

Governability, Fragmentation and Normative Production: A Comparative Analysis of Six European Democracies*

Governabilità, frammentazione e produzione legislativa: un'analisi comparata di sei democrazie europee

Chiara De Micheli and Vito Fragnelli

Abstract

In two previous papers (De Micheli and Fragnelli 2016, 2018), we analyzed the legislative procedures in Italy, United Kingdom, France and Spain focusing on their strength, correlating it with the strength of the government and of the Parliament, measured through two parameters, the governability and the fragmentation. Here, we extend the analysis to two other European democracies: Belgium and Germany.

Nei due precedenti lavori (De Micheli and Fragnelli 2016, 2018), sono state analizzate le procedure legislative in Italia, Regno Unito, Francia e Spagna, focalizzando l'attenzione sulla loro robustezza e correlandola alla forza del governo e del Parlamento, che sono state misurate utilizzando la governabilità e la frammentazione. In questo lavoro l'analisi viene estesa a due altre democrazie europee: Belgio e Germania.

Keywords

Legislative procedures, Governability, Fragmentation, Procedural Robustness
Procedure legislative, governabilità, frammentazione, robustezza procedurale

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Introduction

In De Micheli and Fragnelli (2016), we hypothesized and empirically verified that law-makers are able to guide decision-making processes towards the maximization of their utility through the strategic use of procedural tools, referring to the Italian situation, thanks to high quantity and quality of data in our availability. The Italian case shows that often the government balances the weak control of its parliamentary majority using particular decision-making procedures. The executive extends both quantitatively (e.g. using frequently the decentralized commission procedure) and/or qualitatively (e.g. stretching the concepts of necessity and urgency) the application of some regulatory procedures when the uncertainty about the behaviour of the majority is over a reasonable threshold. By these means the executive strengthens its ability to impose on the Parliament. Then in De Micheli and Fragnelli (2018) the research was extended to other European countries, namely United Kingdom (UK), France and Spain, carrying out a comparative analysis.¹

As far as this article is concerned, the comparative analysis is extended to six countries: Italy, UK, France, Spain, Belgium and Germany. We recall that the English democracy is the most consolidated and its process of democratization has never been interrupted. It is characterized by a highly organized and institutionalized party system. Conversely, France experienced a more discontinuous democratization process and its party system is composed by weakly organized and poorly rooted parties at the territorial level. Among those investigated, Spanish democracy is the youngest and the less consolidated (Huntington 1993). In the Spanish party system there are many regional political formations, strongly organized at the territorial level, which, in many cases, negotiate and give their parliamentary support to governments. The main characteristic of Belgium is the high degree of fragmentation based on the language, Flemish and French, that faces the consolidated democratic federal system. Germany reached the current territorial configuration at the end of the previous century (1989), integrating in a consolidated democratic system, that of the former West Germany, some features of the former East Germany.

We want to make clear that, as in De Micheli and Fragnelli (2016) and De Micheli and Fragnelli (2018), this article will follow a theoretical and empirical comparative approach.² More particularly, the article is a preliminary assessment looking at the evidence of when and how the different procedures were adopted in the legislative

¹ The distinctive work of Doring (1995) is a well-integrated addition to the scholarly literature dealing with comparative legislatures and see Martin, Saalfeld and Strøm (2014).

² For Italy, see Pedrazzani (2017).

process in the various legislatures and comparing it with the robustness of the government and of the Parliament measured via the governability and the fragmentation. The paper is organized as follows: in Section 2, we recall the governability and the fragmentation indices used for measuring the strength of the Government and of the Parliament; Section 3 is devoted to a description of the standard and non-standard procedures in the six countries; in Section 4, we discuss the hypotheses; in section 5, we present the tables with the data of the independent and dependent variables for each country; in Section 6, we perform a comparative analysis of the data and verify the hypotheses; Section 7 concludes.

The Independent Variables: Indices of Governability and Fragmentation

In this section we shortly recall the governability and the fragmentation indices (independent variables) that allow evaluating the robustness of the Government and of the Parliament, addressing to De Micheli and Fragnelli (2016) for further details. The governability of the Parliament is the capability of the parties to form a strong majority. It is inversely related to the number of parties and directly related to the number of seats of the majority.

The first governability index (Fragnelli and Ortona 2006) considers the number m of critical parties, i.e. those parties that may destroy the majority withdrawing, and the number of seats of the majority, f .

The formula for the governability index g_1 is:

$$g_1 = \frac{1}{m+1} + \frac{1}{m(m+1)} \frac{f - \frac{T}{2}}{\frac{T}{2}}$$

where T is the total number of seats.

It is possible to remark that for each value of m we have

$$\frac{1}{m+1} \leq g_1 \leq \frac{1}{m}.$$

For instance, if the government is supported by just one critical party, g_1 is in between 0.5 and 1; if it is supported by two parties, then g_1 is in between 0.333 and 0.5, and so on. The value of g_1 in the range determined by m depends on the number of seats of the majority coalition and on the total number of seats.

In order to increase the importance of the number of seats of the majority coalition, we consider a second governability index g_2 in which we take into account the percentage of seats of the majority divided by the number of parties in the majority (Migheli and Ortona 2009):

$$g_2 = \frac{f}{p}$$

where f and T are the same as above and p is the number of parties in the majority.

The fragmentation of the Parliament is a measure that accounts not only the number of parties, or groups, or factions that compose the Parliament, but also their number of seats.

In order to analyze the role of factions, i.e. the fragmentation, we refer to the classical index of Rae-Taylor (Rae and Taylor 1970), defined as:

$$I_{RT} = 1 - \sum_{i \in N} s_i^2$$

where $N = \{1, \dots, n\}$ is the set of parties and s_i is the percentage of seats of party $i \in N$.

It assumes values in the range $[0, 1]$, and the value mainly depends on large parties, i.e. very small parties do not affect too much the fragmentation.

The following example shows the behaviour of the indices g_1 , g_2 and I_{RT} (De Micheli and Fragnelli 2016). Consider a Parliament of 100 seats; suppose that the majority includes parties P1; P2; P3 and P4; consider three situations S1, S2 and S3 in which the seats of these parties are distributed according to the following table (critical parties are in bold), where we compute also the three indices we are interested in:

	P1	P2	P3	P4	F	m	g_1	g_2	I_{RT}
S1	20	16	14	13	63	4	0.2130	0.1575	0.7428
S2	17	17	17	11	62	3	0.2700	0.1550	0.7430
S3	49	2	2	2	55	1	0.5500	0.1375	0.2023

g_1 and g_2 behave in opposite ways, the former increases, the latter decreases, while I_{RT} first increases and then decreases.

