

1996-2017: how (and how much) has the Italian Senate contributed to the EU decision-making process?

June 2018

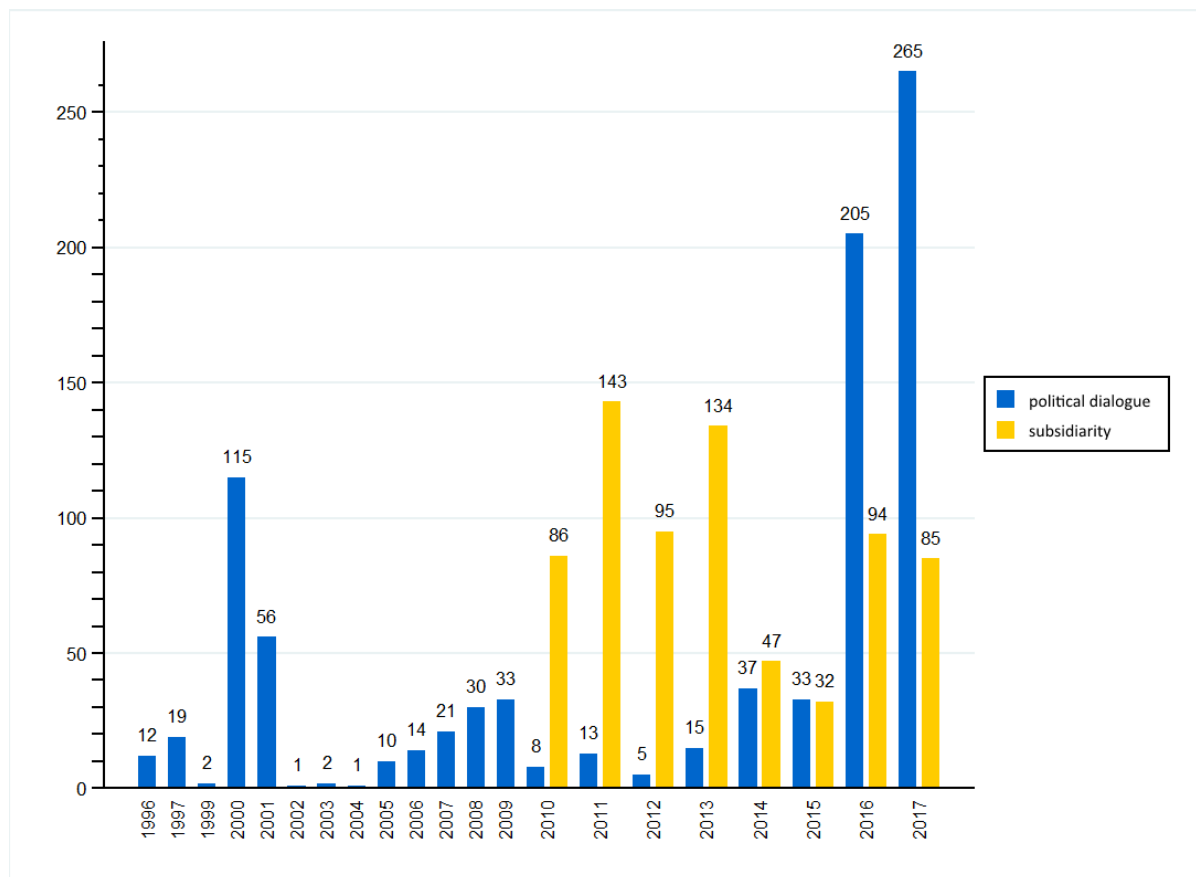
*Up until the fifteenth Parliament term, it was the Italian **Government's** prerogative to select which European Union measures to send to Parliament for consideration. The **flow varied widely** – two in 1999, 115 in 2000, just one in 2002 – until the **European Commission changed its practice in 2006**, under an initiative by then-President José Barroso, when it started sending measures and draft legislation directly to national parliaments. In 2009, the Lisbon Treaty brought in subsidiarity checks. **Senate** participation in the development of European legislation **has risen over a hundred-fold**: from just two opinions issued during the 13th term to as many as 250 in the seventeenth.*

