

The Constitution of the Italian Republic

edited and annotated by
CARLO CASONATO and JENS WOELK

Faculty of Law
Department of Legal Sciences
University of Trento

solo blu

Printed by
University of Trento (Centro Stampa)
January 2008

INTRODUCTION

A written, rigid and guaranteed Constitution is the fundamental law of a legal system and it provides the basis of legitimacy for all sources of law and activities by the public authority. However, these features alone are not sufficient to ensure its full implementation and common compliance. The implementation process of the Italian Constitution was not among the fastest and it was often hindered for different and sometimes even contrasting reasons. More recently, the original text has been subject to some amendment initiatives also involving the electoral body which has, by means of a referendum, on some occasions confirmed and on others rejected Parliamentary proposals. In this way, citizens and voters have not only shown their democratic maturity, but also a high degree of consensus for the Republican Constitution.

This is the current text of the Italian Constitution in an annotated version which allows the reader to follow its evolution by also reproducing the original text as well as the reforms which over the course of time have amended and adapted it to the emerging and changing circumstances.

Sixty years after its entry into force, publishing the current edition of the Italian Constitution as a bilingual one, together with an English translation, is a deliberate choice: the objective is to present the fundamental legal document on which our legal system is based – and which influences our daily life more than we realise – to the numerous foreign students and scholars visiting the University of Trento not only those in the Law Faculty and the Department of Legal Sciences, but also those from other Faculties. In addition, the bilingual edition shall offer a useful working tool for legal comparison.

Finally, we would like to thank all those who made this publication possible: besides the two editors of the bilingual edition, Prof. Carlo Casonato and Dr Jens Woelk, Ms Valentina Lucatti (editing), Ms Rachel Paling (language-editing) and Prof. Richard Janda (Mc Gill University, Montreal), for his valued suggestions during his period as visiting professor in Trento.

Prof. Luca Nogler
Director, Department of Legal Sciences

Prof. Roberto Toniatti
Dean, Faculty of Law

pagina bianca

pagina bianca

The Constitution of the Italian Republic

THE PROVISIONAL HEAD OF STATE

By virtue of the Constituent Assembly, which in the session of 22 December 1947 approved the Constitution of the Italian Republic;
By virtue of Final Provision XVIII of the Constitution;

PROMULGATES

the Constitution of the Italian Republic in the following text:

FUNDAMENTAL PRINCIPLES

1. Italy is a democratic Republic, founded on labour.

Sovereignty belongs to the people, which exercises it in the forms and within the limits of the Constitution.

2. The Republic recognizes and guarantees inviolable rights of man, for the individual, and for social groups where personality is expressed, and demands the fulfilment of the fundamental duties of political, economic, and social solidarity.

3. All citizens have equal social dignity and are equal before the law, without distinction as to sex, race, language, religion, political opinions, or personal or social condition.

It is the duty of the Republic to remove those obstacles of an economic and social nature that, by in fact limiting the freedom and equality of citizens, impede the full development of the human person and the effective participation of all workers in the political, economic and social organisation of the country.

4. The Republic recognizes the right of all citizens to work and promotes those conditions that will make this right effective.

Every citizen has the duty, according to capability and individual choice, to carry out an activity or a function that contributes to the material or spiritual progress of society.

5. The Republic, one and indivisible, recognizes and promotes local autonomies; implements in those services that depend on the State the fullest measure of administrative decentralisation; and accords the principles and methods of its legislation to the requirements of autonomy and decentralisation.

6. The Republic takes appropriate measures to safeguard linguistic minorities.

7. The State and the Catholic Church are, each within its own order, independent and sovereign.

Their relations are regulated by the Lateran Treaties. Changes to the Treaties accepted by both parties do not require the use of the procedure for constitutional amendment¹.

8. All religious confessions are equally free before the law.

Religious confessions other than Catholicism have the right to organise in accordance with their own statutes, in so far as they are not in conflict with Italian laws.

Their relations with the State are regulated by law on the basis of agreement between the respective representatives.

9. The Republic promotes the development of culture and scientific and technical research.

It safeguards the landscape and the historical and artistic heritage of the Nation.

10. Italian laws conform to the generally recognized norms of international law.

The legal status of foreigners is regulated by law in conformity with international norms and treaties.

The foreigner who is denied in his own country the effective exercise of the democratic liberties guaranteed by the Italian Constitution has the right of asylum in the territory of the Republic, in accordance with the conditions established by law.

A foreigner shall not be extradited for political offences².

11. Italy rejects war as an instrument of aggression against the freedoms of others peoples and as a means for settling international disputes; it agrees, on conditions of equality with other states, to the limitations of sovereignty necessary to create an order that ensures

¹ The Lateran Treaties were amended by the Concordat Agreement, 18 February 1984, and were implemented by Law n. 121, 25 March 1985.

² See the single article of Constitutional Law n. 1, 21 June 1967 "Extradition due to crimes of genocide". "The final paragraph of Article 10 and the final paragraph of Article 26 of the Constitution are not applicable to crimes of genocide".

peace and justice among Nations; it promotes and encourages international organisations having such ends in view.

12. The flag of the Republic is the Italian tricolour: green, white and red, in three vertical bands of equal dimensions.

PART I

RIGHTS AND DUTIES OF CITIZENS

TITLE I - Civil Rights

13. Personal liberty is inviolable.

No form of detention, inspection or personal search is admitted, nor any other restrictions on personal freedom except by warrant that states the reasons from a judicial authority and only in cases and manner provided for by law.

In exceptional cases of necessity and emergency, strictly defined by law, the police authorities may adopt temporary measures that must be communicated within forty-eight hours to the judicial authorities and if they are not ratified by them in the next forty-eight hours, are thereby revoked and become null and void.

All acts of physical or moral violence against individuals subjected in any way to limitations of freedom are to be punished.

The law establishes the maximum period of preventative detention.

14. The home is inviolable.

Inspections or searches or seizures may not be carried out except in cases and in the manner established by law in accordance with the guarantees prescribed for safeguarding personal freedom.

Controls and inspections for reasons of public health and safety or for economic and fiscal purposes are regulated by special laws.

15. The freedom and secrecy of correspondence and of every other form of communication is inviolable.

Restrictions thereto may be imposed only by a warrant that gives the reasons issued by a judicial authority with the guarantees established by law.

16. All citizens may travel or sojourn freely in any part of the national territory, subject to general limitations that the law establishes for reasons of health and safety. No restrictions may be imposed for political reasons.

All citizens are free to leave and to re-enter the territory of the Republic, subject to legal duties.

17. Citizens have the right to assemble peaceably and unarmed.

No previous notice is required for meetings, even when held in places open to the public.

For meetings in public places previous notice must be given to the authorities, who may forbid them only for proven risks to security and public safety.

18. Citizens have the right to form associations freely, without authorisation, for ends that are not forbidden to individuals by criminal law.

Secret associations and those that pursue, even indirectly, political ends by means of organisations of a military character, are forbidden.

19. All have the right to profess freely their own religious faith in whatever form, individual or collective, to propagate it and to exercise it in a private or public cult, provided that the rites are not contrary to public morals.

20. The ecclesiastical nature and the purpose of religion or worship of an association or institution may not be a cause for special limitations in law, nor for special fiscal impositions in its establishment, legal capacity or any of its activities.

21. All have the right to express freely their own thoughts by word, in writing and by all other means of communication.

The press cannot be subjected to authorisation or censorship.

Seizure is permitted only by a detailed warrant from the judicial authority in the case of offences for which the law governing the press expressly authorizes it, or in the case of violation of the provisions prescribed by law for the disclosure of responsible parties.

In such cases, when there is absolute urgency and when the timely intervention of the judicial authority is not possible, periodical publications may be seized by officers of the criminal police, who must immediately, and never after more than twenty-four hours, report the matter to the judicial authority. If the latter does not ratify the act

in the twenty-four hours following, the seizure is understood to be withdrawn and null and void.

The law may establish, by means of general provisions, that the financial sources of periodical publications be disclosed.

Printed publications, shows and other displays contrary to public morals are forbidden. The law establishes appropriate means for preventing and suppressing all violations.

22. No one may be deprived, for political reasons, of legal status, citizenship, or name.

23. No one may be required to perform a personal or financial prestation except on the basis of law.

24. Everyone can take judicial action to protect individual rights and legitimate interests.

The right to defence is inviolable at every stage and instance of the proceedings.

The indigent are assured, through appropriate institutions, the means for action and defence before all levels of jurisdiction.

The law determines the conditions and the means of reparation for judicial errors.

25. No one may be removed from an ordinary judge preordained by law.

No one may be punished except on the basis of a law already in force before the offence was committed.

No one may be subjected to security measures except in those cases provided for by law.

26. Extradition of a citizen is permitted only in cases expressly provided for in international conventions.

In no case may it be permitted for political offences³.

27. Criminal responsibility is personal.

The defendant is not considered guilty until final judgment is rendered.

³ See the single article of Constitutional Law n. 1, 21 June 1967 "Extradition due to crimes of genocide". "The final paragraph of Article 10 and the final paragraph of Article 26 of the Constitution are not applicable to crimes of genocide".

