

THE ITALIAN CONSTITUTIONAL REFORM SUBMITTED TO REFERENDUM

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The main proposals of the reform

1. Modification of functions and composition of the Senate

- A. As regards the functions of the Senate, the balanced bicameralism (the two legislative chambers having the same powers) will be suppressed if the referendum is approved.
- a. The Senate will not be able to pass a motion of no confidence against the Government, which means that the Government only depends on the confidence of the Chamber of the Deputies.
 - b. The Senate's legislative power is limited to a specific set of fields such as constitutional reforms, the protection of linguistic minorities, referendums, territorial autonomies and European policies. Concerning the other fields, the Chamber of Deputies will legislate independently. The Senate can also propose modifications in a non-binding way, that is, the Chamber of Deputies can overrule the vote of the Senate.
 - c. The Senate participates in the election of two Judges of the Constitutional Court, the President of Italy and the so-called lay members of the Higher Judicial Council, referring to those members that are appointed by the Parliament and not by the Judicial Power (these are the "ordinary judges").
- B. As regards the composition of the Senate:
- a. Senators are now indirectly elected and not directly. Pursuant to a future ordinary law, Senators will be elected by the Regional Councils amongst the members of these Councils and the Mayors.
 - b. The number of Senators is reduced from 315 to 100 according to the following ratio:
 - 74 members of the Regional Council
 - 21 Mayors
 - 5 Senators appointed by the President of Italy

2. Relations between the State and the regions

The reform modifies the relations between the State and the autonomous territories.

- a. Concurrent legislative competences (competences whose principles are determined by State law and then implemented by regional laws) are abolished.
- b. Exclusive legislative competences of the State grow in number (as regards specific fields, the State's power is limited to adopting "general and common regulations").
- c. Regions have a residual legislative competence when for matters that are not exclusively reserved to the State.
- d. A supremacy clause is introduced by means of which the State has the possibility to intervene in matters of regional competence "when required by the protection of the country's legal or economic unity or the protection of national interest".
- e. Provinces are suppressed and instead "large territorial entities" are created.

3. Other significant reforms

- a. The President of Italy is elected by the Parliament in joint session and regional delegates do not participate in the election. A majority of two thirds is required in the first three rounds of balloting; after the third round the majority is increased to three fifths of the members of the Parliament and, after the sixth round, three fifths of votes (under the current system, after the third round an absolute majority suffices).
- b. The National Council for Economics and Labour (CNEL), a consultative group of experts established by Article 99 of the Constitution, is suppressed.
- c. The Constitutional Court exerts a preventive control of electoral laws as a preemptive constitutional review.
- d. The minimum number of votes required to propose new legislation goes from 50.000 to 150.000 and the Parliament is now obliged to discuss it.
- e. To carry out a constitutional referendum the signature of at least 800.000 electors is required, the turnout is equal to the majority of the last election to the Chamber of Deputies (up to now it was the majority of the people entitled to vote), and the adoption requires the majority of the valid votes.

Reasons to vote Yes

- a. Suppression of the balanced bicameralism and measures favoring governability and simplification of the legislative procedure.
- b. The Senate finally becomes a body that represents the territorial institutions and articulates the relations between these and the State.
- c. Reduction of the “costs of politics”, namely: reduction of the number of Senators and their remuneration, suppression of the National Council for Economics and Labour, and suppression of the provinces.
- d. Expected reduction of a large amount of conflicts of competences between the State and the regions.
- e. The inspiring principles of the constitutional system, the system of rights, duties and liberties, the guarantor institutions and their powers remain unaltered.

Reasons to vote No

- a. After reading the text of the constitutional and electoral reform one can appreciate the possible drift towards authoritarianism of a political force with low levels of representativeness. The current Electoral Law gives an important power to the electoral list obtaining at least 40% of the votes in the first round of balloting or obtaining the majority of the votes in the subsequent round that includes those two electoral lists having obtained the highest number of votes, even under 40%.
- b. Excessive suppression of the Senate’s competences and duplication of the functions of Senators, who may also be members of the Regional Council or Mayors. This may prevent the correct exercise of their duties as Senators.
- c. Increase in the complexity of the legislative procedure: there are eight different procedures.
- d. Important weakening of the country’s regional structure arising from the new distribution of powers. On the other hand, the regional legal framework is reinforced through a special statute which can only be modified by constitutional law with prior agreement of the regions concerned.
- e. Little reduction of the cost of politics.