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## **Traps of Multilevel Governance**

### **Lessons from the Implementation of the Water Framework Directive in Italy**

**ABSTRACT** During recent decades, different patterns of multi-level governance (MLG) have spread across Europe as a consequence of Europeanisation of public policies, which have increasingly adopted decentralized and participatory procedures conceived as a tool of more effective and accountable policy-making. It appears, however, that the implementation of operational designs based on MLG may be rather problematic and it does not necessarily bring to the expected performance improvements. Referring to the case of the EU Water Framework Directive (2000/60/EC), which conceives the creation of new multi-level institutional settings as a key tool for enacting a new holistic approach to water management and protection, this article explores the difficulties that the implementation of such settings has brought in Italy, despite some favorable pre-conditions existing in the country. Evidence is provided that along with institutional and agency variables, the implementation effectiveness of MLG arrangements promoted by the EU can be challenged by their inherent characteristics.

**KEY WORDS** multi-level governance, Europeanization, policy implementation, water management, sustainable development

## 1. Introduction

The many visions of MLG described in the academic literature over recent decades (Stephenson 2013) have put into evidence how policy-making has transformed in Europe as a consequence of the process of Europeanisation (Radaelli 2003) bringing about a re-definition of competences and powers along center-periphery axis and the empowerment of non-state actors (Newig and Koontz 2014). As is well known, the idea that governance should operate on multiple scales in order to capture variations in the territorial reach of policy externalities has been increasingly embedded in many EU public policies since the end of the 1980s, being perceived as an operational tool necessary to internalize spillovers across jurisdictions while tailoring policy to local circumstances (Marks and Hooghe 2010). The EU institutions and, in particular, the European Commission and the Committee of the Regions (CoR) have continuously stressed the relevance of MLG as a desirable operational model for more coordinated, cooperative and, thus, effective policy-making (European Commission 2001, CoR 2009, 2014), providing growing financial and political incentives towards decentralization in different sectors.

Although the general assumption that the dispersion of policy-making across multiple jurisdictions is both more efficient than, and normatively superior<sup>1</sup> to, central state monopoly has been widely shared in the literature (Piattoni 2010), there is still little knowledge about how effectively the MLG governance designs are implemented in different policy fields and to what extent they allow for improving the quality of policy implementation in the EU in terms of both legal compliance and regulation practices. Some recent studies have indeed highlighted that the characteristics of effectiveness, efficiency and accountability, which are expected to be in a way inherent to the MLG arrangements, cannot be taken for granted but some specific pre-conditions should be met in order to attain them (Milio 2010). At the same time, the evidence has been provided that when implementing MLG not only variations in governance architectures across countries may be significant (Bache *et.al.* 2011, Newig and Koontz 2014), but also differences of arrangements across policy phases in the same country may arise (Heinelt, Lang 2011).

The need to carefully address the aforementioned phenomena becomes especially compelling considering that during the recent decade an increased number of EU policies have been directed not only at the specification of policy contents and instruments, but also at the definition of governance arrangements that are expected to facilitate the achievement of specific policy goals. So, novel models of multilevel settings have been increasingly promoted by the EU policies (e.g. Structural Funds Regulation, Air quality Directive, Food Directive, etc.), mandating, among others, the formulation of plans or programmes on sub-national or cross-national levels (Newig and Koontz 2014), which are supposed to allow for smoother implementation of EU policy objectives and targets.

The case of the WFD (2000/60/EC) appears to be particularly interesting in this sense, since it adopts a clearly multi-level governance approach, aiming to create an integrated operational framework for water protection and management, based on a coordinated action of different levels of government (national, regional and local) within River Basin Districts (RBD)

transcending administrative borders. Such a framework foresees the development and implementation of River Basin Management Plans (RBMP) and Programmes of measures in order to achieve the water protection standards and quality targets established by the Directive, and promotes an inclusive, integrated and reflexive style of policy-making.

Despite the fact that the decisions on appropriate governance arrangements have been delegated to the MS in order to minimize as much as possible adaptation requirements on national institutions as much as possible, the implementation of the Directive has encountered numerous difficulties (European Commission 2015) and, according to some scholars, the new governance approach of the WFD demonstrates the risk that indeed unambitious national practices will lead to a lack of practical effectiveness (Kessen *et al.* 2010).

Over again such scenario triggers questions about the nature and dynamics of the process of Europeanisation, with particular regard to implementation effectiveness of multi-level governance settings and transformations of domestic policy structures in response to EU regulatory pressures.

