



Local Government and Inter-Municipal Cooperation in Italy and Germany

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1 Introduction

In recent decades Western local governments faced several challenges (from New Public Management-oriented reforms to Europeanization, from decentralization trends to globalization), which put to the test their capacity for adaptation to the new social-economic and institutional contexts and often led to deep transformations in competencies, functions and also in the relationships among territorial levels.

In this effervescent environment, the phenomenon of inter-municipal cooperation (IMC) has gained growing attention, particularly in the last few years. Until today, IMC experiences have been mostly analyzed by emphasizing their bottom-up features and by focusing on the governance processes, which often characterise them. Overall this can be a limit, because the still relevant roles of institutional actors and hierarchical elements risk being excessively underestimated. In the IMC landscape, in fact, government actors and hierarchical features come back in through the regional (where present) institutions: actually, the role of the regions in the regulation, coordination and steering process of the local cooperation turns out to be decisive.

Thus the hypothesis here is that within the IMC landscape, the issue at stake is the complementarity, more than the opposition, 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 the one side, and representative institutions, hierarchical decisions and centralistic guidelines, on the other side.

This essay will compare IMC and territorial institutional policy in two European regions: the Italian Emilia-Romagna and the German *Land* Brandenburg. It will open with an account of the IMC phenomenon, focusing on the triggering conditions for its rising (par. 2) and detailing the relationship between IMC and the government/governance debate (par. 3). An overview of IMC formats and experiences in Italy and Germany (par. 4) and a comparative overview of the two case studies (par. 5), will be followed by an in-depth analysis of this phenomenon in both regions – Emilia-Romagna in Italy (par. 6) and Brandenburg in Germany (par. 7). Some comparative findings will then be showed (par. 8), before drawing a set of conclusions on government and governance in territorial policy of both regions (par. 9). The final part will focus on various considerations upon the crucial role of the meso-governments in Italy and Germany (par. 10).

2 Inter-Municipal Cooperation: Rising and Practices

Inter-municipal cooperation is a relatively new phenomenon, although in some countries the first examples can be traced back to the 19th century. But even if not entirely new as an actual practice, the IMC is surely a novelty as an object of analysis and, although still marginal in political science studies, lately has gained an increasing attention among scholars in several countries.

The first important contemporary attempts to group municipalities in services delivering and coordination date back to the years of the «pressures on local governments' performance», 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 have emerged, along with a growing interdependence among local governments, their decisions and policies, also due to the enlarging of their inhabitants' «activity space» (ibidem: 3). Later, since the 80s, European integration has triggered growing market pressures, which in turn enhanced competition among local authorities. The Europeanization process forced local levels to cope with new competencies, requirements, standards and regulations, also fostering cross-border and inter-institutional cooperation practices at all levels, including the municipal one; globalisation and glocalisation both promoted and requested focused territorial management and development, as well as the use of new technologies and e-government instruments. Although such challenges involved governments at all levels, local authorities, more than others, had to cope with further issues, such as municipal financial crisis, metropolitan areas' growth, suburbanization and city/surroundings relations, as well as the need to find a territorial «optimal size» for administration and economy purposes.

During recent decades, pressures, challenges and transformations concerning the local levels 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.

Within this context, IMC was also conceived as a solution in order to provide better services, contain costs and cope with growing demands from the citizens: a sort of defensive and offensive strategy (Frick and Hokkeler 2008: 24) for a successful development of local authorities. This is mainly due to the fact that 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 by institutionalizing a governance form for the provision and delivery of these policies.

Indeed, IMC practices are widespread throughout European countries, even if under numerous and often remarkably different formats. Hence, some interesting similarities can be singled out. First of all, the reasons behind the need, or the will, to cooperate among municipalities are a common feature: to provide (or improve) public services, to cut costs, to reach a more efficient territorial or demographic dimension for service delivering, to improve efficacy and efficiency of existent structures. Secondly, IMC experiences can be found both in rural and urban municipalities (Schadly 2008: 5-6), although the quite different problems pertaining to these environments (Schmidt 2005: 10), thus confirming the broad diffusion of this institutional tool. Another recurrent cross-country similarity is the variety of services addressed by IMC formats, mostly related to the basic tasks of municipal authorities. Some policy fields are in fact particularly common – despite deep differences in the various countries in terms of autonomy, power, competences, etc. – such as school, religion, culture, social care, youth and sport, health care. Finally besides the municipal institutions, cooperatives or agencies may be responsible for gas, electricity, water, waste supply and management services (Schmidt 2005:18-19).

Therefore, this brief overview of the IMC phenomenon highlights its importance for local politics and its significance for a better understanding of the dynamics currently affecting this institutional level.

3 IMC and Government/Governance Relations at Local Level

In this respect IMC helps to shed light on a most interesting topic from a different perspective: the government/governance relations at the local level¹. The governance concept, as well as its direct link to the government's, has

1 The concept of governance has literally crowded many scientific fields from public policy analysis to international relations, from State theory to European studies (Profeti 2010: 15-35). In this essay we embrace the approach that considers governance as a different, contemporary way for the State – and in general for the over-ranked authorities – to exert its power, due to growing domestic and global constraints. By referring to the local level and the relations between local authorities and regional/state authorities, the topic includes also a multi-level approach (i.e. interaction among different levels of government and society).

been widely studied since the 90s², mainly with a theoretical approach. In recent years, however, a number of more empirical analyses have also been conducted, both with a comparative approach and an attention towards regional and local levels³.

How does the inter-municipal cooperation phenomenon involve government/governance relations? They are inter-twined in two major ways.

The first is a mostly theoretical approach. IMCs are part of territorial institutional policies and reforms. By territorial institutional policies it is here referred to public policies concerning rules and powers of local levels: their life, functioning, bodies and activities. These policies shape citizens' institutional opportunities and constraints in local communities and involve the territory but also the institutions in charge of managing such territories. In this perspective, the IMC practices and their management, provide an excellent case of this sort. Using the Lowi (1972) typology, territorial institutional policies can be considered «constituent policies». Such policies imply, as it is known, a remote likelihood of coercion and an applicability of this coercion on the whole environment of conduct. They are 'public interest policies' for excellence, because they are «large enough in scope to affect a large number of people in a consistent way» (Lowi 1972: 308) and can be defined as «rules about powers and rules about rules» (Lowi 1985: 74).

If that holds true – that territorial institutional policies are constituent policies – as a result they imply a strong governmental role. Nevertheless, in the specific case of IMC, these policies are also characterized by some governance elements, which are often established by law. Indeed, the participation of several actors of a different nature is foreseen in an institutional framework of cooperation among municipalities, and the (over-ranked) institutional actors are entitled to legitimate and even support such participation and governance forms. These are typical cases of control and authority shifting by the State and of coexistence between hierarchical control and self-regulation (Mayntz 1999: 9 and 2003: 32). Territorial institutional policies are particularly affected by this government/governance overlapping and, from this point of view, IMC is a perfect field where both features can be both singled out and coupled in interesting way.

The second way government and governance are inter-twined is an empirical one. In both countries considered in this essay (Italy and Germany), territorial

2 Among the most prominent contributions see: Mayntz and Scharpf (1995), Mayntz (1996 and 1999), Bulmer (1994), Rhodes (1996 and 1997), Pierre (2000), Kooiman (2003), and, more recently, Benz and Dose (2010), Piattoni (2010).

3 Among others: Le Galès (2002), Denters and Rose (2005), Lazin et al. (2007).

institutional policies and in particular territorial and functional reforms at the local level, have been characterized by a major role of the regional institutions, i.e. a hierarchically over-ranked level in respect to municipalities. On the one hand, empirically these reform processes have been widely voluntary and the local authorities' willingness has been – and still is (or seems to be) – fundamental for achieving good results. That includes participatory elements, horizontal cooperation, bargaining and negotiating modalities with social and economic actors, along with deliberative democracy and citizenship's involvement in political decision-making. In other words, the main features of governance have been fully at work. On the other hand, a sort of coercion has come to play a role within such policies and reforms, after a certain initial stage. Hierarchical forms of power re-entered through the window, after being formally thrown out from the door. That is, the government emerged again in its classical sense and original meaning: that of steering and exerting control. With this in mind, it is thus evident that inter-municipal cooperation, as a tool of territorial institutional policy, fully encompasses both governance and government mechanisms and dynamics.

Given that, further consideration concerning European Union (EU) and the role of municipalities in communitarian arenas, may be useful to better understand how IMCs may embody this coexistence. At the European level, the municipal level finds itself in an ambiguous position. On the one hand, although some important steps forwards have been made in the last 50 years, the municipal level appears still quite weak. Only recently the official role of municipalities and cities in EU law has been truly recognized, and still in a marginal fashion. Therefore some declarations, like the 1985 European Charter of Local Self-Government, were – and still are – the first attempts to guarantee and protect the local level's autonomy in a broader context, while also being the first contributions of local authorities to the European integration. On the other hand, some recent trends could suggest a forthcoming change towards an empowerment of local authorities in the EU arenas. Certainly the 2003 Convention and the 2007 Treaty of Lisbon attained some important goals. Moreover, the European integration process cannot be carried on without that territorial level, which is closer to the citizens: the municipal level. Horizontal cross-border as well as inter-institutional cooperation practices in the EU are also highly recommended at all levels⁴. IMC may thus be a perfectly fitting answer to all these challenges and changes: it encompasses bigger territorial entities than single municipalities, which may render those new territorial

4 It should be enough mentioning the Committee of the Regions as inter-institutional cooperation and the dozens of Interreg and EGTC projects as crossborder collaboration.

levels more efficient and powerful, while remaining extremely close to the citizens and based on horizontal cooperations, thus fully accomplishing the EU guidelines. In other words, municipalities in the EU are still subject to over-ranked powers (hierarchical feature) but at the same time they have an *atout* in the radial relations they aim to create (horizontal feature). And IMC could be an instrument to help these municipalities to further empower their position in the EU.

4 Inter-Municipal Cooperation in Italy and Germany

In this section we will focus on how inter-municipal cooperation practices have been developed in Italy and Germany. Cooperation among municipalities, especially those of small dimensions, is foreseen in both Italian and German Constitutions, while in both countries manifold structures are present. Elements of similarities as well as differences will emerge in the following overview, aimed at providing a general frame where the two regional case studies are embedded.

