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**Local Territorial Policy and Inter-Municipal Cooperation:
An Equilibrium between Government and Governance?**

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In recent decades western local governments faced several challenges (from NPM to Europeanization, from decentralization trends to globalization), which tested their adaptation capacity to the new social-economic and institutional contexts and often led to deep transformations in competencies, functions and relations among territorial levels.

In this effervescent context, Inter-Municipal Cooperation (IMC) has lately become an important feature at the local level. These IMC experiences, and territorial policy at large, have been often analyzed by emphasizing the bottom-up features and by focusing on the governance processes. This can be overall a limit because the still relevant role of institutional actors and of hierarchical positions risk to be excessively underestimated. In territorial policy and IMC phenomenon, in fact, government actors and hierarchical elements come back through the regional (where present) institutions. The role of the regions in the regulation, coordination and steering of the cooperation forms can be decisive and represent a back in of government features in a very peculiar governance arena.

Thus the main argument of this paper is that in territorial policy and IMC processes a complementarity, more than opposition, is at stake between governance and government. An attempt will be made to show that the success of local territorial policies and reforms, such as the IMC experiences, greatly depend on an efficacious balance between deliberative bodies, participatory modalities and «free choices» of the local actors, on one side, and representative institutions, hierarchic decisions and centralistic guidelines, on the other side.

The paper will compare territorial policy and IMCs in two European regions: the Italian region Emilia-Romagna and the German Land Brandenburg.

First an account of the IMC phenomenon and of the conditions for its rising will be given (§1) and its relation with the governance/government issue will be explained (§2). Then, after an overview of the IMC forms and experiences in Italy and Germany (§3) and a short presentation of the chosen regions (§4), an in-depth analysis of this phenomenon in these two case studies - Emilia-Romagna in Italy (§5) and Brandenburg in Germany (§6) - will be presented. Finally, some conclusive remarks on governance/government relations on the basis of the research findings¹, will be attempted (§7).

1. Inter-municipal cooperation phenomenon

Inter-municipal cooperation (IMC) is a relatively new phenomenon, although in some countries the first examples can be traced back to the 19th century. The first important contemporary attempts to put municipalities together in services delivering and coordination, go back to the years when «pressures on local governments' performance» began, i.e. about five decades ago (Hulst and Van Montfort 2007: 3-7). Since the 60s, increasing demand for public services' quality standards delivered by local government emerged, as well as a growing interdependence among local authorities, their decisions and policies, also due to the enlarging of their inhabitants' «activity space» (ibidem 2007: 3). Later, since the 80s, European integration triggered growing market pressures, which enhanced competition among local entities; Europeanization forced local levels to cope with new competencies, requirements, standards and regulations, but also fostered crossborder as well as inter-institutional cooperations; globalisation and glocalisation both promoted and requested territorial management and development as well as the use of new technologies and e-government instruments. If these challenges involved governments at all level, local authorities, more than others, had to cope with further issues, such as municipal financial crisis, metropolitan

¹ The present research is in its preliminary phase. It should form part of a joint-project among several Universities, covering various European regions in the field of different local development policies, in order to single out, among others, the governance/government relations. As for territorial/institutional policy, research on the field (e.g. interviews) has been partly already conducted in Emilia-Romagna, while in Brandenburg it is thus far limited to a literature and documentation survey. Theoretical framework needs improvements, too. Comments are thus extremely welcome.

areas growth, suburbanization and city/surroundings relations problems, as well as the need of finding a territorial «optimal size» for administration and economy.

Pressures, challenges and transformations concerning local levels in last decades were therefore manifold and brought about new approaches, changes and solution attempts. For example, during the 80s, the administrative reform waves taking inspiration from the New Public Management and its «doctrinal components» (Hood 1991: 4-5), was thought to be a solution in facing overload problems, increasing costs and efficiency gaps.

Under this light, also inter-municipal cooperation was conceived as a solution, capable to let municipalities provide better services, contain costs and cope with growing demands from the citizens: a sort of defensive as well as offensive strategy (Frick and Hokkeler 2008: 24) for a successful development of local authorities. This mainly because IMC couples up two basic principles: local self-government and rational governance (Hulst and Van Montfort 2007: 8), by maintaining local authorities' control over policies and decisions and, at the same time, by institutionalising a governance form for these policies' provision and delivering, through the coordination and agreements among municipalities.

And in fact IMC spread in all European countries, and though forms are numerous and often remarkably different, they are never absent. Hence, some interesting cross-country similarities can be singled out. First of all, the reasons behind the need, or the will, to cooperate among municipalities recur: provide (or improve) public services, sink costs, reach a more efficient territorial or demographic dimension for service delivering, improve efficacy/efficiency of existent structures. Secondly, IMC experiences are present both in rural and urban municipalities (Schadly 2008: 5-6), although the problems in these contexts are quite different (Schmidt 2005: 10) and this confirms the wide diffusion of this institutional tool. Again, another recurrent cross-country similarity are the services the IMC forms deal with, mainly related to the basic tasks municipal authorities are entitled with. Some of these tasks (such as school, religion, culture, social care, youth and sport, health care) are in fact very often provided through IMCs. Finally, in all countries, besides the municipal institutions, a number of private/public bodies, cooperatives and agencies are charged with gas, electricity, water, waste supply and management's tasks (Schmidt 2005:18-19), representing a remarkable part of inter-municipal cooperations.

The IMC phenomenon is thus noteworthy and could be useful for better understanding some dynamics affecting territorial policy and, in general, the local institutional level in contemporary age.

2. *IMC and governance/government relations at the local level*

In this respect, IMC also helps enlightening, from a different perspective, one of the most investigated fields in the last 20 years: the governance/government relations. The governance concept, as well as its connection with that of government, has been widely studied since the 90s (Mayntz and Scharpf 1995, Mayntz 1996, Rhodes 1996 and 1997), although mainly with a theoretical approach and at the national or supranational level (i.e. Bulmer 1994, Pierre 2000). In recent years, however, also a number of more empirical analyses have been conducted, and many of them both with a comparative approach and attention at the local level (among others Wegrich 2003, Denters and Rose 2005, Benz and Meincke 2006, Lazin *et al.* 2007).

How does the IMC phenomenon involve government/governance relations? In two major ways. The first is a more theoretical one. IMC, being an institutional tool for achieving better territorial development and management, can be properly conceived as a component of the territorial policies of a country or region. Territorial policies, in their turn, are (also) institutional policies when, as in the IMC case, they also concern the territorial institutions, their competencies, their (legal and physical) borders, their functions and the way they should manage them. At the same time, institutional policies, if applying the Lowi (1972) framework, can be considered «constituent policies». As such they imply a strong governmental role. As it will be further clarified

later on, territorial policy is a policy field where government, hierarchy and top-down authority cannot be neglected and are instead crucial. Nevertheless, when IMCs are involved, the constituent policies at stake are characterized by governance elements as well. As often happens, these governance features are embedded in an institutional framework, giving the hierarchical actors the role of legitimating and even supporting these self-government forms (Mayntz 1999: 9 and 2003: 31-32, Benz and Papadopoulos 2006: 3-4).

The second way is an empirical one. In both countries considered in this paper (Italy and Germany), territorial policies - and in particular the territorial reforms concerning the municipalities and their cooperation - have been twofold. On the one hand, these reform processes have been widely voluntary and local authorities willingness has always been fundamental for achieving good results. That includes participation, horizontal cooperation, bargaining and negotiating modalities with social and economic actors, as well as deliberative democracy and citizenship's involvement in political decision-making. In other words, the main features of governance have been at work. On the other hand, in these policies a major role of the regional institutions, i.e. a hierarchically superior level to the municipalities, has also been played. Hierarchical forms of power have come back through the window although formally marginalized outside the door by negotiating and consulting procedures. In other words, the role of government emerges in its classical sense and in its original meaning: steering.

If these considerations hold true, territorial policy and IMC are a policy field where governance and government features can be interestingly both singled out and coupled, as well as they can be efficaciously observed through a research on the field. By selecting two countries (Italy and Germany) and two of their regions (Emilia-Romagna and Brandenburg) where IMC forms are well developed, it is thus interesting to get a closer look to which governance dynamics, bottom-up inclusions and networking processes, as well as authoritative top-down decisions and governmentally imposed solutions, are at stake in their respective territorial policies. And, finally, it is stimulating to wonder which kind of equilibrium, if any, has been reached in the IMC's field between those governance processes and government hierarchies in both regions.

3. *Inter-municipal cooperation in Italy and Germany*

Cooperation among municipalities, especially those of small dimensions, is foreseen both in Italy and Germany, where manifold IMC structures are present. Elements of similarities as well as differences will emerge in the following national overviews, whose aim is to provide the frame where the two regional case studies are embedded in, before going into further details.

