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## **The constitutional reform of the Italian Parliament. Effects and issues of the law 19 October 2020 No. 1**

### **Abstract**

The aim of this paper is to analyse Constitutional Act 1/2020, which amends norms contained in Articles 56, 57 and 59 of the Italian Constitution (about composition and functioning of the Parliament), the effects of this reform on the Italian constitutional system and the proposals to reform parliamentary regulations in order to adapt these regulatory sources to the recent constitutional revision that reduced the number of members of Parliament. In particular, it is intended to ascertain whether these proposals go in the direction of an organic reform of the regulations or whether, on the contrary, they are merely adjustments.

The reduction in the number of parliamentarians will become effective from the beginning of the next legislature but debate that preceded the *referendum* vote was particularly intense. Therefore, the doctrine has identified several critical issues related to the principles of representativeness and democracy, the essence of the Italian constitutional system, critical issues that seem to have an in-depth origin.

**Keywords:** constitutional reform, Italy, Parliament, legislative power, parliamentary regulations.

### **Introduction**

This paper aims at providing a focus on the Italian national system, with particular reference to the constitutional reforms that, in the recent past, have characterized the composition and, as will be seen, also the role and function of the Italian national Parliament.

The reform of the Italian legal system that led to a decrease of a half in the number of parliamentarians is, in any case, an object of certain interest in the context of comparative research in the European Union countries. The purpose of

this research is to verify whether the innovation introduced could represent a possible benchmark, as well as a starting point to reflect on the future of parliamentary republics in Europe, and possibly on the consequence of some short-sighted populist policies.

The Italian case is in fact only one of the examples that could be taken into consideration to address the issue of constitutional reforms and the role of the powers of the State, the quality and healthiness of democracies and the protection of rights by the Constitutional Courts<sup>1</sup>.

In fact, if we were to carry out a quick analysis of what has happened on the continent in relation to the function of parliaments in recent years, we could say that the entire European continent has been through institutional crises<sup>2</sup> that have called into question the centrality of legislative power in favor of executive power, now in the form of the government, now in the form of the figure of the President of the Republic, as in the case of presidential republics.

In any case, independently from the form of government, countries such as Italy, Belgium<sup>3</sup>, Spain<sup>4</sup> and recently Germany itself, to name just a few, have been characterized by a political fragility that, during elections, has led to the emergence of government majorities that are not very solid and therefore do not last.

There are many reasons for these events and a single paper would not be enough to examine them all and address them in detail.

In any case, through the analysis that is addressed with this paper, an attempt will be made to bring out the most significant problematic profiles.

Certainly, the political element has played a central role in pushing for a reform of the Constitution. Yet, the political intention does not appear to be comforted or supported by an adequate technical-legal basis. As will be seen, in fact, the reform seems to have remained “suspended in the air”, given that it is necessary for Parliament to adopt a whole series of measures, in particular internal regulations, to make the reform effectively operative.

Anyway, if we look at the Italian case, we can probably say that the constitutional reform that led to the halving of the number of members of parliament, both in the Chamber of Deputies and in the Senate of the Republic, with Constitutional Law no. 1 of 19 October 2020, which, as we shall see, was subsequently subjected to a popular referendum that confirmed its application, was the consequence of a number of problems that had remained unexplored in this country over the last few decades<sup>5</sup>.

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<sup>1</sup> Ex multis, A. Stone Sweet, *Constitutional Courts and Parliamentary democracy*, “Western European Politics” 2002, no. 25, p. 77–100.

<sup>2</sup> D. Judge, *A crisis of Parliament*, [in:] *Institutional crisis in 21-century Britain*, London, p. 81–100.

<sup>3</sup> A. Mastromarino, *Il (nuovo) Senato belga: una riforma in senso federale?*, “Cuadernos Manuel Jimenez Abad” 2017, no. 13, p. 25–43.

<sup>4</sup> R.L. Blanco Valdés, *Spagna: La fine della stabilità? Cambia-menti del sistema partitico e della forma di governo*, “Il diritto dell’Unione Europea” 2018, no. 2, p. 349–378.

<sup>5</sup> See, C. Guarnieri, *Il sistema politico italiano – Un Paese e le sue crisi*, Bologna 2021.

## 1. Political crisis and institutional crisis. The road to the Constitutional Reform

First of all, among the causes, it is possible to refer to the crisis of the parties and the poor representation they were able to guarantee after the end of the so-called I Republic, which occurred after the judicial scandal “Mani Pulite”<sup>6</sup>, between 1992 and 1994, which led to the fall of the main government parties.