4.1 Italy

Although some forms of IMC had already been used in the past, a formal introduction of these cooperation experiences took place only with the 142/1990 law: an encompassing and radically new legislative act which started the big Italian administrative reform of the 90s by entitling local authorities with broader competencies and self-administration features. This act made inter-municipality possible, although for a long time it remained only on paper. The main reason was the compulsoriness of fusion: municipalities were fostered to create IMC but then they had necessarily to merge within 10 years. Except for very few cases, no municipality chose the path of what they saw as an irreversible loss of identity through a compulsory merging with some other nearby local authority. Nearly ten years passed in almost total silence, until the 267/1999 law reopened the issue. What was new in 1999 – and decisive for IMC – were changes concerning the time span of cooperation forms (now unlimited), the participants' dimensions (opened also to municipalities over 5,000 inhabitants, previously excluded), and above all the voluntary nature of cooperation (now clearly stated by abolishing any compulsory merging clause). Therefore, for about a decade the IMC in Italy developed at a growing

pace, especially in the second half of the 2000s. Lately, between 2008 and 2010, national and regional laws launched a renewed wave of interest for IMC experiences, as will be soon dealt with.

Several varieties of IMC are currently present within the Italian system: Conventions (*Convenzioni*) and Agreements (*Accordi*); Territorial pacts (*Patti territoriali*) and Zone planes (*Piani di area*); Consortiums (*Consortzi*); Municipal Unions (*Unioni di Comuni*) and Mountain Communities (*Comunità Montane*). Very briefly, the first group (conventions, 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, particularly related to social and healthcare fields (Baldini et al. 2009: 32). The consortiums are undoubtedly the most “ancient” form of IMC (Vandelli 2007, Fedele and Moini 2006), strictly formalized and highly institutionalized: they include mostly 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; they are also the format largely and mostly supported by recent legislative developments. Finally, the Mountain Communities (MCs), another traditional IMC form in Italy, reveal a peculiar feature based on their geographical position (in this case, mountainous areas). Mountain Communities share many aspects with the MUs: both are proper local authorities and legal entities (while the IMC forms in the two other groups are not), and their legal discipline is becoming more and more similar. Also, during the last decade, Municipal Unions have been steadily growing in Italy, as showed in table 1. While until 1999 (when merging was compulsory) only 16 MUs had been established in the whole country, a year later (when merging became a voluntary option) their number already quadrupled and in a two-year time it increased eightfold and more (Baldini et al. 2009: 37). From 2001 onward, the MUs continued to grow until they reached the total number of 322 in 2010, even with an uneven distribution at national level (ibidem: 38ff., Cittalia 2010: 20-21). As for the MCs⁵, the 2008 annual national government budget imposed a drastic reduction of their

5 Established in 1971 by a national law as local authorities under regional legislation (Vandelli 2007) the MCs remained untouched until 2008, when the annual national government budget foresaw their drastic reduction and a deep revision of membership requirements, aiming at costs reduction and administrative simplification (Rosi 2009, Gambino 2009). Therefore the regions were forced to revise the MCs operating in their territories, by checking their requirements and trying to reduce their total number in just a few months. As a result, the MCs dropped from 300 to an estimated 185 units (www.uncem.it). The reform was essentially due to the lack of financial sustainability by these local authorities.

number, whilst at the same time State and regions promoted IMC experiences under the MU format, encouraging the transformation of MCs into MUs through substantial financial incentives (Baldini et al.: 53ff., 59ff.; Xilo and Ravaoli 2009: 70ff.).

Table 1: Number of Municipal Unions and Mountain Communities in Italy per year (1999-2010)

<i>Year</i>	<i>Municipal Unions (MUs)</i>	<i>Mountain Communities (MCs)^a</i>
1999	16	
2000	67	
2001	132	
2002	179	
2003	222	
2004	244	
2005 (Dec.)	268	
2006 (Nov.)	278	
2007 (May)	289	300
2008 (Dec.)	290	175 (est.)
2009 (May)	292	185
2010 (June)	313	185 (est.)
2010 (Oct.)	322 (est.) ^b	185 (est.)

^a Provisory and estimated data due to the evolving situation in 2009/2010. The five special status regions are not obliged to this revision, being financially autonomous for their local authorities. Data thus relate to the 15 ordinary status regions.

^b In about five months, from June to October 2010, 9 MUs were created in Emilia-Romagna. Data on other regions are not available for the same time span but they may have increased as well, thus giving 322 as a (minimum) estimated total number.

Source: Author's calculation and compilation from Baldini *et al.* 2009: 38; Xilo e Ravaoli 2009: 63; Cittalia 2010: 20; www.anci.it; www.uncem.it.

These last developments show a historical shift from MCs to MUs in the inter-municipal cooperation in Italy. If MCs have long played a major role in local governments, now MUs seem geared to achieve a prominent position. Nowadays MUs are considered in Italy the best IMC form in terms of efficacy of policies towards territories and citizens, of efficiency in providing public services, and of appropriateness of geographic and demographic dimensions.

To conclude this overview on the Italian situation, an aspect concerning the meso-government role – i.e. the regional role – deserves to be here already hinted. It must, in fact, be noted that already in the mid-90s other core parts of the above-mentioned administrative reform started with the 142/1990 law⁶, focused on the regional role as a pivotal element for the territorial institutional policy. From then on, while enhancing the cooperation forms among municipalities, the same regions have been achieving a more crucial position. Hence the signs of a remarkable position of the meso-governments were quite evident since the IMC inception.

4.2 Germany

Here the IMC stance is rooted in the late nineteenth century, when some forms of cooperation were foreseen by the German Empire (Heinz 2007: 91, Schmidt 2005: 32-51), while actual territorial reforms sprung into life during the 60s and 70s⁷. In those years, along with major reforms of the institutional assets and the merging of dozens of small municipalities, cooperative approaches were also fostered and enhanced, above all between cities and their surroundings (Heinz 2007: 91). Moreover, IMC in Germany is constitutionally guaranteed according to the principle of municipal self-government: the German Constitution (Basic Law – *Grundgesetz*) establishes that «associations of municipalities shall also have the right of self-government according to the laws» (art. 28 II).

The prevalent formats (Frick and Hockeler 2008: 52ff.; Heinz 2007: 99-100; Schädly 2008; Schmidt 2005: 25ff.) range from informal cooperations and private law cooperation forms (Corp., Ltd., private law agreements and associations), both mostly economy-driven, to institutionalized cooperative ventures based on public law. These latter experiences can be further

6 It is here referred to the well-known as the «Bassanini laws», after the Italian Minister of Public Function of 1996-2001 centre-left governments, Franco Bassanini, who drafted and proposed the reform bills.

7 On this topic see, among others, the well-known contributions of Thieme and Prillwitz (1981), and von Unruh et al. (1981).

subdivided in three main groups. The first group includes their loosest forms, such as municipal working communities (*kommunale Arbeitsgemeinschaft*), special working communities (*besondere Arbeitsgemeinschaft*), and territorial cooperations (neighbourhood partnerships – *Nachbarschaftsverband*, regional planning or multi-sector 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 services⁸. The main feature of these IMC forms is that they do not require the establishment of new administrative apparatuses⁹. Instead, more institutionalized IMC forms in this same group are the special-purpose associations (*Zweckverbände*), which are legal personalities and the second most used IMC forms in Germany,¹⁰ combining economic scale purposes with public services delivering purposes. To these associations can be transferred a complete, exclusive and independent public service and its accomplishment: it is a full-task transfer from the member municipalities to the association, and could even include just a single task (i.e. water supply, transports, etc.). *Zweckverbände* are self-government authorities (although they may also employ municipal public servants) but no territorial authorities. Each *Land* legislation can decide that such associations must be established by law to carry on compulsory tasks (*gesetzlichen Zweckverbände*).

Finally, there are also new public authorities (amalgamations, merging and fusions of municipal authorities as well as and inter-municipal administrative

8 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 required service. How to actually manage this transfer is left to the single agreement/convention.

9 A sub-form of the *öffentlich-rechtliche Vereinbarungen* are the Administrative communities (*Verwaltungsgemeinschaften*), which in some *Länder* were created during the 60s and 70s territorial reforms as an alternative solution to the merging of municipalities imposed by the *Länder*. Born therefore as «not-free» solutions, these forms are now used mainly by those small municipalities unable to provide certain public services by themselves (i.e. water supply, firemen, cemetery, etc.) (Frick and Hockeler 2008: 55).

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

units¹¹), which represent the third group and are the strongest 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). According to a 2009 estimate, 1,708 of these newly created inter-municipal bodies were active on the ground (Wollmann 2010a: 271).

Differently from Italy's situation, it seems impossible to classify the German IMC forms in a more precise way. Plenty of models, classifications and analytical outlines have been proposed both in practice and in scientific literature – though quite often disregarding essential or functioning aspects of these cooperative forms (Hesse and Götz 2006: 13-14). It is also true that in Germany countless options are available for any municipality interested in getting involved in an inter-municipal experience (ibidem: 18). Contrary to the Italian case, in Germany there is no federal law establishing whether a form of IMC can be considered as a local authority. Each *Land* handles and disciplines autonomously its own different IMC formats and options. The reason for this difference is to be traced back to the unitary versus the federal constitutional architecture of the two countries: in Italy a comprehensive national normative Act (*Tuel*¹²) defines what in Germany is instead left to each *Land* legislation.

Despite this distinction, some similarities between the two countries concerning IMC and territorial institutional policy can definitely be singled out. Both countries have a similar municipal background, originating from the medieval territorial tradition, that is, a thick territorial settlement with many medium and small municipalities (see table 2). Moreover, as in many other countries, also in Italy and Germany a distinction occurs between urban and rural areas (and among IMCs in both contexts): in urban areas, problems related to demographic concentrations and metropolitan surroundings are highly present, even if both countries do not seem to properly address these issues yet¹³. These quick hints already give the impression that IMC could

11 These units are known with a different name in each *Land*, i.e. *Verwaltungsgemeinschaften* in Bavaria, Thuringia, Saxony-Anhalt and Saxony, *Vereinbarte Verwaltungsgemeinschaft* in Baden-Württemberg, *Ämter* in Brandenburg, Mecklenburg-Vorpommern and Schleswig-Holstein.

12 Legislative Decree 267/2000 *Testo Unico delle leggi sull'Ordinamento degli Enti Locali* – *Tuel*.

13 In Germany these are the *Verdichtungsräume* or *Ballungsräume*. Since the territorial reforms of the 60s and 70s the debate has 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 this direction (see also Hesse 2005 for city-surroundings relations). In Italy these areas are named *metropolitan areas* (and cities). Established with the 142/1990 law, they periodically emerged in the political debate (Vandelli 2000), and were recently included in the fiscal federalism law 42/2009, but they still have to be effectively created (Dente 2010).

represent an interesting field of investigation in both contexts. This holds particularly true when analyzing regions where certain IMC forms are almost two-decade old and quite well consolidated.

