PART II

Regulatory Policies and Outcomes

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OECD Reviews of Regulatory Reform: Italy
Better Regulation to Strengthen Market Dynamics

Chapter 2

Government Capacity to Assure High-quality Regulation

This chapter assesses government capacity to assure high-quality regulation in Italy, including regulatory institutions, tools and policies. It discusses capacity for reform, including the mechanisms in the executive and the role of Parliament, as well as sectoral regulatory authorities and the co-ordination with the European Union. The chapter analyses the transparency and predictability of the regulatory framework. It discusses the strategies for improving the quality of new regulation in Italy, including Regulatory Impact Analysis and the search for alternatives. Finally, it discusses the strategies for improving the regulatory stock. This covers the recent progress with legislative simplification and the introduction of the "Guillotine Clause". It also reviews recent efforts towards administrative simplification, including the measurement and reduction of administrative burdens, and efforts coupling simplification and ICT innovation.

Introduction

The reforms on which Italy has embarked since the 1990s constituted the first of a series of substantial interventions on the organisation and *modus operandi* of the Italian public administration. An important phase was the so-called "Bassanini period", named after Franco Bassanini, the Minister responsible for the public administration and the reform of the State between 1996 and 2001. In 2001, the OECD carried out a first assessment of the initiatives launched as part of its *Regulatory Reform Review of Italy* (OECD, 2001).

The 2001 Review considered that the Italian regulatory and administrative system was the source of heavy and often unnecessary bureaucratic burdens on the public and on businesses. It was characterised by high regulatory inflation as well as aggravating factors: ambiguity, contradictions, and overlapping layers of rules. These factors generated uncertainty about market rules. The reforms in the 1990s were an unprecedented effort to transform Italian regulatory practices into a market-oriented and citizen friendly approach. They were accompanied by a process of privatisation, decentralisation, and liberalisation, which transformed the institutional and economic environment, and which also involved institution building through better regulation. After four years of reforms, in 2001 the progress made was considered to be "impressive" (OECD, 2001). The 2001 Review made, however, a number of strategic recommendations to accelerate, broaden, deepen, and sustain the Italian regulatory reform programme. This report assesses the progress made by Italy in the light of these recommendations in terms of better policies, institutions and regulatory quality tools.

Assessment must note an important change in the context of regulation in Italy. The reform of Title V of the Constitution radically changed the regulatory and administrative environment, towards a multi-level governance system, in which regulation is devolved and fragmented across various institutions. The OECD recognised the fundamental impact of the constitutional devolution in its 2007 study, "Italy: Ensuring regulatory quality across level of government". This change is also acknowledged in the current review, which will address the multi-level governance aspects in a separate chapter.

This chapter assesses progress made since 2001, but it adopts a broader perspective. The constitutional reform has reduced the relevance of one-to-one comparisons of the current situation with the pre-2001 framework. Therefore, the chapter will discuss recent developments of regulatory policies that have taken place since 2001 and assess them in the light of best international practices as well as the OECD 2005 *Guiding Principles for Regulatory Quality and Performance*. The structure of the chapter is the same as the 2001 Review, and includes a final section on assessment and recommendations.

Regulatory policies

The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* call on countries to recognise that key elements of regulatory policies, policies, institutions and tools, should be considered as a whole. These principals also call for "a dynamic approach to improve regulatory systems over time".

Regulatory reform is an explicit, dynamic, continuous and consistent "whole-of-government" policy to draft, update, apply and enforce high-quality regulations and foster public understanding of these processes (OECD, 2006a). It seeks to ensure that decision making meets the needs and expectations of citizens, economic agents and stakeholders in the most legitimate, proportionate and cost-effective manner and keeps the impact of unexpected/unintended consequences to an accepted minimum. Evidence from OECD countries shows that regulatory reform boosts economic growth, improves the competitiveness of export and upstream sectors, and enhances flexibility and innovation in the supply-side of the economy. As a result, jobs are created and the vulnerability to economic shocks is reduced. Regulatory reform also strengthens the protection for health and safety, the environment and consumers. Finally, regulatory policies sustain processes of market liberalisation, de-centralisation as well as globalisation (Conway *et al.*, 2005; Czaga, 2004).

Drivers of reform in Italy: Regulatory policies driven by simplification efforts

The Italian national strategy for quality regulation has benefitted from external drivers and pressure. Recent international reports, by the OECD and other economic organisations such as the World Bank, the Institute of Management and Development, and the World Economic Forum, have shed light on the importance of the regulatory framework for economic competitiveness and growth. Throughout the years, Italy has participated in various international projects aiming at benchmarking national performances and sharing best practices, particularly at the European Union's (EU) level.

Since 2002, the European Commission has embarked on a major "Action Plan for Better Law-making".[1] Measures to improve the EU regulatory environment were consolidated in a programmatic Inter-institutional Agreement signed by the European Commission, the European Council of Ministers and the European Parliament in 2003. In the framework of the re-launch of the Lisbon Strategy in 2005, the EU requested that each member state produce and implement national plans for competitiveness and growth. The plans were designed to encourage progress in each member state, including competitiveness policies: administrative simplification, education policy and R&D investment, social and labour policies, structural policies, as well as macroeconomic and public spending policies.[2] Better Regulation principles and tools are part of the policies that should be enhanced to achieve "growth and jobs" (European Commission, 2005). One of the key aspects promoted by the EU is improving the co-ordination of regulatory policies among the member states and between these and the EU institutions. To this end, for instance, a high-level group of national regulatory experts was established to advise the Commission on its general strategy to simplify and improve European legislation and to facilitate the development of better regulation measures at both national and EU level.[3] All these recent developments had a significant impact on Italy.

The main objective pursued by the Italian authorities has been to improve the competitiveness of the national production system, especially further to the re-launch of the Lisbon agenda at EU level. In particular, greater emphasis has been put on linking simplification to the initiatives aimed at liberalising economic activities and modernising government. At the same time, better regulation has been pursued to increase legality and boost the confidence of consumers, workers and businesses.

In Italy, regulatory policies have been mainly driven by the need for simplifying in both legislative and administrative terms. Legislative simplification is one of the pillars for regulatory reform, and it has become a priority at the European and national level. It aims

at replacing a complex, inconsistent and opaque legislative stock with one that is simpler, more transparent and coherent.

Recent developments

In the most recent past, efforts have significantly intensified and regulatory reform has been supported by a broad, by-partisan logic. The institutional setting that was set up at the end of the XIV legislature has been confirmed, consolidated, and fully enacted. The Government of the XVI legislature has advanced the regulatory reform agenda substantially and rapidly. In terms of *structure*, it has propelled the agenda with strong political leadership, with two main drivers. First, the appointment in 2008 of a Minister for Normative Simplification reflects OECD recommendations for strengthening support for regulatory reform at the highest political level and provides impetus for implementation. Besides this office, the Minister for Public Administration has injected strong input and commitment to advance the administrative simplification agenda, enhance evidence-based decision-making (notably through measuring and reducing administrative burden), and increase quality and efficiency of the performance of public administration officials. Initiatives by the Minister of Public Administration have for instance led to a significant decrease in absenteeism by civil servants.

A robust *strategy* for regulatory reform has been implemented. The new climate launched by the Italian Government is embodied by the Legislative Decree 112/08 adopted in June 2008 and converted into law in August of that year (Law 133/08). As an indication of the political importance granted to regulatory reform, and simplification in particular, not only the title of the law explicitly mentions these policy areas, but also a specific chapter was devoted to them – a novelty for a budgetary law (*legge finanziaria*). The Legislative Decree 112/08 made three key areas of intervention operational: the "cutting-laws"; the "cutting-burden"; and the "cutting-bodies" initiatives. The Government's new strategy also includes strengthening the interface between actions aimed at improving the quality of regulation and initiatives dedicated to enhancing the outputs of the public service. For instance, there is now a closer connection between the evaluation of top managers and the achievements of the objectives set to their services in terms of regulatory reform (see Box 2.1).

In addition, the most recent initiatives include a Directive by the Presidency of the Council from 26 February 2009, which aims at a broad definition of the framework for regulatory reform. This involves setting up a perspective encompassing regulatory quality to consolidate the existing tools in Italy (RIA, ATN, VIR, see infra). The goal is to present for the

Box 2.1. **Moving up a gear in Italy's simplification agenda: The DL 112/08**

With the adoption of Legislative Decree 112/08, the government signalled its commitment to advance regulatory reform, and simplification initiatives in particular, in a decisive and speedy manner. Such an approach testified of the rooted awareness that simplification not only allows for clarity and transparency, but it contributes to the overall competitiveness of a country. More in general, better regulation is considered in Italy as a fully-fledged policy that goes beyond sectoral needs and agendas. The approach also drew from the experience and efforts made in the recent past by Italy in advancing the agenda following a by-partisan and comprehensive line. The rapidity with which the decree could be designed and adopted speaks for the preparatory work done by the previous legislatures.

Box 2.1. **Moving up a gear in Italy's simplification agenda: The DL 112/08** *(cont.)*

The Legislative Decree 112/08 reinforced and made operational three key areas of intervention:

The "cutting-laws" mechanism (*taglia-leggi*) – Art. 24 concludes the first phase of the guillotine mechanism (*i.e.* the inventory) by repealing some 7 000 old laws. As such, by itself it has reduced the Italian legislative stock by one third, bringing the number of State legislation in force down to 14 600.

The "cutting-burden" mechanism (*taglia-oneri amministrativi*) – Art. 25 foresees completing the measurement and reduction of administrative burdens (MOA) by 2012; designing programmes to achieve the target of -25%, involving each ministry as well as the individual top managers responsible for that policy; and introducing fast-track procedures. Calculations carried out in the first part of 2008 estimated the amount of burdens affecting five key areas of regulation of the Italian economy to be over EUR 16 bn. The simplification measures introduced by the DL 112/08 are expected to cut about EUR 4.1 billion (or -59%) in the labour sector, only.

The "cutting-bodies" mechanism (*taglia-enti*) – Art. 26 abolishes all those public administration bodies that do not provide economic services and that are staffed by less than 50 employees. All other bodies that are not explicitly declared or justified will also be closed (exceptions are listed by the law).

In addition, the "cutting-paper" provision (*taglia-carta*) – (Art. 27) by itself is expected to save EUR 500 million. All these initiatives are implemented and closely monitored by the Minister of Normative Simplification and the Minister of Public Administration.

first time an organic and coherent framework for the policies for better regulation. While this represents a step towards redefining the flows, its effectiveness to discipline the complex machinery of government and public administrations will have to be assessed over time.

At the same time, two comprehensive programmes for reforming the public administration – two proper "industrial plans" – have been launched by the Minister for Public Administration. The "Public Administration Industrial plan" seeks to enhance accountability and modernise the public service by shifting away from procedural aspects to concrete outcome-oriented actions. The goal is to increase the productivity of the public administration, through:

Optimising labour productivity, notably by rewarding merit, improving performance criteria and staff appraisal, and restoring the role and tasks of managers;

Reorganising public administration, in particular by introducing the concept of task mobility, focusing on quality and "customer satisfaction", optimising the use of publicly-owned real estate; and

Supporting and enhancing sponsoring and project financing so as to optimise the use of financial resources.

The plan involves the use of better regulation tools, and is underpinned by the Departments for Public Administration, the National School of Administration, the CNIPA, the Italian Agency for Collective Bargaining for the Public Sector (ARAN), and the FORMEZ. As a result of change, administrations are invited to move away from single experiments towards a logic of standardisation, with services for citizens and enterprises through a number of new initiatives. The Public Connectivity System (SPC) is being implemented

with a back-office meant to realise complex projects aimed at citizens and enterprises that require the collaboration of several central and local governments. The SPS will allow the public administration to interact with citizens as a single window with a one-stop shop. The implementation of broad band will be accelerated trough the digitalisation of services to citizens and enterprises. The resources need to be raised with project financing and co-financing. In addition, the "Friendly Networks" project (*reti amiche*) will provide a system for the delivery of public services to citizens through the contact points of post offices, tobacconists, banks in agreement with the Italian Banking Association, pharmacies, large retailers. These networks will be made complementary to each other and to the one of the public administration. The Friendly Network project involves no additional cost for the administration and will allow citizens to access public services in their own neighbourhood in a user-friendly way.

As a part of the reform programme, measures have been launched towards establishing a performance-based evaluation system. Acknowledging a certain lack of accountability among managers and civil servants and the sub-optimal quality of performance measurement, the Council of Ministers adopted a draft law enabling the Government to adopt decrees to enhance productivity and efficiency in the public sector. One of the main innovations would be the setting up of a central body in charge of defining and disseminating performance-based quantitative and qualitative methods, as well as monitoring their implementation. The Law 15/2009, Brunetta Law, will also establish performance assessment mechanisms for staffs and structures of the public administration.

In order to improve labour productivity, a Protocol was signed by the Government and five civil servants trade unions (CISL, UIL, CONFSAL, UGL, USAE) in October 2008, closing all open basic wage agreements for 2006-07 and defining all the basic wage agreements for 2008-09. On the basis of this protocol, the Government plans to strengthen the role of performance assessment in the definition of additional wages, and devise a structural reform of the collective bargaining system for the public sector to be implemented as from 2010. Law 133/08 of August 2009 included a number of provisions that allow to better link wage increases to the budgetary performance of the administrations.

Before these most recent reforms, an attempt had been made to organise an Action Plan on Simplification and Quality of Regulation in 2007, shifting away from annual "simplification laws". The plan served as the central tool defining the main objectives of regulatory quality and simplification, the bodies responsible, the action to be taken, the criteria to be used, and the time required to achieve strategic objectives. The Plan also attempted to provide a unified framework for the overall body of legislative and administrative initiatives adopted by the Government that had a relevant impact on simplification. This included measures for reducing administrative burdens (setting a target of a 25% reduction by 2012); reducing procedural times (setting a 25% times reduction target); administrative process reengineering and e-government tools; legislative simplification and guillotine; facilitating the use of RIA for central administrations; building a national system for regulatory quality indicators; improving the co-ordination of better regulation policies between the central and local government and consultation with stakeholders. For each action, the Plan defined the main objectives, the responsible administrations, the time framework envisaged. The original ideal was for each Plan to be designed and implemented on the basis of broad consultations with the Regions, local governments and social partners. Consultations were carried out on the implementation of the 2007 Action Plan. The USQR and the

Department of Public Administration were charged of monitoring the implementation of the Plan. The government reported to the Parliament on the provisional results achieved in the framework of the Action Plan in November 2007 and in March 2008 (Presidency of the Council of Ministers, 2007 and 2008). This allowed to achieve some results[4] and to foster the diffusion of ICT in the public administration.

However, the action plan was also very complex, and was not easily communicable to the public. It absorbed significant efforts that remained partly internal to the administrations. Maybe, the resources for integration and co-ordination with other governmental policies were not fully matching the ambition of the plan. The political consolidation achieved recently aims to fill some of the gaps of the previous apparatus by providing a clear steering function to the reform efforts on the better regulation agenda.

Box 2.2. **Monitoring OECD recommendations: Political commitment to outcome-based regulatory reform**

In the 2001 Review, the OECD invited Italy to consider:

"Improving the transparency of, and commitment to, regulatory reform by adopting, at the highest political levels, an explicit policy on regulatory quality that is obligatory for all ministries, with measurable targets for reducing regulatory and administrative burdens. Adopt in the policy the principle that costs should be justified by benefits. Agreement by the Parliament and the regions with the policy would boost its benefits for Italy (OECD, 2001)."

In the light of the current review, Italy appears to have worked towards satisfying this invitation. Especially in the most recent period, a regulatory policy is being shaped that finds expression in dedicated structures both at the political and technical level – not least through re-centering the leadership for regulatory and administrative reform along the couple Minister for Normative Simplification – Minister for Public Administration. As a formal, strategic and programmatic tool, the Action Plan model allowed for simultaneous and consistent and co-ordinated action, implemented by the administrations in an integrated manner. The principle of assessing benefits against the costs of regulation, formally adopted in 1999, has not been fully enforced yet. The creation of the *Tavolo per la semplificazione*, the online public consultations on the implementation of the 2007 Action Plan as well as on the identification of possible further simplification areas ("*Le tue idee per semplificare*") were steps in the right direction.

Regulatory institutions and capacity

Regulatory reform mechanisms in the executive

OECD 2005 *Guiding Principles for Regulatory Quality and Performance* call on countries to "commit to regulatory reform at the highest political level". Political commitment is necessary not only to instil credibility in the overall reform agenda and to boost individual initiatives. It is also essential because it help counter and offset the structural tendency by public administrations to resist innovation and undergo mere inertial change. While this applies generally, each country must design and manage the reform according to its specific institutional and political setting.

Italy has taken such an approach notably with the appointment of a Minister without portfolio responsible for Normative Simplification at the outset of the XVI Legislature. This Minister is in charge of co-ordinating initiatives such as the *taglia-leggi* process. The Minister

closely works with the Minister of Public Administration and the one for the Implementation of the Programme with regard to relevant aspects of administrative simplification and evaluation practices and monitoring of central administrations' performance. The co-ordination of the measures aimed at simplifying the legal environment concerned by the Directive EC/2006/123 (the so-called "Services Directive") are also part of the new portfolio. In addition, the Minister takes care of inter-institutional relations. In addition to this ministerial appointment, the Presidency of Council of Ministers has now strengthened its Better Regulation structures, which operate in different areas:

- The Unit for Simplification and Better Regulation (USQR) and a newly created Structure for Normative Simplification, both providing support to the Minister for Normative Simplification:
  - The Unit for Simplification and Regulatory Quality (*Unità per la semplificazione e la qualità della regolazione*, USQR), builds on recent changes established by the previous legislature, and is now chaired by the Minister for Normative Simplification. The USQR now supports the Minister for Simplification with an extended mandate. The Unit consisted originally of up to 20 senior experts chosen among academics, State lawyers and counsellors of State, appointed part time, but this has been scaled down in 2009. The USQR is assisted by a technical secretariat of up to 14 people which became operational in March 2007. The Unit functions as a senior advisory board, involving high-level external experts, and serves as a transmission belt between the political arena and the more technical dimension of the reform agenda. The Unit prepares the annual Action Plan for simplification, jointly with the Departments of Public Administration and of Innovation and Technologies, as well as the annual Simplification Act. This Unit follows on earlier attempts to establish a *Nucleo* and an *Observatory* for simplification, as part of the first wave of regulatory reforms at the end of the 1990s.
  - The new structure for simplification is a dedicated department (*Struttura di missione*) created to assist the Minister for Normative Simplification, providing technical and organisational support, inputs on the preparation of simplification acts, and checks the conformity of legal acts with the national simplification targets. The new Department is composed of an administrative staff of around 30 people. The Vice-Secretary General of the Presidency of the Council of Ministers co-ordinates both the Unit and the Department.
- The Legislative Office (DAGL *Dipartimento per gli affari giuridici e legislativi*, DAGL) is a key element of continuity since 1988. Its responsibilities were enhanced under the recent directive adopted in 2009. The DAGL is headed by a Councillor of State and its deputy is a member of the highest Court in the judicial system (*Corte Suprema di Cassazione*), where they serve as experts and lawyers of the State. The DAGL serves as a focal point to manage the agenda of the Council of Ministers. It supports the government advising on the appropriateness of legislative drafts with the legislative offices of each ministry. The DAGL also checks whether the criteria justifying fast-track and urgent procedures are met. It co-ordinates normative matters with the independent authorities, relevant parliamentary bodies, the Constitutional Court and the State Council, as well as across levels of government. Moreover, the DAGL carries out analytical work on normative matters. The DAGL also includes a Regulatory Impact Analysis Unit, which has been charged with assessing Regulatory Impact Assessments since March 2000, through a specific unit. This task has been further consolidated by the new regulation on RIA of 2008.

- The Administrative Simplification Office (UANAS), which gives support to the Minister for Public Administration and Innovation. This structure of the Department for Public Administration is dedicated to administrative simplification activities. Jointly with the Unit for Simplification, and the sectoral administrations, UANAS serves as a co-ordination platform for the implementation of the measurement and reduction of administrative burden. It is supported by a "task force MOA", the *Scuola Superiore della Pubblica Amministrazione*, and the ISTAT. The Minister for Public Administration avails itself of its collaboration with the Department for Innovation and Technologies for the definition and implementation of measures related to the information society.

The recent changes are the latest of a series and reflect the evolution in the political context and the institutional design for better regulation in Italy throughout the past decade. Elements of continuity have accompanied significant organisational changes, as evidenced by the DAGL and USQR. However, the institutional context has also significantly changed following the 2001 constitutional reform (see Part III, Chapter 6). This reform re-allocated legislative competences across levels of government, and implied a fundamental re-thinking of the State's regulatory policies and its organisation.

The experience in 2005-07 led to setting up an Inter-ministerial Committee (*Comitato interministeriale per l'indirizzo e la guida strategica delle politiche di semplificazione e di qualità della regolazione*) in 2006, which was conceived with a view to provide strategic guidance for simplification and regulatory quality and to serve as an instrument of regulatory policy co-ordination at the national level. The Committee was located at the heart of the executive and was chaired by the President of the Council of Ministers (who delegated the Minister for Normative Simplification). In addition, a permanent board for simplification (*Tavolo permanente per la semplificazione*) established in March 2007 is intended to facilitate consultation on projects related to simplification.