Focusing on the implementation of the WFD in Italy, this article illustrates how the process of territorial and functional rescaling of jurisdictions has been stuck, failing to bring about the establishment of a coherent and integrated system of water governance, regardless of some favorable domestic pre-conditions that could seemingly allow for a smooth and straightforward process of adaptation to EU requirements.

The analysis is organised as follows. After a brief methodological introduction, the article proceeds with an overview of the multi-level governance architecture for water management and protection as envisaged by the WFD. Then it moves on to the analysis of the Italian system of water policies and governance before and during the implementation of the Directive, evidencing the difficulties that arose around the rescaling of territorial and functional competences, which has been carried out to meet EU requirements. In the closing section, the lessons learnt from such an experience are discussed, pointing out the aspects that are worth of being further explored in the research on implementation of EU policies and transformations of multi-level settings within the framework of the process of Europeanisation.

## **2. Europeanization of public policies and implementation of MLG**

As is well known in research on Europeanization, implementation problems have been widely conceived as problems of institutional change primarily related to the so-called ‘goodness of fit’, that is the degree of institutional adjustment pressure resulting from EU policies for national arrangements (Knill 2006). It has been argued that EU rules and regulations might be easily incorporated and complied with in the respective national settings, if they match the domestic system of rules and regulations (Cowles *et.al.* 2001). Hence, domestic adaptation has been expected to be more likely in cases in which European policies imply incremental rather than fundamental departures from existing arrangements at the domestic level (Knill 2006).

It has been suggested, however, that the success of implementation does not depend only on institutional factors, but it is strongly influenced by the context conditions, namely interest

constellations and opportunity structures used by policy actors. These ‘mediating factors’ are particularly relevant when moderate adjustments of domestic policy structures are required, which do not challenge the core patterns of the political, legal and administrative system. In this case, the effectiveness of implementation should not be taken for granted but it can only be expected if it is facilitated by domestic actors who have sufficient power and resources to carry out their interests.

In such a perspective, the research on the diffusion of multi-level governance arrangements, carried out mainly in the field of cohesion policy, has illustrated significant cross-country and even regional variations in the scenario of consolidation of decentralised settings, as a consequence of the implementation of the two essential operational principles of European structural funds, regionalised programming and partnership (Bache 2008, Bache *et al.* 2011, Benz and Eberlein 1999). Remarkably, although since its very origins MLG has been conceived as an appropriate operational mode for improving the implementation of cohesion policy (Marks 1993), there is still little knowledge about the conditions of its effective implementation, and of the institutional and policy dynamics it entails in different contexts (Gualini 2004, Milio 2010). This gap concerns not only organizational and procedural aspects, but first and foremost the way policies are transformed into concrete actions on the ground and yield tangible outcomes.

Drawing on the research on implementation effectiveness of European policies, on the one hand, and multi-level governance scholarship on the other, this research investigates the process of implementation of the WFD in Italy, aiming to understand which factors have mainly shaped the process of change of domestic policy structures, accounting for adaptation or resistance to EU requirements, in particular with regard to the establishment of the new governance architecture. The Italian case appears to be particularly interesting in this regard, considering that the country has traditionally faced strong adaptation pressures (Graziano 2013) and the implementation of EU policies has often resulted in deficits and gaps. Therefore, it seems feasible to expect that changes will be more likely, the less the adjustments required by the WFD contradict the direction of domestic reforms which have taken place in the Italian system of water policies and governance during the last decades.

### **3. Multilevel Governance in the Water Framework Directive**

The WFD is considered to be one of the most ambitious and comprehensive pieces of EU legislation in the environmental field (Lee 2009), as it aims to develop a coordinated action to achieve ‘good ecological and chemical status’ for all EU waters, including surface and groundwater, by 2015. More specifically, the WFD establishes new qualitative and quantitative criteria for water protection and management, and it urges MS to introduce appropriate water pricing policies, taking into account the cost recovery principle in water management on the one hand, and local economic, social and environmental conditions on the other. Building on previous EU legislation and international documents<sup>ii</sup>, the WFD defines a number of common principles in order to coordinate MS’ efforts to improve the protection of waters, promote sustainable water use, contribute to the control of trans-boundary water problems, protect aquatic ecosystems, as well as the terrestrial ecosystems and wetlands directly depending on them.

