

Democratic Systems and Populist Challenges in Europe

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7. The Five Star Movement and its Challenge to the Pluralistic Foundations of Italian Democracy

Simone Neri and Giovanni Piccirilli*

7.1 Introduction

The Five Star Movement (*MoVimento 5 Stelle*, hereinafter M5S) draws interest from multiple points of view, especially in the aftermath of its transformation from a systemic opposition party to an essential component of the governments that have hitherto occurred since the 2018 general elections.

Aim of this paper is not to investigate whether M5S has or should be considered as a populist party. This has already been acknowledged by several commentators, also on the basis of empirical analysis of its platform and behavior (Vittori 2017), underlining its original peculiarity of being «anti-establishment» (Urbinati 2018) or «anti-politics» (Corso 2019). Further studies ascribe it to new versions of populism, which have been defined as «post-modern» (Lanzone 2014) or «techno-populist» (Bickerton and Invernizzi Accetti 2018). In this sense, further inquiry is required into some more specific points relating to its attitude towards pluralism, both with regard to its internal functioning and to the way in which it purports to reshape Italian (and possibly EU) democracy. What is so unique about the novelty represented by M5S is not just its sudden electoral success, which by far exceeds the results attained by any other populist party across Europe. Indeed, it seems to entail some inherent contradictions, combining elements of genuine democratic resolutions with a more ‘traditional’ longing for power, underlining an undoubtedly hypocritical soul behind its evolution.

The paper will be broken down as follows: after affording an introduction on the broader context in which M5S emerged, the onus will be on its confused internal organization and the problematic way in which parliamentary factions are run (with an undisguised threat to the free mandate). Lastly, the focus will be on its proposals for constitutional reforms.

The purpose of the analysis is twofold. Firstly, to show how the evolution of M5S confirms some critical junctures of the Italian democracy. The latter has always embodied myriad inner tensions long acknowledged in literature which never appeared to be subjected to such a direct and insidious challenge posed by actors of comparable import in national politics. Its basic foundation rested on an extremely inclusive pluralism, and the claim for hegemony of M5S dangerously conflicts with this notion

Secondly, to offer elements for a comparative analysis of M5S in the broad context of populism in EU countries. Its transformation, its institutionalization and its apparent decline while governing can prove to be useful terms of comparison in the study of other populist movements expanding in other Member States.

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7.2 Background: the context of M5S's emergence

The context in which M5S emerged may be summarized by drawing upon two different perspectives. Firstly, the broader context represented by the role of political parties in the Italian institutional system. Secondly, the specific point in history towards the early 2010s, when M5S suddenly became the most voted party in Italy.

The reasons why such an unexpected actor was able to grow and become a decisive player in Italian politics may be found in the innermost features of institutional architecture, which protects the autonomy of politics in general, and that of political parties, in particular. The Italian approach to party regulation is devoid of those elements characterizing 'protected democracy' (Ridola 2011) as known in legal systems such as the German system or, to a lesser and different extent, the Spanish system (and, in essence, increasingly widespread on a comparative level) (Ceccanti 2004). In other words, it lacks penetrating forms of control over the party system, and specifically with respect to the democratic nature of its internal functioning. Moreover, the Constitutional court is not vested with any power to dissolve 'anti-systemic' parties or to restrict its self-determination.

Strikingly, there is no general party legislation establishing organizational frameworks or internal functioning rules (and recent interventions, which will be discussed hereinafter, are mostly partial and based on voluntary membership) (Fusaro 2009). Going even further back, it is common knowledge that art. 49 of the Constitution¹ has been designed to be free of limitations to the organizational freedom of the parties. Its allusion to 'democratic processes' does not refer to the internal dynamics of individual parties, but only to the way in which the competition between the different parties has to take place. This more flexible interpretation was somehow needed, also in order to keep the Communist party in the system (Elia 2009; Musella 2015). In the end, it has been also accepted by the Constitutional Court.²

Limitations stemming from art. 49 of the Constitution have been greatly narrowed down and the only (very marginal) constitutional constraint may be found in the meager content of the XII final provision³, relating to the prohibition of reorganization, 'under any form whatsoever', of the dissolved Fascist party. Hence, the interpretation of this prohibition is also a very narrow one (Maestri 2012).

The challenge posed by M5S to these basic settings is very sophisticated. It is not just about the affirmation of an organizational structure unlike any in the past, as has been the case several times at least from 1993 onwards (by *Forza Italia*, in the first place). The real novelty of this new protagonist of Italian political life appears to be something of a threat to the role and the function of political parties (and the party system) in the overall constitutional structure. An attempt will be made to show that political parties in Italy have not only been fundamental in the creation of republican institutions, but they have been so important as to be presupposed and coessential in the functioning of the latter. The model proposed by M5S, combined with its frontal attack on the necessarily representative nature of democracy, may prove even more

¹ 'All citizens have the right to freely associate in parties to contribute to determining national policies through democratic processes'.