Punishment cannot consist in treatment contrary to human dignity and must aim at rehabilitating the offender.

The death penalty is not permitted⁴.

28. Officials and employees of the State and public entities are directly responsible, according to criminal, civil and administrative laws, for acts committed in violation of rights. In such cases the civil responsibility extends to the State and the public entities.

TITLE II - Ethical and Social Relations

29. The Republic recognizes the rights of the family as a natural association founded on matrimony.

Matrimony is based on the moral and legal equality of the spouses within the limits laid down by law to guarantee the unity of the family.

30. It is the duty and right of parents to support, instruct and educate their children, even those born outside of matrimony.

In case of the incapacity of the parents, the law provides for the fulfilment of their duties.

The law ensures to children born outside of marriage full legal and social protection, compatible with the rights of members of the legitimate family.

The law lays down the rules and limitations for ascertaining paternity.

31. Through economic measures and other provisions, the Republic assists the formation of the family and the fulfilment of its duties, with particular consideration for large families.

It protects maternity, infancy and youth, promoting the institutions necessary for this purpose.

32. The Republic safeguards health as a fundamental right of the individual and as a collective interest, and guarantees free medical care to the indigent.

No one shall be obliged to undergo particular health treatment except under the provisions of the law. The law cannot under any circumstances violate the limits imposed by respect for the human person.

⁴ Paragraph amended by the single Article of Constitutional Law n. 1, 2 October 2007. The original text stated:

"The death penalty is not permitted, except in cases provided for in martial law".

33. The arts and sciences are free, as is their teaching.

The Republic lays down general rules for education and establishes all the kinds and levels of State schools.

Entities and private persons have the right to establish schools and institutions of education, without State-imposed burdens.

The law, in fixing the rights and obligations on non-state schools that request parity, must ensure to these schools full liberty and to their pupils scholastic treatment equal to that of pupils in State schools.

State examinations are prescribed for admission to the various kinds and levels of schools as well as for graduation and for qualification to exercise a profession.

Institutions of higher learning, universities and academies have the right to establish their own regulations within the limits laid down by the laws of the State.

34. Schools are open to everyone.

Elementary education, imparted for at least eight years, is compulsory and free.

Capable and deserving pupils, even those without financial resources, have the right to attain the highest levels of education.

The Republic makes this right effective through scholarships, payments to families and other provisions, which must be assigned through competitive examination.

TITLE III - Economic Relations

35. The Republic protects labour in all its forms and applications.

It provides for the training and professional improvement of workers.

It promotes and encourages international agreements and organisations whose aim is to assert and regulate labour rights.

It recognizes the freedom to emigrate, subject to obligations established by law in the general interest, and protects Italian labour abroad.

36. Workers have the right to wages in proportion to the quantity and quality of their work and in all cases sufficient to ensure them and their families a free and dignified existence.

The maximum working day is fixed by law.

Workers have a right to a weekly rest day and paid annual holidays. They cannot waive this right.

37. Working women have the same rights and, for equal work, the same wages as working men. Working conditions must allow women to carry out their essential role in the family and ensure particular and adequate protection for the mother and the child.

The law establishes the minimum age for paid labour.

The Republic protects the work of minors by means of special provisions and, for equal work, guarantees them the right to equal pay.

38. Every citizen unable to work and without the resources necessary to live has a right to social maintenance and assistance.

Workers have the right to be provided with and assured adequate means for their needs and necessities in cases of accidents, illness, disability and old age, and involuntary unemployment.

Disabled and handicapped persons have the right to education and vocational training.

The duties laid down in this Article are provided for by organs and institutions established by or supplemented by the State.

Private assistance is free.

39. Trade union organisation is free.

No obligations can be imposed on trade unions other than registration at local or central offices, according to the provisions of the law.

A condition for registration is that the statutes of the trade union confirm the democratic basis of the internal organisation.

Registered trade unions are legal persons. They may, through units representative in proportion to their members, enter into collective labour agreements having mandatory effect for all persons belonging to the categories referred to in the agreement.

40. The right to strike is exercised within the laws that regulate it.

41. Private economic initiative is free.

It cannot be conducted in conflict with social utility or in a manner that could harm safety, liberty, and human dignity.

The law determines appropriate planning and controls so that public and private economic activity is given direction and coordinated to social objectives.

42. Property is public or private. Economic goods belong to the State, to entities or to private persons. Private property is recognized and guaranteed by law, which prescribes the ways it is acquired,

enjoyed and its limits in order to ensure its social function and to make it accessible to all.

In such cases provided for by law and with provisions for compensation, private property can be expropriated for reasons of the general interest.

The law establishes the regulations and limits of legitimate and testamentary succession and the rights of the State in questions of inheritance.

43. For purposes of general utility the law can reserve the establishment or transfer, by means of expropriation and payment of compensation, to the State, to public entities or to workers communities or users, of specific enterprises or categories of enterprises that relate to essential public services or sources of energy or situations of monopoly that have the nature of pre-eminent general interest.

44. For the purpose of securing the rational exploitation of the soil and to establish equity in social relationships, the law imposes obligations and constraints on private ownership of land, fixes limitations to the extension thereof according to region and agricultural zone, encourages and imposes land reclamation, the transformation of large estates and the reorganisation of productive units; it assists small and medium-sized holdings.

The law makes provisions in favour of mountainous areas.

45. The Republic recognizes the social function of cooperatives for mutual benefit and without the purpose of private speculation. The law promotes and encourages them through appropriate means and secures, through appropriate controls, their character and purposes.

The law provides measures for safeguarding and promoting handicrafts.

46. So as to achieve economic improvement and the social betterment of labour, and in accord with the needs of production, the Republic recognizes the rights of workers to collaborate, in the ways and within the limits established by law, in the management of enterprises.

47. The Republic encourages and safeguards savings in all forms; it disciplines, coordinates and controls the exercise of credit.

It promotes the access of popular savings to the ownership of housing, to directly cultivated property and to indirect investment in the shares of the large production complexes of the country.

TITLE IV - Political Rights

48. All citizens, male and female, who have attained their majority, are electors.

The vote is personal and equal, free and secret. The exercise thereof is a civic duty.

An Act of Parliament shall establish the conditions and the procedures under which Italian nationals resident abroad may exercise their right to vote in Italian elections, and shall guarantee its effectiveness. For this purpose a 'Foreign Constituency' shall be created to which Members to both Houses of Parliament shall be elected. The number of seats shall be established by a constitutional law and comply with the criteria enacted by Act of Parliament.

The right to vote cannot be restricted except for civil incapacity or as a consequence of an irrevocable penal sentence or in cases of moral unworthiness as laid down by law⁵.

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

50. All citizens may present petitions to both Houses to request legislative measures or to express collective needs.

51. All citizens of either sex are eligible for public office and for elected positions on equal terms, according to the conditions established by law.

The law may grant Italians who are not resident in the Republic the same rights as citizens for the purposes of access to public offices and elected positions.

Whoever is called to perform an elected public office has the right to the time necessary to carry out that function while keeping his job⁶.

52. The defence of the Fatherland is the sacred duty of every citizen.

Military service is obligatory within the limits and terms set by law. Fulfilment thereof shall not prejudice a citizen's employment, nor the

⁵ The third paragraph was introduced by Article 1, Constitutional Law n. 1, 17 January 2000.

⁶ The second sentence of the first paragraph was introduced by Article 1, Constitutional Law n. 1, 30 May 2003.

exercise of political rights.

The regulation of the armed forces is based on the democratic spirit of the Republic.

53. Everyone shall contribute to public expenditure in accordance with his means.

The system of taxation shall be based on criteria of progression.

54. All citizens have the duty to be loyal to the Republic and to uphold its Constitution and laws.

Those citizens to whom public functions are entrusted have the duty to fulfil such functions with discipline and honour, taking an oath when required by law.

PART II⁷

ORGANISATION OF THE REPUBLIC

TITLE I - Parliament

SECTION I - The Houses

55. Parliament consists of the Chamber of Deputies and the Senate of the Republic.

Parliament meets in joint session of the members of both Houses only in those cases set forth in the Constitution.

56. The Chamber of Deputies is elected by universal and direct suffrage.

The number of Deputies is six hundred and thirty.

All those voters who on the day of elections have attained the age of twenty-five are eligible to be deputies.

The division of seats among electoral districts is obtained by dividing the number of inhabitants of the Republic, as shown by the latest general census of the population, by six hundred and thirty and

⁷ On the 25th and 26th of June 2006, the majority of voters in the constitutional referendum did not confirm the text of the constitutional law approved on second vote by an absolute majority, but less than two thirds of the members of each House, regarding "Amendments to Part II of the Constitution", reported in Official Journal n. 269, 18 November 2005.

distributing the seats in proportion to the population in every electoral district, on the basis of whole shares and the highest remainders⁸.

57. The Senate of the Republic is elected on a regional basis.

The number of Senators to be elected is three hundred and fifteen.

No Region may have fewer than seven senators; Molise shall have two, Valle d'Aosta one.

The division of seats among the Regions, in accordance with the provisions of the preceding Article, is made in proportion to the population of the Regions as revealed in the most recent general census, on the basis of whole shares and the highest remainders⁹.

