

**Opportunity Structures
and Strategies
of Civil Society Organizations
in Multi-Level Governance:**

**The Development of
Anti-Discrimination Law in Italy**

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Abstract

Civil society organizations (CSOs) are important mass-elite linkage institutions within the multi-level system of the EU and the member states which may add democratic legitimacy to the system of representation. This paper first theoretically outlines the ‘opportunity structures’ potentially available to CSOs within the political system, provided both by vertical, hierarchal structures of government and a horizontal one involving state and non-state actors in structures of governance. It focuses on identifying potential ‘targets,’ ‘strategies,’ and ‘timing’ of CSOs within the policy making process to attempt to exert influence. The ‘targets’ include various governmental and societal level institutions and the ‘strategies’ may involve lobbying access, networking and collaboration, going-public, and litigation through the courts of the member states and the EU. The ‘timing’ may range from the early framing of issues and agenda setting, to policy formulation and decision, through to monitoring implementation and policy evaluation.

The paper then turns to an empirical case study of the strategies of CSOs and labor unions in Italy toward anti-discrimination protection in labor law and other areas and examines the extent that these strategies have become Europeanized. We first follow developments at the EU level prior to the 1996 Inter-Governmental Conference, the drafting of Article 13 in the Amsterdam Treaty and the subsequent issuance of the Race Directive and the Framework Directive which together prohibit discrimination in employment on six grounds, including sexual orientation. We conclude that whereas the Italian CSOs and labor unions did not develop ‘bottom-up’ strategies to push for legislation at the EU level, ‘top-down’ Europeanization occurred and the groups formed a ‘coalitional triangle’ between various CSOs, labor unions, and sympathetic left and postmaterial green parties in the Italian parliament to collaborate. This collaboration brought unique resources, powers, and motivations together to pressure the government to transpose the Framework directive promptly. While this ‘coalitional triangle’ did not succeed in substantially altering the decree issued by the Italian center-right government headed by Berlusconi pursuant to the Framework Directive, the collaboration may be successful in pressing the new center-left government under Prodi to introduce some form of domestic partnership legislation for same-sex couples and to re-visit the transposition of the anti-discrimination directives.

José Manuel Barroso, the President of the European Commission, recently spoke at the European University Institute in a major public address about the importance of the rule of law in the European Union (EU) and democratic legitimacy.¹ He spoke about the law-making process, the need for transparency in decision-making to build legitimacy for the EU, and the need for ‘leadership’ by both EU and national leaders to discuss the essential importance of decision-making above the level of the nation state. It is clear that the officials from the center of the political system remain concerned about their link with European citizens, the perceptions of a ‘democratic deficit’ within the EU, and the publics’ support and feelings of democratic legitimacy toward the EU. What seemed to be missing from his words, and also in many accounts by scholars, is an understanding of the complexity and ‘layeredness’ of civil society and its organizational basis. The discussion is often about institutions of government and the great mass of citizens, but it is necessary for greater attention to be paid to mass-elite linkage institutions; institutions that help fill the great void between decision-making in Brussels and the atomized millions of EU citizens.

Certainly political parties have traditionally been seen as important mass-elite linkage institutions, bundling ideas and policies together that are offered to the electorate at election time which may then be pursued in office. But over time, parties seemed to have moved somewhat away from this linkage function in many countries and have moved closer to the state than the citizens (Mair 2005). Civil society organizations (CSOs), institutional embodiments of broad social movements, have increasingly since the 1970s attempted to fill this void. Social movements and CSOs emerged amid the growth of postmodern values in advanced industrial democracies (Inglehart 1977). Lawson and Merkl in their book *When Parties Fail* trace the decline in the ability of parties to link to the citizens and the rise of interest group politics (Lawson and Merkl 1988). It is CSOs that may provide ‘leadership’ in societies, giving structured ‘voice’ to concerns of groups in society. These groups are an important, but often overlooked part of the link between traditional, hierarchical government

¹ Jean Monnet Lecture, EUI Florence, 31 March 2006. Jose Manuel Barroso ‘Uniting in peace: the role of Law in the European Union.’

structured multi-levelly, and horizontal forms of governance which may link public and private actors in the policy making process.

The role of CSOs has grown in the EU as the political system has evolved to address more diverse political and policy objectives. Since the Single European Act and the decision to establish economic and monetary union, the conditions for a ‘politicized-participatory decision making’ have been created, ‘increasing the stakes of political conflict, broadening the scope of authoritative decision making, *opening new avenues of group influence*, and creating incentives for a quantum increase in political mobilization.’ (Hooghe and Marks, 2001: 126, italics added). These groups potentially may exert influence using the ‘opportunity structures’ during the various phases of the policy making process in the EU and the member states. Key variables are identifying the *targets*, *strategies*, and *timing* of CSOs when attempting to influence the policy making process in the multi-level system. Table 1 identifies numerous potential targets and strategies which CSOs may use to attempt to exert influence in the multi-level system, and range from lobbying ‘access’ strategies, networking and collaboration, going-public, and litigation through the courts. Table 2 identifies various phases of the policy making process in which CSOs may attempt to exert influence, and range from the earliest processes of definition and framing of the issue and agenda-setting, research analysis and policy formulation, through to policy decision and policy implementation, and finally policy evaluation. Not all these strategies will likely be pursued by any given CSO for reasons of focus and the availability of resources. Nonetheless, CSOs in a particular policy field may pursue common objectives either independently, or in loose transnational networks in which ideas and strategies are exchanged with cumulative effects on the policy making process across the levels.

It is important to note that there are different terms that scholars have used to describe the mass-elite linkage institutions under discussion here - social movements, interest groups, pressure groups, lobbying groups, civil society groups, and non-governmental organizations (NGOs). Here, because we are interested in discerning the strategies of groups in the multi-level system using an actor-centered institutionalism, we have thought it best to refer to civil society organizations instead of referring to the broader social movement out of which organizations emerge. Various kinds of CSOs may emerge to institutionalize the demands of a social movement to articulate to the political system, some perhaps more radical and willing to

give voice to longer term aspirations of a movement, others more moderate and willing to compromise to obtain currently achievable gains. CSOs refine and articulate ideas and demands to government and the broader society and become a bridge in the policy-making process. The term here is meant to apply to organizations with 'diffuse' public interests, as opposed to the specific, private interests expressed by business lobbyists. We have chosen the term civil society organizations to underscore their closeness to society, as opposed to the term non-governmental organizations which is also used to connote groups which provide services on behalf of governments, such as the Red Cross.