In this regard, incidentally, it should be said first of all that there was no institutional transition between the I and the II Republic in Italy<sup>7</sup>, through constitutional reform, but only *de facto*, in the sense that there was a total ‘renewal’ of the parties in Parliament and a different relationship with the representative power of the President of the Republic, with the Government and with the judiciary one.

As it is well known, Italy has been a parliamentary republic since the Constitution was promulgated in 1948.

The role and the central legislative function have therefore always been, and still are, entrusted to Parliament. During the years between 1948 and 1992, i.e. for almost fifty years, the system of political power, despite the changes made by various electoral laws<sup>8</sup>, has always been based on the role of a few historically strong parties. A reference is made to the role of the Christian Democrats (Democrazia Cristiana), the Communist Party (Partito Comunista Italiano) and the Socialist Party (Partito Socialista Italiano).

In short, the forces that helped to overthrow the fascist dictatorship, write the Constitution, and lead the country in the following years.

During this first historical-political phase, the parties represented the epicenter of political power, which was strongly managed within Parliament. Although governments in Italy have never lasted long – in fact, there have been more than 60 governments in 18 legislatures – it is the Parliament that has always remained the epicenter of political and institutional power with strong parties capable of strongly representing the demands coming from the citizenship, assuming an effective – albeit slow – filtering role<sup>9</sup>.

<sup>6</sup> S. Seminara, *Corruzione e anticorruzione*, [in:] “Dir. Pen. Proc.” 2017, no. 9, p. 1125 and following; M. Feltri, *Novantatrè. L’anno del terrore di Mani Pulite*, Venezia 2016; for a complete reconstruction of those years in terms of what happened in politics for corruption scandals and organized crime, G.M. Flick, *Mafia e imprese vent’anni dopo Capaci, via D’Amelio, Mani Pulite. Dai progressi nella lotta al crimine organizzato, ai passi indietro nel contrasto alla criminalità economica e alla corruzione*, [in:] “federalismi.it” 2013, no. 3, p. 20 and following.

<sup>7</sup> F. Bonini, L. Ornaghi, A. Spiri, *La seconda repubblica. Origini e aporie dell’Italia bipolare*, Catanzaro 2021.

<sup>8</sup> M. Volpi, *Riforma elettorale e rappresentanza*, “Costituzionalismo.it” 2012, no. 1, p. 30.

<sup>9</sup> For a reconstruction of that historical period, see M. Damilano, *Un atomo di verità. Aldo Moro e la fine della politica italiana*, Milano 2019.

Over the years, particularly between the 1980s and 1990s, the parties were overwhelmed by an external and internal event. The external one was the fall of the Berlin Wall and ideologies (liberalism vs. communism) and Italy's participation in the process of European integration, which culminated in 1992 with the Maastricht Treaty.

The internal one is related to the inability of the leadership classes to innovate and renew themselves in those years, and therefore to the corruption of power, which has led to the judicial scandal of 'Mani Pulite'<sup>10</sup>, which revealed cases of corruption and the exchange of favors between politicians and businessmen.

The collapse of the parties that have governed in Italy over the last fifty years has created a *vulnus*, an enormous institutional gap, which new political forces, which have declared themselves to be 'anti-system', have tried to fill. The transition from this first phase to the rise of the new parties determined the passage from the First to the Second Republic.

By the way, the institutional crisis concerning the representativeness of parties, the stability of governments and the management of democratic power has never been resolved through constitutional reform. Over the years, in fact, there have been many unsuccessful attempts to transform Italy from a parliamentary to a presidential republic<sup>11</sup>.

The 'new' parties that have been representing citizens since 1994 have never been able to reproduce the same institutional set-up as before. Governments remained unstable, but now parliamentary forces can be also considered unstable. This produced a *caesura*, a detachment between citizens and Parliament.

In this crisis phase, populisms began to develop<sup>12</sup>, which, as is well known, seek to create a direct relationship between politician and citizen by avoiding Parliament. This, in short, can be indicated as the origin, in political-institutional terms, that led to the reform.

The second cause is economic. The financial crisis of 2008–2013 also had many negative effects in Italy. In 2011, due to the increase in public debt, the Berlusconi's government had to resign dismissions and was replaced by a "technical" government appointed by the President of the Republic, Giorgio Napolitano<sup>13</sup>.

<sup>10</sup> M. Feltri, *Novantatrè. L'anno del terrore di Mani Pulite*, op. cit., p. 27 and following.

<sup>11</sup> C. Fusaro, *Il Presidente della Repubblica fra mito del garante e forma di governo parlamentare a tendenza presidenziale*, "Quaderni Costituzionali" 2013, no. 1, p. 47 and following.