Italy. In Italy IMC presents a quite recent development. Although some forms had been used in the past, a formal introduction of these cooperations took place with the n° 142/1990 law, an encompassing and radically new legislative act, which started the major Italian administrative reform of the 90s by entitling local authorities with much more competencies and self-administration features than before. Among others, this act enabled mergers of municipalities, but they long time remained only on paper. The main reason for that was the compulsoriness of mergers: municipalities were fostered to create IMC but they had necessarily to fuse with each other within 10 years. Except for very few cases, no municipality chose the path of a compulsory fusion with some other nearby local authority, seeing that as an irreversible loss of identity. Nearly ten years passed in almost total silence on the subject, till the n° 267/1999 law reopened the question. What was new – and decisive for IMC – were some changes concerning the time span of cooperation forms (now unlimited), the dimensions of the participants (now enlarged also to municipalities over 5,000 inhabitants), and the willingness of the cooperation (introduced by abolishing any form of compulsoriness). Thereafter IMCs in Italy started mushrooming and became a relevant issue in local politics. After ten more years, in 2008 and 2009, national laws induced a renewed attention for IMC in regional territorial policies, as it will be soon dealt with.

Several varieties of IMC are present in the Italian system: Conventions (*Convenzioni*) and Agreements (*Accordi*); Territorial pacts (*Patti territoriali*) and Zone planes (*Piani di area*); Consortiums (*Consorti*); Municipal Unions (*Unioni di Comuni*) and Mountain Communities (*Comunità Montane*). Very briefly, the first group (agreements, pacts and plans) are forms with no legal entity status and characterized by a certain flexibility and mono-functionality, which in some cases denote a policy-oriented feature, in particular in the social and healthcare field (Baldini *et al.* 2009, 32). The consortiums are undoubtedly the most ancient IMC variety in Italy (Vandelli 2007, Fedele and Moini 2006). They are highly formalized and include (mainly) mono-functional cooperations for services delivering as well as inter-municipal and multi-level (i.e. between municipalities and provinces) consulting activities. The Municipal Unions (MUs) are local authorities entitled by the member municipalities to provide certain public services and to manage territorial tasks. Finally the Mountain Communities (MCs), another traditional IMC form in Italy, are peculiar because of their compulsoriness according to their geographical (in this case mountainy) position. They have many points in common with the MUs: both are in fact proper local authorities and legal entities, while the IMC forms in the two other groups are not such, and their legal discipline is becoming more and more similar. A couple of further remarks are therefore worth noticing about these two forms, in particular on MUs.

These latter are steadily growing in the last decade, as showed in table 1. If only 16 MUs had been established nationwide previously to 1999 (when fusion was compulsory), a year later (when fusion became an option) their number already quadrupled and in a two-year time it had increased eightfold and more (Baldini *et al.* 2009: 37). From 2001 on, MUs continued to grow although at a slower rate, till they reached in 2009 the total number of 292. Table 1 shows this trend, providing also the inverse path for the Mountain Communities, which suffered a drastic reduction in the last couple of years². In this period both state and regions promoted IMC through MUs, also encouraging the transformation of MCs into MUs by budgeting substantial financial incentives for this purpose (*ibidem*: 53ff., 59ff.; Xilo and Ravaioli 2009: 70ff.).

Table 1. Number of Municipal Unions and Mountain Communities in Italy. 1999-2009.

Year	Municipal Unions (MUs)	Mountain Communities (MCs)
1999	16	300
2000	67	300
2001	132	300
2002	179	300
2003	222	300
2004	244	300
2005 (Dec.)	268	300
2006 (Nov.)	278	300
2007 (May)	289	300
2008 (Dec.)	290	175 (est.) ^a
2009 (May)	292	185 ^a

^a Temporary data due to the evolving situation in 2008/2009. Data relate to the 15 ordinary status regions, being the five special status regions, financially autonomous for their local authorities, not obliged to a MCs' revision.

Source: <http://www.anci.it>; <http://www.uncem.it>; adaptation from Baldini *et al.* 2009, 38; Xilo e Ravaioli 2009, 63.

This shift from MCs to MUs represents a sort of little revolution for the Italian local government system. If in fact MCs have longtime been the main actor of Italian strongly

² MCs were established in 1971 by a national law as local authorities under regional legislation (Vandelli 2007) and their rule remained untouched till 2008, when the national financial law foresaw a drastic reduction in their number and a deep revision of the required features for membership, with the goals of costs reduction and administrative simplification (Rosi 2009, Gambino 2009). The reform was mainly caused by the lack of financial sustainability of these local authorities. Regions had therefore the task to revise the MCs in their territories, by checking their requisites and trying to reduce their total number within some months. MCs dropped therefore in number from 300 to 185 (<http://www.uncem.it>, last access July 6, 2009).

institutionalized IMCs, now they have been replaced by MUs. Nowadays Municipal Unions are considered in Italy the best IMC form as far as efficacy of policies towards territories and citizens, efficiency in providing public services, and appropriateness of geographic and demographic dimensions are concerned.

To conclude on the Italian situation, some aspects regarding the governance/government issue must be anticipated. MCs are a compulsory form of IMC, while MUs are voluntary-based. Did this shift from MCs to MUs mean also a shift from (mostly) top-down to (mostly) bottom-up forms of IMC? As it will clearly emerge through the ensuing in-depth analysis of the Emilia-Romagna case, the answer is only partially affirmative. Already in the mid-90s in fact, other core parts of the already mentioned Italian administrative reform, counterbalanced this bottom-up trend by stressing the role of the regions as pivotal in territorial policy and by empowering them accordingly. This led to a situation where both horizontal and vertical features are vividly present, and which could bring to differing governance/government equilibriums in the various regions.

Germany. The history of IMC in Germany goes back to the late nineteenth century, when forms of cooperation were already foreseen by the German Empire (Heinz 2007: 91, Schmidt 2005: 32-51). In this country inter-municipal collaboration is constitutionally guaranteed according to the principle of municipal self-government: the German Basic Law in fact establishes that «associations of municipalities shall also have the right of self-government according to the laws» (art. 28 II). The first start-up of IMC as territorial policy was induced by the encompassing reforms brought into life during the 60s and 70s³. In those years, along with major changes in the institutional asset, also cooperative approaches began to be fostered and enhanced, above all between cities and their surroundings, but also among municipalities (Heinz 2007: 91).

German IMC prevalent forms (Frick and Hockeler 2008: 52 ff.; Heinz 2007: 99-100; Schädly 2008; Schmidt 2005: 25 ff.) range from informal cooperations and private law synergy forms (Corp., Ltd., private law agreements and associations) mainly with economic purposes, to institutionalized cooperations under public law. These latter can be subdivided in three main groups. The first group are the loosest forms, including municipal working communities (*kommunale Arbeitsgemeinschaft*), special working communities (*besondere Arbeitsgemeinschaft*), and territorial cooperations (neighbourhood partnerships (*Nachbarschaftsverband*), regional planning or multisectoral approach associations), all of them established by simple private- or public law contracts among municipalities. More structured solutions are the administrative- or purpose-conventions of the second group, among which the most known - and also most used - are the *Öffentlich-rechtliche Vereinbarungen*, public agreements or conventions among municipalities for the delivering and fulfilment of public services⁴. The main feature of these IMC forms is that of not requiring the constitution of new administrative apparatus. The third group is instead formed by more institutionalized IMC forms. These are the special-purpose associations (*Zweckverbände*), entitled with legal personalities and the second most used IMC forms⁵, which combine economic scale purposes with public services delivering purposes. To these associations is transferred a complete, exclusive and independent public service and its tasks execution: it is a full task transfer to the association from the member municipalities and can concern only a single task (i.e. water

³ During these decades all Länder approved significant territorial reforms, followed by functional and administrative reforms.

⁴ According to a study conducted in 2004, this form is used in the 27,7% of the German IMC cases (Frick and Hockeler 2008: 54). They can be created through the transfer of one or more public service fulfilment (and responsibility for) from one or more municipalities to another, which can provide the service in question. How to manage this transfer is left to the single agreement/convention.