² See judgment no. 114/1967, §2 in law.

³ 'It shall be forbidden to reorganise, under any form whatsoever, the dissolved Fascist party'.

destructive for the functioning of the institutional system than the significant transformations occurred in previous decades (Piccirilli 2019).

The absolute centrality of political parties in the constituent phase has been widely confirmed by their role as recognised in the case law of the Italian Constitutional Court (hereinafter, ItCC). This case law evolved overtime in different waves and fashions (Rivosecchi 2016). After a long phase (1970s-early 1990s) in which the emphasis was primarily on the centrality of the party system in the institutional architecture, the ItCC proceeded to stress their associative nature, thus confining these political parties to the more relative category of private organisations. Political parties in the 2000s were considered to be ‘organisations belonging to civil society, to which certain public functions are attributed by ordinary laws⁴’ (and, therefore, not by the Constitution!).

In recent years, an ongoing reworking of this statement is displayed. These have been complicated times for understanding representation in Italy. With a capital decision in 2014, the ItCC declared the unconstitutionality of the electoral law applied for the general elections taking place in 2006, 2008 and 2013. This judgment jeopardised the credibility of political parties and politics in general. The ItCC tried to reinvent a role for political parties in a subsequent judgement issued in 2017 (Faraguna 2017). The ItCC explicitly referred to their role in the selection and presentation of candidatures, making new use of the judgments issued in the period prior to 1996. This renewed emphasis on the role of parties in the formation of representation must not, however, be mistaken for a mere return to that previous form of understanding. In the light of the radical change in the party system that has taken place in the meantime, this claim seems to have taken on a new and different significance. Rather than going back to the guarantee of the autonomy of parties in the constitutional system (functional to their recognition of the ability to mediate and select the representation required by the democratic system), the ItCC appears to make a normative statement about the need for parties to actually exercise that role, so as to not deprive the overall constitutional system of a cardinal element for its stability. In brief, the ItCC seems to adhere to the idea of the utmost need for structured parties in contemporary democracies, as affirmed in literature already many decades ago (Sartori, 1969) and reiterated more recently (Stokes 1999; Mair 2013).

The described case law of the ItCC mirrored the evolution taking place in Italian politics since the 1990s, when Italy registered an incredibly high electoral volatility. After the collapse of the traditional parties in the early 1990s, every subsequent election was lost by the incumbent majority. Politics have been polarised by Berlusconi, whose figure has shaped coalitions from 1994 onwards. His decline, the lack of a credible successor and the unstable leadership in the centre-left wing paved the way for the rise of new actors in Italian politics.

The origins of M5S can be traced back to 29 January 2005, when Beppe Grillo, a Genoese comedian, created his blog (www.beppegrillo.it), together with *Casaleggio e Associati Ltd.*, a marketing company headed by Gian Roberto Casaleggio. In the course of time, the blog gathered momentum and in 2012 Time magazine placed it among the most influential blogs in the world (Corbetta and Gualimini 2013: 25). The blog was the driving force behind the creation of several citizens’ groups engaged in some local political battles (so-called *Meet-ups*). These small organisations started to support independent lists of candidates in local elections back in

⁴ ItCC, order no. 79/2006.

2007, guided by Beppe Grillo's charisma. The first attempts did not result in any major success in terms of seats, but they were important to open up the public debate to the existence of a new subject in formation.

Participation in local elections increased in subsequent years, while major processes of Italian society and politics were unfolding. The global economic crisis started to hit the country in severe ways, increasing unemployment and social discontent. Leader Silvio Berlusconi (who triumphed in the general elections of 2008) was involved in an assortment of sexual scandals and progressively lost support in Parliament and across the country.

In 2011, the consequences of the economic crisis and the inability of the Berlusconi government to deal with these repercussions resulted in a dramatic transition with the appointment of the government lead by Mario Monti, a renowned professor and former member of the European Commission in 1995-2004 who embodied technocracy and governed the EU in the name of fiscal rigidity and cuts to social welfare.

In the early stages, he was enthusiastically welcomed as a savior of the country and of the public budget. In less than two years, drastic measures were adopted in fiscal policies and welfare reforms, thus the Monti Government became the symbol of the de-politicisation of policies and of the incapacity of existing political parties to offer credible solutions to the dramatic situation of the country.

