

The constitutional and political impact of party funding regulation in Italy *

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1. Introduction

The Article 49 of the Italian Constitution¹ does not mention the fundamental issue of the party financing at all. It merely provides that «citizens have the right to freely associate in parties to contribute to determining through democratic method national policies». During the Republican era party funding has been regulated in very different ways, so that it is very hard to grasp an “Italian model”.

After the Second World War, the parties engaged in the Resistance period laid down the basis for a political pluralism with a very huge legitimation. Despite the minimal regulation, the Italian

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¹ On article 49 of the Italian Constitution and on parties in general, *ex multis*: P. Ridola *Partiti politici*, in *Enc. dir.*, Milano, 1982, p. 66 ff.; A. Predieri, *I partiti politici*, in P. Calamandrei, A. Levi (eds.), *Commentario sistematico alla Costituzione italiana*, Firenze 1950, 201 ff.; S. Bartole, *Partiti politici*, in *Dig. Disc. Pubb.*, Torino 2000, p. 719 ff.; G. Pasquino, *Art. 49*, in G. Branca, A. Pizzorusso (eds.), *Commentario della Costituzione*, Bologna 1992, 7 ff.; G. Rizzoni, *Art. 49*, in R. Bifulco, A. Celotto, M. Olivetti (eds.), *Commentario alla Costituzione*, I, Torino 2006, p. 981.

Constitution is party-centred. According to Mortati, the “Stato dei partiti” results from a balance between different political actors representing politically active citizens².

An inquiry into the evolution of party funding regulation from the constitutional perspective calls therefore for the analysis of the broadest topic of political representation. The adoption of a certain funding system remarks an ideological choice, involving not only the concrete ways in which parties guarantee their survival, but also their constitutional role as organs of political mediation.

Beside this, one can see a strong relationship between party financing and party organizational development. Parties have become over time even more complex machineries designed to represent contrasting and different interests. On the one hand, public financing helps levelling the ground for party electoral competition, whereas on the other it leads to the erosion of party linkage with society³. In Italy public party funding was introduced in the '70s, when parties were the main actors in the political arena. After a nationwide judicial investigation towards political corruption in the '90s, a referendum to abolish public financing was made, but parties continued receiving public resources. The impact of political finance scandals on public opinion is a well-known problem for contemporary democracies, because it undermines the legitimacy of political parties and the democratic process itself. The media frenzy on these scandals, joined with the discontent running through the public opinion, made worse by the economic crisis, determined the Government to completely

² C. Mortati, *La Costituente*, in Id., *Studi sul potere costituente e sulla riforma costituzionale dello Stato*, Milano 1972, p. 297. See also Id., *La costituzione in senso materiale* (1940), Milano 1998; Id., *Concetto e funzione dei partiti politici in Quaderni di Ricerca*, 1, 1949; Id., *Disciplina dei partiti politici nella Costituzione italiana*, in *Cronache sociali*, 1950, n. 2, p. 25 ff.; Id., *Note introduttive a uno studio sui partiti politici nell'ordinamento italiano*, in *Scritti in memoria di V. E. Orlando*, II, Padova 1957, p. 114 ff.

³ For a comparative analysis, cf. I. van Biezen, P. Kropecky, *The Paradox of Party Funding*, in S. E. Scarrow, P. Webb, T. Poguntke (eds.), *Organizing Political Parties. Representation, Participation and Power*, Oxford 2017, p. 85 ff. On the other side, some scholars think that there is not a direct relationship between public funding and distrust in political parties. Cf. recently M. Koß, *Die beste aller schlechten Lösungen. Plädoyer für eine Ausweitung der staatlichen Parteienfinanzierung*, in *Der Staat*, 57 (2018), p. 387 ff.

abolish public financing in 2013. The Italian party system moved thus from a legal framework based on massive injection of public money to a legal framework currently based only on indirect financing. After the 2018 elections the Parliament approved lastly the so called “anti-corruption law”, that provides some non-criminal dispositions concerning political parties, movements and foundations.

