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## The Evolution of Italian Representation in the European Parliament: Electoral Laws, Systemic Effects and MPs' Characteristics

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### I. Introduction

This chapter focuses on the Italian electoral legislation for the European Parliament (hereinafter, EP) elections and on its political consequences. As highlighted by a very rich literature, electoral laws are fundamental institutional variables that provide a set of incentives and constraints that influence voters' behaviour and the competitive strategies of political actors. This process leads, in turn, to important consequences occurring both at the systemic level (the features of the party system) and at the individual level (the characteristics of the members of Parliament).<sup>2</sup>

Since the first EP election in 1979, the Italian electoral law has experienced relatively limited modifications, which have not changed its basic structure. However, this chapter

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<sup>2</sup> The literature on the effects of electoral systems is extremely rich and complex. See in general M Duverger, *Political Parties* (Wiley, New York, 1954); G Sartori, *Comparative Constitutional Engineering. An Inquiry into Structures, Incentives and Outcomes* (London, MacMillan, 1994); A Lijphart, *Electoral Systems and Party Systems: A Study of Twenty-seven Democracies, 1945–1990* (Oxford, Oxford University Press, 1994); GW Cox, *Making Votes Count. Strategic Coordination in the World's Electoral Systems* (Cambridge, Cambridge University Press, 1997); M Gallagher and P Mitchell (eds), *The Politics of Electoral Systems* (Oxford, Oxford University Press, 2008).

will show how, in interaction with the changing structure of the party system, even minor modifications have produced significant effects.

The chapter consists of three parts. The first part provides a historical overview of the Italian electoral legislation for the EP. It explores the evolution of the electoral rules since the introduction of a proportional formula at the time of the EP's first direct election in 1979 up to the most recent changes taking place in the last years (national electoral threshold, gender preferences, abolition of the 'double mandate' and so on). The second part puts Italy in a comparative perspective, offering a synthetic cross-section analysis of the 28 Member States' electoral systems for the EP. Finally, the third part focuses on the effects of the Italian electoral law on political representation, considered in terms of systemic properties (number and size of parties, effective thresholds, territorial representation) and of Members of European Parliament's (MEPs) individual characteristics (mainly in terms of gender). Conclusions follow.

## II. The Electoral Law for the Election of the Italian Members of the European Parliament

The election of Italian representatives in the EP is based on the Law number 18 of 24 January 1979 and its subsequent modifications and integrations. Its main features, and how they have changed over time, are here analysed according to the following dimensions: the number of representatives to be elected in the EP; the number and design of districts; the rules for running lists and candidates; the incompatibilities with the office of Member of European Parliament (MEP); the voting requirements and the ballot structure; and, finally, the electoral formula, ie how votes are converted into seats.

### A. Number of Representatives

The number of Italian representatives in the EP has varied following the changes that have occurred in the membership and in the apportionment method (see Table 1). It was 81 for the first three elections and 87 in 1994 and 1999, then it went down to 78 in 2004 and to 72 in 2009. When the Lisbon Treaty apportionment rules have been applied transitionally in 2011 and for the first election in 2014, the number of Italian representatives to be elected to the EP has increased from 72 to 73.<sup>3</sup>

<sup>3</sup> The Lisbon Treaty states that the European Parliament is composed of 750 members, plus the President, bringing the total from 736 up to 751, and that the allocation of seats follows the principle of degressive proportionality, with a minimum threshold of six members and a maximum threshold of 96 members per Member State. Under the Decision No 2062 of 25 November 2009, the European Parliament has amended the protocol (no 36) on the transitional provisions and provided for the assignment of additional seats among the Member States. The new procedure, allowing one additional seat to be given to Italy, was ratified by the Italian Parliament with the Law No 2 of 2011. On the details of these aspects, see F Fabbrini, 'La composizione del Parlamento Europeo dopo il Trattato di Lisbona' (2011) 3 *Rivista Trimestrale di Diritto Pubblico* 859–74.

**Table 1: The number of Italian representatives elected to the European Parliament (1979–2014)**

	Election							
	1979	1984	1989	1994	1999	2004	2009 <sup>a</sup>	2014
Number of Italian representatives	81	81	81	87	87	78	72	73

Notes:

<sup>a</sup> One additional seat was given to Italy following an amendment to the Lisbon Treaty and was assigned on the basis of the Law No 2 of 14 January 2011.

## B. Districts

For the purpose of the presentation of party lists and the election of candidates, the national territory is divided up into five districts: North-West (consisting of the following regions: Aosta Valley, Piedmont, Lombardy, Liguria), North-East (Trentino-South Tirol, Friuli-Venezia Giulia, Veneto, Emilia Romagna), Centre (Tuscany, Umbria, Marche, Lazio), South (Abruzzo, Molise, Campania, Basilicata, Apulia, Calabria), Islands (Sardinia, Sicily).

## C. Party Lists and Candidates

Lists of candidates have to be supported in each district by the signatures of no fewer than 30,000 and no more than 35,000 voters, provided that the signatures gathered in each region of the same district account for at least 10 per cent of the total number. No support is required for party lists: 1) that correspond to an existing group in the Italian Parliament; 2) that have won at least one seat in the latest election of either the two Chambers or of the EP running with their own symbol; 3) whose symbol contains the one of a party exempted.

The lists of candidates representing the French minority in the Aosta Valley, the German minority in the province of Bozen, and the Slovenian minority of the Friuli-Venezia Giulia may link to one national list in their respective districts for the purpose of seats allocation.