It was in this institutional, political and historical context that M5S made its first appearance in the national general national elections, suddenly becoming the most voted list nationwide (25.56% in the Chamber of Deputies and 23.80% in the Senate of the Republic). It spent 5 years as opposition party of governments lead by centre-left leaders, gaining popular consensus in a rigid opposition to the comprehensive constitutional reform supported by Renzi, which was defeated in a popular referendum held in December 2016. During the subsequent elections held in 2018, the share rose to 32.68% in the Chamber of Deputies and to 35.5% in the Senate of the Republic, becoming conditional to every possible majority in view of the formation of the new government.

7.3 Methods of the analysis

The following sections will address three crucial dimensions of the activity of M5S: its internal organisation, the management of its elected representatives in Parliament, the proposals introduced for constitutional amendments introduced by M5S. The common elements of these three topics is the attitude of M5S toward pluralism, both with regard to internal minorities and in the relationship with other parties and the institutions.⁵

In particular, as regards the organisational peculiarities of M5S, an analysis will be conducted on the founding documents of M5S as amended. The case law developed in legal controversies between individual members and the party leadership will also be taken into account.

In dealing with the functioning of the parliamentary factions, consideration will be given to their internal regulations, which are now public as a result of an amendment to the rules of

⁵ The attributes and indicators of anti-pluralism are assumed as highlighted by Crum, Oleart and Overeem (2020).

procedure of the Houses.⁶ The debate generated by the pecuniary sanctions provided for by M5S can be found in the proceedings of the meetings of the plenary sessions (available online), and in some email exchanges, published by the MPs involved.

All the constitutional bills introduced in the current parliamentary terms (as well as the records of the debates) are available via the websites of the Houses. The analysis of these documents is aimed at investigating the idea of pluralism emerging both from formal documents as well as from the actual behavior of M5S leaders. In general, the attitude of M5S in this respect has evolved significantly over time. At least, four different phases can be detected in its somewhat brief history.

The first period is that of the first years (2009-2013) in which M5S had an extra- or anti-parliamentary nature, when it openly refused representative democracy as such. Its main claim was the need to replace parliament with online participation. There was also some sort of priority given to local and urban policies, only taking part in municipal elections on the basis of the actual activity of a local meet-up.

A second period is represented by the 2013-2018 legislative term, when M5S was indeed in parliament, but acted as a systemic opposition. It refused not only to enter into coalition governments (declining the offer advanced by the Democratic Party) but even to acknowledge the very legitimacy of political opponents. A number of moments during the first days in Parliament of M5S representatives remain famous, when they refused to shake hands with MPs from other factions. The climate was further exacerbated by the various decisions of the ItCC annulling electoral laws: M5S saw a confirmation of the lack of legality in the pre-existing system, claiming to be the only and uncorrupt representative of the 'real' people against the old and dangerous elites.

The third and fourth periods both see M5S in the government, with the League of Matteo Salvini in the former and with the Democratic party in the latter. The change of alliance and the evolution occurred resulted in significant changes in M5S' attitude towards political discussion. The 2018-2019 government was based on a confrontational relationship with EU institutions, in the name of a panoply of sovereigntist claims and with a view to renationalising policies against the budgetary constraints deriving from EU membership (Borriello and Brack 2019). In 2019 several factors contributed to a deep change in the attitude of M5S. The results of the EP elections showed a great victory of the League whereas the percentage of M5S dropped (from 33% during the general elections in 2018 to 17%). Not only were the results of M5S in Italy negative, but the performance of its allies in other Member States was even worse and M5S was unable to join any political group in the EP. The risk of isolation at European level encouraged M5S to support Ursula von der Leyen as President of the Commission, unlike the League.⁷ This division at EU level was reflected in a progressively deeper divergence in the national arena, until the decision was reached by the League to withdraw its support to the

⁶ See Art. 15, par. 2-ter of the rules of procedure of the Chamber of Deputies and Art. 15, par. 3-bis of the rules of procedure of the Senate. As for the current legislative term, the statutes of the factions in the Chamber of deputies are available for download at <https://www.camera.it/leg18/1084>; those in the Senate are made available via: <https://www.senato.it/4145>.

⁷ The support of M5S MEPs was instrumental in the vote for the election of President von der Leyen, and it also helped M5S to attain the election of a vice president of the EP (something unprecedented for an MPE non-attached to any political group).

government, in hopes of triggering an early election on the cusp of a favorable moment. On the contrary, M5S entered into an agreement with the Democratic Party, giving birth to a government with an entirely different platform concerning an array of sensitive issues, from immigration to budgetary policies.

The evolution observed in the transition from the first to the second government (both chaired by Giuseppe Conte) is confirmed by the discontinuity detectable in some constitutional amendment proposals. Said discontinuity did not imply a complete waiver of the original goals. On the contrary, M5S was able to convey the support of old and new allies on one of its most traditional issues (such as the reduction of the number of MPs). At the same time, the alliance with the Democratic Party mitigated some of the most extreme attempts to rethink the model of representative democracy, as confirmed by the fact that the proposal for introducing the strengthened legislative initiative has been abandoned.

