LUISS SCHOOL OF GOVERNMENT

Working Paper Series

LEGISLATIVE DRAFTING AND ONLINE CONSULTATION: A CONTRIBUTE TO LAW-MAKING FOR BETTER REGULATION?

SOG-WP53/2019 ISSN: 2282-4189

Marina Pietrangelo

Printed in Italy, December 2019

LUISS School of Government

Via di Villa Emiliani, 14

00197 Rome ITALY

email: sog@luiss.it

web: www.sog.luiss.it

Jean Monnet Centre of Excellence
on Centrifugal Europe and
the Challenge of Integration

(Contract n. 574597-EPP-1-2016-1-IT-EPPJMO-CoE)

ABSTRACT

This paper deals with online consultation (also known as e-consultation or consultation by ICT) as a legislative drafting technique. As we all know, for some time at international level (see OECD's Papers on Better Regulation) consultations of the recipients of legal acts carried out within the regulatory cycle have been considered fundamental for a better regulation. Specific theoretical models and just as many IT programs have been retrieved from the literature on the matter and then studied in order to enhance consultations in the field of regulatory impact assessment activities. This paper deals mainly with the consultations by ICT. It intends to be an overall assessment of the state-of-the-art diffusion and regulation of the above-mentioned consultations. It also aims to establish whether and in which way the ICTs have improved the consultative activity and above all whether, perhaps, its diffusion has really improved the quality of law. Or whether, on the contrary, as has often happened in e-government practices, ICT alone cannot work magics in putting right all the shortcomings by way of excessively enthusiastic users in charge of implementing it.

Keywords: Online Consultation; Legal Drafting; Regulatory Impact Assessment.

AUTHOR INFORMATION

Marina Pietrangelo is Researcher at National Research Council (CNR) of Italy. She has a degree *cum laude* in Public Law (University of Roma “La Sapienza”) and a Phd in Public Law and Legal Drafting (University of Genova). She is interested in Public Law and Technology; New Rights in the Information Society; E-government; E-democracy; Legal drafting and legal language.

Contact Information:

Email: marina.pietrangelo@igsg.cnr.it

TABLE OF CONTENTS

1. INTRODUCTION

The e-consultation consists of an activity of consultation of the subjects of a legal act conducted through the ICTs by the public entity that has the right to adopt said act.
While dealing with internal consultation conducted within the regulatory cycle - and more specifically dealing with law impact assessment activities, it should be remembered that in theory these activities are part of the e-participation processes, which are occasionally regulated and practiced in many countries. From a legal point of view, the common matrix consists, in any case, of those institutions of direct democracy which are integrated into representative democratic systems.

Furthermore, it should be noted that e-consultation is an activity that risks being confused with lobbying, especially in some legal systems such as that of the EU where it has been practiced for some time. Aware of this, for example, the European Commission on the one hand continues to pursue the goal of better regulation (see COM (2017) 675), on the other hand it has tried to keep the consultations of lobbyists, now registered in a Transparency Register, separated from those of other stakeholders and, more broadly, the public.

The e-consultation models within the regulatory cycle have been studied for a long time and have been adopted by the legal systems of several countries, especially by those of youn**g** democracies. In all cases, the propulsive leverage of ICT is a common trait, as evidenced by the numerous researches in the field of legislative drafting by ICT aimed to design and develop platforms and tools for the standardization of consultative procedures. Paradoxically, it is quite surprising that today's greater diffusion of standardized online platforms for consultative processes has not ended up producing unwished-for side effects. If, in other words, thanks to ICT and the easy and open access to all types of legal text now extended to a wider range of consulted subjects, some lawmaking processes have not ended up clogged up and slowed down, as it may have been feared, which is what can be observed in the presence of complex acts and whenever institutions lack professionalism and invest insufficiently in such activities. In this case, there is no substantial improvement in the quality of regulation.

2. E-PARTECIPATION AND E-CONSULTATION

The participation of people in the political life of their communities in defining the rules governing those communities, both in the representative and in the direct form, has been perhaps boosted by ICT's and even more so by some Internet applications. I say 'perhaps', because - once

put to the test - there is little evidence of it. What is certain is that the Internet alone enables even the less experienced users to exchange data and information considerably and to communicate as fast and efficiently as never before. These activities are also essential in a political action involving as protagonists - in a virtuous circle - both the electorate and its representatives.

The more effective and more extensive diffusion of data and information on public sources over the last few years has certainly contributed to revitalizing the ever-dormant participatory yearnings present in society, foreshadowing new opportunities for relations and exchange. To such an extent that public information and communication, in principle all striving for transparency in administrative action and social control over public action, thanks to the use of new tools, have also proved decisive in triggering off public debates on major issues. In the course of these public debates, administrations and administrators have interacted on equal terms, in an unprecedented collaboration which is, in future, likely to affect the very idea of public administration.

