organisational tools. Some Regions have already started to proceed in this direction. For example, Emilia – Romagna, Abruzzo and Sardinia already include the general outline of this organisation in their regional laws.

The aim is to establish a "network" of officials identified as contact points in the administrative structure associated to each sector of the Regional Government. A contact point in the Regional Council would complete the "network" of officials and could contribute to improving the technical support to political co-ordination between Regional Executive and Regional Council.

Also bear in mind that "networking" will unquestionably facilitate not only internal relations in the Region, but also its external relations and the connection with other decision-making bodies on different levels nationally and in Europe; that would enhance also the connection between top-down and bottom-up processes, allowing the involvement of various levels of competence in individual acts, if need be.

The Regions are thus entitled **to take part in the process to shape the laws and, consequently, to represent the specific needs of their territories. But their role goes beyond that**. With reference to directives, Regions also have an active role in their subsequent transposition: they are asked to identify the legislative solution that best suits their territory and that has the best impact on its administrative system, in order to achieve the result required. Indeed, directives are defined by the Treaty as legislative acts that are binding in their result, while Member States are free to choose the tools and the means[26].

Directives are therefore "made to regional measure". It would not be inappropriate for the Regions to actually participate in the entire process, from shaping to implementing directives. However, the figures available on the

received 250 opinions of which 25 on the monitoring of subsidiarity (see 2009 Annual Report on the relations between the European Commission and National Parliaments COM (2009) 291 def.). Since the Treaty of Lisbon entered into force on 1st December 2009, it will be interesting to read through the figures for 2010.

[25] Recommendation no. 2005/309/CE.

[26] Article 288 TFUE.

transposition of directives in the Regions[27] show that, overall, the direct participation of Regions is rather small. Nevertheless, the data does not include all Regions and thus only gives a partial picture. In addition, from a merely quantitative point of view, the Regions transposed only a handful of directives compared to the numerous directives transposed through the so-called "legislative delegation instrument" conferred by the national Community law. In addition, many of the subsequent Legislative Decrees include the so-called "clause of explicit transferability", to indicate that a specific directive deals with matters falling under the competence of the regional law maker.

In a picture generally characterised by delays, there are nevertheless a number of crucial issues to be highlighted. Note, for example, the importance of the directives that the Regions report having implemented [28].

Also note that only very few of these directives were transposed through a Regional Community law, although many Regions (fifteen) have chosen this type of act amongst the legislative options available as the main tool for the transposition of directives.

It emerges that the direct participation in the top-down process is also slow in the making. The correct reception of laws by the Regions requires the constant monitoring of the directives adopted by the European Union and the assessment of the conformity of the regional administrative system (this is compulsory pursuant to Law 11/2005). It also requires an in-depth technical assessment of the contents of the directives to correctly identify legislative competences and fields of competence, bearing in mind that if they only partly fall under regional competence, the Regions may transpose only the part for which they are competent. Take for example Directive 79/409/EEC on the conservation of wild birds: Article 9 on the derogations to the prohibition of hunting was transposed directly by several regions through a dedicated law.

Some issues still exist in the national Community law: they have induced a review of the system to be implemented during the reform of Law 11/2005.

Back to the Regions, until now their main obstacle is likely to have consisted in "reading" the content of the directives and reconciling it with the different areas of legislative competence. The systematic inactivity of a Region causes the application of the national substitute law, which is the same throughout the national territory, to become the norm, rather than the exception, despite the matter in question falls under the competence of the Regions. This is a constitutionally legitimate mechanism: the 2001 constitutional reform introduced this system to safeguard the State from being liable towards the European Union for the Regions' failure to transpose legislation, while at the same time providing the latter with increasingly important and broader competences.

---

[27] From 2005, figures are stated yearly in the report on the Community bill of law.

[28] Limiting the list to the directives that have been implemented through regional laws (in some case the Regions have resorted to regulations and administrative acts), they include: Directives on the assessment of environmental impact, hazardous waste, packaging and packaging waste, Habitat Directive, air quality directive , directive establishing a framework for Community action in the field of water policy, directive on the marketing of forest reproductive material, directive on the assessment of the effects of certain plans and programmes on the environment (Strategic Environmental Assessment directive), directives on the promotion of electricity generated from renewables, determination and management of environmental noise, energy performance in constructions, public accessibility of environmental information, periodical monitoring of the risk of major accidents associated to specific hazardous substances, public tenders, equal opportunities and equal treatment between men and women in employment and labour, efficient final use of energy and energy services and the recent "Services" Directive. The list of legislative acts that the Regions have implemented to transpose directives is supplied to the Department for European Policies by the Conference of the Regions, as notified by each Region (Article 8, Section 5, lett. e, Law 11/2005).

On the other hand, the problems associated with identifying respective fields of competence arose since the early days, with the constitutional debate just after the reform of Title V of the Constitution, involving both regional and national laws.

If this is the main reason for the Regions' failure to fulfil, it should also be recalled that the Agreement entered into in 2008 envisages that Regions and the Government cooperate to identify the directives falling under their respective competence during the drafting of the national Community bill of law, even if requested by just one region[29].

This co-operation tool has not yet been used.

The Regions should now put all their efforts into ensuring the implementation of this mechanism. The start of a regular collaboration would simplify the technical work performed by the regional technical offices, starting from the monitoring of the directives to be transposed (that would be performed at national level while drafting the Community bill of law) to the assessment of the conformity of the regional administrative system. The reform of Law 11/2005 could be an opportunity to relaunch the Agreement, adapting its content to the new legislative framework, thereby setting the foundations for it to be really applicable.

One last consideration on operational issues.

In order to be effective and significant, Regions must participate systematically. The political agreements between the State and the Regions drafted between 2006 and 2009, in addition to the dedicated rules of procedure approved by a rather large number of Regions, definitely will help overcome the sporadic and one-off participation of Regions.

However, the Regions that have not yet applied such procedures or that are about to implement a dedicated regional law, might benefit from introducing a trial period during which they can "test" the timelines of European Union law, the relations between organisational structures, the different political channels suitable for different matters both within the Region and between the Region and external political interlocutors that might be identified depending on the topic.

This trial might initially focus on specific stages of the European decision-making process, for example through direct participation in the works of the EU Council of Ministers. It could target a legislative proposal of regional competence that the Region is particularly interested in and for which it has the specialised technical support available, in practical terms but also as regards the European Union decision-making process. In addition, this trial phase, regardless of the political process or arena in which it is conducted, could act as the first step towards the creation of the aforementioned "network" amongst officials in the regional administration, which is expected to act as the first point of contact for individual sectors and act as reference both in the bottom-up and in the top-down process.

The current legislative transition associated to the reform of Law 11/2005 promotes this type of early approach: the next stage requires the inclusion of regional legislative choices into a more stable national framework that can favour effective synergies.

[29] Agreement signed by the Joint Conference on 24th January 2008.

On the other hand, the State has every interest **in ensuring that Regions take on an active and proactive role within the timelines and areas of competence, to ensure the establishment of effective policies.** This must be a shared objective, in the interest of citizens, businesses and the local territory.

A concrete example is provided by the works conducted by the European Commission to prepare a legislative proposal on concessions, having considered that it is time to introduce a European-wide law to clarify the applicable principles and legal framework within this general area. The preparatory work entailed the consultation of the stakeholders, which was followed by the assessment of its impact and finally the presentation of the proposal to the European Union law-maker (European Parliament and Council) expected in early 2011[30]. This opportunity should be grasped by the Regions to concretely take stock of all the different solutions to the more specific and as yet unresolved issue of the concession of State owned coastal land in the tourist/recreational industry. The infringement procedure started up by the European Commission against Italy causes concern among businesses in this specific industry. Many of the latter are small businesses that with the hard work of several generations have contributed to the Italian coastal resorts' reputation of being hospitable and friendly worldwide, and have also contributed to maintaining the territorial culture and traditions in several Regions. While implementing the rules of free competition and freedom of establishment, this can be grasped as an opportunity to relaunch a unique field of the economy, rather than putting it at a disadvantage and criticising it for not taking into account specific needs and requirements. The solution must be assessed and negotiated before the legislative bodies. However, local administrators must take advantage of the right moment in time, calling upon all the interlocutors available and contributing to draft the rules that they will have to implement. Building a *Europe of Regions* is a path that requires a lot of determination.

[30] See 2011 Work programme of the European Commission, Annex II), page 16, initiative no. 56.

4. The restraints of public finance in Europe*

4.1 Reducing public spending in Europe

The international financial crisis has proved to be a testing time for Western economies, especially in Europe. Governments have been asked to implement appropriate means to contrast unemployment, reduce the fiscal burden on businesses and give massive support to the main banking groups involved. The scope of these actions was limited by the Member States' fiscal indebtedness at the beginning of the crisis. In the early days of the crisis, it became clear that some States could not increase their indebtedness due to the *deficit spending* policies adopted in the past. European countries had to adjust their actions also to the standards set by the Stability and Growth Pact, which were temporarily loosened by the European Union to face an extraordinary economic scenario.

Within this context, the Greek example has shown how non-virtuous and especially unsustainable policies in the medium-long term can quickly cause the default of a European country. Today, this risk does not appear to be so distant for many Member States, unless they manage to limit **spending and national debt**, as demanded by the ECB. In times of sluggish growth, high public spending and an already large debt can make it impossible to implement expansion policies to foster growth.

Following the Greek crisis, the European Union imposed a policy of strict limitations on public spending on all the Member States. In Italy, the Minister of Economy has renewed the commitments set in the "Economic and financial document" (April 2011)[31] to almost balance the budget by 2014, so as to comply with the medium-term European objectives (2011: deficit/GDP is expected to stand at 3.9%; 2.7% forecast for 2012; 1.5% forecast for 2013; 0.2% for 2014). After that, the primary surplus will be systematically increased in order to achieve the aim of reducing the national debt.

In 2010, the budget package for 2011-2013, implemented with Legislative Decree no. 78 of 2010, envisaged an adjustment of public accounts for approximately 12 billion Euros for 2011 and approximately 25 billion in 2012 and in 2013. The estimates have nevertheless already been exceeded. Today, a corrective package for 40-45 billion Euros for 2012-2014 is being debated. For 2011, the Ministry expects to introduce a "maintenance" package for 2.5 billion Euros to cover spending items that have been defined as "dictated by need". For 2012 the figures stop at some 4-5 billion Euros. The largest part of the package will be implemented in the subsequent two years and will amount to a total of 40 billion Euros, of which 20 billion in 2013 and another 20 billion in 2014.

* This chapter was drafted by Serafino Pitingaro and Giovanna Guzzo of Centro Studi Unioncamere del Veneto.

31 On 5th May 2011, the Parliament approved the 2011 Economic and financial document: this financial planning and budgetary document is drafted pursuant to Law no. 39 of 7th April 2011 and is presented to the Government in compliance with the new rules adopted by the European Union to coordinate its Member States' economic policies. More in-depth information can be found on: www.mef.gov.it.

Some countries of the Eurozone, including Spain, Greece and Portugal have already been forced to adopt similar strategies, while others, including Italy, have launched a preliminary action in view of the corrective action they expect to be requested by Brussels. The keyword is therefore **"cut spending" and especially all waste. However, this operation has become an across-the-board cut (the same cuts for all) and altogether ignores any mechanism that would allow to separate the "virtuous" from the "wasteful" Local and Regional Administrations and to distribute cuts proportional to their inefficient management of public resources.**

In a Country that is currently facing a fiscal federalist reform, where the debate is ongoing to introduce the decrees to implement this necessary reform whose crucial features include first and foremost the principle of responsibility, it is essential to leave aside the ancient and destructive "nanny state strategy" that allows resources to be wasted without control.

What are the solutions? What can be done? For a start it is essential to have available more detailed information and to be able to resort to **local and regional statistical data**.

4.2 The reform of the European system of national accounts

Within the broader debate on the implementation of administrative decentralisation in Europe, the issue of the slighter fiscal capacity of local territories and the greater fiscal residuum of the Regions with respect to the Central Government does not concern Italy alone, but most European Union Countries. Similar to Italy, also some regions of Spain and Germany contribute more than others to the solidarity amongst regions: it is also clear that these regions are also the most advanced in those countries. Recent studies have indeed shown that unless the fiscal residuum is reduced, these regions could undergo progressive economic decline.

Monitoring these trends is no easy task, due to the shortage of official statistics for the whole of Europe **on the financial flows amongst different levels of government**. Surveys conducted by the Centro Studi of Unioncamere del Veneto on financial decentralisation in a number of EU countries have shown that only **four Member States, that can be defined as "federal" States, have figures on public finances for the intermediate level of government (namely the Administrations of Federal States) lying between the Central State and the Local administrations** (see Table 4.1). This is an economic definition rather than a legal one, which was identified by Council Regulation (EC) No. 2223/96 on the European system of national and regional accounts (SEC95), defining the common accounting rules for the European Union.

Within this context, Unioncamere del Veneto has met the European Commission's Directorates General (DG) Estat and Regio to present the results of the surveys conducted and discuss some aspects associated with the availability of figures at sub-national level. It emerged that each Member State is asked to provide the Statistical Office of the European Communities (Eurostat) information on public accounts based on their national accounting system, as envisaged by the provisions of the European Accounting System. Only Austria, Belgium, Germany and Spain (countries defined as being Federal States) send

Eurostat their figures on their Federal State Administrations, albeit as an aggregate figure. Other countries, including Italy, that no longer adopt a unitary system but which nevertheless are not yet federalist, do not have figures for the intermediate level of government (for Italy this would be the Regions). As a result, these figures are included under the broader item concerning "Local administrations".