7.4 Organisational peculiarities of the M5S

Despite its electoral successes, the internal organisation of M5S has never mirrored that of traditional political entities. Still recently, it has been defined as a ‘non-party’, namely a social movement which is ‘*de facto* turning into a party, however, without admitting this to itself’ (Urbinati 2018).

First of all, it should be clarified that M5S has been experiencing a clear evolution since its inception. As a unitary political entity, dates back to 2009. Its founding document (referred to as ‘*Non Statuto*’) qualified the movement as a ‘*non-Association*’ (art. 1), declaring to represent ‘a platform and a vehicle for dialogue and mutual exchange which originates and finds its epicenter in the www.beppegrillo.it blog’. Even more clearly, art. 4 openly denied its nature as a political party and its intention to become one at a later date, conversely aiming to testify ‘the possibility of accomplishing an efficient and effective exchange of opinions and democratic discussion outside associational and party ties and without the mediation of bodies, management or representatives, acknowledging for all network users the role of political direction normally attributed to few» (Corbetta 2017: 170).

Much has changed in the organisation of M5S compared to those original aims (Vittori 2019: 88). Those claims of open and inclusive participation have been replaced by a rigid control over membership, in order to avoid any intrusion by uncontrolled (and uncontrollable) internal oppositions.

To date, there are close associative requirements and restrictions affecting participation in the internal choices of the M5S. Moreover, strict control and frequent, swift sanctioning mechanisms are in place for members. Everything is supervised by a (indeed confused) structure of bodies and intermediate levels which are interposed between the militants and the new office (later introduced) of the ‘Political leader’ (*Capo politico*). In addition to the latter, the current organisation includes a Guarantor, a Treasurer, a Guarantee Committee, a Board of Arbitrators, an Assembly of members and, in the past, an unspecified ‘Directory’ (albeit without any basis in the internal documents).

The primary turning point in the structure of the M5S can be identified in 2012, in view of the appointment of the general elections of the following year. With a notarial deed registered on

18 December 2012, the ‘Five Star Movement Association’ (hereinafter, for the sake brevity, referred to as ‘M5S-2012’) was formed, consisting of three partners: Beppe Grillo, his nephew Enrico and the accountant Enrico Maria Nadasi, who has been professionally linked to Beppe Grillo for a long time. The purpose of this constitutive act was above all to copyright the symbol to be used in 2013 elections, a symbol of which Beppe Grillo is the ‘exclusive owner’⁸, with the possibility of ‘making it available’ to lists of candidates pursuing the aims of the association.

The association established in 2012 is not the only one named ‘Five Star Movement’. Another one (this time with the capital ‘V’ to recall the comic series by Alan Moore and David Lloyd) was created in 2017 (hereinafter, ‘M5S-2017’). The aim of this strange operation was not to reset the association, but to establish a new one, in order to have a stricter control over the members. The second association ‘recognises’ the prior existence of the other, indicating the possibility of combining its name with the symbol ‘owned’ by the other one.

In hindsight, only M5S-2017 is the ‘real’ political entity, which may be joined according to the methods provided for by art. 3 of its Statute. A political entity, however, not only deprived of the availability of its own symbol (which, as said, is owned by M5S-2012), but which is also dependent on its internal decision-making dynamics on the part of further subjects independent of its members. Article 1 of the memorandum of association of M5S-2017 states that ‘the IT tools through which the association aims to organise the electronic methods of consultation of its members [...] as well as the methods of managing the votes’ and ‘convening the Association bodies [...] will be those referred to in the *Rousseau Platform*, through specific agreements to be entered into with the Rousseau Association’.

In turn, the Rousseau Association was constituted on 8 April 2016 by two founding members: Gianroberto Casaleggio (deceased a few days later) and his son, Davide. Currently, as it may be gleaned from the website of the same association, there are only two other members: Pietro Dettori and Enrica Sabatini. Although all three are actively involved in the Movement (Dettori was, *inter alia*, responsible for the electoral campaign for the 2018 elections; Sabatini was candidate for mayor in Bologna, where he is still group leader in the city council), neither ever stood as a candidate for the Parliament.⁹

According to the constitutive documents, the relationship between the Rousseau Association and M5S seems to be instrumental in nature, making it possible for the former to have substantial power over crucial aspects of the latter. By way of example, the Rousseau Association may – in agreement with M5S – manage its website, its lists of subscribers, organise and manage systems and platforms for consultation and online voting. This kind of outsourcing of the management of members to the Rousseau Association allows M5S to minimise internal minorities, reducing their role by simply disabling their participation in the online discussion.