A number of independent institutions participate in the normative process, as indicated in the 2001 Review. Among them, the State Council (*Consiglio di Stato*), which is also the supreme administrative tribunal and a controller of legality, advises on administrative and legal affairs and reviews all secondary regulations approved by the Council of Ministers. The Court of Accounts (*Corte dei conti*) plays a control role on the government's regulatory powers. The Constitutional Court's role in the normative process has been further highlighted by the numerous legal disputes which have arisen since the reform of Title V of the Constitution.

Assessment

Overall, the new institutional design at both political and expert levels is closer to OECD best practices than previous frameworks. In particular, it reflects an acknowledgement by Italian governments of the need to maintain active political commitment to regulatory reform. The bodies that are close to the centre of the government, including the structures for administrative simplification and the USQR, provide leverage when preparing and underpinning inter-ministerial initiatives. The appointment of a Minister explicitly charged with legislative simplification, entrusted with the leadership of both the Inter-ministerial Committee and the USQR, and with significant co-ordination functions represents significant progress. The renewed input for reform by the Minister for Public Administration, notably on matters of measurement and reduction of administrative burdens and on the evaluation of public service's performance, completes the promising picture. This strategic approach is a valuable condition for

fostering policy coherence and maintaining continuous input to Italy's regulatory reform agenda, while maintaining responsibilities at a lower and decentralised level. This should help foster a "whole-of-government" approach to regulatory reform, while mobilising expertise for reform where sectoral know-how is most readily available.

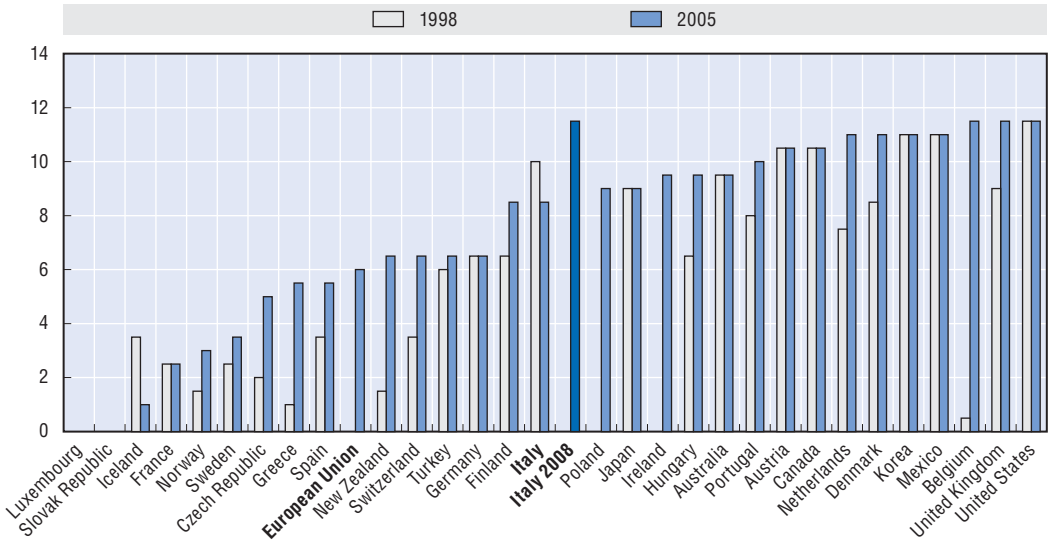
The *struttura di missione* attached to the Minister for Normative Simplification, the USQR and its secretariat provide technical support. Since the USQR was also brought under the remit of the new portfolio, this meant that the overall amount of resources dedicated to regulatory reform and simplification at the centre of the government considerably increased. The changes also implied an enhanced political visibility and relevance of these bodies. However, they are a temporary structure (although with an undetermined mandate), which differs from the situation of many OECD countries, where regulatory oversight and co-ordination bodies are permanent structures within governmental structures. The DAGL continues to serve as an important body for legislative affairs and as a key gatekeeper in the overall agenda of the government.

The Inter-ministerial Committee, which has been active during the XV legislature, has reflected a wish to move away from the rather fragmented approach of regulatory policies of the past. Following the decisions to dismantle the *Nucleo per le semplificazioni* and the *Osservatorio* in 2002, there had been a reduction of the institutional capacity for regulatory quality oversight between 1998 and 2005, as suggested by the OECD regulatory management system indicators. However, these indicators were based on data prior to the establishment of the Inter-ministerial Committee in 2006, which reflected the need to create a central body injecting political leadership and operational guidance to regulatory policies. The recent organisational changes are likely to contribute to consolidate Italy's efforts to give the reform agenda consistency and continuity in the forthcoming years, as updated data for 2008 reflects (see Figure 2.1). As a result, Italy is brought back to a situation that is comparable with other relatively advanced countries.

While the current framework does not exactly match regulatory quality oversight as in countries such as the UK or the US, possibilities for oversight do exist in Italy: the meetings taking place before the Council of Ministers (the so-called *pre-Consiglio*) act as a form of a central gate-keeper of the Government's agenda, where issues of regulatory quality can be taken into account. The Council of Ministers cannot discuss a document not examined by the pre-Council.[5] In a way, it is similar to the Canadian Treasury Board. The DAGL acts therefore as an important filter on legal and analytical matters, even though its filtering function is not expressly acknowledged and not fully linked to the RIA process (see the section on RIA below). In addition, the State Council plays a scrutiny and advisory role. Its opinions are not binding for the Government, but they weight is enhanced by the fact that the Council can later intervene as the highest administrative Court to assess sub-legal regulations, an approach very similar to the French model. As a result, the executive normally takes them into account.

The new setting nonetheless still presents some challenges in terms of co-ordination. The strengthening of the co-ordination and incentive mechanisms by making operational administrations directly responsible for the development of plans for the measurement and reduction of administrative burden hints to a good practice. On legislative matters, however, co-ordination between the activity of the DAGL and those of the Ministry for Simplification is a crucial issue. The fact that the reform effort is supported by formally "temporary structures" differs from the situation of many OECD countries. More generally,

Figure 2.1. **Institutional capacity for managing regulatory reform, 1998-2005**



Note: The score on the chart reflects the following answers:

	Weights:
Do formal training programmes exist to better equip civil servants with the skills to develop high quality regulation?	if yes, weight = 0.5
If the answer is "yes":	
– Does this include training in how to conduct regulatory impact analysis?	if yes, weight = 0.5
– Does this training include use of alternative policy instruments?	if yes, weight = 0.5
Is there a dedicated body (or bodies) responsible for promoting the regulatory policy and monitoring and reporting on regulatory reform and regulatory quality in the national administration from a whole-of-government perspective?	if yes, weight = 3
Is this body consulted as part of the process of developing new regulation?	if yes, weight = 2
Does this body report on progress made on reform by individual ministries?	if yes, weight = 2
Can this body conduct its own analysis of regulatory impacts?	if yes, weight = 1
Is a specific minister accountable for promoting government-wide progress on regulatory reform?	if yes, weight = 2

A column "ITA08" has been added to reflect the Italian situation updated as of 2008 reflecting the deep institutional changes in Italy between 2005 and 2008. The data for other countries in 1998 and 2005 have also benefited from the peer review process undertaken in 2007-08.

Source: Jacobzone *et al.* (2007), *OECD Indicators of Regulatory Management Systems*, Jacobzone *et al.* (2007), updated by the Secretariat, p. 15.

there is still scope to further deploy control mechanisms to strengthen accountability at the various levels of the regulatory process (see Box 2.3). The effectiveness of the USQR as a unitary advisory body may still be challenged given the part-time nature of the commitment of the experts involved.

Box 2.3. **Monitoring OECD recommendations: Clarifying and assuring institutional capacity**

In the 2001 Review, the OECD invited Italy to consider "Improving the efficiency of rulemaking by clarifying the responsibilities in the rulemaking procedure of each major institution, and better integrating numerous regulatory quality procedures" (OECD, 2001).

This recommendation has been partly met. In a formal sense, the current institutional setting for regulatory reform should be more effective than in the past. The Ministers for Normative Simplification and of Public Administration should provide political guidance to the whole process, although it is still too early to fully measure its capacity to ensure coherence and leadership. Compared with the previous *Nucleo per la semplificazione*, the mandate of the USQR has been extended and further structured. The Unit provides for

Box 2.3. **Monitoring OECD recommendations: Clarifying and assuring institutional capacity** *(cont.)*

co-ordination among administrations. It organises their initiatives; monitors the simplification procedures; and controls the implementation of the objectives listed in the Action Plan for Simplification. The Department of Public Administration carries out its specific competences on administrative simplification, process reengineering, the measurement and reduction of administrative burdens, in collaboration with the USQR. There is also greater integration among regulatory tools. For instance, explicit cross-references have been introduced between legislative simplification (the guillotine exercise) and RIA, and between RIA and consultation.

Still, the allocation of roles and responsibilities may still involve the scope for overlap. For instance, synergies between administrative simplification initiatives and efforts to digitalise the administration have not been sufficiently achieved. Full integration between those two action points has remained open. While closely working for the Minister for Public Administration, the two parts of the administration charged with this responsibility (the Departments of Public Administration and of Innovation and Technologies) rely on two different bodies, the USQR and the CNIPA, respectively. They refer to distinct legal bases, as the norms derived from the various Simplification Acts are only partly integrated into the Digital Administration Code. They operate along different programmatic and guiding documents: the Simplification Action Plan as opposed to the annual strategic guidelines of the Minister for Public Administration and the three-year Plan issued by the CNIPA. (Even if significant synergies existed between this simplification plan and the dynamics of the introduction of new technologies in public administrations). The more recent efforts of "Business in One Day", and "Single communication for Citizens", show increased efforts towards co-ordination. Another example refers to the co-ordination of the implementation of Directive EC/2006/123 (so-called "Services Directive"), where the Department for European Affairs, the one for Public Administration and Innovation and the one for Regional Affairs are closely involved. The remit for the evaluation of the central administrations, falls under three different ministerial structures: the Ministers for Normative Simplification, for the Implementation of the Programme, and for Public Administration.

Moreover, clear mandatory and public guidelines governing the use of regulatory tools were not available at the time of writing this report. In addition, a system of checks and balances, with explicit incentives and responsibilities organising the relationships between the centre in charge of regulatory oversight, and the sectoral ministries, has not been formally implemented, even if the practice has moved in this direction.

The role of Parliament

The other part of the political process is the legislature. Italy is quite advanced, through a number of committees and procedures specifically addressing regulatory policies:

- In 1997, the Chamber of Deputies reformed its Rules of Procedures, with advisory and advocacy functions to improve the quality of the legal system. A regulatory checklist was issued and a bipartisan Committee on Legislation (*Comitato per la legislazione*) was created as the main advisory body for the work of the standing committees. The Committee advises the Chamber on the consistency, simplicity, clarity of drafting of proposals and on the effectiveness of simplification measures. The Committee must advise on all

decrees issued by the government and on all proposals for enabling acts and de-legislative acts to be adopted by the standing committees.

- In 2000, the Senate also established an Office for the Quality of Legislation (*Servizio qualità della legge*), with units responsible for compliance with the rules of drafting, for the review of RIAs issued by the government, and for review of the effects of laws.
- A Bicameral Commission for Legislative Simplification was set up recently (*Commissione parlamentare per la semplificazione della legislazione*) to give opinions on the various steps of the guillotine exercise. It also has a mandate for administrative simplification, with the right to render opinions on simplifying, amending or abolishing public administration bodies.

These institutions provide ample potential for valuable parliamentary involvement in a broad-based regulatory reform programme. These bodies offer capacity to institutionalise the regulatory agenda in parliamentary procedures. By many standards, Italy is here more advanced than many OECD countries.

More recently, and in relation to the cutting-laws' exercise (*taglia-leggi*), Law 246/2005 provided for the creation of a Bicameral Commission for Normative Simplification, which will give opinions on the various steps of the guillotine exercise. The Budgetary Law for 2008 (Law 244/2007) extended the mandate of the Bicameral Commission for Administrative Simplification, granting it the right to render opinions on simplifying, amending or abolishing public administration bodies.

Assessment

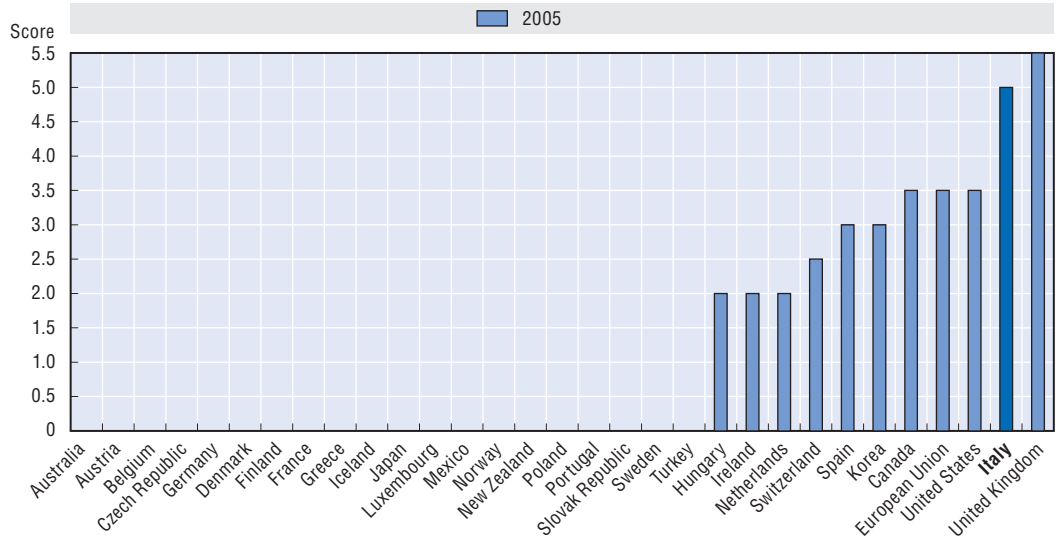
The role of the Parliament with respect to regulatory reform and its internal organisation has not changed significantly in the past decade, but remains however more developed in Italy than in other countries. The activity of the Parliament is adapting to the new context in which increasing recourse is made to enabling laws and delegated legislation. The Italian Parliament has established a number of committees and procedures specifically addressing regulatory policies. It also periodically reviews the quality of the proposed legislation and basic guidelines and criteria are in place to this end. Thanks to this setting, in this area Italy ranks among the top positions in OECD comparisons for parliamentary oversight of regulatory policy (see Figure 2.2).

Training and resources

Capacity building and training are an integral part of any regulatory reform programme. The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* call on countries to "strengthen quality regulation by staffing regulatory units adequately, conducting regular training sessions." Beyond the technical need for training in certain techniques such as RIA assessment or plain drafting, they convey the message to administrators that regulatory reform is an important agenda, recognised as such by the administrative and political hierarchy. This fosters a sense of ownership on reform initiatives. Training helps instil a "new regulatory culture" in the public administration.

In Italy, training for regulatory policies is co-ordinated by the Office for Training of Public Administration Staff (Uffpa) located in the Department for Public Administration. The Ministry relies also on the National School for Public Administration (SSPA), for training senior civil servants. In addition, the Presidency of the Council of Ministers also organises specific training courses, such as a course related to RIA, ATN and VIR conducted in February March 2009. Most of the training programmes at regional and local levels are

Figure 2.2. **Parliamentary oversight of regulatory policy in 2005**



Note: The score on the figure reflects the following answers:

Is there a dedicated parliamentary committee or other parliamentary body with responsibilities that relate specifically to the regulatory policy/regulatory reform policy?	Weights: if yes, weight = 2
If the answer is "yes":	
Does this body periodically review the quality of the proposed legislation (*i.e.* lower-level rules)?	if yes, weight = 1
Is this body also entrusted to review the quality of subordinate regulation (*i.e.* lower-level rules)?	if yes, weight = 0.5
Is the review process, if it exists, explicitly guided by regulatory quality criteria?	if yes, weight = 1
Does this body review and report on progress on regulatory policy/regulatory reform across the administration?	if yes, weight = 1

The data for other countries in 1998 and 2005 has also benefited from the peer review process undertaken in 2007-08.
Source: Jacobzone *et al.* (2007), *OECD Indicators of Regulatory Management Systems*, p. 17.

implemented by FORMEZ (*Centro di Formazione Studi*). Between 2002 and 2008, FORMEZ carried out training, launched trial phases and diffused methodologies related to RIA, involving 15 regions. Five regions were involved in activities related to the measurement and reduction of administrative burdens.

Enhancing performance evaluation is an integral part of the reform package launched by the Minister for Public Administration. This includes the definition of a set of measurable targets that reflects the effectiveness of the public sector in matching the expectations and needs of the citizens and economic operators. The new system closely links the evaluation of the organisation with the evaluation of staff performance, notably of managers. This should enhance meritocracy, transparency of promotions and accountability. In a first phase of the reform, a central evaluation agency will be created charged with methodological aspects and the diffusion of evaluation practices.

These recent initiatives follow up with the Government's Directive on "*Per una pubblica amministrazione di qualità*" adopted in 2006, which urged the administrations to intensify their efforts to provide adequate training to their managers and civil servants in the methodologies and techniques for improving performance. Administrations were also solicited to adopt self-evaluation tools such as the Common Assessment Framework (CAF). In relation to the cutting-laws exercise, a help desk for problems of a legal nature was organised. A computer assistance service has also been provided through a permanent technical help desk service run by CNIPA. These are steps in the good direction.

Evidence in Italy shows that reform initiatives, if well managed, have produced positive results. Nonetheless, part of the challenges lies implementation. It can be hoped that the recent emphasis on outcome and productivity in public administrations will help to close the gaps.

Regulatory authorities

Regulatory agencies are increasingly a core element in the institutional framework and a key instrument of better regulation strategies. The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* call on countries to "improve co-ordination and avoid overlapping responsibilities among regulatory authorities", and to "establish regulatory arrangements that ensure that the public interest is not subordinated to those of regulated entities and stakeholders". In many OECD countries, regulatory powers have been delegated to agencies to secure independent regulatory oversight and management of newly liberalised or privatised infrastructure sectors. Agencies generate a significant proportion of the regulations affecting key sectors of the economy, and have important powers of enforcement. In Europe, they can be directly engaged in the implementation of EC regulations covering their sector at national level and have been explicitly acknowledged by a number of EU directives.

As extensively outlined in the 2001 OECD Report, Italy has set up a number of independent authorities over the years. Throughout the 1990s, in particular, authorities have been established as a result of developments at the level of the EU, but also as a response to the need of addressing policy concerns which were felt to be best handled at arm's length from the political arena. The key economic authorities include the Competition Authority (created in 1990), the Energy Regulator (AEEG, in 1995), the Communications Regulator (Agcom, in 1997), the Isvap (in 1982), and the CONSOB (established as early as 1974). The Bank of Italy was founded in 1893. A recent case is the proposal by the government in October 2008, to establish a national Agency for Nuclear Safety.

The 2001 Report noted that these authorities are entrusted with significant independence, as well as with regulatory and quasi-judicial powers. These features vary from authority to authority, as do criteria for appointment, tenure of the executive board, and accountability procedures. Criteria for appointment and tenure of the executive board assure their independence. The authorities are accountable, as they have to report annually to Parliament. They are also subject to the audit of the Court of Accounts and their decisions can be appealed in courts.[6] Co-ordination between the sectoral regulators for communications and energy and the competition authority has worked smoothly. Financial sector institutions have been reformed recently to shift the decision on mergers to the competition authority.

Authorities have been the subject of significant policy debate in Italy in recent years. The issue was openly discussed and no consensus was reached on the establishment, role and organisation of the authorities. Italy has not yet equipped itself with a regulator in the postal service and in the public transportation sectors. The *Nucleo di consulenza per l'Attuazione delle linee guida per la Regolazione dei Servizi di pubblica utilità* (NARS), has provided the function since 1996. The XV Government tabled a proposal seeking to widely modernise the agency system in Italy (Law proposal AS 1366/2007). The proposal intervened on the number and nature of the authorities, also addressing the vacuum left in the postal sector, as well as in the transport and water sectors. The proposal sought to enhance, clarify, and guarantee the powers of the authorities. A new bicameral parliamentary commission for markets competition and regulation and for relations with

the authorities would be created. The board of the authorities would have been fixed to five members in order to improve governability and avoid political appointments.

Assessment

Law Proposal AS 1 366 would represent an important step towards rationalising the regime of the Italian authorities. Agencies would have been introduced in sectors where they are still missing and needed, and their number and functions streamlined where they are redundant. Above all, a set of common core principles would have been identified that govern and underpin each authority, which assures not only greater efficiency but also enhanced legitimacy and accountability, which would directly respond to the OECD 2001 recommendation on the topic. However, this dossier remained open during the transition of government in 2008.