The Dependent Variables: Decision-making Procedures

In this section, we analyze the decision-making procedures (dependent variable) used in the six countries. De Micheli and Fragnelli (2016) and De Micheli and Fragnelli (2018) provide with the necessary information for Italy, United Kingdom, France and Spain and we address the reader to these papers for further details. The aim is to verify if, how and to what extent governments make use of the opportunities offered by the different institutional instruments to produce laws. Each country is examined following descriptive criteria.

Italy

The Parliament is formed by two chambers the *Senato della Repubblica* (Upper chamber) and the *Camera dei Deputati* (Lower chamber) with equal role in this matter. According to the Italian standard procedure, any member of the Parliament can propose a bill, not only the Government; a committee (referral commission), often integrated with an executive's representative as observer, discusses and amends it. Eventually, the two chambers examine the bill and vote it article by article and in full; the two chambers have to approve the same text. It can be used to approve all types of bill but, for some of them, a special quorum is required. If compared with the other democracies, the Italian Constitution provides a greater number of procedures to legislate. The most important, both quantitatively and qualitatively, are the following.

In the period of democratic establishment and consolidation, there was an exasperated use of the *procedura decentrata* (decentralized procedure, art.72, c.2) according to which the legislative process (final approval included) takes place only in a Committee, if there is consensus among political actors, otherwise the bill will return to the ordinary procedure (Shane 2014; Zucchini and Curini 2015). The Italian constitution, such as the Spanish one, although with differences (see above) also allows the *decreto legge* (decree law, art. 77, c.2) that enables the Executive issuing a decree in "extraordinary cases of necessity and urgency". The Executive's decree becomes law immediately and remains in effect for 60 days without any parliamentary approval. If after this period the Parliament has not converted the decree into a perfect law, then previous status quo is re-established. The unique procedure to convert a decree law is the ordinary legislative procedure, so due to the deadline of 60 days, the members of the Parliament often bargain with the Executive in order to add new normative contents. After the sentence of the Constitutional Court in 1996, a new decree may reiterate a decayed decree only if the following conditions occur: the government founds the reiteration

of the decree on new arguments about his extraordinary necessity and urgency; the government characterizes the contents of the reiterated decree with different regulatory arrangements.

During the so-called Second Republic (since 1994) a procedure provided by the Constitution obtains centrality: the *legge delega* (delegating law, art. 76 and art. 77, 1). The delegating law is approved by the standard procedure. This type of bill has at least a section delegating to the Executive the power to promulgate the legislative decrees according to some general framework voted in the delegating law, and within a limited period of time. The legislative decree approved by the Council of Ministers is sent to the President of the Republic, at least 20 days before the deadline required by the delegating law, so that the President can check it and, if necessary, send it back to the Chambers.

Finally, there is a strategic use on the confidence vote in order to force the fast approval of a law, possibly without modification or with a unique amendment, the so-called maxi-emendamento, reducing the vulnerability of a law approved article by article. The confidence vote is an extreme and effective attempt to protect the content of a Government bill. It is worth mentioning that the government remains in office until enjoys the confidence of the parliamentary majority, whose existence can be verified at any time.

United Kingdom

The UK parliamentary system is articulated in two chambers, the House of Lords (Upper chamber) and the House of Commons (Lower chamber). A law has to be approved by the two chambers, but the Lower chamber is more important; in fact, it is the sole that has to approve the financial laws; moreover, the House of Commons can override the objections of the House of Lords and pass a law without the consent of the latter. The Standing Committees have the role of examining and amending the proposals. The fundamental normative instruments used by the government are the so-called statutory instruments. The Statutory Instruments Act of 1946 enables UK members of government to enact a sort of delegated legislation grouping different procedures, e.g. partially similar to the delegating laws in the Italian Constitution. Those procedures may provide substantive regulatory acts (as the Regulation or the Deregulation Orders) or, in other cases, may provide formal regulatory acts (as the Commencement Orders) through which the government, delegated by the Parliament, establishes when a certain legislative act comes in force. All those legislative instruments have to be approved by the individual ministers, in their turn delegated by a parliamentary enabling

act. In essence, the procedure runs as follows: a statutory instrument is approved and presented by a minister and will be effective after 40 days, within which a parliamentary control could be activated and the instrument could be annulled by a negative resolution of the Parliament. It can be observed that, if compared with those contemplated by the Italian Constitution, the UK governmental legislative instruments lack the urgency requirement.

Nevertheless, when an urgency has to be faced, the statutory instrument runs immediately in force before its presentation, after communication to the Lord Speaker³ and to the Speaker of the Commons, and the parliamentary control could be considered as a following act. In this case, the statutory instrument could lose its force if a negative resolution is enacted by the Parliament within 40 days; if no resolution is adopted, it maintains its force. In few cases an opposite situation is expected: when the enabling act expressly establishes that the statutory instrument is in force if the Parliament votes an affirmative resolution within a certain time limit (Palici Di Suni Prat 1988).

France

The French parliamentary system is articulated in two chambers, the *Senat* (Upper chamber) that is less important than the *Assemblée Nationale* (Lower chamber) as the government may ask for its final vote in case of disagreement, after two rounds (art. 45). In some cases, it is possible a faster procedure with just one round in each chamber. The laws are discussed only in the permanent committees (presently 8), a part from the financial law, the constitutional revisions and the financial supports to the social security. We have investigated the use of the so-called *ordonnances* (ordinances) that can be adopted according to art. 38 of the French Constitution.⁴ More precisely, an *ordonnance* is a normative act of the Government that was introduced in the Constitution in 1958 and is very similar to a legislative delegation (with some

³ Until 2005, the president of the House of Lords was Lord Chancellor, and was the person to whom statutory instruments were communicated.