Hence the attention for the institute of popular consultation, already known and experienced in our legal system; an institution present in the Constitutional Charters of representative democracies and aptly aimed at fostering representation. In the wake of ITCs, the Internet is likely to give impulse to popular consultation (OECD 2001).

Within these renewed online communications between public authorities and civil society, those relating to law-making stand out, and in particular the methods used by the authorities to acquire - through direct consultation - opinions and observations on legislative draft acts or on political documents about matters of significant social interest. An advisory activity with an inclusive purpose, aimed at allowing the direct participation of citizens in the process of lawmaking, which is formally up to the institutions of representative democracies and in the constitutional principles mandating grassroots participation.

It is now through observing a special feature of contemporary political participation, which consists of contributing to law-making through well-defined and standardized methods of consultation, that we can understand whether or not the direct participation of communities in the lawmaking processes has helped to improve the effectiveness of act enforcement.

According to the European Commission "better regulation is underpinned by the active engagement of civil society, which invites inputs from stakeholders at all points in the policy with a range of feedback tools and consultation activities" (COM (2015) 215, Better regulation for better results - An EU agenda), the legal framework of reference is broad and consolidated in many countries, including Italy. However, in many territories there is certainly no effective and extensive implementation of many existing regulations.

3. E-CONSULTATION: MANY JURIDICAL MODELS

The public electronic consultation is not dissimilar in its purpose from some of the consultative institutes already known by our legal systems, through which public entities can or must acquire opinions and observations stemming from the communities that inhabit the territories affected by their political decisions. One example is the consultative referendum applied by certain jurisdictions, and whose results are not legally binding but can only have an effect at political level.

The online consultation is one of the institutions of the so-called "democratic participation tout court or popular", which consists in practices of direct intervention of citizens in the decision-making activities of public institutions.

Citizens, individually or collectively, voice their arguments through specific public procedures (so-called "deliberative process"). They are entitled to take part in the decision-making process by the same institutions that regulate the methods, timing and effects of this process.

The public electronic consultation is therefore an advisory activity conducted by a public entity through its own institutional website in order to directly acquire opinions and observations on the part of citizens on issues relevant to the life of the community. It is therefore a public activity carried out in pursuit of a public interest; it does not strip the decision-maker of responsibility, who has the ultimate prerogative of the final decision. However, thanks to the wealth of information acquired through consultation, the final decision tends to come close to the best possible choice.

However, there is a plurality of e-consultation models, depending on whether web-based consultation is open to stakeholders' input: *a)* on policy documents (plans, programs, texts, non-formalized regulatory proposals, etc.); or *b)* on drafting of deeds already formalized.

We can distinguish between a consultative activity carried out by the public on the web as a "legislative drafting technique" in the strict sense (intended to improve the substantial quality of the legal act); and an advisory activity carried out by the same subjects always via the web, which is instead a method of sharing public policies, as in the very well-known and long-established case of the French public debate.

The differences are not trivial, because the procedure in the second case is certainly more complex, involving more institutional subjects, not just the proposing decision-maker.

The practice of recent years has highlighted a number of gaps in the system, which however have been partially plugged by regulations with similar content, even if the exceptions observed in different States give us a much diverse picture, as shown in the "OECD pilot database on stakeholders engagement practices" (in www.oecd.org).

In recent decades, owing to the development and diffusion of ICT also in the public sector, and to the evolution, also *ex lege*, of digital sections in the public administrative bodies, a number of institutions have undergone changes in order to improve the quality of regulation: the traditional form of consultation has become e-consultation.

There has been an evolution, partly structural, in the wake of the diffusion and perfection of ICT, which facilitate the acquisition of data and opinions expressed by the recipients of the aforementioned regulation, already envisaged back in 2013 by the OECD (OECD (2013), Transparency through consultation and communication): "Transparency is one of the central pillars of effective regulation, supporting accountability, sustaining confidence in the legal environment, making regulation more secure and accessible, less influence by special interests, and therefore more open to competition, trade and investment. It involves a range of actions including standardised procedures for making and changing regulations, consultation with stakeholders, effective communication and publication of regulations and plain language drafting, codification, control on administrative discretion, and effective appeal processes... The contribution of e-Goverment to improve transparency, consultation and communication is of growing importance."

The engagement of the stakeholders in the procedures for the formation of legal acts can take place at different times of the regulatory cycle, before, during or after the approval of regulations. According to OECD, there are different stages of intervention: Early Stage in the Development of Regulations (before draft), Later Stage in the Development of Regulations (during draft), Ex Post-Evaluation of Regulations, Implementation (including transparency/accessibility).