According to the Directive, the aforementioned substantive objectives can be more effectively achieved if appropriate governance settings are established in all EU member states. In particular, RBD should be identified and their competent authorities established with the responsibility for the preparation of RBMP and Programmes of measures for the whole district. Moreover, District Authorities (DA) should guarantee that decisions are taken as close as possible to the localities where water resources are affected or used, and that policy measures are adjusted to regional and local conditions. Strict coordination and coherent action of different levels of public authority are strongly recommended, whereas information and consultation actions are mandatory within the procedure of approval of Programmes and Plans so as to enable the involvement of the wider public and stakeholders in the decision-making process. Furthermore, the WFD requires the management and protection of water resources to be encompassed into a single regulatory framework by their coordination on the scale of RBD and the improvement of policy integration across different sectors, such as energy, transport, agriculture, fisheries, regional development and tourism. A wide range of measures for monitoring and evaluation should be established at the district scale in order to guarantee a stable framework for a long-term policy-cycle.

Hence, the operational scheme envisaged by the WFD requires a re-arrangement of territorial and functional jurisdictions in water policies into a more complex and integrated pattern of governance, based on coordination between public authorities and collaboration of task-specific bodies operating in the water sector across different sectors. Such framework assumes a clearly multi-level design, combining the characteristics of both MLG Type I (increased decentralization and interactions between different territorial levels) and MLG II (strengthened functional jurisdictions) (Marks and Hooghe 2010). The multi-level nature of the new water governance architecture is further strengthened by the requirement of an upgrade of the role of regional and local authorities in water policies and mandatory participation of the general public and stakeholders in the definition and implementation of Plans and Programmes of measures for new integrated water policies.

In this way, a ‘secondary policy-cycle’ developed by the RBD, which is nested within a larger cycle of European policy making and implementation (Newig and Koonz 2014: 250), implies a rescaling of territorial and functional jurisdictions with the purpose of guaranteeing a coherent and coordinated system of management and protection of water resources regardless of administrative borders and sectoral divisions existing in domestic contexts. The WFD calls for horizontal and vertical interactions, where lower levels of government should engage higher levels and vice versa so as to account for externalities and spillover effects, and in which the involvement of stakeholders is required at lower levels in order to better adapt operative solutions to the context of their implementation. Coordination among riparian territorial jurisdictions within a functional area framed by the water management plans (Region-Region) is considered essential too, in both national and trans-national contexts.

Such governance architecture is, therefore, strongly inspired by the assumptions underlying the operation concept of MLG developed by the EU during the recent decades. Thanks to its flexibility and decentralised organisation, it is expected to better reflect preferences of various

policy actors, respond to their needs at different territorial levels, encourage credible policy commitments and promote innovation and experimentation (Pollack 1997). At the same time, its participatory procedures are considered essential for strengthening the transparency and legitimacy of the new governance arrangements, and allow for a more effective achievement of policy goals.

The multi-level framework designed by the WFD appears, however, to be even more ambitious and sophisticated than the most prominent pattern of MLG promoted by EU cohesion policies. In this latter case, the effort has been directed to the strengthening of lower territorial jurisdictions through the regionalized programming and partnership principles, which required the mandatory involvement of sub-state authorities in the definition and implementation of operational programmes co-funded by the EU. Instead, the WFD envisages the creation and strengthening of new functional jurisdictions, within which to enact water management and protection policies at district level, based on a stronger coordination and integration of the territorial and sectoral authorities concerned. While the organisational tools and forms of the new jurisdictions should be defined at national level, the WFD provides a strong input in terms of the underlying policy style. An inclusive, cooperative, integrated and reflexive approach is considered to be essential for the achievement of substantive policy objectives established by the Directive.

Therefore, along with a strong adaptation pressure created by the ambitious environmental objectives of the WFD for most EU countries, the implementation of its governance design could be expected to be particularly problematic for contexts where cross-territorial jurisdictions for water management and protection were not present. Seemingly, this was not the case of Italy, where the adaptation to new EU requirements could be smooth and rapid, thanks to a number of characteristics that the domestic water policies and governance had acquired as a consequence of several rounds of previous reforms (Rainaldi 2010).

#### **4. Water Policies and Governance in Italy before the WFD**

A nation-wide water policy framework was established in Italy in the 1970s. After some clamorous cases of water pollution, Law 319/1976 was approved, followed by a number of recovery plans and measures for sewage disposal. However, the system of water governance was extremely fragmented (Citroni *et al.* 2008). The central government was in charge of overall planning and control functions, while the responsibility for the management of water services was assigned to municipalities with 13,503 local aqueducts run by 5,513 managing companies. It is worth mentioning that water collection by supplier companies was neither regulated nor charged. Overall, water policies were based on a top-down engineering-based approach that focused almost exclusively on the energy sector, while almost completely overlooking environmental concerns. No mechanism of horizontal coordination was foreseen, whereas the territorial aggregation for water policies was limited to electric (power) districts and drainage areas.