Discussions on the independence of the authorities remain open within the Executive and the Parliament, even though in several core economic sectors the existence and statute of such sectoral regulatory authorities reflect EU directive requirements. These regulators have in Italy made significant contributions to sustaining momentum and effort for regulatory reform. Evidence especially from the Communications and above all the Energy Regulator (AEEG) shows in fact good practices in terms of stakeholder consultations and impact assessment, as well as significant achievements in terms of tariff reductions. Such practices are clearly ahead of the rest of the Italian regulatory framework and are close to the highest international standards (Eurelectric, 2005).

The debate in Italy, still unsettled for the regulatory agencies, mirrors the larger governance debate in the country, where questions of power, accountability, transparency and performance are still a moving agenda. Italy's rejection thus far of solutions that would politicise important regulatory decisions in the infrastructure sectors is welcome. This is a critical element in the context of building confidence for investors and also creating capacity for regulatory improvement in the future.

Box 2.4. **Monitoring OECD recommendations: Independent regulatory authorities**

In the 2001 Review, the OECD invited Italy to consider:

"Assuring an accountable, transparent and coherent approach to the use of regulations by independent authorities by assuring that they comply with the quality control procedures and government-wide regulatory policy. A first step should be the launching of a comprehensive, high-level and independent review of the performance, working methods and inter-institutional relationships of the sectoral regulatory authorities" (OECD, 2001).

Efforts have been made in redesigning the institutional approach towards regulatory authorities. This has generated some debate, with implications for the independence of the authorities. The recent law proposal for independent authorities (A.S. 1 366) would have offered a modernised regime for these authorities with a uniform framework and improved inter-institutional relationships. However, it has not been approved.

Co-ordination between levels of governments

This section mainly focuses on the national-EU interface since a specific chapter tackles this important dimension of regulatory reform in Italy, following the reform of Title V of the Constitution.[7]

The national – European Union interface

For many years, the interface between the Government and the EU level was governed by the so-called "La Pergola" Law (Law 86/1989), which *inter alia* established the Department for Community Policies (*Dipartimento per il coordinamento delle politiche comunitarie*) as an autonomous entity within the Prime Minister's Office. The EU enlargement in 2004 and the enhanced competences conferred upon the EU since the mid-1990s required an improvement of the channels through which Italy participates in the EU normative procedures. The gaps observed in the past in terms of complying with the transposition and implementation of the EC law required a re-organisation of the procedures dedicated to the transposition of EU legislation into the national legal order. Law 11/2005 ("Buttiglione" Law) operated in both these senses, introducing a two-tiered process that includes:

- a so-called "ascending phase", which refers to the way in which Italy takes part in the process of framing Community and EU decisions; and
- a "descending phase", which encompasses the process of transposing and implementing Community directives into the Italian legal system.

The first phase was not formally regulated before. Each ministry was autonomous and responsible for directly following up legislative and policy dossiers in its area of competence. Politically, the Inter-ministerial Committee for European Community Affairs (*Comitato intermministeriale per gli affari comunitari europei*, CIACE), acting as a sort of "European Affairs Cabinet", is now responsible for defining the Italian position on all EU dossiers. A standing technical committee supports the work of the CIACE. At a lower level, specific working groups have regular meetings.

A representative of the State-Regions Conference sits *de officio* at CIACE as well as in the technical committee's meetings, but these can be also convened in a special, "enlarged" format. Since 2005, the government is required to forward all draft EU acts and the related preparatory documents to both Houses of Parliament. At the same time, the Government forwards the same documentation to the Regions and the Autonomous Provinces in relation to matters within their spheres of competence.

The impact of the reforms introduced by Law 11/2005 on the second "descending" phase has remained limited. The main instrument used to implement EC legislation still is the annual European Community Act (*Legge comunitaria*). This "omnibus law" encompasses in a single text all the principles and the criteria for delegating powers to the government; the modalities for direct and delegated implementation, including the proposals for the related legislative decrees and the so-called "falling norms"; and the lists of the directives that need to be transposed and implemented by the various administrations for the year.

In case of emergency, or if expressly requested by rulings of the EU judicial organs, since 2005 EC obligations can nonetheless be implemented also through lower-level rules to guarantee the necessary promptness in complying with obligations that are so urgent that they cannot wait for the annual Community Act.

To further underpin Italy's efforts, a dedicated unit (*Struttura di missione per le procedure di infrazione*) was created within the Department in July 2006 with the specific task of preventing new infringements and better co-ordinating mechanisms aimed at settling existing ones. The *Struttura* seeks to liaise with the European Commission at the earliest stage possible to ensure the full and timely application of EC law. Internally, the unit has contributed to better organising common responses to information requests, letter of formal notice and reasoned

opinions. So-called "package meetings" are another very important instrument to jointly examine infringement proceedings or problematic cases in a given sector.

A further example of the recent efforts by the Italian government to facilitate the interaction between the regions and the EU is the creation of the Project on Opportunities for Regions in Europe (*Progetto Opportunità delle Regioni in Europa*, PORE).[8] Established by the Presidency of the Council jointly with the Department for Regional Affairs, PORE seeks to best exploit the opportunities offered by the EU regional policy and stimulate transborder and transnational collaboration. The initiative "PORE-VALORE LOCALE" in particular works towards enhancing the participation of the Italian regions and local authorities in European programmes and funds, assisting in the identification and preparation of calls for proposals as well as the implementation of EU-funded projects. The initiative also contributes to capacity-building at the local level. PORE organises seminars on "Local Governance and the European Union", in collaboration with ANCI, UPI, the *Scuola di Specializzazione in Studi dell'Amministrazione Pubblica* of Bologna and the *Università di Roma III*.

Box 2.5. **Putting Italy's infringements online: EUR-Infra**

EUR-Infra is a dynamic electronic national archive introduced by the Department for Community Policies in January 2008 (*http://eurinfra.politichecomunitarie.it/ElencoAreaLibera.aspx*). It seeks to improve the way the government handles infringement proceedings in relation to the transposition and implementation of EU legislation. EUR-Infra is constantly and timely kept up-to-date, which allows access to complete, reliable and official data on Italy's infringement status. EUR-Infra serves not only as a database but also as a tool to organise and manage information. It contains all the documentary material available for each infringement procedure and for the related activities (such as the correspondence among the administrations, information on meetings and co-ordination activities).

For the first time, this tool allows to search the archive according to specific keywords and criteria, identifying the kind of infringements, the policy areas, the stage where the procedure stands, the administration responsible, providing useful statistical as well as operational information. EUR-infra has proved to be a valid working tool to foster co-ordination among administrative actors that are various in nature and scattered on the territory – ranging from the central administrations and the Ministry for Foreign Affairs to the Italian Delegation to the EU in Brussels. EUR-infra works also as an interface between the administration and the citizens and economic operators on infringement cases. Its introduction has remarkably increased the transparency of and accessibility to information, while keeping the necessary confidentiality on the open proceedings. This system was set up and run at low cost, thanks also to the support of the *Struttura di missione per le procedure di infrazione*.

With regard to transparency and access to information, the Department for Community Policies has developed a rich and active interface with both other administrations and the business operators and the citizens, including enhancing the website (*www.politichecomunitarie.it*). Particularly innovative is the initiative seeking to increase the transparency of the infringement procedures ("EUR-Infra", see Box 2.5).

Assessment

With the adoption and implementation of Law 11/2005, Italy has started radically reforming its structures devoted to the transposition of Community law. On the "descending phase" front, the country has committed to establish systematic and

relatively close inter-institutional co-ordination (including for providing information on EU legislative proposals and EU acts to the relevant parliamentary and regional assemblies (or committees thereof). The law is still too recent to assess its full implications, but the potential for sustaining the positive trend is great. These investments have paid off. In twenty months, Italy's transposition deficit has fallen from 2.7% to 1.3% – a percentage in line with the EU average (1.2%) (see Figure 2.3). In January 2008, open infringements amounted to 198, the lowest number in the past five years. The European Commission's Internal Market Scoreboard of July 2008 shows that Italy remains the country with the highest number of infringement procedures (127) but it is also the one that has reduced the most its infringements in the first half of the year.

Figure 2.3. **Italian transposition deficit (1997-2007)**

Note: Data refers to the month of November each year.
Source: Dipartimento delle Politiche Comunitarie, 2008.

Beyond the most evident practical results achieved between 2006 and 2007, the new co-ordination structure can help instil a culture of collaboration and information sharing among officials working in different administrations and at different levels. The members of the technical committee underpinning the CIACE have for instance established a stable network of contacts in each of the sectoral administrations on European affairs. Such practices often did not exist before and are welcome.

The principal causes for infringing transposition obligations refer to the long deadlines for transposition. Under the Community Act 2007, the government has reduced the deadlines, and the delegation term by the Parliament to the executive coincides with the deadline for transposition provided by each directive. For those directives whose terms has already expired, or expires within the three months after the Community Act has been approved, the government has no more than three months to adopt the related legislative decree. Another issue is the complex and long procedure leading to the adoption of the Community Act, which has often delayed the adoption of the implementing decrees by the government. Therefore, the Community Act has become a heavy, all-embracing list covering different fields and including a large number of legal provisions. This does not leave much scope for considering costs, benefits and impacts, and may set aside considerations for regulatory quality in these matters. While the results are significant, they have been acquired at some cost. For all these reasons, the government is studying new, more efficient solutions for the transposition process.

By re-organising and centrally steering the ascending phase, Italy has acknowledged that sectoral or individual management of EU dossiers is no longer possible. Law 11/2005 provides for a good institutional and organisational framework. However, the reforms suffer from tough budget constraints. In addition, the various bodies are not granted with clearly defined powers and authoritative means to deliver efficiently. The system is based on the credibility and the moral suasion of the CIACE, and the agreements reached are voluntary and political. The recent provisions included in the Budgetary Law go nonetheless in the right direction and give the European policy more teeth to be effective.

Regulatory tools and procedures

Transparency and predictability

OECD 2005 *Guiding Principles for Regulatory Quality and Performance* call on countries to "ensure that administrative procedures for applying regulations and regulatory decisions are transparent, non discriminatory, contain an appeal process against individual actions and do not unduly delay business decisions", and to ensure that efficient appeal procedures are in place. They also stress the need to "consult with all significantly affected and potentially interested parties, whether domestic or foreign while developing or reviewing regulations".

Forward planning

In many OECD countries, forward planning is made mandatory as a helpful tool for improving transparency and co-ordination in rule-making. This contributes to increase the quality and predictability of decisions. Some countries periodically assemble lists and descriptions of forthcoming laws and subordinate regulations.

In Italy, while there is still a lack of structured activity for forward planning, a series of dedicated activities and instruments has been initiated. In the course of the XV legislature, the government adopted a political and programmatic document listing all the actions of commitment – the "Programme Tree" (*Albero del programma*) – managed by the specifically created department for the implementation of the programme. Moreover, a directive of the President of the Council in 2007 and strategic objectives for 2008 constituted the frame within which each ministry was called to set its medium term goals and actions. The annual Action Plan on Simplification was another strategic tool for planning and programming in relation to administrative and regulatory reform activities. Nonetheless, forthcoming legislative proposals are not systematically published yet. The Regulatory Authority for Electricity and Gas (AEEG) operates on a three-year rolling work programme system introduced in 2005, which constitutes a sort of regulatory agenda for the sector. The AEEG work plan is subject to annual public hearings.

Public consultation

Enhancing public consultation is a key element to ensure trust in the public, increase consensus for reforms. In Italy, the decentralisation of 2001 has accentuated the need for more systematic and open consultation practices. More thorough consultation practices and agreements have been experienced in a number of policy areas. So for instance has the Department for Public Administration and *Confindustria* signed a Protocol in March 2006 on the systematic identification of administrative burdens on businesses; the quick implementation of the online register for information obligations; the possibility to simplify

authorisation procedures; and diffuse online consultation practices. The measurement of administrative burdens in Italy has drawn from enhanced consultations (see below).

The government has recently accelerated the re-organisation of the institutions and the improvement of the procedures responsible for consultation, in relation to its simplification initiatives and beyond. A *Tavolo permanente per le semplificazioni* was established in March 2007. This standing forum has operated within the Unified Conference through a number of working groups that have concentrated on the specific action lines of the 2007 Action Plan. Further thematic focus groups have met to address additional dossiers, such as the reform of the administrative justice and transport.

The Code for Digital Administration of 2005 (Legislative Decree 82/2005) offered another opportunity for developing a more embracing consultation culture. The code opened the way to use ICT, and Internet in particular, for consultation purposes, and it contained a provision making explicit reference to online consultation. In implementing the code, the government organised for the first time a government-wide online consultation in relation to the Action Plan on Simplification for 2007. In 2008, an online consultation was also launched with a view to collect indications on the priority for simplification for the new Action Plan.

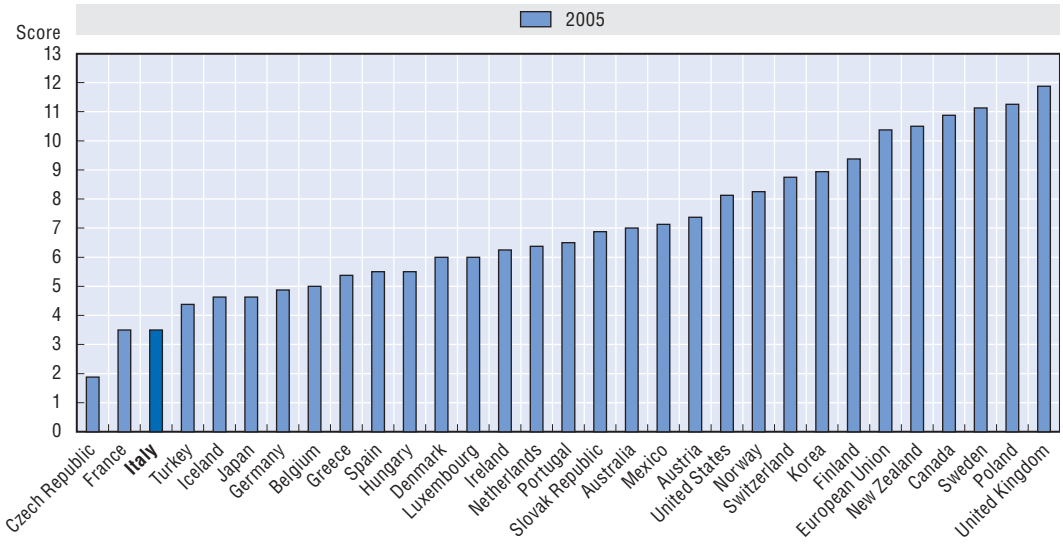
More specific requirements have been set on the regulatory activity of the independent authorities. The Communications Regulatory Authority (Agcom) and the Regulatory Authority for Electricity and Gas (AEEG), for instance, have developed consultation practices that are very close to the best international standards. These include the issuing of specific guidelines, the systematic organisation of hearings with the main stakeholders, and the online publication of consultation documents (coupled with the "notice and comment" procedure).

Assessment

In spite of these positive openings, the general principles and practices of public consultation in Italy have not drastically changed in the past ten years. For the vast majority of draft laws and subordinated regulations, consultations have often taken the form of negotiations between the government and the key third parties involved according to the model of *concertazione*. The interaction between central administrations, the regions, local authorities and the social partners have tended to follow informal negotiations taking place behind closed doors.

There is still no general requirement on central administrations for carrying out systematic public consultations in Italy at this stage. Consultation practices are still not disciplined by centrally co-ordinated, mandatory and uniform guidelines. Moreover, there are no formal legal requirements to publish the results of the consultations carried out, reveal the parties consulted, and provide a feedback on the impact that comments from the various stakeholders have had on the preparation of legislation. Central administrations are therefore autonomous in deciding when, how, and who to consult, often on a voluntary basis. As a consequence, it is difficult to draw a clear picture of the consultation practices as experience on the ground is very heterogeneous. It may be noted that the new guidance on regulatory impact assessment, issued in September 2008, would foresee consultation through electronic means with public and private subjects affected by a proposed regulation, as a preliminary phase in the proposed simplified RIA procedure.

Figure 2.4. **Quality of consultation processes in 2005**



Note: The score on the figure reflects the following answers:	Weights:
a) Is public consultation with parties affected by regulations a routine part of developing draft primary laws?	if no = 0, in some cases = 0.5, always = 1
b) Is public consultation with parties affected by regulations a routine part of developing draft subordinate regulations?	if no = 0, in some cases = 0.5, always = 1
If the answer is "always" or "in some cases" to *a)* or *b):* Primary laws *b(i)* Is consultation mandatory?	if yes, weight = 0.5
If the answer is "always" or "in some cases" to *a)* or *b):* Subordinate regulation *b(i)* Is consultation mandatory?	if yes, weight = 0.5
b(ii) What forms of public consultation are routinely used: Primary laws and Subordinate regulation – Informal consultation with selected groups? – Broad circulation of proposals for comment? – Public notice and comment? – Public meeting? – Internet? – Advisory group? – Preparatory public commission/ committee? – Other?	if ticked, weight = 0, 0.25, 0.5, 0.25, 0.25, 0.25, 0.25, 0.125
b(iii) Can any member of the public choose to participate in the consultation? Primary laws and Subordinate regulation	if yes, weight = 0.5
c(i) What is the minimum period for allowing consultation comments inside government?	c(i) if 1 week = 1.125, 2 weeks = 0.25,
c(ii) What is the minimum period for allowing consultation comments by the public, including citizens and business?	3 weeks = 0.375, 4 weeks = 0.5
d(i) Are the views of participants in the consultation process made public? Primary laws and Subordinate regulation	c(ii) if 2 weeks = 0.125, 3 weeks = 0.25, 4 weeks = 0.375, 6 weeks = 0.5
d(ii) Are regulators required to respond in writing to the authors of consultation comments? Primary laws and Subordinate regulation	8 weeks = 0.625, 12 weeks = 1
d(iii) Are the views expressed in the consultation process included in the regulatory impact analysis? Primary laws and Subordinate regulation	
d(iv) Is there a process to monitor the quality of the consultation process? (*e.g.* surveys or other methods, please specify in comments) Primary laws and Subordinate regulation	until end, if yes, weight = 0.5 except d(ii)

Data for other countries in 1998 and 2005 have also benefited from the peer review process undertaken in 2007-08.
Source: Jacobzone *et al.* (2007), *OECD Indicators of Regulation Management Systems*, p. 22.

International comparison highlights the rather informal character of consultation in Italy. As a result, current practices still fall short from the best available international standards, even if they are close to those of some of its close European partners (see Figure 2.4).

Consultation practices have also been disconnected from impact assessment procedures. However, it is promising in this respect that the September 2008 regulation establishing a simplified RIA (Decree 170/2008) includes consultation as one of the primary phases of that process in the future. It will be important that the related guidelines clearly set quality criteria and minimum standards in that regard. Recently, the Ministry of Public

Administration has used electronic consulting means to prepare the subordinate regulation to the Brunetta Law (Law 15/2009), mentioned in Part I.

The first experiences with online consultation are particularly encouraging. The consultation launched on the 2008 Simplification Action Plan provided a considerable amount (some 1 200) of comments and recommendations from the stakeholders. This suggests a diffused desire by economic operators, non-governmental organisations and citizens to participate more actively in decision making. As mentioned, good practices do exist for specific institutions, as illustrated by the experience of the Agcom and the AEEG regulators. All decisions on general regulation taken by the latter authority (some forty each year), in particular, are preceded by a written consultation procedure.

Still, the perception persists among the stakeholders of not being sufficiently involved in the decision-making process, especially as far as the identification of the problems and the preparation of legislative proposals are concerned. Options for improvement currently being envisaged involve to extend standard consultation periods (up to eight weeks), and to publish the various inputs on the website. The USQR, in collaboration with the Department for Public Administration, has elaborated a set of "Guidelines for online consultations" that, if implemented well, could significantly contribute to the institutionalisation and systematisation of consultation. The fact that the inputs from the consultation on the 2007 Action Plan have been published suggests that there is scope for implementing these good practices in Italy.

Legal drafting

Correct, clear and consistent drafting, including plain language, is an essential factor for increasing the transparency, the predictability and ultimately the enforceability and effectiveness of regulations. Countries typically seek to ensure legal consistency and clarity through training in drafting skills for the preparation of regulations, oversight by expert bodies, and specific guidance material for drafters. In Italy, this is linked with the general conformity assessment of new regulations with the overall existing framework.

Since 2000, Italy has acquired significant experience in performing Legal Technical Analysis (*Analisi tecnico-legislativa*, ATN) to evaluate the quality of the legal text. The timing and methodology to carry out ATNs were revised in September 2008 by a directive of the Presidency of the Council (10 September 2008). This includes assessing the implications on the legal order, in the light of the jurisprudence, and presenting it jointly with the technical-financial analysis and the RIA. As a result, more emphasis is put on the analysis of the national and international context as well as on the quality of drafting, and legal consistency of the legislative proposal. The directive also fosters enhanced collaboration between the legal offices of the sectoral administrations. The ATN is transmitted by the latter to the DAGL, which is responsible for the inclusion of the legislative proposal in the agenda of the Council of Ministers.