Candidates must be at least 25 years old<sup>4</sup> and accept to present themselves by a written declaration.

Since 2004, the lists of candidates have to comply with the rules on equal opportunities. Under the Law number 90 of 8 April 2004, each district list has to include at least one third of candidates belonging to the least represented gender, otherwise the due financial contribution is reduced of an extent proportional to the gender underrepresentation. New and more effective rules for the purpose of gender equality have been introduced by the Law number 65 of 22 April 2014, which, starting with the 2019 election, provides for the exclusion of lists not containing an equal number of candidates of both gender and whose top two rank ordered candidates are not of different gender.

<sup>4</sup> Note that the same age limit applies to the election of the Chamber of Deputies as set by the Constitution (art 56).

## D. Incompatibilities

According to articles 5 and 6 of the Law number 18 of 24 January 1979, as amended by the Law number 9 of 18 January 1989, and by the Law number 78 of 27 March 2004—this latter implementing Council decision 2002/772/EC that prohibited the ‘dual mandate’—and by the Law number 90 of 8 April 2004, the office of MEP is not compatible with a number of posts, among which are those of Deputy or Senator, member of the national Government, President of region, member of the Regional Government, member of regional Council, President of Province, or Mayor of a municipality with more than 15,000 inhabitants. Notwithstanding the incompatibilities, the persons in these posts may stand as a candidate for EP, and inasmuch as they are elected they have up to 30 days to choose which office to retain.

## E. Voters and Votes

All Italian citizens who are at least 18 years old are entitled to vote. Citizens from other EU Member States can also vote, if registered in the electoral roll of their place of residence in Italy at least 90 days before the polling day. Furthermore, the electoral law as amended by the Decree-Law number 408 of 24 June 1994 allows: 1) Italian citizens residing in an EU Member State and enrolled in the AIRE (the Registry of Italians residing abroad), and, upon request, 2) Italian citizens and their relatives living together, who are temporarily in an EU Member State for study or business purposes, to vote abroad for the Italian MEPs.

In each district, voters can express their list vote for one of the competing party lists, each of them being characterised by a distinctive symbol on the ballot paper. They may also cast preferential votes for candidates belonging to the party list that they have chosen. Until the election of 1999, the maximum number of preference votes was dependent on the size of the district: it was three for North-West, two for North-East, Centre and South, and one for Islands.<sup>5</sup> The maximum number of preference votes that voters can express has been modified by the Law number 90 of 8 April 2004 and has since then become three for every district. Under the Law number 65 of 22 April 2014, starting with the election of 2014 voters who cast more than one preference vote are obliged to choose candidates of both gender, otherwise the second and third preference votes are declared as void.

## F. From Votes to Seats

As for the procedure through which votes are translated into seats, the electoral law for the Italian MEPs provides for the application of a proportional representation system. Seats are distributed among the parties<sup>6</sup> in proportion to the total number of votes polled by them at the national level (upper distribution). However, since the introduction of the

<sup>5</sup> Until the 1999 election voters could express only one preference vote also when voting for party lists representing linguistic minorities linked to national parties.

<sup>6</sup> If there are party lists representing linguistic minorities linked to national parties, in the first instance these groups of parties take part as a whole in the distribution of seats. Then, seats assigned to groups of parties are proportionally allotted among their component party lists at the district level.

Law number 10 of 20 February 2009, only those parties that have succeeded in surmounting the four per cent threshold in the entire country are considered.

The mathematical formula for allocating seats is the largest remainders-Hare quota system. First, the total number of votes cast for parties surmounting the threshold is divided by the total number of seats to be assigned. The result of this calculation represents the (Hare) quota. Second, the total number of votes obtained by each party is divided by the quota and each party receives one seat for each whole number resulting from this calculation. Third, the remaining seats are assigned to the parties in the descending sequence of the largest remainders until all seats are allocated.

After the number of seats due to each party has been established, seats are distributed, separately for each party, among the five multi-member districts (lower distribution). A second calculation is therefore made, again according to the largest remainders-Hare quota system, to determine the total number of seats for each party at national level to be distributed among their district lists. Thus, for each party the numbers of votes of its district lists are divided by the quota, ie the total number of votes cast for the party divided by the number of seats assigned to it in the upper distribution. Each district list is then attributed a number of seats equal to whole number resulting from this calculation and possibly one additional seat through the largest remainders method.

For each district list there is thus elected a number of candidates equivalent to the number of seats assigned to it. Candidates are elected according to the order of their individual preference votes.

The way the lower distribution of seats works has changed in recent times following the ruling of 13 May 2011 (so called ‘Gargani ruling’)<sup>7</sup> by the Consiglio di Stato, the highest jurisdictional body on administrative matters. According to this ruling, the procedure for allocating seats under the Law number 18 of 24 January 1979 as amended by the Law number 10 of 20 February 2009 has since then changed and now it does not allow districts to return a number of elected representatives larger or smaller than the number of seats due to them on the basis of their population.

This phenomenon is known as *slittamento* (seats ‘slipping’) and has occurred in all Italian elections for the EP up to 2009, though to a different extent. As can be seen in Table 2, the number of ‘slipped’ seats goes from a minimum of two in 1984 to a maximum of seven in 1994. Moreover, the districts of South and Islands have always been penalised, obtaining fewer seats than expected on the basis of their population, while the opposite has happened for the remaining districts, who have often obtained more seats. This is due to the difference in turnout among the districts: the comparatively higher the turnout is—usually in the Centre and in the North of Italy—the more likely it is for a district to gain extra seats, ‘stealing’ them from the districts in Southern Italy with a lower turnout.