Table 4.1 – *Public spending and revenues consolidated per level of government. Percentage breakdown. Year 2008*

	Central Admin.	Admin. Federated States	Local Admin.	Soc. Sec. Bodies	Total
		Spending*			
Austria	35.1	17.4	14.8	32.7	100.0
Belgium	18.3	25.2	14.3	42.3	100.0
Germany	16.4	21.1	16.3	46.3	100.0
Spain	19.4	37.2	13.6	29.8	100.0
France	31.2	-	21.5	47.2	100.0
Italy	24.6	-	34.7	40.7	100.0
Netherlands	28.1	-	35.1	36.8	100.0
United Kingdom	71.0	-	29.0	-	100.0
		Revenues			
Austria	51.8	10.1	12.4	25.7	100.0
Belgium	55.6	9.0	6.5	28.9	100.0
Germany	29.2	23.9	11.2	35.6	100.0
Spain	34.0	22.8	10.4	32.9	100.0
France	36.5	-	15.9	47.6	100.0
Italy	51.9	-	18.6	29.5	100.0
Netherlands	58.5	-	10.3	31.3	100.0
United Kingdom	90.5	-	9.5	-	100.0

(*) net of interest
Source: Processed by Unioncamere del Veneto on Eurostat data

In Europe, Italy provides an example of transparency in fiscal matters: it is the only Member State to have a detailed and thorough database on public accounts consolidated for the Regions ("Territorial Public Accounts", drafted by the Ministry of Economic Development). Based on the existing European system of national accounts (SEC95), each Member State is only required to send Eurostat the figures on public budgets based on their national accounting system. As a result, to compare and assess the situation for Europe we will have to wait for the entry into force of the new system in 2014. After this date, we will have available the details of the financial flows between State and Local Bodies, including the Regions.

The lack of disaggregated figures on territorial public accounts for NUTS levels 1 and 2 is a failure in the European statistical system: it prevents any assessment aimed at *benchmarking* fiscal residua between the Italian Regions and other European Regions. Today, Eurostat's databases are based on the accounting principles that have been in force in the European Union for over a decade: they do not allow the performance of comparative assessments between Regions to further explore the issue of fiscal federalism in Europe, focusing in particular on the implementation of a decentralised system and on the efficiency of public spending.

Since 2008, Eurostat has been reviewing the SEC95 system: the aim is to adjust the EU's national accounts to the new economic scenario, taking into account the novelties that have emerged in methodology research and the needs of the final users. The review is expected to be completed by 2014 and will be marked by the adoption of the new SEC and the new transmission system. Until then, the alternative is to use national statistical resources, aware that their use for comparative purposes can entail methodological problems.

Table 4.2 – *The main stages of the SEC95 review process*

When	**What**
June 2007	Detailed project planning and analysis of resources. A Steering Group comprised of Directors was set up.
November 2007	Discussion within the working group "National Accounts" (NAWG); project planning; definition of titles and chapters layout; planning of timeline for drafting the chapters.
From January 2008 to February 2009	Preliminary draft of chapters; assessment of comments by national experts; presentation of the draft version of the revised chapters; discussion within the working groups "National accounts" and " Financial Accounts" (FAWG); joint meeting of the NAWG and FAWG; meetings held by the Committee on Monetary, Financial and Balance of Payments statistics (CMFB) and the European system of Central Banks.
End of each quarter, starting from December 2007	Submission of progress report to the Steering Group and to the CN Directors.
From January to June 2008	Report concerning the adoption of SEC95 in the EU; report on the forecast impacts of implementing the revised version of SEC.
From January to December 2008	Three meetings of the TF on the "satellite accounts" for Research and Development to identify the additional tables to be prepared by the end of 2009.
From September 2008 to February 2009	Discussion of the new transmission system with NAWG, FAWG and CMFB.
February 2009	Conference on macroeconomic statistics and national accounts. A section of the Conference was devoted to SEC.
From February to June 2009	Provisional draft of the new SEC Regulation and discussion within the working groups (NAWG, FAWG etc.).
First quarter 2011	Adoption of the Regulation by the EU Parliament and Council.
June 2011	Publication of the Regulation in the Official Journal.
From 2011 to 2013	New SEC for Eurostat members and the national experts of the CN.
2014	Adoption of the new SEC and the new transmission system.

Source: A. Caricchia - ISTAT, Minutes of the Conference to celebrate the 50th anniversary of Iscona (1957-2007) - Rome 14 December 2007

The European Commission has indicated Italy as a *best practice* for transparency in the European scenario (see the paragraph *"Public spending and public investment at regional level"* in chapter two of the Fifth report on economic, social and territorial cohesion). In fact, very few Member States have a database on public financial flows broken down by Regions that can compare to the thorough statistics provided in the Territorial Public Accounts (CPT) produced by the Italian Ministry of Economic Development. These States include: the United Kingdom, the four Federal States (Spain, Austria, Belgium and Germany) and France.

DG Regio has urged that the community-level review of SEC must become an opportunity to outline a system to make available regional statistics on public accounts for each Member State of the European Union. The meetings in Brussels have often restated that EU officials find it essential to adopt a *bottom-up* approach to raise Eurostat's awareness of the issue. They have suggested that Regulation SEC95 should be reviewed to include the Regions and that this should be demanded by the local and regional levels of government. They have especially stressed how important it is for Unioncamere del Veneto to continue its statistical research in this area and to continue to pursue its awareness raising activities amongst the main and/or potential users[32].

4.3 A map of the fiscal residuum in Italy

The building of a Europe of Regions is far from being completed. The negative effects are especially clear in fiscal issues. Public finances continue to be one of Italy's most critical issues, especially considering the size of its **national debt**. Italy is one of the EU countries with the highest debt /GDP ratio. Figures for 2010 show a ratio of 119%, ranking below Greece alone (142.8%) and definitely far from the Maastricht objective (whereby the debt /GDP ratio should not exceed 60%).

This situation is a major constraint to any decision in the area of economic policies: it forces a remarkable amount of public resources to be used to service the debt and prevent its further increase. It also often translates into a risk premium, with the need to pay comparatively high interest rates on debt securities.

As to the ratio of the **net indebtedness of the Public Administration** to GDP, in 2010 it stood at -4.6%, falling below the previous year's values (-5.4%), but still above the 3% required by the Maastricht Treaty. The overall **fiscal burden** amounted to 42.6% of the GDP (having slightly decreased against the 43.1% in 2009), but could touch 52% net of the submerged economy.

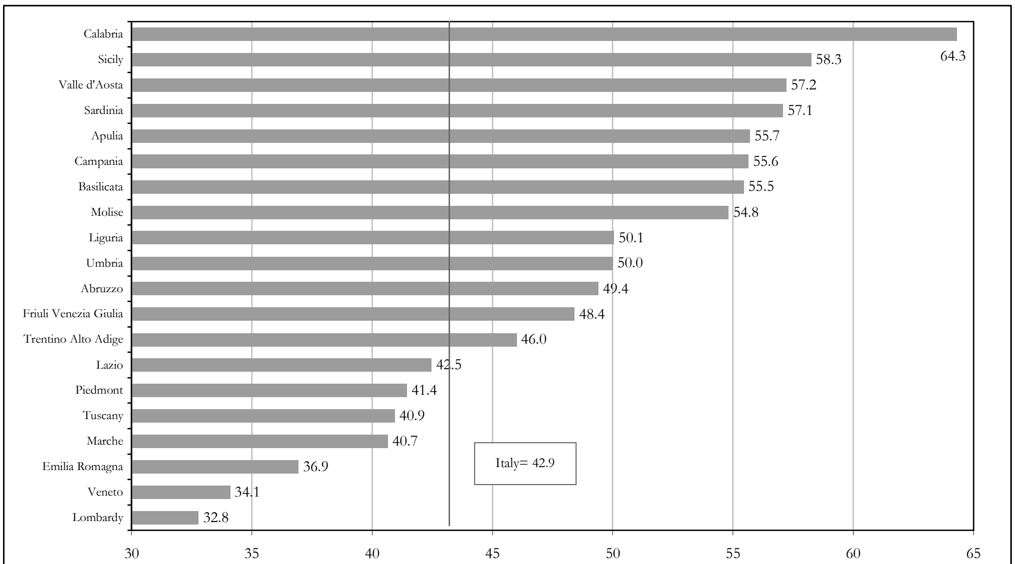
Public spending nevertheless continues to be high and is still the main problem facing Italian public finances, with repercussions that could affect both the real economy and the system of production. The Italian Public Administration's failure in managing its resources effectively is manifest. In 2010 **total expenses accounted for 51.2% of GDP** (slightly down from the 52.5% recorded in 2009). While it is difficult to solve the issues of indebtedness and its sustainability in the short term, recovering efficiency in how spending is distributed is both possible and necessary, especially now that available resources

[32] The SEC reform is currently under discussion in the European Parliament. Only recently, the Committee on regional development, chaired by the former Commissioner for regional policies Danuta Maria Hübner, highlighted that the transmission of COFOG 2 data is not compulsory in the newly proposed SEC-95 transmission system. This is a major shortcoming for both the Commission and general stakeholders that hampers the latter's assessment of public spending models and their functional organisation. In addition, no progress has been made on the collection of public spending figures at NUTS 2 level, despite the co-operation and negotiation with Eurostat over the last four years. This will undoubtedly hinder the Commission and other stakeholders' ability to provide a reliable global assessment of national policies and, more specifically, of the models and trends of public spending and investments at regional level. It is crucial for European statistics to supply additional basic statistics that enable the comprehension of public finances at regional level and how they have been affected by the crisis.

are scarce and that the country is awaiting concrete economic recovery. An inefficient Public Administration emerges as one of the main causes of high levels of public indebtedness, poor investment attractiveness and the low level of services provided to citizens. In addition, high levels of public spending associated to a high debt can lead, in times of sluggish growth, to the inability to implement expansion policies aimed at promoting growth.

At regional level, this has translated into an "unbalanced" distribution of resources. Public spending in southern Regions is lower but its ratio to the GDP is higher, due to delays in economic development: the spending to GDP ratio for public officials in the South is 15 percentage points higher than in the Centre-North. Specifically, the average 2007-2009 percentage ratio of Public Administrations spending to GDP in Lombardy, Veneto and Emilia-Romagna was lower than 40% (Chart 4.1).

Chart 4.1 – *Italy. Public Administration* spending to GDP** ratio per Region. Average 2007-2009*



* Expenditures net of interest payable, equity investments, contribution of capital and lending.
** Current price GDP

Source: Processed by Unioncamere Veneto on data provided by Ministry of Economic Development - Regional Public Accounts

To further help the local firms and support them on the road towards economic recovery it is increasingly important to **put order in public finances** acting both on equalisation and on cutting spending and waste.

Italy is also the country with the highest redistribution of resources performed internally by the Public Administration to achieve national cohesion. In fact, all the resources provided by the wealthier Italian regions to the poorer ones based on the principle of national redistribution (the **fiscal residuum**) **amount to approximately 80 billion Euros**, to which we should add the approximately 10 billion Euros allocated by the EU (Community cohesion). In spite of that, the weaker areas are still lagging behind and have proved unable to achieve an economic growth comparable to that of other economically backward areas of the European Union.

In the specific case of the Veneto, **the Central State takes much more than it can give back, in terms of public spending**. In addition, the Veneto has an active fiscal residuum and does not contribute to the national debt. On the contrary: the taxes levied by the State (in addition to low spending) contribute to reducing the national yearly indebtedness, by limiting the amount of debt. The framework for local authorities is characterised by constantly lacking resources compared to the spending burden required of them: the failure to implement federalism and a redistribution mechanism based on "historical" spending trends leads to an uncertain framework in which local governments find it hard to act.

The existing organisation of government levels jeopardises the Region. **The additional taxes that the Italian State received from the Veneto between 2007-2009,** and supposedly allocates to territorial redistribution, **amounted on average to more than 16 billion Euros** (3,405 Euros per inhabitant) (Table 4.3).

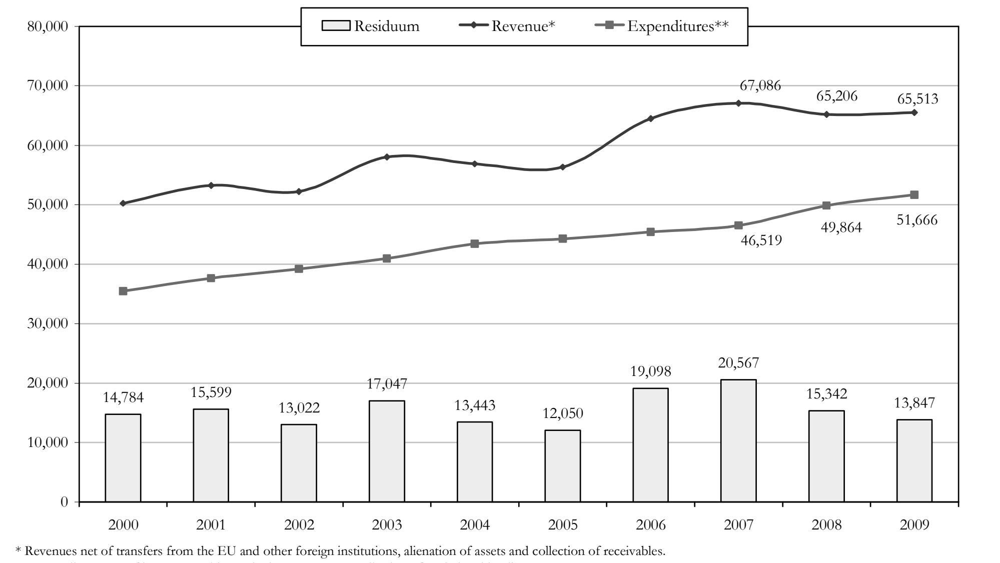
Table 4.3 – *The Veneto: Fiscal residuum of Public Administrations. Average 2007-2009*

	Revenue	Expenditures	Balance
millions of euro	65,935	49,350	16,585
euro per inhabitant	13,522	10,117	3,405

Source: Processed by Unioncamere Veneto on data provided by Ministry of Economic Development - Regional Public Accounts and Istat

These figures reveal that the **failure to implement fiscal federalism costs the Veneto region more than 16 billion Euros every year.**. The resources tapped by the Italian State can in fact be measured as a **missed opportunity to invest the taxes paid by local taxpayers in the Veneto**.

Graph 4.2 – *The Veneto. Fiscal residuum of public administrations. Distribution of consolidated revenues and spending. Million Euros. Years 2000-2009*



* Revenues net of transfers from the EU and other foreign institutions, alienation of assets and collection of receivables.
** Expenditures net of interest payable, equity investments, contribution of capital and lending.