Quite obviously, the first of the above points highlights the need for a better definition of the regulatory intervention and the expected effects resulting from it; the second and the third point concern the effects produced after a certain time by an act already adopted.

The guiding principles of this type of activity are shared at international level: transparency, clarity and completeness of the information provided; speed and compliance with the timing of the regulatory process; congruence of the proposed observations with the object of the future regulation. The subjects consulted are both public and private recipients of the intervention, single or associated.

These are no longer experimental methods, as long-term e-consultation practices are recorded. Reportedly, the European Commission has, for example, used online consultations as a better regulation tool since at least 2002 (COM (2002) 704, Towards a reinforced culture of consultation and dialogue). The portal of the EU Commission dedicated to public consultations (http://ec.europa.eu/yourvoice/consultations/index_en.htm) has been active for some time. But in

recent years, the focus has also shifted towards the development of special tools and platforms, increasingly specialized, which facilitate the procurement of information, and the collection and processing of data, as well as the processing of the results of the consultative process. .

The first EU programmes on better regulation by ICT (funded by ISA programme) have favoured, with good results, the design and implementation of specialized tools for legislative drafting, such as Legit, which aims to make the process of drafting new legislation more efficient, and LEOS, that is, the Open Source Software created within the Legit action as a result of the analysis of best practices and reusable solutions for drafting new legislation. LEOS-Pilotis was launched in 2017 across the Commission services and Council of the European Union. It selects LEOS for internal us (see https://joinup.ec.europa.eu/).

In recent years, however, as evidence of the centrality assigned to consultation processes, the focus has shifted to e-participation support tools and especially to e-consultation. Let's consider for example, LOD and e-Participation, a pilot project promoted by the European Parliament and developed by the Publications Office of the EU that aims to create a Web platform enabling citizens to participate actively in the European law-making process. The system is based on Semantic Web technologies, particularly on a modular knowledge organization system capable of describing, from a semantic point of view, users' activities. In particular, the conceptual models developed represent users' comments and their feedback on the bill awaiting ratification, as well as the amendments the users can provide in the 24 official languages of the EU. Conceptual modelling is accomplished through an RDF(S)/OWL-based approach for all the information objects (documents, comments, amendments, statistics) with the aim of making them available as Linked Open Data (LOD).

4. AN OVERVIEW OF E-CONSULTATION IN ITALY

In many continental countries, as mentioned above, the consultation has long entered the impact assessment pathways. Even in Italy the first rules are quite old. The e-participation appears in a general state law in 2005 (Code of digital public administration, legislative decree 82/2005, article 9), even if only as a general principle and without specific reference to lawmaking; while the consultation in lawmaking had already entered in 1999 into a law of the State that regulates the legislative simplification (law 50/1999), without however referring to the use of ICT.

However, it was necessary to wait until 2016 to put together the two profiles, i.e. consultation in lawmaking for a better regulation and the use of ICT's, with an update of the law 82/2005 complementing the principle of e-participation with a reference to e-consultation as a technique

that improves regulation (the improvement of the quality of legislation "also through the use, where required by law and within the resources available under current legislation, of forms of prior consultation by electronic means on the layouts to be adopted ", Article 9).

Therefore, back in 2016, the Italian legal system began regulating, with primary source, two distinct and complementary profiles: a) the e-consultation of the addressees of the act to be adopted, as "legislative technique" in the strict sense, aimed at improving the substantial quality (2016) ; b) the online consultation of all stakeholders as a method of sharing public policies (2005).

And above all, internal consultation with the regulatory cycle became an exclusive e-consultation.

However, we should remember that the process of enhancing the consultation as a technique of legislative drafting has a long history. Already in 1979, in a well-known report about the main problems of the Italian public administration, promoted by the Ministry of Public Administration of the time, Massimo Severo Giannini, pointed out, among the ills of public administrations, to the obscurity of the normative sources. In Giannini's words they were difficult to implement for two main reasons. First, the absence of impact assessment and legislative drafting methods and techniques, and then, already at that time, the inadequate use of ICT's, even though the law 50/1999 required the development of the impact assessment of law, including consultations for certain types of acts.

More specific rules on consultations in the impact assessment of law procedure were approved only in 2008 (Prime Ministerial Decree 2008), including, even for governmental legislative acts, the sanction **for** impropriety in cases of failure to conduct consultations on the legislative draft. Despite the rules, consultations were only exceptionally carried out.