<sup>12</sup> F.i., P. Graziano, *Neopopulismi. Perché sono destinati a durare*, Bologna 2018; to see in general, J.W. Mueller, *What is populism?*, London, 2017; Z. Bauman, *Society under siege*, Cambridge 2002; P. Taggart, *Populism*, Open University Press, 2000.

<sup>13</sup> See C. Fusaro, *Il Presidente della Repubblica fra mito del garante e forma di governo parlamentare a tendenza presidenziale*, op. cit., p. 47–51; A. D'Andrea, *Questioni metodologiche e qualche rilievo a caldo sulla <<Presidenza Napolitano>>*, "Quaderni Costituzionali" 2013, no. 1, p. 35–46.

In order to ensure Italy's continued membership of the European Union, the stability of its public debt and for avoiding default, this government had to adopt a policy, also defined at European level, of "austerity". Cutting public spending, increasing taxes.

Inevitably, in the absence of economic policies of growth and structural reforms, they have caused widespread discontent among the citizenship, which has translated into the idea that even Parliament represents an "economic cost" to be reduced.

Between 2013 and 2020, in fact, some political forces, which can probably be defined as populist, played on this sentiment.

## 2. The recent attempts at Constitutional Reform in the Italian Parliament

In a nutshell, therefore, the constitutional reform of 19 October 2020, no. 1, which will be analyzed below, is the direct consequence of the internal and external political-institutional changes in the country and of the economic crisis that had strongly affected the country during the last decade.

In order to understand how this reform came about, it must be remembered that there have been several attempts in constitutional reform of the Italian Parliament in the recent past. And yet, the precedents to the one that was actually promulgated had, at least apparently, different motivations.

First, it may be useful to remind that an initial redistribution of legislative competences, and in this sense also of Parliament's powers, took place with the reform of Title V of the Constitution, by Constitutional Law No. 3/2001<sup>14</sup>.

Although this reform did not lead to a reduction in the number of parliamentarians or to a reshaping of the regulations governing the functioning of Parliament, it did have an indirect effect on the function and power exercised centrally by the Parliament in Rome.

Until this reform law, in fact, all legislative competences on the most varied subjects (defence, health, criminal law, transport, etc.) were mainly attributed to the power of the State. The Regions, on the other hand, which have constitutional dignity (Art. 119 et seq. of the Constitution), in the sense that they are given legislative competence (Art. 117 of the Constitution), had - prior to the 2001 reform - only "residual" competence.

This meant that they could only intervene to define the rules that had already been identified in a general way by the Parliament or, at most, when and until the national Parliament intervened in a matter<sup>15</sup>. In the event that the Parliament in-

<sup>14</sup> See *ex multis*, P. Caretti, *La riforma del Titolo V Cost.*, "Rivista AIC" 2014, no. 2, p. 2 and following.

<sup>15</sup> See C. Pinelli, *Quali controlli per gli enti locali dopo la Riforma del Titolo V della Costituzione*, "Le Regioni" 2005, no. 1-2, p.165-174; P. Veronesi, *I principi in materia di raccordo Stato-Regioni dopo la riforma del Titolo V*, "Le Regioni" 2003, no. 6, p. 1007-1062.

tervenes, the rules laid down at regional level would 'give the way' to those of the Parliament in Rome.

In 2001, Constitutional Law No. 3/2001 completely reversed the relationship. The reform fully implemented Article 5 of the Constitution<sup>16</sup>, which recognizes local self-governments as bodies that existed before the formation of the Republic (Municipalities, Provinces, which are granted regulatory power; Regions, which are also granted legislative power).

The idea behind this reform was that government action should take place at a level as close as possible to the citizens, without prejudice to the exercise of power in substitution by the higher level of government in the event of impossibility or failure of the lower level of government<sup>17</sup>.

This reform aimed at responding to the principle of subsidiarity, enshrined both at European level, by the EU Treaty (art. 5, par. 3 of the TEU<sup>18</sup>), and by the Italian Constitution itself, in art. 118 of the Constitution<sup>19</sup>, and to the political request to give vigor to the so-called 'Federalism' with an unchanged Constitution.

Article 117 of the Constitution has thus been reformulated<sup>20</sup>. The regions are granted legislative autonomy, i.e. the power to lay down primary legislation, even on an exclusive basis in important areas such as health, transport and tourism. The only constraint is that the regions must legislate in compliance with the fundamental principles of the State and the Republic.