Over the years, both the government and the legislative have issued a number of circulars and guidelines on legal drafting. In 2001, the Presidents of the Chamber, the Senate, and the Council of Ministers jointly adopted new circulars on the technical drafting of legal acts. In the same year, the Presidency of the Council of Ministers issued a guide for the implementation by the government of the above-mentioned circulars. In the government, the responsibility for drafting quality lies with the DAGL. In 2002, the Ministry for Public Administration issued a circular on simplifying the language of administrative

acts. More recently, the USQR and the DAGL have worked towards establishing a national "Chart for Regulatory Quality".

Transparency and communication, ICT technologies

In addition to being simply and clearly drafted, regulation needs to be transparent and easily accessible, well understood and effectively implemented. All Italian laws and subordinate regulations as well as the judgements of the Constitutional Court have to be published in the Official Gazette (*Gazzetta Ufficiale*), available online. Since 1999, the programme "regulations on the net" (*www.normeinrete.it*) has operated as a single access point to the acts issued by public administrations. Law 150/2000 has regulated information and communication activities of the public administration. The Digital Administration Code of 2005 (Legislative Decree 82/2005) made a sensible contribution towards diffusing the practice of converting, transmitting and publishing legal and administrative acts into electronic format. The Code strengthened the right for individuals and economic operators to access and receive public documents electronically.

Transparency and predictability: Enforcement and appeals

Regulatory quality requires clear, fair and efficient procedures to appeal administrative decisions based on a regulation as well as the regulation itself. The issue of compliance and enforcement of regulations has received increased interest in Italy in the recent period, due to greater international awareness of the need to ensure an appropriate length of procedures, and in the wake of the saturation of the civil law system.

The issue of delay in appeals has been a source of growing concern. This was initially the case for administrative justice, where a number of fast track procedures have been established – for example for the appeals of the regulatory authorities. The possibility of suspending appeals has also helped to streamline processes, as mentioned in the 2001 Review. Additional appeals mechanisms have been established with the ombudsman, which, however, only exists at regional level, but not in all regions. Italy differs in this significant respect from many of its European counterparts.

The main focus has been shifted recently to civil justice where delays seem to have been much higher than the international average. Procedures are usually more complex in Italy and take more time. According to *Doing Business* data, Italy appears as least-well placed within the OECD area in terms of the length of its procedures.[9] Complementary data by CEPEJ tend to confirm the overall diagnosis: Italian delays are always 20 to 50% above those observed in close neighbourhood countries.

This diagnostic was generally shared by Italian sources. For example, the "Green Book on public expenditure" published by the Treasury in September 2007 identifies a number of challenges faced by justice in Italy (*Ministero dell'Economia e delle Finanze*, 2007). The key factors highlighted by the Green Book are not necessarily due to insufficient public spending on courts and legal aid, nor to a low number of judges; these two indicators are relatively high in Italy compared with other European countries, and have steadily increased.[10] Structural aspects related to the expertise of human resources do not seem to be the main source of delay either. Rather, room for improvement may exist in addressing the effectiveness and efficiency of public spending and achieving economies of scale (Marchesi, 2003). In particular, the Green Book suggests tackling the excessively small size of bailiffs: in 2007, one quarter of the Italian courts employed less than 10 judges (Marchesi, 2007). The consequence is that the same judge has to rule on both civil and criminal cases,

with implications in terms of specialisation and productivity. In addition, in 2007, 72% of the courts were still understaffed (Green Book, 2007).

Further analysis (Marchesi, 2003, ISAE) suggests that the underlying problem refers to demand aspects. In the last decade, the number of criminal and civil cases has doubled. Over the last twenty years, the duration of civil proceedings has increased by 90%, and by 97% when considering only proceedings of an economic nature (*e.g.* breach of contract, debt recovery, etc.). Economic disputes are of remarkably low monetary value: 60% of them are litigations for less than EUR 5 000, and of this 60%, only a quarter concerns disputes for more than EUR 2 500. In addition, even in the first degree proceedings, only 38% of the cases conclude with a judgement. The other 62% in the main end in the withdrawal of one of the parties, or in a settlement reached during the suit, generally occurs after the proceedings have been drawn out over a long period of time. This may suggest that recourse to the judge may be sought less to resolve a controversial juridical issue than for reasons of a different order, for instance in order to take advantage of delay deadlines, or have suspending clauses. In addition, the formula for calculating the lawyers' fee creates incentives for professionals to extend proceedings and make those more complex. The analysis is broadly confirmed by the 2007 annual report of the Highest Cassation Court. Because of the length of the proceedings, legal disputes have resulted in EUR 41.5 millions expenditure for the Italian State in the past five years. The President of the High Cassation Court defined as "alarming" the increment rate: from EUR 1.8 millions in 2002 to EUR 17.9 millions in 2006, *i.e.* an approximate increase of 800%. The number of civil proceedings in arrears has almost tripled over the past twenty years, amounting to more than EUR 3 millions, among first and second degree proceedings in 2004 (*Corte Suprema di Cassazione*, 2008). Contributions for *Confindustria* report estimations of the overall costs caused by the inefficient civil justice system to approximately EUR 2.3 billion for the year 2005, corresponding to an average cost per firm of EUR 384 000 (Trento, 2007). The most recent research also shows that significant regional variation exist, with longer delays in the southern regions. The number of cases appears to be higher in the South even though resources are distributed geographically in line with new cases (Carmignani and Giacomelli, 2009).

While the diagnostic is clear, the issue of possible appropriate solutions that meet with consensus remain open. The Online Civil Trial initiative (*Processo civile telematico*) sponsored by the Ministry of Justice may help towards speeding up the proceedings and facilitating access to documentation by the parties through ICT, thereby reducing costs. It has been launched as a pilot project in seven courts. An agreement to enhance its implementation and diffusion was signed in January 2007 between the Minister of Justice and the Minister of Public Administration.

Bankruptcy regulation has been reformed in the past years. In 2005, the Italian legislator amended the discipline of claw back action and the arrangement with creditors (Law 80/2005). It also introduced agreements for restructuring debts. According to Law 5/2006, the organic reform of bankruptcy law has been completed. The new regime allows speedier proceedings. These efforts have been acknowledged at international level. The *Insolvency Outlook* (Hermes, 2007) acknowledged that the change of legislation in 2006 considerably lowered the number of businesses subject to liquidation on the basis of financial criteria. The criteria were modified again with the new 2008 criteria. The reforms have accelerated the legal proceedings, enlarged the competence of the creditors committee, reduced the term of exercise of claw back action and deeply improved conditions faced by companies under bankruptcy.

Challenges in the future will be to ensure a smooth adaptation of the legal system, finding remedies that take into account Italian specific legal aspects, while helping to significantly reduce the delays for appeal.

Improving the quality of new regulation

The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* call on countries to "Integrate RIA in the development, review and revision of significant regulations", to "ensure that RIA plays a key role in improving the quality of regulation, and is conducted in a timely, clear and transparent manner".

Understanding regulatory impacts: Regulatory Impact Analysis (RIA)

Regulatory Impact Analysis (RIA) is a core tool for regulatory quality. If well designed and implemented, RIA processes improve the overall quality of decision making. RIA requires decisions to be taken with much stronger rigour and through a more accountable and transparent process (OECD, 2005). Evidence in a number of OECD countries shows that RIA helps shift from a legalistic to a more evidence-based approach to decision making. As a process that assists policy makers (it does not substitute their decisions), RIA seeks the adoption of the most efficient and effective regulatory options (including the "no regulation" option). However, experience also proves that the deployment of impact assessment is often resisted or poorly applied due to concerns of delays, excessive technocratic approaches, and additional workload for regulators.

In Italy, RIA was formally introduced in 1999-2000, as a pilot project. A directive of the Prime minister and fairly detailed guidelines for the preparation of RIAs implemented the instrument and defined the stages, modalities and exemption of implementation. As originally designed, the Italian RIA consisted of a two-tiered process. The proponent administrations had to submit the related assessments to the DAGL and to the *Nucleo* for their inclusion in the agenda of the pre-Council of Ministers meeting. At a first stage, services were to prepare a standardised "preliminary assessment" that identified the problem to be addressed, the objectives of the intervention, and the stakeholders. They also were to analyse likely budgetary, economic and social constraints, including impacts, provide a general assessment of alternatives, including the "no action-option", and, finally describe the appropriate level of the regulation proposed. At a second stage, a more comprehensive RIA was to accompany the final draft. The final RIA was to be supported by a consultation phase.

After the first trial phase, a second directive of the Prime minister relaunched the experimental period for RIA in September 2001, but the resources allocated to RIA were reduced and the body supposed to provide oversight, the *Nucleo*, was dismantled in 2002. Implementation of RIA was therefore not matching expectations, reflecting the lack of organisation and financial resources, as well as sound economic analysis and reliable data. The first experimental phase of 2001 produced only five full RIAs, while the second phase, launched by the 2001 Prime minister directive and which lasted from 2003 to 2005, produced only one full RIA.[11] Reports on progress with RIA were presented by the Presidency of Council to Parliament in 2006 and 2007. The 2007 report delivered in July 2007[12] acknowledged that RIA reports were concise and rather descriptive, with less focus on substantive assessment-related aspects and limited consideration of alternatives. The view was that many of the RIA documents ended up being a "support to an *ex post* justification of choices made". No central administration has so far systematically published its RIA documents online.

Many of the gaps mentioned above have not been addressed yet. However, attempts have been made to tackle the deadlock, for example by streamlining and simplifying the RIA procedure. Law 246/2005 revised the scope of application; decentralised responsibilities for carrying out RIAs; and "simplified" the methodology in order to ensure the widest recourse possible to RIA by the administrations (see Box 2.6). However, it was evidently faced with continuing lack of capacity in sectoral ministry, in a context of highly rotating staffs, and lack of analytical structures. Compared with the political momentum given to administrative simplification policies, the side of the flows of new regulations may not have received the same level of attention.

Box 2.6. **Towards a simplified RIA system in Italy**

Further to the specific action line outlined in the 2007 Simplification Action Plan, a dedicated group was established within the USQR to draw the regulation implementing Law 246/2005, which established a simplified procedure for RIA. In April 2008, the regulation[1] was adopted further to the opinion provided by the State Council. The regulation was officially published in September 2008 (Regulation 170/2008).

The principal goal of the revised approach was to diffuse and embed the instrument into the working methods of each central administration. During 2001 and 2006, preparation of RIAs by administrators had in fact not gone, in the majority of cases, beyond the mere fulfilling of procedural and bureaucratic requirements. Often, moreover, RIAs did not properly address the cost and benefits related to the proposal, and the two documents (the "preliminary assessment" and the full RIA), when drafted, contained duplications and overlaps, thereby complicating the analysis.

The "simplified" approach seeks to streamline the logical and procedural steps designed by Article 5 of Law 50/1999. The new regulation consolidates the previous two circulars of the President of the Council into one single act and the two-tiered approach is brought back to a single RIA document. At the same time, the new model confirms the necessary and indispensable stages that characterise the RIA process. The regulation requires the administration to outline the "context" of reference; the coherence of the initiative in relation to the government's programmatic objectives; and the information used in the analysis. The administrations must also provide information on the consultations carried out as well as their results. In the case where consultation was absent, they shall justify why they did not comply with this step. While the "relevant options" need to be only "described", the regulation requires an analysis of the "zero-option" and the one chosen. Particular emphasis is placed on assessing the likely administrative burdens implied by the chosen option. The general principles underpinning the preliminary investigation are proportionality, a flexible use of methodologies to collect data, and transparency. It also defines a set of core criteria to ensure that the impact on competition and the liberalisation of markets is taken into account.

The regulation also offers a clear model with seven core sections to be filled as part of the structure of the RIA:

1. *The issue and the objectives of the proposed regulation*
2. *The consultation process*
3. *The assessment of the "null" option*
4. *The assessment of alternative options*
5. *The justification of the chosen regulatory option (with the methods and comparisons)*
6. *The impact on well functioning markets and on the competitiveness of the country*
7. *The modalities for implementing the regulatory intervention*

In 2006, draft regulatory instruments submitted by administrations to the President of the Council and that were accompanied by RIA reports accounted for only 50% of all draft regulatory instruments examined.[2] RIA documents now must accompany all proposals for normative acts submitted to the Council of Ministers. RIA is not mandatory for proposals related to the exemptions listed by the law in 2005. Upon

Box 2.6. **Towards a simplified RIA system in Italy** *(cont.)*

motivated request by the concerned administration, the DAGL may exempt it from carrying out a RIA in cases of necessity, urgency, or in the light of the "specific complexity and size of the normative intervention and its likely impacts". The Council of Ministers, moreover, may always decide and motivate exemptions. In any case, the regulatory memorandum accompanying the act shall report on the motivations for eventual exemptions.

The DAGL checks the appropriateness and the completeness of the activities performed during the preparation of the RIA. It may ask the relevant administrations to complement and clarify the report and it gives its final opinion on the document before it goes on the agenda of the Council of Ministers.

It is foreseen that the new regime will operate within the same institutional framework and the same amount of resources currently in place. The simplified RIAs, estimated to be carried out on some 250 governmental acts each year, will be subject to the same transparency requirements as in the past. In accordance to Law 246/2005, each ministry will decide autonomously on the form of publicity beyond the minimum requirements set by the law and the allocation of resources. The responsible administration may decide to publish its RIAs also during the preparatory phase.

1. The regulation contains provisions also with regard to the *ex post* evaluation instrument (*Verifica dell'impatto della regolamentazione*, VIR).
2. See *Progress Report to the Parliament on the Implementation of the Regulatory Impact Analysis (RIA)* (2007).

The DAGL should also help to provide central co-ordination for RIA practices and serve as a unique reference point for both *ex ante* and *ex post* analyses. The RIA Unit is charged with control of compliance and gives its final opinion on the document before it goes on the agenda of the Council of Ministers. Under the new regime, RIA practices should be generalised. In principle, no legislative proposal can be considered by the government if it is not accompanied by a RIA. However, the new regime will operate within the same institutional framework and the same amount of resources currently in place.

Assessment

The long experimental period foreseen for the introduction in RIA was not as successful as expected. Still today, the completeness of RIA practices in Italy do not compare in very favourable terms with international standards. There was a significant gap in implementation between what had been envisaged and effective results. Only few full RIAs were completed during the trial phase.

This is explained by a series of factors. First, momentum was lost after the launch of the instrument because of the lack of political support, and insufficient internal communication. At the same time, the business community may have not exerted the same pressure on the central administration as it did on other regulatory bodies. Accordingly, administrations have not felt the sense of urgency for implementing RIA as a pressing imperative. Second, the two training cycles were insufficient to diffuse the know-how throughout the administration. Not all Italian administrations can rely on internal multi-disciplinary expertise, in particular on staff with a professional economic background. Third, RIAs have been mainly produced by the legislative offices of the various ministries, which have operated at ministerial discretion in a context of high political turn-over. External experts were retained on a case-by-case basis. This has not allowed for rooting the necessary skills within the administrations. Finally, the results were also influenced by a specific political context, in which party coalitions had to resort to urgent bills (Decree-Laws) or so-called "omnibus laws" to pass legislation. By doing so, short-term political agendas often disregarded the priorities and deadlines set in policy programmes, thereby hindering the effectiveness of the RIA process.

Renewed political impetus was given to RIA with Law 246/2005, and the concrete steps taken with the regulation of September 2008 sought to re-establish its credibility and promote its use. The responsibility for carrying out RIA is now allocated directly to the services responsible for the preparation of the proposal, as advocated in OECD best practices. The "simplified" RIA approach appears to be a first possible step towards addressing some of the challenges faced when implementing RIA. The September 2008 RIA regulation is fairly detailed and outlines many of the core concepts underpinning a sound RIA process. The label "simplified" should not be understood as debasing the instrument. Compared with the past, the regulation consolidates and rationalises both the reference documents (the 2000 and 2001 Circulars) and the procedural steps (the two-tiered approach).

However, some open issues remain. Despite recent progress, internal co-ordination mechanisms for quality control do not seem to be fully established yet, in ways that would be comparable with the most advanced countries. At present, the powers entrusted to the DAGL, and its corresponding resources, do not allow to exert an effective oversight function. The proposed new scheme for a "simplified" RIA, with its emphasis on linking impact assessment with public consultation, may help to improve RIA quality. Consultation is an integral part of the RIA process given its contribution to both the survey of the needs and interests and the evaluation of the likely impacts. A transparent RIA process further enhances accountability.

The new regulation does not specify the criteria and the standards that future RIAs will have to meet. These include guidance on how to define problems, collect data, and use methodologies. Little is said, moreover, about the stage at which RIA needs to be done. This is left to further formal guidelines to be issued in support of the regulation and to be circulated to the various administrations. The current simplified RIA sheet that is attached to the regulation falls short from representing a real guideline. The regulation document makes also no reference to the need for formal inter-departmental consultation on RIAs. The criteria that the DAGL should apply to scrutinise the "appropriateness" of draft RIAs are not specified. Finally, the challenges of implementation will be significant without additional resources, particularly if it has to apply to hundreds of acts a year.

The picture concerning the independent authorities is more mixed. Two key examples are positive. The first refers to the Agcom, which since 2006 has attached and published a simplified impact analysis to a limited number of general measures adopted. The second is the AEEG. Since 2006, the AEEG has performed and published some ten RIAs which included a sound methodological approach, a description of the alternative options and relatively sophisticated market analyses. In particular, the RIA process designed by the AEEG includes at least two rounds of public consultations. The AEEG also equipped itself with internal guidelines. Nonetheless, progress has been uneven among the smaller regulatory authorities in terms of initiating RIA procedures and practices (Rangone, 2006). Despite the legal obligations, after four years many of the authorities still do not carry out RIAs, and RIA documents are not submitted as part of the discussions in Parliament in most cases. An exception is the AEEG which has done so on occasional instances since 2005, and it has joined a CD-Rom including all the RIA documents to its annual reports to the Parliament and the President of the Council.

Choice of policy instrument: Regulation and alternatives

The OECD 2005 *Guding Principles for Regulatory Quality and Performance* call on countries to "consider alternatives to regulation where appropriate and possible". Effective modern regulatory processes are those that consider and use a wide range of approaches to meet

policy goals in the most appropriate and accountable manner. So-called "alternatives to regulation" (or "soft" approaches) are for instance voluntary agreements, standardisation, conformity assessment, as well as self-regulation (including codes of conduct) and co-regulation. Approaches of this kind can aid effectiveness by increasing acceptance of regulation, facilitating compliance, and ensuring flexibility. At the same time, however, they may trigger legitimacy concerns, and problems related to enforceability as well as liability, dispute settlement and (judicial) review.

In Italy, self-regulation regimes are to be found in a variety of sectors. The professions where scope for self-regulation exists will be analysed in a specific chapter of this review. One of the main fields in which such approach has been followed is environmental policy. Because of the growing complexity of the system and the potential importance of the intervention, OECD countries have increasingly had recourse to a mix of instruments in this field. Since the end-1990s, not least in relation to the implementation of the Kyoto Protocol, the Ministry for Environment has promoted voluntary agreements in a variety of economic sectors. Initiatives have ranged from the use of bio-fuels in the transport sector, the so-called "car-sharing initiative", and the diffusion of methane in automotive vehicles, to the creation of protected natural reserves.

Beyond organisational aspects, however, the use of alternatives to regulation has remained limited, despite the fact that the 2001 Italian RIA guidelines explicitly prescribed administrations to consider and evaluate the relevant alternatives to the regulatory option when carrying out RIAs. The predominantly legalistic and prescriptive approach in decision making has hindered the search for alternative options. In the draft RIA regulation of February 2008, the "zero option" is clearly pointed out as the baseline for the measurement of the effects of the initiative under consideration. On the other hand, the simplified RIA approach allows a less detailed analysis of the options other than the chosen one.

Improving the quality of the regulatory stock

The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* call on countries to "improve the stock of existing regulations", to "minimise the aggregate regulatory burden on those affected as an explicit objective to lessen administrative costs for citizens and business, and as part of a policy stimulating economic efficiency" as well as to "measure the aggregate burdens while also taking account of the benefits of regulation".

Evolving legislative simplification policy: From consolidated texts and sectoral codes to the "guillotine clause"

In Italy, a series of instruments have been subsequently used to implement the simplification agenda. Throughout the 1990s, recourse was made first to consolidated legal texts (*testi unici*). Besides their consolidation function, these also served as instruments to reduce the scope of laws (de-legislation) towards an objective of simplification. Sectoral consolidation was also sought by means of the so-called *testi unici "misti"*, introduced by the First Simplification Act for 1998 (Law 50/1999). Experience with this mixed type of legal instrument showed that such practice was not necessarily conducive to a clear and easy understanding of the stock regulating a given policy area. The Third Simplification Act (Law 229/2003) put less emphasis on de-legislation imperatives and replaced the *testi unici misti* with sectoral recasting codes (*codici di settore*).