Despite it being mandatory, this rule was completely disregarded over the years (Chamber of Deputies - XVII leg., Doc. LXXXIII n. 2, Relazione sullo stato di attuazione dell'analisi d'impatto della regolamentazione - anno 2013), presented to Parliament by the Undersecretary to the Presidency of the Council on 14th August 2014). This rule included the consultation between the mandatory cognitive activities prior to the issuance of the proposal for a legislative act of the Government, of which the same administration competent to the regulatory initiative should give an account in progress, also through its own institutional website. The Authorities are regularly consulted (Chamber of Deputies cit.; Raiola 2012). See, for example, the case of the Bank of Italy, which pursuant to art. 23 of law 262/2005 is required to submit for consultation proposals for new regulatory acts or general content or amendments to pre-existing documents. In the circular 20 July 2010, n. 277, implementing this provision, which regulates the impact analysis of the regulation, in fact, the consultation (multichannel) of the interested parties appears among the

methods of investigation of the prior assessment. Another case worth mentioning is that of Consob (National Commission for Companies and Stock Exchange), which regularly uses the advisory practice to improve the quality of its acts, publishing in full - and not as a summary document, as it is more common practice elsewhere - all the observations gathered during the consultation. However, we should keep in mind that these administrations, dealing with highly specialized subjects, usually consult the proposals for new acts or the revision of pre-existing acts and mainly attract subjects with equally specialized skills. For example, by observing the four public consultations conducted by Consob in 2014 (one jointly with Banca Italia), we notice a recurring element: most of the advanced proposals come from professional associations (Abi, Assofinance, Assogestioni, Adiconsum etc.) Or from free professions, with an objective prevalence of groups able to attract the Authorities on their side.

The former general regulation of 2008 applicable to the public administrations of the State has been only in 2017 replaced with a new regulation (Prime Ministerial Decree 169/2017), which, at least formally, seems to have extended the scope of consultation in lawmaking, to which it dedicates a general discipline (Chapter IV), previously missing. Another novelty is the general obligation to carry out consultations in all cases of preventive and subsequent impact assessment, except in cases of necessity and urgency; and the distinction between open consultations (to anyone) and restricted consultations (to the addressees of the act). Open and restricted consultations are alternatives at the discretion of the administrations and are always and only performed by ICT's.

The new regulation of 2017, in my opinion, however, lacks a decisive point, that is, the one concerning the effects of the results of the e-consultations carried out. In fact, the new regulation expressly establishes that on the contributions provided by the consulted the administration has no obligation to reply, nor these contributions are a constraint for the legislative investigation. Finally, among the acts of the State, the Directive of the Presidency of the Ministry of Ministers of 31st May 2017 entitled “Guidelines on public consultation in Italy”, is a secondary act containing, all in all, only "indications and advice" (“It recommends public administrations to promote greater citizen participation in public decisions and to commit themselves to considering the public consultation, also carried out through electronic modalities, as an essential phase in decision-making processes.”).

I will now briefly mention the regional laws, which have shown greater conviction in moving towards e-participation. In fact, in addition to the forms of popular consultation already known by the Statutes (for example referendums, consultative), some Regions, such as Tuscany and Umbria, have approved specific laws on participation, introducing *new and different legal institution just the e-consultation* (Regional Laws of Tuscany 46/2013 and 69/2017; Regional law of Emilia-

Romagna 3/2010; Regional law of Umbria 14/2010). These are pilot rules that have certainly promoted participatory processes in Italy in the form of public debate and in that of lawmaking consultancy through the definition of stable and predefined models with a specific law.

5. CONCLUSION

Until recently, the consultations activated by the public administrations on their websites were largely considered to be just opinion polls. Worse still, they were sometimes mixed with similar consultative initiatives promoted on a personal or collective basis by individuals or groups active in political life, for example legitimate instances of freedom of expression and communication. This latter category was not conditioned - as the former was - by the “onus and honour” of playing a public role and nor bound to the pursuit of public interest. This is an onus and an honour that e-consultations inside the lawmaking also assign to individuals who then enter fully into the process of public decision-making. This involves, as mentioned above, supporting public regulation and helping integrate the stock of information that will lead to the adoption of a legislative act binding for the community. This is a contribution that today, thanks to ICT's, can be offered to everybody and much more easily than in the past.

Quite obviously, within a legislative framework that at least sets the limits to the scope of public consultations, especially those "on topic". Public consultations, in the absence of precise guidelines, risk overstepping the areas of competence of the subjects that activate them, the time constraints for consultation, the legal effectiveness and the validity of results over time. Besides, public consultations risk misusing the characteristics of specific ICT platforms and preventing them from being reused. These are norms that, as we have seen, in the European Union, in Italy and in several other States (see again the OECD database already mentioned) are coming into existence and therefore allow full exploitation of the potential of ICT's for democratic purposes, as an instrument that paves the way for political participation and removing even the few operators of the ICT's market a space entirely dedicated to democratic growth.

