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THE EVOLUTION OF THE FORM OF GOVERNMENT IN ITALY

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The article analyzes the evolution of the parliamentary form of government, which highlights the growing importance of government and the progressive marginalization of Parliament. The Constituent Assembly opted for a form of parliamentary government. A decisive argument put forward during the discussion in favour of the parliamentary system was the concern over an excessive concentration of power. The wish not to repeat the experience of the fascist regime as well as the veil of ignorance regarding the result of the political elections that were to be held on 18th April, 1948 led the political forces to prefer a parliamentary government in which the executive and legislative branches were bound by a relationship of trust as this was thought to best safeguard the losers [1, p. 60]. The adoption of the symmetric bicameral system that assigns the same powers to the two chambers can also be ascribed to this line of reasoning. Similar concerns conditioned the choice of electoral regulations and led to the adoption of the proportional system which faithfully reflects the balance of power between the parties decided by the electorate, unlike the majoritarian systems that reward the political forces that emerge as winners at the polls. Even the decision to introduce a new level of decentralized government, halfway between the State and the local administrative bodies (communes and provinces) can be seen as associated with the diffidence felt towards the concentration of power. In fact, the legislative function was distributed upon the centre-periphery axis, albeit in a rather unequal way.

In short, the Constituent Assembly steered towards institutional solutions that focused on the balanced distribution of power regarding the form of government (parliamentary), the form of state (regional) and the electoral law (proportional representation) [2, p. 422]. As we shall see, this orientation seems, at least partly and in various ways, to have been abandoned in the course of time. The evolution of the form of government has taken a different direction given that the equilibrium between Parliament and Government has shifted in favour of the latter.

Keywords: parliamentary government; two phases; weak rationalization; parliament and government; parties in transformation; alternation in government; strengthening the Government; two scenarios.

Formulation of the problem. The constitutional rules on the form of government have not been formally modified, but in practice there have been important changes in the relations between Parliament and the Government.

Analysis of the problem research. The constitutional rules on the form of government have not been formally modified, but in practice there have been important changes in the relations between Parliament and the Government.

The purpose of the article to document the importance of the transformations that have taken place in practice and to highlight that the parliamentary form of government remains in force thanks to its flexibility.

The main material. In over seventy years, many events have shaken the republican institutions in Italy. Consider, just to cite some episodes, the resignation in 1964 of President Segni who was seriously ill; of the Lockheed trial in 1977 against two ministers found guilty of corruption by the Constitutional Court; of the formation of the Andreotti IV Cabinet in 1978, that saw the communist party have a parliamentary majority for the first time, an event which coincided with the kidnapping of Aldo Moro by the terrorist organization The Red Brigades. Moro was a Christian Democrat politician who had worked to promote the extension of the government coalition to include a part of the left. Consider also the parliamentary speech of the ex Prime Minister Craxi in 1992 in which he admitted that the funding of the parties was for the most part illegal. More generally, there was a succession of different political phases ranging from the initial centrism to centre left to the so-called five-party coalition. In this whole period there were no important changes in the internal balance of the parliamentary form of government. The political orientation, in other words, the big political decisions made at national level, continued to be taken within the circuit between the Parliament and the Government, with the former in the predominant role. In fact, it largely endorsed the will of the parties who were the undisputed protagonists of republican life. With the 1993 referendum things changed significantly as it spelled the end of proportional representation, one of the cornerstones on which rested the equilibrium of the form of government in place until then. A mixed system was then introduced that aimed to entrust the electorate with not only the selection of members of parliament [3, p. 82] but also with the choice of government. From then on the political panorama changed profoundly so that the old parties were replaced by new political groups; at this point even the ideological divisions had much less importance and were no longer centred around the conflict between the soviet block and western countries.