⁵ Although they could be more properly defined as tasks or competence-association (Schmidt 2005: 31), according to the abovementioned 2004 study, this form is used in the 21,7% of the IMC German cases (Frick and Hockeler 2008: 53). They are usually voluntary, but they can also be imposed if public services are insufficiently provided by the single municipalities.

supply, transports, etc.) but also employ municipal public servants. *Zweckverbände*⁶ are selfgovernment- but no territorial authorities. Finally, always in this third category, there are also new public authorities (amalgamations and fusions of municipal authorities, and inter-municipal administrative units - differently called in each Land: *Verwaltungsgemeinschaften* in Thuringia, Saxony-Anhalt and Saxony; *Ämter* in Brandenburg and Mecklenburg-Vorpommern, etc...). These IMC forms were born during the 60s' territorial reforms as an alternative solution to the fusion of municipalities imposed by the Länder and are now used mainly by small municipalities which cannot provide some public services alone (i.e. water supply, firemen, cemetery, etc...) (Frick and Hokkeler 2008: 55). They are the most institutionalized form of inter-municipal cooperation, requiring the «establishment of a new public authority with its own political and administrative competences and responsibilities (apart from the continued existence of its member local authorities)» (Heinz 2007: 104), and the one upon which the analysis of this paper will focus⁷.

Differently from Italy it is not possible for Germany to classify the IMC forms in a more precise way. Plenty of models, classifications and analytical schemas have been proposed in the practice and in the literature (Hesse and Götz 2006: 13-14), but it is true that in Germany an uncountable number of options are at hand for a municipality interested in a inter-municipal experience (*ibidem*: 18). That because in Germany, differently from the Italian case, there is no federal law establishing which form of IMC should be established, which one should be considered as a local authority and which one not. Each Land autonomously handles and disciplines its IMC forms. The reason is to be traced back to the unitary versus the federal constitutional architecture of the two countries: in Italy a national normative text (the most recent being the Unitary Text for Local Authorities, *Testo Unico degli Enti Locali- Tuel*, approved in 2000) defines what in Germany is left to each Land legislation.

Both countries have however a similar municipal tissue, which originates from the medieval territorial tradition, and a consequent, thick territorial settlement with many medium and small municipalities (whose overview is displayed in table 2). Moreover, as in many other countries, also in Italy and Germany, territorial policy must consider the city/country issue - with the related urban and rural problems of demographic concentrations, metropolitan areas, and population migration -, which in both countries has not been yet sufficiently dealt with⁸. These quick hints already give the impression that territorial policy and IMCs could represent an interesting feature in both contexts. Particularly, if analysed in two regions, as Emilia-Romagna in Italy and Land Brandenburg in Germany, where certain IMC forms are already almost two-decade old and quite well consolidated.

Table 2. Number (N) and dimension (inhabitants) of municipalities in Italy and Germany.

	Total (N)	< 500	500-1,000	1,000-2,000	2,000-5,000	5,000-10,000	10,000-20,000	20,-50,000	50,-100,000	100,-200,000	200,-500,000	> 500,000
Italy	8,100	830	1114	1618	2158	1200	676	357	102	30	9	6
Germany	12,682	2769	2340	2236	2479	1291	876	500	108	46	25	12

Source: For Germany: adaptation from Bogumil and Holtkamp (2006, 60); for Italy: elaboration from data available on <http://www.ancitel.it/sindaci/index.cfm>.

⁶ Multi-purpose associations can of course be foreseen by the single Land legislations. Land legislation can also establish that those associations must be constituted by law for compulsory tasks (*gesetzlichen Zweckverbände*).

⁷ It is important to give account that these IMC forms are sometimes considered the weakest – and not the strongest – inter-municipal cooperations. The difference lays in the criterium used for classification. In terms of financial or decision-making powers, being mainly administrative helping and coordinating authorities, these IMCs are weak. Instead, from the perspective used in this paper, that relies more on IMC institutionalization's features, these new public authorities are the most structured options, being ruled under public law and implying the creation of a further local body.

⁸ In Germany these areas are called *Verdichtungsräume* or *Ballungsräume*. From the territorial reform of the 60s and 70s the debate continued on the necessity of creating two region-wide authorities: regional city (*Stadtkreis*) and regional county (*Landkreis*) (Heinz 2007: 104) but no step was made in the direction (see also Hesse 2005 for city-surroundings relations). In Italy they are named *metropolitan areas (and cities)*. Established with the n° 142/1990 law, they still have to be effectively created (Vandelli 2000).

In the following paragraphs, the analysis will concentrate on the more structured and institutionalized IMC forms in both countries and regions, i.e. those, which imply the creation of a supra-municipal local authority and where a proper institution takes life. This choice allows comparing in the chosen regions two IMC forms both characterized by common features. Those are the Municipal Unions in Emilia-Romagna and the inter-municipal administrative units called *Ämter* in Brandenburg. Both these entities have legal personalities, being territorial authorities; they afford proper revenues, tasks, and administration; they have a multipurpose orientation in public service delivering and fulfilment; and they are entitled with indirect democratic legitimacy (being indirectly elected), but also with political responsibility and accountability in respect to the transferred functions under their power. Moreover, these IMC forms are both characterized by a voluntary-based origin but also (as explained in details further on) by a possible intervention of an over-ranked authority, i.e. the region in Italy and the Land in Germany. Their comparison is therefore reasonable and allows to fruitfully analyse both governance and government dynamics and their, if any, equilibrium in the IMC policy of the two regions.

4. Two regions with a strong municipal tissue: Emilia-Romagna and Brandenburg

Before going into details with the Emilia-Romagna and Brandenburg's experiences in inter-municipal cooperation, let us examine some comparative tables about these two regions⁹. As shown in table 3, with similar area and close number of municipalities, the two regions present some differences in size and distribution of these municipalities. The most remarkable ones are that, while Brandenburg has more than 50% of its *Gemeinden* under 2,000 inhabitants (222 up to 420), Emilia-Romagna has only 14% of its *comuni* in this category (48 up to 341). Vice versa, while Brandenburg has only four cities over 50,000 inhabitants (and none over 200,000) Emilia-Romagna has 13, one with more than 200,000 (the regional capital, Bologna). Both countries have however a similar tradition of municipal development and rooting, which trace back to the Middle Ages, and which explains the high number of municipalities, in particular the still remarkable presence of those of small and medium size.

Table 3. Area, inhabitants, number and dimension of municipalities in Emilia-Romagna and Brandenburg.

	Area (km ²)	Inhabitants (N)	Dimensions of municipalities (N inhabit.)...					
			Total (N)	< 500	500-1,000	1,000-2,000	2,000-5,000	5,000-10,000
Emilia-Romagna	22.123	4.293.825	341	3	14	31	108	93
Brandenburg	29.480	2.531.700	420	9	133	80	72	55
			... Dimensions of municipalities (N inhabit.)					
		10,- 20,000	20,- 50,000	50,- 100,000	100,- 200,000	200,- 500,000	> 500.000	
		59	20	4	8	1	--	
		43	24	2	2	--	--	

Source: For Brandenburg (data up to 2007): <http://www.statistik-berlin-brandenburg.de/>; Amt für Statistik Berlin-Brandenburg (2008: 26); adaptation from Bogumil and Holtkamp (2006: 60). For Italy (data up to 2009): elaboration from data available on <http://www.ancitel.it/sindaci/index.cfm>.

This last feature is important from an IMC perspective. Small municipalities are more vulnerable in a context of transformations and challenges like those described in §1. They most suffer from financial, organizational, dimensional and expertise problems, from overloading in demands and from lacks in supply public services, as well as from difficulties in fulfilling compulsory tasks. It is for them that IMC has been often looked at as a possible solution. And in

⁹ As it is well known, Germans use the term «state» to address both to subnational units (*Länder*) and to national political system (*Bund*). However, most of the current literature, especially in the European Union context, often identifies the *Länder* with the regional, or meso-government, level. In this paper this latter interpretation will be used.

fact in both regions, most of municipalities involved in IMC experiences have a small or medium size. Table 4 displays the IMC forms mainly present in the two regions¹⁰.

Table 4. Number of municipalities and of IMC forms in Emilia-Romagna and Brandenburg. 2009.

	N municipalities	N of IMC forms		
		20 MUs	18 (9) MCs ^b	15 IAs
Emilia-Romagna ^a	341			
Brandenburg	240	53 <i>Ämter</i>		

^a The acronyms mean: Municipal Unions (MUs), Mountain Communities (MCs), and Interregional Associations (IAs).

^b The regional law n° 10/2008 established that within September 2009 the half of the Mountain Communities (9 up to 18) should transform into MUs or be integrated into existing MUs. MUs should therefore become the first IMC form in the region with, most likely, 25 units in 2010 (see also the following §5).