*Today, the flow between Brussels and Rome is non-stop, daily and significant in size. **During the latest Parliament term, the Senate processed 924 measures** – compared with 435 in the 16th Parliament – of which **the government flags a dozen or so each week** as of special importance or of national interest. How do Senators manage to provide a reasoned opinion within the forty-day deadline? **How are its committees organized** to cope with this increasingly pressing pace? This is **the first statistical analysis of the procedures adopted by the Italian Senate.***

The starting point

Direct national Parliament participation in the so-called “upstream” stage of European law is governed by the 2009 *Lisbon Treaty*, and associated Protocols 1 and 2. Law no. 234 of 2012 enshrines general rules regarding Italy’s participation; *Senate Rule 144* regulates referral to individual committees, establishes deadlines and sets the procedures for consideration.

Figure 1. Commission proposals submitted by year/type (political dialogue and subsidiarity). 1996-2017



Source: UVI

Analysis

From the 13th through the 15th terms, it was the Government that selected which EU measures to notify to Parliament. Significant fluctuations occurred over the years, depending on the priorities of the Government in office.

More measures began to be tabled before the Senate **in the year 2000** (115 documents during D'Alema 2 and Amato 2 Governments); 56 were tabled in **2001** (Amato 2 and Berlusconi 2).

Fewer measures were tabled – just one – in **2002** and **2004** (Berlusconi 2), two in **2003** and **1999** (D'Alema 1).

In 2010, the year after the *Lisbon Treaty* and the introduction of the requirement for a subsidiarity opinion, Senate committees **trebled their consideration workload**, from 33 measures in 2009 to 94 in 2010.

The trend continued in the following years, **peaking at 350 measures considered by the**

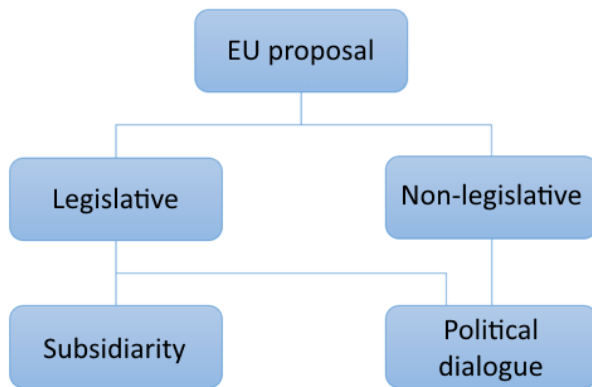
Senate in 2017.

A brief fall was registered in 2014-2015, as a result of drop-off in European legislative output.

The Upstream Phase

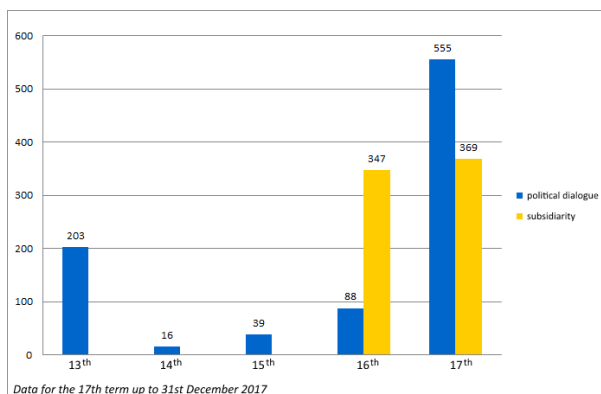
National parliaments take part in the development of European law through:

- **Political dialogue** between National Parliaments and the European Commission, introduced by President Barroso in 2006: parliaments issue comments and opinions on draft legislation and EU non-legislative documents
- **Subsidiarity checks:** limited to EU draft legislation, national parliaments check compliance with the subsidiarity principle introduced under the *Lisbon Treaty* of 2009.