Although there has been considerable research on Europeanization (See Cowles, Risse, and Carporaso 2001; Featherstone and Radaelli 2003; Goetz and Hix 2001) relatively under explored are effects that are by definition indirect, for instance on democratic input processes such as cleavages, parties, interest groups and patterns of democratic legitimization (Hix and Goetz 2000: 15). The establishment of a new set of institutions at the European level with legislative, executive and judicial powers provides actors with a new layer of access to political decision making. The EU creates new exit, veto, and informational opportunities for domestic actors and therefore changes the opportunity structure for exerting political influence (Börzel and Risse 2003; Hix and Goetz 2002; Knill and Lehmkuhl 2002, Kohler-Koch 2002, Radaelli 2000). Social policy is an area only recently subject to a limited, but growing Europeanization pressure. Traditionally social policy has been based on national competency and hierarchical relationships between public and private actors (Falkner 1999: 89). But Falkner in her research on the 1991 IGC found a pattern of interdependence between the 'action capacity at the EU level on the one hand, and the development of relevant interest politics on the other.' (Falkner 1999:89). She concluded that this constitutes a co-evolution of the structures of the state and of organized interests (Eichener and Voelzkow 1994).

The purpose of this research is two-fold. First, to place the activities of CSOs within a wider conception of representative democracy and governance in the multi-level political system (see Marks, et al. 1996; Jachtenfuchs and Kohler-Koch 1996). Here it is necessary to expand on the notion of the 'second tier' (Rokkan 1996) or the 'second circuit' (Offe 1981) of political representation. These terms refer to the role of interest groups in the political process occurring alongside the channel of representation which occurs through political parties competing in elections. Secondly, to empirically study the collaborative strategies which may

emerge between various CSOs and other mass-elite linkage institutions, specifically labor unions and political parties pressing for anti-discrimination measures in labor law and in other areas based on sexual orientation. These three different kinds of institutions, CSOs, unions, and political parties have a different function within government and society, and together are potentially capable of broadly transformative social change. While subsequent empirical research will focus on other West and East European member states, this particular paper will focus on Italy.

I. Research Questions

The key questions for the research are:

- 1) What *opportunity structures* are potentially available to CSOs in multi-level governance to influence the policy making process? and
- 2) Whether there has been a *Europeanization* of the strategies of CSOs in pressing for anti-discrimination legislation in labor law and in other areas?

Three different kinds of Europeanization strategies will be considered here:

- a) bottom-up – attempting to influence developments at the EU level;
- b) top-down – attempting to influence developments at the member state level in response to developments at the EU level;
- c) Transnational – networking activities to attempt to influence developments in other member states and one’s own, or at the EU level.

II. Methodology

This paper first reviews the literature on both government and governance in the EU and the attempt by CSOs to influence the policy making process. It then focuses on one policy area, the area of anti-discrimination law, particularly with regard to sexual orientation, and traces the development from the emergence of debate prior to the 1996 Inter-Governmental Conference and the inclusion of Article 13 in the Amsterdam Treaty in 1999 to forbid discrimination, the subsequent preparation of the two Directives by the European Commission pursuant to this article, and finally the transposition of these directives into law in Italy. In the empirical part of

the research, initial interviews have been conducted in Italy with several leaders of CSOs (Arcigay and Informagay) and the largest Italian labor union (CGIL) which is active on anti-discrimination measures in labor law. This study is part of an eventual comparative study involving countries in both Western (Netherlands, Germany, United Kingdom, and Denmark) and East Central countries (Poland and the Czech Republic).

III. Theoretical Background

This paper at its broadest concerns democracy and the representation of interests within the multi-level system of the EU and the member states. It is part of an attempt to conceptualize the complex system of representation which has emerged in the system, which has historically been seen to include two formal paths of representation, the supranational and the intergovernmental, but also should include the consideration of CSOs which may use the ‘opportunity structures’ of the evolving political system to exert influence. It is important that one not only view the formal institutional governmental actors in the emerging system, but also the opportunities for non-state actors of diffuse interests, such as labor unions and the civil society for participation and influence in the political system.

A. Government and Governance

Competitive elections have traditionally been seen as the premier institution linking citizens and the government, with political parties competing for the support of the citizens in periodic elections. But in modern democracies, a whole range of organizations have evolved which provide linkage between society and the government, and which play a pivotal role in democracy. It is important to understand the role of CSOs and integrate the two very distinct literatures on the primary mode of democratic representation (political parties, voting, campaigns, elections, parliament, executive-parliament relations, and government) and the second tier which may involve CSOs and other non-state actors active at the EU and member state level.

The links between the institutions depicted in the center of Diagram 1 show the two formal paths of representation connecting the formal governmental institutions in the EU and the member states: a supranational one on the right passing through the European parliament and the executive bodies of the EU, and the intergovernmental on the left, passing through the national parliaments and governments. If one imagines all 25 national paths at once, one might imagine a sphere or globe, with the national paths on the surface of the sphere, connecting the citizens on the southern pole to European public policies at the northern pole. EU decision making would then be seen as passing through the center. One might imagine a ‘corkscrew’ in which through a process of integration decision making powers are delegated or claimed at the center, with a Europeanization effect back onto the member states as policies are implemented (Haverland and Holzhaecker 2006). Whereas some decision making clearly is made in the supranational mode, and some intergovernmental, there are also transnational processes at work in which both state and non-state actors play a role.

Both the supranational and intergovernmental decision making are part of a formal, vertical governmental system of *representation* and *accountability*. There should be representation through national elections, in which the electorate selects a parliament and government to reach decisions, and decisions taken by the government in the Council of Ministers should be post-ante accountable to the national parliament and ultimately to the electorate. Under the supranational path of decision making, representation and accountability passes through the European Parliament, although the EP does not have powers to act in all areas. On the other hand, there is also decision making occurring horizontally – a development stressed in the governance literature. This literature stresses the decision-making which has emerged within the regulatory agencies of the EU and the kind of decision-making which moves beyond the involvement of the governments of the member states, to include the social partners (business and labor unions), experts, and CSOs.

B. Bartolini’s system approach applied to anti-discrimination law

Stefano Bartolini in ‘Restructuring Europe’ (2005) discusses three broad processes underway in the EU, member state governments, and in civil society: center formation, system building, and political structuring. Here we will briefly outline these three processes within a specific sub-

system of the European system – that concerned with the development of anti-discrimination law.

One might begin here with a complete description of ‘center formation’ in this area - the development of institutions and policies at the EU level dealing with labor law and anti-discrimination and its impact on the member states. One could discuss the creation of worker safety standards, rights of unionization, working hour standards, etc. by the Commission and the Council of Ministers, and the subsequent interpretation of these standards and rights by the member states and in cases before the European Court of Justice (ECJ). But one could also talk about the indirect effects of the creation of a single common market, a common currency, a common agricultural policy, or even measures to combat unemployment in the member states on labor markets and labor law. We will not do that in any greater detail here.