Of course, even in this phase, moments of institutional tension are evident (for example, the 2011 government crisis when the President of the Republic faced with the plummeting confidence in the financial markets in the country appointed a technocrat who was not a member of the parties; or the re-election of the President in 2013 for the first time in the history of the Republic waiving the customary rule that aims at avoiding excessive length of the presidential mandate; or again, the laborious formation of the Government after the March 2018 elections, marked by the conflict over the nomination of the Treasury Minister and by the subsequent request to impeach the President put forward by the head of the relative majority party and then speedily withdrawn). But what is new after 1993 is that the internal equilibrium of the form of parliamentary government changed and a process of evolution in the form of government was set in motion.

The root of it all is the brief duration of the governments, the government instability. Strictly speaking, this had been a problem even before but was only seen as serious in the second phase, when the negative conditioning it exerted on decision-making became even stronger [4]. Political parties therefore implemented institutional measures to tackle it and achieve so-called governability. And it is these institutional measures themselves that altered the initial balance.

Let us take a closer look at this point. According to the current analysis, one of the reasons given to explain the government instability is the terseness of the constitutional rules relating to the form of government (actually another still more important cause is the political instability which however cannot be tackled with institutional measures because it depends on causes that are endogenous to the party system, causes that can be ascribed to the nature of political culture.) When the Constituent Assembly following Perassi's agenda approved on 5th September, 1946, stated it was in favour of the parliamentary system, it suggested introducing "suitable constitutional provisions to safeguard the need for stability of government action and to prevent the degeneration of parliamentarianism." However the final constitutional text gives a restrictive interpretation of the mechanisms of stabilization; it outlines a low

rationalized parliamentary government, basically limiting itself to envisaging the role of the President of the Republic as that of guarantor and political arbiter while to the Constitutional Court it assigned the task of guaranteeing the supremacy of the constitution.

It is actually these attempts to find a solution to the weak rationalization that have set in motion the evolutionary process of the form of government. In short, the evolution of the form of government is connected with a series of concepts that link the weak rationalization to the terseness of the constitutional text held responsible for government instability. Viewed in reverse order, starting from government instability, it is possible to trace back to the supposed cause which is the terseness of the constitutional text, and therefore to the need to increase the rationalization of the parliamentary government through measures, that, and this is the point that interests us, have the effect of alternating the equilibria of the form of government.

Over the years since the establishment of the Republic, several institutional measures have been tried in order to stabilize the form of government following the guidance of the Perassi agenda: the path of electoral reform (starting from 1953 when the “swindle law” was approved, whose majoritarian effects never actually came into force); restructuring the parties, and constitutional reform [5, p. 7]. What these three paths have in common is that they brought about evolutionary and modifying effects to the form of government. It should be pointed out that over time other evolutionary effects stemmed from the relations between constitutional bodies. This was a factor that emerged from the practice and which is evident in the standpoint of the rationalization itself [6, p. 335].

In conclusion, in order to understand how the form of government has evolved, it is necessary to bear in mind all these factors. In so doing, we see that the combination of the institutional measures put in place to overcome the weak rationalization of the form of government (the constitutional and electoral reforms, as well as the restructuring of the parties) and the practice which also tends towards that goal, produce three important developments: the first relating to the relationship between the Legislature and the Executive; the second to the role of the parties; the third to the government coalitions.

On several occasions over the years the legislator has focused attention on the relationship between the Legislature and the Executive. Political parties have pushed for both constitutional and electoral reforms. However some reforms have not even seen the light of day while others have been of short duration.

As early as the 1980s, the opportunity to reform the republican Constitution began to be discussed. From different quarters amendments were called for in support of the need to consolidate the executive. However, the work of the bicameral commissions set up for the purpose came to nought. The constitutional rules relating to the relationship between Parliament, Government and the President of the Republic remained unaltered.

On two occasions Parliament definitively approved important constitutional reforms. The first time in the Autumn of 2005 the centre-right launched a reform that concentrated power in the hands of the Prime Minister, outlining a system that has been defined as “absolute premiership” [7]. However the following year the reform was rejected by popular referendum. The success of the reform of electoral law, approved at the same time as the constitutional reform, was more short-lived. In 2014 the Constitutional Court found it unconstitutional on account of the majority bonus which “causes an excessive split between the composition of the political representative body, which is at the hub of the representative democracy system and the form of parliamentary government foreseen by the Constitution, and the will of the citizens expressed through the vote, which is the principal instrument of the manifestation of popular sovereignty.” (sent.1/2014).