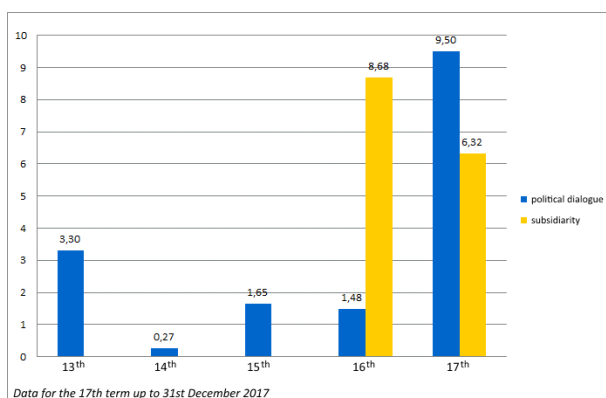
Figure 2. Post-Lisbon Treaty Practice

Moving on to the data broken down by Parliament, **the 14th Parliament term stands out for considering fewer EU measures: 16.**

During the two latest terms, Senators have been far more involved in European matters: 435 measures were referred during the 16th Parliament term and as many as 924 in the 17th (as at 31 December 2017).

Figure 3. No. of measures per term (13th-17th)

Source: UVI

Figure 4 - Average number of measures per month

Source: UVI

In Detail. The making of EU legislation in the 13th to the 17th Senate

Political dialogue

- The internal procedure used to decide **referral** to individual committees for political dialogue was established in 2006 under two circulars issued by the Senate President.
- Over the following decade, until February 2016, referral of individual measures was undertaken exclusively following request of a **standing committee**.
- To cope with the increasing number of measures under consideration, procedures were updated at the end of the 17th Parliament term: **measures flagged by the Government** as particularly significant are now **referred** to the appropriate committee **by the authority of Senate President**.
- A committee has always had authority to apply for referral of a measure not originally referred to such committee.
- The 14th Committee, EU Policies, may take over consideration of a measure if the committee to which a measure was originally referred has failed to issue an opinion within a set deadline.

Subsidiarity Checks

- Under the provisions for subsidiarity compliance scrutiny, the European Union sends all draft legislation to national parliaments.
- Within eight weeks, each House of Parliament may state that the proposal is non-compliant, issuing a reasoned opinion (also known as an "early warning"). If reasoned opinions amount to at least one third of the votes attributed to national parliaments, the measure must be reviewed.
- A Senate President's Circular of 1 December 2009 established a procedure for Senate consideration: the President would refer a measure to the appropriate committee, which was required to issue an opinion (resolution) within five weeks. From December 2016, such deadline was extended to six weeks.
- The Foreign Affairs Committee and the EU Policies Committee were always invited to

- make provide an opinion. Other committees could also be called in.
- The EU Policies Committee could also take over a measure referred to another committee in case of inaction by such committee.

Procedures and Performance

These tables clearly show the substantial increase in EU measures referred to Senate committees during the 16th and 17th terms.

For the 17th term, Figure 1 shows a high number of referrals from 2016 onwards, when the effects of the new procedure introduced in February 2016 began to be felt.

Figures 3 and 4 show an increase in the number of referrals per term and an increase in the average number of referrals per month.

Table 1 shows an improvement in the Senate performance: an increase not just in the number of measures considered, but also the number of those completed with the adoption of a resolution. In the 13th Parliament term, just three out of 203 bills (1.5%) reached the final opinion stage. During the 16th term, the percentage of measures on which a final opinion was made rose to 74% (322 out of 435); 2.8% of measures received a resolution after consideration in plenary. The performance of the 17th term looks more modest, with just one out of three acts (33.3%) reaching the end of procedures. However, the number of acts that the Senate has considered more than doubled over the previous term (924 as against 435).