Finally, however, I must also add a note of realism, or scepticism, specifically with regard to ICTs and the many applications developed so far. In fact, I believe that the platforms and tools for consultative processes within the regulatory cycle (although this may apply in general for all the ICT applications developed for legislative drafting) cannot by themselves be determined for the purposes of regulation. These are precious tools that can certainly facilitate access to consultative proceedings (if there were no European Commission platforms, which of us would ever participate in a consultation opened by the Commission itself?). However, in some cases they

may risk involving further decision-making processes, for example in the case of complex acts and in cases of institutions lacking human and instrumental resources to be allocated to this activity; or they can be excuses for public decision-makers trying, by opening e-consultations, at least formally, to either compensate for a deficit of democracy or for detachment from their communities. This is likely to be perceived as evidence of the inability of ICT's alone to produce democratic growth effects, or in the specific case, to curb the vices of bad regulation.

In my opinion, ICT's could be useful: *a)* to influence the stock of sources considerably, through a reorganization and simplification activity aimed, for example, at codification (French model); *b)* to share data between different public entities, avoiding the dispersion of information functional to the regulatory processes (particularly in the activity of the preventive or subsequent impact assessment of law); *c)* specifically on e-consultation, to increase consultative practices as long as they are differentiated (distinguishing for types of act and for material areas of regulation) and enhancing the results through a more incisive regulation of the effects.

They could, in short, be an excellent support for the public decision-maker who knows and wants to treasure it, but in itself only the crucial problems that still characterize the regulation cycle are not conclusive. If this were the case, all problems of bad legislation would have long been resolved.

BIBLIOGRAPHY

ALLEGRETTI A. (2011) *Democrazia partecipativa*, ad vocem, Enciclopedia del diritto, IV, 299 ss..

BEYERS J., DE BRUYCKER I., BALLER I. (2015) *The alignment of parties and interest groups in EU legislative politics. A tale of two differents words?*, Journal of European Public Policy, 22:4, 534.

BUNEA A. (2017) *Designing satkeholder consultations: Reinforcing or alleviating bias in the European Unione System of governance?*, European Journal of Political Research, 56:46-69.

BURKHARDT D., NAZEMI K., RETZ W., KOHLHAMMER J. (2014) *Visual explanation of government-data for policy making through open-data inclusion*, Internet Technology and Secured Transactions (ICITST) 2014 9th International Conference for, 83.

CARIC A., VUKOVIC M. JEVTIC D., (2015) *e-Consultation: Automatic System for online consultation, Proceedings 2015 13th International Conference on Telecommunications (ConTEL)*

CELOTTO A. (2004), *La consultazione dei destinatari delle norme*, Studi parlamentari, 3-4/2004, 55.

DE BELLIS L. (2012) *La regolazione dei mercati finanziari*, Milano, 2012.

EDELMANN N., KRIMMER R., PARYCEK P. (2017) *How online lurking contributes value to E-participation: A conceptual approach to evaluating the role of lurkers in e-participation*, eDemocracy & eGovernment (ICEDEG) 2017 Fourth International Conference on, 86.

FISHKIN J.S. (2011) *When the People Speak: Deliberative Democracy and Public Consultation*, Oxford.

HAYAT A., TAHERA A. (2014) *E-participation: Factors affect Citizens' acceptance and readiness in Kingdom of Bahrain*, Information Society (i-Society) 2014 International Conference on, 146.

HENNEN L., VAN KEULEN I., KORTHAGEN I., AICHHOLZER G., LINDNER R., NIELSEN R. (EDS.), *European E-Democracy in Practice. Studies in Digital Politics and Governance*, Springer, first online 2019.

KALAMPOKIS E.,TAMBOURIS, E., TARABANIS K. (2008) *A Domain Model for eParticipation*, Internet and Web Applications and Services 2008 - ICIW '08 Third International Conference, 25-30.

LA SPINA A., CAVATORTO S. (eds.) (2001) *La consultazione nell'analisi dell'impatto della regolazione*, Soveria Mannelli.

LOVITT J. (2017) *Civil participation in Decision Making in the Eastern Partenership Countries*, Council of Europe pub., Strasbourg.

MACINTOSH A., WHYTE A. (2008) *Towards an Evaluation Framework for eParticipation*, Transforming Government: People, Process and Policy, 1, 10.

MACINTOSH A. (2007) *eParticipation and eDemocracy Research in Europe*, in Chen H., Brandt L., Gregg V. Traünmuller R., Dawes S., Hovy (eds.) *Digital Government: eGovernment Research*, Case Studies, and Implementation, USA, Springer, 85.