Source: For Italy: <http://www.servizi.regione.emilia-romagna.it/AnagraficaEELLconsultazione/RicercaAvanzataEnte.aspx>. For Germany: Amt für Statistik Berlin-Brandenburg, *Verzeichnis Gebietsstand 01.03.2009*: [http://www.statistik-berlin-brandenburg.de/http://service.brandenburg.de/lis/list.php?page=behoerdenverzeichnis_art&sv\[adr_art\]=zv *&_grid=Zweckverbände](http://www.statistik-berlin-brandenburg.de/http://service.brandenburg.de/lis/list.php?page=behoerdenverzeichnis_art&sv[adr_art]=zv *&_grid=Zweckverbände) (last access July 7, 2009).

5. Emilia-Romagna: a permissive and assertive approach

Located in the centre-North of Italy, Emilia-Romagna is one of the few regions that, before the others and well before the national legislation would compel it, dealt with IMC.

Already in 1996, with a regional law disciplining the territorial management, this region promoted municipal unions and fusions. A couple of years later, with the n° 3/1999 regional law, an innovative form of IMC, the Inter-municipal Association (IA - *Associazione intercomunale*) was created and then spread all over the country: it was a loosest and more flexible form of MU invented to promote IMC when the fusion was still compulsory (Baldini *et al.* 2009, 56-57). Thus with this law, forestalling in a way the national legislator's more voluntaristic approach to come, Emilia-Romagna introduced more permissive features¹¹. In 1999 and 2000 the national legislative interventions substantially changed the way IMCs were conceived: instead of being only precursors of compulsory fusions, they became autonomous institutional tools of territorial policy. New IMC forms, in particular MUs, were thus fostered. The aim of these national innovations was to promote inter-municipal cooperation at large. On the one hand, by leaving municipalities the freedom to choose which form of IMC they would prefer (Regione Emilia-Romagna 2003: 4). On the other hand, by entitling the regions with decisional powers about the «optimal dimensional size» of these cooperations, as well as with financial powers about incentives and helps to IMC initiatives.

Emilia-Romagna rapidly implemented these national innovations, which in some way endorsed its own approach, by approving the regional law n° 11/2001. The 2001 law afforded IMC a remarkable push: it encouraged the willingness and freedom of inter-municipal cooperation and benefited long-term experiences (Regione Emilia-Romagna 2003: 4-5). At the same time, however, it enhanced only structured and institutionalized inter-municipal cooperation forms (as Intercomunale Associations, MUs and MCs) and discouraged their territorial overlapping. It also focused the financial resources and incentives on those IMCs, which most integrated services and functions as well as their personnel. This approach was then carried on by other regional acts¹², all

¹⁰ The concerned forms are those chosen for comparison: highly institutionalized IMCs implying the creation of new territorial authorities.

¹¹ For example, Emilia-Romagna abolished the so-called regional «substitutive power», which enabled the region to intervene when local authorities lacked in providing services, compulsory tasks, or in fulfilling norms. Moreover, the n° 3/1999 regional law also introduced the Region-Local Autonomies Conference as an instrument for linking the executives at the different levels (art. 25), with the aim of ensuring provinces and municipalities' participation to the decision-making processes concerning local authorities (art. 27), also through the so-called *programmazione negoziata* (art. 33).

¹² For example the n° 6/2004 regional law, which implemented the 2001 Title V Constitutional reform, and the new regional Statute (n° 13/2005 regional law).

of them stressing that IMC «should be conceived less and less as a mere organizational feature for services and functions, and more and more as a basic cell of the networked system of local administrations» (Regione Emilia-Romagna 2005: 56).

After 2001, the next turning point for IMC in Emilia-Romagna came in 2006. In this year, state financial incentives for inter-municipal cooperations, which had been establishing at the national level thus far, moved under the regions (the so-called «regionalisation» of state funds for IMC) (Baldini *et al.* 2009: 53). Since then, it is the region, which has been deciding the redistribution criteria of state money among the different IMCs. Moreover, the agreement between state and regions on this point, stimulated regional legislations towards MUs and MCs, being those latter «not only functional structures for service delivering, but also – if not yet, likely in the next future – representative bodies and local territories’ authorities» (Xilo and Ravaioli 2009, 61). In sum, the regionalization of state IMC funds in 2006 was another step on the path of an increasing power of regions in dealing with inter-municipal matters. Emilia-Romagna used this power by adjusting and calibrating the funds more and more in favour of MUs rather than of other IMC forms (Baldini *et al.* 2009: 59ff.).

The last two years (2008-2009) marked in IMC policy the last turning point so far. At the end of 2007 the state annual financial law (*Legge finanziaria 2008*) launched an indirect territorial reform by forcing regions to cut in number the traditional IMC form of the Mountain Communities. Regions had to implement this norm and to arrange their own MCs accordingly. Emilia-Romagna reduced and reorganized its own MCs with the n° 10/2008 and the n° 12/2008 regional laws (and with a further deliberation in May 2009): territorial overlapping of IMCs was prohibited, and no longer only discouraged, and even stricter funding criteria for cooperations were introduced. Besides the implementation of the national directives, the last regional laws were also an occasion for further stressing Emilia-Romagna’s approach towards IMC policy. The regional preferences on territorial policy, IMCs and their management, displayed in these acts were in fact extremely clear-cut. For example, remarkably strong, both legal and financial, incentives towards pluri-functional IMCs with legal entities status, such as the MUs and the «reformed» MCs were foreseen (Baldini *et al.* 2009: 71, 161). At the same time, the planned ceasing of the IAs within 2010 and their progressive hindering in funds access, were established. In other words Emilia-Romagna shaped even clearer what had been already working for about a decade: the gradual transition towards a pre-eminence of MUs in the IMC regional landscape. All that through a political approach in this policy field which can be defined as voluntaristic (because mostly based on the free will of municipalities to choose the preferred IMC form and relied on the renounce to the substitutive power) but also assertive (because the region’s guidelines about territorial and IMC policy have become clearer and clearer in time and have set a even more restricted scenario for municipalities’ choices).

Tables 5 to 7 try to account for the evolution of IMC forms in Emilia-Romagna, in particular the boost the MUs had in the last years, due to the above-discussed transformations.

Table 5. Evolution of IMC forms in Emilia-Romagna (absolute numbers). 2000-2009.

	Interregional Associations (IAs)	Mountain Communities (MCs)	Municipal Unions (MUs)
2000	13	18	2
2001	22	18	3
2002	25	18	6
2003	26	18	7
2005	26	18	8
2007	23	18	12
2008 July	18	18	12
2008 Oct.	18	18	16
2009 Jan.	15	18	17
2009 May	15	18 (9)	20

Source: Regione Emilia-Romagna (2008: 5), Regione Emilia-Romagna (2005: 66), Regione Emilia-Romagna (2003: 12, 14); since 2007/2008: www.anci.it; and from data available at http://www.regione.emilia-romagna.it/gestioni_associate/.

Table 6. Evolution of the population living in Municipal Unions (absolute numbers). 2003-2009.

Year	Inhabitants in MUs
2003	123.897
2005	211.493
2008	549.386
2009	937.464

Source: Regione Emilia-Romagna (2003: 12, 14); Regione Emilia-Romagna (2005: 66); Regione Emilia-Romagna (2008); Baldini et al. (2009: 41).

Table 7. Number of IMC forms in Emilia-Romagna, number and percentage of involved municipalities. 2007 and 2009.

IMC form	2007			2009		
	N. of IMC forms	N. of involved municipalities	% of involved municipalities	N. of IMC forms	N. of involved municipalities	% of involved municipalities
IAs	23	118	34,6	15	73	21,4
MCs	18	123	36,1	18 (9)	123	36,1
MUs	12	65	19,0	20	109	32,0
Any		35	10,3		36	10,5
Total	53	341	100,0	53	341	100,0

Source: Adaptation from Regione Emilia-Romagna (2008: 5); Baldini et al. (2009: 46).

Summoning up, three phases can be singled out in Emilia-Romagna's IMC policy: the 1996-2001 period, the 2001-2006 one, and a third phase started in 2006, matured in 2008-2009 and whose end is likely to be in 2010. The first phase (1996-2001) represents the beginning of IMC policy in Emilia-Romagna, still embedded in the n° 142/90 national law, which, as seen before, imposed very rigid criteria for IMCs. This period saw the pioneering entering of Emilia-Romagna in the IMC field with the 1996 and 1999 regional laws. The second phase (2001-2006) can be defined as the «inter-municipal take off». Fostered by the new national approach (law n° 265/1999 and Tuel in 2000), these years were characterized by an IMC mushrooming, especially in the forms of MUs and mostly IAs (the form invented by the Emilia-Romagna itself). The third phase, (2006-2010) currently ongoing, represents the «IMC empowerment», which started in 2006 with the regionalisation of IMC state funds, was pushed by the changed approach at the national level and was finally decisively fostered by the 2008 and 2009 regional laws. This phase will probably end in 2010, when the deadline for implementation of the new legislation will be over: all "old" MCs will be transformed, most of IAs will be commuted into MUs and existing and newly created MUs will dominate the IMC scenario in this region.