The fragmentation of water governance further deteriorated in the subsequent years, as a consequence of increasing conflicts between the central government and the newly established regions around competences in the environmental field. As a consequence, new

responsibilities in water protection were transferred from the centre to the regions, but no coordination mechanism was foreseen at the national level (Legislative Decree 616/1977). In this way, not only were water management and protection subject to separate regulation measures, but there was also a significant split of competences between public authorities within each of these two sectors. This situation has prevented the creation of a coherent and integrated system of water management and protection in the country for decades.

A first significant improvement of the Italian water policies and governance took place between the end of the 1980s and the mid-1990s. Alongside the transposition of EU directives<sup>iii</sup>, a revolutionary Law (183/1989) on soil protection was adopted, being prompted by some dramatic flood events which occurred during previous decades<sup>iv</sup> on the one hand, and by the growing public attention to environmental issues in the water sector, on the other. This Law envisaged the creation of *hydrographical basins* at three different scales (national, regional and interregional) and respective specialized agencies - Basin Authorities (BA) – were established with the task of formulating and implementing effective strategies for soil and fresh water protection, aiming to ensure river basin renewal and trigger substantial investments into the water sector. Each BA was required to draw a Basin Plan (BP), defining a strategic framework for a cross-sectoral planning and regulation of water and soil use within the respective geographic area.

The BAs' structure was organized so as to enable interaction and collaboration between central ministries, regional governments and technical experts. More specifically, the highest decisional and political body, its Institutional Committee (IC), was composed of representatives of the main ministries concerned (Environment, Infrastructure, Agriculture, Culture and the Department of Civil Defence), Presidents of Regions and the Secretary General of the BA. The Secretary General played a central role in the BA's activity, as he was in charge of relations with the public administrations involved and he held the overall responsibility for the functioning of BA, being assisted by the Technical Committee. This latter body was composed of public servants nominated by the administrations represented in the IC and its main task was to ensure the preparation of the main planning document (BP). The decision-making and technical bodies were assisted by the Technical Secretariat that brought together various technical competencies relevant for water planning and protection, namely engineering, territorial planning, environmental science, geology and hydrology, law and economics.

However, the innovations introduced by Law 183/1989 have only partially fixed the incoherence of the system. The new functional bodies (BA) were assigned cross-sectoral jurisdictions in water policies with regard to only planning activities, while the water management and protection competences remained fairly blurred (Citroni, Lippi 2006). The Ministry of Public Works held the dominant position in the overall regulation of water management that was run at a local level, whereas the field of water protection has become subject to numerous conflicts between the central government and the regions, due to ambiguity concerning the coexistence of their regulatory powers in environmental protection, in particular prior to the 2001 constitutional reform.



A further attempt to fix the aforementioned drawbacks was made by Law 36/1994 that aimed to carry out a comprehensive reform of water management by creating a single system of water management for civil use. The new Integrated System of Water Management was expected to introduce shared regulatory standards, cost-recovery principle and territorial and functional integration of competences within the water cycle. One of the core elements of the reform was the creation of Optimal Territorial Units (OTUs) aggregating municipalities roughly within RB established by Law 183/1989. Whereas the regions were assigned the task of defining the OTUs within their territory, local authorities (Municipalities and Provinces) were invited to establish the respective authorities (Authorities of Optimal Territorial Units – AOTUs). These latter assumed the responsibility for planning and control of local water services, including the definition of appropriate management tools, the selection of managing companies, the services of aqueduct, drainage and sewage disposal. The AOTUs were required to take into consideration technical and economic standards, as well as the quality criteria based on citizens' needs (Lippi, Citroni 2006) in their planning activities.

At the same time, the National Vigilance Commission for Water Resources was established at the Ministry of Public Works with the functions of monitoring water services across the country, defining a uniform tariff calculation method and collecting and disseminating data on the national water management system. Some years later, the Commission was brought under the control of the Ministry of Environment, but despite its high potential in terms of nationwide coordination activity, the role of this body in the Italian water governance remained quite weak.

Despite the wide political consensus around the arrangements introduced by Law 36/1994, its implementation was slow and cumbersome. In 1999, when the last regional law establishing OTUs was approved, only 32 out of 91 created OTUs were able to formulate their operational plans and to carry out monitoring of the water resources within the related areas. For a long time, the provisions undertaken at the local level were little more than a formal fulfilment without any practical implications for the pre-existing policies and institutions that were reluctant to change the status quo at regional and local levels (Massarutto 2003).