58. Senators are elected by universal and direct suffrage by the electors older than twenty-five years of age.

Electors older than forty years of age are eligible to be senators.

59. Anyone who has been President of the Republic is a senator by right and for life unless he renounces the nomination.

The President of the Republic may name as senators for life five citizens who have brought honour to the Fatherland through their outstanding achievements in social, scientific, artistic and literary fields.

60. The Chamber of Deputies and the Senate of the Republic are elected for five years.

The term for each House cannot be extended except by law and only in case of war¹⁰.

61. Elections for the new Houses will take place within seventy days of the end of the term of the previous Houses. The first meeting will take place not later than twenty days after the elections.

Until such time as the new Houses meet, the powers of the previous Houses are extended.

⁸ Article amended by Article 1, Constitutional Law n. 2, 9 February 1963 and by Article 1, Constitutional Law n. 1, 23 January 2001.

⁹ Article amended by Article 2, Constitutional Law n. 2, 9 February 1963 and successively by Article 2, Constitutional Law n. 3, 27 December 1963 and Article 2, Constitutional Law n. 1, 23 January 2001.

¹⁰ Article amended by Article 3, Constitutional Law n. 2, 9 February 1963.

62. The Houses shall convene by right on the first working day of February and October.

Each House may be convened in extraordinary session on the initiative of its President or of the President of the Republic or by a third of its members.

When one House is convened in extraordinary session, the other House is convened by right.

63. Each House shall elect from among its members its Speaker and the members of the Office of the Speaker.

When Parliament meets in joint session, the Speaker and the presiding officers are those of the Chamber of Deputies.

64. Each House adopts its own rules by absolute majority of its members.

The sittings are public; however, each of the Houses and Parliament in joint session of both Houses may decide to meet in secret session.

The decisions of each House and of Parliament are not valid if the majority of the members is not present, and if they are not adopted by a majority of those present, unless the Constitution prescribes a special majority.

Members of the Government, even when not members of the Houses, have the right, and when requested the obligation, to attend sittings. They shall be heard every time they so request.

65. The law determines cases of non-eligibility and incompatibility with the office of deputy or senator.

No one may be a member of both Houses at the same time.

66. Each House decides the qualifications for admission of its members and subsequent causes of ineligibility and incompatibility.

67. Each member of Parliament represents the Nation and carries out his duties without constraint of mandate.

68. Members of Parliament may not be required to give account of any opinions expressed or votes cast in the exercise of their functions.

Absent authorisation from the House to which they belong, no member of Parliament may be subject to a personal search or have his domicile searched, nor subject to arrest or any other deprivation of personal freedom, or kept in detention, except to enforce a final

conviction, or if caught in the act of committing a crime for which arrest is mandatory.

Similar authorisation is also required before members of Parliament may have their conversations or communications intercepted, or their mail impounded¹¹.

69. Members of Parliament shall receive an indemnity established by law.

SECTION II - The Adoption of Laws

70. The legislative function is exercised collectively by both Houses.

71. Legislation is initiated by the Government, by each member of the Houses and by those organs and bodies so empowered by constitutional law.

The people may initiate legislation through a proposal, made by at least fifty-thousand electors, of a bill drafted in Articles.

72. Every bill introduced in one of the Houses is, in accordance with its rules, examined by a committee and then by the House itself, which approves it Article by Article and with a final vote.

The rules establish shortened procedures for draft legislation that has been declared urgent.

They may also establish in what cases and in what manner the examination and approval of bills is deferred to committees, including standing committees, composed so as to reflect the proportion of the parliamentary groups. Even in such cases, until the moment of its final approval, the bill may be submitted to the House, if the Government or

¹¹ Article substituted by Article 1, Constitutional Law n. 3, 29 October 1993. The original text provided: "Members of Parliament may not be persecuted for their expressed opinions and votes cast during the exercise of their functions.

Without the authorisation of the House to which he or she belongs, no Member of Parliament may be subject to a criminal process; nor may he or she be arrested or otherwise be deprived of his or her personal liberty or subject to a personal or domicile search, except if caught in the act of committing a crime for which the order or mandate of arrest is mandatory. The same authorisation is required to place a Member of Parliament under arrest or to keep him or her in detention for the enforcement of a sentence, even if not subject to appeal".

one-tenth of the members of the House or one-fifth of the committee request that it be debated and voted on by the House itself or that it be submitted to the House for final approval by means of a call for votes only. The rules establish the ways in which the workings of committees are made public.

The regular procedure for examination and approval directly by the House is always followed for bills on constitutional and electoral matters and for those delegating legislature, the authorisation and ratification of international treaties, the approval of budgets and expenditure accounts.

73. Laws are promulgated by the President of the Republic within one month of their approval.

If the Houses, each by the absolute majority of its members, declare its urgency, a bill is promulgated within the time established by the bill itself.

Laws are published immediately after promulgation and come into force on the fifteenth day following publication, unless the laws themselves establish a different time.

74. Before promulgating a law, the President of the Republic, in a message outlining his motives, may request a new debate of the Houses.

If the Houses once more pass the bill, it must be promulgated.

75. A popular referendum shall be held to abrogate, totally or partially, a law or an act having the force of law, when requested by five hundred thousand electors or five Regional Councils.

A referendum is not permitted in the case of tax, budget, amnesty and pardon laws, or the authorisation or ratification of international treaties.

All citizens eligible to vote for the Chamber of Deputies have the right to participate in referendums.

The proposal subject to referendum is approved if the majority of those with voting rights have voted and the proposal as received a majority of validly cast votes.

The procedures for conducting a referendum are established by law.

76. The exercise of the legislative function may not be delegated to the Government unless the principles and guiding criteria have been

established by the Houses, and then only for a limited time and for specified ends.

77. The Government may not, without delegation from the Houses, issue decrees having the force of ordinary law.

When in extraordinary cases of necessity and urgency the Government adopts provisional measures having the force of law it must on the same day present them for conversion into law to the Houses that, even if dissolved, shall be especially summoned and shall assemble within five days.

The decrees lose effect from their inception if they are not converted into law within sixty days from their publication. The Houses can however regulate through laws juridical relations arising out of decrees not converted.

78. The Houses decide on states of war and confer the necessary powers on the Government.

79. Amnesties and pardons are granted by act of Parliament requiring a two-thirds majority of the members of each House, voting on each single Article and on the statute as a whole.

The Act granting the amnesty or the pardon shall also indicate the deadlines for their application.

In every instance, amnesties and pardons may never apply to any crimes committed after the date on which the Bill is tabled before the House¹².

80. The Houses authorise by law the ratification of international treaties that are of a political nature, or that call for arbitration or legal settlements, or that entail changes to national territory or financial burdens or changes in the laws.

81. The Houses approve every year the budgets and expenditure accounts submitted by the Government.

Provisional use of the budget cannot be granted except by law and for periods not exceeding a total four months.

In the law approving the budget no new taxes or new expenditures shall be introduced.

¹² Article substituted by Article 1, Constitutional Law n. 1, 6 March 1992. The original text stated: "Through an act of Parliament delegating authority, amnesties and pardons are granted by the President of the Republic. They cannot be granted for crimes committed after the proposed delegation".

Any other law involving new or increased expenditures must specify the means for meeting them.

82. Each House may set up inquiries on matters of public interest.

For such purposes it nominates from its members a committee so composed as to reflect the proportions of the various groups. The committee of inquiry conducts its investigations and examinations with the same powers and the same limitations as a judicial inquiry.

TITLE II - The President of the Republic

83. The President of the Republic is elected by Parliament in joint session of its members.

So as to ensure that minorities are represented, three delegates from every Region elected by the Regional Council shall participate in the election. Valle d'Aosta has one delegate only.

The election of the President of the Republic is by secret ballot and requires a majority of two thirds of the assembly. After the third ballot an absolute majority is sufficient.

84. Any citizen over fifty years of age who enjoys civil and political rights can be elected President of the Republic.

The office of President of the Republic is incompatible with any other office.

Compensation and endowments of the President are established by law.

85. The President of the Republic is elected for seven years.

Thirty days before the expiration of the term, the President of the Chamber of Deputies shall summon a joint session of Parliament and the regional delegates to elect the new President of the Republic.

If the Houses are dissolved, or there remains less than three months until their dissolution, the election shall take place within fifteen days of the meeting of the new Houses.

In the intervening time the powers of the President elect are prolonged.

86. The functions of the President of the Republic, in all cases in which he cannot carry them out, shall be exercised by the President of the Senate.

In case of the permanent incapacity or death or resignation of the President of the Republic, the President of the Chamber of Deputies shall call an election for a new President of the Republic within fifteen

days, unless a longer term is provided if the Houses are dissolved or there remains less than three months until their dissolution.

87. The President of the Republic is the head of the State and represents national unity.

He may send messages to the Houses.

He calls elections for the new Houses and fixes their the date for their first meeting.

He authorizes the presentation to the Houses of draft laws initiated by the Government.

He promulgates laws and issues decrees and regulations having the force of law.

He calls popular referendums in those cases provided for by the Constitution.