The most recent and drastic simplification instrument is the "guillotine clause" introduced by the 2005 Simplification Act for repealing State legislation. The so-called

"cutting-laws" (*taglia-leggi*) mechanism involved first a stock-taking of the State legislation in force, establishing the boundaries of the areas of the State legislative framework under the responsibility of each Ministry, highlighting the inconsistencies (*incongruenze* and *antinomie*) related to the various legislative sectors. A supporting database was developed. At a second stage, the government systematically reviewed the norms adopted by the State before 1 January 1970,[13] with a view to identifying those considered essential to be maintained in force. The idea was that any legislation adopted before 1970 and not considered to be indispensable be automatically repealed (exceptions are stated in the law). The government should also proceed to simplify and reorganise comprehensively the various legislative areas through specific codes. It will have the possibility to further intervene with corrective or restorative acts (*decreti legislativi correttivi*) by 2011 to ensure that the measures envisaged are effective and proportionate.

The inventory was undertaken by the administrations with the co-ordination of the USQR and the support of the *Centro Nazionale per Informatica nella Pubblica Amministrazione* (CNIPA), which established a dedicated Intranet website for sharing and diffusing experiences and best practices among the administrations (*www.taglialeggi.cnipa.it*). The Government completed the first phase of the exercise and presented the findings to the Parliament in December 2007. Overall, it was therefore estimated that the total number of primary laws adopted by the State and still in force amounted to 22 000, of which approximately 7 000 going back to the period 1860-1969.[14]

Further to the inventory, the Law Decree 112/08 affected a number of areas, including the extension of the life-span of identity cards and its renewal procedures; the simplification of information obligations for installing electric, sanitary, heating and other systems in buildings; the liberalisation of transferring shares of limited liability companies (llc); and the simplification of formal obligations in keeping documentation related to work and in setting working hours, identified on the basis of the measurement of administrative burdens. Overall, according to the estimates provided by Italian authorities, the corresponding savings amount to almost EUR 5 billion a year. The savings on identity card simplification measures could amount to EUR 15 millions (see Table 2.1), while on privacy policy only, the foreseen savings are estimated to EUR 2 billions. The measure on digitalising company books, provided for in the Decree, would allow to eliminate one of the procedures considered in the *Doing Business* ranking, improving thereby Italy's position. Upon the adoption of the related implementing decree, the measure on business start up will reduce the time to set up an economic activity from 30 days to one day.

Table 2.1. **Immediate monetary impact of Legislative Decree 112/20081**

Provision	Without simplification (EUR)	With simplification (EUR)	Savings
Art. 31 (identity card)	30 m	15 m	–50%
Art. 35 (installation of systems in buildings)	909 m	0 m	–100%
Art. 36 (transfer of llc shares)	300 m	100 m	–67%
Total savings (without labour measures)		1 124 m	
Art. 40-41 (Working documentation and hours)	6.35 bn	2.78 bn	–56%
Total savings (with labour measures)		**4 698 m**	

1. These are preliminary estimations related to the activities and procedures simplified by the mentioned decree.

Source: Presidenza del Consiglio dei Ministri – Unità per la semplificazione e Dipartimento per la Funzione Pubblica, 2008.

Assessment

The cutting-laws (*taglia-leggi*) allowed for the first systematic census of the stock of primary legislation since the creation of the Italian State in 1861. Moreover, it contributed to cope with the gap created by the revision of Title V of the Constitution, further to which a number of State laws are no longer legitimate because of the changed allocation of competences between the State and the Regions. The completion of the first inventory phase in 2007 shed a light on the difficulties to scrutinise concretely the entire Italian legislative stock, as a gap emerged between the figure advanced by the ministries and the search made through other databases.

The inventory task was onerous but necessary and it was performed with determination. The choice to use an innovative and powerful instrument such as the guillotine clause speaks for the ambition and the commitment of the government to streamline and avoid overlapping legislative intervention. This was furthermore confirmed by the creation of a Ministry for Normative Simplification in 2008, which conferred the implementation of the *taglia-leggi* the status of strategic objective and political priority. Similarly, the Simplification Action Plan for 2007 identified the bodies responsible for the implementation of the various parts of the process, set deadlines, and mentioned methods for the evaluation and scrutiny of the findings. In this respect, Italy has here applied a number of critical success factors that can be drawn from international benchmarking on the use of regulatory guillotine clauses: there has been a clear "top-down" approach; criteria and standards for repealing are explicitly stated by the law; and reform is fast and final decisions are taken by the government in conjunction with the Parliament.

Box 2.7. **Monitoring OECD recommendations: Rationalising the legislative stock**

In the 2001 Review, the OECD invited Italy to consider:

"Expanding the value, speed and scope of review of laws and major subordinated regulations by accelerating the process of consolidating text, using RIA and competition enhancing criteria systematically" (OECD, 2001).

This recommendation has triggered action and considerable efforts have been devoted towards simplifying the legislative and regulatory environment in Italy. This has helped to address the issue of the intricate and overlapping regulatory stock, with tools such as the cutting-laws mechanisms (*taglia-leggi*), which not only seeks to reduce the number of provisions but also and above all to re-organise and recast of the whole stock, the sectoral codes, and the Annual Simplification Acts have also contributed to mapping and codifying existing laws and regulations. However, in the wake of the ever increasing complexity of new rules, including implications from the EU level as well as from the new multi-level framework in Italy, the urgency of this agenda remains.

The cutting-laws mechanism proved its merits as it led to a rapid cut in Italy's legislative stock, with some 7 000 laws (*i.e.* one third of the entire legislative stock) repealed in June 2008 already. An additional 28 000 Laws, which dated from before 1948, were also repealed by Legislative Decree 200/2008. Nonetheless, those were laws explicitly classified as useless, obsolete or already implicitly repealed. The effectiveness of the cutting-laws mechanism will be put to a more significant test when simplification initiatives will be carried out on more relevant legislative acts.

Overall, the progress made on legislative simplification is positive and is in line with the recommendation of the 2001 Review. Beyond the introduction of the guillotine mechanism, the State Council confirmed that the recourse to the *codici* helped reform sectoral regulation,[15] recognising at the same time the codes made the legal source for simplification more rigid. The slower pace of legislative simplification during the XIV legislature may also reflect the introduction of this type of instruments. A further reason for the reduced simplification activity may lie with reform of Title V of the Constitution, which drastically reduced the capacity of the State to intervene to rationalise substance and/or procedures in areas of non-exclusive State competence (Natalini, 2003).

Regulatory review

Rather than a linear process, accountable and effective decision-making should take the form of a policy-regulatory cycle. Regulatory reviews, in the form of *ex post* evaluations, provide a feedback loop to regulators. Such analyses are performed after regulations are implemented and enforced. In Italy, regulatory review has been formally foreseen since the Prime minister directive of September 2001. However, the instrument still waits for a full implementation. The initiative of the Parliament is therefore to be welcomed to put renewed emphasis on regulatory review through two important provisions included in the Simplification Act for 2005: the *ex post* evaluation clause (*Verifica dell'impatto della regolamentazione*, VIR), and the cutting-laws mechanisms.

Box 2.8. **Monitoring OECD recommendations: Enhancing a transparent, evidence-based and participatory decision-making**

In the 2001 Review, the OECD invited Italy to consider:

- "Strengthening attention to policy results by initiating an assessment of regulatory compliance and enforcement procedures, by integrating an assessment of feasible compliance strategies into the RIA process, and particularly by assessing compliance difficulties for businesses or citizens when reviewing or revising existing regulations" (OECD, 2001).
- "Strengthening disciplines on regulatory quality in national and regional ministries by refining tools for regulatory impact analysis, public consultation, and alternatives to regulation, and training public servants in how to use them" (OECD, 2001).
- "Improve transparency by further strengthening the public consultation process through standard procedures and criteria, and by adopting government-wide notice and comment procedures" (OECD, 2001).

In the light of the current review, these recommendations have been only partially met. Institutions underpinning a proper RIA process have been established again at the centre of the government. However, practical implementation of RIA lags behind. Similar remarks apply to *ex post* evaluation practices. The extent and quality of public consultation practices vary considerably, without formal government-wide mandatory guidelines. First experiences with online consultations have been made recently. In general, an evidence-based, open approach to decision making is emerging in Italy, but has not been firmly embedded in the common working procedures of the public administration.

The acknowledgement of the VIR in a formal legal document is to be welcomed. Law 246/2005 indicates that this should be carried out two years after the entering into force of the legal act under consideration. Subsequently, regular reviews should take place every

two years. Unlike for RIAs, there is no general obligation to carry out VIRs. Guidelines supporting *ex post* analysis will have to be drawn up. In the meantime, an Annex attached to the enabling regulation provides some basic indications on how to perform the analysis. Much of the effectiveness of the instrument will depend on the remit provided by each individual decree, therefore relying on an *ad hoc* approach. Clearly drafted guidelines will therefore be an indispensable tool.

Administrative simplification: Measuring and reducing administrative burdens

Across OECD countries, businesses and citizens increasingly complain about the excessive time they spend and the significant resources they devote to activities such as filling out forms, applying for permits and licences, reporting business information, notifying changes, etc. "Red tape" is costly, not just in time and money spent complying with information obligations but also in terms of reduced productivity and innovation in business. This is particularly burdensome to smaller businesses and may even discourage people from starting up a new business. These effects are more costly in global markets, where the efficiency of the domestic regulatory and administrative environment can affect business competitiveness. Cutting "red tape" is therefore a priority on the political agenda and many governments are giving priority to measuring and reducing administrative burdens in recent years (OECD, 2006b, 2007b).

The Italian situation from an international perspective

Since the end of the last decade, clear signals have pointed to the significance of the problem. For instance, ISTAT estimated at EUR 10 billion the overall compliance costs borne by businesses in Italy for the year 2000. The situation improved the following couple of years: in 2003 the OECD indicated that six other OECD countries imposed more burdensome procedures on start-ups than Italy, while the European Commission confirmed the reduction in both the number and the length of start-up procedures for public limited companies (from 21 to 12 and from 22 to six weeks on average, respectively).

According to the World Bank's *Doing Business* reports (see Table 2.2), Italy has significantly reduced the costs for start-ups since 2003.[16] World Bank data referring to 2007 show a reduction by one third, from 24.1% to 18.7% of the income per capita. This figure, however, does not take into account the adoption of Law 40/2007 (so-called "Bersani" Law) in April 2007. Further to this law, it is calculated that costs may be cut down to 12.9% of income per capita, which represents almost half of the costs in 2003.[17] Nonetheless, with the updated figures, Italy still ranks 23rd in terms of costs for starting a business, among OECD countries. Italy performs slightly better than the OECD average in terms of days necessary to start a business. Between 2003 and 2007, it nearly halved the time needed (13 against 16 days of OECD average). If the effects of Law 40/2007 are considered, however, Italy's improvement is more significant, moving from the 13th position in 2003 to the 5th position in 2007 (six days needed, only).[18] As to the number of procedures, thanks to Law 40/2007, Italy has reduced the figure from nine to six. This is close to the OECD average, in line with the performance of France and the UK, and better than other big European countries such as Germany and Spain. Indeed, after the execution of the public deed of incorporation before a public notary, the entrepreneur may now complete the following four procedures[19] though an online application to the local Chamber of Commerce. At the same time, the local Chamber of Commerce releases a certificate, which allows the entrepreneurs to start up an industrial or commercial business. Progress has also been made on the minimum capital required to start a business, which moved from almost 50% of income per capita to 9.8%.

Table 2.2. **Starting business 2003-07**

	Starting a business 2003-07							
	Procedures (number)		Time (days)		Cost (% of income /capita)		Minimum capital (% of income /capita)	
	2003	2007	2003	2007	2003	2007	2003	2007
Italy	**9**	**9** *(6)*	**23**	**13** *(6)*	**24.1**	**18.7** *(12.9)*	**49.6**	**9.8**
Italy rank within OECD	*18*	*24* *(11)*	*13*	*15* *(7)*	*21*	*27* *(23)*	*10*	*10*
OECD average value	6.9	6.5	16	16	10.4	7.02	50.9	38
Austria	8	8	28	28	6.1	5.4	65.6	55.5
Canada	2	2	3	3	0.6	0.9	0	0
France	8	5	41	7	1.3	1.1	29.2	0
Germany	9	9	45	18	5.9	5.7	49.1	42.8
Ireland	4	4	18	13	10.4	0.3	0	0
Japan	11	8	31	23	10.7	7.5	74.9	0
Netherlands	7	6	11	10	13.3	6	67.2	52.9
Spain	10	10	114	47	16.8	15.1	17.9	13.7
Sweden	3	3	15	15	0.7	0.6	38.5	31.1
United Kingdom	6	6	13	13	1	0.8	0	0
United States	6	6	6	6	0.7	0.7	0	0

Note: This methodology was developed in Djankov *et al.* (2002) and is adopted here with minor changes. Number of procedures, figures in parenthesis, result from recent Italian estimates based on policy measures adopted in 2007 and that are not yet reflected in World Bank data.

Source: World Bank, *Doing Business*, Reports 2004-08.

Complementary information is also available in terms of licences and permits. The World Bank *Doing Business* reports also look at the performance of countries in issuing licences (see Table 2.3). This indicator considers typical private construction companies. In 2007, Italy compared unfavourably with other OECD countries under this criterion. While the number of procedures required (14) is below average and very similar to the French and German figure, the time needed to fulfil the procedures is particularly long. Italy ranked 27th in this respect.[20]

Table 2.3. **Dealing with licences and registering property (2007)**

	Dealing with licences		Registering property	
	Procedures (number)	Time (days)	Procedures (number)	Time (days)
Italy	14	257	8	27
OECD rank	14	27	28	18
OECD average	16	166.1	4.8	38.4
Austria	13	194	3	32
Canada	14	75	6	17
France	13	137	9	123
Germany	12	100	4	40
Ireland	11	185	5	38
Japan	15	177	6	14
Netherlands	18	230	2	5
Spain	11	233	4	18
Sweden	8	116	1	2
United Kingdom	19	144	2	21
United States	19	40	4	12

Source: World Bank, *Doing Business*, Reports 2004-08.

The diagnostic is slightly more positive when considering a further relevant *Doing Business* indicator which refers to the "registering property" measure (see Table 2.3). The indicator considers the procedures to legally transfer the title on real property in the same way as for the "starting business". Similarly, it calculates the time required to complete each procedure. The costs associated to the latter are the official ones (no bribes) and they do not included added value or capital gains. In 2007, registering a property in Italy still involved up to eight procedures, compared with about five procedures on average within the OECD area. Nonetheless, the situation was relatively positive in terms of the number of days needed (27), placing the country after the Spain and the UK but well before France and Germany, among the big European countries.

These measures serve more as a general indication on the issue. They may have to be considered in the light of methodological caveats. Italian experts, for instance, suggest a number of considerations for a careful reading of the findings.[21] First, non-observable or non-measureable factors may affect the economic performance of countries. Second, external factors that are independent of the domestic regulatory regime make it sometimes impossible to exactly quantify the overall effects of regulations on businesses. Third, it is difficult to assess the direct costs and benefits that enterprises have from changes in the regulatory environment. Fourth, the arithmetic mean of each sub-indicator does not necessarily reflect their relative impact on the performance and competitiveness of the firms. Fifth, the *Doing Business* indicators overlook the benefits brought by regulation. Finally, changes in methodologies may make diachronic comparisons difficult. With particular reference to the Italian case, and in relation to the cost of starting, running, and closing a business, the authors further note that it is also difficult to ascertain which should be the "type firm" to be taken as a reference (*e.g.* medium size manufacturer located in capital city versus typical micro and small enterprise in the North-Eastern regions).

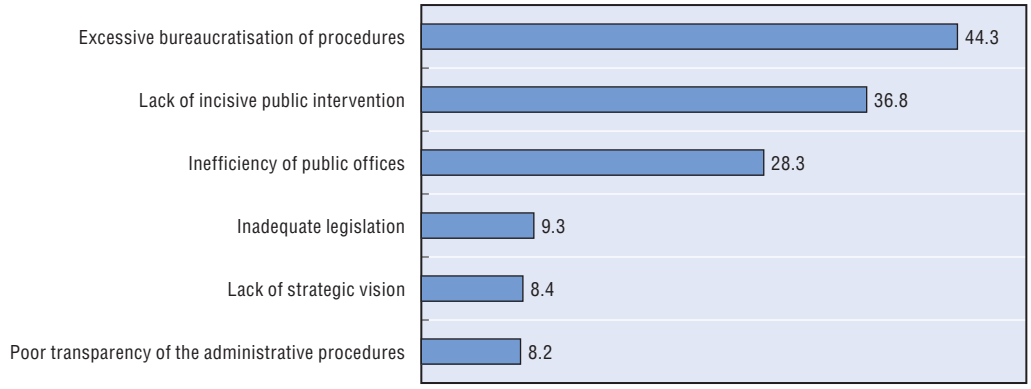
The Italian situation from domestic sources

Domestic sources shed complementary light on the issue. They may involve results from perception surveys. This is a key priority issue for Italy. The 2006 study by *Censis* and *Confcommercio*[22] revealed that among the share of enterprises interviewed that declared having problematic experiences with the public service (some 32% of the sample), the main factors at the origin of their dissatisfaction in 2006 were the length and complexity of bureaucracy; the lack of decisive public intervention in the area where the enterprise is located; and the general sense of organisational and managerial inefficiency of the public administration (see Figure 2.5). The business community highlighted problems that go beyond the lack of transparency and the complexity of the procedures.

Another study carried out in 2007 by the Italian Chamber of Commerce Association (*Centro Studi Unioncamere*) assessed the degree of satisfaction further to the use of services provided by the administrations (Centro Studi Unioncamere, 2007). Overall, businesses rated the services 69.3 on a 0 to 100 scale. Interestingly, more than 46% of the businesses declared to use at least "sometimes" electronic tools to fulfil their administrative obligations in 2007 (they were 32% in 2006). 16.3% of them (7.3% in 2006) used electronic tools "always". As to the cost incurred to execute these procedures, despite the increased computerisation of the administrations, 24.6% of the businesses felt that administrative practices had become more expensive compared to the previous year, whereas only 8.4% of them indicated a reduction in costs.

In 2008, the industry confederation *Confindustria* has estimated the cost generated by the regulatory burdens on the growth of Italian business in comparison with some OECD

Figure 2.5. **Satisfaction of entrepreneurs with public administrations (2005) (%)**



Notes: Total is more than 100% because of possible multiple choices.
Further technical checks are being made to ascertain the technical validity of the survey (*e.g.*, coverage).
Source: Censis-Confcommercio, 2006.

countries (Rodà, 2008). The study considered as impact factors both "institutional" and "firm-related" variables.[23] An analysis of the cumulated effect of these variables shows that the same firm would grow 47% more in the US and 39% more in the Netherlands over five years than if it had be established in Italy (see Table 2.4). In Italy, the greatest obstacles are reported to be the cost to access credit and, from the second year of activity onwards, the ones related to the infrastructural endowment.

Table 2.4. **Annual growth rates**

Years of activity	Italy	France	Germany	UK	US	Japan	Netherlands
I	10	13.7	14	15.9	16.1	13.5	14.7
II	10	12.6	12.9	11.9	14.4	13.1	13.6
III	10	12.8	13	12.4	14.5	13.3	13.8
IV	10	12.7	13	12.5	14.6	13.4	14
V	10	12.5	13.1	12.6	14.4	13.5	14
VI	10	12.4	12.7	12.4	14.4	13.2	13.4
Average annual growth rate	10	12.8	13.1	12.9	14.7	13.3	13.9

Source: From Confindustria, 2008.

Direct statistics estimating the monetary value of red tape have been produced by *Unioncamere* in 2007 estimating that the overall cost borne by the Italian economy for fulfilling administrative obligations exceeded EUR 14.9 billion in 2006, or about 1.0% GDP, as opposed to EUR 13.7 billion in 2005. This means an average annual cost per business of about EUR 11 800, *i.e.* the cost of a part-time employee. A breakdown of the data according to the size of the firm reveals that micro- and small enterprises are over-proportionately affected by compliance costs. Firms with 50-500 employees bear only three times higher costs than firms with less than 10 employees (see Table 2.5) (Centro Studi Unioncamere, 2007).

Intense efforts to reduce licences and permits

International comparison testifies of Italy's efforts to improve its capacity to facilitate the provision of licences and permits. Between 1998 and 2005, the country was among the top OECD countries in terms of the intensity of its efforts to reduce licences and permits (see Figure 2.6).