Our focus is instead on the other two processes Bartolini discusses – ‘system building’ and ‘political structuring’ in the multi-level system. From the perspective of societal actors like CSOs and labor unions, ‘system building’ may be seen as those institutional features of the political system which provide ‘opportunity structures’ for these groups to gain access and to intervene in the decision-making processes of the system. Bartolini's concept of ‘system building’ concerns not just states when he asks if the EU is developing a loyalty beyond ‘contractual’ arrangements based on mere instrumental calculation,’ (Bartolini 2005, p. xiv.), but also to societal actors. He states ‘...(T)he issue is whether the EU is producing ‘loyalty’ ... those structures and processes of system maintenance represented by cultural integration, social sharing institutions, and participation rights.’ (Bartolini, Ibid.). So whereas, Bartolini refers to system building to refer to the whole spectrum of features that build loyalty to the system by states, societal actors, and individuals, here we focus on those aspects of the system that provide ‘opportunity structures’ and participation rights to societal actors.

Whereas we have now narrowed Bartolini’s second process of ‘system building’ to produce loyalty and legitimacy to focus on the specific ‘opportunity structures’ of the system available to societal groups, we now turn to his third process involved in the restructuring of Europe – ‘political structuring.’ This is not exclusively part of institution building itself, but refers to processes in the society. It is concerned with ‘interest differentiation, conflict lines, and the resulting political alliances and oppositions that are stimulated by the integration process.’ (Bartolini 2005). Bartolini uses Hirschmann to discuss how individual voice may

become a collective and structured voice. Bartolini states that political structuring is the ‘formation of those institutional channels, political organizations, and networks of relationships that allow individual voice to achieve systemic relevance.’ (Bartolini 2005, p. 37). In our analysis, Bartolini’s concept of political structuring has two dimensions; one which may be called ‘voice structuring’ occurs in society and involves ‘the articulation, mobilization, and organization of individual voice.’ The second dimension occurs at the institutional level and involves the process of ‘institutional differentiation’ in the ‘arrangements for consent and redress.’ (Bartolini 2005, p. 39). It is these mechanisms that link actor preferences at the microlevel to the systemic structures at the macro level, in other words – mass-elite linkages.

In this article, we are first of all concerned with analyzing the ‘opportunity structures’ within the institutions of government and governance in the multi-level system – this is part of the ‘system building’ process for CSOs and labor unions to have ‘access’ to express voice. Secondly in empirically investigating the strategies pursued by these societal groups as part of the ‘political structuring’ process. Thus both the institutional process in which avenues for expressing ‘consent and redress’ are established and the societal process of how segments of the society begin to use these avenues.

C. Collective Action Problems of Individuals and Groups Involved in Collaborative Action

When studying CSOs one must confront Olson’s *Logic of Collective Action* (1971) and his view that rational, self-interested individuals will not act collectively to achieve non-excludable public goods. We must also wrestle with the fact that “(T)here is then a mobilization paradox: Olson’s theory predicts the under mobilization of public interest groups but this seems contradicted by their empirical proliferation.” (Jordan and Maloney 1996). The literature in this area began to look for non-economic incentives to participation in such groups, including socially selective incentives such as status and prestige, social ties and attachments (Knoke 1988, Udehn 1993), but also to individual motivations arising from personal values and morals (Moe 1980).

A study by Hula (1999) in the U.S. context moved beyond the concern of why individuals join together in groups, to begin to identify reasons that groups themselves choose to collaborate. First, Hula says that groups may share public goals and believe that

collaborative strategies are the most effective way to shape these public outcomes (Hula 1995, p. 241). Secondly, he states that an additional incentive, a selective, exclusive one, is that collaboration gives interest group access to information and resource sharing (also see Baggott 1995, Berry 1989, Scholzman and Tierney 1986). While most work focuses on the common goals and the sharing of resources between like minded interest groups engaged in collaborative strategies to influence public policy, it becomes even more interesting when applied to collaboration across different kinds of actors active in the multi-level political system. Political parties, labor unions, and CSOs may collaborate but have a wide variety of goals that extend far beyond the immediate collaboration on a given issue. For example, political parties have electoral incentives and take policy positions on a wide range of issues. Labor unions have diverse goals in relation to both the economic and non-economic goals of their workers. Various types of mass-elite linkage institutions bring together very different sources of information and resources to achieve the objective of collaboration.

This collaboration has sometimes been analyzed under the rubric of ‘patterns of associability’ to trace the exchange of information or the collective pursuit of shared policy goals between interest groups (Webster 2000). It is fruitful to investigate patterns of interest group collaboration and factors driving collaboration. Much of this work has focused on European level interest groups with a permanent presence in Brussels, mainly on business interests, but also on public groups for example on environmental groups (Webster 2000, Biliouri 1999, Long 1998, Mazey and Richardson 1993) or consumer groups (Young 1998). But here we are interested in exploring networks of interest groups with multi-level strategies, attempting to use the opportunities of access and influence available in the complex multi-level system. One should be able to trace for successful networks both ‘bottom-up’ processes, that is groups based in the member states reaching up to the EU to influence the agenda and decision-making processes at the EU level through both transnational cooperation and peak level activity, as well as ‘top-down’ processes in which the group at the member state level is able to react strategically to developments at the EU level. There has been some research doing this previously for ‘diffuse interests’, for example the campaign of women’s groups lobbying for non-discrimination legislation at the EU and member state levels (Helfferich and Kolb 2001).

IV. Empirical Case Study – Anti-Discrimination Law in Italy

Using Bartolini's method of analysis, we need to first describe the institutional system which emerged as a result of the 'system building' process which gives CSOs opportunities to express their collective voice. Then we will trace the actual strategies of the CSOs in a particular policy area, to describe the process of 'political structuring' at the societal level. So we will consider both the 'system' level which structures the opportunities to express voice in the system and the 'political structuring' in society as CSOs develop strategies to exploit these opportunities. We will see that an important component of that political structuring is the collaborate strategies which emerge between various kind of mass-elite linkage institutions, in particular various CSOs, labor unions, and sympathetic political parties. Each kind of organizations brings different kind of resources which are valuable to achieving the desired policy goal.

This section of the paper thus takes an actor-centered approach to understand the strategic choices made by CSOs and labor unions in response to the changing opportunity structures of multi-level governance. It focuses on an under-studied constellation of actors historically on the left – CSO and labor unions and their allies with parties on the left and postmaterial (Inglehart 1997) parties like Green parties. These three institutional actors represent in turn organizations of civil society, one of the social partners from the economic system, and the political parties which originally emerged from the worker's movement at industrialization and the newer postmaterialist parties. Labor unions are not only an institution representing one of the factors of production in the economy, but also often play a role representing the interests of workers in the broader society. Thus, in addition to being involved in wage bargaining with employers, they may be involved in representation of workers in other forums, such as corporatist forums or in front of the government on issues of labor law and broader social issues.