⁴ “With a view to carrying out its program, the Government may seek the authorization of Parliament, for a limited period of time, to issue ordinances regulating matters normally falling within the field of law-making. (The) ordinances are made in the Council of Ministers after consultation with the Council of State. They come into force upon publication, but cease to be effective if the Bill ratifying them is not laid in front of Parliament by the date fixed by the enabling Act. At the expiration of the period mentioned in paragraph 1 of this article, (the) ordinances may be modified only by law, as regards matters falling within the field of law.”

features of the decree law).⁵ Another kind of procedure is the confidence vote, used by the French government to force the favorable vote of the parliamentary majority on a given issue. As art. 49 paragraph 3 of the French Constitution states: The Prime Minister may, after deliberation by the Council of Ministers, make the passing of a Finance Bill or Social Security Financing Bill an issue of a confidence vote of the National Assembly. In that event, the Bill shall be considered passed unless a resolution of no-confidence, scheduled within the subsequent twenty-four hours, is carried out as provided for in the foregoing paragraph. In addition, the Prime Minister may use the above procedure for one other Government or Private Members' Bill per session (Palici Di Suni Prat 1993).⁶

Spain

The Parliament (*Cortes Generales*) includes the *Senado* (Upper chamber) and the *Congreso de los Diputados* (Lower chamber) (art. 66). The Lower chamber is more important as the role of the Upper chamber is limited to the possibility of a veto, that requires an absolute majority, or amending a law. The Lower chamber may delegate the committees (art. 75), but it is possible to take back upon itself the discussion and the approval of any law, in any moment (art. 78). The 1978 Spanish Constitution disciplines both *delegacion legislativa* (legislative delegation, art. 82)⁷ and *decreto-ley* (decree law, art. 86)⁸ procedures. The remarkable use of the decree laws became, in certain periods,

⁵ After the Parliament issued a *loi d'habilitation* (habilitation law, with the same structure and purpose of the Italian delegating law), the Government issues one or more ordinances that have to be transformed in a ratification law (similar to a conversion law) that has to be submitted to the Parliament respecting the deadline in the habilitation law. Before the ratification, the ordinances are administrative acts (Cheli 1959).

⁶ This is a passive confidence, differently from the Italian one that may be viewed as an active confidence. More precisely, the difference refers to countries where the government needs to win an investiture vote, and countries in which the government just needs to be tolerated by Parliament. For further details, see Russo and Verzichelli (2014).

⁷ The *Cortes Generales* may delegate to the Government the power to issue rules with the force of an act of the Parliament on specific matters not included in the foregoing section. Legislative delegation must be granted by means of act of basic principles when its purpose is to draw up texts in sections, or by an ordinary act when it is a matter of consolidating several legal statutes into one.

⁸ In case of extraordinary and urgent need, the Government may issue temporary legislative provisions which shall take the form of decree laws and which may not affect the legal system of the basic State institutions, the rights, duties and freedoms of the citizens contained in Part 1, the system of Self-governing Communities, or the general electoral law. Decree laws must be immediately submitted for debating and voting by the entire Congress, which must be summoned for this purpose if not already in session, within thirty days of their promulgation. The Congress shall adopt a specific

a feature of Spanish law-making, partially due to a particular constitutional discipline (art. 86) providing the prolongation of effectiveness of the decree law, even if a parliamentary vote of conversion (the so-called *convalidacion*) does not occur (Naranjo De La Cruz 1998). The vote of conversion has to take place within 30 days.⁹ Usually, less than 30% of Spanish laws have been converted.¹⁰ For this reason, all the enacted decree laws, even if not converted are taken into account here.

Belgium

The country has a federal structure, due to several institutional reforms, namely in 1965, 1970 and 1993-94, that aimed at making easier the role of the Government in a state characterized, from the origins in 1830, by two contrasting and separated language communities.¹¹ It includes a Lower Chamber (House of Representatives) and an Upper Chamber (Senate). The ordinary legislative procedure requires that a law is approved by the Lower Chamber, in some cases also by the Upper Chamber, and finally the law is ratified and issued by the King, after the countersignature of the Government. The procedure starts with a proposal of the King to the Parliament or to the related minister of elaborating a project on a specific topic. The non-standard legislative procedures include:

- the *speciale wetten* (special law) that is approved by a qualified majority both in the Lower Chamber and in the Upper Chamber and by the King; it refers to assignment of duties to the different ministries and the functioning of the public institutions;
- the royal decree (art.108) and the ministerial decree (after a royal delegation to a minister with specific responsibility) that are norms issued by the Government;
- the *decreet* (regional decree and ordinances of the Brussels area) that confirms the norm issued by a Parliament of a region or of a community; it has the same power

decision on their ratification or repeal in the said period, for which purpose the Standing Orders shall provide a special summary procedure. During the period referred to in the foregoing subsection, the *Cortes* may process them as Government bills by means of the urgency procedure.

⁹ For instance, the decree law n. 5 of 24 May 2002 was cancelled, as no necessity and urgency reasons hold.

¹⁰ For instance, the decree laws were the 27% of the activity in the V legislature and the 28% in the VI legislature.

¹¹ The French community in the South and the Flemish community in the North; there exists also a very small German community (Horowitz 1990; Leton and Mirioir 1991; Lijphart 1981).

of a federal law; these norms are related to the responsibilities of the regions, e.g. agriculture, fishing, land management, economics, energy, public transport and so on).

Germany

The Parliament includes the *Bundesrat* (Upper chamber) and the *Bundestag* (Lower chamber). The bicameral system of the German federal democracy is characterized by the variable number of members of the Bundestag. The Fundamental Law fixes a minimal number of 598 deputies, that may raise up to 900, according to the electoral result; the seats in the *Bundesrat* passed from 68 to 69 in 1996. The legislative process is started by the federal government, by the *Bundesrat* or by the members of the Bundestag (art. 76, par. 1 of *Grundgesetz*): the proposals of the Parliament have to be subscribed by at least 5% of the members of the Bundestag or by a parliamentary group (*Fraktion*). The bills of the government, before being submitted to the Bundestag, have to be submitted at *Bundesrat* that has to give its opinion in six weeks (the deadline may be extended to nine weeks on a request of the *Bundesrat*, or reduced to three weeks when the government requires the urgency). The bills of the *Bundesrat* have to be submitted to the federal government, that in its turn submits to Bundestag, jointly with its opinion in six weeks; also in this case, the deadline may be extended to nine weeks on a request of the *Bundesrat*, or reduced to three weeks when the government requires the urgency (art. 76).

There are two main legislative processes:¹²

- ordinary laws (*Zustimmungsgesetze*) or consensus laws, for which the approval of the *Bundesrat* is mandatory in order to adopt them;
- opposition laws (*Einspruchsgesetze*) or “Bundestag prevailing”, that require the approval of the *Bundesrat* for being issued. The *Bundesrat* may only express a suspensive veto, that may be overpassed with a second approval vote that requires a more qualified majority the higher is the level of opposition of the *Bundesrat* (art. 77 of Fundamental Law). If the bill does not receive the approval in the

¹² When the Bundestag and the *Bundesrat* do not agree on the legislative process, the *Bundesrat* may file an appeal to the Federal Constitutional Court, for the conflict in attribution or for a check of the constitutionality of the law. Usually, the Court favors the role of the *Bundesrat*, with a prevailing criterion: it is sufficient that just one regulation is considered as consensus law, so that the approval of the *Bundesrat* is mandatory. Due to this, in recent times the normative removal was used, isolating the part of the proposal that requires the approval of the Federal Council.