An example of this delicate equilibrium was given in Autumn 2020, after a mounting controversy between the Rousseau Association and the leadership of M5S. The former claimed that many MPs stopped giving part of their parliamentary salary to contribute to the expenses

⁸ According to the founding document, ‘ownership, protection and management of the mark’ belong exclusively to him.

⁹ Massimo Bugani, a further influent member of the meet-up in Bologna, resigned in January 2020 in that he dissented from the political position held by M5S in the view of the regional elections in Emilia-Romagna.

of the Rousseau platform, and announced the consequent decision to reduce or remove some of tools available for party members.

This decreased possibility of online interaction sounds quite paradoxical. The distinctive feature originally inspiring M5S was precisely the use of the Internet as the main means to overcome traditional systems of representation. Extensive online communication, in particular via Beppe Grillo's blog, was the way in which the emerging new movement was known and heard by citizens. Then it became the main instrument of political campaign and the vehicle to create and redirect consensus among members (Bassini 2020).

The commitment to the promotion and development of direct democracy, as repeatedly stated in the constituent documents of the various associative subjects, however, seems to have been put aside in many key passages of the life of M5S. The actual use and effectiveness of the online involvement of individual members seem to be more emphasised than is actually the case. And paradoxically, instead of increasing the democratic level of the inner debate, the actual functioning seems to depart from the most basic principles of liberal democracy as it has been understood for centuries (Urbinati 2016).

A first striking element is the low turnout in internal votes among party members, as well as the overwhelming percentage of approvals, showing that the participation of members is triggered mostly on non-controversial issues, in which the result of the vote is almost to be taken for granted (Vittori 2019: 99).

For the purposes of this paper, it is also relevant to focus on two facets, relating respectively to the selection of candidates in view of electoral consultations and the degree of involvement of members in relation to the sanctioning procedures envisaged by the same Statute. Indeed, in both cases, the (complex and presumptively participatory) procedures provided for by the statutes appear to have been bypassed or completely neglected. In some cases, they have been converted into mere top-down decisions, contrary to the vote expressed by party members; in other cases, the decision concerning leadership disabled their involvement entirely.

As from the selection of candidates, it is extremely interesting to point out the case of the internal consultation with the members for the selection of the candidate for mayor for the Municipality of Genoa in 2017. Genoa is highly symbolic for the internal dynamics of M5S, as it is the place of birth of Beppe Grillo himself. The consultation among party members took place on 14 March 2017, in view of the mayor election to be held in June. The primary elections were won by Marika Cassimatis, with 362 votes to 338 obtained by Luca Pirondini. This outcome was not accepted by Beppe Grillo who, making use of the powers attributed to him by the Statute as Guarantor of the movement, invalidated the consultation. The reason was the alleged incompatibility of Cassimatis and other supporting candidates with the official positions of M5S. Thus, Grillo appointed Pirondini as the official candidate of M5S requesting the party members to accept and support his decision. Cassimatis reacted with an action brought before the civil judge who, by order of April 10, 2017, suspended the effectiveness of both decisions.

In effect, the situation was resolved with the *de facto* renunciation of Cassimatis to insist on the claim to use the MoVimento symbol following the victory of the internal consultation and the concomitant presentation of both lists in the municipal elections.¹⁰

As for the participation of the party members in the sanctioning procedures (which include recall, suspension and expulsion), the Statute provides for a very complex framework. The initiative can be introduced by the Political Head, the Guarantor, the Guarantee Committee or even by a simple subscriber. Following this initiative, a debate is launched before the Board of Arbitrators, in which the ‘accused person’ can intervene within a strict time frame as directly defined by the Statute.¹¹ The decision taken by the Board of Arbitrators can then be appealed against before the Guarantee Committee. In the case of sanctions, upon the initiative of the Guarantor alone, the involvement of members may be requested to revoke or reform the sanction (see art. 11 Statute).

On the basis of this procedure and of its practical application on several occasions, a specific case law developed before the ordinary judge, following initiatives of individual members who, after having been expelled from the M5S, challenged the order of expulsion claiming the violation of their right to (political) association.

The decisions of the court have been largely based on intra-party relations within civil law¹². It is also possible to detect some excessively detailed attempts to define what a political party is, so as to better explain the limits to its membership. For example, the Civil court of Naples stated that ‘while M5S [...] does not define itself as a ‘political party’, and indeed excludes that it is, any association with a territorial organisation that aims to contribute to the determination of national politics has to be defined as a ‘party’ ».¹³

In any case, most of the courts’ rulings suspended the decisions of expulsion of individual members. The rationale for these rulings was largely based on the extension of the implementation of art. 24 of the civil code, with the claim that it was impossible to find the ‘serious reasons’ required to this end. Not all causes of possible sanctions provided for by the M5S Statute can in fact be considered as ‘serious’ and, in any case, the lists of possible infringements referred to in art. 11 of the Statute are merely examples.