Apart from which phase, it is worth underlining that Emilia-Romagna has shown from the

beginning an overall remarkable interest in IMC aspects of territorial policy. As said, it was among the first regions in Italy to provide regional legislation on the matter, also with innovative features; it was the first region to apply the territorial management plan as an instrument for territorial development and regulation (also in IMC respect); and it was among the few regions to significantly boost this kind of network among municipalities. Not only. The creation of a unique and innovative form of IMC, the Inter-municipal Associations (IAs), can be read as a sign of a particularly strong commitment of the region on this matter. Emilia-Romagna invented this form in order to induce municipalities towards the association forms, but without letting them feel formal constraints. A courageous and assertive step if considering that in the first phase IMC rules were quite rigid and no other region had significantly taken initiatives in this policy. Nearly a decade later, in the third phase, the IA form began to be discouraged in favour of more institutionalized IMCs like the MUs, with the result that these latter are nowadays the most boosted cooperation forms.

In sum, the region Emilia-Romagna prevented the national course and/or immediately implemented the news, which in a way already matched its own approach. An approach, which can be depicted both as «permissive and assertive». As it will be seen in § 4, this approach is to be directly related to the main topic of this paper: the government/governance relations.

6. *Brandenburg: from a liberal to a purposeful approach*

Brandenburg is one of the former GDR Länder (now called new or Eastern Länder) and surrounds the city-state of Berlin. Brandenburger territorial policy begins with German reunification in 1990, when the Land and its territorial entities (districts and municipalities) were recreated. In the following decade, the new Länder, among other major challenges, had also to cope with territorial reforms, and mostly followed the path the Western Länder had opened a couple of decades before (Jeffery 1999 and 2003, Wollmann 2004). As a matter of fact a major feature in Brandenburg is that the IMC policy cannot be disjoined not only from the territorial policy, but also from the territorial reform issue. As it will be seen, IMC solutions went - and still go - always coupled with the demands for a territorial and functional restructuring of the municipal entities, mostly in the direction of a reduction in their number.

Just after the reunification, the high number of municipalities, in particular of small size (in the first 90s around 65% of the near 2,000 municipalities in Brandenburg was under 500 inhabitants, see table 8), led the Land administration to the first IMC policy decision¹³, which took place along with the first municipal administrative reform. In 1991 the administrative units called *offices* (*Ämter*), a highly institutionalized IMC form, were in fact created. In 1993 the Land parliament approved the Land municipal constitution (*Brandenburger Kommunalverfassung*) which replaced that of GDR and which was the result of an in-depth examination of the other Länder experiences (Büchner and Franzke 2002, 92-93). This constitutional act encompassed both the *Ämter* legislation, their institutional rights and guarantees, and the so-called “soft” territorial reform (Berg and Möller 1997: 3)¹⁴. The soft territorial reform was how Brandenburg chose to respond to the domestic and external environmental challenges pressing the local level. That is, the «Brandenburger way» was a voluntary way (*freiwilliger Weg*) through which (mostly small) municipalities, in order to attain

¹³ «According to west Germany experience, more than 90% of municipalities in Brandenburg, just for their size, was unable to create an effective municipal autonomy» Büchner and Franzke (2002: 98).

¹⁴ In the same years (1991-1993) took place also the *Kreisreform* (district reform), one of the most successful in the Eastern Länder and whose effects were tangible also at the municipal level (Büchner and Franzke 2001: 9-10). The districts reform ended with the total number of districts (*Kreise*) reduced from 38 to 14. The reform (*Gesetz zur Neugliederung der Kreise und kreisfreien Städte* of Dec. 16, 1992) entered in force with the municipal election of Dec. 5, 1993.

optimal size and better management's capacity, had to freely merge and establish bigger entities, without a coercive top-down intervention by the Land.

Table 8. Number and size of municipalities in Brandenburg, 1990-2007.

Year ^a	Total N. of municipalities	<500	500-2,000	2,000-5,000	5,- to 10,000	10,- to 20,000	>20,000
1990	1775	1145	448	97	38	22	25
1991	1793	1169	447	93	37	22	25
1992	1793	1181	436	92	37	23	24
1993	1813	1192	443	95	36	23	24
1994 ^b	n/a	n/a	n/a	n/a	n/a	n/a	n/a
1995	1696	1096	426	91	34	25	24
1996	1696	1090	432	89	36	25	24
1997	1696	1088	432	90	37	24	25
1998	1565	957	425	87	46	25	25
1999	1489	874	423	96	45	26	25
2000	1479	861	423	95	47	28	25
2001	1474	861	414	95	50	29	25
2002	1092	511	372	96	59	30	24
2003	886	331	341	97	59	34	24
2004	438	19	218	74	54	46	27
2005	421	6	214	73	55	46	27
2006 ^c	420	7	213	72	58	43	27
2007	420	8	213	72	57	42	28
2008 ^c	420	9	213	72	55	43	28

^a Data at Jan. 1 for every year.

^b Data for 1994 not available in the surveyed source (Deutscher Staedtetag, *Statistisches Jahrbuch Deutscher Gemeinden*).

^c Data for 2006 (end 2005) and for 2008 (end 2007), Amt für Statistik Berlin-Brandenburg, *Statistisches Jahrbuch 2008*, p. 26.

Source:; since 1990, Deutscher Staedtetag, *Statistisches Jahrbuch Deutscher Gemeinden*.; 2006 and 2008, Amt für Statistik Berlin-Brandenburg, *Statistisches Jahrbuch 2008*, p. 26.

This approach led to a modest but not insignificant success. In the first half of the decade, 1,636 municipalities created 158 *Ämter*: i.e. an average of 11 municipalities and 8,000 inhabitants formed an *Amt* (Büchner and Franzke 2002: 100, Berg and Möller 1996: 7). Table 9 shows the evolution of *Ämter* and fusions in Brandenburg since their establishment. In the first 90s the *Ämter* IMC solution was extremely important and provided a solid base for the development of the newly re-established local authorities in Brandenburg. But then problems began to come to surface. The *Ämter* left in fact untouched the single municipalities, their identities and existence: local authorities simply had to joint for administrative purposes, without any compel to political and territorial union. Needless to say, the Brandenburger *Ämter* legislation (AmstO) had been conceived this way also for political reasons: soon after having reconquered autonomy and identity as local authorities in 1990, it would have been hard to ask municipalities to renounce to part of their powers in favour of an over-ranked authority (Wollmann 2004: 120, Berg 2002: 22). Nevertheless, in time, more and more often, member municipalities did – and they still do - choose to transfer also some decision-making powers to the *Ämter* (especially in the fields of territorial development, schools, urban planning) and not only administrative tasks (Büchner and Franzke 2002: 99). Thus in the praxis the *Ämter* are becoming more and more functional IMC forms, not so far from the Emilia-Romagna Municipal Unions. Parallel to this *de facto* empowerment of *Ämter*, another IMC form spread in Brandenburg: the special-purpose associations (*Zweckverbände*), which are entitled to manage special tasks in public service delivering (i.e. water supply, waste management, etc...). Of course problems of representation and membership in so many new organizations, particularly for the small municipalities (Büchner and Franzke 2002: 104), along with communication, coordination

and over-institutionalization difficulties (Wollmann 2004: 124-125, 2008: 258), soon dramatically emerged¹⁵.

Table 9. Evolution of *Ämter* and mergers in Brandenburg, 1992-2009

	N. tot. municipalities	N. municipalities NOT in <i>Ämter</i> ^a	N. municipalities in <i>Ämter</i>	N. <i>Ämter</i>	N. of mergers ^b
1992	1793	54	1733	160	
1995	1696	56	1636	158	4
1996	1696	56	1636	158	--
1997	1700	60	1636	158	60
1998	1565	61	1499	153	51
1999	1489	62	1423	152	9
2000	1479	62	1413	152	4
2001	1474	62	1408	152	172
2002	1092	82	1006	130	108
2003	886	89	793	122	83
2004	438	147	287	122	
2005	421	145	272	54	
2006	420	144	272	54	
2007	420	144	272	54	
2009	419	144	271	53	

^a To this number must be always added the 4 district- and *Amt*-free cities (6 until 1993).

^b The number of mergers (of one or more) municipalities occurring in a year have their effect on the number of municipalities the following year (or some years later) due to bureaucratic and statistic procedures.