Bundesrat, this chamber may ask for the summon of the Conciliation Commission (*Vermittlungsausschuss*) in three weeks from receiving the bill; the commission is composed by an equal number of members from each Chamber. For the subjects on which the legislative jurisdiction is the same for the two Chambers, the bill is approved only if the Commission reaches an agreement on a text accepted by the representatives of the two Chambers.¹³

Another interesting legislative procedure is the legislative decree¹⁴ whose draft has to be approved before submitting it to the federal Council; in case of disagreement among the ministers, they should try to unify the draft or ask for a mediation of the federal Chancellor, in order to solve the question.

Hypotheses and Data

Our empirical analysis aims to verify the following hypotheses:

- HYPOTHESIS 1: In conditions of high fragmentation and low governability, the government can try to increase its decision-making capacity by strategically using specific procedures that constrain the behaviour of groups and parties of the majority.
- HYPOTHESIS 2 (as a corollary of the previous one): The range, intensity and configuration of procedural tools vary according to the different degree of fragmentation and governability.

In this section, we present the data we used for measuring the trend of the independent and dependent variables referring to both qualitative and quantitative data. First, in each country the robustness of the Parliament and the government (the independent variables) is assessed through the two governability indices and the fragmentation index. Then, the law making procedures used in the legislative processes of the four countries (the dependent variables) are analyzed. The terminus *ad quem* of the analysis is 2016 for all the four countries, while the terminus *a quo* is different for each democracy: 1974 for UK, 1958 for France, 1993 for Spain, 1988 for Belgium, 1990 for Germany, and 1948 for Italy.

¹³ After the reform in 2006, the decisional rights of the *Bundesrat* were reduced, enlarging the subjects of the laws that do not require the consensus.

¹⁴ A right of the *Bundesrat* is to submit to the federal government proposals for issuing legislative decrees, that in the following require its consensus.

Governability and Fragmentation

In this section a diachronic analysis of each country and a comparative analysis of the four countries will be conducted regarding the governability degree and the fragmentation degree of their government-Parliament sub-system. The data for the Italian, Belgian and German Parliaments represent the average value among the two chambers,¹⁵ while for the other countries they refer to the Lower Chamber that is the most important among the two. For each country, we report the number of the legislature (Leg), the starting year (year), the two governability indices (g_1 and g_2) and the fragmentation index (I_{RT}).

Italy

Leg	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	XIV	XV	XVI	XVII
year	1948	1953	1958	1963	1968	1972	1976	1979	1983	1987	1992	1994	1996	2001	2006	2008	2013
g_1	0.613	0.469	0.478	0.383	0.378	0.390	0.534	0.421	0.365	0.364	0.559	0.522	0.416	0.242	0.260	0.645	0.440
g_2	0.158	0.238	0.130	0.181	0.187	0.095	0.131	0.097	0.179	0.088	0.087	0.092	0.050	0.087	0.067	0.131	0.074
I_{RT}	0.704	0.708	0.692	0.731	0.736	0.735	0.701	0.716	0.762	0.762	0.824	0.857	0.846	0.838	0.826	0.711	0.770

The Parliaments of other countries, except Belgium, are less fragmented than the Italian Parliament, whose fragmentation is steadily over 0.7, and from the XI to the XV legislatures stands over 0.8. Moreover, in UK, France and Spain the level of governability is higher than in Italy, where governability rarely exceeds the value of 0.6 for each legislature. These values are very similar to those of the Belgium that is considered an instable country.

¹⁵ We decided to choose the average value because according to the Constitutions of these countries the two chambers have equal roles. On the other hand, in particular cases possibly depending on temporary situations, one of the two chambers may assume a higher relevance; in these cases, the worst datum among the two chambers may lead to wrong considerations.

UK

Leg	XLVII	XLVIII	IL	L	LI	LII	LIII	LIV	LV	LVI
year	1974	1979	1983	1987	1992	1997	2001	2005	2010	2015
g_1	0.503	0.534	0.611	0.577	0.516	0.636	0.627	0.552	0.353	0.508
g_2	0.503	0.534	0.611	0.577	0.516	0.636	0.627	0.552	0.280	0.508
I_{RT}	0.555	0.534	0.521	0.541	0.558	0.526	0.535	0.591	0.611	0.599

The English Parliament appears to be the less fragmented (jointly with the German one), while the governability degree of the UK governments is, in general, the highest. However, we can observe that the last three elections have produced a more fragmented Parliament and less governable cabinets (as an example, from 2010 to 2015, a coalition cabinet is formed, an extraordinary event for the English political system).

France

Leg	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	XIV
year	1958	1962	1967	1968	1973	1978	1981	1986	1988	1993	1997	2002	2007	2012
g_1	0.426	0.198	0.332	0.772	0.334	0.355	0.625	0.332	0.471	0.440	0.259	0.629	0.580	0.548
g_2	0.185	0.279	0.249	0.298	0.266	0.283	0.458	0.248	0.477	0.409	0.184	0.628	0.290	0.431
I_{RT}	0.718	0.715	0.660	0.431	0.682	0.770	0.650	0.753	0.700	0.672	0.738	0.566	0.596	0.644

The fragmentation degree of the French Fifth Republic (from 1958 to 2016) maintains high values more than 0.7 until 1993 (five legislatures), while it decreases in the following legislatures to values lower than 0.6. The governability of French cabinets varies between 0.4 and 0.6 and is lower than both UK and Spanish governability. In particular, the governability is affected by the so-called cohabitation, i.e. when presidential and parliamentary majorities are different; this happened during the VIII and XI legislatures characterized and for part of the X legislature.¹⁶

¹⁶ During 1986-1988, the cohabitation involved the socialist President Francois Mitterrand and the neo-Gaullist Premier Jacques Chirac; during 1993-1995, the cohabitation involved the socialist President Francois Mitterrand and the neo-Gaullist Premier Edouard Balladur; during 1997-2002, the cohabitation involved the neo-Gaullist President Jacques Chirac and the socialist Premier Lionel Jospin.