The developments described above have hindered the achievement of the reform's ambitious goal, that is to bring together into a coherent framework the mechanism of water protection and use on the scale of hydrographical basins on the one hand, and the system of integrated water management on the other. Moreover, new cracks in the Italian water policies and governance arose as a consequence of provisions of Legislative Decree 152/1999 that transposed two important EU Directives (91/271/EEC and 91/979/EEC) and defined the safeguarding of water quality. Among the main provisions of the Decree was the introduction of Water Protection Plans (WPP) as part of the BP, establishing actions and measures for qualitative and quantitative protection of water bodies at basin and regional levels. The WPP was also intended as a coordination tool of water protection measures at river basin and local levels. In practice, however, little coordination has taken place, since the content of the WPP was almost exclusively defined by the regions and only a conforming opinion of BA was required for their approval. Such a trend was in contrast with the rationale of both Law

183/189 and Law 36/1994, which strongly encouraged the consolidation of functional jurisdictions around water management and protection, aiming to overcome administrative fragmentation at regional and local levels.

Although some progress in the creation of the decentralised system of water management and protection was achieved between 1995 and 2005, the difficulty of integrating and coordinating old territorial-based with new functional jurisdictions in the water sector persisted, bringing about a substantial decline of water infrastructures and a deterioration of the quality of water resources (Massarutto 2003). Besides, a number of problems arose with the implementation of other EU legislation concerning water polices, including pollution by nitrates from agricultural sources, urban wastewater treatment, public service contracts and public tenders<sup>v</sup>, to mention but a few.

Thus, on the eve of implementation of the WFD the Italian system of water governance was characterised by a number of features which could potentially allow for its smooth adaptation. This could, indeed, become an opportunity for upgrading water policies and fixing the aforementioned inconsistencies, since several national legal and regulatory provisions were quite in line with the EU demands.

### **5. Implementing the New EU Water Policies: Between Institutional Changes and Cracks**

However, regardless of the favourable pre-conditions, the implementation of the WFD has proven to be cumbersome and the achievement of the WFD environmental objectives has been hindered by, among other factors, numerous difficulties that arose around the creation of the new water governance architecture.

It is noteworthy that the Legislative Decree 152/2006<sup>vi</sup>, which transposed the Directive into the domestic legislation, was approved too late and it came after the judgment of the European Court of Justice on a lack of transposition had been submitted to the Italian government on 12 January 2006. Moreover, a number of provisions introduced by the Decree have caused new conflict and deadlocks instead of solving the existing deficiencies.

One of the core problematic issues originating from the Decree, which has not yet been solved definitively, regards the underpinning concept laid down by the Directive, that is the definition of hydrographical districts and identification of district authorities in charge of the preparation and implementation of RBMP and Programmes of measures for water management, protection and monitoring. So, Decree 152/2006 foresaw the division of the whole national territory into eight hydrographical districts<sup>vii</sup> within which the existing river basins were aggregated, while the old BA were to be abolished and substituted by District Authorities (DA). Whereas the reorganization of river basins established by Law 183/189 into districts has been quite smooth (Della Rocca *et al.*, 2003), the identification of the relevant authorities has been stuck for several years because of legislative inconsistencies, institutional conflicts and resistance of some political actors.

The chief knotty point consisted in the composition and functions of the main decision-making body of DA. In contrast to the institutional equilibrium of existing BA, in the new policy and decision-making body, its Institutional Conference, the ministerial

representation<sup>viii</sup> was dominant in all districts, even in those where the number of regions concerned was the highest<sup>ix</sup>. No surprise, therefore, that regional governments have strongly opposed the Decree<sup>x</sup>. In particular, the regions asked to have their role restored in the composition of the authority, to strengthen their powers in territorial planning, in compliance with their competences as defined by the Constitution, and to differentiate between overwhelming programming and planning activities at district level (RBMP) and operational tasks at local level (sub-district management plans). These latter were supposed to be coordinated by the regional administrations concerned. Besides the obvious centralization trend in the composition of DA, the legitimacy of these authorities has been contested: the central government's decision to abolish regional and interregional BA, which were established by regional laws, in compliance with Law 183/1989, was doubtful in constitutional terms (Alberton, Domorenok 2012). In fact, the regions have challenged in front of the Constitutional Court a number of provisions of Decree 152/2006 regarding their legislative and administrative role without, however, any positive results.

Due to the aforementioned legal and institutional tensions, the DA were not established by the envisaged deadline, while their responsibilities, in particular with regard to the preparation of RBMP and Programmes of measures, were performed by the existing BA that were, however, formally abolished by the same Decree, but then postponed by Decree 208/2008. Later on, BA were officially conferred the responsibility for the preparation of RBMP, in collaboration with the regions concerned (Law 13/2009), in order to meet the deadline of 22 December 2009 defined by the WFD for the submission of these documents. However, the public financing for research and technical studies conducted by these authorities, which was essential for planning and monitoring activities, was cut in 2006. Obviously enough, under such circumstances, the organisation of the public consultation procedure that required at least a six-month period for the preparation and development of public consultation on the RBMP and the related documents, and which was supposed to start already in 2006, could not be duly carried out. It has been substantially reduced in terms of both duration and scope (Domorenok 2011).