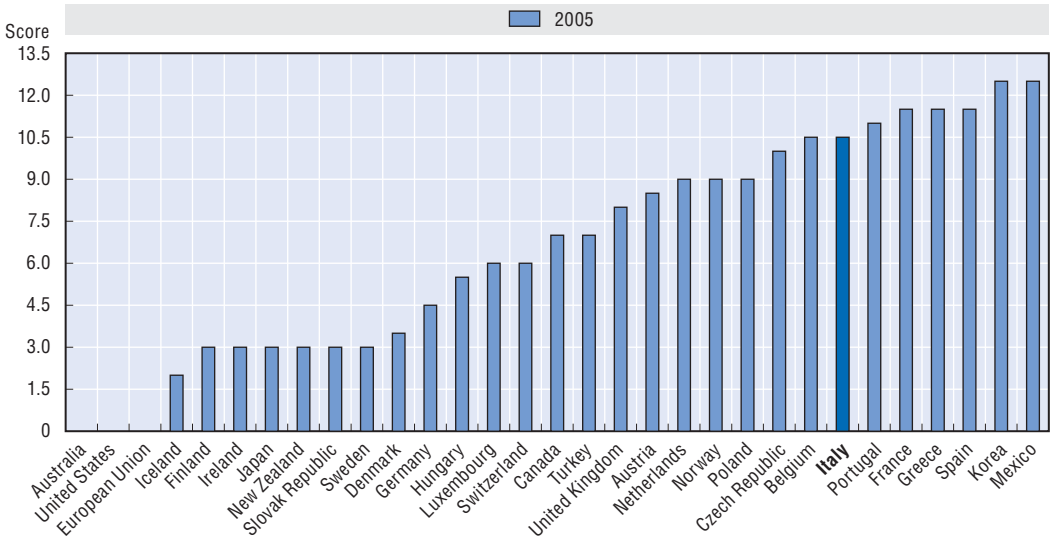
Table 2.5. **Estimated compliance costs on business, 2006**

	External costs	Internal costs		Total costs	Total costs
	(in million EUR)	Day/man *(in thousand)*	Internal costs *(in million EUR)*	*(in million EUR)*	per business *(in EUR)*
Sector of activity					
Manufacturing	1 824 441		1 872 373	3 696 814	12 979
Construction	1 038 658		1 186 786	2 225 444	10 861
Retail	1 322 519	11 675	1 425 812	2 748 330	9 223
Advanced tertiary services	917 583	8 002	989 941	1 907 524	12 215
Other services	1 703 638	11 704	2 638 462	4 342 099	13 633
					–
Size of company					
1-9 persons	5 291 181		6 094 537	1 1385 719	10 372
10-49 persons	1 239 79		1 651 674	2 891 054	20 310
50-500 persons	276 278		367 161	643 439	28 588
Total	6 806 839		8 113 373	14 290 211	11 818

Note: Advanced tertiary services include innovative and professional services, facility and supply chain management services, marketing, etc.

Source: Unioncamere, Indagine sui livelli dei servizi della Pubblica Amministrazione, 2007.

Figure 2.6. **Efforts towards facilitating licences, permits and administrative requirements in 2005**



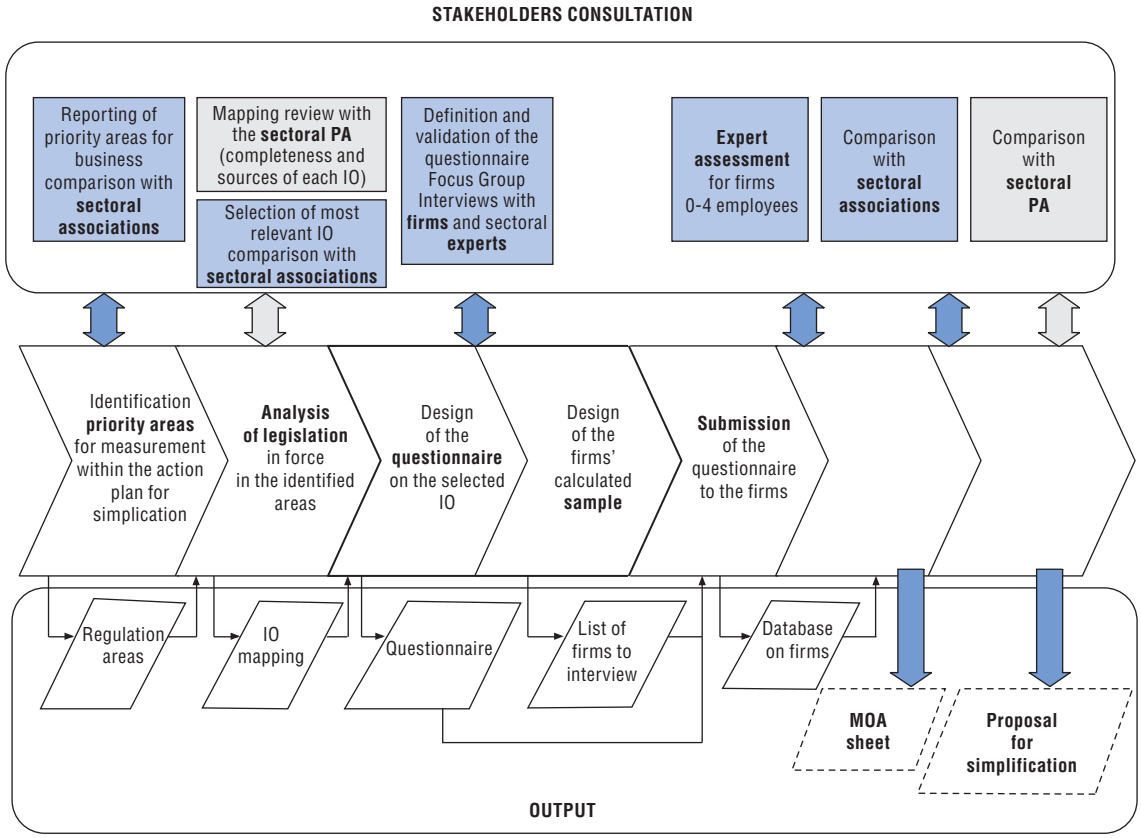
Note: The score on the figure reflects the following answers:	Weights:
Is a "silence is consent" rule used at all (*i.e.* that licences are issued automatically if the competent licensing office has not reacted by the end of the statutory response period)?	if yes, weight = 0.2
Are administrations obliged to provide the name of the person responsible for handling the application in any formal correspondence?	if yes, weight = 0.5
Are there single contact points ("one-stop shops") for getting information on licences and notifications?	if yes, weight = 3
Are there single contact points for accepting notifications and issuing licences (one-stop shops)?	if yes, weight = 3
Is there a programme underway to co-ordinate the review and reform of permits and licences at sub-national levels of government?	if yes, weight = 1
Has there been a clear decline in the aggregate number of licences and permits?	if yes, weight = 2
Is there a complete count of the number of permits and licences required by the national government (all ministries and agencies)?	if yes, weight = 1
Is there a programme underway to review and reduce the number of licences and permits required by the national government?	if yes, weight = 1

Source: Jacobzone *et al.* (2007), *OECD Indicators of Regulatory Management Systems*, p. 33.

Measurement of burdens according to international standards

Originally developed in the Netherlands, the Standard Cost Model (SCM) analysis has become the most diffused methodology to measure the costs caused by information obligations imposed by laws. In 2003, a network of European countries was formed to consistently apply the SCM (*www.administrative-burdens.com*). At present, SCM is the most widely applied methodology for measuring administrative costs[24] (OECD, 2004). While largely building on the SCM, the Italian version – the *Misurazione degli oneri amministrativi* (MOA) – differs in some respects (Cavallo, 2008). The methodology has been modified so as to best adapt to the Italian specific business structure, characterised by great heterogeneity and a very high number of SMEs. The MOA process involves a continuous process of specific consultation of the stakeholders and the public administrations, as outlined in Figure 2.7 below.

Figure 2.7. **The process of measuring administrative burdens in Italy**



Source: Adapted from Presidenza del Consiglio/Dipartimento per la Funzione Pubblica, 2008.

The measurement is carried out by the Department for Public Administration through a dedicated task force co-ordinated by the Office for Administrative Simplification (UANAS) and composed by experts partly recruited from the USQR. The National Institute for Statistic (ISTAT) also contributed to the project.

Results from the 2007-08 survey, and the related measurement were published in August 2008. In the sectors considered (privacy, the environment, fire prevention, landscape and cultural goods, the labour market, and welfare) measurement led to an

overall estimated aggregate annual burden of State legislation of approximately EUR 16.2 billion (see Table 2.6). A simplification programme in the privacy field was designed in co-ordination with the Privacy Authority (*Garante per la protezione dei dati personali*). Areas of measurement for 2008 include the environment, taxes and customs.

Table 2.6. **Annual aggregated total cost per sector per business category, in thousands of euros**

Sector	0-4 employees	5-249 employees	0-249 employees
Privacy*	n.a.	n.a.	2 190 431
Environment	1 540 382	518 807	2 059 189
Fire prevention	995 212	414 303	1 409 515
Landscape	550 817	70 583	621 400
Labour	5 858 048	1 052 596	6 910 644
Welfare	1 832 710	1 196 833	3 029 542
Total	n.a.	n.a.	16 220 722

* No disaggregated data in relation to the size of the firm is available for the measurement in the privacy sector.

Source: Presidenza del Consiglio dei Ministri – Dipartimento per la Funzione Pubblica.

Table 2.7. **Estimated costs caused by the old procedure and savings for SMEs brought by the simplification measures on information obligation in the labour sector**

Simplification measure	Costs related to the old procedure (in thousands of EUR)	Savings (in thousands of EUR)	Savings (in %)
Information sheet on occupational status	15 976	3 953	25
Partial exemption	9 159	333	4
Declaration of compliance with obligations related to the occupation of handicapped people	22 763	6 829	30
Keeping of the personnel register	165 858	165 858	100
Pay roll keeping	6 015 358	3 352 002	56
Communication on keeping escrow	128 037	45 057	35
Communication on hiring*	405 895	355 156	87
Communication on employment cessation*	180 247	156 629	87
Total of obligations subject to simplification	6 943 293	4 085 816	59

* Obligations simplified prior to the entry into force of Law Decree 112/08 converted with amendments by Law 133/08, by Law 296/06 and entered into force on 1 March 2008.

Source: Ministero per la Pubblica Amministrazione e l'innovazione, Relazione al Parlamento sullo stato dell'amministrazione, 2007.

The adoption of the comprehensive Legislative Decree 112/2008 in June 2008, institutionalised and provided long term support for the application of the system. The decree set the basis for the adoption of a fully-fledged programme for the completion of the measurement of all areas falling under the competence of the State; and it foresaw the co-ordination of the measurement activities by the Department of Public Administration jointly with the USQR. On this basis further measurement activities have been launched in areas such as the environment, taxes and customs, while the elaboration of the measurement plan for 2009-12 is ongoing.

Assessment

In Italy, the reduction of administrative burdens is a priority due to the proliferation of legal sources. The multiplicity of the sources of new regulation (partly due to the constitutional

reform) and above all the great variety in the number and length of the obligations point to the need for reducing the quantity, duration and uncertainty of administrative procedures.

International best practices suggest that the success of administrative burden reduction programmes depends on the presence and effectiveness of a central unit. This unit sets operational deadlines, provides support, and co-ordinates consultants and departments for solving methodological issues.[25] Italy has followed such best practices with the Department of Public Administration responsible for MOA measurements, and for reducing or simplifying unnecessary regulation, with the technical assistance of the *Scuola Superiore della Pubblica Amministrazione* and the ISTAT, together with the USQR and in association with the Minister for Normative Simplification.

The success of the MOA is also due to a joint Protocol brought forward by the Government and *Confindustria* in 2006, and confirmed thereafter, as well as the commitment since 2007 outlined in the first Annual Simplification Plan and the national multi-annual Plan (2007-10). Compared with other EU countries, the initial experience with the MOA system seems to have been cost-effective, leading to first estimates in a relatively short time and a small budget. It is estimated that some EUR 840 000 have been granted for the measurement programme at State level for 2007-08. The cost incurred by the administrations involved in the programme need to be added to this amount, which remains nonetheless below the levels committed in some other large EU countries.

Whatever the amount of the burdens identified, the data generated as a result of the MOA allow to better design and target the related simplification measures. On the basis of the results of the measurement programme of administrative burdens, provisions included in the Law Decree 112/08 are estimated to produce a global saving of more than EUR 18 billion by 2012. In the labour sector only, it is estimated that SMEs will saved more than EUR 4.1 billion each year as a result of the measures already implemented. This reduced the costs by 59% compared with the old procedures and it corresponds to 25% of the overall burdens already measured in Italy (see Table 2.7 above). If the initial positive results are confirmed throughout the following phases, the MOA system could play a catalyst role in setting good practices for intra-institutional co-ordination, the use of expertise and the involvement of stakeholders when carrying out reforms.

Administrative simplification: Coupling administrative re-organisation and ICT innovation

Re-engineering administrative procedures

Many OECD countries have implemented process re-engineering initiatives to simplify requesting and receiving permits and licences. This has involved the replacement of authorisations by notifications; the amalgamation of related licences; the introduction of time limits and of "silence is consent" clauses; or the reduction in the average length of time required to process applications. Time limits for administrative decision-making were also introduced by countries to reduce costs and uncertainty. In most cases, Information and Communication Technologies (ICT) have been deployed to support reforms.

In Italy, the principal legal basis for administrative simplification is Law 241/1990, which contained the key principles governing each administrative procedure at state level (effectiveness, transparency and efficiency). Serving as a sort of "Administrative Procedure Act", that law provides for setting timing of procedures, accountability, motivation of the acts, participation, transparency and right of access. De-legislation has been used diffusely

to streamline administrative procedures. Reform of Title V of the Constitution has however limited the possibility for the government to adopt decrees on that matter.

One important area of intervention involves the re-engineering of administrative procedures and the reduction of delays. Good practices for measuring the time to complete procedures were identified among central administrations. To this end, and further to the experience gathered from trial cases, specific guidelines for measuring procedural times were drawn up in April 2008. The 2007 Action Plan set a general target for reducing procedural times by at least 10% for each administration. The March 2008 report on the implementation of the Action Plan indicated that seven ministries had implemented their time reduction programmes, which resulted in an average time reduction of 19.5% (with peaks of even 45.7%). The contribution of Law Decree 112/2008 in this regard is significant. Art. 30 simplified administrative controls in the environmental sector, providing that for certified enterprises the periodical controls carried out by qualified private companies replace administrative controls. A regulation to simplify the procedures and to conform them to the ISO 14 001 system should be adopted. Furthermore, the Parliamentary Bill AS 1 081 of October 2008 (*Disposizioni per lo sviluppo economico, la semplificazione, la competitività nonché in materia di processo civile*) provided a term of 30 days for public administrations to conclude the procedure for the adoption of an administrative act.[26]

Other simplification measures relate to the "silent is consent" rule (*silenzio-assenso*),[27] self-certification (*auto-certificazione*) and the "start-of-activity" notice (*denuncia di inizio attività, DIA*).[28] While they were used only in cases specified by law, these tools were generalised in 2003. This sought to counter low implementation rates.

Making one-stop shops operational

Recent measures have been introduced to increase the operability of one-stop shops (*sportelli unici*) [Law Decree 112/20008 converted in Law 6 August 2008 (Art. 38)], in a multi-level context for the exercise of productive facilities and services, as foreseen by Directive 2006/123/CE. In particular, "one-stop shops" are to become a single electronic access point for information to businesses and the issuing of all authorisations required to localise, create or modify a production and commercial facility. All municipalities had been invited to set up one-stop shops after their introduction in 1998. However, by 2004, only 65% of municipalities had established such one-stop shops. In addition, these one-stop shops were operational only in half of the corresponding municipalities, thus reducing the percentage of municipalities actually running a one-stop shop to 33%, covering 57.3% of the population. Further normative interventions were not sufficient to make the system significantly simpler and more efficient.[29] When operational, however, the one-stop shops did reduce the length of the procedures. For procedures involving environmental impact assessments (*Valutazione di Impatto Ambientale*), the waiting time was reduced from 11 months to 94 days. By end 2007, according to a Formez survey, 70.6% of municipalities had established such one-stop shops (5 718) covering 84.6% of the population. However these one stop shops were operational only in 40.6% of the municipalities, covering 60.1% of the population.

The platform *www.impresa.gov.it* attempts to centralise online access to information and services for Italian businesses. In the framework of the 2007 Action Plan, a number of actions were also taken. They included a single notification procedure for business start-ups replacing all of the former requirements for starting a business in the fields of social security, public assistance and taxation (tax code and VAT number). To fully exploit the potential of the system, new one-stop shops (so-called "SUAP") are being made

operational, following the approval of Law Decree 112/2008. Also as a response to the implementation requirements of Directive 2006/123/EC (the "Services Directive"), SUAPs will reduce the length of the procedures even further, as the requests to start all the activities concerning the location, the realisation, the transformation, the restructuring, the reconversion, the increment or the transfer, the cessation and the re-establishment of the economic installations are sent exclusively electronically. SUAPs will become the only public access point for all administrative issues linked to economic activities in a given territory. They will assure a unique and timely answer to the applicant in place of all the public administrations involved in the procedure, including those responsible for the environmental and landscape-territorial matters, the historical-artistic patrimony, health and public safety. Through these innovations the SUAP is expected to solve most of the problems related to the length and the intricacy of the start-up procedures in Italy. The new business register (*Communicazione Unica*) started to be operational in 2008.

In addition, since 1 March 2008 a new procedure has allowed employers to communicate online all relevant data related to the hiring and firing of employees to employment centres, which avoids separate and specific submissions. By July 2008, citizens should be able to notify only once to the public administration data related to changed residence status. Simplification and re-engineering of administrative procedures for immigrants have also been undertaken. In addition, initiatives have been launched to re-engineer sectors such as the computerisation of the Register of Italians Resident Abroad (AIRE), the organisation of online interdepartmental conferences (*conferenze di servizi*) as well as electronic payment. The Budgetary Law for 2008 foresaw a reduction in the burdens on the declaration and management of the fiscal activity by forfeiting incomes lower than EUR 50 000. Further systemic initiatives for 2008 aim at switching to the full electronic management of the documents of the public administration and the total abolition of paper for internal communication. Guidelines for correctly and safely archiving electronic data are being published.

Finally, the website of the *Portale Nazionale del Cittadino* (*www.italia.gov.it*) serves as the electronic portal for the Italian citizens living both in Italy and abroad as well as any person resident in Italy who needs information and assistance in their interacting with the public administration. The service is implemented and managed by the *Centro Nazionale per l'Informazione nella Pubblica Amministrazione* (CNIPA).

Developing ICT tools facilitating e-government processes

The use of ICT tools (e-government) clearly facilitates the interaction between the public administration and businesses.[30] Over time, awareness has increased in Italy of the necessity to develop coherent policies for administrative simplification at all levels of government and to best exploit the synergies offered by administrative and electronic innovation. Streamlining communication tools and procedures into one single electronic platform has been the main approach followed in the recent past. To this end, a budgetary increase has been foreseen for 2008-10 to enhance the electronic services in central administrations. The initiatives launched to foster e-government in Italy are promoted and co-ordinated by the Department for Innovation and Technologies and they rely on the activity of the CNIPA. One of the key targets is to introduce a fully electronic data management within the public administration, abolishing any paper exchange between central administrations by the end of 2008. The CNIPA estimates cost savings of about EUR 200 million per year. To incite reform, funding for traditional mail granted to the

administrations will be cut if they do not use speedier and cheaper communication means.[31] Initiatives have also been undertaken to promote the exchange of information, data and documents between public administrations by improving the interoperability of information systems. The target is to prepare 100% of the framework agreements and ensure access to 50% of databases by the end of 2008. By March 2008, six types of such agreements had been defined. Moreover, the CNIPA has established a Centre on the quality of online services that supports, also through training, public administrations in the programming, launching and reviewing of online services. The establishment of an electronic medical filing system (*Fascicolo Sanitario Eletrronico*, FSE) is being co-ordinated by the Department for Innovation and Technologies jointly with the Regions and the Ministry of Health. It should facilitate online appointments, prescriptions and medical reporting.

The relevant legal provisions in this area were codified in the Digital Administration Code (*Codice dell'amministrazione digitale*) of 2005. Italy's current strategy for diffusing ICT in the public administration is built upon the Strategic Guidelines for e-government (*Verso il sistema nazionale di e-government. Linee strategiche*) issued by the Department for Reform and Innovation of the Public Administration in January 2007. Italy intends thereby to become a front-runner and leading actor in developing e-government practices internationally and, in particular, in the framework of the "European Information Society – i2010" strategy of the European Commission.[32]

CNIPA studies have highlighted that controlling is the sector where ICT tools have been implemented the least. Only few investments have been devoted to improving accounting, strategic, managerial, evaluation, and customer satisfaction control mechanisms. Lacking or insufficiently co-ordinated electronic systems and procedures have made data aggregation and comparison difficult and have hindered efficient public spending. To tackle these problems, the CNIPA is implementing three projects for the complete computerisation of all accounting processes.

Assessment

In Italy, the electronic innovation and the diffusion of ICT within the public administration have acquired a particularly strategic relevance further to the constitutional reform of 2001. The reform of Title V made it no longer possible for the State to proceed to administrative simplification at various levels of government through legal interventions, as it had done throughout the 1990s. E-government allows for transmitting simplification imperatives from central to regional and local administrations.