Spain

Leg	COS	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
year	1977	1979	1982	1986	1989	1993	1996	2000	2004	2008	2011	2015	2016
g_1	0.474	0.336	0.578	0.526	0.500	0.454	0.446	0.523	0.469	0.483	0.531	0.351	0.391
g_2	0.474	0.255	0.578	0.526	0.500	0.454	0.446	0.523	0.469	0.483	0.531	0.351	0.391
I_{RT}	0.654	0.641	0.573	0.626	0.648	0.625	0.632	0.595	0.598	0.571	0.613	0.757	0.737

For Spain (including the Constituent assembly, COS), we can observe a certain stability of fragmentation (in general 0.6) and governability (in general 0.5) until the X legislature, and a sharp change in the last two legislatures (2015¹⁷ and 2016 general elections), when fragmentation increases over 0.7 and governability decreases below 0.4. We recall that the last Government by Gonzales (1993-1996) and the first Government by Aznar (1996-2000) assigned more power to the Catalunya, in order to guarantee the support of the nationalistic party. In the following, Spain represented again an example of the Westminster model.

Belgium

Leg	XLVII	XLVIII	XLIX	L	LI	LII	LIII	LIV
year	1988	1991	1995	1999	2003	2007	2010	2014
g_1	0.402	0.355	0.349	0.169	0.247	0.673	0.170	0.201
g_2	0.236	0.283	0.273	0.107	0.160	0.135	0.111	0.128
I_{RT}	0.860	0.874	0.871	0.881	0.858	0.874	0.881	0.872

For Belgium, we can observe a stable level of the fragmentation, higher than in the other countries taken into account. The governability is low with respect to the other countries, especially looking at the first index. In the LIII legislature there are the minimal governability and the maximal fragmentation, but the situation is a little bit better in the following legislature. We remind that there was a serious crisis after the “affaire Dutroux” in 1996. This crisis, that has some elements in common with the

¹⁷ In 2016 for the first time, the Spanish Parliament was dissolved due to the impossibility of forming a majority; according to the Constitution, the King dissolves the Parliament if the designated Premier does not obtain the confidence vote in two months.

Italian crisis of the Nineties, leads some observers, mainly in the France, with Duverger among them (Costa, Kerrouche et Magnette 2004) to perceive the Belgian regime as instable and, sometimes, with a low degree of democracy. Belgium has a proportional electoral system with a high number of parties, that continuously grows, and a high level of instability, so that it is often compared with the situation of France during the IV Republic and of Italy during the I Republic. On a different position there is Lijphart, that considers Belgium the archetype of a model of parliamentary democracy more suitable than the Westminster model for a complex and fragmented social situation.

Germany

Leg	XII	XIII	XIV	XV	XVI	XVII	XVIII
year	1990	1994	1998	2002	2005	2009	2013
g_1	0.624	0.342	0.362	0.343	0.401	0.362	0.430
g_2	0.370	0.263	0.246	0.264	0.352	0.292	0.395
I_{RT}	0.637	0.674	0.685	0.679	0.683	0.660	0.823

The particular feature of this democracy is the steady degree of governability (both g_1 and g_2),¹⁸ with a peak in the XII legislature, just after the unification of the former West and East Germany. Differently, from other countries, as Italy and Belgium, the governability is high also when the fragmentation is high too; a possible reason is the discipline of the members of the Parliament.

Legislative Procedures

In this subsection, the ordinary legislation and parliamentary originated legislation are quantitatively examined and compared with the other forms of normative production. Due to the high difference of durations of the legislatures, the data are reported per month, so we added also the number of months of each legislature (#m).

¹⁸ In the case of Germany, we computed the governability and the fragmentation as the average among the two chambers, in view of the role of both.

Italy

Leg	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	XIV	XV	XVI	XVII
#m	62	57	59	59	49	48	35	45	49	56	22	24	60	57	22	55	42
SP	8.77	6.86	6.31	5.81	3.22	4.27	5.70	5.79	4.24	5.52	1.55	0.83	3.22	2.19	1.41	1.44	1.17
PD	25.50	22.07	20.30	19.56	11.15	12.94	5.70	9.86	6.37	6.75	4.41	1.33	4.15	2.28	0.32	1.11	0.33
DL	0.47	1.05	0.51	1.59	1.41	2.58	4.77	6.11	6.27	8.39	23.73	24.04	7.63	3.96	2.32	2.24	1.93
LD	0	0	0	0	0	0	0	0.18	0.14	0.46	0.73	0.25	1.10	0.86	0	0.60	0.57
F	0.08	0.23	0.07	0.39	0.08	0.13	0.09	0.07	0.69	0.50	0.82	1.08	0.45	0.72	1.00	1.40	1.02

Ordinary laws (SP), decentralized procedures (PD), decree law (DL), delegating law (LD) and confidence vote (F) per month.

Source: <http://www.camera.it> and <http://www.senato.it>

The common feature of all the Italian legislatures is the decreasing of the legislative production including all the instruments, the number of laws goes down from about 35 per month to about 5 per month. The decentralized procedures are frequently used until the VIII legislature, when the decree laws became more used, until the XIII legislature, when the sentence of the Constitutional Court in 1996 made difficult to reissue a decree law, increasing the use of the confidence vote, possibly adding a maxi-amendment.

UK

Leg	XLVII	XLVIII	IL	L	LI	LII	LIII	LIV	LV	LVI
#m	55	49	48	58	61	49	47	60	60	8
SP	5.38	5.35	5.29	4.47	4.69	3.31	4.74	2.72	2.23	3.00
SI	102.56	88.61	102.48	135.28	159.57	160.08	160.85	159.03	266.42	173.50

Ordinary laws (SP) and statutory instruments (SI) per month.

Source: <http://www.legislation.gov.uk/uksi>

In UK, the ordinary legislative production, during the period 1972-2016, consists of 4.2 laws per month, falling down from 1997 onward; as in the other countries the most recent legislatures are characterized by a strong reduction. Parliamentary originated legislation amounts in general to 16%. From 1993 to 2008 the statutory instruments enacted by the government remain constantly on 2000 per year, reaching a peak of

2285 in 2001. As far as the use of statutory instruments is concerned, from 2010 onward, during the Cameron cabinet, increased until 2014, when they reached their maximum number of 266.42 per month then falling down at 173.50 per month in the LVI legislature.

It is worthwhile to remark that a greater independence of the backbenchers, as indicated by the negative votes to proposals from the majority by members of the majority, appeared during the conservative governments led by Margaret Thatcher and by John Major, in the legislatures from XLVII to LI. The governments led by Major were highly vulnerable due to their low majorities ($g_1 = g_2 = 0,516$). In 1986, the bill on commerce for legalizing the Sunday openings was rejected in the second reading: it was the third time in a century that a proposal of the government was rejected at this stage. It is just in these years that the use of the statutory instruments largely increases.