Source: Processed by Unioncamere Veneto on data provided by Ministry of Economic Development - Regional Public Accounts

Far from being a temporary or limited episode in time, the tax surplus recorded in the main regions of Italy's Centre-North is confirmed by long-term data. In the last decade, the fiscal residuum per capita in these Regions has always recorded positive figures above the national average and has been constantly growing. From 2001 (when Italy became a Federal State, albeit only formally) to 2009, the Veneto has contributed more than 140 billion Euros to the national solidarity policies (on average 15,557 Euros a year and 3,287 Euros per capita a year) (Chart 4.2).

Table 4.4 – *Italy. Fiscal residuum of public administrations. Distribution of revenues and spending consolidated per Region. Average 2007-2009*

Region	Millions of euro			Euro per inhabitant***		
	Revenue*	Expenditures**	Balance	Revenue	Expenditures	Balance
Lombardy	174,465	104,424	70,041	17,920	10,722	7,198
Emilia Romagna	68,370	50,178	18,192	15,787	11,584	4,203
Veneto	**65,935**	**49,350**	**16,585**	**13,522**	**10,117**	**3,405**
Piedmont	65,044	51,562	13,483	14,694	11,647	3,047
Lazio	85,032	71,878	13,154	15,122	12,777	2,346
Tuscany	50,623	42,862	7,761	13,665	11,567	2,098
Marche	18,757	16,660	2,097	11,974	10,632	1,342
Friuli Venezia Giulia	17,961	17,176	785	14,613	13,973	640
Trentino Alto Adige	15,628	15,264	364	15,348	14,989	359
Liguria	22,130	21,801	329	13,714	13,510	205
Umbria	10,915	10,756	159	12,220	12,042	178
Abruzzo	14,158	14,015	143	10,625	10,517	108
Campania	47,967	54,030	-6,064	8,247	9,289	-1,042
Apulia	33,140	38,722	-5,582	8,122	9,490	-1,368
Sicily	41,047	50,406	-9,359	8,149	10,008	-1,859
Molise	2,941	3,540	-599	9,174	11,043	-1,869
Sardinia	15,564	19,354	-3,790	9,321	11,591	-2,270
Basilicata	4,730	6,155	-1,425	8,015	10,430	-2,415
Valle d'Aosta	2,102	2,424	-322	16,557	19,089	-2,532
Calabria	16,208	21,827	-5,618	8,069	10,867	-2,797
Centre- North	596,962	454,334	142,628	15,250	11,603	3,647
South	175,757	208,050	-32,294	8,427	9,976	-1,548
Italy	772,719	662,384	110,335	12,878	11,038	1,841

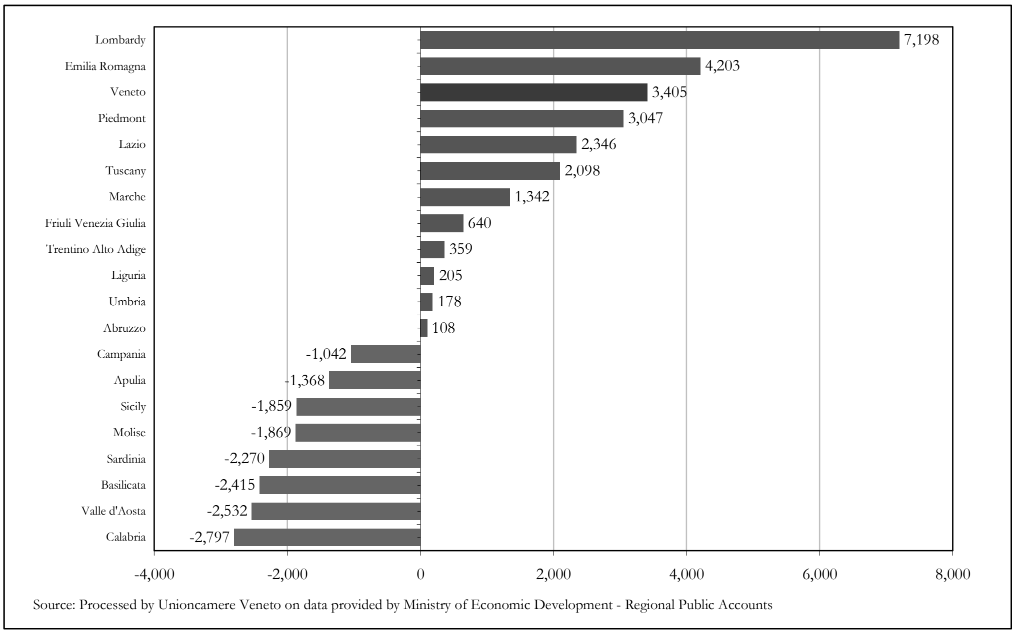
* Revenues net of transfers from the EU and other foreign institutions, alienation of assets and collection of receivables.
** Expenditures net of interest payable, equity investments, contribution of capital and lending.
*** Reference population as at 31.12 (average 2007-2009) (Istat)
Source: Processed by Unioncamere Veneto on data provided by Ministry of Economic Development - Regional Public Accounts

The value of its fiscal residuum places the Veneto in third place amongst the Italian regions boasting a financial surplus, behind Lombardy (70,041 million) and Emilia-Romagna (18,192 million). Per capita figures show that the Veneto recorded a fiscal residuum of 3,405 Euros per inhabitant, more than half that of Lombardy (7,198 Euros) and slightly below that of Emilia-Romagna (4,203 Euros). The Regions that boast a positive tax balance include also Piedmont, Latium and Tuscany. Except for Marche, Friuli Venezia Giulia, Trentino Alto Adige, Liguria, Umbria and Abruzzo, all of which recorded a positive residuum albeit low, the balance in all other Regions was negative (Chart 4.3). It should be stressed that the sum of fiscal revenues from Lombardy, Veneto and Emilia Romagna are employed to balance the deficit of the Southern Regions.

The updated figures confirm the trends that emerged in previous years[33]: **it is always the same regions that contribute positively to territorial redistribution**[34], which currently does not seem to have produced any positive effect for the economic development of Southern Italian Regions. An increasing fiscal residuum translates into the increased poverty of the Southern Regions: the risk for Northern Regions is to be unable to compete with the more economically advanced European Regions.

[33] See the web site www.osservatoriofederaslismo.eu
[34] The only new development is Latium, which in 2004 joined the group of Regions that boast a financial surplus on the basis of the fiscal residuum.

Lombardy, Emilia-Romagna and the Veneto are the Regions with the highest positive fiscal residuum as a percentage of the regional GDP, thus providing a remarkable contribution to the national redistribution system. These Regions are notoriously the most economically advanced in Italy, and consequently the most affected by Italy's institutional stalemate. In sum, the Central State levies much more from these Regions that it actually returns in terms of public spending. It should be highlighted that the resources levied from these three Regions make up for the deficit of another 8 Regions.



Graph 4.3 – *Italy. Fiscal residuum of Public Administrations per Region. Euros per capita. Average 2007-2009*

5. Fiscal residuum and family consumption: an impact analysis*

5.1 Introduction

The two previous Survey Reports (nos. 8 and 11) introduced and analysed the concept of *fiscal residuum*, which is basically the difference between what the Public Administration first levies and then spends in a specific territory. Both Survey Reports attached particular importance to the impact that the residuum could have if it were spent in the territory it was generated in. However, the assumption was that the residuum was to be spent by the Public Administration: in this scenario, the impact would arise from higher levels of local public spending.

The scenario outlined here is a little different: discarding a possible increase in local public spending, the accent is placed on the **opportunities granted to private local operators by enabling the local territory to benefit from the fiscal residuum *as it is***. In this scenario, decision makers would *invest* the fiscal residuum and simultaneously cut local taxes for an equal amount. In other words, the *fiscal residuum* offsets the *reduction of (local) taxes*.

In both scenarios, the problem of redistributing the *fiscal residuum* can be associated to the notions of actual damage (*fiscal residuum*) and loss of profits (impact of lower public spending, be it public or private).

This approach (that considers the *fiscal residuum* as owned by the taxpayers) requires the careful assessment of the following:

1. company performance driven by a larger cash-flow available, assessed as the amount of *fiscal residuum* allocated to the advantage of entrepreneurial activities;
2. the residents' spending (and saving) schemes, arising from the greater income available and corresponding to the amount of *fiscal residuum* allocated to their advantage[35].

The highlight is on the benefits for the residents in the Veneto alone and on the arising benefits for the regional GDP: clearly, different consumption (savings) patterns from those currently in place would have broader consequences on the local demand and consequently on the local GDP. These effects are estimated by applying macroeconomic principles based on the Keynesian theory to assess the local GDP.

---

* This chapter was drafted by Quirino Biscaro, Economics Department - Ca' Foscari University of Venice. This essay collects the early results of a broader and currently ongoing research project, on the impact of the *fiscal residuum* on the firms and families of the Veneto.

35 In theory, the amount of the *fiscal residuum* allocated could be determined based on a range of different criteria. To simplify, this report uses the principle of the proportionality of taxes paid as a percentage of direct taxation.

The steps of the assessment were as follows:

1. quantitative assessment of the fiscal residuum considering the broadest period of time possible, which based on the data available stretches from 1996 to 2008;
2. definition of the assessment model;
3. quantitative assessment of the impact if the *fiscal residuum* is made available to private operators;
4. expected impact on the breakdown of local consumption.

5.2 The fiscal residuum for the period 1996-2008

Below is a breakdown of the taxes levied and spending by the Public Administration in the Veneto Region between 1996 and 2008. Only the amounts pertinent to the method used to calculate the residuum[36] were taken into account. Data were obtained from *Territorial Public Accounts* database made available by the Department for Development Policies (Ministry of Economic Development).

Table 5.1 – The *Veneto. Total consolidated revenues and spending by the Public Administration (in million Euros). Years 1996-2008*

	Revenues			Spending		
	Current	Capital account	Total	Current	Capital account	Total
1996	41,092	30	41,122	26,164	2,475	28,638
1997	44,983	67	45,049	26,065	2,507	28,572
1998	45,584	41	45,625	27,603	2,649	30,252
1999	49,823	47	49,870	30,325	2,740	33,066
2000	50,171	80	50,251	32,570	2,897	35,467
2001	53,189	59	53,247	34,566	3,082	37,648
2002	52,020	212	52,233	35,761	3,450	39,211
2003	57,837	185	58,023	37,301	3,675	40,976
2004	56,730	135	56,865	39,680	3,742	43,422
2005	56,250	80	56,330	40,588	3,692	44,280
2006	64,418	74	64,492	41,788	3,606	45,394
2007	66,937	149	67,086	42,449	4,070	46,519
2008	65,033	174	65,206	45,819	4,045	49,864

Source: Processed on data supplied by the Ministry of Economic Development - DPS - Territorial Public Accounts

These figures enable the calculation of the Veneto's *fiscal residuum* between 1996 and 2008:

36 The methods used are those introduced in Survey Report no. 11. The revenues of the Public Administration in the Veneto are estimated before transfers from the EU and other foreign institutions, the transfer of assets and the collection of credit. Local public spending is calculated before interests due, financial items and credit granted.

Table 5.2 – The *Veneto. The fiscal residuum of Public Administrations. Years 1996-2008*

	Total	ascribable to taxpayers paying Irpef		
		number	per inhabitant	per inhabitant > 15 years of age
	(million Euros)	*(million Euros)*	*(Euros)*	*(Euros)*
1996	12,484	6,942	1,559	1,796
1997	16,477	8,981	2,010	2,315
1998	15,373	9,907	2,208	2,545
1999	16,804	11,208	2,484	2,865
2000	14,784	9,778	2,153	2,486
2001	15,599	10,024	2,213	2,559
2002	13,022	8,793	1,921	2,224
2003	17,047	11,151	2,402	2,782
2004	13,443	8,693	1,850	2,145
2005	12,050	8,379	1,768	2,054
2006	19,098	12,850	2,692	3,129
2007	20,567	13,674	2,830	3,291
2008	15,342	10,510	2,151	2,505

Source: Processed on data supplied by the Ministry of Economic Development - DPS - Territorial Public Accounts and the Veneto Region

To assess the burden borne by individuals for the *fiscal residuum*, reference must be made to the per capita amount ascribable to people over 15 years of age: this is an aggregate figure that mirrors the individuals on which Irpef (Personal Income Tax) is levied. It is clear that the **percentage of the *fiscal residuum* ascribable to taxpayers paying Irpef has gradually increased from 55.6% in 1996, to 64.3% in 2001 up to 68.5% in 2008.**

Also consider the different fiscal burden[37] with and without the fiscal residuum; the estimate is restricted to the residuum ascribable to taxpayers paying Irpef.

Table 5.3 – The *Veneto. The fiscal residuum of Public Administrations. Impact on the fiscal burden (%). Years 1996-2008*

	Actual tax burden	Estimated tax burden in the absence of any residuum (Irpef only)
1996	41.6%	34.7%
1997	43.7%	35.1%
1998	42.3%	32.8%
1999	42.4%	31.9%
2000	41.6%	32.8%
2001	41.3%	32.4%
2002	40.8%	32.9%
2003	41.4%	31.5%
2004	40.6%	33.1%
2005	40.4%	33.2%
2006	42.0%	31.3%
2007	43.1%	31.9%
2008	42.8%	34.1%

Source: Processed on data supplied by the Ministry of Economic Development - DPS - Territorial Public Accounts and Istat - Accounts and economic aggregates of Public Administrations (Years 1980-2008).

[37] This is the average Italian fiscal burden. The figures available as of today only enable an estimate of the Veneto's specific fiscal burden: as a result, it was decided to assume it is the same as the national average.

5.3 The assessment model

If the Public Administration were to leave the taxpayers paying Irpef (Personal Income Tax) the fiscal residuum ascribable to them, their available income would change and consequently also their consumption/saving patterns.

Nevertheless, the final impact of this move cannot simply be quantified by adding up the numbers, although this is in fact the method used in national accounts to calculate the ratio between GDP and the main variables of the national and local economic systems. The reason for this is that new consumption patterns create a demand for wares, in turn stimulating investments that generate new income, leading to further consumption (and so on). This process brings us back to the Keynesian multiplication mechanism.