The most surprising and delicate practice on expulsions from M5S can be seen in the aftermath of the arrest, with accusations of corruption, of Marcello De Vito, President of the City Council of Rome since 2016. A few hours after his arrest, political leader Luigi Di Maio announced a decision which is not even contemplated in the Statute: Di Maio decided to directly expel De Vito without activating the aforementioned procedure, without involving the Board of

¹⁰ It may be useful to remember that both lists obtained a result well below expectations: the ‘official’ MoVimento list (with Pirondini candidate for mayor) reached 18.07% of votes and the other list led by Cassimatis reached 1.06%. They were both excluded by the final run-off vote.

¹¹ The party concerned must submit reply within 10 days from the start the procedure; the Board of Arbitrators decides within 90 days and communicates the provision within 5 days of its adoption; the appeal before the Guarantee Committee must take place within 10 days. Within 5 days from the decision of the Guarantee Committee, the Guarantor can call for consultation of the members with the proposal to cancel or reform the decision.

¹² Court of Rome, decision of April 12, 2016: ‘although the Five Star Movement claims to be a ‘non-association’ and a ‘non-party’, it is legally an unrecognised association, as in the case of ‘traditional’ political parties’.

¹³ Decision taken on July 14, 2016 (Caterina 2016).

Arbitrators (thus making it possible to appeal against its decision, and so on). Furthermore, said stratification between homonymous associative subjects lead to a further anomaly: De Vito was elected in 2016 and so the rules of the Statute of M5S-2017 did not apply to him. The only body of ‘law’ that could be used in his case was the so-called ‘Code of conduct’, aside from the bilateral agreements signed between the individual elected member and the Movement.

It is striking how in this pivotal step all participatory mechanisms have been completely set aside, highlighting a plebiscitary and, indeed autocratic, drift which can only increase our concern.¹⁴

7.5 Running the M5S parliamentary faction and the free mandate

As observed, many controversies arise from the relation that holds between individual members and the party leadership. Even more critical issues can be found in the inner dynamics of political factions in parliament, in which the autonomy of individual MPs is simply denied by the M5S.

MPs are typically described as ‘spokespersons’ (*portavoce*) and they are all expected to vote according to the preferences expressed by the party members. Unfortunately, there are no regular votes on the online platform. As mentioned, they occur whether and when the leadership decides to open a consultation (often with short notice and with a strict selection of possible alternatives), mostly on non-controversial issues and with the sole aim of supporting decisions already taken by the leadership.

Loyalty in parliament is a fundamental requirement for party membership and no open dissent is tolerated.

A strict code of conduct is set out both by the internal statutes of the political faction and by the private contracts between the party leadership and the individual prospective representative at the time of the acceptance of the candidature. Pecuniary sanctions are provided for in the event of behaviour incompatible with the party line: fines of EUR 100,000 in case of deviation from the principles set out in the Statute, to be applied also in the event of expulsion (according to the confused procedure that has been described in the previous section).

The invalidity of such sanctions is evident, in that contrary to the constitutional principle of the free mandate, enshrined in art. 67Const. However, apparently it is not easy to find a way to have them waived. On the one hand, ordinary courts did not consider similar clauses as a cause of disqualification of the elected representative (Pascarelli 2017). On the other, the President of the Chamber of Deputies – upon request of MPs of other parties – declared himself incapable of sanctioning the exercise of the regulatory autonomy of the political groups (Curreri 2018; Ciancio 2018). Thus, the free parliamentary mandate appears under threat as never before (Falletti 2014).

¹⁴ To further confirm the poor linearity of the evolution of the affair, the City council of Rome never proceeded to elect the new President even following the resignation (in July 2019) of Vice-President Enrico Stefano, *de facto* replacing the President after his arrest. At the end of the application of the restrictive measures (November 2019) the position was paradoxically taken up once again by De Vito himself.

M5S not only refuses the argument of the technical necessity of the representative democracy, fostering the direct participation of people via digital platforms. Hence, it does not accept the idea of national representation by each individual MP (as stated by Article 67 Const.), considering its MPs as representing only ‘their’ voters.

Nevertheless, although the idea of abolishing (or at least limiting) the free mandate was included in the coalition agreement at the basis of the 2018 government, no formal proposals for its amendment have been introduced by M5S in the current legislative term.