Source: adaptation from: Deutscher Staedtetag, *Statistisches Jahrbuch Deutscher Gemeinden*; 2007 and 2009 Amt für Statistik Berlin-Brandenburg, *Verzeichnis Gebietsstand 01.03.2007* and *01.03.2009* (<http://www.statistik-berlin-brandenburg.de/>); http://www.brandenburg.de/cms/list.php?page=mi_sg_zusammenschluesse&topic_id=689&grid=2002&skip=4509.

Therefore, just after the approval of AmstO and the *Kommunalverfassung* in 1993, a debate about a revision of the territorial units started up. But no real reform followed: the proposals of fusions, enlargement and political entitlement of *Ämter* were rejected both by local representatives and by the population, finding obstacles in the deeply rooted century-long German local identities and in the capability of local authorities to influence Land policies (Gabriel and Eisenmann 2005: 136). Nevertheless, four Land legislative acts between 1992 and 1996 were approved (Büchner and Franzke 2002: 104) in order to promote and support both free mergers between municipalities, and incorporations of single municipalities in bigger cities (with border modifications and inclusion as cities' departments), as well as the creation of *Amt*-free cities¹⁶. These acts were however not particularly successful (Berg 2002: 25; Berg and Möller 1997: 4ff.), at least till 1997, when a new take off of IMCs took place. In the following years mergers went in fact better, as reported in table 9, and municipalities started using the IMC's voluntary option, so that the total number of municipalities began to considerably decrease. The reason is probably the impossibility for many municipalities to survive and to continue providing public services without any cooperation form. It is worth noticing that in this phase of "mergers-in-progress", despite the above-mentioned problems of over-institutionalization, Brandenburger municipalities did not choose the unitary municipalities (where the *Ämter* had to be dismantled or substituted), but instead preferred either the incorporations in bigger cities, or, even more, an IMC through *Ämter* (Berg and Möller 1997: 10). This shows that the voluntary IMC through an *Amt*, has long been seen by municipalities in this region as a better solution rather than a fusion and the consequent creation of bigger entities.

¹⁵ Each association has its own administrative bodies, where the member municipalities must be represented. As well the *Ämter* have a board and various committees where member municipalities must be present as well. Small municipalities have therefore difficulties in covering all these positions. Moreover, all these new bodies create a condition of parallel and multiple institutions, which may overload representation and local democracy mechanisms.

¹⁶ The *Amt*-free municipalities, often called *unitary municipalities (Einheitsgemeinden)*, are considered the best solution - as for size, organization and competences - for local authorities in terms of efficacy, efficiency and management capacities (Hesse and Götz 2003: 606; Wollmann 2004: 125; Duve 2005: 36, 38).

The Land government, however, considered the process of free inter-municipal aggregation to proceed too slow. In particular because the small municipalities continued to be on the edge of survival: the only who could cope with the lack of resources were those jointed in the *Ämter* (Berg 2002: 25). At the end of the decade the Land made another attempt to accelerate the voluntary inter-municipal forms: in 1998/1999 a Land inquiry-commission prepared a territorial reform which went in the direction of bigger administrative and political units, but its proposals were again unsuccessful (Büchner and Franzke 2002: 105).

After the 1999 elections, territorial policy became a no longer postponable political priority and already in 2001 the Land approved the law on municipal restructuring and empowerment¹⁷. With this act, a real and encompassing territorial reform - with the aim of creating bigger municipalities and *Ämter*, and of improving their management, financial and public service providing capacity – was eventually put in place. The 2001 law also showed a model-change in Brandenburg. From a participation-oriented approach, this Land shifted to a more efficiency-oriented one, from a balance-seeking attitude moved towards a competition-fostering one: the *Brandenburger way* began to be abandoned (Berg 2002: 23). Through this law, mergers were substantially fostered by the Land government and financial support was conferred to those municipalities which fused (Kuhlmann 2004: 21)¹⁸. But the law also reduced to only one the options concerning the type of *Ämter* municipalities could form, allowing only the creation of a self-administrating *Amt*¹⁹ (Müller 2006: 10); it also increased the minimum size of *Ämter* to 5,000 inhabitants and their membership to 3 municipalities, as well as enhanced their transformation into *Amt*-free municipalities (Künzel 2003: 99). In sum, the 2001 law established new guidelines which, for the first time, clearly set up a limited range of options and implementation timings, along with a precise institutional predilection: less in number and better cooperating municipalities, possibly in bigger *Ämter* or in unitary (*Amt*-free) municipalities.

Thus existing *Ämter* and municipalities had the possibility to freely adapt and diminish their number, as well as revise their borders and existence accordingly, until Spring 2002²⁰. As shown in table 9, since 2001 free mergers dramatically increased as a consequence of this reform: 172 in 2001, 108 in 2002 and more than 80 in 2003, when the total number of fusions reached 491. The total number of municipalities in a decade dropped by more than a half, from 1,813 in 1993 to 886 in 2003 and also the number of *Ämter* dropped to about one third (see again tables 8 and 9). At the end of this «voluntary phase» (*Freiwilligkeitsphase*), the Land government and parliament should validate the adopted solutions and, in case of unaccomplishing authorities, should quickly intervene by law within 2003²¹. In October 2002 about 250 municipalities were still under 250 inhabitants. The Land parliament, after consulting and auditing the involved municipalities and citizens, approved in March 2003 six laws for merging them²², concluding the municipal territorial reform, which entered in force with the local elections on Oct. 26, 2003. The top-down compulsory mergers

¹⁷ In July 2000 the Land drafted the guidelines (*Leitlinien für die Entwicklung der Gemeindestruktur im Land Brandenburg*), and in February 2001 the Land Parliament approved the municipal structure's reform law (*Gesetz zur Reform der Gemeindestruktur und zur Stärkung der Verwaltungskraft im Land Brandenburg* of March 15, 2001).

¹⁸ Funds for territorial modification were to be found in the municipal (§ 16 GFG – Ausgleichsfonds) as well as in the Land budget. The fusion premium should be conferred within March, 15 of the year following the fusion (www.mi.brandenburg.de/sixcms/detail.php?id=24463, last access July 12, 2009).

¹⁹ In 1991 municipalities had the possibility to choose among three types of *Ämter*: a) with self-administration, b) with administration in one of the member municipalities, c) with administration in an *Amt*-free municipality (Duve 2005: 29ff.).

²⁰ See Ministerium des Innern, *Begründung zu den Leitlinien der Landesregierung für die Entwicklung der Gemeindestruktur im Land Brandenburg* (July 11, 2000, p. 23) (<http://www.mi.brandenburg.de/sixcms/detail.php?id=12566>, last access July 12, 2009).

²¹ KWI Newsletter Gebietsreformen n. 3, 2002, p. 2, and n. 4, 2003, p. 2, both available at http://www.uni-potsdam.de/u/kwi/publikationen/newsletter_gebietsreform.html (last access July 22, 2009).

²² See Brandenburgische Landeszentrale für Politische Bildung http://www.politische-bildung-brandenburg.de/kommunal/hintergrund/kommunalpolitik_wk7.htm.

came therefore again as ultimate policy instrument²³. In practice the 2003 laws represented the final acts of a “coercive” municipal territorial reform, which replaced the “soft” reform of the previous decade (Wollmann 2008: 258). After 2003 the mergers slightly continued, although no longer financially supported, along with the increase of *Amt*-free municipalities (see again table 9). The implementation of this reform was however extremely contrasted (Mier 2003: 24ff.): many municipalities appealed to the Land court²⁴ and also public opinion was not always - and continues to be²⁵ - quite sceptical about the reform’s effects on proximity, citizen’s participation and local democracy. But the Land Brandenburg did not recede from its “hardly secured” position.

In the following mandate (2004-2009) no further reform has been planned. Nevertheless the debate about the need of additional changes to the Brandenburger territorial model (Bogumil 2007: 5) and to territorial dimensions and competencies of local authorities – especially of *Ämter* – did not cease (Hesse and Götz 2003: 584, 606), letting foresee further developments.