Table 2: Number of municipalities according to population in Italy and Germany (2010)

<i>Population</i>	<i>Italy</i>	<i>Germany</i>
< 500	832	2,280
500-1,000	1,108	1,940
1,000-2,000	1,593	2,030
2,000-5,000	2,160	2,364
5,000-10,000	1,195	1,300
10,000-20,000	690	884
20,000-50,000	367	510
50,000-100,000	104	107
100,000-200,000	30	43
200,000-500,000	9	24
>500,000	6	14
<i>Total</i>	<i>8,094</i>	<i>11,496</i>

Source: Author's compilation from official data: Statistisches Bundesamt, Quartal Ausgabe June 2010: www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Statistiken/Regionales/Gemeindeverzeichnis/Administrativ/AdministrativeUebersicht,templateId=renderPrint.psm1 (data up to Dec 31, 2008) (last access: October 25, 2010); www.ancitel.it/sindaci/index.cfm (last access: October 21, 2010).

In the following paragraphs, the analysis will concentrate on the strongest, more structured and institutionalized IMC forms in both countries, that is, those which imply the creation of a supra-municipal local authority and where a proper new institution is being born. This choice allows us to compare two IMC forms sharing common features in the two chosen regions (Emilia-Romagna in Italy and *Land* Brandenburg in Germany). The similar IMC forms are the Municipal Unions (MUs) in Emilia-Romagna and the inter-municipal administrative units called *Ämter* in Brandenburg.

Both these entities have legal personalities (being territorial authorities); they manage proper revenues, tasks, and administration; provide a multipurpose orientation in public service delivering and fulfilment; 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.

Going more in detail, other similar organizational features allow us a fruitful comparison between these two IMC forms: both authorities in Emilia-Romagna and Brandenburg are governed by a decision-making steering board, elected by the municipal Councils of the member municipalities and composed by the mayors of the member municipalities and other members from the municipal councils. Their boards manage tasks transferred to the IMC by the member municipalities (or by the region, *Land* or state) and may employ proper personnel. Member municipalities also fund these tasks with their budgets (often with additional support by the region or *Land*)¹⁴.

Moreover, these IMC forms are both characterized by a voluntary-based origin but (as explained in detail further on) also by a later intervention of an over-ranked authority, i.e. the region in Italy and the *Land* in Germany. For all these reasons, a MUs and *Ämter* comparison may be highly productive and may also allow us to analyze both governance and government dynamics — along with their respective role within the IMC field.

5 Case Studies: A Comparative Overview

Before detailing the Emilia-Romagna and Brandenburg's experiences in inter-municipal cooperation, here below we will provide some comparative tables about these two regions.

As shown in table 3, despite a comparable area and a similar number of municipalities (Brandenburg exceeds Emilia-Romagna by about 70 municipalities), still the two regions offer some differences in size and distribution. While in Brandenburg more than 50% of its *Gemeinden* count less than 2,000 inhabitants (52,7%, that is 221 up to 419), Emilia-Romagna includes only 14,4% of its *comuni* in this category (50 up to 347). Vice versa, while Brandenburg has only four cities over 50,000 inhabitants (and none over 200,000), in Emilia-Romagna there are 13 of such cities, one with more

14 Of course, there are also some clear differences. For instance, while the *Ämter* must have proper personnel to manage their tasks, MUs are encouraged but not obliged to provide a similar staff, since this is a function that member municipalities may or may not decide to transfer to the IMC. Again, the *Ämter* have an administrative director to coordinate the personnel in fulfilling the IMC tasks, while the MUs do not foreseen this task, leaving it to the mayors' steering board. Above all, it is the scope and range of their functions, and their territorial extension, which may vary and may eventually differentiate the *Ämter* and the Municipal Unions.

than 200,000 people (the region capital, Bologna). Nonetheless, as said, both countries have a similar tradition of municipal development and rooting, tracing back to the Middle Ages, which explains the high number of municipalities, and in particular the still remarkable presence of small and medium size municipalities. In this respect, however, Germany (here Brandenburg) shows a higher incidence of this category than Italy (here Emilia-Romagna), as shown in table 3, especially in the cumulative values column. This feature is particularly important from an IMC perspective. Small municipalities are more vulnerable in the context of transformations and challenges like those described in paragraph 2. They suffer most from financial, organizational, dimensional and expertise problems, from an overload of demands and a lack of supply in public services as well as from difficulties in fulfilling compulsory tasks. It is thus largely for the small municipalities that IMC has often been looked at as a possible solution. And it is not by chance that in both Emilia-Romagna and Brandenburg most of municipalities involved in IMC experiences have a small or medium size.

Table 3: Area, inhabitants, population, number and percentage of municipalities in Emilia-Romagna and Brandenburg (2009/2010)

	<i>Emilia-Romagna</i>			<i>Brandenburg</i>		
<i>Area (km²)</i>	22.123			29.481		
<i>Inhabitants (N)</i>	4.293.825			2.522.493		
<i>Population</i>	<i>N</i>	<i>%</i>	<i>cumulative</i>	<i>N</i>	<i>%</i>	<i>cumulative</i>
	<i>municipalities</i>		<i>values</i>	<i>municipalities</i>		<i>values</i>
< 500	3	0,9	--	11	2,6	--
500-1,000	16	4,6	19 (5,5)	131	31,3	142 (33,9)
1,000-2,000	31	8,9	50 (14,4)	79	18,8	221 (52,7)
2,000-5,000	106	30,5	156 (44,9)	74	17,7	295 (70,4)
5,000-10,000	96	27,6	252 (72,5)	52	12,4	347 (82,8)
10,000-20,000	61	17,6	313 (90,1)	44	10,5	391 (93,3)
20,000-50,000	21	6,1	334 (96,2)	24	5,7	415 (99,0)
50,000-100,000	4	1,2	338 (97,4)	2	0,5	417 (99,5)
100,000-200,000	8	2,3	346 (99,7)	2	0,5	419 (100,0)
200,000-500,000	1	0,3	347 (100,0)	--	--	--
>500,000	--	--	--	--	--	--
<i>Total</i>	<i>347</i>	<i>100,0</i>		<i>419</i>	<i>100,0</i>	

Source: Author's compilation from official data. For Brandenburg (data up to 2009): Statistisches Jahrbuch Brandenburg 2009 (2009: 26) at www.statistik-berlin-brandenburg.de (last access: October 25, 2010); Statistisches Bundesamt, Quartal Ausgabe June 2010: www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Statistiken/Regionales/Gemeindeverzeichnis/Administrativ/AdministrativeUebersicht,templateId=renderPrint.psml. For Italy (data up to 2010): www.ancitel.it/sindaci/index.cfm (last access: October 25, 2010).

As far as the IMC is concerned, table 4 shows more in details the varieties and quantity of IMC forms mostly active in the two regions. In Emilia-Romagna the MUs have become, in the last couple of years, the first IMC form including more than 30 units. The very last impulse to this rise was given by the regional law n. 10/2008, which established that within September 2009 half of the previous 18 MCs should transform into MUs or be integrated into existing MUs. Along with 31 MUs, 10 MCs still continue to exist, along with 11 Intermunicipal Associations – another form of IMC slightly looser than MUs, as will be soon explained. In Brandenburg, along with 53 *Ämter*, there are 79 *Zweckverbände* operating on the ground. As said earlier, these are not local authorities but rather different IMC forms based on self-governing special-purpose associations. They may couple with – and somehow overlap with –

one or more *Ämter* (or part of), being devoted to a specific task (i.e. water supply, waste management) that municipalities can decide to transfer to these associations, leaving to the relevant *Amt* other public services to fulfil.

Table 4: Inter-municipal cooperations forms in Emilia-Romagna and Brandenburg (2010)

	<i>N municipalities</i>	<i>N and type of IMC forms</i>		
<i>Emilia-Romagna</i>	347	31 ^a	10	11
		Municipal Unions	Mountain Communities	Intermunicipal Associations
<i>Brandenburg</i>	419	53	79	
		Ämter	Zweckverbände	

^a In this number has been included the only case of Circondario (the *Nuovo Circondario Imolese*) – another IMC form – still existing in Emilia-Romagna. Because its functions, operating fields and statute are very similar to those of MUs, it has been incorporated in this category. Data in this table and in the following ones do thus count also this unit.

Source: Author's compilation from regional official data. For Emilia-Romagna: www.servizi.regione.emilia-romagna.it/AnagraficaEELConsultazione/RicercaAvanzataEnte.aspx (last access : October 26, 2010). For Brandenburg: Amt für Statistik Berlin-Brandenburg, *Ämter Verzeichnis Gebietsstand 01.03.2009* www.statistik-berlin-brandenburg.de; [service.brandenburg.de/lis/list.php?page=behoerdenverzeichnis_art&sv\[adr_art\]=zv_*&_grid=Zweckverbände](http://service.brandenburg.de/lis/list.php?page=behoerdenverzeichnis_art&sv[adr_art]=zv_*&_grid=Zweckverbände) (last access: October 27, 2010).

Table 5 shows instead the total number of municipalities currently experiencing, in the two regions, the IMC forms (Municipal Unions and *Ämter*) which are the subject of our analysis. Again, most data are comparable. Almost half of the 347 municipalities in Emilia-Romagna (47,6%) belong to a MU, against the 271 (64,7%) in *Ämter* of the 419 Brandenburg municipalities. But if we also consider the Emilia-Romagna municipalities which are members of Mountain Communities or Intermunicipal Associations, then the total number of municipalities involved in various IMC forms rises to 310 units and to an amazing 89,3%¹⁵. Of particular interest is the average size of IMC bodies in

¹⁵ We should remember that in Emilia-Romagna also Mountain Communities and Intermunicipal Associations are IMC forms with the status of local territorial authorities, though with some different features from MUs. Thus, here they are important in order to measure the “propensity’s degree for institutionalized IMC” in the region. On the contrary, in Brandenburg the *Ämter* are the only IMC form entitled with territorial authority status and therefore the only one that must be “counted” for our purpose here.

both regions: the average number of municipalities involved in MUs or *Ämter* is quite similar, ranging from 5 to 6 municipalities.

Table 5: Number, percentage and average number of municipalities in MUs or Ämter (2010)

	<i>Total N municipalities</i>	<i>N municipalities in MUs or Ämter</i>	<i>%</i>	<i>Average N municipalities in MUs or Ämter</i>
<i>Emilia-Romagna</i>	347	165 (310) ^a	47,6 (89,3) ^a	5,3 (6,0) ^a
<i>Brandenburg</i>	419	271	64,7	5,1

^a Data in parenthesis refer to the total N, percentage and average N of municipalities in IMCs in Emilia-Romagna, considering also the Mountain Communities and the Interregional Associations.