In the previous term (2013-2018), when M5S was confined to a systemic opposition devoid of government responsibility, several constitutional bills were submitted to the Houses, proposing to amend or repeal Article 67 Const. Some proposals were aimed at introducing a fully binding mandate.¹⁵ Others wanted to emulate forms of recall elections, based on the Californian model.¹⁶ Still, in the term 2013-2018, the current Minister of Justice Bonafede (at that time a simple MP) introduced a proposal aiming to remove from office those MPs who ‘during a six-month period [were] absent from more than seven tenths of the sessions of the respective Assembly’.

Again, after the approval (both in Parliament and by the people via a popular referendum) of the decrease in the number of MPs by 1/3 from the next term, Di Maio announced further novelties to come. Accordingly, the next commitment of M5S is to limit the possibility for MPs to move from one parliamentary faction to another, in order to strengthen their loyalty to the electorate.

7.6 M5S’s proposals for constitutional reform

Apart from proposals directly targeting the free mandate, the approach of M5S to the institutional system includes a gamut of further constitutional amendment bills. In this sense, M5S is part of a long-standing debate in the Italian arena, that has been discussing major constitutional reforms for the last 25 years, at least.

Its anti-systemic position resulted in a certain number of constitutional amendment bills (as is typical of populist parties proposing a complete reform of the system: Faraguna 2020), some of which have been analysed in-depth in the current parliamentary term.

While limited in dimension (as they are quite homogeneous and punctual), they appear to be extremely impacting on the overall system and could be considered within the theoretical category of ‘constitutional dismemberment’ (ALBERT, 2019) or ‘anti-constitutional’ projects (Blokker RECONNECT paper). In other words, they reveal the existence of an alternative constitutional project, ascribing the responsibilities of all the injustices and inequalities of the current system to the institutions and mechanisms of liberal constitutional democracy.

¹⁵ See the proposal (no. 2759 in the Senate) by Vito Crimi (M5S), current *pro tempore* Political leader of M5S, following the resignation of Di Maio. However, a similar proposal (no. 196 in the Senate) had also been introduced by the current President of the Senate, Alberti Casellati (Forza Italia) when she was a ‘simple’ senator from the opposition.

¹⁶ See proposal no. 4060 in the Chamber, by Hon. Iannuzzi.

After the failure of the comprehensive constitutional reform promoted in 2014-2016 by the Renzi government (Lupo 2019), rejected by large majority in a popular referendum, the approach to constitutional amendments underwent a dramatic change. Instead of comprehensive reforms, an array of single-issue bills, correlated to different and very narrow aspects of institutional functioning¹⁷, targeted specific articles or institutions with the aim of having separate debates in Parliament and (if required) separate votes in subsequent referendums. In particular, the new majority introduced three different constitutional amendment bills, two already foreshadowed in the coalition agreement and a further one added in the subsequent months. The former consist in the reduction in the number of MPs and the introduction of a new kind of popular legislative initiative. A bill aimed at lowering the voting age for the Senate was added at a later stage.

The reduction in the number of MPs is the only one to succeed. After being passed by absolute majority in Parliament, it was also confirmed by the people in a popular referendum held on 20-21 September 2020. The turnout was relatively low by Italian standards (51.12%, including Italians residing abroad), but the outcome was very clear: 69.96% of voters supported the amendment, which will come into effect as from the next parliamentary term. Although very limited in size, its impact is likely to be huge. In term of numbers, it will downsize both the Chamber of Deputies and the Senate by approximately one third.¹⁸ In functional terms, it has opened a debate on how to complete or supplement the constitutional amendment with further modifications to the constitution. Moreover, it is likely to encourage a major revision of parliamentary rules of procedure, required – at least in the Senate – to rethink the number and tasks of parliamentary committees, as well as many other functions and bodies.

The other proposal agreed upon with the League (and abandoned by the new government set up with the Democratic Party) was aimed at introducing a strengthened popular initiative, whereby if the Parliament does not pass substantial amendments to a popular legislative bill, the amendments may be submitted for popular approval via referendum.¹⁹ The rationale of the proposal was to modify the equilibrium between representative and participatory democracy, shaking a further pillar of Italian Constitution. The latter does provide for some participatory tools (such as the abrogative referendum, the petition and the popular initiative) although these are incorporated in a representative framework, in the sense that the Parliament always has a preferential role in the mediation of political conflicts (Luciani 2005). This proposal has to be viewed as populist in the light of its troubling understanding of the majority principle. It is not aimed at reducing the political right of minorities, on the contrary, its specific purpose is to allow an ‘active’ minority to take decisions replacing a silent (inactive) majority. In the end, it undermines the representative nature of the Parliament, since it conceives parliamentary institutions as mere optional instruments for the self-government of the people (which could also be avoided).

