The Italian Parliament: Symmetric Bicameralism Under Review

By Cristina Fasone and Maria Romaniello

Political System
Since the Constitution of 1948, Italy has been based on a parliamentary system with a low level of ‘rationalisation’. The Government must obtain the support, through a confidence vote, of both Houses, the Chamber of Deputies and the Senate, both at the beginning of the parliamentary term and at any time during the term in order to be and remain in office (Art. 94 It. Const.). Since 1948, 60 Governments have followed one another, almost one every year.

Despite being devoid of legal personality in the Italian constitutional order, political parties were the actual architraves for drawing up and implementing the Constitution and for the proper functioning of Parliament. Although this is common to many other constitutional systems, the role of political parties in Italy was crucial for preserving the good functioning of the democratic system even when the Italian communist and socialist parties, as a consequence of the consolidation of the “Iron Curtain”, were excluded from holding any governmental position due to Italy’s place within the Western bloc. These two parties were nonetheless fully involved in the approval of the Constitution and in parliamentary activities. Their (external) support was thus decisive for the passage of most bills in the presence of mainly minority governments or highly fragmented coalition governments. It is precisely on the very consensual – if not consociational – mode of operation of the Parliament, inclusive of the entire political spectrum, in contrast to the selective exclusion of left wing parties from the executive, that the myth of the “centrality of the Parliament” was constructed and informed the Italian political system until the end of the 1980s.

At the beginning of the 1990s several factors contributed to the collapse of the party system. It was triggered by corruption, political scandals and criminal proceedings against major figures in Italian politics, on the one hand, and the end of the threat of the Cold War on the other, as well as by a change in the
electoral laws. Without any constitutional amendment and while maintaining the same form of government a move towards majoritarianism in the functioning of the political system took place.

Triggered by the result of two abrogative referendums on the proportional representation electoral laws for the Parliament, in 1993 a mixed electoral formula, a combination of first past the post in single member constituencies and proportional lists, was adopted for both houses. In 2005 the electoral system was again changed, this time through the adoption of a proportional formula with majority bonus and with majoritarian effects in relation to the Chamber of Deputies, whereas the results were much more unpredictable in the Senate. The widespread criticism of Law no. 270/2005 eventually materialized in the Italian Constitutional Court’s judgment no. 1/2014 that declared several provisions of that Law unconstitutional. A new electoral law has recently been passed which has regard to the Chamber of Deputies only, pending the constitutional reform of the Senate. Law no. 52/2015, to be applied as of 1 July 2016, combines a proportional formula with elements that should allow the electoral system to ensure a high degree of political stability and governability.

Size and Structure

The Italian Parliament, elected for a five year term, is a bicameral legislature, consisting of the Chamber of Deputies with 630 members in total (Art. 56.2 Const.) and the Senate of the Republic, composed of 315 Senators plus the ‘Senators for life by right’ and the ‘Senators for life’. The first category includes the former Presidents of the Republic (Art. 59 (1) Const.), who are by right Senators for life, unless they renounce office. According to a longstanding institutional practice, the second group is made up of five in total who are appointed by the President of the Republic from among citizens “who have honoured the Nation through their outstanding achievements in the social, scientific, artistic and literary fields” (Art. 59 (2) Const.).

Within each House there are a number of parliamentary bodies.

In compliance with art. 63 Const., by a qualified majority each House elects its own President who supervises and directs parliamentary activities. Her/his most important duty is indeed to define the agenda of the House in conjunction with the Conference of the Presidents of parliamentary groups, over which s/he presides, or, lacking agreement, by her/himself.

The parliamentary groups, which gather together MPs according to their political affiliation, are composed of a minimum 20 MPs in the Chamber of Deputies and 10 in the Senate. However, MPs, who do not reach the number required and who are not authorised to form a group with fewer MPs, or not wishing to be part of any parliamentary group, join the mixed group. Each parliamentary group elects its own President, who participates in the Conference of the Presidents of parliamentary groups.

In accordance with art. 72 of the Constitution the bills introduced in the House shall be scrutinised by a standing or a special Committee. In each House the 14 Standing Committees are re-constituted at the beginning of each parliamentary term by the President upon the proposal of the parliamentary groups and they deal with specific subject matters, which to some extent reflects the ministerial division of competence. Their membership mirrors proportionally the size of parliamentary groups and, to this end, it can be adjusted every two to two and a half years so as to reflect changes in the composition of the groups.
Representation

Today, a large proportion of Members of Parliament have a university degree, about 67% in the Chamber of Deputies and 68% in the Senate. The outgoing Chamber of Deputies, elected in 2013, is one of the youngest in Europe with an average age of 45. Whereas the Senators, obviously older than the Members of the Chamber of Deputies, are on average 50 years old. The increased numbers of younger politicians is mainly due to the success, in the recent elections, of the new “Five Stars Movement” Deputies are on average 3 years and Senators 5 years younger than during the last parliamentary term. Moreover, in comparison with the previous Parliament, the outgoing Assembly is characterised by a higher level of female representation, 31% in the Chamber of Deputies and 28.44% in the Senate.