Before 1970, the loyalty of the parties and the submission of the deputies to their leaders, was at a level that, for instance, during the legislature with conservative majority of the years 1955-1959 only 2% of the votes of the members of the Lower Chamber were not in accordance with their parties. The short Labour government of 1964-1966 registered a 0.5% only of negative votes of its own members. In the following, during LXVII legislature, the disagreement grew up to 28%, corresponding to 420 negative votes in 5 years. In the United Kingdom, more than in other countries, the use of non-standard legislative procedures should be interpreted in the light of party discipline that characterizes the coalitions, that does not influence the fragmentation index we used.

France

Leg	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	XIV
#m	47	48	52	15	57	60	39	57	27	57	51	60	60	60
SP	9.00	7.73	8.48	5.90										
Ord	0.89	0.10	0.67	0.93	0.32	0.53	1.03	0.14	1.07	0.16	1.61	2.58	2.08	2.92
Con	0.09	0.04	0.08	0	0.14	0.10	0.13	0.56	0.56	0	0.02	0.03	0	0.07

Ordinary laws (SP) Ordinances (Ord), and confidence vote (Con) per month.

Source: <http://www.assemblee-nationale.fr>

The use of the ordinances shows a cyclical trend; it reaches the top in the last three legislatures when, on average, more than two ordinances per month were issued. This

procedure has been used as a preferential lane to legislate on specific policy areas, such as the transposition of the EU laws; the regulation of local authorities and, more recently, regulatory simplification. The ordinary laws enacted by the *Assemblée Nationale*, for which data are available only for the last four legislatures, fall down steadily, from an average of 9.00 to 5.90. Parliamentary originated legislation has varied between a minimum of 9% and a maximum of 21%, placing yearly on an average of 17%.

Putting into play, the responsibility of the government asking for a confidence vote is unusual in the institutional operations. The Fifth Republic used extensively this instrument in the VIII legislature, that was characterized by the first and most conflictual cohabitation, when the confidence vote possibly became a tool for producing cogent norms. Also in the IX legislature the confidence vote was often used, in coincidence with a high use of ordinances, probably favored by a high cohesion of the government.

Clearly, putting into play the ministerial responsibility in the Chambers is, in the French system, an exception in the highest institutional operations and rarely leads to instability of the government.

Spain

Leg	COS	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
#m	20	32	44	28	44	33	48	48	48	44	49	6	17
SP	5.00	5.56	4.59	3.18	2.75	4.39	4.63	4.19	3.48	2.07	3.16	10.67	0.53
LD	2.80	1.78	1.32	0.61	0.55	1.42	1.63	0.90	1.06	0.86	1.55	0.17	1.47
DL	0	0.09	0.02	0.64	0.11	0.12	0.04	0.15	0.23	0.07	0.08	0	0.06

Ordinary laws (SP), legislative decree (LD) and decree law (DL) per month.

Source: <http://www.congreso.es/portal/page/portal/Congreso/Congreso>

On average ordinary legislation counts 3.4 laws per month, although there is a strong actuation over the years: 5.56 in the I legislature, 2.07 in the IX legislature and 0.53 in the XII legislature. About 10% of this ordinary legislation originates in the Parliament. Consequently, the Parliament seems to play a role in the legislative process more subordinate than in the United Kingdom, amounting to a more majoritarian democracy. Decree laws vary during the legislatures, never going over 1 per month. Also delegating laws are increasing after VIII legislature. Urgent laws represent 27% and 28% of the legislative production in the V and VI legislatures, respectively.

Belgium

Leg	XLVII	XLVIII	XLIX	L	LI	LII	LIII	LIV
#m	47	42	48	48	49	35	48	48
OL	11.09	11.79	18.48	16.56	8.41	11.37	17.60	15.46
RD	124.79	128.69	121.10	166.23	155.41	92.46	96.69	57.92
DL	36.40	37.21	42.25	58.73	64.53	60.97	50.58	36.52
FD	2.55	13.26	22.85	25.92	29.49	34.43	37.04	24.15

Ordinary laws (OL), Royal decrees (RD), decree laws (DL) and Decrees of the Flemish Government (FD) per month.

Source: <http://www.lachambre.be>

Starting from 1919, all the Governments were formed by majority coalitions. Their birth was often long and arduous, their life was unstable, mainly due to the contrasts among communist and extreme left parties (Costa, Kerrouche et Magnette 2004). After World War II, the political situation went through various stages of stabilization.

From 1958 to 1999, Belgium experienced a partial center alternation regime, among liberal and socialist parties, sometimes both. In 1999, a new coalition including socialist, liberal and ecologist parties formed and it lasted until 2003. In 2004, a new party, namely New Flemish Alliance (N-VA) led by Bart De Wever, emerged in the regional majority coalitions; it was the expression of the independentist Flemish groups that aimed to create an independent state. The following success at a federal level made the formation of a coalitional majority more difficult than in the past, when the parties in the majority, even if from different inspirations, shared a unitary ideal. In 2010, it became hard to think to a majority including a secessionist party and a Wallon one; it could represent an obstacle for pursuing the political aims of De Wever. On the other hand, it was not possible to think, even if it was feasible, of a government that excluded the party that received more votes from the Belgian citizens. The two governments led by Leterme, in 2007 and 2009, and the one led by Van Rompuy, in 2008, formed after an agreement of the Christian democrats and the liberals, both Flemishes and Wallons, and the Wallons socialists. In the following LIII legislature the presence of the secessionist party broke the equilibrium. Waiting for an agreement, the outgoing government maintained its role with ordinary administrative duties; in fact, the King Albert II conferred an ad interim proxy to Leterme himself. During the 546 days of the crisis, legislated, dealing with no main topic, limiting to issue 77 technical norms.

After 78 consultations with the King, with the aim of seeking for a majority coalition, the question was solved in October 2011, when Elio di Rupo, the leader of the socialist party, succeeded in forming a majority based on an agreement on the federal system and the surrender to nuclear power. After further negotiations,¹⁹ swears in as Prime Minister on 6 December 2011. On the other hand, the parliamentary opposition is often small as the governments, as it is well-known, often have a large parliamentary majority.²⁰ The fragmentation of the Parliament seems not to influence the ordinary legislative process, referring to the number of issued laws; on the other hand, this parameter remain stable on high values from XLIX legislature onward, when it had a relevant increase. In fact, it is important to remark that the strong discipline of the parties makes useless the dilatory behaviour of the opposition, moreover, the government has some instruments for directing the parliamentary job, as the priority of discussing its own proposals in the commissions. The Belgian governments have also the possibility of limiting the parliamentary discussions. It is possible to remark that the ministerial decrees increase, but less than the royal decrees, when the legislative provisions decrease, as it happened in the LI legislature. In fact, from 2003 to 2007, the second experience of transversal government” (Costa, Kerrouche and Magnette 2004) shows up, this time it was formed by liberal and socialist parties only, without the ecologist party that took part in the majority coalition of the previous legislature, forming the government with the smallest degree of governability ($g_1 = 0,25$; $g_2 = 0,16$).