Summoning up, also in Brandenburger territorial policy some phases can be singled out: the 1990-1993 period, the 1993-2001 one, and a third phase started in 2001 and concluded in 2004. The first phase (1990-1993) represents the very beginning of IMC policy in Brandenburg, coinciding with the re-establishment of its territorial authorities at all levels. This period saw Brandenburg avoiding any coercive strategy in respect to territorial policy at large and IMC in particular. This approach was actually shared with the other Eastern Länder, none of them opted for a radical solution of forced fusion and instead all of them moved towards different forms of (mainly administrative) inter-municipal cooperations (Kuhlmann 2004: 21, Wollmann 2004: 120). The second phase (1993-2001) can be defined as «inter-municipal mediation». Marked by a tepid consensus of the municipalities towards the merging proposals, and by reform attempts by the Land towards a territorial rationalization, these years passed with the consolidation of *Ämter* as the IMC response to the pressures and constraints challenging the local authorities. However, neither courageous IMC innovations, nor an effective territorial reform took place. The third phase, (2001-2004), coincides with the «real territorial reform», which started with the 2001 law and ended with the six laws on compulsory mergers of municipalities. In this phase Land Brandenburg moved from a soft to a more coercive approach towards IMC and territorial policy. *Ämter* are still largely in use and still the lifesaver for most small municipalities but since 2001 the Land plainly started pointing at greater territorial, institutional and functional rationalization. A reduction in the number of municipalities and *Ämter*, and a parallel increase of *Amt*-free (or unitary) municipalities have been in fact achieved. If other steps should be taken in the next future by Land Brandenburg in this policy field, they are likely to follow these last choices.

Apart from the phases, it can be stated that the Land attitude towards this policy field, and towards IMC in particular, has always been quite moderate and mostly reactive to the environmental conditions. Although not differently from most Eastern Länder, Brandenburg saw IMC more as a compromise solution to avoid coercive measures of territorial reform, more than as a strategic institutional instrument for territorial development. The (mostly administrative) inter-municipal cooperation through the *Ämter* was therefore a compromise between the optimal territorial size for public service delivering and costs cuts, and the preservation of municipal identity and autonomy. Nevertheless the most recent years have shown a shift in the Land approach. IMCs began to be conceived no longer as a second-best option, but as an important, resolute and strategic tool. The 2001 law was in fact much less permissive and voluntary-based and much more authoritative and steering in respect to IMC options and territorial policy, than before. Land approach turned therefore from being quite «liberal» (in the sense of leaving municipalities free if

²³ For example in 44 cases the Brandenburger Land imposed an *Amt* where municipalities had found no solution for joining (Müller 2006: 10), 237 municipalities were merged in bigger ones, and 91 small municipalities were fused in 19 new ones (Duve 2005: 35).

²⁴ KWI Newsletter Gebietsreformen n. 3, 2002, pp. 2-3; Mier 2003: 28, Kommunalpolitisches Forum (2003).

²⁵ See page http://www.rbb-online.de/klartext/beitrag/2009/brandenburg_demokratiedefizit.html (last access July 21, 2009).

merging or not, and how) to be definitely «purposeful» (by assessing the goal of municipalities and *Ämter*'s reduction, by limiting the options and the time span for merging, and by foreseeing an authoritative intervention at the end of the voluntary phase).

As it will be seen further on, despite this approach was slightly different from the one used by Emilia-Romagna, the government/governance relations, which can be singled out in the two regions, display also some common features.

7. *Which equilibrium between governance and government in local territorial policy?*

The analysis conducted so far already allows drawing some partial conclusions. Before discussing them, a few remarks must be recalled.

Although differences due to the national (regio-unitary vs. federal) architecture, both Italy and Germany, as well as Emilia-Romagna and Brandenburg, show some features – territorial development, municipal settlement and size - which can be reasonably compared. And in fact in both cases, not by chance, inter-municipal cooperation has been at the core of territorial policies in the last decades, both as a policy sub-area in itself, and as a policy instrument. Moreover, in both regions the chosen IMC forms display similar characteristics. Municipal Unions in Emilia-Romagna and *Ämter* in Brandenburg are formal, highly institutionalized inter-municipal cooperations. The scope and range of their functions and of the competences transferred by the cooperating municipalities, as well as their extension²⁶, can be very different, but both have the same core principle at their basis: they are second-level public authorities, indirectly elected and accountable, whose competences are transferred to them by member municipalities or by regional/Land laws²⁷. Finally, as far as the regions and territorial policy are concerned, it must be recalled that Emilia-Romagna and Brandenburg can afford two different starting points, once again to be imputed to the institutional asset of the two countries. If in Italy regions had to “conquer” or to be entitled by the state with powers in the field of territorial policy and in the management of IMC, in Germany the Länder have this policy already among their exclusive competencies. In time, Italian regions have progressively become the «propeller and coordination centre of the whole local authorities system» (Filippini and Maglieri 2008: 343), being entitled with wider and wider legislative competences and powers in the matter of IMCs (ibidem, 370), as well as with the authority to intervene when municipalities do not comply with their guidelines. In Germany, this power is guaranteed by the Basic Law. Territorial and municipal policies belong to the exclusive competences of the Länder, whose position towards the municipalities was in a way, from the beginning, more clearly stated than in the Italian case. Despite this, territorial - and in particular municipal identities - are in Germany extremely strong so that the coercive powers of the Land governments could be more reluctantly used than in Italy.

With these reminders, let us see now which findings can be singled out, from the research, about IMC and territorial policy. Four points will be discussed before attempting a partial conclusion on the equilibrium between governance and government in the two case studies.

The first point (and finding) is *a different approach detected in the two regions towards the policy itself as well as towards its implementation*. Concerning IMC and territorial policy at large, Emilia-Romagna has often anticipated the national trends, innovated the IMC's legislation and pioneered most of the Italian regions. Its approach in this policy field can therefore be defined as «pioneer and proactive». On the other side, Brandenburg has behaved more prudently, following

²⁶ Nevertheless, by raw elaboration, an average of 5,1 municipalities and 30.820 inhabitants form the 53 Brandenburger *Ämter*, while an average of 5,5 municipalities and 68.625 inhabitants form the 20 MUs in Emilia-Romagna.

²⁷ According to the subdivision of local administration proposed by Hesse and Götz (2003: 593), the *Ämter* are lower municipal administration (*untere Kommunalverwaltung*) whose competencies can vary, according to which tasks are transferred by the municipalities (Berg and Möller 1996: 5-7). Accordingly, the MUs receive a varying number of tasks and functions through the agreements between their member municipalities (Baldini *et al.* 2009: 115ff.).

the main stream and with interventions mostly drawn by no longer sustainable municipal assets: its approach has thus been «cautious and reactive». Concerning implementation, instead, the in-depth analysis let us single out a «permissive and assertive» attitude in Emilia-Romagna, where the region let the municipalities free to choose the preferred IMC form, but, at the same time, within rich guidelines which set the path in a quite well-defined and almost pre-determined way. On the other side, Brandenburg moved from a «liberal» attitude first, trying not to force municipalities in any way towards fusions and mergers but only proposing them these options, to a «purposeful» attitude later, when it became clear that the voluntary phase had produced no adequate result for a territorial rationalization and management, and that many municipalities' survival was in utmost danger.

The second point concerns the *approach the two regions have had towards the municipalities and territories involved in the IMCs and territorial reforms*. In both cases it must be noted that the regions preferred their municipalities to be joined in IMC experiences more than fused in bigger cities. Both regions were aware of the opposition (small) municipalities would have led against, and tried therefore to avoid it. Emilia-Romagna by inventing the IAs, Brandenburg by disregarding the fusion option and introducing the *Ämter* at the beginning, and both by letting the municipalities more or less free to choose the merging option they preferred.

Despite this likeness in preferring IMCs to fusions, in both cases most successes in territorial policy came when regions used their powers upon municipalities, “sweetened” or not with willingness’ options. Emilia-Romagna renounced to its substitutive power and even softened the IMC compulsoriness when national laws were instead conceding regions more coercive powers towards municipalities. But it also proposed limited options and showed clear-cut preferences, also using the financial instrument to support these preferences: the result was a boosting of inter-municipal cooperations. In Brandenburg political reasons let the Land opt for a mild option at the beginning, which brought to a modest success in terms of numbers, although to a good inter-municipal cooperation’s quality through the *Ämter*. Later Brandenburg, in its turn empowered towards the municipalities after the functional reform (Berg 2002, 18), imposed a clearer route in territorial policy by using its power upon municipalities and some improvements - both in numbers and in territorial rationalization - came. Summoning up, in both cases, IMCs - in the forms of MUs and *Ämter* - were in the 90s a direct expression of the regional/Land will of reducing the number of municipalities and diminishing their difficulties to cope with the encompassing lack of resources. But they were also a compromise to avoid obliged fusions and consequent identity losses for municipalities. Now, almost 20 years later, both regions turned to conceive IMCs no longer as a way to avoid fusions and preserve municipal identities, but as an autonomous institutional tool, apt to create bigger (i.e. “optimal”) territorial units, provided with more functions, competences and abilities, and capable to attain a better territorial management and development, as well as to cope with the challenges pressing the local authorities.