¹⁷ Instead of using the category of ‘single-matter bills’ (Albert 2019), it seems more appropriate to stress the nature of the proposed amendments considered in this paragraph as ‘single-issue bills’, since not only are they homogeneous, but they also focus on a very specific issue.

¹⁸ The chamber of Deputies had 630 members which will be reduced to 400. The Senate will fall from 315 to 200.

¹⁹ A.C. 1173-A.S. 1089. It was passed by the Chamber on 21 February 2019 and then relevant amendments were approved in the Committee of the Senate in July 2019. Then, with the new government, it was completely abandoned.

The reform of the voting age for the Senate cannot be considered as exclusively proposed by M5S. Similar amendments have been debated in previous legislative terms, without, however, reaching significant developments in Parliament. The Constitution contemplates a difference not only in the age to be elected (25 in the Chamber, 40 in the Senate), but also in the voting age (it is sufficient to be 18 to vote for the Chamber, but it is necessary to be 25 to vote for the Senate). This heterogeneity is frankly incomprehensible and unjustifiable, and represents an 'unconstitutional constitutional provision' of sorts. Nevertheless, its modification is politically complicated and the contribution of M5S has proved vital to overcome this gridlock. The constitutional bill was passed almost unanimously by both Houses in the first reading and is currently pending the second one.²⁰

It is apparent that all the aforementioned constitutional bills are somewhat linked. They all address key issues of the model of representative democracy, affecting the size of representation, the identification of the voters and the mediation between representative and participative democracy. Notwithstanding these clear commonalities, the approach followed by the parliamentary majority entailed a clear preference for brief and homogenous texts, to be debated separately. Although welcomed by several commentators, this method seems to constitute a purely populist way to approach constitutional amendments. It tends to reduce complex decisions to single-issue ones, without taking in due consideration the more comprehensive consequences of the individual amendment.

7.7 Conclusions

A plethora of critical aspects have been touched upon with regard to M5S' attitude towards pluralism, both in its internal functioning and in the broader institutional context. The analysis has shown two main results. Firstly, that there has been an evolution in the somewhat brief history of M5S. Secondly, that time has engendered a progressive institutionalisation of M5S, and yet has not improved the democratic quality of its inner dynamics.

The relationship with other political parties and the approach to the institutional framework has shown a trend towards greater openness. M5S started as an extra- (if not anti-) parliamentary political movement and has progressively become a party competing in more traditional ways. Its foundational documents aimed to overcome representative democracy, but after spending one legislative term as systemic opposition, it accepted to enter into coalition governments (with the League and later with the Democratic Party). Similarly, after having embraced Eurosceptic positions, M5S supported the election of the President of the Commission, von der Leyen, at European level. In so doing, it attained the twofold result of avoiding political isolation and being included in the Bureau with the election of a vice president (notwithstanding its elected members remain non-attached to any political group). These results were achieved after the EP election in 2019, in which M5S saw its percentage of votes drop from 33 to 17%. This strategic attitude shows that an important driving force behind its political action is the traditional longing for power, as in the case of structured and classical political parties.

What remains highly problematic is political tolerance inside M5S. Internal minorities are not accepted, control over dissent is discouraged by setting penalties (even pecuniary in nature)

²⁰ A.C. 1511-A.S.1440.

and any unorthodox position is strictly repressed by expulsion. Sanctioning procedures are not transparent. The leadership decides whether to open the consultation of the assembly of members in expulsion procedures. This has mainly been the case for non-controversial issues, by requesting the assembly to ratify decisions that have already been taken.

Ambivalence in the approach to pluralism should not result in the comparison between M5S and other political parties of the past which benefitted from the flexible restriction imposed on their internal organisation by the Italian Constitution. Indeed, the latter does not entail a system of 'protected democracy', as in the case of many other EU Member States, requiring only that competition among different parties should be democratic and not also within an individual party. Nevertheless, M5S presents a wealth of innovative and distinctive features. It combines claims about enhancing democratic participation and the denial of any pluralism in its development processes: Its rationale is grounded in the online participation of party members and the opposition of the free mandate by considering MPs as mere spokesmen of party members, whereas the actual number of interactions in online platforms and the influence of their votes are marginal.

This reductive and frustrating idea of the role of democratic discussion is also confirmed by the constitutional amendments supported by M5S. The decision to downsize Parliament is inherently anti-pluralistic. The strengthened popular initiative (as it has been shaped by M5S) could allow concentrated minorities to pass partisan legislation by exploiting the work overload of a smaller parliament.

In conclusion, M5S undermines the roots of the liberal understanding of parliamentary democracy without offering a credible alternative, thus embodying the quintessential nature of a populist political party.

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