The aforementioned delays and omissions in the implementation of institutional and procedural aspects of the WFD have inevitably undermined the achievement of a number of its substantive requirements and prevented the establishment of a coherent and integrated system of water management and protection on the scale of river basin districts. Obviously enough, it was impossible to achieve stable horizontal coordination of water management and protection measures without a powerful DA who could help overcome the pre-existing fragmentation of competencies and functions in water planning, management and protection between different territorial bodies and functional agencies. In fact, the preparation of RPMP and Programmes of measures, as well as the implementation of some other relevant requirements has been more rapid and effective in the districts where practices of cooperative and inclusive decision-making were promoted by BA during the previous decades (Domorenok 2012). The importance of these aspects has been clearly overlooked by both national and regional governments, who underestimated also the relevance of the involvement

of local authorities, the private sector and civil society in the definition of new water policies and governance.

Hence, in contrast to the WFD guidelines, the responsibility for the monitoring of the qualitative and quantitative status of water resources remained split between separate jurisdictions. The Ministry of Environment continued to hold the chief responsibility for policies of environmental protection and ecosystems. Regional governments were assigned the task of organizing the collection and dissemination of information on the water status, and transferring the collected data to the national Department for water protection of the Agency for environmental protection and technical services (APAT)<sup>xi</sup>. This latter held the overall responsibility for the national data collection, analysis and transmission to the European Commission. At the same time, regional governments continued to be in charge of the preparation of the regional WPP, which were to be coordinated with RBMP. No provisions were introduced in order to upgrade the role of local authorities: water monitoring remained under the responsibility of local consortia operating within the OTUs, who also had the task of contributing to environmental protection and guaranteeing water treatment according to Law 36/1994. The activity of these latter bodies remained under the supervision of the Regional agencies for prevention and environmental protection.

Finally, the introduction of the cost recovery principle has almost completely failed too. Each OTU continued to adopt its own system of tariff calculation, as foreseen by Law 36/1994, without any common frame of reference at national or regional levels. Indeed, the situation has further deteriorated as a consequence of Law 166/2009 that set out mandatory partial privatisation of water management, motivated (incorrectly) by the necessity to conform to EU norms concerning local public services of general economic interest (Alberton, Domorenok 2012). Although the controversial provisions were abolished by a referendum on the issue in 2011, the overall scenario remained more uncertain than ever for both the water service companies and sub-national authorities concerned. The subsequent abrogation of OTUAs by Law 42/2010 has further complicated the situation, since the regions were required to identify new bodies in charge of water services management, planning and control at local level with the risk of further increasing the confusion. The attempt to fill this gap by assigning the regulation competences in the water sector to the National Authority for Energy and Gas by Law 214/2011 has not brought satisfactory results, since no specific provisions on cost-recovery or price regulation have been formulated by the Authority so far.

Against such a background, it does not seem feasible to expect that the ambitious qualitative and quantitative environmental standards for water resources established by the WFD could be achieved by the end of 2015 (art.4, 2000/60/EC), since a full-fledged mechanism of inter-institutional coordination based on complementarity of tasks is still missing. In fact, the EU Commission has already expressed strong criticism with regard to the Italian performance in the implementation of the WFD. In December 2006, it submitted a formal notice to Italy highlighting that only some requirements foreseen for the derogation of environmental objectives or deadlines were met by the country, while in 2009, according to the evaluations of the Commission services, the range of actions aimed at the establishment of the monitoring system that would enable a coherent and comprehensive overview of water status required by

the Directive was very limited and deficient (COM(2009)156). In particular, Italy has not provided an adequate set up of monitoring and surveillance stations, while the measures for reporting qualitative and quantitative observation were incomplete. The quality of the aforementioned activities was undermined by significant reductions of funding.

Furthermore, according to the Commission's analysis, the presented RBMPs strongly drew on previous plans and, especially, on the regional WPP. As a consequence, many of the water planning and protection measures listed in the RBMPs were borrowed from these previous plans, showing that the regions - rather than the RBDs – were the main level of water policy implementation. Moreover, significant differences in approach and timing of actions across the regions, including those belonging to the same RBD, were revealed. Another general criticism regarded the quality and the method of data collection. The Commission pointed out that most of the RBMPs discuss sources and impacts in qualitative terms, and only some of them provide data for the RBD as a whole. In general, information apportioning impacts between sources and sectors was scarce, and, within individual districts, it varied across regions and sub-basins. Several RBMPs did not provide clear links between pressures and sources and measures, while for basic measures, there was a focus on actions for transposing and implementing legislation at regional level and not at the district one.