<sup>16</sup> Art. 5 Cost. "The Republic is one and indivisible. It recognises and promotes local autonomies, and implements the fullest measure of administrative decentralisation in those services which depend on the State. The Republic adapts the principles and methods of its legislation to the requirements of autonomy and decentralisation".

<sup>17</sup> L. Torchia, "Concorrenza" fra Stato e Regioni dopo la riforma del Titolo V: dalla collaborazione unilaterale alla collaborazione paritaria, "Le Regioni" 2002, no. 4, p. 647–652.

<sup>18</sup> Art. 5, par. 3, TUE "Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments ensure compliance with the principle of subsidiarity in accordance with the procedure set out in that Protocol". For an analysis of this principle in the Italian doctrine perspective for the constitutional reform, see G.U. Rescigno, *Principio di sussidiarietà orizzontale e diritti sociali*, "Diritto Pubblico" 2002, p. 5–50.

<sup>19</sup> Art. 118, I par. Cost. "Administrative functions are attributed to the Municipalities, unless they are attributed to the provinces, metropolitan cities and regions or to the State, pursuant to the principles of subsidiarity, differentiation and proportionality, to ensure their uniform implementation". About that, see A. D'Atena, *Costituzione e principio di sussidiarietà*, "Quaderni Costituzionali" 2001, no. 1, p. 13–34.

<sup>20</sup> Art. 117, I par., Cost. "Legislative powers shall be vested in the State and the Regions in compliance with the Constitution and with the constraints deriving from EU legislation and international obligations".

As was said before, this reference to the 2001 constitutional reform can be used to trace the evolutionary path or at least the change of Parliament in these years and its functions.

Even the attribution of primary and direct legislative powers to the regions, even before seeing a decrease in the number of parliaments, has in fact shown a change of course – over the last twenty years – in the identification of the bodies with greater power and in any case a reduced or at least limited capacity for legislative power in the national parliament, due to the political pressures that existed at the time, which can be traced back to certain parties in northern Italy, particularly interested in managing certain sectors.

The reform was also accompanied by the amendment of Article 119 of the Constitution, which also introduced the so-called 'Fiscal Federalism'. This law provides that municipalities, provinces, metropolitan cities and regions have financial autonomy in terms of revenue and expenditure, while ensuring that their budgets are balanced and that they comply with the economic and financial constraints of the European Union<sup>21</sup>.

Still, from the historical reconstruction, political and institutional steps that finally led to the 2020 reform, it seems appropriate to also mention the attempt at constitutional reform, which originated with a scheme of Law presented by the Renzi Government<sup>22</sup> on 8 April 2014 and was finally not approved by a popular referendum in December 2016<sup>23</sup>.

On this occasion, Italian citizens rejected the reform that would have represented a real revolution of the system as it would have completely changed the role and function of one of the two chambers of Parliament, the Senate.

This initiative of a constitutional reform, known in Italy as the “Renzi-Boschi constitutional reform”, to some extent anticipated what later happened with the 2020 reform. Between 2014 and 2016, two main needs were maturing even more, at least according to the government.

The first was to overcome the so-called ‘perfect bicameralism’<sup>24</sup> to make parliamentary functions faster and more expeditious, entrusting legislative initiative practically only to the Chamber of Deputies, while at the same time actually making the Government stronger and more stable.

<sup>21</sup> For a general view, M.C. Fregni, *Autonomia tributaria delle Regioni e riforma del Titolo V della Costituzione*, [in:] *Diritto Tributario e Corte Costituzionale*, Napoli 2006, p. 407–551.

<sup>22</sup> For a perspective of that government, see M. Damilano, *Processo al nuovo*, Roma-Bari 2017.

<sup>23</sup> See, A. Pace, *Revisioni, non riforme*, “Osservatorio Costituzionale” 2018, no.1, p. 4 and following; G. Delledonne, G. Martinico, *Yes or no? Mapping the italian academic debate on the Constitutional Reform*, “The Italian Law Journal” 2017, no. 1, p. 12; A. D’Atena, *Luci ed ombre della riforma costituzionale Renzi-Boschi*, “Rivista AIC” 2015, no. 2.

<sup>24</sup> For a general perspective, see R. Bifulco, *Osservazioni sulla riforma del bicameralismo (d.d.l. Cost. AC 2613-A)*, “Le Regioni” 2015, no. 1, p. 69–82; C. Chimenti, *Organi bilaterali e funzionalità del Parlamento*, “Il Politico” 1997, no. 42, p. 151–166.

The second sought to respond precisely to the populist dynamics that emerged after the financial crisis, after which citizens saw Parliament as a slow and also costly instrument.