A third point regards *the procedures Emilia-Romagna and Brandenburg adopted to implement their territorial policies*. In other words, if and how these regions used, or allowed, governance dynamics in this policy field. Without going into an in-depth governance analysis, it can nevertheless be claimed that both regions willingly used governance instruments and procedures. Emilia-Romagna always showed a particular attention to ensure an effective local authorities’ involvement in the ascendant phase of territorial policy and in its decision-making processes, being the regional laws n° 3/1999 and n° 11/2001 good examples for that. This region also yearly gathers the regional committee for the IMC development, named *Conference of the IMC presidents*, which is the main instrument for negotiation and governance in territorial and IMC policy. This turned to be a very useful and important instrument if it is true, as a regional high-ranked civil servant declared, that thanks to this conference the regional laws concerning IMC have been largely consensual, and positive agreements have been always reached among the parts²⁸. In

²⁸ Interview to an Emilia-Romagna high-ranked civil servant – Unit for institutional and legislative affairs. See Baldini *et al.* (2009: 59).

Brandenburg the governance approach is even more emphasised. Attention to the governance aspects and to the network-based consultation, deliberation and decision-making processes is in Germany particularly cared in territorial policy (Berg and Möller 1997: 4). As seen in §6, willingness and voluntary choices have been at the basis of the Brandenburger approach: consultings with involved municipalities have been conducted in each phase of the reform, as testified by the procedure the Land chose to adopt before closing the voluntary phase in 2003. Of course, the more open the process and the more the actors involved, the greater the risks of policy-making stagnation, obstruction or hampering. Part of the different (slower) timings and (more modest) level of success of Brandenburg in respect to Emilia-Romagna in territorial policy may be perhaps explained also with this high-inclusive networked procedure. Finally, a last remark about the incentives for the actors involved in the governance processes. Both regions used financial incentives to attract their counterparts (municipalities) towards their preferred IMCs or territorial rationalization's solutions. Emilia-Romagna, for instance, was convinced that «only adequate financial incentives can guarantee the effective creation of IMCs» (Regione Emilia-Romagna 2003: 6), and in fact extraordinary and ordinary incentives has been settled by this region (Baldini *et al.* 2009, 59ff.). Brandenburg as well budgeted financial incentives for those municipalities which chose to merge. In other words, in both cases the main actors in governance field, i.e. the municipalities, were driven by material incentives to choose the regional top-down solutions, more than to elaborate their own options.

It must be stressed, once again, that the governance arena in this policy field is however quite peculiar. Being territorial policy an institutional policy, a higher role of hierarchy than in other policy fields is to be considered. It is the institution (here the region or Land) to decide if and how governance networks should be allowed and if horizontal relations, and different public/private, institutional/socio-economic actors should be included in the policy-making. In this framework, both regions here analysed have been quite open, allowing negotiations, audits, and bargaining with the municipalities. As well they allowed horizontal forums and networks established by the municipalities with other actors (mainly local trade unions, enterprises, employers' associations, citizens' associations) in order to discuss the territorial options at stake.

But the government aspect, and this is the fourth and final point, remains the determining one. *The region/Land is, de facto, the principal actor in this policy field.* Partly because, as said, it is the policy nature, which renders this pre-eminence unavoidable. Partly because it was Emilia-Romagna and Brandenburg themselves, which sooner or later chose to use their powers and to impose their top-down decisions, ending up de facto every governance dynamic. The territorial and IMC policy is exactly the case where state, regional and institutional actors at large «are a very special and privileged kind of participant; they retain crucial means of intervention, and this holds even where decision making has been devolved to institutions of societal self-government. In particular, the state retains the right of legal ratification, the right to authoritative decision where societal actors do not come to a conclusion (...), and the right to intervene by legislative or executive action where a self-governing system (...) fails to meet regulatory expectations» (Mayntz 1999: 9-10 and 2003: 31-32). In other words, the meso-government level is recognized to be a key-player in regional governance²⁹ (Benz and Fürst 2003, Benz and Papadopoulos 2006, Benz and Meincke

²⁹ It must be accounted that by «regional governance» in Germany it is often meant the governance dynamics (non-hierarchical, bringing governmental and societal actors together, having both formal and informal levels, being characterised by competitive and cooperative inter-actor relations, inter-organizational, private/public partnership-oriented, etc...) (Benz 2001, available online <http://www.difu.de/index.shtml?publikationen/dfk/en/>, last access Aug. 2, 2009) applied to sub-Länder level and concerning a certain policy field. In this paper, IMC and territorial policy is a policy field analysed instead at the regional/Land level, where governance dynamics are both among Land/region and municipalities, and among Land/region, municipalities, and other local socio-economic and institutional actors (mostly involved by municipalities).

2006) and in many policy fields, including territorial policy, hierarchy is considered predominant in respect to any governance form (Auel 2006).

If all that holds true, which *tentative conclusions can be therefore drawn upon governance/government relations in this policy field for the two regions?*

Some elements allow claiming that Emilia-Romagna optimized a «satisfactory deliberate equilibrium» between steering and horizontal bargaining. If in fact it must be recognized that - for instance with the 1999 regional law - Emilia-Romagna gave up some authoritative tools, it must be also acknowledged that all its interventions have been guided by a clear vision of the preferred territorial policy and of the favoured solutions. Alternatives were not impeded but neither fostered as well. The IMC boom in Emilia-Romagna coincided both with a formal weakening of authoritarian methods and the parallel introduction of bargaining and consultative relations (with municipalities, as well as with socio-economic actors); but, even more, with the empowering of the region and with a fine-tuning of its institutional preferences.

Brandenburg instead reached a more «provisional unexpected equilibrium». This region found a balance between governance (as free arena for municipalities to consult and be consulted and as discussion arena on reform implementation) and government (by imposing its own policy view by law from 2001 on), but this result has been more contingency-led rather than planned. Therefore it has been more unintentional than calculated. In the first years the above-defined «liberal approach» let the local authorities to freely choose their way towards a territorial re-asset by means of open deliberation and bargaining. Later instead, municipalities' consulting and auditing coupled with Land financial and legislative support to the preferred IMC option (i.e. both *Ämter* and municipalities' reduction in number), and marked the most recent Brandenburger IMC and territorial policy. As if, in a sort of *continuum*, the first two phases (1990-1993 and 1993-2001) were placed nearer to the governance pole, while the third one (2001-2004) to the government extremity. But, as said, this shift took place in a quite abrupt and only-to-a-small-extent planned way.

In sum, it can be stated that both regions reached a sort of equilibrium in territorial policy between governance and government, although evidences let us suppose that in Emilia-Romagna this equilibrium could be more stable and intended, while in Brandenburg it could be more provisional and likely to further change in time either towards the governance- or the government-pole.

In many western countries governance features, especially in the form of networks of actors and institutions with specific tasks and goals, together with the consequent coordination needs, characterize more and more the municipal arenas (Wollmann 2008: 266). In territorial policy, as well as in inter-municipal cooperation, governance is an extremely used concept. The same regional/Land authorities often use this term to endorse their policies (Baldini *et al.* 2009: 8-9; Bieker *et al.* 2004: 41-42), particularly their negotiating procedures and instruments such as municipalities' auditing, local actors forums, etc... But, as explained before, things are not exactly like this. Both because as an institutional policy, territorial policy has a peculiarly strong role of government, which impedes a fully governance-based dynamics; and because empirical evidences thus far show that it is rather a balance and a complementarity between governance and government to be at work in this policy field.

Regional governments, although indirectly and despite the governance procedures or arenas they allow, put paths and favourite options forward. They offer opportunities and deliberation spaces but also show clear-cut preferences in a sort of «constrained track», which in practice force municipalities to prefer an option rather than others, also thanks to financial and normative incentives (Baldini *et al.* 2009: 176). An interesting parallel with the European Union – especially in some policy fields (e.g. cohesion policy) and in respect to some interlocutors (e.g. the regions) - can be definitely made. Going back to territorial policy, in order to promote – and secure – effective

inter-municipal cooperations, voluntary instruments alone are not enough (Hesse and Götz 2006: 131) or, in other words, governance instrument alone cannot provide satisfactory solutions in this policy field. Thus hierarchy and government's steering re-enter the game.

To conclude this work-in-progress analysis, let alone the need for further research on the field, what Mayntz and Scharpf (1995) stated more than a decade ago, when the debate upon governance flourished - then reported in Mayntz (2003: 31-32) - seems to be still dramatically updated: «hierarchical control and societal self-regulation are not mutually exclusive. ... They are different ordering principles which are often combined, and their combination, self-regulation “in the shadow of hierarchy”, can be more effective than either of the “pure” governance forms».

In the field of territorial policy – and in the specific case of inter-municipal cooperations in the two case studies - this sounds to be even more accurate.

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