In 2011, the Consiglio di Stato not only ruled out the possibility of seat slipping, but also replaced de facto the norms on the lower distribution of seats with those of the electoral law for the Chamber of deputies then in force (DPR number 361 of 30 March 1957 as amended in 2005 by the Law number 270), on the consideration that the latter are built so as to ensure that every district in the end receives the number of seats due to it on the basis of its population. The new method has been utilised for the first time to retrospectively

<sup>7</sup> On the basis of this ruling the previously elected MEP Collino was replaced by Gargani.

correct the distribution of seats at the district level of the 2009 election and then in the 2014 election.

**Table 2: The ‘slipping’ of seats across districts in the Italian elections for the European Parliament**

Districts	Election							
	1979 <sup>a</sup>	1984	1989	1994	1999	2004	2009	2014
Number of seats due based on population								
I—North-West	–	22	22	23	23	20	19	20
II—North-East	–	15	15	16	16	15	13	14
III—Center	–	16	16	17	17	15	14	14
IV—South	–	19	19	21	21	19	18	17
V—Islands	–	9	9	10	10	9	8	8
Number of seats allocated								
I—North-West	25	23	25	25	26	23	21	20
II—North-East	17	15	17	18	16	15	15	14
III—Center	17	17	16	20	18	16	15	14
IV—South	15	18	16	16	21	17	15	17
V—Islands	7	8	7	8	6	7	6	8
Number of ‘slipped’ seats								
I—North-West	–	+1	+3	+2	+3	+3	+2	0
II—North-East	–	0	+2	+2	0	0	+2	0
III—Center	–	+1	0	+3	+1	+1	+1	0
IV—South	–	–1	–3	–5	0	–2	–3	0
V—Islands	–	–1	–2	–2	–4	–2	–2	0
Total number of ‘slipped’ seats	–	2	5	7	4	4	5	0

Notes:

<sup>a</sup> In the 1979 election there are no (pre-) allocated to each district on the basis of their population. Therefore, there is not a formal ‘slipping’ of seats for this election.

### III. How (Dis)proportional? The Italian Electoral Law in a Comparative Perspective

Having analysed the features of the Italian electoral legislation for the EP and its most relevant changes since 1979, it is worth enlarging the scope of the current analysis by putting Italy in a comparative perspective. How do the characteristics of the Italian electoral law for the EP discussed above stand in comparison with those of the other 27 European Union (EU) countries? Moreover, by considering features like the average district magnitude and

the legal thresholds for representation, how disproportional—namely, how deviating from perfect proportionality in terms of transformation of votes into seats—is the Italian electoral law in a comparative perspective? The purpose of this paragraph is to offer a synthetic cross-section analysis of the 28 Member States' electoral systems for the EP.

With a decision of the Council (772/2002) approved by the EP in May 2002—amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to the Council Decision 787/1976<sup>8</sup>—the EU has introduced some common principles to harmonise the elections for the EP, previously regulated under the jurisdiction of the Member States. Undertaking this decision the EU has established that the MEPs have to be elected with a system of proportional representation, using either the party list vote or the single transferable vote system. Member States may decide the adoption of an electoral threshold, albeit inferior to five per cent on a national basis. Member States can also decide if and how to split the national territory into different electoral districts for the allocation of seats, although this cannot generally affect the proportional nature of the voting system. Based on these general principles, the electoral systems in the 28 Member States have become more homogenous than in the past, albeit such principles have left a margin of manoeuvre for discretionary measures of the Member States. Apart from the number of electoral districts and the adoption of an election threshold, Member States are allowed to decide on the age of eligible voters and candidates, on the electoral formula (namely, the mechanism transforming votes into seats), on the election method of single deputies and on the presence of sanctions for eligible voters who decide to abstain. Table 3 offers a comprehensive overview of the main features of the electoral system for the EP in the 28 Member States. The overall picture is that of a proportional system with 28 national variants. This produces a range of formulas and election thresholds that in turn offer different incentives and constraints in the various national contexts.

Starting from the electoral rules that precede the features of the electoral system properly speaking, as we can see from Table 3, the minimum age to become an eligible voter is 18 in all countries with the exception of Austria, where voting age is 16. Greater variability can be observed for the minimum age of candidates: Italy, together with Cyprus and Greece, emerges as the country with the most restrictive rule (25 years). All the other countries have set a lower age of candidacy, granting eligibility for candidates at the age of 23 (Romania), 21 (Belgium, Ireland and the majority of Central and Eastern European countries), or even 18 (15 countries, among which are France, Germany, the Netherlands, Spain and Sweden). Moreover, in four countries (Belgium, Cyprus, Greece and Luxembourg) voting is compulsory, although any formal sanction is not applied, with the exception of Luxembourg. Here, abstainers receive a fine between 100€ and 250€ in case of first offence, while for repeat offenders the fine is increased up to 500€–1000€.