While we are focused here on anti-discrimination measures aimed at sexual orientation in Italy, it is first necessary to place it in the broader context of pressure for change made at the EU level during the build-up to the 1996 Inter-governmental Conference (IGC). Helfferich and Kolb (2001) focus on the breakthrough for the EU in the area of social policy which came at the time of the 1996 IGC. They trace the strategy of the European Women's Lobby (EWL), established in 1990, and active in lobbying prior to the 1996 IGC which resulted in the

Amsterdam treaty (signed in 1997 and ratified in May 1999). They build on two traditions – the outcomes of social movement campaigns (CF. Giugni 1998) and the research tradition on policy change (cf Keeler 1993). They state that success came from a system level variable, a ‘window for reform’ and a societal one, multi-level strategic action coordinated by EWL between various national arenas and the EU level. First they describe the political opportunity structure existing and find that the ‘dynamics, strategies, forms and outcomes’ of interest representation are shaped by the characteristics of the national and international political context (Helfferich and Kolb 2001, McAdam 1996) The relative openness or closure of the institutionalized political system, the stability of elite alignments, the presence of elite allies for social movements, and state capacity for repression are some of the variables used to operationalize the political opportunity structure of a given political system (McAdam 1996). This approach has been developed both in the U.S. (McAdam 1982, Tarrow 1998) but also in Western Europe (Kitschelt 1986, Kriesi et al 1995), and most recently applied also to the EU systems power in shaping both contentious politics at the European level and at the domestic level (Imig and Tarrow 1997, 1999; Marks and McAdam 1996, 1999). While much of this work focuses on the institutional parts of the European political opportunity structure, others have argued that one must also take into account the more ‘fluid’ aspects to account for a break through in policy making which may occur during ‘windows of opportunity.’ (Helfferich and Kolb 2001). Helfferich and Kolb outline four new developments in the power configuration of the EU which contributed to the mandate to take new social policy initiatives during the 1996 IGC:

1. Northern enlargement of the EU changed the distribution of power in the Council in favor of policies conforming to the Nordic traditions of more open government, participation of citizens in welfare policy, and the institutionalism legacies of women’s rights (Liebert 1999; 223f). In national position papers presented at the beginning of the IGC, only Denmark, Sweden, and Finland – as well as Greece – urged the inclusion of anti-discrimination provisions in the new Treaty.
2. New powers granted to the European Parliament after the Maastricht treaty, meant it could hear public interest groups following the IGC (Liebert 1999).

3. The defeat of the Conservatives in the U.K. by the Labor Party removed a veto that had blocked the European Council in social policy during the Thatcher-Major period.

4. The European Commission perceived a sense of ‘crisis’ in the European project following the difficulties surrounding the ratification of the Maastricht treaty, especially the rejection of the treaty by referendum in Denmark in 1992. Liebert argues that the Commission used evidence from the Eurobarometer surveys that found a greater level of disapproval among women than men for the EU to push for a more aggressive gender-equality stance as a chance to increase citizen support for the EU.

Now lets turn from this general analysis of the ‘window of opportunity’ for social measures and gender equality, to focus on the opportunities for progress on combating discrimination based on sexual orientation.

A. Background to Treaty Article 13

The story of how the EU gained competency in this issue area by Treaty revision and the subsequent drafting of the anti-discrimination directive begins with a group of CSOs which began transnational discussions prior to the 1996 IGC. Geddes and Guiraudon (2004) focus on how the issue was ‘framed’ to extend EU anti-discrimination competencies based on race and the alliances that were forged between various actors involved. While the EU had competency to combat discrimination based on nationality as an integral part of market integration, and later added measures to combat discrimination based on gender, these groups built on these traditions to argue for an extension to new categories by arguing this was vital to free movement and single market integration. Additionally, they argued that the idea of ‘equal treatment’ was an integral element of the EU’s developing ‘social dimension.’

Groups which mobilized to counter racism and xenophobia were the first to emerge to press the EU for a new anti-discrimination directive. While pro-immigrant CSOs had concentrated on a citizenship discourse prior to Maastricht, they increasingly focused on an anti-discrimination discourse with “...arguments which drew from Anglo-Dutch practices, were spearheaded by the SLG (Starting Line Group) and its close relations with parts of the Commission and European Parliament, and mobilized a group of lawyer-activists who

combined a strong commitment to anti-discrimination with a high level of EU-related technical know-how.” (Geddes and Guiraudon 2004, p. 342.) The SLG was a network of more than 250 pro-migrant CSOs which came together after Maastricht to promote new Treaty articles that would give the EU competency to combat discrimination in new areas.

Success came first when the Reflection Group established by the European Council to consider Treaty reform proposed that the principle of non-discrimination be included in a new treaty and expressed condemnation toward the growing racism and xenophobia developing (Reflection Group 1995). Within the IGC, discussion began that a new Treaty article should be created and the Reflection Group proposed that the principle of non-discrimination cover gender, race, religion, disability, age and sexual orientation. While the British Conservative government initially opposed this extension arguing that these objectives could be best achieved at the national level, the change of the UK government in 1997 to Labor cleared this obstacle (Geddes and Guiraudon 2004).

The inclusion of sexual orientation in Article 13 has been seen by some commentators as rather unexpected (Berthou and Masselot 1998). One of the reasons for this is that unlike the race and disability lobbies, there had not been extensive lobbying efforts by gay and lesbian CSOs, nor specific backing from the European Commission (Bell 2002, p. 104). Bell points to the role here of the European parliament and later to a ‘bandwagon’ effect which propelled all of the stated grounds for the anti-discrimination measure to remain intact. The European Parliament had pushed EU policy on sexual orientation forward with the 1994 Roth Report calling for an end to discrimination in ‘criminal, civil, contract and commercial law’ as well as in ‘labor and public service law.’ It also demanded the creation of a European legal equivalent to marriage for same- sex couples and the extension of adoption rights (European Parliament 1994). The report was deeply decisive within the parliament, with support strongest amongst the Green and Socialist Groups, and weakest among the Christian Democrats and others on the right. While the opposition based there arguments on Community legal competence and the principle of subsidiarity, there were many MEPs who objected using a mix of cultural and religious arguments (Bell 2002, p. 105). Pope John Paul II even criticized the resolution in a public address at the Vatican (see Perico 1994). But ultimately the resolution was adopted by the Parliament in 1994.

The Roth report from the EP thus emerged at a time when the Starting Line Group and others were campaigning for an amendment to the EC treaty to extend competencies for measures to combat racial discrimination and another group, the European Disabled People's Parliament had met in 1993 and pushed for a non-discrimination clause based on disability (Bell and Waddington 1996). Once sexual orientation was included in the conclusions of the European Council's Reflection Group as one of the grounds for anti-discrimination to be included in a new Treaty article, the battle was now on to maintain sexual orientation within the list of EU competencies in the anti-discrimination field.

By the time of the 'Dublin draft' of the amending treaty in December 1996, it was evident that the strong campaign by CSOs, the support of the EP, the Commission, and many member states that there would be an anti-discrimination amendment (Bell 2002, p. 106.) But at this time it was not certain that sexual orientation would remain part of the amendment. First, in spring 1996, the Italian Presidency deleted sexual orientation from the drafts of the new Treaty, but this was re-stated following the change in government to the Ulivo coalition (Bell and Waddington 1996). Next, the Irish Presidency, backed by Italy and Austria, proved supportive of the inclusion of sexual orientation, but noted the reluctance of some member states. In March 1997 the Dutch Presidency paired down the proposed article through the deletion of social origin, disability, age and sexual orientation to attempt to win passage of the amendment, but following protests by the Parliament and CSOs, the Dutch government reinstated all the deleted categories, except social origin (Bell 2002, p. 107).