Powers of Parliament

The Italian Constitution establishes a symmetric bicameral system. The two Houses hold identical powers. As mentioned above, the Government must receive the confidence of both Houses (art. 94 Const.) and the legislative function is exercised collectively by the Chamber of Deputies and the Senate of the Republic (art. 70 Const.), which means that, in order to become laws, bills must be approved by both Houses on an identical text. The Constitution also defines categorical cases in which Parliament should take decisions in joint sessions: election of the President of the Republic (Art. 83 Const), election of a third of the members of the Superior Council of the Judiciary (Art. 104 Const) and of the Constitutional Court (Art. 135 Cost), impeachment of the President of the Republic for high treason or breaches of the Constitution (Art. 90 Cost).

The two Houses are autonomous and independent of each other and from any other constitutional organ. They enjoy normative, accounting, and internal jurisdictional autonomy. The first mentioned, normative autonomy, which is provided for by Art. 64 (1) Const., establishes that each House approves and amends – by absolute majority – its own standing orders, the most important instrument governing the internal organisation and procedures. The second, accounting autonomy, refers to the power to draw up and approve their own budgets, which are not subject to review by the Court of Auditors. Finally, the third regards judicial autonomy, which means that everything concerning internal disputes is subject to the sole jurisdiction of the House, the so-called autodichia.

As for the joint exercise of legislative powers, a bill may be introduced in either of the two Houses and it goes back and forth (so-called “navette”) between the Chamber and the Senate until they agree on the same text. Once introduced into one of the two Houses, the bill – depending on its subject matter – is assigned to the competent standing committee. Pursuant to the Constitution, the role of the committee varies according to the legislative procedure to be followed. The Constitution under Art. 72 establishes two main procedures. In the first, the so-called ordinary procedure, the committee acts with a reporting capacity and it simply examines the bill, while its approval is a prerogative of the general Assembly. Under the second procedure, the special procedure, the role of the standing committee is greater and it has legislative capacity, which implies not only the examination of the bill, but the final approval of the bill, without the need for it to go before the general Assembly.

During the first forty years of the Italian Republic, when left-wing parties were excluded from the Executive branch but not from the legislative process, standing committees represented the very centres of
legislative production. It suffices to say that in each of the first ten parliamentary terms (from 1948 to 1992) the majority of the Acts passed received their final approval in committees without reaching the Floor of one or both Houses. However, with the majoritarian shift of the political system and a stronger role of the Executive in the legislative process compared to the past, the number of Acts directly approved by committees has dropped substantially. By the same token, an increasing part of legislation is now based on both decree-laws, adopted by the Executive and amended and converted by the Parliament into law, and legislative decrees, equally adopted by the Executive but in compliance with a law of delegation passed by the Parliament.

Reform of the Italian Symmetric Bicameralism

Today, as was the case during the Constituent Assembly, Italian bicameralism remains one of the most highly debated and problematic topics of the Italian political system and, indeed, since the eighties, has been subject to many attempts at reform. For a long time, the risk of political gridlock could only be avoided thanks to the important role played by political parties. However, since 1993 with the ‘forced’ passage to a mainly majoritarian electoral system and the constitutional reform of 2001, which increased the legislative powers of the Regions without involving them in the national decision-making, the risk of deadlock has increased.

Today, after more than 30 years of failed attempts to reform the system, a new process of constitutional reform is underway. In April 2014 the Government led by Matteo Renzi introduced a bill to amend the Constitution. The Bill aims at revising the entire Italian bicameral set up, with the two Houses strongly differentiated in terms of structure and functions. The new Senate, representative of territorial autonomies and no longer elected, would be disentangled from the confidence relationship with the Executive, which would remain a prerogative of the Chamber of Deputies alone. Moreover, the legislative function would be collectively exercised by both Houses in only limited cases, clearly set out in the Constitution, while for all other matters the Chamber of Deputies would have the last word.

Further readings

- Marco Giuliani and Francesco Zucchini (eds.), *Law-making in Italy in the age of alternation*, Special Issue in *South European Society & Politics*, vol. 13, 2008.

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