Based on the conventions typically used in macroeconomics:

Y = GDP	C = Consumption
I = Investments	G = Public Spending
XM = Net Exports[38]	VS = Variation in Inventory[39]

The GDP can be defined by the following equation:

$$Y = C + I + G + XM + VS \qquad [1]$$

Nevertheless, political economics increasingly note that the GDP is determined not only by accounting items, but also by variables pertaining to the economic system, the trends of which depend on the decisions taken by those who run the system [40].

The **assessment model used will therefore have to quantify not only the direct impact on consumption levels (and GDP), measured by determining the amount of the *fiscal residuum* immediately consumed, but also the indirect impact generated by the cumulative causation process** described above[41].

More specifically the scenario studied in this survey is assessed by describing consumption processes, investments and import-export processes[42]. The reason is that they both depend on and contribute to the GDP: as a result, similarly to consumption, they feed the multiplication process of the GDP.

---

[38] Balance between exports and imports.

[39] In national accounts, this added variable refers to the fact that the GDP must, amongst other things, account for the value of goods and services produced, including those that remained unsold (i.e. not used, reinvested or exported). The prevailing macroeconomic theory reasonably attaches little importance to this variable: assessments focus on economic systems when they are at a balance, namely when products and services are sold. Nevertheless, there is a certain amount of inventory, over and above the balance.

[40] This vision underlies modern macroeconomics as introduced in 1936 by J.M. Keynes and then developed and brought up to date by a number of economists. A vast literature enables the in-depth assessment of the Keynesian interpretation of macroeconomic factors: a useful summary is supplied by Blanchard O. (2009), *Macroeconomia,* Il Mulino, Bologna.

[41] The section "Methodological appendix" provides the analytical details of the assessment model.

[42] As would any macroeconomic survey.

Defining the model's parameters[43] is crucial to permit the assessment of the overall impact of the suggested scenario**: the impact on consumption and the GDP arising from the direct taxes that were not levied for an amount equal to the *fiscal residuum* ascribable to taxpayers paying Irpef.**

As to consumption, the method chosen to describe it was the most statistically relevant between the two main and most intuitive schools of thought: one considers consumption as dependent solely on the currently available income, the other also considers forms of permanent income [44]. The econometric estimate performed on figures for the Veneto between 1980-2008 shows that the first formula is the most efficient and effective.

As mentioned earlier, consumption can be interpreted as the demand for new investments; in the simulations that follow, consumption was calculated using one of two available formulas. One is a traditional addition formula that considers investments as dependent on GDP and the cost of money; this approach was broadened to include the impact of inventory variation[45]. The other is the so-called "acceleration formula" and is equally well-known: according to it, investments are not stimulated by GDP levels but by its increase. Tests conducted on the period assessed for consumption show that the addition formula best suits the needs of the survey.

Finally, net exports were considered. Once again, the final formula was selected after comparing two different options. The most widespread and commonly used formula contemplates exports as pulled by global demand[46] and imports encouraged by local GDP; both exports and imports depend also on the real exchange rate[47]. Another formula arises from the empirical observation of regional data: its use would lead to a very different equation than the one mentioned above because of the different role played by local GDP and global demand.

5.4 Estimated impact

The final assessment model used[48]enables us to reconstruct what the trend of consumption and GDP in the Veneto would have been, if taxes had not been levied for an amount equal to the fiscal residuum ascribable to taxpayers paying Irpef.

To correctly interpret the figures supplied, please note that the assessment and simulation were conducted at constant prices (based on year 2000), to reduce the distortion caused by inflation[49] as much as possible.

---

[43] See the section "Methodological appendix".
[44] Income levels that can be relied on consistently.
[45] Rising inventory deters new investment as it implies levels of production that exceed the market's absorption capacity.
[46] Approximate figures based on global GDP.
[47] The opposite obviously applies.
[48] See the section "Methodological appendix".
[49] The use of historical series at constant prices means that the increased consumption ensured by releasing the *fiscal residuum* is not simply a nominal figure *on the paper*, on the contrary it hints at a real increase in purchasing power.

To start with, consider the trend of consumption[50]:

Table 5.4 – The *Veneto. The fiscal residuum of public administrations. Impact on consumption. Million Euros, constant prices (based on year 2000). Years 1996-2008*

	Real consumption	Additional consumption*	Potential consumption
1996	56,849	3,037	59,885
1997	58,403	3,966	62,369
1998	60,352	4,420	64,771
1999	62,193	5,043	67,236
2000	64,648	4,480	69,127
2001	65,323	4,643	69,966
2002	65,345	4,161	69,506
2003	65,763	5,244	71,007
2004	66,091	4,233	70,323
2005	66,608	4,148	70,756
2006	67,692	6,154	73,846
2007	69,935	6,591	76,526
2008	69,112	5,288	74,399
cum. 1996-2008	-	61,408	-
average (1996-2008)	64,486	4,724	69,209

* Made possible by releasing the fiscal residuum ascribable to taxpayers paying Irpef.

Source: Processed on data supplied by the Ministry of Economic Development - DPS - Territorial Public Accounts and Istat - Regional income statements.

Between 1996 and 2008 the fiscal residuum hindered real consumption (at constant prices based on year 2000) for 61.4 billion Euros (66.2 billion at current prices). As this amount is comparable to the yearly consumption of whole year, it is as if one year between 1996 and 2008 had been taken off the calendar.

For each year, the additional consumption would range between 5.5% and 9.4% of actual consumption, in line with the yearly average (namely 7.3%). The per capita burden amounts to approximately 1,026 Euros yearly[51] (1,103 Euros at current prices), with peaks of almost 1,400 (2007).

The assessment of spending choices by residents, shows that the consumption associated to the *fiscal residuum* can be broken down amongst different types of goods and services[52]:

Table 5.5 – The *Veneto. The fiscal residuum of Public Administrations Impact on consumption for type of goods and services. Million Euros, constant prices (based on year 2000). Years 2006, 2007, 2008*

	2006	2007	2008	2006-2008
Additional consumption	6,154	6,591	5,288	18,033
Home (main and sec.)	1,674	1,756	1,415	4,845
Food & beverage	915	987	828	2,730
Transport	1,042	1,130	845	3,018
Other goods and services	774	790	641	2,206
Furniture, household appliances, home services	394	396	344	1,134
Fuel and energy	300	311	284	895
Clothing and footwear	341	385	272	998
Leisure, culture and games	281	326	239	846
Healthcare	216	280	237	732
Communication	102	119	106	327
Education	81	70	43	194
Tobacco	35	40	33	108

Source: Processed on data supplied by the Ministry of Economic Development - DPS - Territorial Public Accounts and Istat

50 Estimates supplied by equation [5a] shown in the Methodological appendix.
51 The entire resident population was considered (including newborns and the elderly).
52 The figures on the spending habits enable this estimation to be conducted for the years 2006-2008 alone.

Note that for the three year period considered (2006-2008) approximately 6 billion Euros could have been spent for constructions and goods associated to housing[53] (7.1 billion at current prices): this would have had a clearly positive impact on the industry manufacturing home-related products.

Another 2.7 billion Euros could have been spent for food (3.3 billion at current prices), and another 4.9 billion Euros (5.8 billion at current prices) for products and services typical of the Veneto's economic system:

1. the fashion industry would have benefited from 1 billion Euros (1.2 billion at current prices);
2. the transport and leisure sector, mainly associated to tourism, would have benefited from some extra 3.9 billion Euros (4.6 billion at current prices).

The final assessment considers the overall impact on the generation of local GDP. The estimate tries to quantify the circular and cumulative causation described in the previous paragraph. Based on the Keynesian vision of the economy, **the *fiscal residuum* released back to the local territory (albeit restricted to the amount ascribable to the taxpayers paying Irpef) generates a virtuous mechanism that arises in consumption and branches out to investments (including import-export activities), to the benefit of regional GDP.** The estimate uses the regional multiplier of GDP as shown in the Methodological Appendix; this is a prudential estimate which, having welcomed the reservations expressed in the Appendix, does not consider the multiplying effect of imports-exports[54]:

Table 5.6 – The *Veneto. The fiscal residuum of Public Administrations. Impact on the generation of regional GDP. Million Euros, constant prices (based on year 2000). Years 1996-2008*

	Fiscal residuum (share ascribable to taxpayers paying Irpef)	Real GDP	Potential GDP	GDP variation
1996	6,942	100,443	107,992	7,549
1997	8,981	103,942	113,708	9,766
1998	9,907	104,575	115,348	10,773
1999	11,208	106,270	118,458	12,188
2000	9,778	111,712	122,345	10,633
2001	10,024	112,592	123,493	10,901
2002	8,793	111,500	121,062	9,562
2003	11,151	112,966	125,092	12,126
2004	8,693	116,002	125,455	9,453
2005	8,379	116,917	126,029	9,112
2006	12,850	119,741	133,715	13,973
2007	13,674	121,846	136,716	14,869
2008	10,510	120,875	132,303	11,429

Source: Processed on data supplied by the Ministry of Economic Development - DPS - Territorial Public Accounts and Istat

[53] Housing, furniture, domestic appliances and home services.
[54] The patterns used are those of equations [9] and [10b] described in the Methodological appendix.

5.5 Methodological appendix

Given the basic relation (supplied by equation [1]), the model considers public spending (G) and inventory variation (VS) as exogenous factors, while including trends and interrelations of consumption (C), investments (I) and import-export (XM).

As to consumption, the two scenarios under assessment can be represented as follows [55]:

$$C = c_o + c_1(Y\text{-}T) \qquad [2a]$$

$$C = c_o + c_p Y_{pnet} + c_2(Y\text{-}T) \qquad [2b]$$

where c_1 and c_2 are the likeliness to use the current income available, c_o refers to subsistence consumption (unrelated to income[56]) and T to overall taxation; permanent income (Y_p), as also current income, are considered before taxes.

The two alternatives to describe investments are:

$$I = d_o + d_1Y - d_2i - d_3VS \qquad [3a]$$

$$I = d_o + d_4\Delta Y - d_5i - d_6VS \qquad [3b]$$

where d_1, d_2, d_3, d_4, d_5 and d_6 are impact parameters, while d_o is the level of investments achieved[57]. The cost of money is determined in real terms[58].

The first formula uses the traditional method to describe net exports, analysing imports (M) and exports (X) separately [59]:

$$X = x_1Y^* - x_2\epsilon \qquad [4a]$$

$$M = m_1Y + m_2\epsilon \qquad [4b]$$

$$XM = x_1Y_W - m_1Y - (x_2+m_2)\epsilon \qquad [4c]$$

where x_1, x_2, m_1 and m_2 are the impact coefficients, and Y_W and ϵ mirror, respectively, the global GDP and the actual exchange rate[60].

The second formula models an empirical pre-analysis of the Veneto's imports-exports and directly considers its final balance [61]:

$$XM = k_1Y_W + k_2Y - k_2\epsilon \qquad [4d]$$

55 In the second formula, decisions on consumption are only partly reliant on current income, based on the assumption that the consumer also (or perhaps mainly) considers their steady income, namely the income level they can rely on consistently. The discussion focuses on how this level should be measured. The prevailing theory suggests that it is the current value of expected future income. In practice it is hard to assume that the average consumer is so rational and has the ability to make such an assessment. This survey opted for a more conservative quantification method, based on the average of the income earned as of now (excluding current income). This consideration of permanent income levels leads to an expectation of a higher likeliness to consume (c_p) and a more modest use of current income alone (c_2).

56 Resorting to public support and/or the use of assets.

57 For example, investments to restore rather than expand production capacity which has deteriorated due to age or obsolescence (or inadequacy).

58 Namely before inflation.

59 As to the exchange rate effect, the quantitative calculations range over the period between 1980-2008: as a result, up to 1998, it resorts to an alternative to the Euro-US Dollar exchange rate that only started in 1999. For this purpose the exchange rate between the Italian Lira and the US Dollar proved to be more effective than the ECU-US Dollar exchange rate. For the entire period, the exchange rate considered is the actual rate: this neutralises the impact caused by different price systems.

60 As the Euro is quoted taking the *uncertain rate for certain*, its appreciation reduces exports (our goods are more expensive for non-residents, despite lack of changes in the price quoted), while they promote imports (the opposite effect is true for residents).

61 Resulting in a different expectation as to the impact of local GDP.

Having defined the model, the next step is to estimate the constant terms of the formula (c_o, d_o) and the likeliness of consumption (c_p, c_1, c_2), investments (d_1, d_2, d_3, d_4, d_5, d_6) and imports-exports (x_1, x_2, m_1, m_2, k_1, k_2, k_3); obviously, the estimation of the parameters is associated to the final choice between the three pairs of alternatives.

The econometric assessment of relations [2a], [2b], [3a], [3b], [4c] and [4d] soon reveals a statistical problem [62], which must necessarily be solved and forces us to estimate the prime differences of each term:

$$\Delta C = \Delta c_o + \Delta c_1(Y\text{-}T) \quad [5a]$$
$$\Delta C = \Delta c_o + \Delta c_p Y_{pnetto} + \Delta c_2(Y\text{-}T) \quad [5b]$$
$$\Delta I = \Delta d_o + \Delta d_1 Y - \Delta d_2 i - \Delta d_3 VS \quad [6a]$$
$$\Delta I = \Delta d_o + \Delta(d_4 \Delta Y) - \Delta d_5 i - \Delta d_6 VS \quad [6b]$$
$$\Delta XM = \Delta x_1 Y_W - \Delta m_1 Y - \Delta\ (x_2+m_2)\ \epsilon \quad [7a]$$
$$\Delta XM = \Delta k_1 Y_W + \Delta k_2 Y - \Delta k_3 \epsilon \quad [7b]$$

which can be reformulated as follows:

$$C = C_{-1} + c_1 \Delta(Y\text{-}T) \quad [5a]$$
$$C = C_{-1} + c_p \Delta Y_{pnet} + c_2 \Delta(Y\text{-}T) \quad [5b]$$
$$I = I_{-1} + d_1 \Delta Y - d_2 \Delta i - d_3 \Delta VS \quad [6a]$$
$$I = I_{-1} + d_4 \Delta\Delta Y - d_5 \Delta i - d_6 \Delta VS \quad [6b]$$
$$XM = XM_{-1} + x_1 \Delta Y_W - m_1 \Delta Y - (x_2+m_2)\Delta\epsilon \quad [7a]$$
$$XM = XM_{-1} + k_1 \Delta Y_W + k_1 \Delta Y - k_2 \Delta\epsilon \quad [7b]$$

The best estimated models, that were thus chosen to simulate the impact of the *fiscal residuum*, were:

$$C = 1.012{*}C_{-1} + 0.437{*}\Delta(Y\text{-}T) \qquad adjR^2 = 0.988\ [5a]$$
$$I = 1.004{*}I_{-1} + 0.16{*}\Delta Y \qquad adjR^2 = 0.952\ [6a]$$
$$XM = 0.907{*}XM_{-1} - 0.0001{*}\Delta Y_W + 0.29\Delta Y - 8618.2\Delta\epsilon \qquad adjR^2 = 0.788\ [7b]$$

A couple of technical notes:

1. the variables were selected based on *Student's T-test*; since the final model is used to forecast scenarios, the critical value was 1 and not the value supplied by the *T* distribution tables for the formula's degrees of freedom and the required degree of significance;
2. the self-correlation was statistically significant for consumption and net exports; it was eliminated using the *Cochrane-Orcutt* method;
3. *adjusted* R^2 is close to 1 for consumption and investments, confirming the overall effectiveness of the estimates;
4. *adjusted* R^2 for net exports ranges between 0.7 and 0.8: this indicates a good estimate which nevertheless is unable to fully explain the trend; this is probably due to the base figure that is expressed directly in the balance and hinders the separate evaluation of exports and imports.