By the time of the Amsterdam European Council meeting in June 1997, Bell states that a 'bandwagon' effect had set in and it was difficult for any national government to specifically delete any of the grounds for protection from discrimination. The change in the UK government in May 1997 had removed the threat of a veto by the UK, and cleared the way for the agreement of the full Article 13. In the conclusion of Bell, 'despite the lack of a strong lobby or widespread governmental support, sexual orientation entered into the EC treaty.' (Bell 2002, p. 107).

What is important to remember here is that Article 13, unlike earlier measures to combat discrimination based on nationality or gender, has no direct effect. The Article merely extends the EU's legal competency to this new area, but then directives must be issued which provide legally binding measures which are enforceable in court.

Article 13 EC states:

Without prejudice to the other provisions of this Treaty and within limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, *may take appropriate* action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (emphasis added).

B. The Two Anti-Discrimination Directives

Two directives were adopted in 2002 pursuant to Article 13. What is most striking here is that the Commission decided to create a hierarchy within the grounds of discrimination articulated in Article 13. The Race Directive prohibits discrimination on the basis of race in many areas, including employment, but also to important areas outside the employment context, including housing, public services, and access to goods and services. The other directive, the Framework directive, covers the remaining four grounds, religion and belief, disability, age, and sexual orientation, but limits its applicability to the employment area. The Framework Directive prohibits direct discrimination, indirect discrimination, harassment, and issuing instructions for others to discriminate in employment based on the four grounds.

It is likely that a recent decision of the European Court of Justice in the decision of *Mangold vs. Helm* (Case C-144/04, judgment 22 November 2005) will over time erode the distinction made in the two directives based on the grounds of discrimination, so that protection from discrimination is offered beyond the employment context. In the *Mangold* case, which concerned age discrimination and a private employment contract issued pursuant to a German law which allowed fixed term employment contracts to be offered to new employees 52 and older, the ECJ said that non-discrimination is a fundamental right of the EU. It is not likely that a fundamental right would be narrowed to the employment context, so it is likely that courts will extend the protection beyond the employment context to all of the grounds found in the Treaty article.

C. The Transposition of the Directive into National Law: Italy

The Framework Directive 2000/78/EC establishing the general framework for equal treatment in employment and occupation was implemented in the Italian legal system by Legislative Decree 216 of July 9, 2003 and entered into force on August 28, 2003. The Legislative Decree is legislation issued by the Government pursuant to a general delegation of Parliament under

the European Community Act 2001 (Legge comunitaria), that ranks at the same level as an Act of Parliament.

Legal scholars heralded the important step forward for the country as a result of the EU action.

‘The Implementation of the Framework Directive has provided an opportunity without precedent within the Italian legal system in the field of discrimination on the grounds of sexual orientation. And Legislative Decree 216/2003 is somehow a milestone as far as legal issues related to sexual orientation are concerned: for the first time, indeed, a piece of legislation explicitly mentions sexual orientation and for the first time gay and lesbian individuals may count on a provision that prohibits discrimination based on their sexuality as well as on specific remedies’ (Fabeni 2004).

Commentary about the Italian law notes that the introduction of a legal remedy is the most noteworthy aspect of the new anti-discriminatory framework, as it guarantees the effectiveness of the prohibition against discrimination. Article 4 of the Legislative Act 216/2003 establishes an important judicial remedy against discrimination, but other procedural remedies foreseen in the EU directive have not been implemented as required by the Directive. For example, no enforcement body has been created for cases of discrimination on grounds of sexual orientation. These kinds of bodies can be extremely helpful to combat discrimination, because they have resources that individual claimants often lack.

The Italian law also creates many exceptions to the law, which go beyond those found in the EU directive. For example, while the EU directive allows organization such as churches to discriminate based on religion or belief in certain cases, the Italian law just speaks about the ethos of the organization, omitting the reference that the ethos must be based on religion or belief. The Italian law also does not apply to the armed forces or the police, contrary to the EU directive. The Italian law also specifically excluded the impact of the law on immigration policies, a setback for the free movement of workers within the EU and a disappointment to international gay and lesbian couples seeking unification.

One of the aspects of the Italian law which differs from the EU directive is the standing for interest groups to bring suit. Article 5 (1) of the Legislative Decree gives only ‘national trade unions’ the right to engage in a procedure against discrimination ‘either in name and on behalf, or in support of the victim of the discrimination,’ or if the victims are not identified in

cases of collective discrimination, the union itself may autonomously engage in civil action. CSOs are excluded from legal standing under the Italian law, which is contrary to the provisions of the Framework directive.

D. Activities and Strategies of Italian CSOs and Labor Unions

We now turn from this evaluation of Italian law to discuss some of the activities of CSOs to bring about change in Italy. We will discuss three groups, Arcigay, the largest gay and lesbian group in Italy which functions as an umbrella organization connecting many local groups across the country, Informagay, a regional group based in Turin, and CGIL, the largest labor union in Italy.

Arcigay was founded in 1985 and claims a membership in excess of 150,000. It is the umbrella organization for 42 political and cultural groups (as well as 64 commercial establishments like bars and discos) across Italy, with the national headquarter in Bologna. Its web-cite states that the groups' aim is to 'combat homophobia, heterosexism, prejudice, and anti-gay discrimination' (Arcigay in English, 10 July 2005, web-cite). More specifically 'Arcigay fights to eliminate discrimination, to defend gay people's right to physical and psychological health, and to win legal recognition for same-sex partnerships.' A collaborative strategy is apparent; according to the web-cite, Arcigay 'operates alongside other civil rights movements, dialogues with institutions, political parties and trade unions, and defend individual and collective civil liberties in society as a whole.' It is also apparent that there is a degree of Europeanization to the groups strategies, Arcigay is involved in 'various European projects in the fight against discrimination, based on Article 13 of the European Union Treaty.' There is also a degree of transnationalization in the organization; it is a member of ILGA, the International Gay and Lesbian Association.

Interviews were conducted with 4 members of the organization, the President – Sergio Lo Giudice, the Press Secretary – Luigi Valeri, the Liason with Labor - Sando Mattiou, and the health issues specialist - Raffaele Lelleri on May 16, 2006 at the groups' headquarters in Bologna. We first asked the President to outline Arcigay's main current political goals. Giudice said that their main goal is pressing the Italian government to pass a law recognizing same-sex partnerships. He noted that they had made the strategic choice to follow the French

model of PACS for two reasons. First, it was consistent with the European Parliament's call for the EU countries to enact legislation to end discrimination faced by same-sex partners and to ensure that 'same sex partners enjoy the same respect, dignity and protection as the rest of society', passed January 18, 2006 (EP Resolution P6_TA(2006)0018). Second, they believed that a strategy of arguing for a 'plurality of family models,' which would include the legal recognition of unmarried heterosexual couples, broadened support for the law and diminished debates about the word 'marriage' with the Vatican and the Catholic church hierarchy.