Eleven years on and it was the turn of the centre-left majority to put forward a constitutional reform which, among other things, impacted on the balance of the form of government, in the sense that it strengthened the government and Prime Minister, although in a different and less disruptive way compared with the preceding attempt [8]. Yet the reform was rejected in the December 2016 referendum, suffering the same fate as that of the centre-right.

At the same time, the centre-left launched a new electoral law formulated within the same reform project, just as the centre-right had done. The goal of combining the constitutional amendment and electoral change was to strengthen the Government. Just like the preceding one, this law was also quashed by the Constitutional Court, which observed that the goal of achieving government stability excessively compromised the representative nature of the parliamentary assembly contravening the principle of the balance of power, given that “in a form of parliamentary government, each electoral system, even though it must foster the formation of a stable government, can only primarily be intended to assure the constitutional value of representation” (sent. 35/2017).

Recently the developments in the form of government could be conditioned by the reduction in the number of parliamentarians approved in the current legislature. The immediate effect of this constitutional change risks further weakening Parliament, with the consequent impact on the equilibrium of the government [9, p. 113].

As already stated, all these reforms aim to re-enforce the Executive without really succeeding. It is important to note that the goal is achieved anyway due to some changes in the relationship between Parliament and Government that have slipped into the established practices, that is, as a result of unwritten rules, the behaviour of the constitutional bodies, and mainly of the Government itself. I will recap briefly [10, p. 34]. The first is the progressive predominance of government legislation over parliamentary law: a quantitative and qualitative supremacy since the most important political decisions are adopted through the regulatory laws of the Government, in particular the legislative decree. The second is the emergence of the Executive as the principal interlocutor of European institutions which is having an increasing impact on the internal legal system. The third is the growing power of the executive in the organization of the public administration. The fourth is the ever increasing abuse by the Government of certain institutions of parliamentary life, in particular the confidence vote combined with the use of major amendments. The latter is the progressive imposition of the will of the Government in defining the content of the budgets put before Parliament [11, p. 207].

Another important development involves the parties which have been transformed over time with the result that even their role in the functioning of the parliamentary government has changed [12]. In recent times, the transformation has followed two principal paths [13].

The first is summarized by the expression personal parties [14, p. 248]. From the beginning of the Republic the parties were places in which to make decisions concerning power that were intended to be then transferred to the institutional circuit. However the twentieth century mass-based parties were also places of collective reflection aimed at giving a well-debated foundation to those decisions. Whereas the current parties have almost completely lost this planning function and seem to be mainly electoral machines at the service of their leader, so that the political policies express primarily his/her will and that of his/her acolytes.

The second path of transformation concerns the digital parties [15]. Forms of political communication have changed as a result of the internet and information technologies. Supporters' loyalty is progressively won through social media and it is above all the leader who puts him/herself in a direct relationship with the followers. Furthermore, the use of the internet alters the organization of the parties. Fundamental functions like the selection of candidates for elections are now carried out using digital platforms to which members have access. The 5 Star Movement has been a pioneer in this since it chose its political leader in September 2017 using its Rousseau platform. It then confirmed him in the role after the disastrous defeat in the European Elections of May 2019, and a few months later rejected his political line on regional elections.

Hence both paths of transformation, summarized under the labels personal party and digital party are competing to boost the role of their leaders, the heads of the party, giving rise to the second important development in parliamentary government. Other ideas based on the concept of direct democracy and political disintermediation which are taking hold in the political cultural arena [16, p. 11] are leading to the same result. These are ideas that downgrade Parliament to a mere conduit of political communication and

which consider of paramount importance the digital channel where tools like the above-mentioned platform operate [17, p. 11].