Table 1 – European measures (political dialogue/subsidiarity checks) by outcome and term

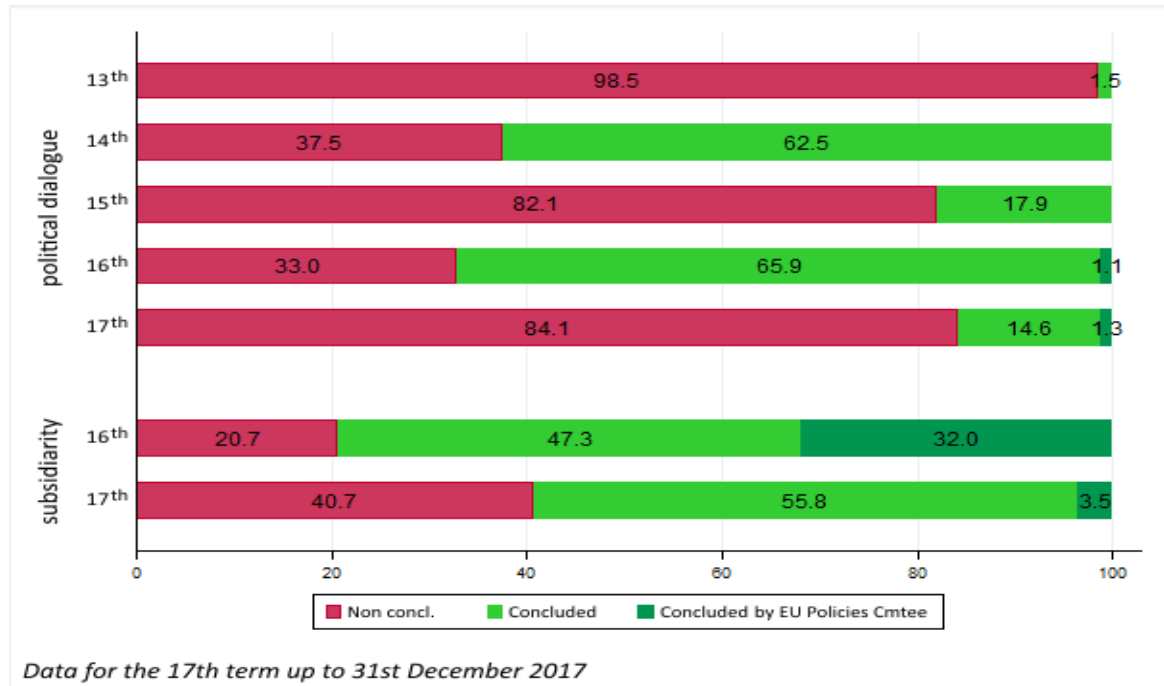
Outcome	Term				
	13 th	14 th	15 th	16 th	17 th
Referred (consideration yet to begin)	111		10	81	4
	54.7%		25.6%	18.6%	0.4%
Consideration begun	89	6	22	20	613
	43.8%	37.5%	56.4%	4.6%	66.3%
Adopted with resolution (Doc. XVIII)	3	10	7	210 ¹	287
	1.5%	62.5%	12.8%	48.3%	31.1%
Adopted with resolution (Doc. XVIII-bis)				112	20
				25.7%	2.2%
Considered in the Chamber			2	12 ²	
			5.1%	2.8%	
Totals	203	16	39	435	924
	100%	100%	100%	100%	100%

Source: UVI

¹ Two measures (political dialogue) are included on which a positive resolution was provided by Committee 14.

² Five measures considered in plenary in association with a motion.