[62] The augmented *Dickey-Fuller* test shows that the historical series for 1980-2008 for consumption and investments in the Veneto are not stable (with net exports providing significant variations between 5% and 10%), meaning that they do not necessarily reveal a clear trend. It is clear that the assessment of parameters using the *ordinary least squares* method would lack any economic significance. A possible solution is to use the prime differences between dependant variables and, for the sake of homogeneity, explanatory variables.

Having considered the estimates, let us now take a new look at the basic formulas they are based on:

$$C = c_o + c_1(Y\text{-}T) \qquad [5a]$$
$$I = d_o + d_1Y - d_2i - d_3VS \qquad [6a]$$
$$XM = k_1Y_W + k_2Y - k_3\epsilon \qquad [7b]$$

that implicitly determine the mechanism to test the multiplier effects on local GDP; indeed, if [5b], [6a] and [7b] are included in [1], with reference to the GDP, the following is achieved:

$$Y = \frac{1}{1\text{-}c_1\text{-}d_1\text{-}k_2}\left[c_0\text{-}c_1T+d_0\text{-}d_2i+k_1Y_W\text{-}k_3\epsilon+G+(1\text{-}d_3)VS\right] \qquad [8]$$

Nevertheless, the results of the estimation of the Veneto's imports-exports require great caution when including them in the multiplier process. The alternative could be to consider net exports as an exogenous variable. In this case, the multiplier structure of the GDP would be:

$$Y = \frac{1}{1\text{-}c_1\text{-}d_1}\left[c_0\text{-}c_1T+d_0\text{-}d_2i+G+(1\text{-}d_3)VS\right] \qquad [9]$$

As the focus of this survey is the reduction of the fiscal burden, and considering the estimated values of the parameters, the impact on GDP can be measured as follows:

$$\Delta Y = -\frac{c_1}{1-c_1-d_1-k_2}\Delta T = -3.9\,\Delta T \qquad [10a]$$

$$\Delta Y = -\frac{c_1}{1-c_1-d_1}\Delta T = -1.09\,\Delta T \qquad [10b]$$

6. The risk of tax evasion and territorial differences in European Regions*

6.1 Introduction

Combating tax evasion is one of the issues at the core of recent policies to improve the public accounts of European States, with Italy at the forefront. Rigid public spending mechanisms and an already high fiscal burden have inevitably contributed to fighting tax evasion and tax avoidance. A research conducted by Dell'Anno and Schneider[63], reveals that in 2002-03 the shadow economy in Italy amounted to 26.2% of the GDP, compared to 12.3% in Great Britain, 14.8% in France and 16.8% in Germany.

The submerged economy includes all legal entrepreneurial activities (excluding illegal activities) performed without complying with fiscal or tax laws. In this regard, note that the GDP is estimated on a country's overall economic activities, including those linked to official sources and those that escape official surveys (because they are conducted without fulfilling the laws in force or paying the taxes due). The **Italian Statistical Office ISTAT** publishes regular estimates on the submerged economy and provides two thresholds that represent the lowest and the topmost estimation of the shadow economy. The most recent note made public in July 2010[64] **estimates the value of the submerged economy at somewhere between 255 and 275 billion Euros, respectively 16.3% and 17.5% of the GDP.**

The fight against tax evasion is becoming tougher. According to Equitalia, the agency in charge of managing national and local tax collection in Italy, between 2005 and 2010 the income generated from identified evasion doubled, rising from 3.8 to 8.9 billion Euros (+129%). With reference to the regions of Italy, tax evasion (or at least the results of the fight against tax evasion) seems to be lower in Trentino-Alto Adige (99 Euros per inhabitant) and Veneto (118 Euros), while the highest figures are recorded in Latium (218 Euros per capita), Tuscany (193 Euros) and Lombardy (190 Euros). With the exception of Apulia, the other Regions of the South are all in the top ranks for tax evasion (Table 6.1). In fact, these figures should be interpreted taking into account the concentration of firms (which contributes to increasing the average value of the amounts collected): this is true for Latium, Tuscany and Lombardy, and less so for Basilicata, Sardinia and Calabria. The figures supplied by the Inland Revenue Office confirm that tax evasion is not evenly distributed nationally: in percentage terms (excluding income taxed at source, i.e.: wages, pensions, interests on Treasury Certificates and current accounts) it reaches 66% in some areas of the South.

* This chapter was drafted by Centro Studi Sintesi, www.centrostudisintesi.com, except for paragraph 6.4 drafted by Francesco Lovat, Centro Studi Unioncamere del Veneto.

63 Dell'Anno, R. - Schneider, F.: "The Shadow Economy of Italy and other OECD Countries: What do we know?"

64 Istat: "La misura dell'economia sommersa secondo le statistiche ufficiali", Statistiche in breve (13 July 2011).

Table 6.1 – *Equitalia: income from identified tax evasion per inhabitant. Year 2010*

	Income from identified tax evasion (MEUR)	Population (in millions)	Amount collected over total population (Euros)
Latium	1,246.7	5.7	218
Tuscany	722,3	3.7	193
Lombardy	1.881,6	9.9	190
Basilicata	93,4	0.6	159
Liguria	256,4	1.6	159
Sardinia	250,2	1.7	149
Campania	868,9	5.8	149
Emilia Romagna	655,3	4.4	148
Molise	46,9	0.3	147
Umbria	132,9	0.9	147
Calabria	289,3	2.0	144
Abruzzo	190,1	1.3	142
Piedmont	628,9	4.5	141
Friuli-V.G.	173,4	1.2	140
Apulia	544,0	4.1	133
Valle d'Aosta	16,4	0.1	128
Marche	194,3	1.6	124
Veneto	582,4	4.9	118
Trentino-A.A.	102,7	1.0	99
Total estimated by Equitalia*	**8,876.1**	**55.6**	**160**

(*) Equitalia is not operational in Sicily
Source: Processed on data supplied by Equitalia

Policies to contrast tax evasion are one of the major innovations presented by the ongoing federal reform. The existing delegated decrees **give Regions and Local Bodies a central role in identifying the shadow economy** and ensures they receive significant portions of the higher tax revenue collected. In Italy, the role of the "territory" is considered essential in fighting tax evasion. What happens in other European Regions? This paper will now provide an estimation of the "risk" or "likeliness" of tax evasion in Italian regions, by using a new method based on the statistical discrepancy between the available income and the indicators that reveal the wealth of a territory. This same method will be used to review some 200 EU Regions.

6.2 The discrepancy index: a comparison with the fiscal residuum

As anticipated, this survey will try to provide a picture of how Italy deals with an issue that has always kindled controversy: the perceived difference between official income levels and actual wealth. This survey provides an update to 2009 of a research by Centro Studi Sintesi, the last version of which was published by Sole 24 Ore in September 2010.

The method used was the following: each territory (Region and Provincial District) was analysed based on the main indicators for wealth, so as to compare the available income on the one hand, and the standard of living (namely consumption trends) on the other. Table 6.2 provides a summary overview of the indicators used.

Table 6.2 – *Overview of indicators*

Indicator	Figures	Year	Source
Income available to families	(Euros per capita)	2009	Prometeia
Indicators of wealth			
Consumption of food	(Euros)	2009	Istituto Tagliacarne
Consumption of electricity for domestic use	(kwh per capita)	2009	Istituto Tagliacarne on figures by Terna
Fuel consumed in the ordinary road network	(litres per capita)	2009	Processed on data supplied by the Ministry of Economic Development
Vehicles exceeding 2,000 cc	(% over total)	2009	Istituto Tagliacarne on figures by ACI
Vehicles registered	(per 1,000 inhab.)	2009	Istituto Tagliacarne on figures by ACI
Deposit accounts, average variation in the last three years	(var. %)	2006-2009	Processed on figures by Banca d'Italia
Quality housing (A1, A8, A9)	(% over total)	2009	Processed on figures by OMI

Source: Processed by Centro Studi Sintesi

According to the Italian Statistical Office - Istat, a family's available income is calculated as follows: (gross results for the period) + (mixed income) + (income from subordinate employment) + (net income from capital) – (current taxes) – (social contributions) + (social costs) + (other net transfers). To ensure that figures were comparable, the average per capita figure was used.

Under **wealth indicators** we included seven different variables: consumption of food per capita, consumption of electricity for domestic use per capita, per capita consumption of petrol and diesel on the ordinary road network, number of vehicles exceeding 2,000 cc, number of vehicles circulating per 100 inhabitants, average yearly variation of deposit accounts over the last three years and, finally, quality housing (A1, A8 e A9).

The indicator that measures the standard of living (or rather the wealth status) was obtained using the average values resulting from the standardised variables: this enabled us to compare the figure with the "income" variable that was standardised.

Table 6.3 provides an overview of the so-called "discrepancies" (statistical differences) between these indicators, revealing consumption and lifestyle behaviours in the different areas of Italy. **Positive discrepancies are reported where the wealth status of the residents is on average lower than the available income; on the other hand, negative values emerge in Provincial Districts where consumption and standard of living tend to exceed the average income.**

Table 6.3 – *Discrepancy index between income and wealth status. Average rating (Italy = 100). Year 2009*

			Indicators of wealth								
Pos.	Regions	Disposable income (Euros per capita)	Food consumption (Euros)	Electricity consumption (kwh per capita)	Fuel consumption (litres per capita)	% of vehicles exceeding 2,000 cc	No. of registered vehicles per 1,000 inhabitants	Average percent variation in bank deposits over the past three years	% of quality housing over total	Discrepancy index between income and expressed wealth status	Score
1	EMILIA ROMAGNA	21,258	2,620	1,205	544	8.25	61.64	9.40	0.23	0.8249	**148**
2	FRIULI-VENEZIA GIULIA	20,431	2,738	1,131	507	7.55	61.63	6.80	0.40	0.6873	**140**
3	TRENTINO-ALTO ADIGE	20,584	2,323	1,195	568	11.30	54.82	7.97	0.26	0.6315	**137**
4	PIEDMONT	19,892	2,708	1,123	496	6.79	62.73	8.00	0.33	0.6261	**136**
5	MARCHE	18,393	2,607	1,041	537	6.90	62.42	6.15	0.13	0.5050	**129**
6	VENETO	19,303	2,493	1,132	466	9.48	59.62	10.18	0.22	0.3971	**123**
7	LOMBARDIA	20,350	2,845	1,201	492	9.12	58.91	9.40	0.26	0.3925	**123**
8	LATIUM	19,067	2,587	1,253	510	7.48	67.67	9.00	0.14	0.2542	**115**
9	UMBRIA	17,923	2,467	1,085	527	7.69	67.09	5.82	0.23	0.2236	**113**
10	TUSCANY	19,671	2,731	1,171	589	7.51	63.46	5.66	0.53	0.1865	**111**
11	LIGURIA	20,163	3,215	1,180	452	6.55	51.87	13.37	0.70	-0.0852	**95**
12	BASILICATA	14,275	2,379	887	460	6.84	58.34	4.74	0.01	-0.0900	**95**
13	MOLISE	15,088	2,692	938	450	7.29	61.03	1.30	0.13	-0.1021	**94**
14	VALLE D'AOSTA	21,030	2,597	1,267	764	7.76	110.55	7.91	0.16	-0.1128	**93**
15	ABRUZZO	15,002	2,397	948	526	6.76	61.99	5.78	0.08	-0.2155	**87**
16	APULIA	13,274	2,456	1,043	461	6.08	54.84	6.38	0.12	-0.7168	**58**
17	CALABRIA	13,239	2,655	1,069	485	6.20	58.46	3.91	0.07	-0.8278	**52**
18	SARDINIA	14,542	2,543	1,369	576	5.22	58.69	5.89	0.04	-0.8418	**51**
19	SICILY	13,174	2,653	1,165	478	5.46	60.97	2.89	0.06	-0.8462	**51**
20	CAMPANIA	12,543	2,665	1,001	372	5.34	57.99	5.73	0.21	-0.8907	**48**

Source: Centro Studi Sintesi from miscellaneous sources

The regional ranking calculated on this indicator and conventionally called "discrepancy index between income and expressed wealth status" supplies a clear overview of the situation in Italy: there are areas where income and wealth status go hand in hand, and other areas where the level of consumption and lifestyles apparently exceed the available income.

The indicator was also expressed as a rated figure where the national average is 100. This does not change the ranking and the order of Regions. In the top positions there are the Regions of the so-called "Statistical North-East", namely, in decreasing order, Emilia-Romagna (first), Friuli-Venezia Giulia (second), Trentino-Alto Adige (third) and the Veneto (sixth). The top positions also include Piedmont (fourth), Marche (fifth) and Lombardy (seventh).

On the other end of the classification, where there is a negative discrepancy between income and wealth status, we find the South of Italy, namely Campania, Sicily, Sardinia and Calabria. This is "statistical" evidence that in these territories the higher wealth status (and consumption trends) do not match the available income officially declared.