Thus, instead of filling the previous legislative gaps and recovering the operational drawbacks, the implementation of the WFD has resulted in a patchwork of discontinuous interventions that brought about further fragmentation and increased inter-institutional conflicts rather than stronger coordination and coherence of the water policies and governance across different jurisdictions.

## **6. Discussion and Concluding Remarks**

The Italian experience of the WFD, thus, confirms, that policy implementation in MLG contexts is seldom straightforward (Jordan, Tosun 2013) and it cannot be taken for granted that operational designs based on multi-level governance bring necessarily to the desired improvements in implementation performance or better policy outputs and outcomes (Héritier 2012). Being quite in line with the evidence from other experiences of policy implementation relying on specific multi-level settings (Milio 2010, Heinelt, Lang 2011), the case of the WFD provides some further stimulating insights for reflection in this sense.

As has been illustrated, the principles introduced by the previous domestic reforms in Italy were highly compatible with the operational scheme of the WFD, which aims to achieve stronger coordination of policies within the functional jurisdictions for water management and protection at the scale of RBD, overcoming thereby possible divergences that may arise at different territorial levels preventing the coherence of water policy measures. Despite a number of favourable pre-conditions were already in place and the implementation of the WDF was seemingly straightforward, the regulatory provisions introduced by Decree 152/2006 paved the way to new internal institutional conflicts and bargaining without recovering the old gaps. A number of factors has impeded, therefore, the transformation of the domestic water policies and governance along three core axes designed by the WFD and,

namely decentralisation and simultaneous involvement of different levels of government, reinforcing functional jurisdictions and increasing alignment with EU standards.

First of all, the most relevant policy actors have tried not only to maintain the status-quo, but even reinforce their powers in contrast to the Directive propositions. So, the central government has clearly assumed the gatekeeping position and sought to strengthen its powers by increasing the ministerial representation in the main decision-making body of the new District authorities. The Regions, in their turn, after useless attempts to regain their influence in territorial and water planning, have focused on regional policies for water management and protection, showing a scarce capacity of mutual coordination at the scale of river basins, and low propensity to interact with local actors<sup>xii</sup>. Only few BA, who were already implementing some policy measure compatible with the WFD guidelines, in compliance with the provisions of Law 183/1989, have committed to the achievement of the WFD, but they were substantially weakened by Decree 152/2006.

In this way, although the requirements concerning organisation and procedural issues of the WFD have been formally accomplished, the Italian system of water governance has neither assumed more coordinated and cooperative nature, nor has it provided for inclusive and integrated water policies on the scale of hydrographical districts. In contrast to the rationale of the WFD, public authorities at regional and central levels have tended to preserve and increase their own competences and powers instead of opening channels for cooperation with their counterparts. Moreover, the involvement of civil society and stakeholders in the definition of RBMPs and Programmes of measures has been extremely limited too, being reduced to sporadic and hastily organized public meetings, especially in the districts where consolidated participatory practices were missing (Domorenok 2011).

Hence, the failure to create an integrated system of water governance at the level of districts cutting across administrative borders in Italy can only partially be explained by the 'goodness of fit' hypothesis. A mixture of elements implying both convergence and divergence as compared to the WFD design characterised the domestic policy structures before the implementation of the Directive, while the direction of their subsequent transformations was strongly framed by a number of mediating factors which undermined structural changes suggested by the EU and, namely, strong gate-keeping position of the central government, competitive rather than collaborative relations along the centre-periphery axis, scarce coordination capacity between public administrations at different territorial levels and a lack of tradition of public-private partnership (Alberton, Domorenok 2011, Rainaldi 2010).

However, when searching for accounts of implementation effectiveness in EU policies, with particular regard to institutional transformations and multi-level settings, it seems useful to look more closely also to the nature of EU requirements that member states need to match. Whereas substantive common policy objectives are quite clearly defined, the choice of form and method of implementation of the related patterns of MLG is inevitably left to the member states, whose political and administrative structures are very different, let alone meanings, understandings and collective identities (Risse *et. al.* 2001). Therefore, if MLG is conceived as an operational concept or a model to match, at least the following three implementation traps it may succumb to can be revealed.

*Consistency* - the EU guidelines on how MLG should be organized are deliberately vague, being based on some general principles such as partnership, public participation, transparency, etc. At times, however, along with decentralisation guidelines, centralisation trends have been indirectly encouraged (Bache et al. 2011). It has been shown that within these margins, central governments tend to make changes that formally satisfy EU requirements without undermining their power within domestic processes or even strengthening their position in contrast to EU principles.