<sup>8</sup> This Act introduced the direct universal suffrage for the election of the Members of the European Parliament (now incorporated in the EC Treaty, art 190, para 1), following a provision included in the founding Treaties. In 1992, the Maastricht Treaty inserted a provision into the EC Treaty (art 190 para 4) stating that elections must be held in accordance with a uniform procedure in all Member States and Parliament should draw up a proposal to this effect, for unanimous adoption by the Council. However, the Council was unable to agree on a uniform procedure, in spite of the various proposals presented by Parliament. To resolve this deadlock, the Treaty of Amsterdam introduced into the EC Treaty the possibility, failing a uniform procedure, of 'common principles' with a view to enhancing the democratic legitimacy of the EP and the feeling of being a citizen of the European Union. On this basis it was possible to modify the 1976 Act by Council Decision 772/2002.

Table 3: Electoral system's features for the election of the EP in the 28 EU Member States

Country	Eligible voters	Eligible candidates	Compulsory vote	N seats	N electoral districts	Average M	Electoral formula	Election threshold	Election of single deputies
Austria	16	18	NO	18	1	18	D'Hondt	4%	Preferential voting
Belgium	18	21	YES	21	3	7	D'Hondt	NO	Preferential voting
Bulgaria	18	21	NO	17	1	17	Hare	NO	Preferential voting
Cyprus	18	25	YES	6	1	6	Hare	1.8%	Preferential voting
Croatia	18	18	NO	11	1	11	D'Hondt	5%	Preferential voting
Czech Republic	18	21	NO	21	1	21	D'Hondt	5%	Preferential voting
Denmark	18	18	NO	13	1	13	D'Hondt	NO	Preferential voting
Estonia	18	21	NO	6	1	6	D'Hondt	NO	Preferential voting
Finland	18	18	NO	13	1	13	D'Hondt	NO	Preferential voting
France	18	18	NO	74	8	9.25	D'Hondt	5%	Closed list
Germany	18	18	NO	96	1	96	Sainte-Laguë/Schepers	NO	Closed list
Greece	18	25	YES	21	1	21	Droop	3%	Closed list
Hungary	18	18	NO	21	1	21	D'Hondt	5%	Closed list
Ireland	18	21	NO	11	4	2.75	STV	NO	STV
<b>Italy</b>	<b>18</b>	<b>25</b>	NO	<b>73</b>	<b>5</b>	<b>73*</b>	<b>Hare</b>	<b>4%</b>	<b>Preferential voting</b>
Latvia	18	21	NO	8	1	8	Sainte-Laguë	5%	Preferential voting
Lithuania	18	21	NO	11	1	11	Hagenbach-Bischoff	5%	Preferential voting
Luxembourg	18	18	YES	6	1	6	D'Hondt	NO	Preferential voting

(continued)



Table 3: (Continued)

Country	Eligible voters	Eligible candidates	Compulsory vote	N seats	N electoral districts	Average M	Electoral formula	Election threshold	Election of single deputies
Malta	18	18	NO	6	1	6	STV	NO	STV
Netherlands	18	18	NO	26	1	26	D'Hondt	NO	Preferential voting
Poland	18	21	NO	51	13	3.92	D'Hondt	5%	Preferential voting
Portugal	18	18	NO	21	1	21	D'Hondt	NO	Closed list
Romania	18	23	NO	32	1	32	D'Hondt	5%	Closed list
Slovakia	18	21	NO	13	1	13	Hagenbach-Bischoff	5%	Preferential voting
Slovenia	18	18	NO	8	1	8	D'Hondt	NO	Preferential voting
Spain	18	18	NO	54	1	54	D'Hondt	NO	Closed list
Sweden	18	18	NO	20	1	20	Sainte-Laguë	4%	Preferential voting
UK	18	18	NO	73	12	6.08	D'Hondt**	NO	Closed list

\* In Italy seats are allocated at the national level.

\*\* The system adopted in the electoral district of Northern Ireland is the single transferable vote (STV).

Besides the different eligibility criteria for voters and candidates and the rules on compulsory voting, the most interesting differences of voting systems refer to the features of the electoral system, namely, the number of available seats, the number of electoral districts, the electoral formula and the election threshold. These elements have an influence on the competitive strategies of political actors as well as on voters' behaviour (these are the so-called 'psychological effects'), further than clearly affecting the transformation of the votes cast by the electorate into seats (the so-called 'mechanical effects').<sup>9</sup> In the vast majority of EU Member States representatives are elected within a unique national electoral district. Exceptions are represented by some large countries such as the United Kingdom, France and Poland, and by two small but culturally heterogeneous countries such as Belgium and Ireland, where seats are allocated through various electoral districts to protect local representativeness. As we have stated in the previous section, Italy has five districts, but they are only used to select the MEPs, while the allocation of seats is computed at the national level. Table 3 further reports the average district magnitude ( $M$ ) in each country. This value is the ratio between the total available seats and the number of electoral districts (here to be meant as the territorial units where the allocation of seats takes place). There is a rather high degree of variability in the average value of  $M$ , as it ranges between 2.75, registered in Ireland, where 11 seats are allocated in four electoral districts, and 96, computed in Germany. With 73 deputies elected in a unique national district, Italy appears as the country with the second highest average district magnitude in Europe.