Looking at trends, Emilia-Romagna retains the position it had in 2006, and the same holds true for Trentino-Alto Adige and Piedmont (Table 6.4); the positions of Marche and Veneto are basically the same, while Friuli-Venezia Giulia and Lombardy have "exchanged" position, now ranking second and seventh respectively. The most significant progress has been achieved by Latium (having risen from 15th to 8th position), while there are no remarkable changes in the lower end of the rank.

The discrepancy index can supply interesting evidence if associated to another important indicator, the **fiscal residuum**. The fiscal residuum is the difference between how much each territory contributes to the Public Administration (through taxes, rates and contributions) and how much it benefits in terms of public services and resources transferred to Local Bodies. Conventionally, positive marks are given to areas that give more than they receive (creditors), while negative marks are given to those that receive more than they contribute (debtors). This issue has already been broadly discussed in this Survey Report in Chapter 4.

Table 6.4 – *Discrepancy between income and wealth status: 2009 rating (average for Italy = 100)*

Pos. 2009	Region	**Rating 2009**	Pos. 2006	*Diff. Pos.*	Rating 2006	*Diff. Rating*
1	EMILIA ROMAGNA	**148**	1	*+0*	150	*-2*
2	FRIULI-VENEZIA GIULIA	**140**	7	*+5*	118	*+23*
3	TRENTINO-ALTO ADIGE	**137**	3	*+0*	132	*+5*
4	PIEDMONT	**136**	4	*+0*	128	*+8*
5	MARCHE	**129**	6	*+1*	118	*+11*
6	VENETO	**123**	5	*-1*	119	*+5*
7	LOMBARDY	**123**	2	*-5*	140	*-17*
8	LATIUM	**115**	15	*+7*	83	*+32*
9	UMBRIA	**113**	8	*-1*	115	*-2*
10	TUSCANY	**111**	10	*+0*	105	*+5*
11	LIGURIA	**95**	9	*-2*	114	*-19*
12	BASILICATA	**95**	12	*+0*	94	*+1*
13	MOLISE	**94**	11	*-2*	97	*-3*
14	VALLE D'AOSTA	**93**	14	*+0*	89	*+5*
15	ABRUZZO	**87**	13	*-2*	90	*-3*
16	APULIA	**58**	18	*+2*	60	*-2*
17	CALABRIA	**52**	17	*+0*	62	*-11*
18	SARDINIA	**51**	16	*-2*	79	*-28*
19	SICILY	**51**	20	*+1*	50	*+0*
20	CAMPANIA	**48**	19	*-1*	57	*-9*

Source: Centro Studi Sintesi from miscellaneous sources

Table 6.5 compares the classifications for both indicators. The first impression is that there is correspondence between the two variables: generally speaking, **the areas with a negative fiscal residuum show consumption trends that exceed the available income** (i.e.: negative discrepancy index).

Table 6.5 – *The residuum and the discrepancy index compared*

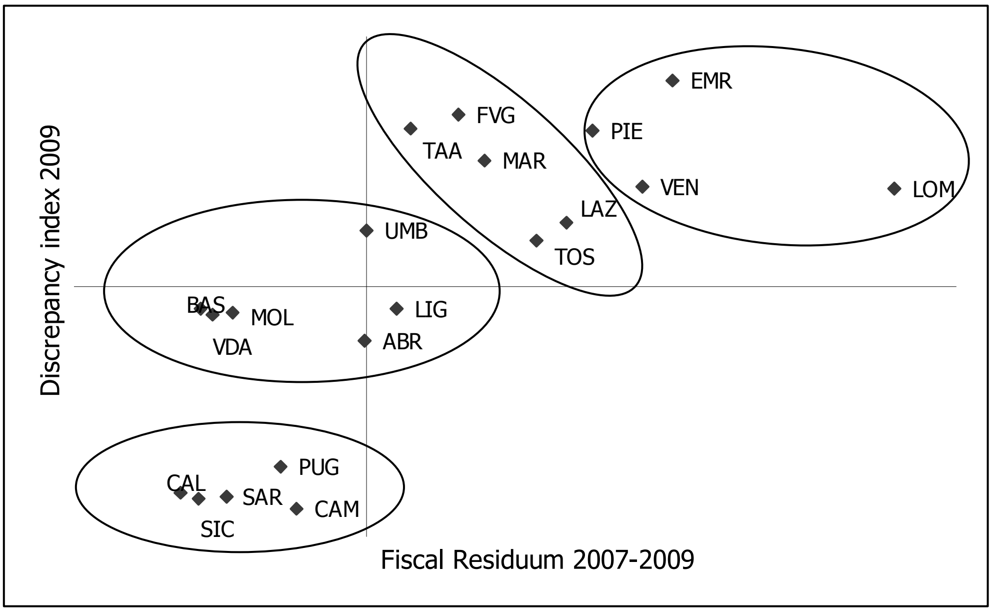
Residuum (average 2007-2009) amounts in Euros per capita			**Discrepancy index (2009)** standardised values		
(best performing)			(best performing)		
1	Lombardy	7,198	**1**	Emilia Romagna	0.8249
2	Emilia Romagna	4,203	**2**	Friuli-Venezia Giulia	0.6873
3	Veneto	3,405	**3**	Trentino-A.A.	0.6315
4	Piedmont	3,047	**4**	Piedmont	0.6261
5	Latium	2,346	**5**	Marche	0.5050
6	Tuscany	2,098	**6**	Veneto	0.3971
7	Marche	1,342	**7**	Lombardy	0.3925
8	Friuli-Venezia Giulia	640	**8**	Latium	0.2542
9	Trentino-A.A.	359	**9**	Umbria	0.2236
10	Liguria	205	**10**	Tuscany	0.1865
11	Umbria	178	**11**	Liguria	-0.0852
12	Abruzzo	108	**12**	Basilicata	-0.0900
13	Campania	-1,042	**13**	Molise	-0.1021
14	Apulia	-1,368	**14**	Valle d'Aosta	-0.1128
15	Sicily	-1,859	**15**	Abruzzo	-0.2155
16	Molise	-1,869	**16**	Apulia	-0.7168
17	Sardinia	-2,270	**17**	Calabria	-0.8278
18	Basilicata	-2,415	**18**	Sardinia	-0.8418
19	Valle d'Aosta	-2,532	**19**	Sicily	-0.8462
20	Calabria	-2,797	**20**	Campania	-0.8907
(worst performing)			(worst performing)		

Source: Centro Studi Sintesi from miscellaneous sources

The actual situation can be best grasped by looking at Chart 6.1. There are at least four groups of Regions:

1) the first group includes Lombardy (although it tends to be an outlier), Veneto, Piedmont and Emilia Romagna: their fiscal residuum is definitely positive and their consumption levels are relatively lower than the available income (positive discrepancy);
2) the second group includes Latium, Tuscany, Marche, Friuli-Venezia Giulia and Trentino-Alto Adige: on average their fiscal residuum is positive and consumption tends to be in line with the available income;
3) the third group includes Umbria, Liguria, Abruzzo, Molise, Basilicata and Valle d'Aosta: their fiscal residuum is negative or just above the 0 threshold and consumption tends to be in line with the available income (although there are two main sub-groups within this larger group);
4) the fourth includes Apulia, Campania, Calabria, Sicily and Sardinia: they are characterised by a broadly negative fiscal residuum and by consumption that exceeds the available income (negative discrepancy).

Graph 6.1 – *Residuum and discrepancy index: a map of the Regions*



Source: Centro Studi Sintesi from miscellaneous sources

The link between fiscal residuum and the discrepancy index enables us to make some considerations. The main consideration is associated to the implementation of fiscal federalism. In the delicate startup phase of the reform, territorial tax evasion indexes will have to be considered. In other words, the financial resources arising from the tax equalisation funds will have to be adjusted to a territory's ability to contribute (including the submerged economy) and not simply to the figures on taxes paid. Otherwise the risk will be to continue operating as we have in the last fifty years, with a public system that allocates greater financial resources to those who "rely" on tax evasion. The Delegated Law (act issued by the Government under Parliamentary delegation) and a number of Legislative Decrees have outlined measures to avoid this: it is everyone's task to ensure full compliance with these provisions and to ensure that they are not avoided.

6.3 Estimation of the "risk of tax evasion" in European Regions

This paragraph aims at supplying an early statistical assessment of the discrepancy between available income and "wealth status" in the Regions of the European Union. This survey takes up and takes into further depth the method used in the previous paragraphs to analyse Italian Regions and Provincial Districts. We were unable to conduct the assessment using the same indicators applied nationally, due to the lack of Europe-wide figures.

The final aim is to measure the **discrepancy between the "official" income level and what can be considered to be the "implied"** income, by using indicators of wealth and economic potential. The indicator chosen to represent the "official" picture is the income available to families, rather than the GDP per capita: indeed, it enables us to estimate the resources that a family can actually spend (after taxes). In addition, this indicator was considered at purchasing power parity (PPA), to ensure the comparability between Regions of different Countries.

On the other hand, the "implied" income was represented by a set of seven indicators that can reveal the standard of living and the economic performance of a Region. **The summary indicator** is obtained from the average of the values resulting from the standardised variables[65], so as to ensure that it can be compared with the variable for the available (disposable) income, which is also a standardised value. The seven indicators used to assess the actual economic and tax potential are:

⇒ the **average yearly growth of GDP** between 2000-2007;
⇒ **long-term unemployment** (more than 12 months);
⇒ the **population at risk of poverty** (after social transfers);
⇒ **labour productivity** in industry and services;
⇒ **the net effect of taxes and public transfers** on income (reveals the Regions where citizen improve their financial standing thanks to the support of the public sector);
⇒ **number of families that have access to the Internet**;
⇒ **number of vehicles per** thousand inhabitants.

The statistics were calculated on **201 European Regions**, based on the latest NUTS classification (Nomenclature of territorial units for statistics). Single-region countries and small countries were excluded: they include Malta, Cyprus, Luxemburg, Estonia, Latvia and Lithuania.

The source of the data was Eurostat and the statistical annex to the "Fifth report on economic, social and territorial cohesion", recently published by the European Commission. Figures refer to the latest year available; nevertheless, in some cases we were forced to resort to figures for previous years. In addition, due to the lack of detailed information, some Regions (NUTS2) were assigned the value of the reference macroarea (NUTS1).

[65] Standardised value of a variable (average zero, unitary variance) minus the sampled or population average and divided by the standard sampled or population deviation. The standardised variables are comparable because the importance of the unit of measurement used to represent them is neutralised.

The discrepancy coefficient was built using eight indicators (namely disposable income in addition to seven others). By observing this information we can record the major differences between European territories.

The **income available to families**, calculated taking into account the difference in purchasing power in different countries, ranges between 22,920 Euros of Hamburg to 3,575 Euros in the Bulgarian region of Severozapaden (i.e.: 6 times smaller). On the other hand, the growth experienced by the Bulgarian region of Yugozapaden is unprecedented in Europe: between 2000-2007 its GDP increased on average 8.9%, against -0.2% of the aforementioned Severozapaden.

Long-term unemployment in the Slovak region of Stredné Slovensko is one of the highest: in 2008, 73.6% of the unemployed had been out of a job for over one year. In Åland, in Finland, long-term unemployment is definitely marginal at 4.5%.

The **population at risk of poverty**, after the distribution of social benefits, exceeds 40% in the Autonomous City of Ceuta, the Spanish enclave in Africa; this risk is almost null in the Autonomous Provincial District of Trento (4.9%).

There are irreconcilable differences also for **labour productivity** in industry and the services, measured as the added value per employee. Given a European average of 100, London achieves 195.5, approximately 7 times more than the Bulgarian Region of Severozapaden.

In the Netherlands, **Internet** is available practically to all inhabitants, with peaks of 96% in the region of Groningen (high percentages of coverage are recorded also in Finland, United Kingdom, Denmark and Sweden). On the other hand, only 26% of families in Severoiztochen (BG) can access the web.

The **number of cars** per inhabitant shows an unusual concentration in Valle d'Aosta, that requires further investigation. High values are also found in the Dutch Region of Flevoland (783 per thousand inhabitants), in the Italian Regions of Latium (673) and Umbria (666), in the Greek Region of Attiki (647, the Region of Athens). In Romania, the number of cars decreases remarkably, and drops to 109 vehicles per thousand inhabitants in the region of the North-East.

The results of the statistical survey are provided in the tables below. They specifically provide a ranking of the discrepancies (statistical differences) between the standardised indicator on the "official" income (income available to families) and the "implied" income (the summary of seven indicators of wealth and economic performance). This provides a first general picture of the behaviour of residents in different territories: **positive differences refer to areas where the "wealth status" of residents is on average lower than the disposable income; on the other hand, negative values reveal territories that are likely to consume but where the economic indicators are not in line with the level of disposable income**. In other words, figures close to zero show a "normal" situation, i.e. a condition where the standard of living and economic performance "justify" the locally available income.

To simplify the assessment, the Regions were divided into six clusters depending on the size of the value measuring the "discrepancies". The overall situation is summarised in Table 6.6. Most Regions (47) are grouped in cluster C (between 0 and +0.5), while the three "negative" clusters (D, E, F) include a similar number of regions. Cluster A (discrepancy index greater than +1) includes fewer Regions (just 19), almost half concentrated in Germany (8). The Italian regions are grouped in the first four clusters:

⇒ 4 Regions in cluster A: Emilia-Romagna, Lombardy, Bolzano and Piedmont;

⇒ 8 Regions in cluster B: Friuli-Venezia Giulia, Liguria, Tuscany, Latium, Veneto, Marche, Trento and Umbria;

⇒ 5 Regions in cluster C: Valle d'Aosta, Basilicata, Abruzzo, Molise and Campania;

⇒ 4 Regions in cluster D: Sardinia, Apulia, Sicily and Calabria.