Above all, if the first two important developments in the form of government are considered together, it is evident that a process of concentration of power in favour of the Government and the party leaders is underway and that this reaches its apex when the head of the Government is at the same time a party leader as occurred with Berlusconi and Renzi.

The third important development concerns the freeing up of the “blocked democracy”, namely the situation where the government was continuously led by the Christian Democrats and their allies because of the *conventio ad excludendum* which was then dropped at the end of the Seventies [18, p. 204]. Finally with the 1994 elections the bipolar approach was established and the alternation of the political forces in government. The coalitions of centre-right and centre-left competed for the government headed by leaders nominated as Prime Minister. All this came about due to the new electoral regulations that led to the abandoning of proportional representation [19, p. 5]. Obviously the decision to structure the political system in two alternative poles played an important role.

Nevertheless in 2011 as touched on above, at the height of the grave economic-financial crisis, the mechanism jammed making it necessary to form a technical government under the economist Monti. Two years later, the return of the political governments did not go hand-in-hand with the re-establishment of the alternation between the coalitions. The success in the polls of the 5 Star Movement led to the restructuring of the political system based on three political orientations. The situation was repeated in the 2018 elections partly as a result of a new electoral law approved the preceding year which arouses fears that the period of alternation between too opposing poles is over, replaced by alliances that are made after the vote.

In the history of Italy’s institutions continuity and discontinuity co-exist. If, on the one hand, in the seventy years of the Republic the constitutional rule concerning the parliamentary government has remained unaltered, on the other, its characteristics have been modified by the changes brought in through practice. The constitutional rules have remained the same since 1948, but the structure of the form of government is markedly different. The changes have had debatable effects such as, principally, the greater concentration of power, owing to the consolidation of the Executive branch with respect to that of the Legislative and to the transformation of the parties. At this point, a contraposition exists between the constitutional rules that place Parliament at the centre of the system, and the practice that grants a preeminent role to the Government and Prime Minister. However, it should be pointed out that the first Conti Government was an exception because the leadership was in the hands of the two deputy prime ministers rather than the Premier.

This practice, which strengthens, the Executive is the demonstration of the way in which the evolution of the form of government is heading in the opposite direction to that indicated by the Constituent Assembly. Conditioned by the “dictator complex”, it was concerned about the balanced distribution of power among the constitutional bodies. And it is of significance that the turning point did not come about as a result of structural reforms, that is, of deliberate plans to modify the institutional rules, but as a consequence of practice.

It should also be pointed out that the strengthening of the Government took place despite the fact that in the 2006 and 2016 referendums the electorate demonstrated that it did not want this outcome. This was possible because, on the one hand, the Constitution grants the electorate the power to halt the initiatives of the constitutional legislator, but on the other, it is also true that some of the causes of government strengthening are outside the remit of the volition of the electorate. For example, relations with the European Union, the abuse of Government regulatory tools and the action of the Government in Parliament.

Lastly, it is significant that the strengthening of the government has paradoxically not led to the goal of greater government stability which has fueled the entire evolutionary process.

In conclusion, the question which arises concerns the importance of the evolutionary process. Has a new form of government been put in place that increases the powers of the Executive and, in particular,

those who lead it or is the process still ongoing, and therefore this a transitionary period the outcome of which is unknown?

The interpretation that a new form of government has replaced the old implies that parliamentary government has already been shelved, when in fact the constitutional rules continue to contemplate it. The grave consequence of this, therefore, is the negation of the prescriptive value of the Constitution regarding an essential aspect of the legal system of the Republic. In reality, it appears that this disruptive scenario has not yet occurred. The flexible nature of parliamentary government is specifically against it given its capacity to adapt itself to the changing political institutional scene partly as a result of the criticality of the constitutional rule concerning the reciprocal relations between the political bodies [20]. At the end of the day, even the solution found to the government crisis in August 2019 shows that Parliament can still play a decisive role. It returned to centre stage in a crucial moment of the functioning of the parliamentary government whereas it played a lesser role in the aspects mentioned above. Parliamentary government operates as long as the three political bodies – Parliament, Government and the President of the Republic – exercise the competences that the Constitution bestows on them. Or rather, this is the situation until one of them usurps the competences of the other, which appears not to have happened yet, despite the undoubted abuse that has taken place (for example, as regards the issuing of interlocutory decrees.)