This draft constitutional reform was fundamentally based on these premises.

In practice, the measure sought to deprive the Senate of the legislative functions assigned to it by the Constitution in Articles 74 et seq. by making it merely a chamber representing regional institutions. The “new Senate” would only participate with the Chamber of Deputies in legislative activity in certain cases.

It would have carried out functions of relationship between the State and the territorial authorities on matters relating to the European Union; it would have participated in the formation and implementation of European Union policies, verifying the impact of European Union legislation; it would have carried out an activity of evaluation of public policies and of the activities of public administrations; it would have carried out activities of verification of the implementation of the laws of the State.

The number of Senators – and here is the most representative data regarding the 2020 constitutional reform – would have been reduced from 315 to 100 members, that, except for the five appointed directly by the President of the Republic (pursuant to Article 59 of the Constitution<sup>25</sup>), would have been elected by the Regional Councils from among their own members and among the mayors of the territories of the individual regions.

In short, by this reform, the Chamber of Deputies would be the only legislative body and the only body exercising the function of political guidance and control over the work of the Government.

The reform also contemplated other general changes to the constitutional set-up, including the abolition of the National Economic and Labour Council.

The adoption of this constitutional reform, in the absence of a complex and comprehensive reform addressing both the functional and organizational profiles of the Chambers, would have created distortions in the system<sup>26</sup>.

In fact, the radical change linked to the reduction of the number of senators from 315 to 100 would have led to a serious *vulnus* to representation with effective powers<sup>27</sup>, because there was no provision for a reform of the electoral law together with an adequate distribution of senators for all Italian regions, as well as the paradox of not delivering to the country two Chambers with the same political majority.

The “new Senate”, as promoted by this reform, could have included regional and territorial representatives of a different political colour from those present in the Chamber. This is for the simple reason that regional local elections take place at different times from general political elections and can therefore have different outcomes.

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<sup>25</sup> At least can be named only five senators.

<sup>26</sup> A. D’Atena, *Luci ed ombre della riforma costituzionale Renzi-Boschi*, op. cit., p. 7–15.

<sup>27</sup> A. D’Atena, *Luci ed ombre della riforma costituzionale Renzi-Boschi*, op. cit., p. 3–9.



Moreover, political parties often have very different results, depending on whether it is a national political election or a regional administrative one. Finally, the Renzi-Boschi reform surreptitiously provided for the elimination of shared legislative competence between the State and the regions, thus indirectly intervening in the federalist reform of 2001.

### **3. The reform on parliamentary representation by Constitutional Law No. 1/2020 and issues on Italian Parliament functions in relation to other constitutional bodies**

After the failure of the attempt of the “Renzi-Boschi” constitutional reform, the search for a proposal to amend the Parliament was pursued by other political forces.

However, unlike in the past, the 2020 constitutional reform aimed directly at reducing the number of parliamentarians.

This was purely inspired by a matrix – which could be described as populist – aimed at responding to citizens' need to save costs after the economic crisis.

From the political-institutional point of view of the proponents, reducing the number of members of parliament has always been in line with the logic of speeding up and making the legislature more efficient.

This led to Constitutional Law no. 1 of 19 October 2020, “Amendments to Articles 56, 57 and 59 of the Constitution on the reduction of the number of parliamentarians”, which provides for a reduction in the number of parliamentarians from 630 to 400 deputies and from 315 to 200 elected senators.

The proposed constitutional law A.C. 1585-B, definitively approved by the Chamber of Deputies, in the session of 8 October 2019, provides for a drastic reduction in the number of parliamentarians, amending Articles 56 and 57 of the Constitution from the current 630 to 400 deputies and from the current 315 to 200 senators.

The objective is twofold: on the one hand, to encourage an improvement in the decision-making process of the Chambers of Deputies and the Senate to make them more capable of responding to the needs of citizenship and, on the other hand, to reduce the cost of politics, with an estimated saving of around €500 million in one Legislature, which, if one looks at it from a general perspective, is very little.

According to its proponents, the reform would allow Italy to align itself with the rest of Europe: Italy is the country with the highest number of MPs directly elected by the people (945), followed by Germany (around 700), Great Britain (650) and France (just under 600). However, the reform looked only at the numerical aspect without looking at the complexity of the Italian institutional system.

The reduction in the number of MPs will come into force at the start of the next parliamentary term and, in the meantime, will require complex changes to both electoral law and the regulations governing the workings of Parliament. Thus, a reform that only half achieves its objective<sup>28</sup>.