Every attempt in reforming the regulation at stake is an effort to stem an emergency⁴ and it is more and more hard to see behind the current regulation a clear and comprehensible intent. Party funding regulation appears as a political tool to recover the citizens’ confidence and build a responsive relationship, but the complete abolition of public financing has not resolved the issues of transparency, internal democracy and accountability of political parties. In almost all of the western democracies one can find different forms of state contributions to political movements and associations and the EU Reg. 1141/2014 (recently modified by Reg. 2018/673) similarly provides for European political parties⁵.

2. “The golden age” of the public financing of political parties

Public funding of political parties was introduced in the ‘70s in a “moralizing atmosphere”. In the previous system many types of private funding were admitted and parties received «corrupt funding of a routinized and institutionalized nature»⁶. The law n° 195 of 2

⁴ It is an aspect that characterizes many fields of the Italian legislation. E.g. see E. Longo, *La legge precaria. Le trasformazioni della funzione legislativa nell’età dell’accelerazione*, Torino 2017.

⁵ On European Political Parties, *ex multis* see T. Koch, *Das neue Recht der europäischen Parteien in MIP – Zeitschrift für Parteienwissenschaften*, 2018 (24), p. 71 ff.; F. Saitto, *European political parties and European public space from the Maastricht Treaty to the Reg. No. 1141/2014*, in *Rivista di Diritti Comparati*, n. 2/2017, p. 23 ff.; G. Grasso, *Partiti politici europei e disciplina costituzionale nazionale*, in *Nomos. Le attualità nel diritto*, n. 1/2017; G. Grasso, G. Tiberi, *Il finanziamento dei partiti politici europei*, in F. Biondi, G. Tarli Barbieri (eds.), *Il finanziamento della politica*, Napoli 2016, p. 433 ff.

⁶ J. Newell, *Party Finance and Corruption: Italy*, in R. Williams (ed.), *Party Finance and Political Corruption*, Houndmills 2000, p. 61.

May 1974 on “State Contributions to the Financing of Political Parties” was adopted after a decennial debate in order to discourage illicit financing or contributions coming from lobbies⁷. The law provided a reimbursement of the expenditures for elections to the two Chambers of Parliament and subventions to support party organizational activities. In this period, despite the first signals of crisis started coming out after the “oil scandal”, the political legitimacy of parties is still strong. Up to the late ‘70s, parties were not worried because of the erosion of voter loyalties⁸.

The period known as “Prima Repubblica” can be divided in two phases: during the first period (1943 – 1968) parties are regarded as founders of the rising Italian Republic, while in the second (1968 – 1992) they are perceived as omnipresent actors of public life¹⁰. Parties were involved since 1943 in collective historical events and filled the institutional void left after the collapse of Fascist regime. In addition to this, the Italian State suffered from low levels of legitimacy because of the deep economic and cultural diversity of the population and the aversion of the Catholic Church to unification. These elements have failed to create a strong national ideology and caused an endemic lack of political participation of Italian citizens in the post- unification period¹¹. National mass political parties, that had a high level of

⁷ F. Biondi, *Finanziamento pubblico e regolazione giuridica dei partiti politici dopo il decreto – legge n. 149 del 2013*, in F. Biondi, G. Tarli Barbieri (eds.), *Il finanziamento della politica*, Napoli 2016, p. 13 – 15. J. Newell, *op. cit.*, p. 70 – 72.

⁸ L. Bardi, *Party Responses to Electoral Dealignment in Italy*, in P. Mair, W. C. Muller, F. Plasser (eds.), *Political Parties and Electoral Change*, Thousand Oaks (CA), 2004, p. 111.

⁹ “Prima” and “Seconda Repubblica” are categories commonly accepted to identify historical periods characterized by a certain political asset, but they do not have a constitutional connotation, as it happens in France. The legal value of such categories is explicitly denied by some scholars, like T. Martines, *Diritto costituzionale. Appendice (a futura memoria) all’ottava edizione*, Milano 1994.