ONU, *eGOVERNMENT SURVEY*, 2018.

PIETRANGELO M. (2015), *Il contributo di Internet alla partecipazione popolare: la consultazione pubblica telematica*, in F. Marcelli, P. Marsocci, M. Pietrangelo (eds.), La Rete Internet come spazio di partecipazione politica. Una prospettiva giuridica, Napoli, Editoriale Scientifica, 61-79.

PIETRANGELO M. (2016), *Le pubbliche amministrazioni sul web tra comunicazione, consultazione e partecipazione*, in S. Civitarese Matteucci, L.Torchia (eds.), *Tecnificazione*, vol. IV, Collana "A 150 anni dall'unificazione amministrativa italiana. Studi" (Ferrara e Sorace eds.), Firenze University Press, 95-109.

RAIOLA C. (2012) *Le consultazioni telematiche delle Autorità indipendenti. Gli effetti su tecniche e caratteristiche*, *I paper dell'Osservatorio AIR*, P 3/2012.

SCHOOL OF GOVERNMENT
LUISS Guido Carli

The LUISS School of Government (SoG) is a graduate school training high-level public and private officials to handle political and government decision-making processes. It is committed to provide theoretical and hands-on skills of good government to the future heads of the legislative, governmental and administrative institutions, industry, special-interest associations, non-governmental groups, political parties, consultancy firms, public policy research institutions, foundations and public affairs institutions.

The SoG provides its students with the skills needed to respond to current and future public policy challenges. While public policy was enclosed within the state throughout most of the last century, the same thing cannot be said for the new century. Public policy is now actively conducted outside and beyond the state. Not only in Europe but also around the world, states do not have total control over those public political processes that influence their decisions. While markets are Europeanised and globalised, the same cannot be said for the state.

The educational contents of the SoG reflect the need to grasp this evolving scenario since it combines the theoretical aspects of political studies (such as political science, international relations, economics, law, history, sociology, organisation and management) with the practical components of government (such as those connected with the analysis and evaluation of public policies, public opinion, interests' representation, advocacy and organizational leadership).

For more information about the LUISS School of Government and its academic and research activities visit. www.sog.luiss.it

SUBMISSION GUIDELINES

LUISS School of Government welcomes unsolicited working papers in English and Italian from interested scholars and practitioners. Papers are submitted to anonymous peer review. Manuscripts can be submitted by sending them at sog@luiss.it . Authors should prepare complete text and a separate second document with information identifying the author. Papers should be between 8,000 and 12,000 words (excluding notes and references). All working papers are expected to begin with an indented and italicised abstract of 150 words or less, which should summarise the main arguments and conclusions of the article.Manuscripts should be single spaced, 11 point font, and in Times New Roman.

Details of the author's institutional affiliation, full postal and email addresses and other contact information must be included on a separate cover sheet. Any acknowledgements should be included on the cover sheet as should a note of the exact length of the article. A short biography of up to 75 words should also be submitted.

All diagrams, charts and graphs should be referred to as figures and consecutively numbered. Tables should be kept to a minimum and contain only essential data. Each figure and table must be given an Arabic numeral, followed by a heading, and be referred to in the text.Tables should be placed at the end of the file and prepared using tabs. Any diagrams or maps should be supplied separately in uncompressed .TIF or .JPEG formats in individual files. These should be prepared in black and white. Tints should be avoided, use open patterns instead. If maps and diagrams cannot be prepared electronically, they should be presented on good quality white paper. If mathematics are included, 1/2 is preferred.

It is the author's responsibility to obtain permission for any copyrighted material included in the article. Confirmation of Workinthis should be included on a separate sheet included with the file.

SOG WORKING PAPER SERIES

The LUISS School of Government aims to produce cutting-edge work in a wide range of fields and disciplines through publications, seminars, workshops, conferences that enhance intellectual discourse and debate. Research is carried out using comparative approaches to explore different areas, many of them with a specifically European perspective. The aim of this research activities is to find solutions to complex, real-world problems using an interdisciplinary approach. LUISS School of Government encourages its academic and student community to reach their full potential in research and professional development, enhancing career development with clear performance standards and high-quality. Through this strong focus on high research quality, LUISS School of Government aims to understanding and influencing the external research and policy agenda.

This working paper series is one of the main avenues for the communication of these research findings and opens with these contributions.

WP #1 – Sergio FABBRINI, *Intergovermentalism and Its Outcomes: the Implications of the Euro Crisis on the European Union*, SOG-Working Paper 1, January 2013.

WP #2 - Barbara GUASTAFERRO, *Reframing Subsidiarity Inquiry from an "EU value-added" to an "EU non encroachment" test? Some Insights from National Parliaments' Reasoned Opinions*, SOG-Working Paper 2, February 2013.