He nominates officers of the State in those cases provided for by law.

He accredits and receives diplomatic representations, and ratifies international treaties that have, where required, the authorisation of the Houses.

He is the commander of the armed forces, presides over the Supreme Council of Defence established by law, makes declarations of war that have been decided by the Chambers.

He presides over the High Council of the Judiciary.

He may grant pardons and commute punishments.

He confers the honours of the Republic.

88. The President of the Republic may, after consulting the two Speakers, dissolve one or both the Houses of Parliament.

This power may not be exercised during the last six months of the Presidential term, except when this period coincides wholly or in part with the last six months of the term of the Legislature¹³.

89. No act of the President of the Republic is valid if it is not signed by the proposing Ministers, who assume responsibility for it.

Acts that have legislative value and those others laid down by law shall be countersigned also by the President of the Council of Ministers.

¹³ The second paragraph was amended by Article 1, Constitutional Law n. 1, 4 November 1991.

90. The President of the Republic is not responsible for the acts performed in the exercise of his duties, except for high treason or plots against the Constitution.

In such cases he is impeached by Parliament in joint session, with an absolute majority of its members.

91. The President of the Republic, before entering on his duties, shall take an oath of fidelity to the Republic and to uphold the Constitution before a joint sitting of Parliament.

TITLE III - The Government

SECTION I - The Council of Ministers

92. The Government of the Republic is made up of the President of the Council of Ministers and the Ministers who together form the Council of Ministers.

The President of the Republic nominates the President of the Council of Ministers and, on his proposal, the Ministers.

93. The President of the Council of Ministers and the Ministers, before entering on their duties, shall be sworn in by the President of the Republic.

94. The Government must have the confidence of both Houses.

Each House grants or withdraws its confidence through a motion setting out its reasons and that is voted on by roll-call.

Within ten days of its formation the Government shall come before the Houses to seek their confidence.

An opposing vote by one or both the Houses against a Government proposal does not entail the obligation to resign.

A motion of no-confidence must be signed by at least one tenth of the members of the House and cannot be debated until at least three days after its introduction.

95. The President of the Council of Ministers conducts and is responsible for the general policy of the Government. He ensures unity in political and administrative policies, promoting and coordinating the activity of the Ministers.

The Ministers are collectively responsible for the acts of the Council of Ministers, and individually for the acts in their own Ministries.

The law establishes the rules concerning the role of the Presidency of

the Council and establishes the number, competence and organisation of the Ministries.

96. The President of the Council of Ministers and the Ministers, even if they resign from office, are subject to ordinary justice for crimes committed in the exercise of their duties, provided authorisation is given by the Senate of the Republic or the Chamber of Deputies, in accordance with the norms established by Constitutional Law¹⁴.

SECTION II - Public Administration

97. Public offices are organized according to law, so as to ensure efficiency and impartiality of administration.

The regulations on public offices lay down the areas of competence, duties and responsibilities of their officials.

Employment in public administration is through competitive examinations, except in those cases established by law.

98. Civil servants are exclusively at the service of the Nation.

If they are members of Parliament they may not be promoted except through seniority.

The law can set limitations to the right to become a registered member of political parties in the case of magistrates, career military in active service, officials and officers of the police, and diplomatic and consular representatives abroad.

SECTION III - Auxiliary Bodies

99. The National Council for Economics and Labour is composed, as set out by law, of experts and representatives of the categories of production, so as to take account of their numerical and qualitative importance.

It serves as a consultative body for the Houses and the Government in those matters and in those functions attributed to it by law.

It can initiate legislation and can contribute to drafting economic and social legislation according to the principles and within the limitations laid out by law.

¹⁴ Article substituted by Article 1, Constitutional Law n. 1, 16 January 1989. The original text stated: "The President of the Council of Ministers and the Ministers are subject to impeachment by the Parliament in joint session of both Houses for crimes committed in the exercise of their duties".

100. The Council of State is a legal-administrative consultative body and ensures the legality of public administration.

The Court of Accounts exercises preventative control over the validity of Government measures, and also subsequent control on the management of the State Budget. It participates, in those cases and manner established by law, in control of the financial management of those bodies to which the State contributes in the ordinary way. It reports directly to the Houses on the results of audits performed.

The law ensures the independence from the Government of the two bodies and of their members.

TITLE IV - The Judicial Branch

SECTION I - The Organisation of the Judiciary

101. Justice is administered in the name of the people. Judges are subject only to the law.

102. Judicial proceedings are exercised by ordinary magistrates empowered and regulated by norms governing the judiciary.

Extraordinary or special judges may not be established. Only specialized sections for specific issues within the ordinary judicial bodies can be established, and may include the participation of qualified citizens who are not members of the judiciary.

The law regulates the cases and forms of direct participation of the people in the administration of justice.

103. The Council of State and the other organs of judicial administration have jurisdiction to safeguard legitimate interests and, where specially provided by law, subjective rights, against the public administration.

The Court of Accounts has jurisdiction with respect to public accounts and in other matters laid out by law.

Military Tribunals in time of war have the jurisdiction established by law. In time of peace they have jurisdiction only for military crimes committed by members of the armed forces.

104. The judiciary is an order that is autonomous and independent of all other powers.

The High Council of the Judiciary is presided over by the President of the Republic.

Members by right are the first President and the Attorney General of the Court of Cassation.

Two thirds of the other members are elected by all the ordinary judges belonging to the various categories, and one third by Parliament in joint session from among full university professors of law and lawyers having fifteen years of practice.

The Council elects a vice-President from among those members designated by Parliament.

Elected members of the Council remain in office for four years and may not immediately thereafter be re-elected.

They may not, while in office, be registered on professional rolls, nor serve in Parliament or on a Regional Council.

105. The High Council of the Judiciary, in accordance with the norms governing the judiciary, has jurisdiction for employment, assignments and transfers, promotions and disciplinary measures concerning judges.

106. Judges are appointed through competitive examinations.

The law governing the judiciary may allow for the appointment, possibly by election, of honorary judges for all the functions performed by single judges.

Following a proposal of the High Council of the Judiciary, full university professors of law and lawyers with fifteen years of practice and registered in the special professional lists for the higher courts may be appointed as councillors in cassation for their outstanding merits,.

107. Judges may not be removed from office. Nor may they be dismissed or suspended from office or assigned to other courts or functions except by virtue of a decision of the High Council of the Judiciary, taken either for the motives and with the guarantees of defence established by the rules of the judiciary or with their consent.

The Minister of Justice has power to initiate a disciplinary action.

Judges are distinguished only by their different functions.

The public prosecutor enjoys the guarantees established in his favour by the norms governing the judiciary.

108. The norms governing the judiciary and judges are established by law.

The law ensures the independence of judges of special courts, of state prosecutors of those courts, and of other persons participating in the administration of justice.

109. The legal authorities have direct use of the judicial police.

110. Without prejudice to the authority of the High Council of the Judiciary, it is the Minister of Justice who has responsibility for the organisation and functioning of services relating to justice.

SECTION II - Rules on Jurisdiction

111. The law shall be administered by means of a fair trial governed by Act of Parliament.

The parties to all trials may speak in their own defence in the presence of the other parties, with equal status, before an independent and impartial court. An Act of Parliament shall lay down provisions to ensure that trials are of a reasonable length.

In the criminal process, all individuals charged with a criminal offence have the statutory right to be notified promptly and confidentially of the nature and cause of the charges made against them; they shall be given adequate time and conditions to prepare their defence; they have the statutory right to examine, or have examined, the witnesses testifying against them in court and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them, and to obtain all other evidence on their behalf; they shall be assisted by an interpreter if they cannot understand or speak the language used during the trial.

The criminal process is governed by the adversarial principle for the determination of evidence. Guilt shall not be established on the basis of statements made by anyone who has freely chosen not to submit to questioning by the defendant or the defendant's counsel.

The law shall govern the cases in which the determination of evidence is not subject to adversarial process whether because of the consent of the defendant, or where it is objectively proven to be impossible, or as a result of proven unlawful conduct.

Reasons must be given for all judicial decisions.

Appeals to the Court of Cassation in cases of violations of the law are always allowed against sentences and against measures restricting personal freedom pronounced by ordinary and special courts. This rule can only be waived in cases of sentences by Military Tribunals in time of war.

Appeals to Cassation against decisions of the Council of State and the Court of Accounts are permitted only for reasons relating to jurisdiction¹⁵.

112. The public prosecutor has the duty to initiate criminal proceedings.

113. The judicial protection of rights and legitimate interests against acts of the public administration before the organs of ordinary or administrative justice is always permitted.

Such judicial protection may not be excluded or limited in particular kinds of appeal or for particular categories of acts.

The law determines which judicial bodies are empowered to annul acts of public administration in the cases and with the consequences provided for in the law itself.

TITLE V - Regions, Provinces, Municipalities¹⁶

114. The Republic is composed of the Municipalities, the Provinces, the Metropolitan Cities, the Regions and the State. Municipalities,

¹⁵ The first five paragraphs were introduced by Article 1, Constitutional Law n. 2, 23 November 1999.