The draft of constitutional reform was then submitted to a public vote in September 2020. And, even though apparently a large part of the citizenship seemed to be against it, the final result voted in favour of approving the proposal. Parliament was thus halved.

The result of the referendum vote, which was ‘unexpected’ by most people, has opened several reflections in terms of political and parliamentary effects<sup>29</sup>.

The intervention of constitutional revision has assumed the characteristics of necessity but forgetting all the implications on the Italian constitutional system.

For example, the interaction with the “principle of representation”, and the effects on electoral law.

One of the first critical issues is represented by the reduction in the number of MPs (36.5%) for each Chamber of Parliament, since if not followed by changes to both the perfect bicameral system and the functions of the Chamber and Senate, it would have risked the failure of the hypothesis of exalting the constitutional role of the parliamentary body, remaining anchored to a mere “reduction of expenditure”, without further benefits for Parliament.

In particular, much thought has been given to the implications of reducing the number of parliamentarians on representative democracy, on the weakening or strengthening of the direct contribution of citizens to political choices, considering the principle of representativeness and democracy<sup>30</sup>.

In a system of representative democracy, such as the Italian one, its relevance could never be marginal because it is precisely the numbers that give representation its exact dimension and legitimacy in the institutional and political framework. The reform had a very significant impact on the Italian democratic model; the reduction in the number of parliamentarians brought about by the reform has led to a strong diminution of the relationship between representatives and those represented, as attested by the passage, for the Chamber of Deputies, from one deputy for every 96,000 voters to one for every 151,000, and for the Senate, from one senator for every 200,000 voters to one for every 300,000<sup>31</sup>.

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<sup>28</sup> M. Calamo Specchia *Il taglio dei parlamentari e il fine della quality over quantity: tanto rumore per nulla?*, “Diritto Pubblico Europeo – Rassegna online” 2020 – online, no. 1, p. 28 and following.

<sup>29</sup> F. Perchinunno, *La riforma costituzionale sulla riduzione del numero dei parlamentari: genesi e problematiche attuative*, “AmbienteDiritto.it” 2021, no. 2, p. 77 and following.

<sup>30</sup> G. Tarli Barbieri, *La riduzione del numero dei parlamentari: una riforma opportuna?* (Ricordando Paolo Carrozza), “Le Regioni” 2019, no. 2, p. 375–386.

<sup>31</sup> A. Algostino, *Perché ridurre il numero dei parlamentari è contro la democrazia*, “Forum Quaderni costituzionali” 2019, no. 8, *passim*.

Moreover, while the political calibre of each parliamentarian would be strengthened by representing a larger number of voters, this constitutional revision entails a parliamentary strengthening of the largest parliamentary groups.

Another reason for debate concerns the new composition of parliamentary standing committees.

For some, the reduction in the number of Senators and Deputies is destined to generate greater efficiency and prestige for the Parliament, which would certainly be strengthened from an institutional point of view; others, however, have emphasised the fact that it is destined to increase the capacity for influence by others external subjects, autonomy and prestige of each of them, so decreasing the functionality and efficiency of each Chamber of Parliament.

In the debate that accompanied the parliamentary process of the reform, the presumed advantage that the reduction in the number of MPs would have entailed in terms of the functioning of the Chambers in terms of efficiency and the time required for debate and approval was also highlighted<sup>32</sup>.

The latter observations lack of comparative data that could justify a real and concrete evaluation.

In numerical terms, the internal composition of the current standing committees would change, reducing the number of parliamentarians by almost half; consequently, the overall number of committees could be reduced by merging them or by allowing parliamentarians to participate in several committees at the same time. The latter solution could lead to greater complexity of work and longer duration of individual debates due to the obvious increase in workload<sup>33</sup>.

There are therefore many critical aspects highlighted by the doctrine as well as the risks of a future unconstitutionality of the reform itself due to the damage it could create to the organisation of the Chambers<sup>34</sup>.

The effects of the revision, as has already been pointed out, could in fact affect the parliamentary standing committees and their organisation, since the constitutional practice of allowing each Member of Parliament access to only one standing committee would have to be reconsidered.

In this respect, as will be seen, the most credible solution is to reduce the number of standing committees in order to guarantee the presence of an adequate number of members.

Undoubtedly, the impact of the reduction in the number of parliamentarians will affect the numerical choices and compositions of the collegial bodies of par-

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<sup>32</sup> See at <https://www.riformeistituzionali.gov.it/it/la-riduzione-del-numero-dei-parlamentari/> [access: 10.02.2022].

