

## **WHY DID THE ITALIAN REFERENDUM RESULTS REJECT THE REFORMS?**

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On 5 December Italians voted No in a referendum on constitutional reform held pursuant to Article 138 of the Italian Constitution. The reform had been adopted in Parliament by an absolute majority last spring.

The high turnout (68%) made clear the opinion of almost 60% of the voters: that the Constitution should not be amended.

The content of the law on constitutional reform proposed was the result of the joint efforts of different political forces and the academia working together. This work, however, lost support throughout the years to the point of attributing it to Prime Minister Renzi and his Minister for Constitutional Reforms Boschi.

Consequently, what happened last Sunday cannot be analyzed without mentioning the object and purposes of the reform on the one hand and the political context that has determined the public opinion on the other.

The tone of the referendum campaign, sprinkled by isolated incidents of verbal violence, will mark the future of and have consequences on the country's political dynamics.

Ever since the beginning, Renzi's stance turned the vote in referendum, aimed to be an act of citizen participation about the definition of the constitutional co-habitation rules, into a vote of political nature. In turn this has ended up as a day of reckoning for a Government who has witnessed the emergence of political enemies and the decrease in citizen support.

In addition, the reformed electoral law (the so-called Italicum), with interesting aspects but severely criticized, produced general dissatisfaction amongst the population. In fact, in the beginning it was supposed to be an integral part of the constitutional reform. However, it has ended up corrupting the debate about the reform itself.

The reform proposed to the electorate was a valuable attempt to amend the 1948 Constitution by profoundly modifying the second part of the text, that is, the provisions related to the country's political organization. The first part of the Constitution laying down the democratic and antifascist principles of the country was not altered by the reform.

Overcoming the perfectly symmetrical bicameralism was without a doubt the core of the constitutional reform. Revitalizing the system entailed in the first place the regeneration of the role of the regional system: despite the idea of decentralization established by the framers of the Constitution, the system was crucified ever since the first years of the Republic, not being able to materialize again.

The intergovernmental system Conferenza Stato-Regioni gained relevance during the last years thanks to the recognized role of the regional presidents. Taking advantage of this fact, the reform aimed to turn the Senate into a chamber *of the autonomy* rather than *of the autonomies*. It designed the Senate simply as the place where territorial interests (understood as concretized general interests) meet the general interest, the place with no space for particular interests.

The legislator proposed a global change in the Italian parliamentary system. It expected a new chamber with indirectly elected members (through the regional councils) whose functions would have promoted the role of regions in the national legislative process and in the European integration process, and with the power to appoint, for instance, two of the five constitutional judges that are elected by Parliament.

The legislative procedure proposed did not exclude but rationalize the participation of the Senate: it clearly specified when it had to intervene and recognized spheres of perfect and binding legislative bicameralism. The role of the Senate in the decision-making process was underlined and a distinction was made between its essential interventions (constitutional amendments or legislation concerning minorities, for example) and possible interventions.

These transformations would undoubtedly have brought along deep changes in the system's stability. This fact raised two other matters that have been largely discussed during the debates – from a political analysis perspective rather than from a technical-constitutional point of view.

First and foremost the reform, by modifying the Parliament's structure, aimed to strengthen the role of the Government. Firstly, it gave the Government the same powers as it did in the nineties when the referendums on the electoral law led to solutions of majoritarian nature. Secondly, it made sure the Government still plays a central role in the field of European integration.

In addition, the reform proposed extensive modifications in the Title V of the Constitution distributing the competences between State and regions. The constitutional legislator annulled shared competences, and by doing this it targeted not so much at eliminating shared spaces of legislative power between different levels of government, but at a division of powers based on the distribution of functions and not of matters (that is, two different levels of government can act on the same matter but not with the same functions).

The referendum failed and the consequences are already visible. One hour after results were made public, Prime Minister Renzi resigned. On Monday he formalized his decision before President Mattarella, who asked him to stay in power until the national Budget Law is adopted.

Alea iacta est, what will happen next? It is hard to say. A new Government of technocrats will probably be in charge until new elections. But when are these going to take place? This is also difficult to tell: on the one hand, the law laying down the rules for the election of the Chamber of Deputies is being considered by the Constitutional Court; on the other, as regards Senators the law is completely inadequate since part of its content was declared unconstitutional by Judgment 1/2014.

The fact is that many years will pass before the Italian political forces decide again to amend the Constitution.