The second major goal of the organization is strengthening anti-discrimination law. Here the group wishes to amend existing Italian anti-discrimination law dating from the mid-1990s based on sex and race to sexual orientation and gender equality. The CSO feels that extending anti-discrimination to this older law is more beneficial than a new, separate law, because of the longer term development of related case law. Their third goal in order of priority concerns the Italian law transposing the EU Framework directive, and here the group wants the government to establish an independent authority to monitor compliance with the directive. Establishing a government body which can investigate complaints means government can be pro-active and groups and individuals need not wait to pursue lengthy and costly judicial remedies. The other goals of the groups include a transgender law, which the President of Arcigay said should be modeled on the Spanish model in which name change and legal sex status may proceed and be independent of surgery, increased spending on health care issues, especially AIDS awareness campaigns, and a law to offer asylum to those suffering prosecution abroad based on their sexual orientation.

The issue of creating a legal status for unmarried couples, PACS, became one of the major issues of the 2006 election campaign in Italy, alongside the war in Iraq and the building of a high-speed railway to France. Arcigay and others organized large rallies in Rome and in other large cities across Italy in support of such partnership legislation. While many of the political parties which were part of the center-left 'Union' coalition were in favor of such legislation, two Catholic oriented parties of the coalition, Unera and Margarita (Daisy) were opposed.

The activities of Arcigay and widespread media attention to the issues they raised did not go unnoticed by the head of the ticket for the 'Union' coalition. Romano Prodi sent a letter

to Arcigay dated March 1, 2006 and said (English translation from the Italian by the author with assistance):

“I register your dissatisfaction with the compromises made in our governing program regarding an issue so important for you; and I assure you not only for you, as the matter of the legal recognition of the rights, prerogatives and faculties of all persons who are part of de-facto unions.

What I am asking you is, anyway, to recognize my determination, and that of each component of the coalition, our commitment to go together with you, and not without you, in order to bring about an effective and full recognition of these rights.

What I ask of you is, therefore, to be aware that such arguments need to be discussed, there is no necessity of making noise, no necessity of polemics, but rather of full and commensurate dialogue, quiet and not loud, among people who have in their heart the good of Italy.

I know that you have this in your heart, our victory. In the weeks before the election, let's create together the best conditions to win. The conditions can be found in the close connectedness of the coalition.

We trust in your foresight. Sincerely, Romano Prodi.

The response back from Arcigay, below, indicates that the CSO was pleased to accept the commitment of Prodi, but refused to be silenced during the election campaign.

Dear Mr. Prodi,

“We are aware of the commitment of a large part of the coalition [Italy of Values, Democratic Party of Italian Communist (Pdc), Rosa nel Pugno (social democrats and liberals), Verdi (greens), Rifondazione (reformed communist), DS (leftist democrats)] for a law to bring public legal recognition of gay and lesbian couples living in Italy; that, in spite of what is happening in all of the larger EU countries, these couples lack protection.

We are aware this commitment is not shared by all, notably Udeur and Margherita [(both center-left with catholic influences)] unwilling to incorporate that commitment in the common program. Thus, the final text is clearly insufficient since it does not foresee the creation of a new legal entity.

We recognize your commitment in order to bring the whole coalition into a relationship with our community, and into a full recognition of rights of our citizenship. Until now, it

has not happened in the coalition and we cannot identify it in the Union's program. For this reason our flags will not be waving in the squares of Italy together with your flags, as we would like in these demanding days before the election.

Certainly our commitment to getting rid of the current government, this is the very condition to return this country to talking about rights. The current government, particularly some ministers as Calderoli, Tremaglia and Buttiglione have offended profoundly our dignity. The ruling coalition contains neo-fascistic groups distinguished by the continuous intimidations and aggressions against gay and lesbians. The victory of that coalition, even if formed also with liberal components, would be the victory of our harshest enemies.

For this reason, we will support the Union, and avoid any temptation not to vote, although the strong disappointment in these days. We will vote, in any case, for that part of the union that shares our views.

We will vote for the union, without renouncing our role, but to give more power to our role, which is the liberation movement that demands the end of anachronistic discrimination based on a fundamental aspect of our identity. A situation which the European Parliament has said is equivalent to racism, anti-Semitism, and xenophobia.

We will make our contribution to save our country from the destruction of democracy, but our voice will be loud and clear now and in the future, to reclaim, as in any State which declares itself democratic, for full and equal rights and social inclusion.

Thus, while Prodi in essence says I support you but don't be so noisy during the election campaign, the CSO replies that it will be loud and clear fighting for their rights as citizens in a democracy. One can also see from the letter, that first of all the proposed governing program of the center-left coalition does not propose to create a new legal institution to recognize same-sex partnerships, instead they commit themselves to the individual rights of persons in de-facto (thus non-legally) recognized unions.

Next we will discuss another CSO, Informagay, based in Turin, and highlight its local activities and engagement as well as its transnational and EU ties. This information is based on a review of the web-cite of Informagay and with an interview conducted with the past President (2001- 2005) of the organization, Piero Pirotto, conducted in Florence on April 10, 2006. Here it is apparent that CSOs active at the local and regional level also can play transformative roles in the multi-level political system.

The close and overlapping links between activists in political parties, and unions, and CSOs are apparent in this organization. Informagay was established in 1986, but grew out of

an early organization called FUORI, which was created in the 1970s by activists in the Radical Party in Torino. It was initially backed by other political and cultural groups – Lista Verde Civica (Green Civic List) and Fondazione Sandro Penna (Foundation Sandro Penna). The association became independent when it was formally founded in 1989, when much of the funding came from donations and funding from the city of Torino and the region of Piedmont, partly through European Social Funds from the EU, to provide such services to the public as a telephone information line and a HIV/ AIDS public awareness program. The groups also began to take part in various political activities to ‘appeal for rights and to defend against discrimination.’ (Piroto, 2006 interview).

In addition to the ties with political parties, the group benefited from ties Piroto had with the largest trade union in Italy, the CGIL, with a history of engagement on rights issues. At the 1992 CGIL Congress the union created a special gay and lesbian section across the union’s offices, to be part of the New Rights office with other groups like women, racial minorities, and the disabled. Here it is apparent that one minority group can build on the prior successes of other groups.

