

Why Italians should support Renzi's constitutional reform

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We are now in the final weeks of campaigning before Italy's constitutional referendum on 4 December. As part of our coverage of the referendum, [Mattia Guidi](#) makes the case for why Italians should support the proposed reform. He argues that much of the criticism of the reform is unfounded and that it would ultimately bring Italy closer to the parliamentary systems used in other European countries.



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The referendum on the constitutional reform approved last April by the Italian parliament, to be held on 4 December, is polarising Italy's party system and Italian society like few other issues have ever done before. Most political parties, on the left and on the right, are against the referendum. Even within the party that more than any other has contributed to the reform, the Democratic Party, there are important groups that are campaigning for a no vote. If the referendum had to be decided only on the basis of what parties suggest, the no vote should obtain a landslide victory.

For the time being, the situation appears more balanced: a slight majority (around 52-53%) of those who intend to vote are apparently willing to reject the reform, but the final result is still uncertain. In this piece, I intend to briefly summarise the content of the reform and then discuss some of the most common criticisms. My aim is to show that the reform, despite its inevitable compromises, is a step forward because it would bring Italy closer to most parliamentary systems used in other countries without endangering the democratic nature of our Constitution.

What the reform contains and why criticism is wide of the mark

The content of the reform can be summarised in a few points:

- The unique form of bicameralism used in Italy, with two chambers that are both directly elected, have to pass motions of confidence for the government to enter into office, and must agree on every piece of legislation, will be reformed. The lower chamber remains directly elected and keeps a 'confidence relationship' with the executive. The Senate becomes a chamber composed of members of regional assemblies and mayors, which will not vote on motions of confidence and has significantly reduced powers in passing legislation.
- The government will be given the capacity to ask the lower chamber to examine draft bills in a relatively short period of time (85 days). However, at the same time, the government's power to pass decree-laws will be constrained.
- Instruments of direct democracy (referendums and popular legislative initiative) will be strengthened: if referendums to abrogate laws are supported by more than 800,000 voters, the quorum for their validity will be reduced to 50%+1 of the voters at previous general elections; referendums to pass laws will become possible; and the discussion of bills proposed by the people will become mandatory for the parliament.
- A number of competences which had been devolved to regions in 2001 are set to be returned to the state.

Critiques of the reforms come in various shapes and sizes. For instance, many opponents argue that Italy's current form of bicameralism is necessary to maintain a system of "checks and balances": if the reform passes, the government risks becoming too powerful. This criticism ignores that Italy is the only system in the world in which both chambers can carry out votes of confidence in the government and must agree on every bill. The reform would

bring the Italian system closer to other bicameral systems, in which only the lower chamber retains a confidence relationship with the government, and the other chamber (almost everywhere indirectly elected, like the reformed Italian Senate) has more limited legislative powers.

Another common criticism concerns the nature of the new differentiated procedures for passing bills. Opponents of the reform criticise the complexity of the article describing these procedures. Obviously, stating that both chambers must agree on every bill is quicker than specifying differentiated procedures. But this argument clearly disregards the fact that differentiated legislative powers require constitutions to specify precisely which procedures are applied for specific types of laws, and how the procedures themselves work (for a comparative assessment, see, for example, [Articles 76, 77 and 78 of the German Constitution](#)).

It is also argued that the new legislative process would be less efficient and would generate confusion over the two chambers' competences. Yet the reform would give the lower chamber the last word on almost every bill. Therefore, it is highly unlikely that the Senate would exercise its power to examine bills on every new piece of legislation. It would most likely focus on the limited number of bills for which it has full competence and on bills whose impact is crucial for the regions.

Regarding the government's power to ask the lower chamber for a 'fast track' procedure for important bills, this is often criticised as an intolerable increase of the executive's power. But looking closely at the text, we can see that the government would just have the power to ask the chamber to vote on a bill within 70 days, which can be extended to 85.

A few things must be noted here. First, 85 days would be almost three months to examine a bill. Second, the lower house can refuse to comply with the government's request. And third, the parliament is free to amend the bill as it wishes (it is not a vote on a text drafted by the government, as in the case of France's *vote bloqué*). All in all, it would be nothing more than the government declaring a bill important and asking the parliament to examine it relatively quickly. This is not exactly the death of parliamentary democracy. Moreover, the government's power to pass decree-laws would also be reduced at the same time.