<sup>33</sup> See S. Bargiacchi, *Le Commissioni parlamentari e i loro Presidenti. Continuità ed evoluzioni alla luce delle prospettive di riforma in conseguenza della legge costituzionale 1/2020*, "federalismi.it" 2021, no. 11, p. 1–31.

<sup>34</sup> C. Tripodina, *Riduzione del numero dei parlamentari, tra riforma costituzionale ed emergenza nazionale*, "Associazione Italiana Dei Costituzionalisti" 2020, no. 3, *passim*.

liamentary political-administrative management; more complex seems to be the effects on the number of deputies to be appointed to the standing parliamentary committees, also in view of the proportional criterion of the parliamentary groups and its necessary compliance with the constitutional rules.

Reference should be made to the provision of Article 72, which provides – for the composition of the Committees aimed at drafting bills – for the respect of the proportions of the parliamentary groups, or to the provision of Article 82<sup>35</sup>, which gives each Chamber the power to order investigations on matters of public interest through the establishment of special Commissions whose composition must reflect the proportions of the parliamentary groups.

The risk would be that the criteria for determining the number of members of the committees would be redesigned, thus violating the regulatory indications that do not expressly allow changes to be made to the role of individual parliamentarians and their participation in the committees, just to comply with the proportionality criterion; thus, the hypothesis of assigning some parliamentarians to several committees could alter the criterion of proportionality of the individual committee with respect to the entire Assembly.

The opposite problem also seems to arise: some parliamentary groups might not be represented in all the committees, because the number of their representatives is lower than the number of committees present; for the opposition political forces, a framework of inoperability in the exercise of their mandate might emerge.

Another important aspect is to ensure that there are no short circuits with the relevant Ministries as a result of the reduction and possible merger of parliamentary committees, in order to avoid an excessive workload for parliamentarians working in several committees.

The last problematic aspect concerns the registration of each Member of Parliament, immediately after the election, to a parliamentary group<sup>36</sup>.

In the light of the current regulations of the Chamber and the Senate, a situation would arise in which some political forces, despite obtaining the available seats, would not be able to form a political group, unless action is taken to lower the *quorum* for the formation of the parliamentary group using a proportional criterion, even though new groups with too few members could be created.

It is therefore essential to amend the parliamentary regulations.

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<sup>35</sup> Art. 82 Cost. “Each House of Parliament may conduct enquiries on matters of public interest. For this purpose, it shall detail from among its members a Committee formed in such a way so as to represent the proportionality of existing Parliamentary Groups. A Committee of Enquiry may conduct investigations and examination with the same powers and limitations as the judiciary”.

<sup>36</sup> C. Masciotta, *I regolamenti parlamentari alla prova della riduzione del numero dei parlamentari*, “Osservatorio sulle fonti” 2020, no. 2, p. 761 and following.

#### 4. Reforms perspectives following the reduction of Members of Parliament

The Committees of the Chamber and the Senate have begun examining the measures needed to adapt the parliamentary regulations currently in force to the members' reduction of the Italian Parliament<sup>37</sup>.

The Italian Constitution, in fact, entrusts to the Parliamentary Regulations (of the Chamber and the Senate) the discipline of the functions of the two Chambers of Parliament, the definition of bodies and internal procedural organisation. The Regulations of the Chamber and the Senate constitute two separate sources of legislation, which each Chamber applies and amends autonomously. They are therefore a set of rules that each Chamber of Parliament adopts pursuant to Article 64 of the Constitution by an absolute majority of its members<sup>38</sup>.

The Chamber of Deputies, in fact, had already started a debate on the consequences of the reform in October 2019 and, as early as March 2020, a select committee had been set up within the Rules Committee.

In the Senate, on the other hand, the start of the debate only took place from September 2020, after the positive outcome of the referendum.

Here, too, it was proposed to set up a select committee consisting of one representative from each political group.

As was to be expected, drawing up a reform proposal shared by all political groups is not an easy task. In fact, since January 2021, there have been several proposals for reforming the Rules of internal regulations, the starting point of which is the impact that this constitutional revision will have on the functioning of Parliament.

Firstly, the procedures and their instruments for which certain quorums are required; secondly, the minimum thresholds for the composition of groups, the number of members of standing committees and the number of standing committees.

The sole purpose of the proposed amendments is to adapt the regulations to the new size to ensure the "immediate functionality of the Senate in the next legislature".

An organic revision of the regulations is considered imperative, in order to promote an efficient reduction in the number of parliamentarians<sup>39</sup>.

Italian doctrine has identified three methods to make the parliamentary changes organic.