¹⁶ Article 10, Constitutional Law n. 3, 18 October 2001 states:

“Until the adaptation of their statutes, the provisions of this constitutional law shall be applicable also to the Regions of special statute and to the autonomous Provinces of Trento and Bolzano for the parts in which wider forms of autonomy are foreseen with respect to those already attributed”.

Article 11 of the same Constitutional Law states:

“1. Until the review of the laws under Title I Part II of the Constitution, the regulations of the Chamber of Deputies and the Senate of the Republic may provide for the participation of representatives of the Regions, the autonomous Provinces and the local entities in the Parliamentary Commission for regional issues.

2. When a draft law relating to the subject matters listed in the third paragraph of Article 117 and in Article 119 of the Constitution contains provisions on which the Parliamentary Commission for regional issues (in its enlarged composition according to paragraph 1) has expressed a contrary opinion or a favourable opinion that is conditional on specifically formulated proposed amendments and the Commission responsible for its review did not consider these amendments, then the members of the Assembly shall vote on the corresponding parts of the draft law, which shall require the absolute majority of its members for adoption”.

Provinces, Metropolitan Cities and Regions are autonomous entities having their own statutes, powers and functions in accordance with the principles laid down in the Constitution.

Rome is the capital of the Republic. Its status is regulated by State Law¹⁷.

115. [Repealed]¹⁸

116. Friuli-Venezia Giulia, Sardinia, Sicily, Trentino-Alto Adige/Südtirol and Valle d'Aosta/Vallée d'Aoste have special forms and conditions of autonomy pursuant to the special statutes adopted by constitutional law.

The Trentino-Alto Adige/Südtirol Region is composed of the autonomous Provinces of Trento and Bolzano.

Additional special forms and conditions of autonomy, related to the subject matters specified in Article 117, paragraph three and paragraph two, letter l) - limited to the organisational requirements of the Justice of the Peace - and letters n) and s), may be attributed to other Regions by State Law, upon the initiative of the Region concerned, after consultation with the local authorities, in compliance with the principles set forth in Article 119. This Law shall be approved by both Houses with the absolute majority of their members, on the basis of an agreement between the State and the Region concerned¹⁹.

117. Legislative powers shall be vested in the State and the Regions in compliance with the Constitution and with the constraints deriving from European Union law and international obligations.

The State has exclusive legislative powers regarding the following subject matters:

- a) foreign policy and international relations of the State; relations

¹⁷ Article resulting from the amendments introduced by Article 1, Constitutional Law n. 3, 18 October 2001. The original text stated: "The Republic is divided into Regions, Provinces and Metropolitan Cities".

¹⁸ Repealed Article 9, para. 2, Constitutional Law n. 3, 18 October 2001. The original text provided: "The Regions are made up of autonomous entities with own powers and functions according to the principles laid down in the Constitution".

¹⁹ Article resulting from the amendments introduced by Article 2, Constitutional Law n. 3, 18 October 2001. The original text provided "Sicily, Sardinia, Trentino-Alto Adige, Friuli-Venezia Giulia, and Valle d'Aosta are assigned special forms and conditions of autonomy, pursuant to special statutes adopted by constitutional laws".

between the State and the European Union; the right of asylum and legal status of non-European Union citizens;

b) immigration;

c) relations between the Republic and religious denominations;

d) defence and armed forces; State security; armaments, ammunition and explosives;

e) currency, savings protection and financial markets; competition protection; the foreign exchange system; state taxation and accounting systems; equalisation of financial resources;

f) state bodies and relevant electoral laws; state referenda; elections to the European Parliament;

g) legal and administrative organisation of the State and of national public agencies;

h) public order and security, with the exception of local administrative police;

i) citizenship, civil status and registry offices;

l) judicial system and procedural law; civil and criminal law; administrative justice;

m) determination of the essential levels of benefits relating to civil and social entitlements to be guaranteed throughout the national territory;

n) general provisions on education;

o) social security;

p) electoral legislation, governing bodies and fundamental functions of the Municipalities, Provinces and Metropolitan Cities;

q) customs, protection of national borders and international disease control;

r) weights and measures; standard time; statistical and computerised co-ordination of data for State regional and local administrations; intellectual property;

s) protection of the environment, the ecosystem and cultural heritage.

The following subject matters are subject to concurrent legislation: international and European Union relations of the Regions; foreign trade; job protection and safety; education, subject to the autonomy of educational institutions and with the exception of vocational education and training; professions; scientific and technological research and innovation support for productive sectors; health protection; nutrition; sports; disaster relief; land-use planning; civil ports and airports; major transport and navigation networks; communications; national production, transmission and distribution of energy; complementary and supplementary social security; harmonisation of public accounts and

co-ordination of public finance and the taxation system; enhancement of cultural and environmental assets, including the promotion and organisation of cultural activities; savings banks, rural banks, regional credit institutions; regional land and agricultural credit institutions. In the subject matters covered by concurrent legislation, legislative powers are vested in the Regions, except for the determination of fundamental principles, which are laid down in State legislation.

The Regions have legislative powers over all subject matters that are not expressly covered by State legislation.

The Regions and the autonomous Provinces of Trento and Bolzano take part in preparatory decision-making process of European Union legislative acts in the areas that fall within their responsibilities. They are also responsible for the implementation of international agreements and European Union measures, subject to the rules set out in State law that regulate the exercise of subsidiary powers by the State in the case of non-performance by the Regions or autonomous Provinces.

Regulatory powers shall be vested in the State with respect to the subject matters of exclusive legislation, subject to any delegations of such powers to the Regions. Regulatory powers shall be vested in the Regions in all other subject matters. Municipalities, Provinces and Metropolitan Cities have regulatory powers as to the organisation and implementation of the functions attributed to them.

Regional laws shall remove any hindrances to the full equality of men and women in social, cultural and economic life and promote equal access to elected offices for men and women.

Agreements between a Region and other Regions that aim at improving the performance of regional functions and that may also envisage the establishment of joint bodies shall be ratified by regional law.

In the areas falling within their responsibilities, Regions may enter into agreements with foreign States and with local authorities of other States in the cases and according to the forms laid down by State legislation²⁰.

²⁰ Article resulting from the amendments introduced by Article 3, Constitutional Law n. 3, 18 October 2001. The original text provided:

“The Region legislates on the following subject matters within the limits of fundamental principles established by the Laws of the State, on the condition that the laws themselves are not in conflict with national interests and with the interests of other Regions:

the legal system of the offices and the administrative bodies dependent on the Region;

118. Administrative functions are attributed to the Municipalities, unless they are attributed to the Provinces, Metropolitan Cities and Regions or to the State, pursuant to the principles of subsidiarity, differentiation and proportionality, to ensure their uniform implementation.

Municipalities, Provinces and Metropolitan Cities carry out administrative functions of their own as well as the functions assigned to them by State or by regional legislation, according to their respective competences.

State legislation shall provide for co-ordinated action between the State and the Regions in the subject matters defined in Article 117, paragraph two, letters b) and h), and also provide for agreements and co-ordinated action in the field of cultural heritage preservation.

The State, Regions, Metropolitan Cities, Provinces and Municipalities shall promote the autonomous initiatives of citizens, both as individuals and as members of associations, relating to activities of general interest, on the basis of the principle of subsidiarity²¹.

Municipal districts electoral districts;
urban and rural local police;
fairs and markets;
social security, health care and hospitals;
craft instruction, professions and educational assistance;
museums and libraries of local entities;
town planning;
Tourism and the hotel industry;
Railroad and automobile networks of regional interest;
Road conditions, waterworks and public works of regional interest;
Navigation and ports;
Mineral waters and spas;
Caves and peat bogs;
Hunting;
Fishing in internal waters;
Agriculture and forestry;
Crafts;
Other areas indicated by constitutional laws.
The laws of the Republic may grant the Regions the power to adopt laws for their enforcement”.

²¹ Article resulting from the amendments introduced by Article 4, Constitutional Law n. 3, 18 October 2001. The original text provided: “The Regions have administrative functions for the subject matters listed in the preceding Article, except for exclusively local interests, which may be attributed by laws of the Republic to the Province, to the Municipalities or to other local entities.

119. Municipalities, Provinces, Metropolitan Cities and Regions shall have financial autonomy with respect to revenues and expenditures.

Municipalities, Provinces, Metropolitan Cities and Regions shall have independent financial resources. They set and levy taxes and collect revenues of their own, in compliance with the Constitution and according to the principles of co-ordination of State finances and the tax system. They share in the tax revenues related to their respective territories.

State legislation shall provide for an equalisation fund, with no allocation constraints, for the territories having lower per-capita taxable capacity.

Revenues raised from the above-mentioned sources shall enable Municipalities, Provinces, Metropolitan Cities and Regions to finance fully the public functions attributed to them.

In order to promote economic development, social cohesion and solidarity, to reduce economic and social imbalances, to foster the effective exercise of the rights of the person or to achieve goals other than those pursued in the ordinary exercise of their functions, the State shall allocate supplementary resources and adopt special measures in favour of specific Municipalities, Provinces, Metropolitan Cities and Regions.