WP #3 - Karolina BOROŃSKA-HRYNIEWIECKA, *Regions and subsidiarity after Lisbon: overcoming the 'regional blindness'?*, SOG-Working Paper 3, March 2013.

WP #4 - Cristina FASONE, *Competing concepts in the early warning mechanism*, SOG-Working Paper 4, March 2013.

WP #5 - Katarzyna GRANAT, *Institutional Design of the Member States for the Ex Post Subsidiarity Scrutiny*, SOG-Working Paper 5, March 2013.

WP #6 – Cecilia Emma SOTTILOTTA, *Political Risk: Concepts, Definitions, Challenges*, SOG-Working Paper 6, April 2013.

WP #7 – Gabriele MAESTRI, *Il voto libero: la necessità di regole chiare e trasparenti sul procedimento preparatorio e di un contenzioso che decida rapidamente*, SOG-Working Paper 7, July 2013.

WP #8 – Arlo POLETTI & Dirl DE BIÈVRE, *Rule enforcement and cooperation in the WTO: legal vulnerability, issue characteristics, and negotiation strategies in the DOHA round*, SOG-Working Paper 8, September 2013.

WP #9 - Sergio FABBRINI, *The Parliamentary election of the Commission President: costraints on the Parlamentarization of the European Union*, SOG-Working Paper 9, October 2013.

WP #10 - Lorenzo DONATELLI, *La disciplina delle procedure negoziali informali nel "triangolo decisionale" unionale: dagli accordi interistituzionali alla riforma dell'articolo 70 del regolamento del Parlamento Europeo*, SOG Working Paper 10, October 2013.

WP #11 - Mattia GUIDI & Yannis KARAGIANNIS, *The Eurozone crisis, decentralized bargaining and the theory of EU institutions*, SOG Working Paper 11, November 2013.

WP #12 - Carlo CERUTTI, *Political Representation in the European Parliament: a Reform Proposal*, SOG Working Papers 12, January 2014.

WP #13 – Dessislava CHERNEVA-MOLLOVA, *The EP's rules of procedure and ther implications for the Eu institutional balance*, SOG Working Papers 13, February 2014.

WP #14 - Luca BARTOLUCCI, *The European Parliament and the 'opinions' of national parliaments*, SOG Working Papers 14, February 2014.

WP #15 - Leonardo MORLINO, *Transitions to Democracy. What We Know and What We Should Know*, SOG Working Papers 15, April 2014.

WP #16 - Romano FERRARI ZUMBINI, *Overcoming overlappings (in altre parole...oltre 'questa' Europa)*, SOG Working Papers 16, April 2014.

WP #17 - Leonardo MORLINO, *How to assess democracy in Latin America?*, SOG Working Papers 17, April 2014.

WP #18 - Nicola LUPO & Giovanni PICCIRILLI, *Some effects of European Courts on national sources of law: the evolutions of legality in the Italian legal order*, SOG Working Papers 18, May 2014.

WP #19 – Cristina FASONE, *National Parliaments under "external" fiscal constraints. The case of Italy, Portugal, and Spain facing the Eurozone crisis*, SOG Working Papers 19, June 2014.

WP #20 - Elena GRIGLIO & Nicola LUPO, *Towards an asymmetric European Union, without an asymmetric European Parliament*, SOG Working Papers 20, June 2014.

WP #21 - Ian COOPER, *Parliamentary oversight of the EU after the crisis: on the creation of the "Article 13" interparliamentary conference*, SOG Working Papers 21, August 2014.

WP #22 – Anne PINTZ, *National Parliaments overcoming collective action problems inherent in the early warning mechanism: the cases of Monti II and EPPO*, SOG Working Papers 22, October 2014.

WP #23 – Valentina Rita SCOTTI, *Religious freedom in Turkey: foreign models and national identity*, SOG Working Papers 23, January 2015.

WP #24 – Davide A. CAPUANO, *Overcoming overlappings in the European Union (entia non sunt multiplicanda praeter necessitatem …)*, SOG Working Papers 24, February 2015.

WP #25 – Francesco ALICINO, *The road to equality. Same-sex relationships within the european context: the case of Italy*, SOG Working Papers, July 2015.

WP #26 – Maria ROMANIELLO, *Assessing upper chambers' role in the EU decision-making process*, SOG Working Papers 26, August 2015.

WP #27 – Ugljesa ZVEKIC, Giorgio SIRTORI, Alessandro SABBINI and Alessandro DOWLING, *United Nations against corruption in post-conflict societies*, SOG Working Papers 27, September 2015

WP #28 – Matteo BONELLI, *Safeguarding values in the European Union: the European Parliament, article 7 and Hungary*, SOG Working Papers 28, October 2015

WP #29 - Ludovica BENEDIZIONE & Valentina Rita SCOTTI, *Equally victims? Post-revolutionary Tunisia and transitional justice*, SOG Working Papers 29, November 2015.