One of the main improvements recently introduced was encouraging recourse by the public administrations to private sector instruments, thus promoting a client-oriented perspective in the administration. While the rationale triggering reform is sound, however, the results involve some bright points while leaving scope for improvement. The development of the "Friendly Networks" project illustrates the renewed thrust for streamlining and diffusing e-government services over the territory, consolidating the positive results already achieved over the past years in terms of using e-government by public administrations. Moreover, ICT tools are starting to be applied in areas previously unaffected such as consultation (see above the pilot project on the Simplification Action Plans for 2007 and 2008). More generally, thanks to administrative simplification initiatives, the number of obligations has diminished and the costs to start a business have been cut. A sort of spill-over effect has been triggered by sectors and municipalities showing good

practices. Users have tended to be satisfied with simplified administrative procedures, where these were implemented.

On the other hand, however, so far reforms have had incomplete effects (Bassanini/Dente, 2005). The "silence is consent" practice, the "start-of-activity" notices, and the uneven evolution of the one-stop shop system, are points in case in this respect. A primary problem seems to lie with the heterogeneous dissemination and degree of performance of the tools across the country. For instance, not every administration is equipped with a *sportello unico*, probably also due to the fact that the diffusion of the tool was mainly driven by pilot projects and on a voluntary basis. Second, throughout the past decade, administrative simplification has faced the existence of multiple administrations and complex procedures. In the case of the one-stop shop notably, greater emphasis seems to have been put in Italy on simplifying the "front-office" than on intervening on simultaneously streamlining the "back-office" (*i.e.* the public administration itself, its procedures, and its internal co-ordination). Third, modifications of the number, size and portfolio of ministries further to the changes in governments have had implications for the continuity of action needed to carry out digital reforms in the administration. The link with the demand is another issue. Also for internal organisational reasons, many municipalities have preferred not seizing the opportunity to directly and fully exert their new powers at the start. Moreover, individual entrepreneurs often have an indirect relation to the public sector, and the intermediaries offering their services to them might not have the right incentives to promote simplified and shorter procedures. Finally, many analysts take the view that genuine good intentions and sound principles for administrative simplification have been followed by inadequate means. Administrative simplification in Italy has often focused more on fixing the structure and the procedures rather than on actually removing unjustified obligations, as the second proved more difficult to achieve.

Nevertheless, the most recent policy changes show that Italian authorities are aware of some of the current shortcomings of the past one-stop shop initiatives and are searching for ways to fill the gaps. It is certainly promising to see that pragmatic responses are being developed in a way to overcome the institutional complexity and foster an operational approach to increase user take up and satisfaction.

Box 2.9. **Monitoring OECD recommendations: Enhancing administrative simplification**

In the 2001 Review, the OECD invited Italy to consider to:

"Establish a centralised registry of all administrative procedures with positive security" (OECD, 2001).

This recommendation was met in part. The 2007 Action Plan has outlined the recollection of regulation on administrative procedures and the reduction of procedural times. However, since the constitutional reform of 2001, the division of powers between the State and regions has been changed and administrative competences have been transferred to local autonomies, thus the consistence of a centralised registry of administrative procedures could be questionable. While several ministries (*e.g.* Economic Development) have implemented sectoral registries, a full consolidated register of all administrative procedures with positive security however does not seem to have been established as of yet from a whole-of-government perspective.

Risk

Assessing risk to the public and to public policy in a transparent manner is explicitly acknowledged in the OECD 2005 *Guiding Principles for Regulatory Quality and Performance*. Risk management has become one of the core functions of the governments across most OECD countries. Risk management policies are designed to balance the need for competitiveness while ensuing safety and equity, and providing an appropriate understanding of the responsibilities of all stakeholders. In most cases, risk management is associated with government actions to protect people at work and to protect citizens and the environment from harm. In recent years, traditional decision-making models for assessing and managing risks have faced major challenges. This may involve erosion in public trust together with increased citizens' expectations and increasing risk aversion.

In Italy, forms of risk management are applied to a number of policies and sectors. Some examples include hydro-geological and seismic risks as well as technological risks related to public health and the environment. The National Environmental Protection Agency (APAT – renamed ISPRA in 2008) provides the Ministry of the Environment and Land Protection (MATT) with scientific and technical support since 2002. Further to the Environmental Code of 2006, the APAT has acquired an autonomous status in terms of internal organisation, management and budget, as well as technical and scientific advice and regulatory powers. Since 2001, ISPRA-APAT is integrated into a network-type system, the Environmental Agency System, which today includes 21 Regional (ARPA) and Provincial (APPA) Agencies, established by special regional laws to perform inspection and enforcement. The ISPRA provides national technical guidelines and handbooks.

Risk management may also be addressed as part of the environmental impact assessment, which exists under a certain form. The *Valutazione dell'impatto ambientale* (VIA) assesses potential impacts of project, while the *Valutazione Ambientale Strategica* (VAS) seeks to integrated environmental considerations in the design and implementation of policy programmes and strategies – as mandated by EU requirements.[33]

In the field of health, the *Consiglio Superiore di Sanità* is the technical consultative organ supporting the Ministry of Public Health. The *Istituto Superiore di Sanità* (ISS) is the leading technical and scientific public body of the Italian National Health Service. The National Committee for Food Safety (CNSA) became operational in February 2008. It serves as a technical advisory body participating in the network of the European Food Safety Authority (EFSA). As such, the CNSA provides scientific opinions to the relevant ministerial administrations as well as to the Regions and Autonomous Provinces.

More recently, a form of "risk-based inspection" approach was envisaged by a draft Bill (AC 2 161) to simplify the monitoring of businesses subject to environmental certification. The Action Plan for 2007 foresaw to conduct a two-year trial programme for SMEs certified on the basis of ISO14 001 international standards, in which the periodical inspections required for certification are performed by certifying bodies or by the companies themselves instead of administrative bodies. The certifications ensure that businesses meet the standards required for compliance with environmental legislation and the renewal of permits. This action point remains to be implemented because the end of the XV Legislature prevented the adoption of the Bill.

Assessment

Some OECD countries have started to recognise the importance of, and the need for, an effective policy to assess and manage risks, and to put institutional structures,

guidelines and procedures in place for this. In organisational terms, in Italy, the network model established in the environmental policy has worked, combining direct knowledge of the local area and local environmental problems with national environmental protection and prevention policies. The APPA-ARPAs network has become a point of institutional and technical/scientific reference for the entire country. The recent establishment of the CNSA is an example of the attention that Italy is giving to adapting its institutional and procedural structure to the requirements of EU regulations and policies related to risk.

Nonetheless, risk is not fully part of the regulatory reform debate in Italy, given the overall priority given to administrative simplification and the reduction of burdens. The OECD has observed that, as a result, there are no general principles or policies that could be applied across government departments and that could be explicitly supported at political level. However, the Italian view is that this is not necessary to design a coherent policy on risk, as it believes that general principles of policies are not necessarily the best instruments to ensure that risk management solutions are applied in sectoral fields.

Conclusions

Regulatory reform efforts in Italy are now building on almost two decades of effort. Since the 1990s, and even before, the need for reform has been acknowledged at the highest levels in the administration and among political elites. The commitment to modernise the public administration was explicitly pursued both through the approval of laws of re-organisation and harmonisation of administrative procedures as well as the creation of dedicated structures: the creation of the Ministry of Public Administration in 1983, the DAGL in 1988, the *Nucleo per la semplificazione* in 1999 followed by the *Unità per la semplificazione* in 2007. The recent move under the XVI legislature has resulted into significant progress towards a comprehensive and articulated vision for reform. Through clearer ministerial responsibility and accountability, the new system moves further compared with the loose institutional arrangements that prevailed previously. Italy, at the level of its centre of government, the Presidency of Council, is now equipped with Better Regulation structures, which are in a position to pursue a wide ranging regulatory reform agenda, including the simplification and reduction of the stock of existing regulations, the measurement and reduction of administrative burdens, as well as performance evaluation practices. The Italian State also pursued reform within the framework of broader economic policy goals, including cutting expenses, reducing public debt.

In the past ten years, progress has been made in Italy to simplify and improve the administrative and regulatory environment. The 2001 OECD Review analysed the early phases, moving away from significant direct public intervention in the economy towards a more transparent, flexible but structured regulatory system that would improve economic performance. The 2001 Review identified four main areas of action for Italy:

- Improving the institutional and policy framework.
- Creating the institutions and tools for controlling the flow of new regulations.
- Rationalising the stock of existing regulations.
- Improving regulatory coherence between the national and the local levels of government.

Since then, Italy has overall worked towards improving its regulatory environment on all of these fronts. In some areas, the results achieved have been significant and innovative, notably in terms of developing the legal framework underpinning reform and designing

specific tools such as administrative burden measurement (the *taglia-oneri*) or the cutting-laws (the *taglia-leggi*) mechanism.

Constitutional changes, lack of consistent political support over the past decade, and a lack of resources have nonetheless had implications for the implementation of all the initiatives launched over the past decade. Pending issues remain the extent to which the periphery, and sectoral ministries, are prepared and equipped for implementing the initiatives launched, as well as consolidating reform tools and practices, such as RIA.

The constitutional reform of 2001 was a turning point in Italy's regulatory reform programme. This reform led to an entirely new system, which is not a fully-fledged federal system, but still differs from the former centralised system. Such changes require time for adaptation and proper implementation in a country in which the legislative activity, the doctrine, and the case law had traditionally defended and promoted the unitary concept of the State. The constitutional reform brought not only a regionalisation of the territory but it also further underlined the importance of the local level. Regulatory competences have been conferred on the lower levels of government since 2001 and sources of regulation have proliferated. This has triggered greater competition among sub-national authorities, fostering excellence in some cases. It has nonetheless also had political implications, as well as opened the possibility for overlapping competences, which require further adjustment. This situation is analysed in further detail in Chapters 5-9 of the study.

The high rotation of governments in the past decades is another complicating factor, one which sets Italy aside from a number of other European countries. This situation bears some elements in common with the pre-1958 period in France. The current organisation of parliamentary work, and the fact that there are no clear boundaries to the matters to be addressed through law, have implications for the current regulatory framework. The efforts that have been made in recent years are all the more laudable, since they have been achieved against the backdrop of this specific challenging institutional context.

As underlined throughout this report, renewed support for reform was achieved over the XIV and XV Legislature, and confirmed by the XVI. A collegial climate seems to have consolidated around the need and the urgency of regulatory reform since 2005. This renewed emphasis on the reform agenda in Italy is characterised by a greater awareness that regulatory policy is to be conceived and implemented with a comprehensive perspective and over a relatively long period of time.[34] The term "simplification" has now a broader meaning in Italy and it encompasses not only the mere reduction of the number of laws and their codification. Simplification covers a broader policy spectrum, away from a purely legal approach, and opens up to evidence-based considerations. Simplification refers also to the attempt to improve the quality of regulation.

The creation at ministerial level of a portfolio explicitly addressing normative simplification testifies of the strong political commitment of the Italian government to advance and sustain regulatory reform through simplification. The quick implementation of the various phases of the "guillotine" mechanism (*taglia-leggi*) – *i.e.* the inventory of the existing legislative stock; the identification of the legislation to be repealed; and the actual repeal – is remarkable, bearing in mind the considerable challenge. Italy is shifting its regulatory policies towards a broader approach that openly considers political prioritisation, administrative capacity, measurement and performance evaluation.

In terms of administrative simplification, the launch of the "Industrial Plans" for public administration and for innovation by the Minister for Public Administration represents a decided and sustained intervention to modernise the bureaucratic apparatus. This has been complemented by valuable measures to reform the statute of civil servants and assess their performances. The measurement of administrative burdens has been completed within a limited period of time and an efficient use of resources. Its scope is being extended to measuring burdens from regional and local authorities as well as those generated by agencies. The next steps involve addressing burdens falling on citizens, while maintaining a strict monitoring of the implementation of the current planned burden reductions as well as their final impacts on the economy and society.

Efforts have also been made to enhance strategic planning for reform. Despite its complexity, the Action Plan on Simplification and Regulatory Quality articulated in 2005-7 represented a significant step towards organising the action of the Government along a strategic work programme both within the year and in the course of the legislature. Programmatic documents increase the accountability of the executive *vis-à-vis* the Parliament and the stakeholders, as they shift the emphasis of Government's action towards the achievement of measurable results within clearly set deadlines. As the initiative to make greater recourse to online and more traditional forms of consultation in 2007 proves, these documents have also the potential to be one of the leverages in the hands of the Government to unlock the interface between the public administration and the external stakeholders. This evolution is broadly in line with the 2001 OECD recommendations.

As consensus has been achieved, progress has been made. Regulatory reform has produced a number of effective results. The implementation of the cutting-law exercise now offers opportunities for matching top-down impulses to the reform with bottom-up responsibility. This could also benefit from cross-fertilisation and joint opportunities with the currently conducted review of public expenditure. Sectoral simplification codes have been processed and international indicators show that some procedures have been simplified. E-government has made some progress, although the digitalisation of public administrations has been slower than expected, and should deliver more concrete results thanks to the newly introduced "Friendly Networks" project. The latter project also testifies of the synergies realised between administrative simplification and technological innovation. Italy is also now better complying with EU directives than ever in the past. Regulation in sectors such as energy and telecommunications has achieved higher quality standards.

These approaches broadly respond to some of the recommendations made by the 2001 OECD Review and also reflect international good practices.[35] Nonetheless, the effectiveness of the current institutional arrangement will depend on the co-ordination between the centre and the periphery. Incentives and the organisation of policies at the micro-level are critical elements of success. Recent reforms have focused, and rightly so, on key institutional aspects and the measurement of regulatory burdens is a decisive achievement which helps to monitor progress by ministries. However, incentives to perform and sanctions for non compliance have comparatively received less attention. The need for communication was not entirely felt at the political level and the potential benefits of reforms always need to be publicised, even at a time of a crisis.

However, the state-centred approach for policy making remains. Many administrations are focused on compliance with laws and procedures, while the shift to service quality and

outcomes still represents a cultural revolution. All the reforms, since those undertaken in the early 1990s to those acted in 2008 seek to transform the public service from a formal juridical machinery into a performance-driven and a consumer-oriented and client-friendly service. In Italy, as well as in many other countries, this requires tenuous commitment to change, in order to overcome internal cultural resistance. The review of regulations *ex ante*, from a cost benefit and welfare perspective still needs to be developed. Recent initiatives by the Minister of Public Administration on strengthening performance evaluation criteria and control are promising and to be welcomed in this respect.

The relationship between the political layer and the senior administrative levels is another issue in a context of high rotation. Irregular political support and changing policy agendas may hamper the implementation of reforms, where continuity is needed, for example to support the diffusion of large scale e-government tools. While in France, under the institutional context of the IVth Republic, in the pre-1958 period, the stability of the administration was to some extent compensating for the rotation of the policy makers at the highest level, this was less the case in Italy. The public administration faces challenges to trigger, sustain and implement regulatory policies. The use of emergency governmental decrees and "omnibus" laws, even if they are justified by the urgency, may not facilitate evidence-based decisional processes, as evidenced by the process to close the gap for the implementation of EU regulations through annual omnibus laws. Over the past decades, the frequent change in the number, structure and portfolio of ministries, which reflects the negotiations underpinning coalition governments, has had implications for the long-term implementation of regulatory policies.

The Italian context is also characterised by the persistence of strong vested interests that do not necessarily seek to promote a more open, accountable, evidence-based and participatory decision-making process, as they may stand to lose from it. These interests also implicitly benefit from the lack of communication around better regulation towards the broader public. Reforms in Italy have largely remained self-referential and yet they have not emerged as a sufficiently strong internal driving force for higher quality regulation.

In addition, reforms were constrained in the past by segmented and scarce financial and human capital resources, which had to be spread across a large number of policy priorities, with changing responsibilities. The kind of resources invested in the reform is also an issue. Availability of qualified human resources is an important factor for the success of better regulation policies. In Italy, while progress has been achieved at the centre of government, this remains the case in some of the sectoral ministries, as well as across levels of government. A stronger coupling with the strategic budgetary planning and management of resources, which is an important planning element, might have helped. Strong economic and analytical skill and multi-disciplinary expertise are not available in all administrations. The overly legal culture of the administrations has also limited recourse to evidence-based approaches to regulation. The option to draw from external expertise, while an understandable response to the current setting, may not fully compensate the need to build long term know-how within the administrative apparatus at large.

In Italy, significant and intense innovative phases have been followed by periods of relative operational inertia, in which implementation has slowed down. This may have prevented some reforms from achieving their full potential. Initiatives have not always met with the initial expectations. In particular, the pathway towards implementation may have

been affected by hesitations. This also makes a fully fledged evaluation of the reforms relatively difficult over the long term.

The recent period offers scope for increased expectations, as some of the reforms build on increased political consensus. The increasing consensus over the regulatory reform agenda across the recent legislatures bodes well for the future. This fosters hope that reforms be supported on stronger political ground in the long term, with significant benefits for the competitiveness of the Italian economy, thus improving its capacity to resist the crisis.

Policy options

While Italy has improved its approach for regulatory reform, with significant efforts underway, scope remains for ensuring further progress. This section highlights a number of policy options that can help Italy keep momentum and maintain its commitment to consistent and full implementation. These options draw from the OECD 2005 *Guiding Principles for Regulatory Quality and Performance* and reflect international good practices.

Maintain political commitment for a consistent approach to regulatory reform

One of the key OECD principles underpinning regulatory reform refers to changing the basic approach to regulation within the public administration as a whole. Italy has now made commitments to improve the quality of regulatory processes and outcomes in a more consolidated manner that are supported at a high political and administrative level. This now needs to be sustained to be put into practice.

The new institutional setting reflects increased good practice for implementing regulatory reform, with clear ministerial responsibility. The set of units supporting the Minister for Simplification as well as the Minister for Public Administration are in a position to ensure impetus for reform and are located close to the centre of government. All this reflects the imperative of ensuring leadership for reform at the highest political level. Parallel reforms have also been launched by the Minister of the Public Administration with the aim of improving the efficiency of the public administration and to reduce absenteeism.

There is still scope for further consolidation. A consistent approach to reform has yet to emerge, as principles and objectives are scattered among various policy statements, legal documents and institutional mandates. The adoption of a single, formal policy statement underpinning regulatory reform could be instrumental. This statement could be intended to guide governmental actions over a long period, and be supported by adequate consensus. In addition, these efforts would gain to be supported by clear programmatic steps, with articulated goals and measurable targets to sustain the effort over time.

Above all, political leadership is to ensure that the government designs and implements a consistent and encompassing programme for regulatory reform which should be carried out in a comprehensive approach. Each initiative and instrument should be intertwined in order to exploit synergies. For example, as recently acknowledged by the government, further synergies can be exploited between RIA, consultations, and legislative simplification.

Consolidate mechanisms for monitoring regulatory and simplification policies

Regulatory reforms embrace not only the flow of new legislation but also the maintenance of the existing legislative and regulatory stock. In OECD countries,

simplification policies are important to identify and streamline unnecessary legislation, thereby contributing to reducing inconsistencies and administrative burdens. By so doing, they make the regulatory environment more accessible, effective and more conducive to economic growth and competition.

This Review has highlighted a number of positive features in Italy's simplification policy. The annual Simplification Acts have been an attempt to legally proceed in a programmatic manner. The "guillotine mechanism" (*taglia-leggi*) has great potential and is characterised by a number of good practices. Italy should build upon this system and further commit to its implementation.

Especially on the eve of the challenging second phase of the cutting-laws' exercise, it is important that the government introduce further good practices that appear to be missing or only partially implemented at present and which would fully exploit the potential of the guillotine instrument. As the government also acknowledged in its report to the Parliament, it is essential that priorities are set to proceed rationally and as smoothly as possible to the review.[36]

Clear principles should be used to carry out the task, especially when the cutting-laws exercise will be applied to achieve the simplification of more substantial pieces of legislation.[37] It is necessary that the emphasis now shifts from reducing the absolute number of acts towards above all substantively assessing the impact of each legislative act. Law 246/2005 explicitly includes provisions for *ex ante* (RIA) and *ex post* evaluation (*VIR, Valutazione d'Impatto della Regolazione*). Efforts should be made in this direction.

A further critical improvement would be to add a third review "filter" to the scrutiny process carried out by the sectoral administrations and the central review unit. The cutting-laws should not be limited to a formal exercise carried out by and for the public administration. Hence, a further review filter should take the form of feedback and recommendations from external stakeholders. Public consultation on the relevance of the regulations initially identified by the government as necessary should be made mandatory and systematic.

Furthermore, with reference to the last phase of the exercise, the final, simplified regulations should be redrafted and designed following strict regulatory standards criteria and made subject to evaluation – an imperative explicitly reiterated also by the State Council in its opinion on the cutting-laws.[38] It will be also very important to clarify the synergies and the differences between the simplification action carried out by the government in the framework of this exercise and other future sectoral simplifications.[39] It is important that the final list of regulations be computed in a publicly accessible database, which is now fortunately the case under the recent measures adopted by the Minister for Simplification.