An additional difference can be detected in the electoral formulas. The most diffused mechanism of transformation of votes into seats is the highest averages method, and specifically the D'Hondt method, used in 17 countries, while the more proportional variant of the Sainte-Laguë method is adopted in three countries (Germany, Latvia and Sweden).<sup>10</sup> Italy belongs to the small group of countries adopting a largest remainder method: besides Italy, the classic Hare quota method is adopted in Bulgaria and Cyprus, while the more distortive variants of Hagenbach-Bischoff and Droop are adopted in Lithuania, Slovakia and Greece; finally, Ireland and Malta adopt the Single Transferable Vote (STV), a method used in their general elections as well. Only half of the countries have introduced a legal election threshold, generally set at five per cent (nine cases)<sup>11</sup> or in fewer cases four per cent (Austria, Italy and Sweden), three per cent (Greece), or 1.8 per cent (Cyprus). As regards the selection of candidates, about two thirds (18 out of 28) of the countries introduced a preference vote in their system, although following different specific procedures (for instance, open list in Italy, flexible list in Austria, or even *panachage* in Luxembourg), while eight countries vote with closed-list (in which the order of elected candidates is decided by party officials).

Given the abovementioned features, it is possible to categorise the 28 electoral systems in terms of expected disproportionality<sup>12</sup> regarding the transformation of votes into seats, so as to understand how Italy stands in comparative perspective. The electoral system represents a crucial variable influencing the party systems and its competitive dynamics.

<sup>9</sup> On the difference between psychological and mechanical effects, see Duverger, above n 2 and Cox, above n 2.

<sup>10</sup> On the functioning of the different electoral formulas, see Lijphart, above n 2.

<sup>11</sup> In France the election threshold of five per cent is applied at the district level. The other eight countries are Central and Eastern European Member States, where the five per cent threshold has the purpose to limit the excessive party system fragmentation detectable in the post-communist party systems.

<sup>12</sup> See M Gallagher, 'Proportionality, Disproportionality and Electoral Systems' (1991) 10 *Electoral Studies* 33–51.

A relatively disproportional system will tend to over-represent larger parties and under-represent smaller ones. As a consequence, these incentives will promote strategic behaviours both on the supply side (creation of electoral cartels and mergers among small parties) and on the demand side (voters will tend not to support small parties and prefer suboptimal political options with concrete possibilities of winning seats). In order to do so, we need to rely on a quantitative criterion that allows for cross-national comparisons. Therefore, our starting point can be represented by the concept (and the related formula) of *effective threshold*, formulated for the first time by Lijphart<sup>13</sup> and later refined by Taagepera.<sup>14</sup> The concept of effective threshold derives from the need to put in comparison countries where a legal threshold is imposed to parties in order to gain representation, with countries where there are no explicit thresholds but nonetheless where their electoral system imposes an implicit threshold, based mainly on district magnitude (ie the lower the district magnitude the higher the implicit threshold). The formula is the following: *effective threshold* =  $75\% / M + 1$ , where M is district magnitude.<sup>15</sup> The rationale is that the formula is approximately midway between the threshold of representation (the lowest level of support with which a party could win a seat under the most favourable conditions) and the threshold of exclusion (the highest level of support with which a party could fail to win a seat under the most unfavourable conditions). Obviously, our comparison also needs to take into account the effect of the legal threshold, if any: as a consequence, when the implicit threshold granted by district magnitude is higher than the legal threshold, this latter has no consequence, and the effective threshold is given exclusively by the abovementioned formula; on the contrary, when the legal threshold is higher than the implicit one, the effective threshold equals the legal one.

Based on these considerations, we have built a 5-point scale classification of the 28 electoral systems for the EP, according to their expected level of disproportionality granted by the respective effective threshold of representation.

**Table 4: A classification of the 28 electoral systems for the EP based on their expected level of disproportionality**

Expected disproportionality (Effective threshold)				
Very high (>15)	High (10.1–15)	Average (5.1–10)	Low (2.5–5)	Very Low (<2.5)
Ireland (20)	Cyprus (10.7)	Belgium (9.4)	Czech Republic (5)	Spain (1.4)
Poland (15.2)	Estonia (10.7)	Latvia (8.3)	Hungary (5)	Germany (0.8)
	Luxembourg (10.7)	Slovenia (8.3)	Romania (5)	
	Malta (10.7)	France (7.3)	Bulgaria (4.2)	
	UK (10.6)	Croatia (6.3)	Austria (4)	

(continued)

<sup>13</sup> Lijphart, above n 2.

<sup>14</sup> R Taagepera, 'Effective Magnitude and Effective Threshold' (1998) 17 *Electoral Studies* 393–404.

<sup>15</sup> Gallagher and Mitchell propose a different formula:  $M * (1 + \log(E))$ , where M is average district magnitude and E is the number of districts (Gallagher and Mitchell, above n 2). Taagepera further refines its previous formula:  $75\% / [(M+1)(S/M)^{0.5}]$ , where M is average district magnitude and S is the number of seats to be allocated nationwide (R Taagepera, 'Nationwide Threshold of Representation' (2002) 21 *Electoral Studies* 383–401. We have decided not to use these more complicated formulas but only the original one, which is certainly more intuitive.