*Appropriateness* – the architecture of MLG designs is quite complex and it often implies the introduction of a “second policy cycle” that is nested within the major policy process and requires formulation and implementation of plans or programmes at national, regional or cross regional levels entailing decisions on specific measures to attain substantive policy goals. Under such circumstances, it appears to be difficult to take into account additional sub-outcomes and outputs, which may not be embraced by the standard concepts of outputs, outcomes and impacts (Héritier 2012), but should consider the scope and intensity of specific actions at different levels. This is highly problematic at EU scale.

*Liability* – the operational modes based on MLG promoted in EU policies normally entail a high degree of uncertainty, since they rely on bodies that should be established or identified to carry out a given function on a decentralised basis. Since the implementation process is strongly influenced not only by characteristics of domestic institutions, but also by the interests, resources and knowledge of policy actors, it is quite difficult to imagine a specific implementation mechanism in order to ensure that institutional and procedural settings established in very different domestic contexts would evenly and timely bring to a coherent policy implementation performance.

The aforementioned considerations add further elements to the reflection on the ‘problems’ of Europeanisation (Radaelli 2004) and on the interplay of factors which impact on the process of institutional and policy transformations across different domestic contexts. The adequacy of EU regulatory requirements for redesigning territorial and functional jurisdictions seems to be an important issue to address in the perspective of both policy effectiveness and democratic legitimacy criteria, providing also some additional insights on why the great expectations of Brussels are often dashed in the EU member states.

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<sup>i</sup> It has been suggested that the normative foundations of MLG are rooted in the following democratic criteria: authorization, representation and participation on the input side and transparency, responsiveness and accountability on the output side (Piattoni 2010).

<sup>ii</sup> The principles of sustainable water use formulated in the Directive go hand in hand with the priorities expressed in some key international documents on sustainable development, in particular Agenda 21 (art.18), International Conference on Water and the Environment (ICWE) in 1992, the 5<sup>th</sup> EU Framework Programme for

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Environmental Action, Declarations of the Summit in Johannesburg (2002), World Forum on Water in Kyoto (2003).

<sup>iii</sup> In particular, the Drinking Water Directive (80/778/EEC) and the Urban Waste Water Treatment (91/271/EEC).

<sup>iv</sup> The most dreadful floods in terms of economic impact, environmental damage and human victims occurred in Florence in 1966, in Piedmont Region in 1968 and in Genoa in 1970.

<sup>v</sup> Some infringement procedures opened by the Commission against Italy in this regard are: Letter of formal notice No 8/11/2000 (SG(2000)D/108243); No 26/6/2002 (C(2002)2329), procedures opened in front of the EU Court of Justice No 2000/5152, No.2002/4801, No.2004/2034)

<sup>vi</sup> Legislative Decree 152/2006, also known as the “Environmental code”, abolished almost all previous Italian laws in the field of water management and protection, comprising Law 183/1989, Law 36/1994 and Legislative Decree 152/1999.

<sup>vii</sup> The established districts are the following: Alpi Orientali, Padano, Appennino settentrionale, Appennino centrale, Serchio, Appennino meridionale, Sardenia, Sicilia.

<sup>viii</sup> Ministry of Environment, Ministry of Transport and Infrastructure, Ministry of Productive Activities, Ministry of Agriculture and Forests, Ministry of Public Administration, Ministry of Culture.

<sup>ix</sup> This is true for the following three Districts: the Padano District that covers the territory of Piedmont, Lombardy, Valle d’Aosta, Liguria, Emilia Romagna, Toscana and Veneto; the Appennino Centrale district that comprises Abruzzi, Lazio, Marche, Emilia Romagna, Toscana, Molise, Umbria; the Appennino Meridionale district which extends on the territory of Basilicata, Campania, Calabria, Puglia, Lazio, Abruzzi and Molise.

<sup>x</sup> In the position paper that was presented by the regions to the Minister of Environment, they clearly expressed their dissatisfaction with the design of both, new districts and the related authorities. The regions asked to open institutional consultation on these issues so as the territorial and functional basis of the new system could be more efficiently defined (Rome, 18 April 2007).

<sup>xi</sup> Later on, APAT was replaced by ISPRA (Institute for research and protection of environment)

<sup>xii</sup> Ambiguities contained in the art. 117 of Italian Constitution, revised in 2001, caused numerous regional appeals to the Constitutional Court, as far as regional legislative powers in the field of environmental and territorial government are concerned.