Informagay was active in 2001 in getting an anti-discrimination law passed at the regional level, in the region of Piedmont, with Turin as its capital. Piroto explained how the group believed that while the powers of the regional government are rather limited, it would send an important message to Rome, especially when seen in the context of anti-discrimination passed by other regions, including Lombardy and Tuscany: all regions in the more economically developed north of the country. The organization began by contacting representatives in the political parties which they believed would be favorable to them, the two different communist parties in the Piedmont parliament, as well as the Social Democratic party and a city list party, which gave them the needed 45% vote to have the measure formally discussed by a committee of the local parliament. While the measure was not brought to a vote during a majority by center-right parties in the Piedmont parliament, it subsequently passed in 2005 when a left majority was in power.

We found it interesting that Piroto was adamant that despite this success in getting the political parties in Piedmont to support anti-discrimination legislature, that they were not engaged in ‘lobbying.’ Instead, he said that Informagay simply presented its arguments for what it wanted, but was not involved in subsequent lobbying and compromising. He clearly

felt that was the role of the political parties, to bargain and negotiate and know what was obtainable at the most opportune time. It shows an interesting interaction between CSOs and their allies in political parties.

The Italian transposition of the law came in 2003. Pirotto said that the center-right government of Berlusconi did not consult with civil society before it prepared the draft law. The Unions had a good deal of comment about the law, specifically about the many exceptions to the anti-discrimination provision based on sexual orientation which went considerably beyond those foreseen by the directive, but the government enacted the law with very few changes to the first proposal. The law was transposed by the government, and not submitted to the Italian parliament for wider debate. Prior to the law being transposed, there was a postcard campaign which grew out of a Roundtable Discussion organized by the CGIL union and gay and lesbian right groups, in which approximately 2,000 postcards were distributed to be sent to Berlusconi asking the Italian government to implement the EU directive in an appropriate way. This is an example of a 'going-public' strategy by a CSO.

The potential downside of a CSO becoming too close to a political party is apparent in the appraisal of Pirotto of Arcigay, the umbrella group which unites many local groups across the country, but not Informagay. He states that the head of a related political organization inside this group, (GayLeft), Franco Grillini, was elected as an MP representing the Democratica di Sinistra (DS) – the Democrats of the Left party. Pirotto said that this means that at times the demands of the organization may become muted, because of the strategic interest of the political party and electoral pressures. He also criticized Arcigay for being too commercial at times. For example, the leader of the organization in Tuscany also owns one of the largest internet portals serving the gay community, Gay.it. Pirotto recently wrote a letter to protest the inclusion of web banner advertising on the site for Berlusconi's FORZA Italia party during the election campaign. Pirotto said it might appear to many as an endorsement of the policies of the government, a government not favorable to the gay and lesbian community.

While most of the projects of Informagay have their strength in the roots in the local community, there are some decidedly transnational elements. They participated in a conference in the Netherlands, which brought together those interested in gay and lesbian issues within labor unions, bringing together organizers from Spain, Germany, Sweden, Finland, the United Kingdom, and others.

One of the decidedly EU projects of Informagay was their establishment of an extremely detailed database of legal rights issues of interest to gays and lesbians called CERSGOSIG. But the group missed the opportunity to really feel connected to the EU in Brussels during this process. When they contacted the Commission to see about presenting their results in Brussels, the reply was that the web-site looked fine, but please add the EU logo on the first page. The CSO was reaching out to Brussels to try to understand and be a part of developments there, but felt a bit frustrated by the lack of an engaged, interested partner.

One of the most interesting aspects of this case study is evidence for the impact of the EU on ideas. The European Parliament issued a resolution calling on the member states to provide partnership legislation for gay and lesbian couples. Pirotto explained that until the EU resolution on partnerships “We would have never even dreamed of asking the Italian government to enact partnership legislation.”² The demand of gay and lesbian organization for the government to pass partnership legislation (PACS) became a major theme of the 2006 Italian elections, bringing hundreds of thousands to Rome in protests to support the creation of PACS and extensive comment by the two major candidates during the two television debates. In these debates, Berlusconi defended the traditional conception of the Italian family and the Catholic church’s teaching, whereas Prodi was cautiously in favor of at least some measures in the direction of creating PACS.

Our interview with Pirotto followed within moments of the Italian media reporting the exit poll results that it was likely that Prodi would win the election by a slight margin. However, because Italian election law provides a bonus in parliamentary seats to the majority, Prodi’s coalition will have a small, but clear majority in the House but only a narrow one in the Senate. Pirotto predicted that while Prodi is likely to act on the creation of PACS because it was a major topic of the election campaign, but that a change in the Italian anti-discrimination will likely await the European Commissions evaluation of the transposition of its anti-discrimination directive across Europe.

The next group we would like to discuss is the activities of CGIL. We interviewed Dr. Maria Gigliola Toniollo, the director of the Settore Nuovi Diritti (New Rights Section) within the CGIL in their headquarters in Rome on April 21, 2006. This trade union is the only one in

² Comments by Piero Pirotto at a seminar ‘Il Diritto Antidiscriminatorio: Discriminazione fondata sull’orientamento sessuale’ at the University of Florence, 4 April 2006, English translation by Arquimedes Cecconi Correa, greatly appreciated.

Italy working on gay and lesbian issues. The right wing-trade unions and CISL – Italy’s second largest trade union and catholic orientated, openly oppose them (CGIL 1998). The New Rights Office was created in 1992 within the union to represent the lesbian, gay, bisexual and transgender (LGBT) community within and outside the union. She describes the office in Rome within the headquarters of CGIL as a political office, whereas the local offices in such cities as Milan and other places also have staff members specifically appointed to deal with individual cases arising from LBGT workers.

It is apparent that the CGIL office in Rome was not greatly involved during the discussions surrounding Article 13 and the subsequent EU directives, but became very involved in pressing the Italian government to transpose the directive properly. The chronology of these activities in the appendix shows CGIL reaching out to members of parliament from center-left parties and to CSOs.

Toniollo has tried to create stronger transnational ties among the unions across Europe that have anti-discrimination units like CGIL. She finds that the union umbrella organization at the EU level, ETUC (European Trade Union Confederation), while generally supportive of resolutions put forth at its Congresses declaring support for anti-discrimination based on sexual orientation and gender identity, it has not set up strong institutional structures to help implement these. For example, whereas Toniollo has tried to set up a network of anti-discrimination on the basis of sexual orientation within ETUC, the organization has preferred to let a CSO umbrella organize these issues – the ILGA-EU organization. She says the ‘ETUC prefers to work with ILGA-EU on these issues, or should I say ‘to push them’ out to IGLA.’ This removes it from the specific context of union organization around these rights of workers. Table 3 contains a detailed time-line of the activities of CGIL in this area. To summarize CGIL’s activities toward the transposition of the Framework Directive into Italian law, the union:

1. Extended an invitation to selected center-left MPs to discuss the government’s inaction in transposing the EU directive.
2. Began a public campaign, uniting the union and civil society organizations, to place pressure on the government to transpose the directive in a preferred way. This included the distribution of 2000 postcards to be sent to the government.

3. During a meeting with center-left MPs, asked them to put in a formal request to the Equal Opportunity Ministry about the progress of the transposition.
4. Prepared and sent a report to the House Committee on Labor and the European Affairs Committee demanding amendments to the government's transposition of the directive.