Source: Author's calculation based on regional official data. For Emilia-Romagna: www.regione.emilia-romagna.it/wcm/gestioni_associate/sezioni_laterali/esperienze_atto.htm (last access: October 27, 2010); for Brandenburg: Amt für Statistik Berlin-Brandenburg, *Ämter Verzeichnis Gebietsstand 01.03.2009* www.statistik-berlin-brandenburg.de.

The data presented here give further support to the idea of an interesting comparability of the two regions and of the IMC forms they employ. In order to verify this idea, we will now focus more deeply on the two case studies.

6 Emilia-Romagna: A Front Line Region

Situated in Northern Central Italy, Emilia-Romagna is one of the few Italian regions that dealt with IMC, anticipating other regions and well before the national legislation would compel them to do so. Being able to root this approach on a long tradition of very tight relations with the local level, both at the municipal and the other sub-regional territorial levels and institutions, Emilia-Romagna already in 1996 issued a regional law disciplining the territorial management, promoting inter-municipal merging and integration; and in 1999 an innovative form of IMC, the Intermunicipal Association (IAs - *Associazione intercomunale*) was created and then spread all over the country. It was the loosest and more flexible form of MU, established to promote IMC

when the merging among municipalities was still compulsory after building a municipal union (Baldini et al. 2009, 56-57).

In 1999 and 2000 some national legislative interventions radically changed the general vision about IMC in the country: instead of compulsory fusions, IMCs were fostered with the aim of promoting cooperation among local authorities at large. This was to be achieved, on the one hand, by entitling the meso-governments (that is, the regions) with decisional powers about the «optimal dimensional size» of IMCs as well as with financial powers about incentives and aids to the IMC forms. On the other hand, municipalities retained the freedom to choose which form of IMC they preferred. It was with these national acts that the already mentioned removal of the compulsory merging was introduced.

Emilia-Romagna very soon implemented this new approach to territorial management and decentralization. Already with the 3/1999 regional law, this region had abolished (art. 16) the so-called regional «substitutive power», which enabled itself to intervene where local authorities lacked in providing services or compulsory tasks or in fulfilling norms¹⁶. Then, with the regional law 11/2001, IMC received a remarkable and definitive push in Emilia-Romagna. The 11/2001 law encouraged the willingness and freedom of inter-municipal cooperation and benefited long-term experiences (Regione Emilia-Romagna 2003: 4-5). It enhanced only structured and institutionalized inter-municipal cooperation forms (as IAs, 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 trend was then extended by subsequent norms¹⁷, all of them stressing that IMC «should be conceived less and less a mere organizational feature for services and functions and more and more a basic cell of the networked system of local administrations» (Regione Emilia-Romagna 2005: 56).

The following turning point for IMC in Emilia-Romagna came in 2006. In this year State financial incentives for IMCs, which until then had been established at the national level, moved under the responsibility of the same

16 The 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 negotiated planning (*programmazione negoziata*) (art. 33).

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

regions (the so-called «regionalisation of State funds» for IMCs). From then on, the State distributes money to those regions accomplishing certain IMC requisites; but it is then up to each region to establish funding and redistribution criteria among its IMCs. The agreement between State and regions on this point¹⁸ also stressed that regional legislations should focus on MUs and MCs, being those «not only functional structures for service delivering, but also (...) representative bodies and local territories' authorities» (Xilo and Ravaioli 2009: 61).

These last changes reinforced in Italy, and of course in Emilia-Romagna, a trend – the empowering of regional meso-governments in dealing with IMC matters – whose beginning can be traced back to the eve of the decade, with the already mentioned State interventions in 1999 and 2000. And the ensuing acts, in the years 2008 and 2009, also went in the same direction.

As previously hinted, at the end of 2007 the annual national government budget (*Legge finanziaria 2008*) launched an indirect territorial reform by forcing regions to cut in number the traditional IMC form of the Mountain Communities. Regions therefore had to implement this norm and to arrange the number and borders of their own MCs accordingly. Emilia-Romagna government reduced and reorganized its own MCs with the 10/2008 and 22/2008 regional laws and with a further act in May 2009. It also decided a restructuring and simplification of the regional public service system (i.e. by prohibiting – and no longer only discouraging – IMC territorial overlappings and by introducing even stricter funding criteria). This decision turned out to be in practice an extremely strong incentive for pluri-functional IMCs with legal entities status, such as the MUs and the reformed MCs (Baldini et al. 2009: 71, 161)¹⁹.

In 2009 and 2010 the state enhanced again fusions and MUs establishing that small municipalities under 5,000 inhabitants should cooperate or

18 The agreement was reached during a meeting of the State-Regions-Local Authorities Unified Conference, the body created in 1997 merging the State-Regions- and the State-Cities and Local Autonomies Conferences with the aim of fostering cooperation and negotiation among the state and territorial authorities.

19 It must be underlined that all along these years the regional government in Emilia-Romagna did not change in terms of political color. Centre-left governments succeeded to one another in the time span covered in this essay. This feature may be of interest if considered that instead in Brandenburg – as it will be explained in paragraph 6 – a political alternation took place. Nonetheless, on the one side, this aspect will not be further explored here and, on the other side, several researches show that political orientation of the ruling governments seems to have only a limited impact, if any, on the IMC issues and on their management (Baldini et al. 2009: 172-173), as well as on territorial reforms (Bogumil 2007: 5).

establish an MU in order to provide «local authorities’ basic functions» such as public administration, police, school, social services. Moreover it stressed the responsibility and decision-making entitlement of the regional meso-government in this process²⁰.

The consequence of these last decisions was twofold. On the one hand regions definitively attained a dominant role in the IMC management: they were entitled by the State to manage and decide most of the territorial policy issues, and they used these new powers accordingly. Some regions – and among them Emilia-Romagna – opted for a “full acceptance” of this role, implementing it effectively through their regional laws. On the other hand the IMC form of the Municipal Union was impressively empowered, thus becoming the first type in Italy and, as already seen, in Emilia-Romagna. Tables 6-8 try to account for this last evolution in Emilia-Romagna.

Table 6: Evolution of inter-municipal cooperation forms in Emilia-Romagna (2000-2010)

<i>Year</i>	<i>Municipal Unions</i>	<i>Mountain Communities</i>	<i>Intermunicipal Associations</i>
2000	2	18	13
2001	3	18	22
2002	6	18	25
2003	7	18	26
2005	8	18	26
2007	12	18	22
2008 July	12	18	18
2008 Oct.	16	18	18
2009 Jan.	17	18	15
2009 May	20	18 (9) ^a	15
2010 Oct.	31	10	11

^aThe number into parenthesis indicates the number of MCs the national law encouraged to reach in Emilia-Romagna. Finally their ultimate number reached 10 with one “old” MC fulfilling the new requisites and nine new bodies called “New Mountain Communities”.

Source: Author’s compilation from regional data in Regione Emilia-Romagna 2005: 66; Regione Emilia-Romagna 2003: 12, 14; since 2007: periodical reports on www.unioni.anci.it; www.regione.emilia-romagna.it/gestioni_associate/ (last access: October 26, 2010).

20 By the 42/2009 law on fiscal federalism enacting the art. 119 of the Constitution and by the annual national government budget (artt. 26-31, 122/2010 law).

Table 7: Number and percentage of municipalities in IMC forms in Emilia-Romagna (Situation as of October 2010)

<i>IMC form</i>	<i>N</i>	<i>%</i>
Municipalities in MUs	165	47,6
Municipalities in MCs	95	27,4
Municipalities in IAs	50	14,3
No IMC member	37	10,7
<i>Total</i>	<i>347</i>	<i>100,0</i>

Source: Author's calculation from regional official data available at www.regione.emilia-romagna.it/gestioni_associate (last access: October 26, 2010).

Table 8: Number of municipalities and population in Municipal Unions in Emilia-Romagna (Evolution 2003-2010)

<i>Year</i>	<i>N municipalities in MUs</i>	<i>Population in MUs</i>
2003	27	123.897
2005	36	211.493
2009	108	937.464
2010 (June)	122	1.083.481
2010 (Oct.)	165	1.385.883

Source: Author's calculation and compilation from data available in Regione Emilia-Romagna 2003: 11; Regione Emilia-Romagna 2005: 62; Baldini *et al.* 2009: 41; Cittalia 2010: 24, 28; www.servizi.regione.emilia-romagna.it/AnagraficaEELLconsultazione/RicercaAvanzataEnte.aspx; www.ancitel.it/sindaci/index.cfm (last access: October 28, 2010).

A Permissive and Assertive Approach to IMC

Which interpretation can be given to the data and narration presented until now?

Three phases can be singled out in the IMC experience in Emilia-Romagna: a first phase (1996-2001), a second one (2001-2006) and a third phase (2006-present). The first one represents the «beginning of IMC» – still constrained by the 142/90 national law, imposing rigid criteria – with the pioneering entering of Emilia-Romagna in this field with the regional laws of 1996 and 1999. The second stage is the «first IMC take off». Fostered by the new national approach of the 265/1999 law and the 267/2000 Tuel, this phase is characterized by an

IMC mushrooming, especially in the forms of MUs and (at that time) mostly IAs. The third phase is the «second IMC take off», which started with the «regionalisation of State funds» for IMCs in 2006, was pushed by the changed approach at the national level and was then decisively fostered by the 2008-2010 national and regional acts. In 2010 the ultimate implementation of these changes ended: most of the “old” MCs disappeared and/or converted into MUs, most of IAs commuted into MUs, as well as existing and newly created MUs now fulfil the new criteria for local authorities and horizontal cooperation. A consolidation stage is thus probably to start from 2011 on, which will allow further analysis in order to evaluate the results and evolution of these changes.

Apart from the various phases, it is worth underlining that Emilia-Romagna has always shown a remarkable interest in territorial institutional policy, in particular in its IMC aspect. It was among the first regions in Italy to provide regional legislation on this issue, also with innovative features; the first region to apply the territorial management plan as an instrument for territorial development and regulation (also in the IMC respect); and among the few Italian regions to significantly boost this kind of network among municipalities. Not only that: The creation of a unique and innovative form of IMC, the Intermunicipal Association, may be read as a sign of a particularly strong role and engagement of this region in the whole issue. Emilia-Romagna invented this cooperation form in order to induce municipalities to associate, but without letting them feel constrained by rigid formal rules. A courageous and assertive step if considering that in the first phase IMC rules were quite stringent and no other region had significantly taken any initiative in this field. Nearly a decade later, in the third phase, the IA form began to be discouraged in favour of more institutionalized IMC formats (Baldini et al. 2009), with the result that MUs are nowadays the most fostered inter-municipal cooperation forms. Once again, the region Emilia-Romagna anticipated the national course and/or immediately implemented innovations. In time, regional funds had in fact begun to decrease for IAs in favor of MUs and regional legislation in 2008-2009 formally helped the transformation of these (now inadequate) forms into MUs.