Table 4: (Continued)

Expected disproportionality (Effective threshold)				
Very high (>15)	High (10.1–15)	Average (5.1–10)	Low (2.5–5)	Very Low (<2.5)
		Lithuania (6.3)	<b>Italy (4)</b>	
		Denmark (5.4)	Sweden (4)	
		Finland (5.4)	Greece (3.4)	
		Slovakia (5.4)	Portugal (3.4)	
			Netherlands (2.8)	

Source: authors' elaboration based on the method of calculation developed by Lijphart<sup>16</sup> and Taagepera.<sup>17</sup>

As one can see by looking at Table 4, there is a wide variability among the 28 EU Member States as regards their effective threshold of representation. The variable ranges from the extremely low level of Germany (0.8)—an almost purely proportional system where 96 deputies are elected in a unique electoral district without a legal threshold<sup>18</sup>—to the dramatic disproportionality of Ireland (20) where, given the very small district magnitude (2.75), a party needs to receive about 20 per cent of the national share to secure a representation in the EP. Overall, the average effective threshold in the sample is 6.9 per cent, which means that, on average, a party gains seats in the EP if it casts about seven per cent of the votes in its country. This means that the average effective threshold is higher than the maximum legal threshold of five per cent provided by the Council decision (772/2002): as many as 16 out of 28 countries show an effective threshold higher than five per cent. For many small countries this is an unavoidable consequence of the small number of representatives they elect to the European Parliament, while for some larger countries (Poland, UK, France) this is due to the legislator's choice as regards the number of electoral districts where seats are allocated (see again Table 3). Note that Western European countries (EU-15) display a lower expected disproportionality compared to their Central and Eastern European counterparts (6.2 versus 7.8), where no party with four per cent of the votes or less can have access to the EP (the lower threshold can be found in Bulgaria with 4.2 per cent). As regards the interaction between legal and implicit thresholds, in 22 out of 28 cases the effective threshold is determined by district magnitude, which means that the absolute majority of legal thresholds (eight cases out of 14) has actually no effect. The exceptions are represented by the Czech Republic, Hungary, Romania, Austria, Italy and Sweden, where the legal threshold (four or five per cent) is higher than the implicit one. In particular, before the introduction of the four per cent threshold in 2009, Italy had an even less distortive system, with an effective threshold of about 0.9 per cent, thus approaching Germany as the most purely proportional system of the EU. Today, notwithstanding the legislative change that occurred in 2009, the comparison with the other 27 EU countries reveals that Italy still belongs to the subgroup of countries with a low expected disproportionality.

<sup>16</sup> Lijphart, above n 2.

<sup>17</sup> Taagepera, above n 15.

<sup>18</sup> It is worth recalling the two rulings of the German Constitutional Court against the provision of a legal threshold for the election of the German representatives to the European Parliament (BVerfGE 2 BwC 4/10 et al of 9 November 2010; BVerfGE 2 BwE 2/13 et al of 26 February 2014).

## IV. Effects on Political Representation

We have seen so far how the electoral legislation for the election of Italy's representatives at the EP has changed through time and how the Italian electoral system for the EP stands in comparative perspective. This section is now dedicated to an assessment and a discussion of the *effects* of such changes. We will focus on two key aspects: first, the effects on the *systemic properties* of the party system (number, size and relative importance of relevant actors, and potential consequences on voter-party interaction); secondly, the effects on the *political class*, ie the individual characteristics of the elected MEPs.

In order to test the presence and strength of any impact of legislative changes on the party system and the political class, we will pursue a simple design involving cross-time comparisons. To what extent do outcomes of interest *vary* in correspondence to specific events (namely, legislative changes)? In order to correctly state in advance our research hypotheses, it is then necessary to briefly recapitulate what are the critical events (and their location in time) which we expect to have an impact on our studied outcomes. In particular, it is relatively easy to identify a relatively long period of normative stability since the first election in 1979. Such stability was only interrupted in 2009 by the introduction of a minimum legal threshold of four per cent, and then, in 2014, by the adoption of minimum gender requirements for the expression of preference voting. As a result of such two events, then:

1. We expect most indicators of party system structure (number of parties, counted in different ways, and overall disproportionality of the electoral result) to remain relatively stable until the 2009 election, and to show a shrinkage of the number of relevant parties (along with an increased disproportionality) after that election;
2. we expect gender balance among Italian MEPs to change significantly in 2014, towards a more numerous representation of women.

Before assessing the hypotheses here presented in empirical terms, a last caveat is still necessary. During the observed period (from 1979 to 2014), there are significant changes that have affected the Italian party system: most importantly, the significant electoral reform of 1993, concerning the election of the national Parliament (followed by a second reform in 2005). Such reform, leading from a proportional representation (PR) system to a mixed system with a prevailing (75 per cent) plurality component, effectively fostered the emergence of a two-bloc, multi-party system (not far from what is emerging in France during the Fifth Republic). What is relevant to our research question is that, as several commentators observed, the new system actually led to an *increase* of the number of parties, in a context of what has been labelled as *fragmented bipolarism*.<sup>19</sup> We have to take into account that such a dynamic might exert a spillover effect even on election for the EP: thus, this might act as a confounding factor when assessing our core hypotheses. This said, we are now able to proceed to the empirical assessment of our two hypotheses.

<sup>19</sup> A Chiaramonte, 'Il nuovo sistema politico italiano tra bipolarismo e frammentazione' in R D'Alimonte and A Chiaramonte (eds), *Proporzionale ma non solo. Le elezioni politiche del 2006* (Bologna, il Mulino, 2007).