Conclusions

Using concepts developed by Bartolini, we have investigated here the process of 'system building' at the institutional level which potentially provide 'opportunity structures' for civil society organizations to exert influence in the multi-level political system. We then empirically investigated the process of 'political structuring' at the society level in Italy in the area of anti-discrimination law.

In answer to our first research question, we outlined various 'opportunity structures' which exist for CSOs to exert influence in the multi-level system, including lobbying for access, networking and collaboration, going-public, and litigation. These strategies may be utilized at various levels in the system, both at the EU level and in the member states, and of course, also regionally and locally, during various phases of the policy making process. At the EU level, these strategies may be directed either at the formal, hierarchies of government operating through the inter-governmental or supranational mode of decision-making or through more horizontal processes involving both state and non-state actors.

Our second research question asked about the extent that the strategies of selected Italian CSOs have been Europeanized. It is clear that for the two Italian CSOs and the labor union under investigation here that there was little 'bottom-up' Europeanization of their strategies. They were not a notable part of the pressure on the 1996 Intergovernmental Conference and the subsequent drafting process of Article 13 of the Amsterdam Treaty. CSOs in other countries, with more advanced traditions on anti-discrimination legislation, such as the Netherlands, or in countries with especially active and visionary CSOs such as the U.K., were part of this initial policy making process at the EU level, the story of which will emerge in the later comparative research as part of this study.

However, there was a 'top down' Europeanization of strategies as Italian CSOs attempted to influence the transposition of the resulting directives into national law. Here the

groups formed a ‘coalitional triangle’ between various CSOs, labor unions, and sympathetic left and postmaterial green parties in the Italian parliament to collaborate to bring unique resources and powers within the political system to pressure the government to transpose the Framework Directive promptly and appropriately. They combined the different resources and strengths of various types of mass-elite linkage institutions: the commitment and passion of CSOs on an issue, the stability of professional structures and economic resources of labor unions, with the access to power and bridging resources (to other groups and the broader society) of political parties. One CSO in particular, Arcigay had an effective lobbying access strategy, contacting sympathetic MPs from center-left and Green parties to use their formal powers as MPs to put questions to the government concerning the proper transposition of the directive. They also used a ‘network’ strategy to reach out and collaborate with other CSOs and the CGIL labor union. During the recent Italian election campaign, they also used a ‘going-public’ strategy and organized large rallies in Rome and elsewhere to press the coalition of parties led by Prodi to include the creation of civil unions, PACS, for unmarried couples. While this ‘coalitional triangle’ did not succeed in substantially altering the decree issued by the Italian center-right government headed by Berlusconi pursuant to the European Directive, this collaboration may be successful in pressing the new center-left government under Prodi to introduce some form of domestic partnership legislation for same-sex couples and also to eventually re-visit the anti-discrimination labor law.

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Table 1

Civil Society Organizations' Strategies and Targets in Multi-Level Governance

- I. Lobbying 'access' strategies
 - A. Member State strategy – national targets:
 - National ministries
 - Parliamentary party groups
 - Parliamentary committees
 - Individual MPs
 - B. 'Go-through' strategy – national targets:
 - National ministry concerning COREPER or Council of Minister Meetings
 - National Permanent Representative in Brussels
 - National members of the EP
 - C. 'EU-Direct' strategy – EU targets :
 - DG's of the European Commission
 - Committee of the Regions
 - Economics and Social Committee (ESC)
- II. Networking and collaboration
 - A. Internal – contact own members to inform and persuade
 - B. External – contact other interest organization
- III. Going-Public
 - A. Contact targeted (selected) audience to inform and persuade
 - B. Contact the broader public
- IV. Judicial Strategies
 - A. National litigation strategies – national courts
 - B. 'EU litigation' strategy – European Court of Justice or European Court for Human Rights

Policy Phase and Goals of Civil Society Organizations

1. **Definition and Framing of the Issue** - CSOs seek to define and frame the issue
2. **Agenda-Setting** - CSOs seek to place the issue on the agenda of decision-makers, opinion elites, and the public.
3. **Research and Analysis** - CSOs seek to provide expertise and information to decision-makers.
4. **Policy Formulation** – CSOs seek to influence the specific contours of policy in a given issue area.
5. **Policy Decision** - CSOs seek to influence the policy choices of decision-makers.
6. **Policy Implementation** – CSOs seek to monitor implementation, or be involved in active implementation of the policy decision.
7. **Policy Evaluation** - CSOs seek to assure compliance with the policy decision and to assess its effectiveness and impact in light of its goals.

Table 3

The Developments of the EU Directive and the Italian Decree Transposing the Anti-Discrimination Directive³

27 June 2000 Commission publishes the proposed anti-discrimination directive and forwards it for consideration to the European Parliament, Economic and Social Committee, and the Committee of the Regions.

27 November 2000 The Council of Ministers approves the Directive with the provision that it should be transposed into national law by 2 December 2002

1 March 2002 Italian Parliament passes the 'legge comunitaria 2001' that gives the government authority to transpose all EU directives, including 2000/78/CE

24 October 2002 The European Commission appoints a group of independent legal experts on anti-discrimination on grounds of sexual orientation to monitor the transposition of the directive, coordinated by Prof. Kees Waaldijk (Leiden).

17 December 2002 CGIL invites a group of center-left Italian MPs to discuss the inaction on the part of the government in transposition of the directive.

January 2003 A National Campaign for the transposition of the directive is organized by CGIL and numerous civil society organizations. Postcards are distributed to be sent to the government demanding the transposition of the directive according to the proposal of MP Franco Grillini (former President of Archigay).

11 February 2003 A select group of center-left MPs submit a formal ministerial question to the Minister of Equal Opportunity demanding that the government consult with social actors prior to the transposition of the directive, as required by the EU directive.

12 February 2003. Minister replied to the parliamentary question in a general way, but without offering specifics as to the government's intentions.

12 March 2003. The Cabinet sends the first version of the decree to the parliament.

28 March 2003. The Cabinet sends a second version of the decree to the parliament with only very minor revisions.

4 April 2003. The government transmits to the parliamentary committee on labor and the European Affairs Committee the proposed decree.

13 May 2003. The CGIL sends both House committees and the Senate an analysis and critic of the decree, proposing modifications.

4 June 2003. The Parliamentary Committee on Labor issues three different recommendations toward the proposed decree, one from MPs representing parties from the governing coalitions, and two different recommendations from opposition parties. Some opposition parties asked for only slight modifications to the decree and others asked for major modifications and stressed the insufficient adherence to the spirit of the EU directive.

3 July 2003 The Cabinet approves the decree transposing the EU directive, with only minor modifications to the original submission to parliament.

³ CGIL, the New Rights Section, web-cite, translation summary from the Italian with the assistance of Arquímedes Cecconi Correa (University of Florence, Department of Political Science), greatly appreciated.