Generally speaking, the Emilia-Romagna approach to territorial institutional policy and IMC may be therefore depicted as «permissive and assertive», that means allowing municipalities to organize as they wished but within a solid framework established by the region itself.

7 The Brandenburg Way to Territorial Policy

Brandenburg lies around the federal capital and city-state of Berlin and is one of the former German Democratic Republic (GDR) *Länder*, nowadays called new *Länder* or Eastern *Länder*. Its territorial institutional policy begins with the German reunification in 1990, the ensuing restoration of the *Land* and the return to an effective self-government of its territorial entities (districts and municipalities). In the following decade Eastern *Länder*, among other major challenges, also had to cope with territorial reforms, where they tried to implement the same path followed by the Western *Länder* a couple of decades before (Jeffery 1999 and 2003, Wollmann 2004). A major feature in Brandenburg is therefore that the IMC issue cannot be disjoined from the territorial reforms. As will be seen, IMC solutions have in fact always been coupled with the need for a territorial and functional restructuring of the municipal entities, mostly in the direction of their reduction.

Just after the reunification, the high number of municipalities, in particular those of small size (in 1991 around 65% of the 1,793 Brandenburg municipalities were under 500 inhabitants, see table 9), pushed the *Land* administration toward the first IMC initiative, along with the first municipal administrative reform²¹.

21 Büchner and Franzke (2002: 98) clearly state that «according to West Germany experience, more than 90% of municipalities in Brandenburg, just for their size, were unable to create an effective municipal autonomy».

Table 9: Evolution of municipalities in Brandenburg according to number and size (1990-2009)

Year ^a	Total N municipalities	Population					
		<500	500-2,000	2,000-5,000	5,000-10,000	10,000-20,000	>20,000
1990	1,775	1,145	448	97	38	22	25
1991	1,793	1,169	447	93	37	22	25
1992	1,793	1,181	436	92	37	23	24
1993	1,813	1,192	443	95	36	23	24
1994 ^b	n/a	n/a	n/a	n/a	n/a	n/a	n/a
1995	1,696	1,096	426	91	34	25	24
1996	1,696	1,090	432	89	36	25	24
1997	1,696	1,088	432	90	37	24	25
1998	1,565	957	425	87	46	25	25
1999	1,489	874	423	96	45	26	25
2000	1,479	861	423	95	47	28	25
2001	1,474	861	414	95	50	29	25
2002	1,092	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
2009 ^d	420	11	211	74	52	44	28

^a Data as of January 1, every year except for 2006, 2008 and 2009.

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

^c Data as of December 31, 2005 and 2007, respectively.

^d Data as of December 31, 2008.

Source: From 1990 to 2005 and for 2007, Deutscher Staedtetag, *Statistisches Jahrbuch Deutscher Gemeinden*; for 2006 and 2008, Amt für Statistik Berlin-Brandenburg, *Statistisches Jahrbuch Brandenburg 2008*: 26; for 2009, Amt für Statistik Berlin-Brandenburg, *Statistisches Jahrbuch Brandenburg 2009*: 26 at www.statistik-berlin-brandenburg.de.

In fact, in 1991 a first IMC form was created: the administrative units called “offices” (*Ämter*). 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 other *Länder* experiences, in order to provide an adequate legislation for local authorities (Büchner and Franzke 2002: 92-93). This constitutional act also encompassed the *Ämter* legislation (*AmstO*) and their institutional rights and guarantees as well as the so-called “soft” territorial reform (Berg and Möller 1997: 3), which consisted in pursuing a bigger municipalities’ average size and better management’s capacity of local authorities. In this period the *Land* Brandenburg chose to introduce «‘a soft double-barrelled’ strategy in which small-size municipalities with elected local councils were retained while, at the same time, a new layer of inter-communal bodies was introduced» (Wollmann 2010b: 81)²², in a sort of dual structure. This strategy included two different steps. In a first phase, the «Brandenburg way» was a volunteer way (*freiwilliger Weg*) through which (mostly small) municipalities had to merge and form bigger entities without a coercive top-down decision by the *Land*. Later, when the deadlines set up by the *Land* for municipalities to voluntarily merge, cooperate, join together were over, the *Land* should intervene by forcing local authorities to follow its guidelines.

The soft approach led to a modest but not insignificant success, as shown in table 10, which displays the evolution of *Ämter* and merging in Brandenburg along the years. In the second half of the 90s, 1,636 municipalities created 158 *Ämter*: an average of about 11 municipalities with 8,000 inhabitants thus constituted an *Amt* (Büchner and Franzke 2002: 100, Berg and Möller 1996: 7), comprising around 97% of all Brandenburg municipalities (Wollmann 2010b: 80). During the 90s this IMC solution was thus extremely important because it helped create a solid base for the development of the renewed local authorities in Brandenburg after the reunification.

Nonetheless, the *Ämter* solution left the single municipalities, their identities and existence untouched: municipalities simply had to join for administrative purposes, without anything to compel political and territorial merging. The Brandenburg *Ämter* legislation – and in general the dual-structured, soft Brandenburg way – was so conceived also for political reasons: soon after having re-conquered autonomy and identity as local authorities, it would have been hard to ask municipalities to renounce to part of their powers in favour of

22 Among the five Eastern *Länder* only Saxony opted for a radical reform by compulsorily merging small municipalities into bigger ones, while the other opted for the same soft solution adopted in Brandenburg.

an over-ranked authority (Berg 2002: 22). Moreover, a sort of respect was paid to civil society and local level groups, which had helped in overthrowing the Communist regime, by preserving their small-size identity (Wollmann 2010a: 271-273 and 2010b: 81).

At the turn of the decade, however, problems and critics began to come to surface with the consequence that «operational and democratic deficits of the dual structure have been increasingly addressed» (Wollmann 2010a: 274). Among the main critics, those addressing the shrinking organization and loosing of skills and competences by the smaller municipalities, and those concerning the lacking legitimacy and accountability of *Ämter* due to their indirect elections, were surely the most striking (Wollmann 2010a: 273-274). The accountability deficit was also boosted by the fact that along time, more and more often member municipalities had chosen to transfer also some decision-making powers to the *Ämter* (especially in the fields of territorial development, schools, urban planning), not only some administrative tasks (Büchner and Franzke 2002: 99)²³. In the praxis the *Ämter* were thus becoming stronger and more political IMC form, a landscape not so different from the Emilia-Romagna Municipal Unions.

Parallel to this *de facto* political empowerment of the *Ämter*, another IMC form spread in Brandenburg: the special-purpose associations (*Zweckverbände*), entitled with special tasks to be managed by their own administrative organization. Particularly for small municipalities, this step brought along problems of representation and membership in so many entities (Büchner and Franzke 2002: 104), along with *over-institutionalization* problems (Wollmann 2008: 258).

Due to this widespread discontent and manifold critics, 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 merging, enlargement and formal 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 municipal authorities to influence *Land* policies (Gabriel and Eisenmann 2005: 136). Nevertheless, a series of four *Land* legislative acts between 1992 and 1996 took place (ibidem: 104) in order to promote and support free mergers and incorporation of single municipalities in bigger cities with border modifications and inclusion as cities' departments. These acts were however not particularly successful (Berg 2002: 25; Berg and Möller 1997:

23 The accountability deficit problem is shared with Italy's and Emilia-Romagna's Municipal Unions which are addressed with the very same critical issues (Baldini et al. 2009: 159ff.).

4ff.), at least until 1997, when a new push for territorial institutional policy took place. In the following years mergers were more successful, as shown in table 10, and municipalities effectively started using the volunteer option of merging so that the total number of municipalities began to considerably decrease in the following years (see again table 9).

Table 10: Evolution of IMC, *Ämter* and mergers in Brandenburg (1992-2010)

	<i>Total N municipalities</i>	<i>N municipalities NOT in Ämter^a</i>	<i>N municipalities in Ämter</i>	<i>N Ämter</i>	<i>N mergers^b</i>
1992	1,793	54	1,733	160	
1995	1,696	56	1,636	158	4
1996	1,696	56	1,636	158	--
1997	1,700	60	1,636	158	60
1998	1,565	61	1,499	153	51
1999	1,489	62	1,423	152	9
2000	1,479	62	1,413	152	4
2001	1,474	62	1,408	152	172
2002	1,092	82	1,006	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	
2010	419	144	271	53	

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

^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 procedures.

Source: Author's adaptation and compilation from: 1992 to 2006, Deutscher Staedtetag, *Statistisches Jahrbuch Deutscher Gemeinden*; for 2007 and 2009, für Statistik Berlin-Brandenburg, *Verzeichnis Gebietsstand 01.03.2007* and *01.03.2009* at www.statistik-berlin-brandenburg.de; [www.mi.brandenburg.de/cms/list.php?page=mi_sg_zusammenschlusse&sv\[topics246\]=51921&_grid=2003](http://www.mi.brandenburg.de/cms/list.php?page=mi_sg_zusammenschlusse&sv[topics246]=51921&_grid=2003) (last access: Nov. 4, 2010); for 2010 (as of December 2009) *Bevölkerungsentwicklung und Flächen der kreisfreien Städte, Landkreise und Gemeinden im Land Brandenburg 2009* (Report Oct. 10, 2010) und Amt für Statistik Berlin-Brandenburg, *Ämter Verzeichnis Gebietsstand 01.03.2009*, both at www.statistik-berlin-brandenburg.de.

The *Land* government, however, considered the process to be proceeding too slowly. This was particularly due to the fact that small municipalities continued to be on the edge of survival: the only who could cope with the lack of resources were those joined in the *Ämter* (Berg 2002: 25 note 33). It is also worth noticing that in this phase of mergers-in-progress²⁴, the chosen formats were not those where the *Ämter* had to be dismantled or substituted. Instead, the favourite forms of merging were those within the *Ämter* or the incorporation into larger cities (Berg and Möller 1997: 10). A more effective action was therefore needed.

Toward the end of the decade another attempt to accelerate the volunteer territorial reform was pursued by the *Land*: in 1998/1999 an inquiry-commission prepared a territorial policy reform which went in the direction of bigger administrative and political units – but these proposals proved again unsuccessful. Nevertheless, a new wave of municipal reforms rose and invested the Eastern as well as some of the Western *Länder*, pushing for a re-drawing of the local authorities borders, probably as a reaction to the disillusion about the early 90s territorial reforms (Wollmann 2010a: 274-275)²⁵.

It was however only with the 1999 elections and the new *Land* government²⁶ that territorial reform in Brandenburg effectively emerged as a priority. Eventually in 2001 the *Land* approved the law on municipal restructuring and empowerment²⁷. Thanks to this act, a real territorial institutional policy was finally put in place: it was an encompassing local authorities' reform with the aim of creating bigger municipalities and *Ämter*, and to improve their management, financial and public service-providing capacity.