A more formal argument against the reform regards the majority that supported it in parliament. It is often argued that this majority was 'slim' and therefore inappropriate for a reform of this kind, which would require broader majorities. But is this a real point of concern? In the drafting of the reform all parties in parliament were involved (even the Five Star Movement which nevertheless refused to participate). In particular, Silvio Berlusconi's Forza Italia and the Northern League significantly contributed (Forza Italia even voted for the reform at the first reading in the Senate). The majority in favour of the reform, in both chambers, has never gone below 56% of members – and let us remember here that, in the Senate, Renzi's Democratic Party has only 33% of the seats.

The Constitution itself allows constitutional amendments to be adopted by an absolute majority of members (instead of two thirds) of each chamber, making it possible to hold a referendum in that case (which is exactly the present scenario). In a fragmented and polarised parliament like ours, these majorities are not easily achievable, and will be even more difficult to reach in the future. Passing the reform has required long negotiations and a process that has lasted almost two years (let alone the fact that most of these modifications have been discussed, and unsuccessfully attempted, for decades). Presenting the reform as a take-it-or-leave-it package that has been passed thanks to party discipline is greatly misleading. There has obviously been discipline in the parties involved, but this has been possible because many aspects of the reform have been amended during the process. This is evident if we simply look at the [modifications](#) introduced in the constitutional reform process. Ultimately, parliament has worked a great deal on the text that was agreed.

Great emphasis is also placed by the no campaign on the [electoral system](#), which is considered too rigid and likely to transform electoral minorities into artificial majorities in parliament. Part of the criticism of the electoral law is well motivated. However, the electoral law is not part of the reform. It is an ordinary law, which can be modified by the parliament at any time with no special procedures, and which can also be partly cancelled through referendum. On

top of that, the Constitutional Court will examine the new electoral system next January, and it will rule on its compliance with the Constitution.

What is more, the reform that opponents reject would allow one fifth of MPs to ask for a preventive judgment from the Constitutional Court on every new electoral law (and, exceptionally, on the current electoral law as well). Last but not least, there is an explicit commitment of the Democratic Party to change the electoral system. Presenting the electoral system as a 'building block' of the Constitutional reform is simply not correct, and it does not help in making a fair assessment of the reform. Rejecting a reform that has required many years, qualified majorities, and six readings to be passed because of disagreement on the content of the electoral law (which can be changed in a few weeks) is a decidedly odd approach to take.

Finally, and more generally, critics complain that the reform would create a kind of de facto presidential system. This is also an odd accusation given the reform mandates that the prime minister cannot appoint or dismiss ministers autonomously; the prime minister cannot even ask to dissolve the lower chamber; a vote of no confidence can be passed without requiring the chamber to propose a new prime minister (there is no [constructive vote of no confidence](#)); and the government's only power vis-à-vis the lower chamber is that of being allowed to ask the lower chamber for a vote on a bill within three months. If these accusations were true, we would be obliged to say that countries like Spain, the UK, and Germany are already de facto presidential systems, since the prime ministers in these countries are already more powerful than what the Italian prime minister would be after the reform.

In conclusion, the reform has a significant positive contribution: it effectively differentiates (in composition and functions) between the two parliamentary chambers. This is a long awaited reform which was extremely hard to achieve – considering that directly elected senators have voted to suppress their own body – and would most likely not be achievable for a substantial period of time if the reform is rejected.

The reform ultimately makes the Italian institutional structure less eccentric and more similar to that of other parliamentary democracies, getting rid of an absurd bicameral system which neither contributes to the quality and speed of legislation nor to government stability. It is normal to have reservations over particular aspects of a package of reforms – when such a comprehensive reform is passed, with such a complex procedure and several compromises in parliament, inconsistencies are unavoidable – but the overall result is that we would get closer to more 'normal' parliamentary systems. If the reform is rejected, we remain outliers. This is why I believe we should approve it.

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