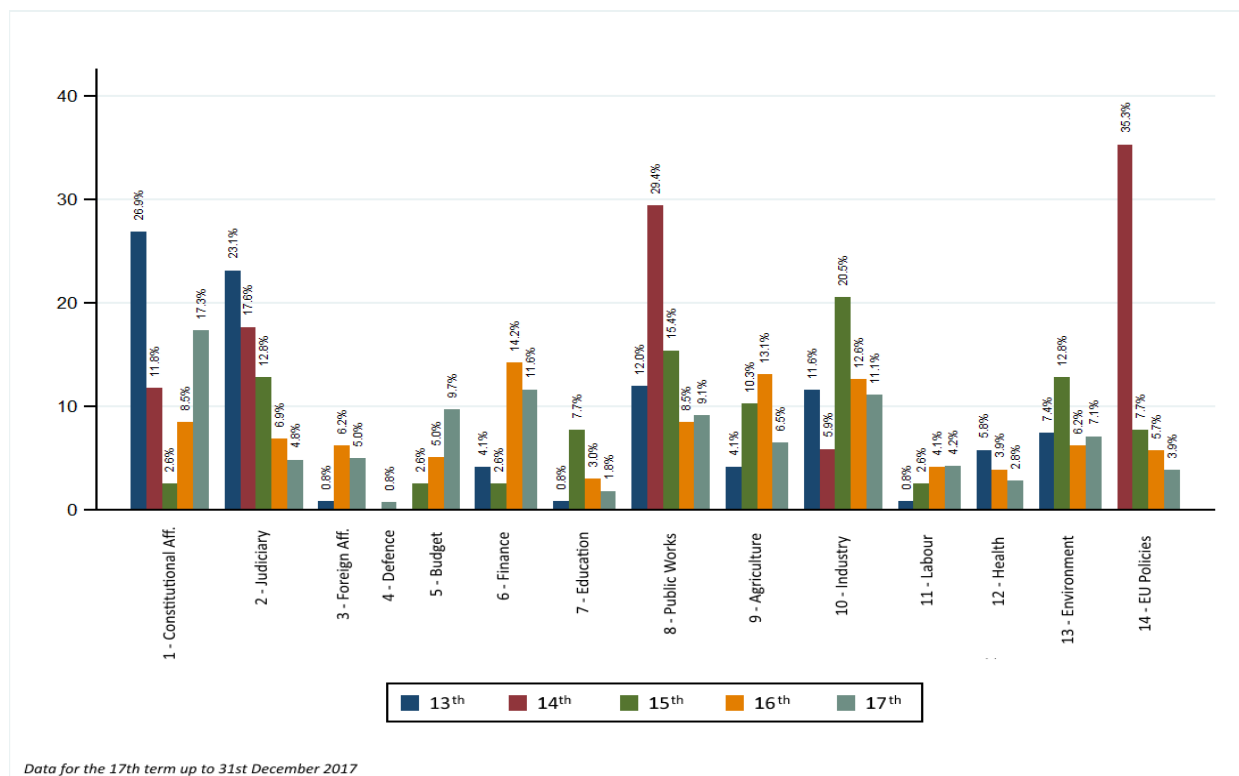
Figure 5. Percentage of measures completed by Parliament term (12th-17th)