24 This was also the period when the effects of the *Kreisreform* (district reform), which took place in 1991-1993 and was one of the most successful in the Eastern *Länder* (Büchner and Franzke 2001: 9-10), also started to be tangible at the municipal level. 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 full force with the municipal election of Dec. 5, 1993.

25 Some analysts place the beginning of this new reform wave in Brandenburg already in 1996, after the municipal administrative reform in 1992, the district reform in 1993 and the approval of the functional reform law in 1994 (Berg and Möller 1997: 3).

26 In these regional elections a Grand coalition – that is, formed by the two main parties, the Christian Democrats (CDU/CSU) and the Socialdemocrats (SPD) – entered in power.

27 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).

The 2001 law also revealed a model-change in the Brandenburg approach: from a participation-oriented approach to a more efficiency-oriented one, from a balance-seeking attitude to a competition-fostering one. In other words, the Brandenburg way began to be abandoned (Berg 2002: 23). Of course in this phase mergers among municipalities, aimed at creating bigger local authorities, were warmly fostered by the *Land* government and financial support was given to those municipalities which decide to merge (Kuhlmann 2004: 21)²⁸. The law also reduced the options about the kind of *Ämter* municipalities could form to only one format, allowing just the creation of a self-administrating *Amt*²⁹ (Müller 2006: 10); it also increased the *Ämter* minimum size to 5,000 inhabitants and membership to 3 municipalities, as well as enhanced the transformation of *Ämter* into *Amt*-free cities³⁰ (Künzel 2003: 99).

In summary, the 2001 law established the guidelines to which the existing *Ämter* and municipalities should adapt and accordingly reduce their own number. Local authorities thus had the possibility to freely revising their borders and existence until spring 2002³¹. As shown in table 10, since 2001, as a consequence of this reform, free mergers dramatically increased: 172 occurred in 2001, 108 in 2002 and more than 80 in 2003, when the total number of fusions reached 491 and the total number of municipalities in a decade dropped by more than a half (from 1,813 in 1993 to 886 in 2003, see again table 9).

At the end of this «volunteer phase» (*Freiwilligkeitsphase*), the *Land* government and parliament should have validated these solutions and, in case

28 Funds for territorial modification were to be found in the municipal (§ 16GFG – *Ausgleichsfonds*) as well as in the *Land* budget. The fusion premium should be conferred within March 15 of the year following the merging (www.mi.brandenburg.de/sixcms/detail.php?id=24463, last access Nov. 3, 2010).

29 In 1991 municipalities had the option of choosing among three kinds of *Ämter*: a) with self-administration, b) with administration in one of the member municipalities, c) with administration in an *Amt*-free municipality (among others, Duve 2005: 29ff.).

30 The *Amt*-free municipalities (or cities), often called *unity* (or *integrated*) municipalities (*Einheitsgemeinden*), are the option few *Länder* (among those Saxony in the East, North Rhein-Westfalia and Hesse in the West) chose in the first stage of the territorial reforms. They are currently considered the best solution – regarding size, organization and competences – for local authorities in terms of efficacy, efficiency and management capacities (Hesse and Götz 2003: 606; Duve 2005: 36, 38).

31 See Ministerium des Innern, *Begründung zu den Leitlinien der Landesregierung für die Entwicklung der Gemeindestruktur im Land Brandenburg* (July 11, 2000, page 23) (www.mi.brandenburg.de/sixcms/detail.php?id=12566, last access Nov. 3, 2010).

of un-accomplishing authorities, quickly intervening by law within 2003³². 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 them³³, concluding with these acts the territorial institutional reform, which entered into force with the local elections on October 26, 2003. The top-down compulsory mergers came therefore as an ultimate policy instrument. For example, in 44 cases the *Land* Brandenburg imposed an *Amt* where municipalities had found no solution for joining together (Müller 2006: 10), 237 municipalities were merged in bigger ones and 91 small municipalities were integrated in 19 new ones (Duve 2005: 35).

In practice, with the Fall 2003 acts a more effective reform replaced the soft reform of the previous decade (Wollmann 2008: 258) in Brandenburg. Also the number of *Ämter* dropped to about one third (see table 10 again) and the mergers continued, although no longer financially supported, along with an increase of *Amt*-free municipalities. A few years after the 2003 acts, the total number of municipalities had stabilized around 420 (see again tables 9 and 10), with 33% of them which «have been turned into integrated ... municipalities (*Einheitsgemeinden*), as compared to 2% prior to the reform. While the dual structure continues to exist, the percentage of municipalities belonging to intercommunal bodies has dropped from 95% to 66%» (Wollmann 2010a: 274).

The implementation of this reform however was extremely controversial (Mier 2003: 24ff.): many municipalities appealed to the *Land* court³⁴ and additionally public opinion was not always, and continues to be³⁵, quite sceptical about the reform's effects as far as proximity, citizen participation and local democracy are concerned.

In the following mandate (2004-2009) the Grand Coalition *Land* government was confirmed but no further reform was planned or started. Nevertheless, the

32 KWI Newsletter Gebietsreformen n. 3, 2002, page 2, and n. 4, 2003, page 2, both available at www.uni-potsdam.de/u/kwi/publikationen/newsletter_gebietsreform.html (last access Nov. 3, 2010).

33 See Brandenburgische Landeszentrale für Politische Bildung www.politische-bildung-brandenburg.de/kommunal/hintergrund/kommunalpolitik_wk7.htm (last access Nov. 3, 2010).

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

35 See for example page www.rbb-online.de/klartext/beitrag/2009/brandenburg_demokratiedefizit.html (last access July 21, 2009).

debate about the need for additional changes to the Brandenburg two-level model³⁶ (Bogumil 2007: 5) and to territorial dimensions and competencies of local authorities – especially of *Ämter* – did not cease

In the 2009 regional elections a new government (SPD-Left Party) entered into power. In its first years the *Land* government has not directly revitalized the territorial reform issue, but it nonetheless has brought the smaller municipalities' problem to surface again. With a funding program started in 2010³⁷ and aimed at empowering small municipalities, particularly those in rural areas, through fostering their networks and cooperation in order to cope with the basic services delivering, the *Land* has decided to insist once again on the need for inter-municipal networks and cooperations. It is not by chance that it is compulsory for the applying authorities to already be part of an inter-municipal network in order to receive financing. Therefore, even if no explicit reform or merging is in the air, *Land* Brandenburg's most recent message to its municipalities is quite clear: be part of a network or you won't receive funding (that is, also, you won't survive).

From a Liberal to a Purposeful Approach to IMC

After this analysis, what can be said on the territorial institutional reforms and IMCs in Brandenburg throughout the years?

As in Emilia-Romagna, in Brandenburg also some stages can be singled out: a first phase (1990-1993), a second one (1993-2001), a third phase started in 2001 and concluded in 2004, and a fourth, current stage (2004-present).

The first phase (1990-1993) represents the «very beginning of IMC» in Brandenburg, coinciding with the re-establishment of its territorial authorities at all levels. This period saw Brandenburg avoiding any coercive strategy with 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 merging, while instead all of them moved towards different forms of (mainly administrative) inter-municipal cooperations. The second stage (1993-2001) can be defined as an «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

36 The two-levels model means that there is no intermediate territorial authority between *Land* and districts.

37 For details on the program see: www.mil.brandenburg.de/cms/detail.php/bb1.c.219038.de (last access: Nov. 4, 2010). The first round for applications closed in September 2010. Around 1.6 million Euros were put aside by *Land* Brandenburg and Federal State for this program in 2010.

and constraints challenging the local authorities. However, neither courageous IMC innovations nor an effective territorial reform actually 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 approved at the end of 2003. In this stage, *Land* Brandenburg moved from a soft to a more coercive approach towards IMC and territorial institutional policy. *Ämter* are still largely in use and are still the lifesaver for most small municipalities, but since 2001 the *Land* plainly started pointing at greater territorial, institutional and functional rationalization. Indeed a reduction in the number of municipalities and *Ämter*, and a parallel increase of *Amt*-free municipalities (*Einheitsgemeinden*) have been achieved. After these reform years, no other step in this policy field has been taken by the *Land* government, so that since 2004 the current phase is characterised by balance and awaiting. Nonetheless, with the new term 2009-2013, the *Land* seems to have regained interest in this issue and the 2010 funding program for smaller municipalities may represent a re-wakening for IMC initiatives.

Apart from the above described phases, it can be stated that the *Land* Brandenburg attitude towards IMCs has always been quite moderate and mostly reactive to environmental conditions. Although not differently from most Eastern *Länder*, Brandenburg saw IMC more as a compromise solution that allowed it to avoid the 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 since the 2001-2003 reform have shown a shift in the *Land* approach. IMC 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, but rather much more authoritative and steering than before with respect to the IMC options. Therefore the *Land* approach changed from being quite «liberal» (in the sense of leaving municipalities free of 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 will be seen further on, despite the fact that this approach was partially different from the one used by Emilia-Romagna, the government/governance relations can be singled out in the two regions, also reveal some common features.

8 Some Comparisons and Findings

The analysis conducted so far already allows us to draw some conclusions. Although differences due to the respective 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 analyzed 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 extension³⁸, can be very different, but both have the same core principle as 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* laws³⁹.

Bearing this in mind, let us see now which findings can be singled out by comparing some significant aspects about IMCs and territorial institutional policy in Emilia-Romagna and Brandenburg. Three specific issues will be discussed in the following.

8.1 Territorial Institutional Policy and its Implementation

The first issue (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 institutional policy at large, Emilia-Romagna has often anticipated the national trends, innovated the IMC legislation and pioneered most of the Italian regions. Its approach in this policy field can therefore

38 Nevertheless, as showed in table 5, size is not extremely different due that an average of 5.1 municipalities are members of the 53 Brandenburg *Ämter*, while an average of 5.2 municipalities participates to the 31 MUs in Emilia-Romagna.

39 As previously exposed, and 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.).

be defined as «pioneer and proactive». On the other side, Brandenburg has behaved more prudently, following 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 – as detailed before – left 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 in the voluntary phase, trying not to force municipalities in any way towards fusions and mergers but only proposing these options to them, to a «purposeful» attitude in the authoritative phase, when it became clear that the voluntary phase had produced no adequate result for territorial rationalization and management, and that many municipalities' survival was in utmost danger.

8.2 Regions Towards Local Authorities in IMCs

The second issue 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 rather 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 leaving the municipalities more or less free to choose the merging option they preferred.