Table 6.6 – *Regions distributed by cluster and Country*

Country	**A**	**B**	**C**	**D**	**E**	**F**	**Total**
Discrepancy index	greater than 1	between 0.5 and 1	between 0 and 0.5	between 0 and -0.5	between -0.5 and -1	less than -1	
Austria (AT)	2	6	1	0	0	0	**9**
Belgium (BE)	0	2	1	0	0	0	**3**
Bulgaria (BG)	0	0	0	0	2	4	**6**
Denmark (DK)	0	0	0	3	2	0	**5**
Finland (FI)	0	0	0	2	2	1	**5**
France (FR)	1	15	6	0	0	0	**22**
Germany (DE)	8	3	5	0	0	0	**16**
Greece (GR)	1	1	9	1	1	0	**13**
Ireland (IE)	0	0	1	1	0	0	**2**
Italy (IT)	4	8	5	4	0	0	**21**
Netherlands (NL)	0	0	4	6	1	1	**12**
Poland (PL)	0	0	0	0	6	10	**16**
Portugal (PT)	0	1	0	4	2	0	**7**
United Kingdom (UK)	2	1	8	1	0	0	**12**
Czech Rep. (CZ)	0	0	0	1	5	2	**8**
Romania (RO)	0	0	0	0	0	8	**8**
Slovakia (SK)	0	0	0	1	1	2	**4**
Slovenia (SI)	0	0	0	0	2	0	**2**
Spain (ES)	1	3	6	7	2	0	**19**
Sweden (SE)	0	0	1	4	3	0	**8**
Hungary (HU)	0	0	0	1	2	0	**3**
Total	**19**	**40**	**47**	**36**	**31**	**28**	**201**

Source: Processed by Centro Studi Sintesi

The figures for the 201 European Regions were taken into account and aggregated, to calculate a **discrepancy coefficient per Country** (Table 6.7). Assuming the continental average is 100, Germany rates 119 and emerges as the Country that is less at "risk" of tax evasion, followed by Austria and France. Surprisingly, Italy ranks fourth, possibly thanks to the contribution of the Northern Regions (above the EU average) that compensate the poor results of Southern Regions. The seventh position of Greece partly arises from a disposable income in line with the EU average and some lower than average indicators (few cars).

Similarly, Spain's ninth position is ascribable to the fact that some Regions have a percentage of the population at risk of poverty exceeding the European average. The negative results of Sweden, Denmark and Finland are in fact justified by a lower income available to families due to the high fiscal burden in these countries, which is nevertheless compensated by some of the most efficient public and social services in the world. On the lower end, there are countries like Romania, Bulgaria and Poland.

Table 6.7 – *Discrepancy coefficient between disposable income and wealth status Summary per Country**

Country	Rating
Germany	119
Austria	115
France	113
Italy	109
United Kingdom	109
Belgium	106
Greece	104
Ireland	96
Spain	95
Netherlands	93
Portugal	91
Sweden	90
Denmark	85
Hungary	79
Finland	79
Slovenia	78
Czech Rep.	74
Slovakia	72
Poland	71
Bulgaria	63
Romania	59
EU average	**100**

(*) national figures are calculated by aggregating regional figures.
The results were weighted to take into account the demographic size of each Region
The assessment did not include "Single-region states" (Malta, Cyprus, Luxemburg, Estonia, Latvia, Lithuania)
Source: Processed by Centro Studi Sintesi and Unioncamere Veneto on figures by Eurostat and the European Commission

Table 6.8 provides a more detailed assessment.

The first four positions are not taken by Regions, but by large cities: Hamburg, Paris (Île De France), Bremen and London. The first ten positions (cluster A) include another large European city, Vienna. It is quite possible that the concentration of financial institutions and businesses in a relatively small area remarkably affects the discrepancy coefficient, broadening the distance between the available income and the standard of living.

The first region, understood as a vaster geographical area, to appear in the ranking is the German Land of North Rhine-Westfalia, followed by the neighbouring Baden-Württemberg, ranking respectively fifth and sixth as shown in Table 6.8. Another German Land (Hessen) ranks eighth. Some Italian Regions rank in the first ten positions (Emilia-Romagna and Lombardy), while the Provincial District of Bolzano is only just above Bayern. Almost all Central/Northern Italian Regions are in the first 40 positions: Piedmont (14th), Friuli-Venezia Giulia (20th), Liguria (22nd), Tuscany (28th), Latium (31st) and Veneto (32nd).

On the opposite end of the classification (cluster F), there are mainly the Eastern European Regions: Romania, Bulgaria, Poland, Slovakia, but also some areas of the older members of the European Union (Greece, Netherlands, Finland). This last cluster of Regions is probably the most interesting for our assessment. Take for example Flevoland, a Dutch Region that ranks 187th in this classification; a similar position is occupied by another Dutch Region, Groningen (166th), the Greek Ionia Nisia (173rd), the Finnish Pohjois-Suomi (174th) and Itä-Suomi (167th). Broadening the outlook, there are also the Spanish Andalusia (154th) and Murcia (148th), and some Portuguese, Swedish and Danish Regions. The Southern Regions of Italy tend to rank better (cluster D): Calabria, in this classification, ranks 127th, and similar positions are taken by Sicily (114th), Apulia (111th) and Sardinia (107th).

Table 6.8 – *Discrepancy between disposable income and wealth status (European average = 0) (1 of 2)*

Cluster A (Discrepancy coefficient greater than +1)

Rank	Region	Country	Coefficient
1	Hamburg	DE	2.246
2	Île De France	FR	1.773
3	Bremen	DE	1.666
4	London	UK	1.654
5	Nordrhein-Westfalen	DE	1.420
6	Baden-Württemberg	DE	1.281
7	Wien	AT	1.253
8	Hessen	DE	1.246
9	Emilia-Romagna	IT	1.246
10	Lombardia	IT	1.221
11	Provincia Autonoma Bolzano	IT	1.186
12	Bayern	DE	1.171
13	Vorarlberg	AT	1.166
14	Piemonte	IT	1.088
15	Sterea Ellada	GR	1.072
16	País Vasco	ES	1.061
17	Rheinland-Pfalz	DE	1.032
18	South East (England)	UK	1.030
19	Schleswig-Holstein	DE	1.028

Cluster B (Discrepancy coefficient between +0,5 e +1)

Rank	Region	Country	Coefficient
20	Friuli-Venezia Giulia	IT	0.993
21	Niederösterreich	AT	0.966
22	Liguria	IT	0.919
23	Saarland	DE	0.917
24	Salzburg	AT	0.911
25	Comunidad Foral De Navarra	ES	0.903
26	Niedersachsen	DE	0.892
27	Alsace	FR	0.875
28	Toscana	IT	0.847
29	Oberösterreich	AT	0.830
30	Rhône-Alpes	FR	0.812
31	Lazio	IT	0.804
32	Veneto	IT	0.772
33	Centre	FR	0.742
34	Burgenland	AT	0.741
35	Auvergne	FR	0.733
36	Tirol	AT	0.725
37	Berlin	DE	0.725
38	Bourgogne	FR	0.724
39	Lisboa	PT	0.716
40	Limousin	FR	0.713
41	Picardie	FR	0.706
42	Champagne-Ardenne	FR	0.696
43	Steiermark	AT	0.695
44	East Of England	UK	0.663
45	Haute-Normandie	FR	0.661
46	Comunidad De Madrid	ES	0.652
47	Franche-Comté	FR	0.650
48	Lorraine	FR	0.631
49	Marche	IT	0.611
50	Provence-Alpes-Côte D'Azur	FR	0.595
51	Basse-Normandie	FR	0.591
52	Aquitaine	FR	0.572
53	Provincia Autonoma Trento	IT	0.571
54	Vlaams Gewest	BE	0.557
55	La Rioja	ES	0.518
56	Kentriki Makedonia	GR	0.518
57	Région De Bruxelles-Capitale	BE	0.514
58	Umbria	IT	0.514
59	Midi-Pyrénées	FR	0.506

Cluster C (Discrepancy coefficient between 0 e +0,5)

Rank	Region	Country	Coefficient
60	Scotland	UK	0.495
61	South West (England)	UK	0.491
62	Pays De La Loire	FR	0.481
63	Ipeiros	GR	0.469
64	Attiki	GR	0.463
65	Voreio Aigaio	GR	0.447
66	Nord-Pas De Calais	FR	0.436
67	Yorkshire And The Humber	UK	0.436
68	Ciudad Autónoma De Ceuta	ES	0.428
69	Cataluña	ES	0.422
70	Dytiki Makedonia	GR	0.420
71	Stockholm	SE	0.414
72	North West (England)	UK	0.410
73	Anatoliki Makedonia, Thraki	GR	0.406
74	Kärnten	AT	0.399
75	Poitou-Charentes	FR	0.397
76	Bretagne	FR	0.394
77	Région Wallonne	BE	0.389
78	Thessalia	GR	0.371
79	Brandenburg	DE	0.357
80	Valle D'Aosta	IT	0.353
81	East Midlands (England)	UK	0.344
82	Notio Aigaio	GR	0.314
83	West Midlands (England)	UK	0.312
84	Noord-Holland	NL	0.310
85	Aragón	ES	0.305
86	Peloponnisos	GR	0.291
87	Basilicata	IT	0.277
88	Dytiki Ellada	GR	0.274
89	Languedoc-Roussillon	FR	0.260
90	Zuid-Holland	NL	0.222
91	North East (England)	UK	0.198
92	Sachsen	DE	0.168
93	Corse	FR	0.164
94	Illes Balears	ES	0.160
95	Utrecht	NL	0.159
96	Southern And Eastern	IE	0.159
97	Sachsen-Anhalt	DE	0.158
98	Castilla Y León	ES	0.154
99	Abruzzo	IT	0.142
100	Thüringen	DE	0.117
101	Molise	IT	0.116
102	Ciudad Autónoma De Melilla	ES	0.109
103	Campania	IT	0.106
104	Mecklenburg-Vorpommern	DE	0.094
105	Limburg	NL	0.046
106	Northern Ireland	UK	0.003

Table 6.8 – *Discrepancy coefficient between disposable income and wealth status (European average = 0) (2 of 2)*

Cluster D (Discrepancy coefficient between 0 e -0,5)

Rank	Region	Country	Coefficient
107	Sardegna	IT	-0.020
108	Algarve	PT	-0.037
109	Wales	UK	-0.067
110	Kriti	GR	-0.079
111	Puglia	IT	-0.082
112	Cantabria	ES	-0.095
113	Gelderland	NL	-0.099
114	Sicilia	IT	-0.100
115	Principado De Asturias	ES	-0.120
116	Noord-Brabant	NL	-0.124
117	Hovedstaden	DK	-0.129
118	Bratislavský Kraj	SK	-0.136
119	Västsverige	SE	-0.142
120	Sydsverige	SE	-0.147
121	Comunidad Valenciana	ES	-0.166
122	Zeeland	NL	-0.178
123	Border, Midland And Western	IE	-0.204
124	Região Autónoma Dos Açores	PT	-0.211
125	Canarias	ES	-0.214
126	Região Autónoma Da Madeira	PT	-0.225
127	Calabria	IT	-0.240
128	Castilla-La Mancha	ES	-0.263
129	Småland Med Öarna	SE	-0.264
130	Extremadura	ES	-0.305
131	Galicia	ES	-0.311
132	Åland	FI	-0.322
133	Östra Mellansverige	SE	-0.357
134	Etelä-Suomi	FI	-0.378
135	Friesland	NL	-0.403
136	Sjælland	DK	-0.404
137	Overijssel	NL	-0.419
138	Közép-Magyarország	HU	-0.422
139	Drenthe	NL	-0.423
140	Midtjylland	DK	-0.450
141	Praha	CZ	-0.481
142	Alentejo	PT	-0.493

Cluster E (Discrepancy coefficient between -0,5 e -1)

Rank	Region	Country	Coefficient
143	Norte	PT	-0.503
144	Centro	PT	-0.504
145	Övre Norrland	SE	-0.505
146	Mellersta Norrland	SE	-0.522
147	Zahodna Slovenija	SI	-0.539
148	Región De Murcia	ES	-0.541
149	Nordjylland	DK	-0.542
150	Syddanmark	DK	-0.587
151	Dunántúl	HU	-0.638
152	Norra Mellansverige	SE	-0.682
153	Mazowieckie	PL	-0.682
154	Andalucía	ES	-0.691
155	Moravskoslezsko	CZ	-0.742
156	Severozapaden	BG	-0.757
157	Severozápad	CZ	-0.760
158	Stredné Slovensko	SK	-0.762
159	Alföld És Észak	HU	-0.764
160	Vzhodna Slovenija	SI	-0.779
161	Länsi-Suomi	FI	-0.806
162	Zachodniopomorskie	PL	-0.831
163	Wielkopolskie	PL	-0.857
164	Łódzkie	PL	-0.872
165	Střední Morava	CZ	-0.876
166	Groningen	NL	-0.890
167	Itä-Suomi	FI	-0.909
168	Śląskie	PL	-0.919
169	Severen Tsentralen	BG	-0.952
170	Jihovýchod	CZ	-0.954
171	Dolnośląskie	PL	-0.955
172	Severovýchod	CZ	-0.968
173	Ionia Nisia	GR	-0.985

Cluster F (Discrepancy coefficient less than -1)

Rank	Region	Country	Coefficient
174	Pohjois-Suomi	FI	-1.004
175	Střední Čechy	CZ	-1.022
176	Warmińsko-Mazurskie	PL	-1.052
177	Podlaskie	PL	-1.071
178	Východné Slovensko	SK	-1.081
179	Jihozápad	CZ	-1.083
180	Świętokrzyskie	PL	-1.106
181	Lubelskie	PL	-1.111
182	Małopolskie	PL	-1.135
183	Yugoiztochen	BG	-1.146
184	Pomorskie	PL	-1.148
185	Kujawsko-Pomorskie	PL	-1.157
186	Lubuskie	PL	-1.167
187	Flevoland	NL	-1.169
188	Severoiztochen	BG	-1.228
189	Západné Slovensko	SK	-1.238
190	Opolskie	PL	-1.247
191	Podkarpackie	PL	-1.294
192	Sud-Vest Oltenia	RO	-1.299
193	Centru	RO	-1.328
194	Sud-Est	RO	-1.352
195	Yuzhen Tsentralen	BG	-1.423
196	Bucureşti - Ilfov	RO	-1.452
197	Nord-Est	RO	-1.544
198	Nord-Vest	RO	-1.610
199	Vest	RO	-1.648
200	Yugozapaden	BG	-1.727
201	Sud - Muntenia	RO	-1.739

The assessment did not include "Single-region states" (Malta, Cyprus, Luxemburg, Estonia, Latvia, Lithuania)

Source: processed by Centro Studi Sintesi on figures by Eurostat and the European Commission

The estimation of the "risk of tax evasion" by calculating the discrepancy coefficient suggested here is a very complex statistical exercise which might lead to misinterpretations. It is an alternative to the surveys conducted until today on this issue and requires improvement and more in-depth studies. Nevertheless, beyond the statistical results, this approach enables us to focus on at least three issues that are crucial in the light of a further enlargement of the EU.