## A. Systemic Effects

Concerning the first hypothesis, a cross-time trend of four key properties of the party system structure is quickly presented in Figure 1. The four indicators are the *Number of party lists with seats*, thus obtaining at least one MEP; the *effective number of electoral parties* (below: ENEP). Such measure derives from the application of the well-known formula introduced by Laakso and Taagepera<sup>20</sup> to *party vote shares*: it is calculated on *votes* (rather than seats), and as such it is an indicator of *electoral fragmentation*. This indicator counts the parties weighting for their relative electoral strength, so that larger parties count more than smaller ones in the computation of party system fragmentation. In the theoretical case of a system made up by two parties with 50 per cent of the vote each, the score of the indicator is two. ENEP captures to what extent *voters* distribute their vote choices across a large number of parties (ie without taking into account the party selection operated by the electoral system); the *effective number of parliamentary parties* (below: ENPP). This measure is the same as the previous one, except that it is calculated on party *seat* shares. As a result, it measures party system fragmentation at the *parliamentary* level, *after* the selection operated by the electoral system; the *Gallagher index*. This measure is calculated according to the well-known formula introduced by Gallagher,<sup>21</sup> which—by comparing vote shares with seat shares across all parties—effectively expresses the *disproportional effect* introduced by the electoral system, namely the deviations, from perfect proportionality, when votes are translated into seats. Therefore, the higher the Gallagher index, the higher the degree of distortion operated by the electoral system (ie larger parties will be overrepresented while smaller parties will be underrepresented in terms of seats they receive compared to the votes they get).

A quick summary inspection already reveals that our theoretical expectations are essentially confirmed, although in a nuanced fashion. First and foremost, the raw number of party lists obtaining at least a seat, quite predictably, shows a sharp decrease after the introduction of the four per cent legal threshold in the 2009 election. While hovering between 10 (in 1984) and even 19 (in 1999), the index then drops to six in 2009 and seven in 2014. This goes fully in line with the expectations, clearly showing the effectiveness of the legal threshold in limiting the number of parties obtaining at least one MEP.

However, the trend for the effective number of (both electoral and parliamentary) parties shows how the very high fragmentation suggested by the sheer number of represented parties might be partially misleading. Even in the 1999 election, which marked a record high with 19 parties represented, the effective number of parties was not larger than eight. The difference between the figures (the effective number of parties counts very small parties as less—or even much less—than one party) clearly shows how most of the 19 parties represented were actually very small (see Table 5). This has two implications: 1) that, as observed, the sheer number of parties might be partially exaggerating the actual fragmentation; 2) that the threshold might be effective in excluding *very small* parties (below four per cent), but might not be as effective in limiting the overall high fragmentation of the system, testified by an effective number of parties of about eight. Actually, in the highly

<sup>20</sup> M Laakso and R Taagepera, “Effective” Number of Parties: A Measure with Application to West Europe’ (1979) 12 *Comparative Political Studies* 3–27.

<sup>21</sup> Gallagher, above n 12.

fragmented 1999 election, eight parties were above four per cent, so as to potentially not be affected by the four per cent threshold introduced 10 years later.

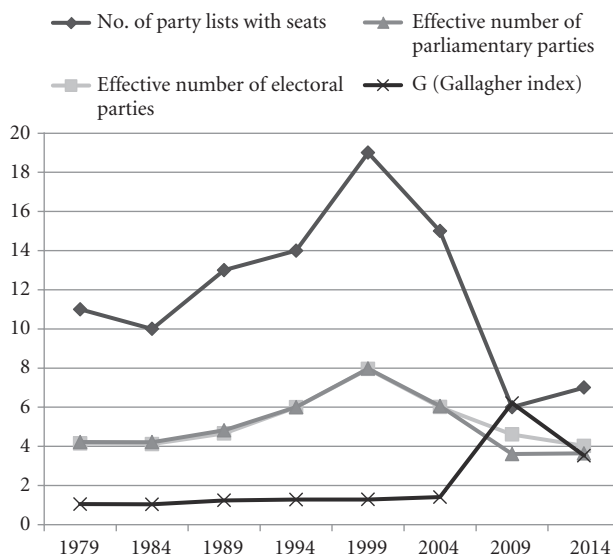


Figure 1: Evolution of several indicators of party system structure across the eight EP legislative terms

Both these implications are testified by the post-2009 trends for both versions of the effective number of parties. First, it is very clear that the reduction in *actual* fragmentation is in fact less pronounced. After the very fragmented election of 1999, both the effective number of electoral parties (ENEP) and the effective number of parliamentary parties (ENPP) had already decreased in 2004 to respectively 6.01 and 6.06. The enforcement of the legal threshold in 2009 in fact acted as a limitation to extreme fragmentation, leading to a further decrease of both indices, which became as low as in the first EP elections. It is however interesting to note how a typical Duvergerian mechanism of *mechanical* versus *psychological effects* is definitely taking place between the 2009 and 2014 elections. The 2009 election sees a sharp gap between ENEP (4.61) and ENPP (3.61). This clearly shows that voters were not fully aware of the four per cent threshold (or could not reliably predict which of the parties would pass it): as a result, a significant share of votes (13.89 per cent) went to parties that would not pass the legal threshold. This gap is much smaller in 2014 (ENEP=4.02, with ENPP=3.64): after realising in 2009 how many votes to small parties were actually wasted, many voters preferred to reward larger parties.<sup>22</sup> As a result, the share of votes going to parties below the threshold shrank by more than half, dropping to 6.65 per cent.<sup>23</sup>

<sup>22</sup> Besides this psychological effect taking place at voter level, we have to consider also the effect played by the changes in the supply side. In other words, the restructuring of the political offer (with, for example, the birth of a new large party as the Five Star Movement, contesting the European elections for the first time in 2014) may have contributed to some extent to reduce the gap between ENEP and ENPP in 2014.