Despite this analogy in preferring IMCs to mergers – as well as in favouring free choice to coercion – in both cases most successes in territorial policy came when the two regions used their powers upon municipalities, “sweetened” or not, with the willingness’ options. Emilia-Romagna renounced to its substitutive power towards local authorities 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 by using financial instruments to support these preferences: the result was a boosting of inter-municipal cooperations. In Brandenburg some opportunity reasons – that is, as said, leaving the newly re-installed local authorities free from an over-ranked power – pushed the *Land* towards a mild option at the beginning, which brought

to a modest success in terms of numbers, although to good inter-municipal cooperation's quality through the *Ämter*. Later Brandenburg, in its turn, empowered itself towards the municipalities after the functional reform (Berg 2002: 18), imposed a clearer route in its territorial policy by using its power upon municipalities; and in this way some improvements – both in numbers and in territorial rationalization – came.

Summing up, in both cases, IMCs (in the forms of MUs and *Ämter*) in the 90s were 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.

Nowadays, almost 20 years later, both regions no longer conceive IMCs as a way to avoid mergers 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 of attaining better territorial management and development, as well as to cope with the challenges pressing the local authorities.

8.3 Policy Procedures and Governance

A third issue concerns the procedures Emilia-Romagna and Brandenburg adopted to implement their territorial institutional 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 paid particular attention to ensuring an effective local authorities' involvement in the ascendant phase of territorial policy and in its decision-making processes, being the regional laws 3/1999 and 11/2001 good examples for that. This region also gathers yearly 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 issues. This turned out to be a very useful and important instrument if it is true, as a regional high-ranked civil servant declared⁴⁰, that thanks to this conference the regional laws concerning IMCs have been largely consensual, and positive agreements have been always reached among the parts.

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

In Brandenburg the governance approach is even more emphasized. Governance aspects, network-based consultations, deliberation and decision-making processes are in Germany particularly cared for (Berg and Möller 1997: 4). As seen in paragraph 6, willingness and voluntary choices have been the basis of the Brandenburg way: consultations with involved municipalities have been conducted in each phase, as testified by the procedure the *Land* chose to adopt before closing the reform in 2003. Of course, the more open the process and the more 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 perhaps also be explained with this highly-inclusive networked procedure.

Finally, a last remark about the incentives available to the actors involved in the governance processes must be done. Both regions used financial incentives to attract their counterparts (municipalities) towards their preferred IMCs or territorial rationalization's solutions⁴¹. Emilia-Romagna, for instance, was convinced that «only adequate financial incentives could guarantee the effective creation of IMCs» (Regione Emilia-Romagna 2003: 6), and in fact extraordinary and ordinary incentives have been settled by this region (Baldini et al. 2009: 59ff.). Brandenburg, as well, budgeted financial incentives for those municipalities that chose to merge. In other words, in both cases the municipalities were induced by material incentives to opt for top-down solutions, more than to elaborate their own solutions.

9 Emilia-Romagna and Brandenburg between Government and Governance in Territorial Institutional Policy

If all the above holds true, which conclusions can be attempted upon government/governance relations in this policy field for the two regions?

Some elements allow us to claim that Emilia-Romagna optimized a «satisfactory deliberate equilibrium» between steering and horizontal bargaining, i.e between government and governance features. 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 of its

41 Financial incentives offered to municipalities have usually been quite modest in both regions. In any case, despite their entity, municipal finances in Italy and Germany, as well as throughout Europe, have been so constrained and precarious since the 80s that also minimal aids from the end of the regions are most welcome and eagerly accepted.

interventions have been guided by a clear vision of the preferred territorial institutional options and 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 a de facto empowering of the region and with a fine-tuning of its institutional preferences.

Emilia-Romagna has always cared an effective involvement of local authorities in public policies and decision-making processes. To give an example, a regional report stated that the 11/2001 regional law's philosophy was to reach the local authorities' dimensional adaptation without using authoritative instruments (Regione Emilia-Romagna 2003: 6). Nevertheless, as said, this region often used directives and "preferred guidelines" towards its municipalities and IMCs. This proves both its deep consideration of local authorities and an assertive approach in territorial policy and management.

Brandenburg instead reached a more «provisional unexpected equilibrium». This region found a balance between governance (as a free arena for municipalities to consult and be consulted and as a 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 what we defined «liberal approach», left 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. reduction in number of both *Ämter* and municipalities), and marked the most recent Brandenburg approach to IMC and territorial institutional policy. As if, in a sort of continuum, the first two stages (1990-1993 and 1993-2001) were to be placed nearer to the governance pole, while the third (2001-2004) and the fourth phase (2004-present) to the government extremity. But, as said, this shift took place in quite an 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 institutional 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.

More and more, in many Western countries, the municipal arenas are characterized by governance features, especially in the form of networks of

actors and institutions with specific tasks and goals (Wollmann 2008: 266). In territorial institutional 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 actions (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 above, things are not exactly – or simply – like this. Both because as an institutional policy, territorial policy implies a peculiarly strong role of government, which impedes fully governance-based dynamics; and because empirical evidence thus far shows that it is rather a balance and a complementariness between governance and government to be at work in this policy field, more than a prevalence of one side or the other.

Regional governments, in fact, 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 one option rather than others, also thanks to financial and normative incentives. 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 analysis, let alone the need for further research in the field, what Mayntz and Scharpf (1995) stated more than a decade ago, when the debate about governance flourished – then reported again 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 institutional policy – and in the specific case of inter-municipal cooperations in the two case studies – this sounds to be even more accurate, as will be stressed again in the next paragraph.

10 Conclusion: The Role of Meso-Governments in Territorial Institutional Policy in Italy and Germany

It must in fact be restated, that the governance arena in territorial institutional policy is quite peculiar. Due to the fact that territorial policy can be reasonably considered an institutional policy – as considered in this essay and argued in paragraph 3 – a higher role of hierarchy than in other policy fields must be taken into account. It is the responsibility of 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 analyzed here have been quite open, allowing negotiations, audits, and bargaining with the municipalities. They have permitted horizontal forums and networks established by the municipalities with other actors (mainly local trade unions, enterprises, employers' associations, citizens' associations) as well, in order to discuss the territorial options at stake. But as emerged all through the analysis conducted thus far, the government aspect has always remained the determining one.

Therefore it can be argued that the region/*Land* is, *de facto*, the principal actor in this policy field. Partly, as said, because of the policy's nature, which renders this pre-eminence unavoidable. Partly because of Emilia-Romagna and Brandenburg themselves, which sooner or later chose to use their powers and to impose their top-down decisions, by shutting down all governance dynamics.

As far as the regions and territorial institutional policy are concerned, another aspect is worth recalling: Emilia-Romagna and Brandenburg – and in general Italian regions and German *Länder* – 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 IMCs, in Germany the *Länder* have this policy already among their exclusive competencies. In time, Italian regions have progressively been empowered with legislative competences and powers in the matter of IMCs, as well as with the authority to intervene when municipalities do not comply with their guidelines. In Germany those powers are 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 particularly municipal identities – are in Germany extremely strong, so that the coercive

powers of the *Land* governments may be paradoxically more reluctantly used than in Italy.

Nonetheless in both cases an empowerment of meso-governments, although in different measures, can be detected. In Italy, already with the 142/1990 law, regions were recognized as «propeller and coordination center in the whole local autonomies' system» (Filippini and Maglieri 2008: 343)⁴². Years later, with the 59/1997 law and with the decree 112/1998, regions were entitled to choose the so-called «optimal levels» (ATOs) or «optimal context for associated managing of functions and public services» (Vandelli 2005: 28). Since then in the Italian legislation, a central role was therefore devoted to the meso-governments, entitled to foster the joint management of services in small municipalities through the allocation of these ATOs. Within the ATOs and in the framework of regional laws, municipalities should choose their own association and cooperation forms; if no decision has been made by the involved municipalities within a certain period of time, it becomes the precise task of the region to intervene (ibidem). The 265/1999 law further stressed these points, by conferring on the regions the power to enhance and promote IMC as well as the related incentives, particularly if oriented towards aggregation and fusion of small municipalities. This law, as already noted when dealing with the Emilia-Romagna case, was a real turning point for local authorities and IMCs in Italy. Finally the Constitutional revision in 2001 ultimately «converted the regions in the pivotal centre of the local governance» (Baldini et al. 2009: 52). The new constitutional asset «progressively opened up a wider and wider space to the regional legislative power concerning the ruling of cooperation forms» (Filippini and Maglieri 2008: 370). It can be thus stated that in time, Italian regions conquered an effective central role in territorial institutional policy. If it is true that more horizontal and governance features have been introduced after the 2001 constitutional revision, it is also true that a parallel empowerment of the regional meso-governments has doubtless taken place, so that they nowadays are the real engine of inter-municipal cooperation.

Summing up, it can be claimed that currently Italian regions have attained quite a strong position in territorial institutional policy, along with an effective empowerment of coercion power, so that they are now comparable in this policy field to the German *Länder* and their constitutionally guaranteed powers.

42 This status was also later established by the Constitutional Court decision n. 343/1991.

In Germany, as said, the starting point was different and the role and competences of the *Länder* were guaranteed by the Basic Law. Nevertheless, the tension between the meso-government level and local authorities has never been absent. And also in the German case the role of the meso-governments has been empowered in time, although they already had a strong position. After the functional and territorial reforms in the second half of the 90s, in fact, the real scope of these reforms rested unattended and the effect was instead a further growing of the *Land* weight towards the municipalities (Berg 2002: 18). At the same time it is also true that the attention paid to the governance aspects and to the network-based consultation, deliberation and decision-making processes in Germany has always been extremely strong (Berg and Möller 1997: 4) – as testified to by the case of *Land* Brandenburg – and continued to be so despite the *Länder* empowerment.

Hence, in both Italian regions and German *Länder*, the balance of power between freedom, choice and inclusive democracy, on the one hand, and top-down decision and coercion, on the other hand, still remains uncertain: in a broader sense this brings us back again to the government/governance equilibrium-to-be.

In this respect a question about the role of meso-governments and their limits may have arisen: how far should the coercive power of regional authorities affect municipalities (Hesse and Götz 2006: 121 ff.)? If considering in fact that in the whole of Europe, and thus also in Italy and Germany, IMC's boom coincided with the empowerment of local executives through the direct election of the mayors, the issue appears to be particularly intriguing. The “new” majors are reinforced and visible heads of municipalities, which had to face mounting challenges for local authorities and also for IMC forms. That means that local actors are directly elected and thus legitimated and responsible, and can therefore be more reluctant to accept top-down decisions, bringing again to the surface potential tension between local authorities and over-ranked regional institutions. All these factors render the territorial institutional policy an evolving field where the question of a balance, or coexistence, between hierarchical governmental features and horizontal governance elements turns out to be still debated and on the move.