Municipalities, Provinces, Metropolitan Cities and Regions have their own assets, which are allocated to them pursuant to general principles laid down in State legislation. They may resort to indebtedness only as a means of financing investment expenditure. State guarantees on loans contracted for this purpose are not permitted²².

The State may by legislation delegate the exercise of other administrative functions to the Region.

The Region normally exercises its administrative functions by delegating it to the Provinces, the Municipalities or to other local entities, or avails itself of their offices”.

²² Article resulting from the amendments introduced by Article 5, Constitutional Law n. 3, 18 October 2001. The original text provided:

“The Regions have financial autonomy in the forms and the limits established by the laws of the Republic, which coordinates such autonomy with the Finances of the State, the Province and the Municipalities.

The Regions have own taxation and quotas of Treasury taxes, in relation to the needs of the Regions for the necessary expenses to perform their normal functions.

To provide for certain fixed targets and in particular to promote the Mezzogiorno [South of Italy] and the Islands, the State assigns special contributions to individual Regions.

120. The Regions may not levy import or export or transit duties between Regions or adopt measures that in any way obstruct the freedom of movement of persons or goods between the Regions. Regions may not limit the right of citizens to work in any part whatsoever of the national territory.

The Government can act for bodies of the Regions, Metropolitan Cities, Provinces and Municipalities if the latter fail to comply with international rules or treaties or European Union legislation, or in the case of grave danger to public safety and security, or whenever such action is necessary to preserve legal or economic unity and in particular to guarantee the basic level of benefits relating to civil and social entitlements, regardless of the geographic boundaries within which local authorities operate. The law shall lay down the procedures to ensure that substituted powers are exercised in compliance with the principles of subsidiarity and of loyal co-operation²³.

121. The organs of the Region are: the Regional Council, the Cabinet [*Giunta*] and its President.

The Regional Council shall exercise the legislative powers attributed to the Region as well as the other functions conferred by the Constitution and the laws. It may submit bills to Parliament.

The Regional Cabinet is the executive body of the Region.

The President of the Cabinet represents the Region; directs the policy-making of the Executive and is responsible for it; promulgates laws and regional statutes; directs the administrative functions delegated to the Region by the State, in conformity with the instructions of the Government of the Republic²⁴.

The Region has its own property and land, according to the provisions of the laws of the Republic”.

²³ Article resulting from the amendments introduced by Article 6, Constitutional Law n. 3, 18 October 2001. The original text provided:

“The Region may not charge import or export or transit duties between the Regions.

The Region may not adopt measures that in any way obstruct the freedom of movement of persons or goods between the Regions.

The Region may not limit the right of citizens to exercise, in any part of the national territory, their profession, employment or work”.

²⁴ Article resulting from the amendments introduced by Article 1, Constitutional Law n. 1, 22 November 1999. The original text provided:

“The organs of the Region are: the Regional Council, the Regional Cabinet and its President.

The Regional Council shall exercise the legislative and regulatory powers

122. The electoral system and the cases of ineligibility and incompatibility of the President, the other members of the Regional Cabinet and the Regional councillors shall be established by a regional law in accordance with the fundamental principles established by a law of the Republic, which also establishes the term of elective offices.

No one may belong at the same time to a Regional Council or to a Regional Cabinet and to one of the Houses of Parliament, to another Regional Council, or to the European Parliament.

The Council shall elect a Speaker amongst its members as well as an Office of the Speaker.

Regional councillors are not answerable for the opinions expressed and votes cast in the exercise of their functions.

The President of the Regional Cabinet shall be elected by universal and direct suffrage, unless the regional statute provides otherwise. The elected President shall appoint and dismiss the members of the Cabinet²⁵.

attributed to the Region and the other functions conferred by the Constitution and the laws. It may submit bills to Parliament.

The Regional Cabinet is the executive body of the Region.

The President of the Cabinet represents the Region; he passes regional laws and statutes, manages the administrative functions delegated to the Region by the State, according to the instructions of the Central Government”.

²⁵ Article resulting from the amendments introduced by Article 2, Constitutional Law n. 1, 22 November 1999. The original text provided:

“The electoral system, the number and the cases of ineligibility and incompatibility of the Regional Councillors shall be established by a law of the Republic.

No one may belong at the same time to a Regional Council and to one of the Houses of Parliament or to another Regional Council.

The Council shall elect a Speaker amongst its members and an Office of the Speaker for its work.

Regional councillors are not answerable for the opinions expressed and votes cast in the exercise of their functions.

The President and the members of the Regional Cabinet shall be elected by the Regional Council from among its members”.

Article 5 of the same Constitutional Law n. 1, 22 November 1999 provides; “1. Until the date of entry into force of the new Regional Statutes and the new electoral laws in the first paragraph of Article 122 of the Constitution, as amended by Article 2 of the current constitutional law, the election of the President of the Regional Cabinet shall depend upon the renewal of the respective Regional Councils and shall be held according to the modalities provided by the national laws in force at the time of the elections of Regional Councils.

123. Each Region shall have a Statute that, in accordance with the Constitution, shall lay down the form of government and basic principles for the organisation of the Region and the conduct of its business. The statute shall regulate the right of initiative and referendum on the laws and administrative measures of the Region as well as the publication of laws and regional regulations.

Regional Statutes are adopted and amended by the Regional Council through legislation approved by an absolute majority of its members, with two subsequent deliberations at an interval of not less than two months. This law need not be submitted to the Government Commissioner. The Government of the Republic may challenge the constitutional validity of the Regional Statutes before the Constitutional

The candidates to the Presidency of the Regional Cabinet are the leaders of the regional lists. The candidate who obtains the most number of valid votes in the regional area shall be proclaimed the President of the Regional Cabinet. The President of the Regional Cabinet shall be part of the Regional Council. The candidate who has obtained the next highest number of valid votes to the candidate proclaimed and elected President shall be elected in the position of councillor. The District central office shall reserve, for this purpose, either the last of the seats for the district list that is connected to the leader of the regional list proclaimed councillor, pursuant to paragraph 3, Article 15, Law n. 108, 17 February 1968, introduced by paragraph 2, Article 3, Law n. 43, 23 February 1995, or the seat attributed, according to the remainder or to the lesser electoral number among those of the same lists, to an individual regional constituency for the allocation of the remaining electoral district seats. Whenever all of the seats for the connected lists have been assigned with whole quotients in the electoral district, the District central office shall proceed to assign an additional seat, which must be taken into account for the determination of the subsequent percentage quota of seats held for the majority lists in the Regional Cabinet.

2. Until the entry in force of the new Regional Statutes the following provisions shall be observed:

- a) within ten days from the proclamation, the President of the Regional Cabinet shall nominate the members of the Cabinet, from among these a Vice-President, and may subsequently revoke these nominations;
- b) in the event that the Regional Council approves, by absolute majority, a motion of non-confidence regarding the President of the Regional Cabinet, presented by at least a fifth of its members and subject to debate not sooner than three days after its introduction, new elections for the Council and for the President of the Cabinet shall be held within three months. New elections for the Council and the President of the Cabinet shall also be held proceed in the event of voluntary resignation, permanent incapacity or death of the President”.

Court within thirty days of their publication.

The Statute is submitted to popular referendum if one-fiftieth of the electors of the Region or one-fifth of the members of the Regional Council so request within three months of its publication. The Statute that is submitted to referendum is not promulgated if it is not approved by the majority of valid votes.

In each Region, the Statutes govern the Council of Local Authorities, which is a consultative body on relations between the Regions and local entities²⁶.

124. [Repealed]²⁷

125. First instance administrative tribunals shall be established in the Region, in accordance with the rules established by legislation of the Republic. Sections may be established in places other than the regional capital²⁸.

²⁶ Article substituted by Article 3, Constitutional Law n. 1, 22 November 1999. The original text provided:

"Each Region shall have a Statute that, in accordance with the Constitution and with the laws of the Republic, shall lay down the laws relating to the internal organisation of the Region. The statute shall regulate the right of initiative and referendum on the laws and administrative measures of the Region as well as the publication of laws and regional regulations.

The Statute shall be adopted by the Regional Council with an absolute majority of its members and approved by legislation of the Republic".

The last paragraph was added by Article 7, Constitutional Law n. 3, 18 October 2001.

It is to be noted that the Government Commissioner foreseen in the provisions of the following Articles 124 and 127 has ceased to exist.

²⁷ Article repealed by Article 9, paragraph 2, Constitutional Law n. 3, 18 October 2001. The text provided:

"A Government Commissioner, resident in the capital of the Region, shall supervise the administrative functions exercised by the State and shall coordinate them with those exercised by the Region".

²⁸ Article 9, second paragraph, Constitutional Law n. 3, 18 October 2001, repealed a first paragraph that provided:

"The control over the validity of administrative acts of the Region is carried out, in a decentralised way, by an organ of the State, in the manner and within the limits established by legislation of the Republic. The law may, in certain cases allow for a review on the merits, with the sole purpose of promoting, with a reasoned request, the re-examination of a decision made by the Regional Council".

126. The President of the Republic may dissolve the Regional Council and may remove the President of the Cabinet upon decree with stated reasons where there have been acts contrary to the Constitution or grave violations of the law.