<sup>23</sup> Note that, of this 6.65 per cent, 3.67 per cent went to a single party, which thus—so close to four per cent—was expected before elections to have significant chances to pass the legal threshold.

This explains why, in 2014, the configuration of fragmentation in terms of both votes and seats appears much more similar. Of course, the emersion of a *psychological effect*—leading voters to avoid small parties, anticipating the potential effects of the electoral system—makes the legal regulation, in the long run, potentially only act as a deterrent, without heavily distorting the vote results. This is clearly visible in the trend of the last indicator, the Gallagher index of disproportionality. After the very low values recorded until 2009, it jumps to six in 2009, but then drops to less than four in 2014, showing how the electoral system places much less distortion on the vote results, when voters already take into account the risks of voting for small parties.

**Table 5: Electoral results in the 1999 EP Election**

Party list	Votes	Votes (%)	Seats
Forza Italia	7,813,948	25.16	22
Democratici Sinistra	5,387,729	17.34	15
An—Patto Segni	3,194,661	10.28	9
Lista Emma Bonino	2,625,881	8.45	7
I Democratici	2,402,435	7.73	6
Lega Nord	1,391,595	4.48	4
Rifondazione Comunista	1,327,327	4.27	4
Ppi	1,316,830	4.24	4
Ccd	805,320	2.59	2
Sdi	670,957	2.16	2
Cdu	669,919	2.16	2
Comunisti Italiani	622,261	2	2
Verdi	548,987	1.77	2
Udeur	498,742	1.61	1
Ms—Fiamma Tricolore	496,030	1.6	1
Dini-Rinnovamento Italiano	353,890	1.14	1
Partito Pensionati	233,874	0.75	1
Pri-Liberali	168,620	0.54	1
Svp	156,005	0.5	1
Liga Repubblica Veneta (and other allied local lists)	117,979	0.38	0
Lista Cito—Lega Azione Meridionale	94,181	0.3	0
Consumatori—Padroni in casa nostra	61,185	0.2	0
Partito Socialista	42,500	0.14	0
Union Valdotaïne	40,970	0.13	0
Partito Umanista	16,168	0.05	0
Cobas per l'autorganizzazione	4,432	0.01	0
Total	31,062,426		87



## B. Effects on the Political Class

Concerning the second hypothesis, we present in Table 6 the time trend of the number (and percentages) of women among Italian MEPs since the first legislative term of the EP. The first three columns respectively report the legislative term, the number of MEPs assigned to Italy, and the total number of political personnel involved as MEPs during the legislative term. The difference between these last two columns is due to the presence of a significant number of MEPs resigning before the end of the legislative term, so that replacement members increase the overall count. The fourth column counts the number of women, followed by a percentage, calculated over the total number of MEPs involved (including replacements).

**Table 6: Gender balance among Italian MEPs across the eight EP legislative terms**

EP Legislative term	N representatives	Total MEPs in office across the legislative term (T)	Total women in office across the legislative term (W)	Female representation ratio (W/T)
I (1979–1984)	81	90	12	13%
II (1984–1989)	81	97	11	11%
III (1989–1994)	81	93	14	15%
IV (1994–1999)	87	93	12	13%
V (1999–2004)	87	98	11	11%
VI (2004–2009)	78	82	14	17%
VII (2009–2014)	72	80	18	23%
VIII (2014–)	73	75	29	39%

The trend for this last indicator clearly testifies the effectiveness of the gender equality measures enforced since 2004. The percentage of women among MEPs had stayed consistently low (and with no apparent increase trend) until the 1999 election. The VI and VII legislative terms (2004 and 2009 election) saw an increase, which is related to the new rules on equal opportunities for party lists' candidates.<sup>24</sup> However, following the introduction of the gender preference vote, the 2014 election marks a record high level of 39 per cent, with a 16-point increase over the previous election.

## V. Conclusions

As shown through the different sections of this chapter, the law for the election of the Italian representatives in the EP has seen only minor changes since its introduction in 1979, and its

<sup>24</sup> On the basis of the Law no 90 of 8 April 2004, no gender can be represented within the party list with more than two thirds of candidates.

basic structure still places it among the least disproportional electoral laws across EU countries. However, what clearly emerges from the examination of the *effects* of such relatively minor changes is that they have affected the party system—and representation in general—to a significant extent. Such impact goes essentially in two directions. The first one is related to the reduction of party system fragmentation. According to typical Duvergerian dynamics, such effect—due to the introduction of a legal threshold—has developed through two elections, with a clear *mechanical* impact in the election of 2009, and a clear *psychological* impact in the election of 2014. The second clearly present impact is instead observed in terms of gender balance. In this regard, the new regulations introduced in 2014 appear to have strengthened substantially a process of gender rebalancing, which had started in 2004, when a much weaker norm attempting at promoting equal opportunities was introduced.

As a result, what appears clear from our analysis is the neatly measurable effect of modifications in the EP electoral law. This is strongly consistent with the literature on the effects of electoral systems, which highlights their importance in shaping the competition context of political parties. It is of course still too early to draw conclusions about the future evolution of the Italian representation in the EP; however, we are confident that it will be very unlikely to reach the previous levels of fragmentation, and it will continue to provide a more accurate representation of both genders. We believe that both these aspects are going to improve the overall quality of Italian representation.