Finally, trying to draw a last conclusion on this topic, it can be stated that in general terms territorial institutional policy – and in particular when speaking about IMC – 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, it can be argued that the meso-government level is recognized as a key-player in regional governance⁴³; as well, in many policy fields including territorial institutional policy, hierarchy is considered predominant in respect to any governance form (Auel 2006).

And more than that, it can be argued that meso-governments, both in Italy and in Germany, despite their different starting points, have definitively become the leading level in territorial institutional policy.

43 For accuracy's sake 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) applied to sub-*Länder* level and concerning a certain policy field (Benz and Fürst 2003, Benz and Meincke 2006, Benz and Papadopoulos 2006). In this essay, IMC and territorial institutional policy is instead a policy field analysed at the regional/*Land* level, where regional governance dynamics are thus both among *Land*/region and municipalities, and among *Land*/region, municipalities, and other local socio-economic and institutional actors (mostly involved by municipalities).

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Appendix

List of Municipal Unions, Mountain Communities, and Intermunicipal Associations in Emilia-Romagna (2010)

Municipal Unions

1. Unione Terre di Pianura
2. Unione dei Comuni Terre e Fiumi
3. Unione Acquacheta Romagna Toscana
4. Unione Colline Matildiche
5. Unione Bassa Reggiana
6. Unione Pedemontana Parmense
7. Unione Alto Appennino Reggiano
8. Unione Civica Terre del Po
9. Unione Comuni Pianura Reggiana
10. Unione dei Comuni del Rubicone
11. Unione Comuni della Bassa Romagna
12. Unione dei Comuni Modenesi area nord
13. Unione del Sorbara
14. Unione Bassa est Parmense
15. Unione Terre Verdiane
16. Unione Tresinaro Secchia
17. Unione Val d'Enza
18. Unione Val Nure
19. Unione Bassa Val Trebbia e Val Luretta
20. Unione della Valconca
21. Unione Terre d'Argine
22. Unione Terre di Castelli
23. Unione Reno Galliera
24. Unione dei Comuni di Brisighella, Casola Valsenio, Riolo Terme
25. Unione Val Tidone
26. Unione dei Comuni Valli Savena Idice
27. Unione Comuni montani Valli del Dolo, Dragone e Secchia
28. Unione Valle del Samoggia
29. Unione Valle del Marecchia
30. Unione Terra di Mezzo
31. Nuovo Circondario Imolese

Mountain Communities

1. Nuova Comunità montana Appennino Piacentino
2. Nuova Comunità montana Valli del Taro e Ceno
3. Nuova Comunità montana Appennino Bolognese
4. Nuova Comunità montana Nure e Arda
5. Nuova Comunità montana Parma est
6. Nuova Comunità montana del Frignano
7. Nuova Comunità montana Appennino cesenate
8. Nuova Comunità montana Appennino Forlivese
9. Nuova Comunità montana Appennino Reggiano
10. Comunità montana Alta Valmarecchia

Intermunicipal Associations

1. Associazione intercomunale Val d'Arda
2. Associazione intercomunale del Distretto Ceramico
3. Associazione intercomunale Cinque Castelli
4. Associazione intercomunale Pianura Forlivese
5. Associazione intercomunale Valle dell'Idice
6. Associazione intercomunale Terre d'Acqua
7. Associazione intercomunale Argenta e Portomaggiore
8. Associazione intercomunale Basso Ferrarese
9. Associazione intercomunale Alto Ferrarese
10. Associazione intercomunale tra i Comuni di Ferrara, Masi Torello, Voghiera
11. Associazione intercomunale Cesena, Gambettola, Longiano, Montiano

List of *Ämter* in Brandenburg (2010)

1. Amt Altdöbern
2. Amt Bad Wilsnack/Weisen
3. Amt Barnim-Oderbruch
4. Amt Beetzsee
5. Amt Biesenthal-Barnim
6. Amt Brieskow-Finkenheerd
7. Amt Britz-Chorin-Oderberg
8. Amt Brück
9. Amt Brüßow (Uckermark)

10. Amt Burg (Spreewald)
11. Amt Dahme/Mark
12. Amt Döbern-Land
13. Amt Elsterland
14. Amt Falkenberg-Höhe
15. Amt Friesack
16. Amt Gartz (Oder)
17. Amt Gerswalde
18. Amt Golßener Land
19. Amt Golzow
20. Amt Gramzow
21. Amt Gransee und Gemeinden
22. Amt Joachimsthal (Schorfheide)
23. Amt Kleine Elster (Niederlausitz)
24. Amt Lebus
25. Amt Lenzen-Elbtalau
26. Amt Lieberose/Oberspreewald
27. Amt Lindow (Mark)
28. Amt Märkische Schweiz
29. Amt Meyenburg
30. Amt Nennhausen
31. Amt Neuhardenberg
32. Amt Neustadt (Dosse)
33. Amt Neuzelle
34. Amt Niemege
35. Amt Odervorland
36. Amt Oder-Welse
37. Amt Ortrand
38. Amt Peitz
39. Amt Plessa
40. Amt Putlitz-Berge
41. Amt Rhinow
42. Amt Ruhland
43. Amt Scharmützelsee
44. Amt Schenkenländchen
45. Amt Schlaubetal
46. Amt Schlieben
47. Amt Schradenland
48. Amt Seelow-Land

49. Amt Spreenhagen
50. Amt Temnitz
51. Amt Unterspreewald
52. Amt Wusterwitz
53. Amt Ziesar

List of Zweckverbände in Brandenburg (2010)

1. Abfallentsorgungsverband 'Schwarze Elster'
2. Abwasserentsorgungsverband Niemegk
3. Abwasserverband Gerswalde
4. Abwasserzweckverband Cottbus Süd-Ost
5. Abwasserzweckverband Teupitzsee Amt Schenkenländchen
6. Abwasserzweckverband Planetal
7. Brandenburgische Kommunalakademie
8. EDV-Zweckverband Prignitz
9. Gubener Wasser- und Abwasserzweckverband (GWAZ)
10. Herzberger Wasser- und Abwasserzweckverband
11. Kommunaler Abfallentsorgungsverband 'Niederlausitz'
12. Märkischer Abwasser- und Wasserzweckverband
13. Niederbarnimer Wasser- und Abwasserzweckverband
14. Nord-Uckermärkischer Wasser- und Abwasserverband
15. Planungsverband Flugplatz Lönnewitz
16. Schulverband Burg
17. Schulverband Dolgelin/ Alt Zeschdorf
18. Schulverband Heckelberg
19. Schulverband Lenzen (Elbe)
20. Spremberger Wasser- und Abwasserzweckverband
21. Südbrandenburgischer Abfallzweckverband (SBAZV)
22. Trink- und Abwasserverband Lindow-Gransee
23. Trink- und Abwasserzweckverband Burg (Spreewald)
24. Trink- und Abwasserzweckverband 'Glien'
25. Trink- und Abwasserzweckverband Crinitz und Umgebung
26. Trink- und Abwasserverband Oderbruch/Barnim
27. Trink- und Abwasserverband 'Freies Havelbruch'
28. Trink- und Abwasserverband - Hammerstrom/Malxe - Peitz
29. Trink- und Abwasserzweckverband Liebenwalde
30. Trink- und Abwasserzweckverband Luckau

31. Trink- und Abwasserzweckverband Dürrenhofe/Krugau
32. Trinkwasser- und Abwasserzweckverband Oderaue (TAZV Oderaue)
33. Wasser- und Abwasserzweckverband 'Beetzseegemeinden'
34. Wasser- und Abwasserzweckverband 'Der Teltow'
35. Wasser- und Abwasserzweckverband Calau (WAC)
36. Wasser- und Abwasserzweckverband Werder-Havelland
37. Wasser- und Abwasserzweckverband 'Ziesar'
38. Wasser- und Abwasserzweckverband Beeskow und Umland
39. Wasser- und Abwasserverband Westniederlausitz
40. Wasser- und Abwasserzweckverband Seelow
41. Wasser- und Abwasserzweckverband Emster WAZV Emster
42. Wasser- und Abwasserzweckverband Jüterbog- Fläming
43. Wasser- und Abwasserzweckverband 'Nieplitztal'
44. Wasser- und Abwasserzweckverband 'Nieplitz'
45. Wasser- und Abwasserverband 'Havelland'
46. Wasser- und Abwasserverband Wittstock
47. Wasser- und Abwasserverband 'Dosse'
48. Wasser- und Abwasserverband Rathenow
49. Wasser- und Abwasserzweckverband 'Panke/Finow' c/o Stadtwerke Bernau GmbH
50. Wasser- und Abwasserzweckverband Pritzwalk
51. Wasser- und Abwasserzweckverband Blankenfelde-Mahlow
52. Wasser- und Abwasserzweckverband Ahrensfelde/Eiche
53. Wasser- und Abwasserzweckverband 'Scharmützelsee- Storkow/ Mark'
54. Wasser- und Abwasserzweckverband Schradenland
55. Wasser- und Abwasserzweckverband 'Mittelgraben'
56. Wasser- und Abwasserverband Elsterwerda
57. Wasser- und Abwasserzweckverband Hohenseefeld
58. Wasserver- und Abwasserentsorgungs- Zweckverband Region Ludwigsfelde (WARL)
59. Wasserverband 'Kleine Elster'
60. Wasserverband Lausitz
61. Wasserverband Märkische Schweiz
62. Wasserverband Schlieben - WVS
63. Wasserverband Strausberg-Erkner
64. Wasserversorgungsverband Hoher Fläming
65. Westprignitzer Trinkwasser- und Abwasserzweckverband

66. Zweckverband Wasser und Abwasser Fehrbellin
67. Zweckverband 'Gewässerrandstreifenprojekt Spreewald'
68. Zweckverband 'Havelländisches Luch'
69. Zweckverband Wasserversorgung und Abwasserentsorgung der Westuckermark
70. Zweckverband 'Fließtal'
71. Zweckverband 'Neue Bühne' Niederlausitzer Theaterstädtebund Senftenberg
72. Zweckverband Abfallbehandlung Nuthe-Spree
73. Zweckverband Brandenburgisches Museum für Klein- und Privatbahnen in Gramzow/Uckermark
74. Zweckverband für Wasserversorgung und Abwasserentsorgung Eberswalde
75. Zweckverband Komplexsanierung Mittlerer Süden
76. Zweckverband Kremmen
77. Zweckverband Lausitzer Seenland Brandenburg
78. Zweckverband Ostuckermärkische Wasserversorgung und Abwasser- behandlung (ZOWA)
79. Zweckverband Wasserversorgung und Abwasserentsorgung Fürstenwalde und Umland

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