Guillotine mechanisms deliver only if they are conceived as a part of a broader set of reforms and not as a one-off exercise to *ad hoc* reduce the size of the legislative stock. The insertion of the cutting-laws into the programmatic document of the government (the annual Action Plan for Simplification) goes in the right direction and should be made routine. The instrument should also be used to promote simplification activities at the regional level. By so doing, and by making the initiative permeable to external inputs, the *taglia-leggi* introduced by Italy can constitute an extremely powerful tool to profoundly streamline the country's regulatory environment on the one hand, and introduce an outward-looking logic in the public administration on the other hand. It should also be added that this effort will need to

be supported by more permanent structures, as current organisational arrangements that are not perennial are not fully in line with practices in many OECD countries.

Implement a more systematic and transparent consultation mechanism taking advantage of new technologies

The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* insist on the importance of having transparent and non-discriminatory regulations. Consultation with all significantly affected and potentially interested parties is a key instrument in this respect. It should take place at the earliest possible stage of the process of producing and reviewing regulation.

In recent years, a number of platforms have been established in Italy to ensure consultation practices at various levels of government. Great efforts have been made to cope with the changed constitutional setting. Pilot projects and individual initiatives for online consultations have also been launched. However, more can be done to make regulatory process even more open, transparent and accountable. Online consultations should be made into a regular and formalised practice by all administrations, including independent authorities.

The involvement of stakeholders in policy making is still uneven, depending on individual dossiers, on the responsible administration, and on the political context. Very often, stakeholders have been contacted at a late stage. Government-wide guidelines should establish good principles and mandatory minimum standards for the consultation of citizens, business, and other stakeholders. Consultations should be carried out on all legislative proposals and major regulations, including transposition and implementation measures, as early as possible. In particular, consultation should entail explicitly addressing issues related to the identification of the problem, the definition of causal links, and the spelling out of possible policy options, also in the framework of the RIA process. They should be posted online together with the relevant documents, and announced well in advance. For example, the notice on the opening of a consultation should be more visible on each ministry's website; a system of mailing list should be set up, including all the persons or organisation or companies asking to be informed of a new consultation opened. The consultation period should last a significant time (for example eight weeks is a possibility), to allow for adequate reply. Administrations should publish the comments received, provide feedback to them, and explain the outcomes of the consultation process (further to the "notice and comment" principle). Such a move would bring Italy in line with international good practices.

Further consolidate capacity to support reform

Evidence from OECD best practices shows that the organisation of the interface between the political and administrative spheres within the executive and between institutions, is a critical success factor for reform. Significant steps have been made over the recent period to improve these structures in Italy, particularly in the centre of government. A stable institutional framework has been put in place, with a reinforced co-ordination between the centre and the periphery. The consolidation of responsibilities of ministers for the quality of regulation in their sectors, and the initiation of a system of checks and balances to stimulate the reform initiatives, have to proceed in co-ordination with the quantitative evidence provided by the measurement of regulatory burdens.

While these reforms should receive praise for the progress that has been accomplished, Italian structures could still be slightly reinforced in terms of staffing, as well as being moved to permanent structures, away from the current mechanisms of "*struttura di missione*". Another issue remains, in terms of the availability of adequate capacity in sectoral ministries, to sustain formal systems to improve both the stock and the flow of new regulations in every sector. The full implementation of a functioning RIA system will require additional resources in sectoral ministries, with quantitative analytical skills to complement the legal approaches. The need to further professionalise the Italian administration and reinforce expertise is acknowledged by the Ministry for Public Administration and this agenda will need to be sustained over the coming years.

Building on recent steps, it is furthermore crucial to maintain and consolidate sustained political strategies that incentivise and support ministers and those administrators who champion the reforms, so as to encourage implementation. This way, regulatory reform would continue being an internally-driven and politically sustained policy over the next years.

Foster the adoption of Regulatory Impact Assessment through a pilot approach

The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* champion RIA as one of the key processes allowing rational, balanced and evidence-based decision-making. RIA helps regulators identify the underlying problems or mischief, consider alternative policy options, and apply various methodologies to compare costs and benefits of regulatory interventions. As such, it is an auxiliary tool for decision makers when they exercise their responsibilities.

In Italy, efforts to embed RIA practices in the public administrations have led to mitigated results to date. The new regulation on a simplified RIA of April 2008 aims at re-launching the practice within the central administration. To work well, the instrument requires an adequate supporting organisation. This includes the strategic and operational management of RIA. To this end, the government should make sure that related guidelines are issued and that there is the capacity to run the entire process. To grant full credibility to the initiative and ensure an effective level-playing field, it is important that RIAs are carried out in a predictable manner, and with rigour. In particular, RIA analyses should start as early as possible in the policy formulation process. Each Ministry should therefore define an annual programme on the basis of which RIAs are planned for the following year, and set clear deadlines for delivery. Precedence should be given to priority items, to be agreed in an accountable manner.

In this respect, the regime outlined in the regulation for a simplified RIA may prove over-ambitious and it still lacks focus. Considering current financial and human capital constraints, the scope of application of the instrument may be too broad (hundreds of measures per year), while not addressing the key legislative proposals. Another possible option might be to concentrate resources and expertise to perform RIA on a limited number of major legislative proposals per year. A few, well-structured and fully-fledged analyses (maybe two or three per ministry) may have greater economic impact, and be vibrant examples of the potential of a performing RIA system. The amount of such assessments should be progressively increased over the years.

In addition, a number of organisational steps may be considered to further improve the system. Sectoral administrations should continue being responsible for carrying

out RIAs, as correctly envisaged by the new RIA regulation. Each should make a senior member of staff responsible for promoting and monitoring compliance with the good practices contained in the guidelines published by the USQR. A "RIA network" should emerge consisting of the USQR, the DAGL, and the dedicated staff of each administration.

Mechanisms should be introduced that enhance co-ordination and ensure quality control:

- Other administrations should have an opportunity to input to draft IAs at an early stage, through a mandatory and formalised inter-departmental consultation.
- The RIA process should be made more transparent, and third parties, including regional and local authorities and the stakeholders, should have an opportunity to comment before IAs are finalised.
- The capacity of the DAGL should be increased in order to provide a systematic and effective scrutiny of the overall quality and the balance of the analysis contained in the RIA documents. Clear indicators measuring regulatory quality should be drawn up and periodically reviewed.
- RIAs should be systematically published, and the government should provide stakeholders and the public with a single online access point for all documents. This access point should also be used to provide feedback to respondents.
- It should be better specified on which grounds the DAGL decides on the opportunity and/or necessity to exempt a proposal from being subject to RIA.
- The obligation for the President of the Council of Ministers to annually report on the application of RIA to the Parliament[40] should be used as an opportunity for a constructive regular evaluation of the functioning of the system as well as the political and technical issues raised by practice.

Furthermore, mandatory guidelines should be issued to ensure consistency in analytical methodologies. Guidelines should describe the principal roles and responsibilities within the executive for RIA; the process and the methods to be followed; and the criteria and standards for quality. They should specify that RIAs follow an integrated approach and systematically cover economic, social, and environmental impacts. Guidelines should also include a common list of methodological and technical assumptions to be used in all RIAs, insisting on developing and using quantitative analyses.

Most importantly, RIA should get rooted into the daily *modus operandi* of the administration. Sectoral administrations should be fully associated in the development and implementation of the tool, in order to forge a sense of ownership. Specific resources should therefore be allocated. Concrete action is recommended to recruit and train administrators able to perform RIAs. A multi-disciplinary background is essential if the public administration is to meet the quality standards set in the guidelines. Close co-operation should be developed also with stakeholders for the collection and validation of data. Practice by the AEEG could be considered as a good basis in this respect.

Finally, high quality standards should be applied to each administration producing new regulations, including all independent authorities and at all levels of government. All RIA processes should include public consultations and feedback with stakeholders, and the RIA reports promptly published online.

Apply more consistently regulatory quality principles to the interface between the national and the European decision-making processes

This report acknowledges the significant progress made by the Italian government in curbing the deficit related to the transposition and implementation of European legislation. Efforts have also been made to improve the interface between the national and the European levels during the preparation phase (so-called "ascending phase"). However, there is scope for strengthening attention to the European dimension in designing regulatory reform. Only the decree establishing the USQR refers to the importance of integrating that dimension explicitly.[41] Italy should extend its regulatory policy principles and tools to embrace also the interface with the EU institutions.

The powers and means entrusted to the CIACE have not been spelled out explicitly. This situation has sometimes led to deadlocks and conflicts. It should therefore be redressed by clearly defining the prerogatives and powers of the CIACE *vis-à-vis* the other administrations. Dedicated technical committees supporting the CIACE have been established to follow particularly relevant dossiers. This practice should be confirmed and reinforced and, more generally, the structure should be adequately staffed. It is in fact increasingly important for a member state to express its position at the earliest stage possible (even before the Commission transmits its proposal to the Council of European Ministers) and follow it through, especially at COREPER level.

Furthermore, both the scope of the Community Act and procedure leading to its adoption should be revisited, in order to best integrate better regulation principles into the process. While the current situation may appear more satisfactory in terms of overall implementation of EU directives, there are implications from hasty legal drafting and lack of due process. Therefore, stronger attention to quality regulation as part of this process might help to fully reap the fruit of the efforts made. For example, proper consultations and RIAs should be carried out also on this important piece of legislation.

Consolidate the regulatory authorities

In many OECD countries, regulatory authorities have been established during the privatisation and liberalisation process to improve market efficiency access and transparency, as well as consumer protection. An enhanced co-ordination among the executive and regulatory authorities reflects OECD best practice. To comply with the principle of separation between regulatory and operational functions, moreover, the EU requires the establishment of independent regulatory authorities in specific sectors, such as telecommunications.

The OECD review of 2001 included some recommendations on regulatory authorities. Italy was invited to improve its institutional structures and procedural mechanisms in order to assure that the authorities comply with the quality control procedures and regulatory policy set by the government. Overall, general satisfaction is expressed with the regulatory and/or management performance of the Italian sectoral authorities, even though a thorough analysis of all the agencies was outside the scope of this review. The sectoral analyses have shown that the AEEG for instance has introduced good practices, while there still is room for manoeuvre in the transport sector, where such an authority does not exist.

The domestic debate has often had implications for further progress, in terms of implementing homogeneous quality regulation criteria for these bodies. Some sectors are

also lacking such sectoral authorities, as illustrated in the transport sector (Chapter 8). Further facilitating a consistent approach to regulatory authorities, as envisaged by the Draft Law A.S. 1 366 could help to further modernise the institutional design of such bodies, as well as their contribution to economic and social well being.

Notes

1. *http://ec.europa.eu/governance/better_regulation/index_en.htm*.
2. For Italy, see the various *Piani per l'innovazione, per la crescita e l'occupazione* (PICO), *www.politichecomunitarie.it/attivita/48/programma-nazionale-di-riforma*.
3. See *http://ec.europa.eu/enterprise/regulation/better_regulation/high_level_group_en_version.htm*.
4. These include Decree-Law 7 on Liberalisation of 31 January 2007; the "Bersani" Bill**,** laying down measures in favour of consumers and facilitating production and commercial activities; the "Nicolais" Bill on the modernisation and efficiency of government; the "Amato" Bill introducing new legislation on nationality; the "Lanzillotta" bill reorganising local public services; and the "Turco" Bill on the simplification of administrative procedures in the field of health protection.
5. The pre-Council (preparatory meetings of the Council of Ministers) meets weekly. It is chaired by the head of the DAGL and consists of the Heads of the Legislative Offices of all the Ministers of the Government.
6. The administrative court of Lazio (*Tribunale Amministrativo Regionale*, TAR) in Rome has generally jurisdiction over appeals addressed to the authorities. The only exception being the Energy Regulator, for which the court of Lombardy has jurisdiction, as this regulator is based in Milan.
7. The OECD report *Ensuring regulatory quality across levels of government: Italy* (Paris, 2007), moreover, extensively addressed the subject.
8. See *www.PORE.it*.
9. However, the methodology of such data has been subject to discussion in Italy. This data starts from the hypothesis that the most suitable procedure for the "standard case" is the *procedimento ordinario di cognizione*. However, the features and the assumptions of the "standard case" would rather suggest the possibility to file a lawsuit following a special procedure, called *procedimento d'ingiunzione*, ruled by Art. 633 ff. of the Italian Code of civil procedure (ccp). This procedure is very common in commercial litigation: it is a sort of "summary judgment" and allows in a few steps (and in a few days) the plaintiff to obtain a judgment against the defendant. This judgment can be provided with an enforcement order from the beginning or, at most, within maximum 6 months (Art. 648 ccp) and allows the plaintiff to proceed directly to the enforcing procedure.
10. Italian public spending on justice has increased by 140% and the number of judges in service increased by 15% in the 1990s. See *Green Book* (2007), p. 27.
11. See G. Savini (2005), "La Lei 246/2005 – Legge di semplificazione per il 2005: Prime considerazioni", in *Amministrazione in Cammino*, p. 15. On the first phase, see E. Morfuni (2002), "L'introduzione dell'Air in Italia: la prima fase di sperimentazione", in *Giornale di Diritto Amministrativo,* p. 729 ss.; and S. Cavatorto e A. La Spina (2002), "L'analisi di impatto della regolazione nella recente esperienza italiana", in *Rivista Italiana di Politiche Pubbliche*, p. 43 ss.
12. See the first *Progress Report to the Parliament on the Implementation of the regulatory Impact Analysis (RIA)*, of 13 July 2007, pursuant Art.14, par.10, of Law 246/2005, which reflects data and provides information as regards 2006 activities, p. 8-9.
13. This is the date when the regions, foreseen by the 1948 Constitution, were introduced in Italy.
14. See Presidenza del Consiglio (2005), *Relazione al Parlamento sull'attuazione dell'Art. 14, comma 12,* della legge 28 novembre, No. 246 (*"taglia-leggi"*), of 14 December 2007, p. 22. The report estimates in 5-15% the approximation error due to the incomplete or incorrect classification of the legal acts by the different database systems.
15. See Consiglio di Stato, *Parere sullo schema di decreto legislative recante il Codice dei diritti di proprietà industriale*, Adunanza generale 10548/04 del 25 ottobre 2004. On the opinions given by the State Council on the first *codici* scrutinised, see G. Savini, "I pareri del Consiglio di Stato sui primi schemi di 'codice di settore'", in *Iter Legis*, No. 4, 2005, p. 5. On the merit of recasting trhough the *codici*, see

F. Patroni Griffi, "La 'nuova codificazione': qualche spunto di riflessione", in M.A. Sandulli (2005), *Codificazione, semplificazione e qualità delle regole*, Milano, pp. 75-80.

16. These refer to the pre-registration aspects, the registration in the economy's most populous city, and the post-registration aspects. The time required to complete each of these procedure is expressed in days, excluding the time spent gathering information. It is assumed that each procedure starts on a separate day; that the procedure is completed once the final document is received; and that the applicant has never contacted the officials before starting the procedure. The "starting a business" calculates the official cost required to complete each of the procedures. Professional fees are not taken into account, unless services are required by the law. Finally, the paid-in minimum capital (expressed in percentage of the income per capita) refers to the money deposited in a bank or with a notary before registration begins.

17. In the *Doing Business* report, costs are computed referring to companies with a start-up capital equal to 10 times the income per capita at the end of 2005, paid in cash (approx. EUR 229 084). However this size is not representative of the typical newborn company in the Italian business environment: most of the enterprises born in 2005 had a start-up capital amounting from EUR 10 000 to 15 000 (data from Unioncamere on the entry of firms show that only 11 new enterprises operating in the country's most populous city had a start-up capital of EUR 200 000 to 250 000, whereas 10 539 new enterprises had a start-up capital of EUR 10 000 to 15 000). If the set-up costs for an enterprise with a EUR 15 000 start-up capital are considered, cost amount to 11.2% of GNI per capita, instead of the value reported in the Doing Business report (18.7%).

18. Considering that (as in the 2008 *Doing Business* report) some procedures may take place simultaneously but cannot start on the same day, in Italy, Decree 7/2007 allows to start a business in only six days (instead of 13 days as in the *Doing Business* report).

19. They are: the registration of the company with the Register of Enterprises (*Registro delle imprese*) at the local Chamber of Commerce, the application for the tax identification number (*codice fiscale*) and VAT number (*numero di partita IVA*), the registration of employment books at the INPS office and finally, the notice of the employment of workers at the Labour Office.

20. It should be remarked that the Decree of the President of the Republic which regulates licences for building (DPR 380/2001) imposes terms that vary depending on whether the firm is located in a small (less than 100 000 inhabitants) or large (larger than 100 000 inhabitants) city. In the latter case, the terms (length of procedure) are doubled. This may introduce distortions in the calculation of the *Doing Business* indicator, as a large number of small firms in Italy are established in cities with less than 100 000 inhabitants.

21. See P. Dubini and A. Melchiodi, "Misurare la competitività dei sistemi economici: L'indicatore Doing Business", in *Economia & Management*, forthcoming.

22. Censis-Confcommercio, *L'Impresa di fare impresa*, 14 November 2006, p. 1. The sample considered by Censis referred to some 530 enterprises with at least 20 employees and more than EUR 3 million turnover. The sectors covered were house furnishing, automotive, pharmaceuticals, mechanics, food, transport and industrial logistics. The sample is not representative per production division. Field research data was processed with PAC methodology and cluster analysis. The enterprises were contacted between September and October 2006. Data referred to 2005. The sources used by Censis were the *Doing Business 2003* Report, *Statistiche giudiziarie* by ISTAT, data from the Ministero per lo Sviluppo Economico (on oil product prices) and Eurostat (prices of electrical consumption for industrial purposes) as well as the study by Unioncamere on *La soddisfazione delle imprese per i servizi resi dalla pubblica amministrazione* of 1 June 2006.

23. The first are, broadly speaking, administrative costs, labour market rigidities, fiscal imposition; access to credit; technologic and human capacity. The second refer to fix and variable production costs (including row material, labour and capital costs).

24. The European Commission distinguishes between "administrative costs" (*i.e.* information that would be collected by businesses even in the absence of the legislation), and "administrative burdens", which refer to information that would not be collected without the legal provisions. (See European Commission, *Measuring Administrative costs and reducing administrative burdens in the European Union*, Commission Working Document, COM(2006) 691 final of 14 November 2006.)

25. Examples of such units are the Danish Commerce and Companies Agency (division for Better Business Regulation) in Denmark; the Ministry of Trade and Industry in Norway; the Ministry of Finance in the Netherlands; the Swedish Agency for Economic and Regional Growth (Nutek) in Sweden; and the Better Regulation Executive in the Department for Business, Enterprise and Regulatory Reform in the UK.

26. In certain cases, the term is fixed in 90 days, or 180 days. The Bill, which also provides a simplified procedure if the terms pass uselessly, was under parliamentary reading at the moment this report was drafted.

27. This tool implies that licences are issued automatically if the competent licensing office has not reacted by the end of the statutory response period.

28. This tool permits to initiate activity through a notification (that is, without any explicit or implicit authorisation). In Italy, only a government decree can introduce an authorisation system.

29. On this, see for instance F. Bassanini e B. Dente (a cura di), *Lo sportello unico per le attività produttive: Stato dell'arte e strategie di rilancio*, ASTRID, 2005; and B. Argiolas, "I vincoli amministrativi allo start-up", in *Rapporto ISAE. Priorità nazionali: ambiente normativo, imprese, competitività*, Istituto di Studi e Analisi Economica, Giugno 2007.

30. See OECD, *The e-government imperative*, Paris, 2003; and *E-government for better government*, Paris, 2005.

31. The Budgetary Law for 2008 foresees cuts in such funding of 30% of the total resources annually granted to an administration whose e-mail traffic is less than half of its mail. See *Piano d'Azione per la Semplificazione e la Qualità della Regolazione. Relazione sullo Stato di Attuazione e sulle Attività Istruttorie Svolte*, 31 Marzo 2008, p. 8.

32. See *http://ec.europa.eu/information_society/eeurope/i2010/index_en.htm*.

33. See EC Directive 97/11, and EC Directive 2001/42, respectively. Besides the VIA and VAS, so-called "super-VIAs" can be performed on projects with high strategic priority. The super-VIA is a simplified and accelerated environmental impact assessment that facilitated the fast adoption of a piece of legislation.

34. This notion was acknowledged for instance by the Government in its "*Relazione al Parlamento sullo stato di attuazione dell'Analisi di Impatto della regolazione (AIR)*", of 13 July 2007, p. 11.

35. See OECD (2001), p. 180ff.

36. See Presidenza del Consiglio, *Relazione al Parlamento sull'attuazione dell'Art. 14, comma 12, della legge 28 novembre 2005 n.246 ("taglia-leggi")*, of 14 December 2007, p. 31.

37. *Ibid*., pp. 28-30.

38. See Consiglio di Stato, *Sezione Consultativa per gli Atti Normativi*, n. 2024/2007.

39. See Presidenza del Consiglio, *Relazione al Parlamento sull'attuazione dell'Art. 14, comma 12, della legge* 28 novembre 2005, No. 246 ("taglia-leggi"), of 14 December 2007, p. 31.

40. Article 14, Para 10 of Law 246/2005.

41. Article 3, Paragraph 3 of DCPM of 12 September 2006 indicates that the Unit shall participate in initiatives and programmes of the European Union, the OECD, and other international organisations.

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