One first issue that deserves further assessment is the **availability of statistics for individual European Regions**. As highlighted in Chapter 4, there is an increasing need for information on the sub-State and sub-Regional areas: the importance of this information is increasingly clear within European and national *governance* processes. Currently, there is a significant database of statistical figures for the Regions, but this might become insufficient over the upcoming years. More specifically, figures on regional **fiscal policies** will be increasingly important. In addition, both an extension of the historical figures available, and greater details on the variables used would benefit the current information available on economy, social issues and the environment.

A European-wide database including the **main fiscal information broken down by Region** would be a crucial resource for the *governance* policies on State aid and competition. A major shortcoming in this context is the **lack of European-wide information on what is know as the "fiscal residuum":** for firms, operating in territories where the fiscal burden broadly exceeds the actual benefits provided by the public sector this is a crucial element for competitiveness. This type of information could also be useful to revise community policies on State aid and to change the laws on the inter-State and inter-regional competitiveness.

Finally, measuring the "territorial risk of tax evasion" by approximation using the discrepancy coefficient suggested in this study can provide a sound basis for **real co-ordination amongst Community cohesion policies**. The management and distribution of European funding must necessarily consider also the "implied" income in each territory. Otherwise there will be an ongoing "distortion", where the financial resources assigned to a Region do not necessarily mirror its real needs.

The 201 European Regions assessed are very different in terms of demographics, economy, social trends, history and geography. This statistical exercise has considered them as a whole: nevertheless, interesting information could arise from analysing each **Country at territorial level.** In this case, the attention would be focused not so much on a positive or negative discrepancy coefficient, but rather on the position achieved by the **Regions** of one specific country. This classification could be used to assess whether the criteria used to define the "less-privileged" areas and consequently distribute financial resources is up-to-date, suitable and fair. To ignore the "territorial risk of tax evasion" could in fact produce a picture of Europe that does not mirror reality. This would jeopardise the areas that need support and excessively reward those areas where needs are not so urgent.

6.4 European cohesion policies and the submerged economy[66]

Amongst the many policies promoted by the European Union, **cohesion policies undoubtedly play a crucial role: they are one of the main areas in which community action is exercised.** Their aim is to promote "economic, social and territorial cohesion and solidarity amongst Member States" and "reduce disparities between the levels of development of the various Regions and the backwardness of less favoured Regions".

In order to do so, the EU allocates approximately 347 billion Euros for cohesion policies, more than 35 percent of the total European budget: as a result, policies for cohesion receive more than any other EU policy and have even more resources available than the common agricultural policy.

The current programming period for cohesion policies (2007-2013) is entering its last stages, and at European level discussions are already ongoing to define their future. Many issues are on the table, amongst them, the discussion on the reform of cohesion policies and the criteria to be used to better share EU resources amongst the different European Regions. The current allocation system concentrates most resources in backward regions (identified exclusively on the basis of their GDP per capita): this system penalises excessively and without reason regions, such as the Veneto, that are characterised by a relatively high level of development but which nevertheless are currently forced to implement in-depth structural changes to respond to the weaknesses that emerged after the financial crisis. Just think that for the 2007-2013 period, the Veneto received some 557 million Euros, approximately 113 Euros per resident, which represents less than 2 percent of the total resources distributed by the EU in Italy.

To ignore the need to financially support the many and major challenges that all European Regions will have to face over the years to come could cause a growth standstill in the most developed regions, which would inevitably jeopardise growth also in backward regions.

Furthermore, the system used to distribute structural funds appears inadequate for a variety of reasons.

For a start, the use of the **per capita GDP as the sole criterion to define a Region's development and as the main basis for the allocation of resources to promote cohesion policies, seems an over simplification,** facing the complexity of Europe and the many different regions that constitute it, characterised by deep differences and by diverse development models.

Secondly, the failure to use a suitable set of parameters to identify the specific regional issues that are not strictly of economic nature goes against the principles on which European cohesion policies are founded (social and territorial aims) and the will expressed by the European Institutions to turn this tool into the main means for implementing the *Europe 2020* strategy.

[66] More in-depth information is provided in Francesco Lovat (2011), "Politica di coesione europea: elementi di criticità e proposte di riforma" in Unioncamere del Veneto, *2010 Report on the economy of the Veneto Region.*

Thirdly, the use of the per capita GDP and the inadequacy of the statistical methods employed by Member States[67] can cause an underestimation of a Region's **real levels of development**. This, in addition to the fact that within some European countries the **different Regions present major differences in terms of the shadow economy**, leads to serious distortions. To promote cohesion policies without taking into account other national and sub-national factors results in the unfair distribution of resources, which does not match the real economic situation of the Regions. This goes to the disadvantage of territories that are stricter in complying with the rules and that most contribute to financing the public expenditure.

Finally, the way in which **European cohesion policies are currently implemented does not take into account the national policies promoted by the Central State: in Italy, such policies rely on draining resources from some Northern Regions to reallocate them to those in the South.** This situation is unsustainable considering the serious economic position currently suffered by the former.

A solution to these issues might come from promoting a **review of the way European cohesion policies** are implemented, in order to:

- allocate a reasonable amount of resources to all European Regions;
- envisage a system to allocate resources based on criteria that really allow the pursuit of the aims stated for cohesion policies: they should include parameters to define the volume of funding ascribable to each Region, in addition to income and unemployment, including the trends of some parameters over a ten-year period at least (an eloquent example is provided by depopulation trends), population density, the higher costs incurred by firms to manage geographical issues and/or insular positions, public spending and the number of civil servants per inhabitant, the amount of infrastructure and public services and other parameters that can grasp the disparities compared to the aims of *Europe 2020*;
- include a system to collect more precise data on GDP, using adequate adjustment methods to take into account the real impact of the shadow economy;
- encourage co-ordination between European cohesion policies and other policies implemented nationally.

[67] According to H. Herwartz, F. Schneider, E. Tafenau (*One share fits all? Regional variations in the extent of shadow in Europe*, survey presented at the international conference "Shadow Economy, Tax Policy, and the Labour Markets in an International Comparison: Options for Economy Policy", University of Munster, 15-16 April 2010) most figures on GDP supplied by Member countries to the EU underestimate the real impact of the shadow economy.

Conclusions

Ten years after the reform of Title V of the Constitution, the rise of political positions that are increasingly unsympathetic of centralist positions, no longer willing to finance inefficiency and waste, and which no longer tolerate the lack of transparency in the management of public resources, has fostered the path towards the implementation of financial decentralisation. That has produced a number of important results. Firstly, the Parliament approved Delegated Law (act issued by the Government under Parliamentary delegation) no. 42/2009 on fiscal federalism, followed by seven of the eight Government Implementation Decrees envisaged (the Decree on sanctions and rewards for Regions, Provincial Districts and Municipalities is still on hold).

Two years after the approval of Law no. 42/2009, the implementation of fiscal federalism seems close but, at the same time, very far from being final and complete, especially if we consider the contents of the decrees issued. In fact, they do not provide a clear and detailed description of the matters considered and make reference to further acts to be implemented in the future. Italy's current political climate is certainly not favourable for the debate on such delicate issues: as a result, any decision on these topics is likely to be postponed. This gives the whole reform an aura of uncertainty and unclarity that does not help the Country.

The six month extension, approved by the Parliament, of the terms for exercising the delegation envisaged by Law no. 42/2009, could enable the Government to bring the reform to completion on time. However, if these extra six months are not used efficiently, it is clear that the entire Country would be burdened by an uncertain and incompletely reformed fiscal organisation that puts the nation's public accounts in danger.

This does not mean that we should simply sit back and wait. On the contrary, the most virtuous Regional Governments should endeavour to achieve greater independence in legislative, administrative and fiscal issues by other means. The fiscal federalist reform should be seen within a broader strategy that includes two main elements:

- the "Code of Self-government", namely the set of rules and regulations that will clearly define the functions and the organisation of Local Bodies to avoid dangerous and pointless overlap. This reform should provide clarity in the tangle of bodies and competences that have multiplied over the last twenty years, at times due to the negligence of the Central State. Indeed, despite the Bassanini Law and the amendments to title V of the Constitution, the Central State has persevered in keeping staff and facilities in place to manage the competences to which Local administrations are formally entitled;
- "differentiated federalism" (or "asymmetric federalism"), namely the option envisaged by the Constitution (Art. 116) for Regions to ask the State for enhanced legislative competences, which would in fact implement and legitimate the organisation of institutions according to a "variable geometry". For the Regions interested in this option, it would be a major innovation that would provide them with new institutional and financial prospects, without having to start up a long and complex reform of the Constitution.

In addition, as was broadly proved in this in-depth survey, federalism can be best achieved by increasing the sense of responsibility of Regional Bodies, starting from their role in European *governance*. This leads us to say that the novelties on subsidiarity introduced by the Treaty of Lisbon has turned Europe into an ally that will help us reach our aim. Nevertheless, in view of the future 2014-2020 cohesion policies, it is essential to have available statistics on the financial flows between different levels of government providing details on smaller territories. In addition, other indicators should be used together with the GDP per capita, as the latter alone is no longer suitable to properly determine how resources should be allocated amongst European Regions.

The new route will only be achieved by emphasising the role of Regional Governments and enhancing co-ordination between Community cohesion policies and national policies for the redistribution of financial resources: this is the strategy to ensure stability and progress for our Country. For this purpose, urgent measures must be taken to reduce the fiscal residuum in the most virtuous Italian regions, including the Veneto, to the level of other European Regions: the Veneto's 16 billion Euro of residuum are untapped resources that could ensure better performance in terms of competitiveness, improving the quality of transport, supporting businesses, possibly bringing the household disposable income even above European standards.

Better and healthier public finances would be an advantage not only for the Veneto, but for the whole of Italy and Europe. It is essential to monitor compliance with parameters even at regional level, to ensure that public resources are managed effectively and efficiently. It would avoid the repetition of situations such that in Greece and prevent them from spreading elsewhere. Not only regions, but also States and the Europe Union must become aware of their responsibilities: greater co-ordination is required between national and European cohesion policies; the principle of subsidiarity must be concretely implemented to achieve real European *governance*, involving all levels of government.

Glossary

Central Administrations: area of the Public Administration that includes the State, the Bank for Deposits and Loans, Social Security Bodies (Inail, Inps) and other Bodies associated to the central government. They are collectively referred to as the Central State.

Court of Auditors: has contentious jurisdiction over the accounts of treasurers, receivers, cashiers and agents in charge of collecting, paying, conserving and handling public moneys or to hold in custody State valuables and assets; it also has auditing functions as envisaged by the general accounting regulations on State Spending.

Derived finance model: Public Bodies work along the lines of a "derived finance" model that includes the following: a) centralisation, by the State, of the collection of financial revenues; b) distribution of the thus collected finances between the Public Bodies.
In addition to these three types of centralisation (of taxation, indebtedness and liquidity management), the "*derived finance» model*" is characterised by the subsequent *transfer* of the finances from the State to all other local bodies: these funds are the bulk of these bodies' revenues. The "transfer finance" model sees the "lower" public body (e.g.: a Municipality) almost completely dependent from the handouts it receives from a "higher" public body (e.g.: the State).

Länder: (or, unofficially, Bundesland) the Federal States of Germany. Each of the 16 *Länder* is represented at Federal level in the *Bundesrat*, the Federal Council.

Local Administrations: area of the Public Administration that includes Provincial Districts, Municipalities, Mountain Communities, Chambers of Commerce, Universities, Bodies for the Right to Tertiary Education.

Local authorities: this definition includes both Local and Regional Administrations.

Overall surplus and deficit: the discrepancy between overall revenues and overall spending. This term is used in reference to the implementation or the management of the balance (assets and liabilities accrued and cash balance) and measures the excess (surplus) or shortage (deficit) of resources that can be acquired or were acquired compared to the actual or possible use (source: Istat).

Public Administrations: this area brings together the institutions whose main functions are the delivery of non-sellable services and the redistribution of the Country's income and wealth. Their main resources include the mandatory payments made either directly or indirectly by units pertaining to other sectors (source: Istat). They include the Central, Regional and Local Administrations.

Public spending: the public spending item includes public purchases and transfers to Local Administrations, businesses and individuals (in the form of pensions and other benefits, such as the unemployment benefit). It includes current public spending, namely allocated to the production and redistribution of revenues for purposes not directly associated to direct production, the consequences of which become visible during the year, and capital account public spending that directly or indirectly affects public capital formation to be used for investments.

Regional Administrations: area of the Public Administration that includes the Regions (Ordinary and Special Statute Regions), Local Health Boards, State Hospitals.

Residuum: the difference between the Public Administrations' revenues and expenditure. It summarises the financial flows between different levels of government and the local territory.

Running expenses: these include the spending for staff in addition to the so-called "general services" function (that includes all costs associated to administrative management). These resources are necessary to keep the administrative machinery going.

Subsidiarity: the principle of subsidiarity (art. 118 of the Constitution) assigns administrative functions to Municipalities, allocating all other competencies bottom-up to the higher levels of government (Provincial Districts, Regions, State) for all the issues that the Municipalities would be unable to perform effectively and efficiently alone.
The collection is centralised through the following: centralisation of the taxation system; centralisation of indebtedness; centralisation of liquidity management.

Title V: part of the Italian Constitution that governs the relationships and allocates competencies between State, Regions and Local Bodies. It was amended in 2001 through a dedicated Constitutional Law (no. 3/2001) and then confirmed by a referendum.

Finito di stampare
nello stabilimento delle Grafiche Vianello
Treviso/Italia
nel mese di Ottobre 2011

UNIONCAMERE DEL VENETO

Via delle Industrie 19/D - 30175 Venezia (Italy)
tel. 041 0999311 - fax 041 0999303
www.unioncameredelveneto.it - centrostudi@ven.camcom.it

ISSN 1973-7408