Germany

Leg	XII	XIII	XIV	XV	XVI	XVII	XVIII
#m	47	47	48	36	48	47	48
CL	5.94	6.98	6.23	5.44	5.33	4.43	4.08
OL	4.55	4.74	5.19	5.28	7.44	7.13	7.33
LD	0.66	0.91	0.85	0.64	0.83	0.94	0.81

Consensus laws (CL), opposition laws (OL), legislative decrees (LD) per month.

Source: <http://www.bundestag.de>

¹⁹ On 21 November 2011, the new prime minister resigned, due to the impossibility of reaching an agreement on the national balance for 2012, but he went back five days later.

²⁰ Governments Verhofstadt III, Leterme I and II and van Rompuy had a parliamentary majority larger than 65%.

The *Bundesrat* has a decisional power on about 35% of the issued laws. After 2006, when the legislative reform enlarged the subjects of laws not requiring the consensus in both chambers, the statistical data show an increasing of the number of opposition laws.

Leg	XII	XIII	XIV	XV	XVI	XVII	XVIII
%OL	43.4	40.6	45.5	49.1	58.2	61.7	64.2

It is worthwhile to remark that from XVI legislature onward, when the ratio among the two types of laws reverses, the opposition in the *Bundesrat* reduces. In the XV legislature there were issued 22 laws then rejected by the *Bundesrat*; after 2005 there is a smaller number of laws vetoed by the *Bundesrat* and a smaller number of laws with suspensive veto (they were 0 in the XVII legislature) that was always overpassed by the Bundestag. The formation of the Grand Coalition seems to favor wide and homogeneous political majorities in the two chambers, discouraging the adoption of contesting instruments available to the *Bundesrat*.

The legislative decrees were frequently used from XIII legislature onward: on average circa one decree per month, with the exception of the XV legislature. It seems not to be by chance that it happened when the government led by Schoeder (supported by the coalition formed by SPD and B90) was so weak that a negative confidence vote caused the anticipated end of the legislature in November 2005, an unusual situation for the German Parliament. From 2005 to 2017, the use of legislative decrees reverted to the previous trend, showing that this instrument is widely used by the recent federal governments.

Comparative Analysis and Hypotheses Check

In this section, our aim is to verify through a comparative analysis of the four countries if, how and to what extent governments use the opportunities given by different institutional instruments to orient and/or control decision-making, balancing their weak control of the parliamentary majority. For each country, the use of the different procedures of law-making already discussed in Subsection 4.2 are compared with the levels of both governability and fragmentation discussed in Subsection 4.1. The first remark is the confirmation of the reduction of the legislative production via ordinary procedures in Italy, Spain, France and United Kingdom, mainly in Italy. The average number of issued laws in the period under investigation does not show relevant variations. Nonetheless, the low averages (see previous section) enforce the idea that the

governments expropriated the Parliaments of their normative duties, as in happened after World War II. Belgium and Germany continue the normative production following the standard legislative procedures.

These data seem to contradict the hypothesis of a transformation of the Parliaments that give up their legislative duties delegating them to supranational assemblies (European Parliament) or subnational assemblies (regional Parliaments). In fact, the situation in Belgium and Germany denies this conjecture as they continued to widely legislate. The use of ordinary procedures seems to confirm our hypotheses, that is the choice of the standard procedures, when alternative procedures are available, mainly depends from the decisional capacity of the political actors.

More precisely, the French Fifth Republic registered a reduction with respect to the Fourth Republic (Rose 1984). In the UK, the decreasing of the laws approved with the standard procedure, started at the beginning of the XX century, continues in the period under investigation, from 5.38 laws per month to less than three laws per month (Van Mechelen and Rose 1986). From the quantitative point of view, the legislative production in Spain is relatively more stable than in the other countries, with the exception of the current legislature that started only 17 months ago (at December 2017), so that this datum is not comparable with the others. In Italy, the reduction is more evident only in the last legislatures.²¹ In Belgium, even if it is not possible to evidence a decreasing trend in the quantity of issued laws, it is worthwhile to remark that the Belgian Parliament transferred, with the recent reforms, some duties to the regional governments, reducing its own area of interest. The German democracy is the most productive, i.e. the closest to the Italian situation (Di Porto 2007). The average number of issued laws is steady stable, about 10-12 laws per month, with a peak in XVI legislature, when the grand coalition with CDU/CSU and SPD forms, resulting in a Government very active from the legislative point of view despite the heterogeneous majority, that could have been locked by a series of reciprocal vetoes.

Italy

As far as the Italian democracy is concerned, previous empirical analysis (De Micheli 2014; De Micheli and Fragnelli 2016) showed that robust correlations exist between the following phenomena: a) the extensive use of the decentralized deliberating

²¹ Other legislative systems, even if they are enough different, as Germany, Japan, Norway and USA, show a decreasing in the legislative production after World War II (Rose 1984), but the Italian democracy remains one of the most productive among the Western ones (*Camera dei Deputati* 2010; Pasquino and Pelizzo 2016).

procedure and a medium fragmentation degree; this procedure tended to decline when fragmentation increased; b) the wide use of decree laws, in particular since the VII legislature, growing when the fragmentation increases; c) although remarkable, a more discontinuous use of delegating laws starting from X legislature and growing during the so-called Second Republic, when fragmentation increased; d) the confidence vote is widely used since IX legislature onward, and is strongly correlated with the increasing of fragmentation.

UK

There are few formal limits to the decisional capacity of the government when it is supported by a cohesive one-party majority. This was an unchanging feature of the English political system until the 2001-2005 legislature,²² when the number of members of the Parliament who rebelled to the party discipline was the highest since 1945. Furthermore, the average degree of fragmentation remained constant till 2015, while the average degree of governability remained constant till 2010, then decreased (from 2010 to 2015 UK was governed by an unusual coalition between the Tories and the Liberal-democrats) and the use of statutory instruments sharply increased (with the highest production per month, more than 266); on the other hand, the use of the standard procedure further decreases. It is possible to suppose that the decreasing is, at least for the most recent governments, due to the lack of a cohesive and disciplined majority. Although this clear relationship between variables occurs only in the LV and LVI legislatures (those elected in 2010 and 2015) the link appears strong and empirically sustainable.