¹⁰ O. Massari, *La parabola dei partiti in Italia: da costruttori a problema della democrazia*, in *Democrazia e diritto*, 3, 2009, p. 19 ff.; G. Pasquino, *Degenerazione dei partiti e riforme istituzionali*, Roma – Bari 1982. For a recent historical analysis of the vicissitudes of the “Prima Repubblica”, see G. Bedeschi, *La Prima Repubblica (1946 – 1993). Storia di una democrazia difficile*, Soveria Mannelli 2013.

¹¹ J. Newell, *op. cit.*, p. 63 – 64. The development of parties during the post – unification period has been very slow. At this regard, *ex multis*: A. Scialoja, *Della*

“moral legitimacy”, gained a very wide membership after the Second World War¹². They were marked by a strong internal structure. Despite of this, the highly polarized multiparty system¹³ prevented the physiological functioning of parliamentary democracy, because of the exclusion from office (*conventio ad excludendum*) of the main party of opposition (the Communist party, PCI) and the permanence at the head of unstable government coalitions of Christian-democrats (DC). In order to maintain a democratic balance, parties pursued a politics of «mediation»¹⁴, that led in the long run to a persisting government instability, making it difficult to take programmatic decisions¹⁵.

In this context, the law n°195/74, called “legge Piccoli”, was adopted with a very large majority. According to some scholars the newly introduced public financing regulation represented a partial execution of the art. 49 of the Constitution¹⁶, making parties self-sufficient and independent from external influences. But some others do not recognize a positive impact of direct state funding on the prevention of unlawful forms of financing¹⁷. “Legge Piccoli” dealt with a mixed form of financing, regulating private subsidies¹⁸ and introducing state financing. The latter reshaped political parties, that in that way became less interested in the traditional sources of private

mancanza dei veri partiti politici in Italia e del come potrebbero sorgere, in Nuova Antologia, XIII (1870), 1, p. 54 – 88.

¹²F. Bourricaud, *Partitocrazia: consolidamento o rottura?*, in F. Cavazza, R. S. Graubard (eds.), *Il caso italiano*, Milano 1974, p. 81 ff. The A. highlights that the growth of political membership subsequent to the Resistance turned parties in mass-based organizations enrolling between them by 1947 over 3 million members.

¹³G. Sartori, *Teoria dei partiti e caso italiano*, Milano 1982.

¹⁴O. Massari, *op. cit.*, p. 26.

¹⁵L. Bardi, *op. cit.*, p. 111. Before 1994, the Italian party system was very fragmented, with at least 8 national parliamentary parties at any given time, but only Democrazia Cristiana, Partito Comunista Italiano, Partito Socialista Italiano and Movimento Sociale Italiano had relevant electoral support.

¹⁶E. Bettinelli, *La legge sul finanziamento pubblico dei partiti. Note critiche sui rapporti tra sistema politico e diritto dei partiti*, in *Il politico*, 1974, 640 ff.; G. Pasquino, *Art. 49*, cit.

¹⁷K. Casas-Zamora, *Paying for Democracy: Political Finance and State Funding for Parties*, Colchester 2005, p. 39.

¹⁸L. n. 195/74, art. 7.2 and 7.3.

financing¹⁹. Beside the provisions concerning direct public funding²⁰ (election reimbursements and organizational expenses)²¹, other provisions regulated the accounting of party incomes and expenditures, but they were not clear. The new law provided *de facto* «a screen behind which corrupt financing could proceed»²². So public financing added rather than substituted private unclear forms of financing and had the unintended consequence of encouraging the unauthorized use of resources and going worse rather than reduce corruption²³.