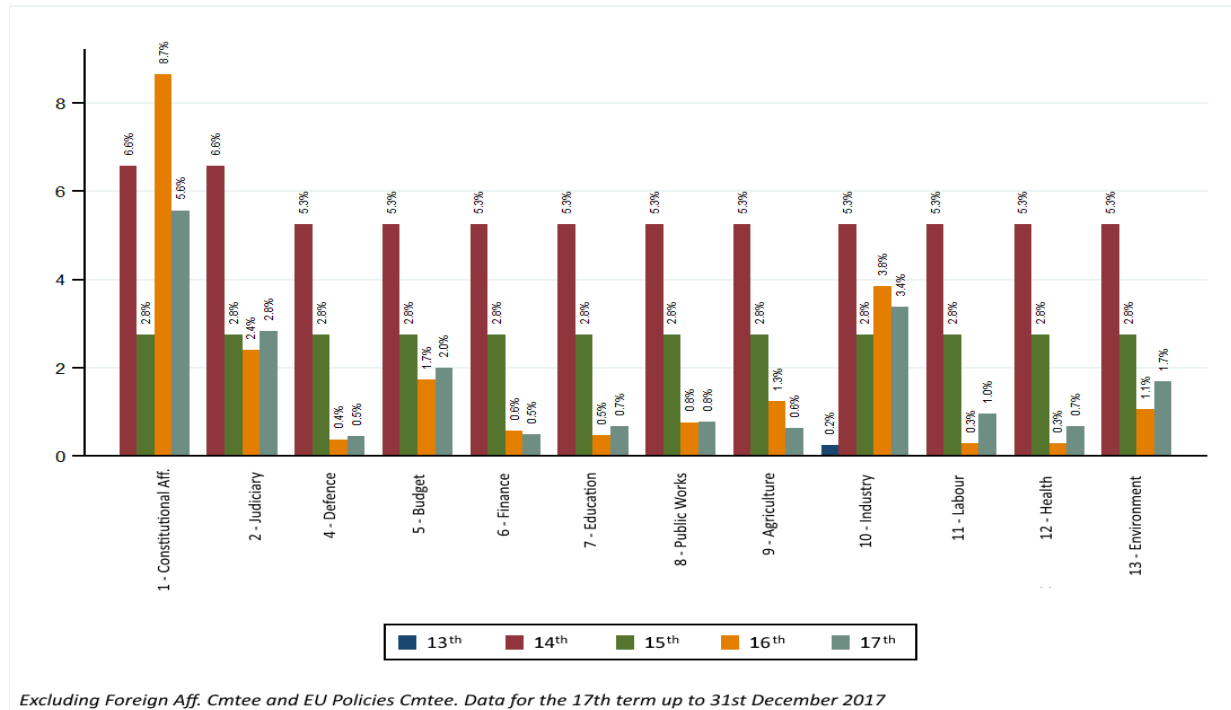
Source: UVI

The flow of measures and referrals depends on the Commission's policies. For example, in the 17th Parliament term, a sizable number of measures was submitted to the 1st Committee (Constitutional Affairs) as a result of the EU making many decisions on asylum and immigration policies.

Figure 6. Referrals, by committee and Parliament term (percentages)



Source: UVI

Figure 7. Referrals for opinions, by committee and Parliament term (percentages)

Source: UVI

18th Parliament term: New Senate Rules introducing Twin Tracks

New Senate *Rule 144*, approved on 20 December 2017 as part of a wider effort to overhaul the *Senate Rules of procedure*, introduced a twin-track system for the consideration of EU measures. From the 17th Parliament term onwards:

- All the standing committees shall have exclusive responsibility for political dialogue in their matters of competence
- The EU Policies Committee shall have exclusive responsibility on subsidiarity checks.

As is already the case, all approved resolutions shall be submitted to the President of the Senate, who shall notify them to the Government and the presidents of European institutions (Parliament, Council and Commission).

Resolutions adopted by committees may, if the Government or a part of the committee members so request, be subject to consideration and adoption in the Senate plenary.

Conclusions

During the latest five Senate terms, **the number of EU measures considered has grown considerably**: from around 3 acts per month relayed by the Government in the 13th term, through 10 in the 16th, to 15 in the 17th.

The number of resolutions approved has increased by more than a hundredfold, from 2 to over 250.

Processing time has come down drastically: in the 14th Parliament term, the average time it took to consider a political dialogue document was around 60 days, requiring an average 5.5 sittings. In the 16th term, this had gone down to 20-30 days and three sittings.

The **improvement in performance** is even more evident if we consider that, during the 17th Parliament term, over 70% of subsidiarity checks on measures were completed within five weeks.

Comments

Senate Standing Committees are paying closer attention to the stages and deadlines of the EU decision-making process. More focused and timely consideration has made the Senate contribution to EU decision-making more effective, enabling the corresponding committees at the European Parliament to **take Italian deliberations into consideration.**

Formal and informal dialogue between Parliament and Government has become essential to render more effective the system whereby the Government flags system to Parliament for European acts of significant national interest.

Greater selection of flagged acts would also be worthwhile in order to avoid a backlog, above all the addition of **detailed** political and technical **reasons**, so that the Chamber has an additional knowledge asset.

This Dossier

- provides a **statistical analysis** of the procedures adopted by the Senate to consider draft EU measures while they are being developed (the “upstream phase”);
- processes a **21-year data set** (from May 9,

1996 to December 31, 2017) spanning more than **five different Parliament terms** (from the 13th to the 17th)

- evaluates and monitors **performance standards** achieved by virtue of the procedures adopted.
- accounts for an essential foundation to evaluate the effectiveness of the new procedure introduced under the new Senate *Rules* entered into force in the 18th term.

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