Dissolution or removal may also be decreed for reasons of national security. The aforementioned decree is adopted after consultation with a committee of Deputies and Senators for regional affairs that is set up in the manner established by legislation of the Republic.

The Regional Council may with stated reasons adopt a motion of non-confidence against the President of the Cabinet that is signed by at least one-fifth of its members and adopted with roll call vote by an absolute majority of members.

The motion may not be debated sooner than three days after its introduction.

The adoption of a motion of non-confidence against a President of the Cabinet elected by universal and direct suffrage, and the removal, permanent inability, death or voluntary resignation of the President of the Cabinet entail the resignation of the Cabinet and the dissolution of the Council. The same effects are produced by the simultaneous resignation of the majority of Council members²⁹.

127. When it deems that a regional law exceeds the jurisdiction of the Region, the Government may challenge its constitutional validity before the Constitutional Court within sixty days of its publication.

When it deems that a law or measure having the force of law of the State or of another Region infringes upon its own jurisdiction, a Region

²⁹ Article substituted by Article 4, Constitutional Law n. 1, 22 November 1999. The original text provided:

“The Regional Council may be dissolved whenever it has committed an act that is contrary to the Constitution or a serious breach of the law or if it does not respond to the invitation of the Government to replace the Cabinet or its President, when they had committed such acts or breaches.

It may be dissolved whenever, due to resignation or the impossibility of forming a majority, it is not able to function.

It may also be dissolved for reasons of national security.

The dissolution shall be adopted upon decree with stated reasons by the President of the Republic, upon consultation with a committee of Deputies and Senators for regional affairs that is set up in the manner established by legislation of the Republic. With the dissolution decree a Commission of three citizens eligible for the Regional Council shall be nominated, which shall call elections within three months and ensure the ordinary administration of powers of the Cabinet and other acts within its jurisdiction, to be submitted for ratification by the new Council”.

may challenge its constitutional validity before the Constitutional Court within sixty days of its publication³⁰.

128. *[Repealed]*³¹

129. *[Repealed]*³²

130. *[Repealed]*³³

³⁰ Article substituted by Article 8, Constitutional law n. 3, 18 October 2001. The original text provided:

“Every law passed by the Regional Council shall be communicated to the Commissioner, who, unless it is opposed by the Government, must approve it within a period of thirty days from the communication.

The law is adopted within ten days of the appropriate approval and enters into force not before the fifteen days from its publication. If a law is declared urgent by the Regional Council and the Government of the Republic agrees, then the adoption of the law and its entry into force are not subject to these conditions.

Whenever the Government of the Republic concludes that a law passed by the Regional Council exceeds the jurisdiction of the Region or conflicts with national interests or with those of the Region, it will return it to the Regional Council within the time period for the appropriate approval.

Whenever the Regional Council passes it again with an absolute majority of its members, the Government of the Republic may, within fifteen days of its the communication, challenge its constitutional validity before the Constitutional Court or challenge the merits for conflict of interests before both Houses. In case of uncertainty, the Court shall decide which body has jurisdiction”.

³¹ Article repealed by Article 9, second paragraph, Constitutional Law n. 3, 18 October 2001. The original text provided:

“The Provinces and the Municipalities are autonomous entities according to the principles established by the general laws of the Republic, which shall determine their functions”.

³² Article repealed by Article 9, second paragraph, Constitutional Law n. 3, 18 October 2001. The original text provided:

“The Provinces and the Municipalities are also constituencies of national and regional decentralisation.

So as to achieve further decentralisation, the Provincial constituencies may be subdivided into administrative districts with exclusively administrative functions”.

³³ Article repealed by Article 9, second paragraph, Constitutional Law n. 3, 18 October 2001. The original text provided:

“An organ of the Region, constituted in the manner established by legislation of the Republic, exercises, even in a decentralised form, control over the

131. The following Regions shall be established:

Piedmont;
Valle d'Aosta;
Lombardy;
Trentino-Alto Adige;
Veneto;
Friuli-Venezia Giulia;
Liguria;
Emilia-Romagna;
Tuscany;
Umbria;
Marche;
Latium;
Abruzzi;
Molise;
Campania;
Apulia;
Basilicata;
Calabria;
Sicily;
Sardinia³⁴.

132. After consultation with the Regional Councils, a merger between existing Regions or the creation of new Regions having a minimum of one million inhabitants may be determined by a constitutional law, when the request has been made by a number of Municipal Councils representing not less than one-third of the populations involved, and the request has been approved through a referendum by a majority of said populations.

The Provinces and Municipalities that request separation from one Region and incorporation into another may be allowed to do so by virtue of legislation of the Republic, following a referendum, which

validity of the acts of the Province, of the Municipalities and the other local entities.

In certain cases determined by law control upon the merits may be carried out in the form of a reasoned request to the deliberating body to re-examine its decision".

³⁴ Article amended by Constitutional law n. 3, 27 December 1963, which set out the establishment of the Region of Molise.

For the bilingual denomination of Valle d'Aosta and Trentino-Alto Adige see Article 116 above.

obtains the majority of the populations of the Province or Provinces and of the Municipality or Municipalities concerned, and after consultation with the Regional Councils³⁵.

133. Changes in provincial boundaries and the institution of new Provinces within a Region are regulated by the laws of the Republic, on the initiative of the Municipalities, after consultation with the Region.

The Region, after consultation with the populations involved, may establish through its laws new Municipalities within its own territory and modify their districts and names.

TITLE VI - Constitutional Guarantees

SECTION I - The Constitutional Court

134. The Constitutional Court shall decide:

Controversies on the constitutional validity of laws and enactments having the force of law adopted by the State and the Regions;

Conflicts arising from allocation of powers within the State the allocation between the State and the Regions, and the allocation between Regions;

Accusations made against the President of the Republic, according to the Constitution³⁶.

³⁵ Article amended by Article 9, first paragraph, Constitutional Law n. 3, 18 October 2001. The original text provided:

"After consultation with the Regional Councils, a merger between existing Regions or the creation of new Regions having a minimum of one million inhabitants may be determined by a constitutional law, when the request has been made by a number of Municipal Councils representing not less than one-third of the populations involved, and the request has been approved through a referendum by a majority of the said populations.

The Provinces and Municipalities that request separation from one Region and incorporation into another may be allowed to do so, after a referendum and on the basis of a law of the Republic, after consultation with the Regional Councils".

³⁶ Article amended by Article 2, Constitutional Law n. 1, 16 January 1989. The last line of the original text stated:

"Accusations made against the President of the Republic and the Ministers, according to the Constitution".

Article 2, paragraph 1, Constitutional Law n. 1, 11 March 1953, has added to the competences listed in Article 134, "to judge if the request for a referendum presented under Article 75 of the Constitution is admissible

135. The Constitutional Court shall be composed of fifteen judges, a third nominated by the President of the Republic, a third by Parliament in joint sitting and a third by the ordinary and administrative supreme courts.

The judges of the Constitutional Court shall be chosen from among judges, including those who are retired, of the ordinary and administrative higher courts, from full university professors of law and lawyers with at least twenty years' practice.

Judges of the Constitutional Court shall be appointed for nine years, beginning in each case from the day of their swearing in, and they may not be reappointed.

At the expiry of his term the constitutional judge shall cease his appointment and the exercise of the functions thereof.

The Court shall elect from among its members, in accordance with the rules established by law, a President who shall remain in office for three years and may be re-elected, subject in all cases to the expiry of the term for constitutional judges.

The office of constitutional judge shall be incompatible with that of Member of Parliament or of a Regional Council, with the exercise of the profession of lawyer and with every other appointment and office created by law.

In proceedings to impeach the President of the Republic, in addition to the ordinary judges of the Court, there shall also be sixteen members chosen by lot from among a list of citizens having the qualification necessary for election to the Senate, which the Parliament prepares every nine years through election using the same procedures as those employed in appointing ordinary judges³⁷.

under the second paragraph of that Article”.

³⁷ Article amended by Article 2, Constitutional Law n. 1, 16 January 1989 and, previously, Article 1, Constitutional Law n. 2, 22 November 1967. The original text provided:

“The Constitutional Court shall be composed of 15 judges, a third named by the President of the Republic, a third by Parliament in joint sitting and a third by the ordinary and administrative supreme courts.

The judges of the Constitutional Court shall be chosen from among judges, including those who are retired, of the ordinary and administrative higher courts, from full university professors of law and lawyers with at least twenty years' practice.

The Court shall elect a President from among its members.

Judges are nominated for twelve years, and shall be partially renewed according to the rules established by law and are not eligible to be immediately re-elected.

136. When the Court declares the unconstitutionality of a law or enactment having the force of law, the law ceases to have effect from the day following the publication of the decision.

The decision of the Court shall be published and communicated to the Houses and to the Regional Councils concerned, so that, when they deem it necessary, they shall act in conformity with constitutional procedures³⁸.

137. A constitutional law shall establish the conditions, the forms, and the terms for challenges to constitutional validity, and the guarantees of the independence of the constitutional judges.

Ordinary laws shall establish the other provisions necessary for the establishment and functioning of the Court.

No appeals are allowed against a decision of the Constitutional Court³⁹.