The lack of transparency and control²⁴ is linked with the phenomenon of «partitocratic degeneration»²⁵. The term *Partitocrazia* identifies a system of power relations coming from a deep enmeshment between parties, public institutions and interest groups. It happens because the State allows an overlap between the personnel of the parties, interest groups and public institutions, making it difficult to identify in which capacity individuals act. The ultimate effect of this system consists in making civil society and the State prone to party needs, rather than the contrary²⁶. Times have changed, but a continuity is to be found with the wide-spread tendency of the pre-fascist period to exert power in an informal and particularistic

¹⁹ R. S. Katz, P. Mair, *Changing Models of Party Organization and Party Democracy: the emergence of the cartel party*, in *Party Politics*, Vol. 1, 1, 1995, p. 5-31; I. van Biezen, P. Kropecky, *op.cit.*, p. 84.

²⁰ Parties received also different forms of subsidies and indirect funding, such as free radio and television broadcasting, reduced postal rates, or various types of tax exemptions.

²¹ The 75% of state subsidies is given to supply organizational expenses and the 25% of the sum is directed to electoral expenses. Subsidies for “ordinary activities” is delivered to parliamentary groups, which are obliged to transfer almost the 95% of the sum to parties (art. 3, Law n° 195/74). Electoral reimbursements are requested to the President of the Chamber of Deputies by party Secretaries.

²² M. Rhodes, *Financing party politics in Italy: a case of systemic corruption*, in *West European Politics*, 1997, p. 58.

²³ I. van Biezen, *Campaign and Party Finance*, in L. LeDuc, R.G. Niemi, P. Norris (eds.), *Comparing Democracies: Elections and Voting in Global Perspective*, London 2010, p. 65 ff.

²⁴ The Parliament exerted an internal control on party financing and Corte dei Conti (the Italian account jurisdiction) could not evaluate it.

²⁵ O. Massari, *op. cit.*, p. 25.

²⁶ L. Bardi, *op. cit.*, p. 133.

way²⁷. Party government and *partitocrazia*²⁸ are not the same thing: the former is the typical form of western democratic regimes, characterized by alternation of the ruling parties, accountability and control exerted by public opinion²⁹, the latter allows parties to accede to the key-positions of the State and to exert a remarkable influence over the reconstruction of social organizations and interest groups.

Against this background, parties became the main channels of access to bureaucracy and the privileged interlocutors to manage state resources during the post-war period. The increasing level of corruption was nurtured by the growth of informal networks and power structures within the parties³⁰. Parties were no more the link between citizens and institutions, but power structures through which individuals and interest groups sought to realize their private ambitions. In 1978 Italian citizens were called to vote on a referendum sponsored by Radicals³¹ to abolish public funding. The referendum failed, but voters expressed a strong signal of discontent towards the party apparatuses and their managing of public money³². symptomatic good example of the changed political climate is that the Italian Communist Party was on the same line of Christian-democrats in opposing abolition of public financing³³.

Corrupt party funding became 'systemic' in the '80s, despite the introduction of new rules on private contributions to parties and on

²⁷ *Ex multis* cf. G. Carocci, *Giolitti e l'età giolittiana*, Torino 1982; G. Melis, *Istituzioni liberali e sistema giolittiano*, in *Studi Storici*, 1, 1978, p. 131 ff.

²⁸ O. Massari, *ivi*.

²⁹ E. E. Schattschneider, *Party Government*, New York 1942, 1 says that «democracy is unthinkable save in terms of parties». We can find this conception also in M. Duverger, *I partiti politici* (1951), Milano 1971, p. 431; L. Elia, *Governo (forme di)*, in *Enc. dir.*, vol. XIX, Milano 1970, p. 638 and in J. Bryce, *Modern Democracies*, London 1921, p. 119.

³⁰ J. Newell, *op. cit.*, p. 69.

³¹ It could appear a paradox that the Radicals, while declaring themselves to be implacable opponents of *partitocrazia*, could sponsor an initiative designed to eliminate a system which, in theory, was aimed at combating corruption.

³² The 43,6% of the voters are favourable to the abolition of public financing. J. Newell, *op. cit.*, 75, highlights the political significance of the 1978 vote, reporting the opinion of E. Scalfari, editor of *La Repubblica*: «the vote had been for or against the political system which, for better or worse, had governed for thirty years».