The interpretation which most fittingly describes the current state of affairs is that we are experiencing a different version of parliamentary government which changes and is modified along the way, exploiting the margins of flexibility allowed by the parliamentary system. It is a version that does not mean the abandonment of the parliamentary model chosen by the Constitution. This interpretation acknowledges that there could be evolution in the future, signs of which however appear doubtful. Given that until now the impetus for changing the established practices has not been strong enough to cause the abandonment of parliamentary government, further developments could, equally, definitively cause its breakdown or, on the contrary, mitigate the conflict with the constitutional plan. The will of the electorate will be fundamental even though it can only be directly expressed in the terrain of institutional reforms since voters do not possess the effective tools to intervene in the practice. The behaviour of the parties will also be decisive as they could reverse the deformative processes.

Conclusions. Finally, an important task is awaiting the Constitutional Court. In the spotlight is the case concerning the 2019 budget law, when the Government imposed an approval time that precluded parliamentary debate. However, the Constitutional Court did not penalize this serious infringement of parliamentary prerogatives, limiting itself to issuing a warning for the future. A year on and the situation was repeated during the approval of the 2020 budget, when the new majority reduced the parliamentary prerogatives in much the same way. This raises fears that we are facing the nth slippage in terms of practice, a further de facto transformation in an important matter like the approval of the budget. But this would mean questioning the meaning of the evolutionary process, it would no longer be taken for granted that it led to a different version of the parliamentary system. The repetition of episodes like these involving the reduction of Parliamentary prerogatives seriously risks actually causing the definitive abandonment of parliamentary government.

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ЕВОЛЮЦІЯ ФОРМИ ПРАВЛІННЯ В ІТАЛІЇ

У статті аналізується еволюція парламентської форми правління, що підкреслює зростання значення правління та прогресуючу маргіналізацію парламенту. Установчі збори обрали форму парламентського правління. Вирішальним аргументом, висунутим під час обговорення на користь парламентської системи, стало занепокоєння надмірною концентрацією влади. Бажання не повторювати досвід фашистського режиму, а також завіса невігластва щодо результатів політичних виборів, які мали відбутися 18 квітня 1948 р., змусило політичні сили віддати перевагу парламентському уряду, в якому представники виконавчої та законодавчої влади були пов'язані відносинами довіри, оскільки вважалося, що це найкраще захистить тих, хто програв [1, с. 60]. Прийняття симетричної бікамералістичної системи, яка надає однакові повноваження обом палатам також можна віднести до цієї лінії міркувань. Подібні занепокоєння зумовили вибір виборчого регламенту та привели до прийняття пропорційної системи, яка достовірно відображає баланс сил між партіями, визначений виборцями на відміну від мажоритарних систем, які винагороджують політичні сили, які стали переможцями на виборах. Навіть рішення про введення нового рівня децентралізованого уряду, що знаходиться на півдорозі між державою та місцевими адміністративними органами (комунами та провінціями), можна розглядати як пов'язане з розбіжністю щодо концентрації влади. Фактично законодавча функція була розподілена по осі центр-периферія, хоча й досить нерівномірно.

По суті, Установчі збори керувалися інституційними рішеннями, які зосереджувалися на збалансованому розподілі влади щодо форми правління (парламентської) форми, державної (регіональної) та виборчого закону (пропорційне представництво) [2, с. 422]. Як ми побачимо, ця орієнтація, здається, принаймні частково і різними способами, з часом була залишена. Еволюція форми правління пішла в інший напрямок, оскільки рівновага між парламентом і урядом змінилася на користь останнього.

Ключові слова: парламентська форма правління; дві фази; слабка раціоналізація; парламент та уряд; суб'єкти трансформації; зміцнення уряду; два сценарії.