<sup>37</sup> CAMERA DEI DEPUTATI, doc. II No. 19, XVIII Legislatura, [in:] [www.camera.it](http://www.camera.it) [access: 10.02.2022].

<sup>38</sup> D. Scopelliti, *Un Parlamento "dimezzato o rampante"? Brevi note sulle riforme conseguenti alla riduzione del numero dei parlamentari*, "Federalismi", 08.09.2021, *passim*.

<sup>39</sup> N. Lupo, *Dopo la riduzione del numero dei parlamentari e nel mezzo della pandemia, una "finestra d'opportunità" per il rinnovo del parlamentarismo in Italia?* "Osservatorio sulle fonti" 2020, no. 3, p. 1146 and following.

The first, defined as an *ad res* amendment, i.e. an ordinary intervention of regulatory revision that would affect both the quorums expressed in absolute terms by the regulations and that would require a particularly broad political agreement, and a change in the number of standing committees that, especially in the Senate, would risk working with very small numbers, not to mention the extreme importance of these bodies from a legislative point of view.

Not to mention that, as has already been pointed out, with the regulations unchanged, the constitutional principle of the proportional composition of each group would be difficult to implement.

The doctrine has proposed three possible solutions that go in three different directions: it does not seem feasible to opt for a reduction in the number of members of each committee, even if this would be to the detriment of the good organisation of the legislative activity. This would lead to less participation in the work of the committees and more time spent in Rome, to the detriment of territorial activity.

Consideration was also given to the introduction of weighted voting, i.e. the possibility for the group leader in each committee to cast a vote proportional to the composition of the group itself within the chamber of reference.

In view of this, the best solution seems to be to merge the committees, which would be reduced from 14 to 10 or, as proposed, to 9.

The second method is the most fearless reading of those who look at reducing the number of MPs as an opportunity to renew parliamentary procedures and make parliamentary work more efficient.

The most unrealistic theory is that any proposed regulatory changes will be approved before the end of the parliamentary term. This would have the positive side effect of ensuring a transitional regime applicable until the regulations are amended. However, it is not known what the transitional regime could be.

## Conclusions

This paper sought to highlight the mechanisms that led to Constitutional Reform No. 1 of 2020, which halved the number of parliamentarians in Italy.

The observations made, in the light of the dynamics, including the political ones, that have matured in recent years, lead us to consider that the current reform, although it could effectively aim at making Parliament more efficient, does not seem to have produced effective results.

In Italy, we are on the doorstep of the next political elections, to be held in the spring of 2023, and the Chamber of Deputies and the Senate do not seem to have identified the correct mechanisms to ensure that the constitutional reform can work properly in Parliament.

It is therefore feared that the reform may remain ineffective. However, this would create a problem of constitutionality coherence of the whole system.

Certainly, what Italy needs is an electoral reform that can ensure that the majority that emerges from the elections can legislate in a stable manner.

On the other hand, it would require a huge amount of work by the Chamber of Deputies and the Senate of Republic to construct new internal regulations.

However, the still existing pandemic crisis, the need to quickly provide for structural economic reforms, does not seem to leave any room for this.

Probably, therefore, this is a reform that has not looked at the functionality of the system in its integrity. That it means, probably further legislative and regulatory tools will have to be adopted to guarantee the institution functioning.

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## **Reforma konstytucyjna parlamentu włoskiego. Skutki i problemy związane z ustawą z 19 października 2020 r. nr 1**

### **Streszczenie**

Celem niniejszego opracowania jest analiza ustawy konstytucyjnej 1/2020, która zmienia art. 56, 57 i 59 Konstytucji Włoskiej (dotyczące składu i funkcjonowania Parlamentu), skutków tej reformy dla włoskiego systemu konstytucyjnego oraz propozycji reform przepisów parlamentarnych w celu ich dostosowania do niedawnej rewizji konstytucyjnej, która zmniejszyła liczbę deputowanych i senatorów do Parlamentu. Celem szczególnym było ustalenie, czy propozycje te zmierzają w kierunku organicznej reformy przepisów, czy też przeciwnie, są jedynie korektami. Redukcja liczby parlamentarzystów zacznie obowiązywać od początku następnej kadencji, ale debata poprzedzająca referendum była szczególnie intensywna. W związku z tym doktryna zidentyfikowała kilka krytycznych kwestii związanych z zasadami reprezentatywności i demokracji, będących istotą włoskiego ustroju konstytucyjnego. Kwestie krytyczne, wydają się mieć odległą genezę.

**Słowa kluczowe:** reforma konstytucyjna, Republika Włoska, Parlament, władza ustawodawcza, regulacje parlamentarne.