WP #30 - Marie-Cécile CADILHAC, *The TTIP negotiation process: a turning point in the understanding of the European parliament's role in the procedure for concluding EU external agreements?*, SOG Working Papers 30, December 2015.

WP #31 - Francesca BIONDI & Irene PELLIZZONE, *Open or secret? Parliamentary rules of procedures in secret ballots*, SOG Working Papers 31, December 2015.

WP #32 - Giulio STOLFI, *Tempi (post-)moderni: nuovi impulsi normativi europei alla prova delle sovrapposizioni*, SOG Working Papers 32, January 2016.

WP #33 – Diane FROMAGE, *Regional Parliaments and the early warning system: an assessment six years after the entry into force of the Lisbon treaty*, SOG Working Papers 33, April 2016.

WP #34 – Luca DI DONATO, *A behavioral principal-agent theory to study corruption and tax evasion*, SOG Working Papers 34, July 2016.

WP #35 – Giuseppe PROVENZANO, *The external policies of the EU towards the southern neighbourhood: time for restarting or sliding into irrelevance?*, SOG Workin Papers 35, September 2016.

WP #36 – Rosetta COLLURA, *Bruegel, EU think tank in the EU multi-level governance*, SOG Working Papers 36, October 2016.

WP #37 - Franco BRUNI, Sergio FABBRINI and Marcello MESSORI, *Europe 2017: Make it or Break it?*, SOG Working Papers 37, January 2017.

WP #38 - Alina SCRIPCA, *The Principle of Subsidiarity in the Netherlands and Romania. Comparative Assessment of the Opinions Issued Under the Early Warning Mehanism*, SOG Working Papers 38, April 2017.

WP #39 - Eleonora BARDAZZI, Omar CARAMASCHI, *Italian and European Citizens' Initiatives: Challenge and Opportunities*, SOG Working Papers 39, April 2017.

WP #40 - Diane FROMAGE and Renato IBRIDO, *Democratic Accountability and Parliamentary Oversight the ECB. The Banking Union Experience*, SOG Working Papers 40, June 2017.

WP #41 – Marco CECILI, *La sussidiarietà e l'early warning system tra diritto e politica. Il caso della c.d. "Direttiva Tabacco" del 2014*, SOG Working Papers 41, September 2017.

WP #42 - Margherita SPERDUTI, *La Tutela Giurisdizionale dell'Autonomia Locale. Italia e Spagna a Confronto*, SOG Working Papers 42, October 2017.

WP #43 - Martinho LUCAS PIRES, *The Shortcomings of the EU Framework for Transnational Data Transfers and the Need for an international Approach*, SOG Working Papers 43, November 2017.

WP #44 - Suzanne POPPELAARS, *The Involvement of National Parliaments in the Current ESM and the Possible Future EMF*, SOG Working Papers 44, April 2018.

WP #45 - Valerio DI PORTO, *Il Comitato per la Legislazione, Venti anni dopo*, SOG Working Papers 45, July 2018.

WP #46 - Guido RIVOSECCHI, *Considerazioni sparse in ordine alle attuali tendenze della produzione normativa*, SOG Working Papers 46, March 2019.

WP #47 - Elena Maria PETRICH, *Do Second Chambers Still Have a Role to Play - The Italian and the Belgian Senates and the Process of European Integration*, SOG Working Papers 47, April 2019.

WP #48 - Ylenia CITINO, *Le trasformazioni in via consuetudinaria e convenzionale del governo dallo Statuto Albertino al periodo transitorio,* SOG Working Papers 48, May 2019.

WP #49 - Rafael RUBIO and Ricardo VELA, *Open Parliaments around the World. Open Parliaments' Tools in Comparative Perspective,* SOG Working Papers 49, June 2019.

WP #50 - Vincenza FALLETTI, *From the Constitutionalisation of the Principles of Environmental sustainability to the Setting Up of "Institutions for the Future": a First Appraisal,* SOG Working Papers 50, July 2019.

WP #51 - Paolo GAMBACCIANI, *Il rapporto tra il processo decisionale della legge Rosato ed il "Garbage can Model": genesi e compromessi dell'ultima legge elettorale,* SOG Working Papers 51, September 2019.

WP #52 - Sebastiano CORSO, *L'autonomia regolamentare dell'assemblea regionale siciliana,* SOG Working Paper 52, November 2019.

SCHOOL OF GOVERNMENT
LUISS Guido Carli

Working Paper Series