SECTION II - Amendments to the Constitution. Constitutional Laws

138. Laws amending the Constitution and other constitutional laws shall be adopted by each House after two successive debates at intervals of not less than three months, and shall be approved by an absolute majority of the members of each House on the second vote.

The said laws are submitted to a popular referendum within three months of their publication, when requested by one fifth of the members of a House or five hundred thousand electors or five Regional Councils.

The office of constitutional judge shall be incompatible with that of Member of Parliament or of a Regional Council, with the exercise of the profession of a lawyer and every other appointment and office created by law.

In proceedings to impeach the President of the Republic or Ministers, in addition to the ordinary judges of the Court, sixteen members, who are elected at the opening of every joint legislative session of the Parliament from among citizens with the necessary qualification to be elected to the Senate, shall participate”.

³⁸ Article 30, Law n. 87, 11 March 1953, provides among other things that “Laws declared to be unconstitutional cease to have effect from the day after the publication of the decision.

Whenever there has been an irrevocable conviction and sentence applying laws that have been declared to be unconstitutional, enforcement and all criminal effects shall cease”.

³⁹ See Constitutional Law n. 1, 9 February 1948, and n. 1, 11 March 1953, as well as Law n. 87, 11 March 1953.

The law submitted to a referendum shall not be promulgated if it is not approved by a majority of valid votes.

A referendum shall not be held if the law has been approved in the second voting by each of the Houses by a majority of two-thirds of the members⁴⁰.

139. The Republican form of government shall not be a matter for constitutional amendment.

TRANSITIONAL AND FINAL PROVISIONS

I. Upon the entry into force of the Constitution, the Provisional Head of State shall exercise the role of President of the Republic and assume that title.

II. If on the date of the election of the President of the Republic all the Regional Councils have not yet been set up, only members of the two Houses shall participate in the election.

III. For the initial composition of the Senate of the Republic, deputies to the Constituent Assembly who possess all the requisites by law to be senators and who:

had been Presidents of the Council of Ministers or of Legislative Assemblies;

had been members of the dissolved Senate;

had been elected at least three times including to the Constituent Assembly;

had been dismissed at the sitting of the Chamber of Deputies of 9 November 1926;

had been imprisoned for not less than five years by a sentence of the special fascist tribunal for the defence of the State;

shall be appointed senators.

By decree of the President of the Republic, those who had been members of the dissolved Senate and who had been part of the National Consultation also shall be appointed senators.

The right to be appointed senator may be renounced before

⁴⁰ Constitutional Law n. 1, 6 August 1993, which creates a Parliamentary Commission for Institutional Reforms and Constitutional Law n. 1, 27 January 1997, which creates a Parliamentary Commission for Constitutional Reforms, had provided a different procedure for Constitutional review that included, among other things, an obligatory referendum for proposals approved by the Commission.

the signing of the decree of appointment. Acceptance of candidacy in political elections shall constitute renunciation of the right to be appointed senator.

IV. For the first election of the Senate, Molise shall be considered a Region in itself, having the due number of senators on the basis of its population⁴¹.

V. The provisions of Article 80 of the Constitution on the question of international treaties that involve budget expenditures or changes in the law, shall become effective as from the date of convocation of Parliament.

VI. Within five years after the Constitution has come into effect the special jurisdictional bodies still in existence shall be revised, excluding the jurisdiction of the Council of State, the Court of Accounts, and the Military Tribunals.

Within a year of the same date a law shall provide for the reorganisation of the Supreme Military Tribunal pursuant to Article 111.

VII. Until such time as the new law governing the judiciary in accordance with the Constitution shall have been issued, the provisions in force shall continue to be observed. Until such time as the Constitutional Court begins its functions, decisions on matters indicated in Article 134 shall be made according to the forms and within the limits of the provisions already in existence before the entry into force of the Constitution⁴².

VIII. Elections of the Regional Councils and the elected bodies of provincial administration shall be called within one year of the entry into force of the Constitution.

The laws of the Republic shall regulate for every branch of public administration the transfer of State functions attributed to the Regions. Until such time as the reorganisation and redistribution of the

⁴¹ See Articles 57 and 131 of the Constitution, as amended by Constitutional Law n. 3, 27 December 1963.

⁴² Article 7, Constitutional Law n. 2, 22 November 1967, repealed the last paragraph of the provisions that stated:

“The judges of the Constitutional Court named in the first composition of the Court themselves are not eligible for partial renewal and shall have a twelve year term”.

administrative functions among the local bodies has been accomplished, the Provinces and the Municipalities shall retain those functions they then exercise and any others that the Regions may delegate to them.

Laws of the Republic shall regulate the transfer to the Regions of civil servants and employees of the State, including those from central administrations, which shall be made necessary by the new provisions. In setting up their offices the Regions shall, except in cases of necessity, draw their personnel from among State local bodies' employees⁴³.

IX. Within three years of the entry into force of the Constitution, the Republic shall amend its laws to respect the requirements of local autonomy and the legislative jurisdiction attributed to the Regions⁴⁴.

X. Pursuant to Article 116, the general provisions of Title V of the Second Part of the Constitution shall be applied temporarily to the Region of Friuli-Venezia Giulia, without prejudice to the protection of linguistic minorities in accordance with Article 6.

XI. Up to five years after the entry into force of the Constitution and without the conditions imposed by the first paragraph of Article 132, additional Regions may be established by constitutional laws so as to amend the list in Article 131, without prejudice, however, to the obligation to consult the peoples concerned.

XII. It shall be forbidden to reorganise, under any form whatever, the dissolved fascist party.

Notwithstanding Article 48, the law has established, for not more than five years from the entry into force of the Constitution, temporary limitations on the right to vote and eligibility for election of the leaders responsible for the fascist regime.

XIII. The members and descendants of the House of Savoy shall not be electors and they shall not hold public office or elected offices.

The ex-kings of the House of Savoy, their consorts and their male descendants shall be forbidden access to and sojourn in the national territory.

⁴³ The term of the first paragraph was extended on 30 October 1949 by Law n. 1465, 24 December 1948 and then again on 31 December 1950 by Law n. 762, 18 October 1949.

⁴⁴ The term was extended on 31 December 1963 by the single article of Constitutional law n. 1, 18 March 1958. The Molise Region was also constituted under the same terms: Article 131 of the Constitution.

The goods existing on the national territory of the ex-kings of the House of Savoy, of their consorts and of their male descendants shall revert to the State. Transfers and the establishment of royal rights to the said goods that occurred after 2 June 1946 shall be null and void⁴⁵.

XIV. Titles of nobility shall not be recognised.

The predicates of those existing before 28 October 1922 shall serve as part of the name.

The Order of Saint Mauritius shall be preserved as a hospital corporation and shall function in the ways established by law.

The law shall regulate the suppression of the Heraldic Council.

XV. With the entry into force of the Constitution, the legislative decree of the Lieutenant of the Realm No. 151 of 25 June 1944 on the provisional organisation of the State shall pass into law⁴⁶.

XVI. Within one year of the entry into force of the Constitution, the revision and coordination of the existing constitutional laws that had not at that moment been explicitly or implicitly abrogated shall be undertaken.

XVII. The Constituent Assembly shall be asked by its President to decide, before 31 January 1948 on a law for the election of the Senate of the Republic, on the special regional statutes and on the law governing the press.

Until the day of the election of the new Houses, the Constituent Assembly may be asked, when it is necessary, to decide on matters attributed to its jurisdiction by Article 2, paragraphs one and two, and Article 3, paragraphs one and two, of legislative decree No. 98 of 16 March 1946.

⁴⁵ The first two paragraphs of provision XIII ceased having effect as of 10 November 2002, the date that Constitutional Law n. 1, 23 October 2002 came into force.

⁴⁶ Article 1 of the cited legislative decree provided:

“After the liberation of the National territory, the institutional forms shall be chosen by the Italian population, which shall elect for this purpose, with direct, secret, universal suffrage, a Constituent Assembly to deliberate upon a new Constitution for the State. Its forms and procedures shall be established through subsequent provisions”.

At that time the permanent committees shall maintain their functions. Legislative committees shall send back to the Government those bills sent to them, with their observations and proposals for amendments.

Deputies may present questions to the Government with a request for written answers.

Pursuant to the second paragraph of this Article, the Constituent Assembly, shall be asked to by its President decide at the request, with stated reasons, of the Government or of at least two hundred deputies.

XVIII. The present Constitution shall be promulgated by the Provisional Head of State within five days of its approval by the Constituent Assembly and shall come into force on 1 January 1948.

The Text of the Constitution shall be deposited in the town hall of every Municipality of the Republic and there made available, for the whole of 1948, so as to allow every citizen to know of it.

The Constitution, bearing the seal of the State, shall be included in the Official Records of the laws and decrees of the Republic.

The Constitution must be faithfully observed as the fundamental law of the Republic by all citizens and bodies of the State.

Given in Rome this 27th Day of December 1947

ENRICO DE NICOLA

countersigned

President
of the Constituent Assembly
UMBERTO TERRACINI

President
of the Council of Ministers
ALCIDE DE GASPERI

Visaed: Keeper of the Seal
GIUSEPPE GRASSI