France

The degree of fragmentation is high, although lower than in Italy, and partially explains the use of confidence vote by the governments: it increases when parliamentary majorities are more fragmented or tight. Moreover, the confidence vote recurs more frequently when the high parliamentary fragmentation coexists with low governability (as in the V, VI and VII legislatures) or with high fragmentation of parliamentary

²² There was an exception with the Callaghan government (1976-1979) during the XLVII legislature, when for most part of the term the government lacked a majority and had to rely on minor parties to govern.

majorities, and/or with minority governments (as it were the cases of socialist governments in the VI and IX legislatures). The use of the confidence vote tends to decrease in recent years, though it should be emphasized that constitutional amendments of 2008 strictly narrowed its application to the financial laws and to the laws on social security financing. During the XIV legislature, this procedure has been resumed and this may suggest the emergence of a new practice in the use of the confidence vote for legislative purposes. The use of ordinances increases when ordinary laws decrease, likewise the contrary occurs as in the XIII and XIV legislatures, jointly with the reduction of the use of confidence vote. It is also plausible for the ordinances, the hypothesis that their use increases when it is difficult for the majority to enact laws through ordinary legislation, as during I, VII IX, XI and XIV legislatures, when the Parliament had a high degree of fragmentation. Even in this country, where the government, in the dual figure of the Prime minister and the President of the Republic, has broad chances to impose its own political agenda, in times of high fragmentation and low governability, the government itself adopts more frequently different procedures to control the recalcitrant parliamentary majority.

Spain

The degrees of fragmentation and governability are generally stable and placed around intermediate values till the X legislature. As a consequence, decree laws place steadily around intermediate values. It is worthwhile to remark that during the Constituency assembly, due to the urgency of building a new state there was a very high number of laws. This correlation is validated by the events that took place in the XI and XII legislature: increasing in the fragmentation and decreasing in the governability occurred simultaneously, making difficult a highest use of both decree laws and delegating legislation; this matter may be connected to the larger difficulties in making any agreement on basic interventions, leading to hard application of whatever procedure. In the VIII legislature, the government made an extensive use of legislative decrees, and from this legislature onward ordinary legislation has been difficult to be enacted by all the governments.

Belgium

The Belgian democracy does not present evidences of our hypothesis, as we already noticed. In fact, the use of non-standard procedures seems not to be correlated with

the indices of governability and/or fragmentation of the sub-system Government-Parliament. On the other hand, the results of this analysis confirm that the lack of the Government does not significantly modify the operating way of the democracy, as it happened during the long institutional crisis. In the particular situation of Belgium, the élite was able to guarantee the basic normative production required for maintaining the system, without relevant differences with the ordinary situation, when the Government is supported by wide majority coalitions.

Germany

Despite the continuous decrease of the number of seats obtained by the two greater parties, CDU and SPD, that confirms the growth of new parties (Poguntke 2014),²³ the parliamentary fragmentation decreases in the last legislatures. Even the governability seems to be influenced by the changes in the voters' choices that led to new coalitions. Referring to the suspensive veto, the formation of the Grand Coalition seems to discourage the use of this instrument. Following our hypothesis, there are positive evidences about the governability and the fragmentation, that even if they are not so high, seem to generate a more difficult legislative process during the XV legislature, when the fragmentation of Parliament was higher and the governability lower. In fact, in this period the government hardly imposed its decrees and the chambers were more hostile in reaching an agreement for issuing new laws, as proved by the norm on the laws requiring the approval of the two chambers.

On the other hand, the German government is the main actor in the normative production process, even if it has weak rights in the legislative process. Its legislative policy is carried out mainly thanks to its own majority in the Parliament, following the various *Fraktionen*.²⁴

For a better analysis of the starting hypothesis, it seems necessary to survey the characteristics of the legislative process of the current legislature that presents two new aspects: First, the success of AfD (*Alternative für Deutschland*), the first extreme right party entering the Bundestag from several decades; second, the extremely long time and the uncertainty that, for the first time, was observed in the formation of the government.

²³ The recent elections, that are out of this analysis, confirm the decreasing of the interest of the voters for the traditional parties.

²⁴ The relevance of the *Fraktionen* is witnessed by the rules of the Bundestag that, referring to the role of the Commissions, say that the members that change their parliamentary group may no longer vote, but only take part as consultants, reaffirming how the membership in a group is a mandatory requirement for fully working as a member of the Parliament.

Concluding Remarks

The first comment concerns the continuous decline of ordinary legislation enacted in all examined countries, except Belgium. Albeit with some differences, in all these democracies law making processes are characterized by an increasing of the governmental normative instruments use, which substitute ordinary legislation when fragmentation increases and/or governability decreases. This trend is particularly evident in the Italian situation, that may be viewed as a good ground for testing the existence of connections among our independent and dependent variables. The comparative analysis allows deepening if a relation could be hypothesized between institutional and political weaknesses. The use of particular tools and decision-making procedures causes significant effects on the decision-making capacity of governments.

The “shortcut” of the procedures is, in the short term, the most attractive and probably more profitable strategy to increase the decision-making capacity of governments, if the outcomes of the ordinary legislative process are endangered by a high degree of fragmentation or low governability. However, this is a short-term strategy that has only a marginal impact on the real crucial issue of parliamentary systems, which is the behaviour and discipline of parties within the Parliament.

Finally, it is possible to suppose that this behaviour of the governments for monopolizing the legislative process is becoming a specific and permanent characteristic of how the subsystem government-Parliament works in this new century.

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About the Authors

Chiara De Micheli is Lecturer of Administrative Science at the University of Sassari. Her scientific contributions focus mainly on the Italian parliament, its legislative processes and procedures, freedom and security in Europe. She has published through the years several books and papers on those topics.

CHIARA DE MICHELI

Department of Law, University of Sassari, Piazza Università, 21 Sassari, 07100, Italy

e-mail: cdemicheli@uniss.it

Vito Franco Fragnelli is Associate Professor of Game Theory at the University of Eastern Piedmont. His scientific contributions focus on cost allocation problems, operations research games, bankruptcy games, fair division, electoral systems, co-insurance games, and emergency management. He has published more than 130 papers, 90 of which have international diffusion.

VITO FRANCO FRAGNELLI

Department of Science and Innovative Technologies, University of Eastern Piedmont, Viale Teresa Michel, 11 Alessandria, 15121, Italy

e-mail: vito.fragnelli@uniupo.it