³³ J. Newell, *ivi*, reports that Partito Comunista Italiano defined the referendum question as «an attack on the difficult process of democratic advance of the country».

financial accounting. Instead of listening to the requests for a reform enhancing transparency and participation³⁴, political parties in Parliament adopted a new law on party funding (law n° 659/1981)³⁵ that doubled public financing given as electoral reimbursements. So cronyism and corruption increased, until *Tangentopoli* emerged in 1992, uncovering a wide political corruption system. Traditional parties were destroyed by this scandal³⁶. After 1992, “*partitocrazia* without parties” is a widely accepted way to describe Italian political system³⁷. Parties will continue exerting their control on the government machinery but the solid organizational and ideological structure by which they were supported will be replaced by personal apparatuses, because corruption had fatally undermined the party organizational structures.

3. *The electoral reimbursements season*

In April 1993 a second referendum asking the citizens if they wanted to struck down public party financing took place³⁸. The outcome was a vote of 90.3% in favour of abolition: it was a plebiscite against the system and the members of the political ruling class, giving evidence of the lowest level of political legitimacy parties had in post-war history. But the referendum was not effective at all, because it was directed to abolish only those articles of the law 195/74 which provided for a public contribution to parties’ organizational

³⁴ Cf. E. Cheli, *Spunti per una nuova disciplina in tema di finanze dei partiti*, in *Scritti in onore di V. Crisafulli*, II, Padova 1985, p. 140 ff.

³⁵ Then modified by L. n° 413/1985.

³⁶ After the 1994 election, Partito Liberale Italiano, Partito Socialista Italiano, Partito Repubblicano Italiano, and Democrazia Cristiana were annihilated. L. Bardi, *op. cit.*, 119 observes that «it is very unlikely that without the scandals parties such as the Democrazia Cristiana or even the Partito Socialista would have collapsed as a result of just one unfavourable election».

³⁷ M. Calise, *Il partito personale. I due corpi del leader*, Roma - Bari 2010, 15.

³⁸ For a further reconstruction of the referendum vicissitudes, see A. Barbera, A. Morrone, *La Repubblica dei referendum*, Bologna 2005.

expenses³⁹. Reimbursements for parties' election campaign expenses then remained, or better still, increased.

After the overwhelming outcome of the referendum, new parties⁴⁰ or old parties with new names⁴¹ hoped in a fresh restart, adopting a new system of party financing⁴² as part of a full package of reforms⁴³, including a new electoral law⁴⁴. Public opinion was favourable to a majoritarian democracy⁴⁵ in which, through a bipolar competition, the electorate could choose a majority, a government, a head of government and a fully-fledged political program. But the voters' mobility was still very relevant. In order to gather such a molecular consensus, an unprecedented personalization of politics took place. The process of presidentialization⁴⁶ became more intense after the electoral success of Forza Italia in 1994, the "Berlusconi's party", created in a few months thanks to the financial and media resources of a *sui generis* entrepreneur. The "personal-party model" represents a challenge to the traditional representative democracy in Italy⁴⁷. This model would have soon monopolized Italian politics, but

³⁹ Artt. 3 and 9, Law n. 195/1974.

⁴⁰ Lega Nord (1992), Forza Italia (1994) and the confederation of parties Margherita (2001).

⁴¹ In 1991 Partito Comunista Italiano dissolved itself and gave origin to Partito Democratico della Sinistra.

⁴² Law n° 515/1993.

⁴³ The regulation on party financing is part of the so called "contour electoral legislation", cf. F. Clementi, *Prime considerazioni intorno ad una legge di disciplina dei partiti politici*, www.federalismi.it, n. 6/2015.

⁴⁴ Law n. 276 and 277/1993. The 1993 electoral laws introduced a mixed but substantially majoritarian model (75% of the seats was assigned according to the majoritarian rule, while only the 25% was assigned according to the proportional rule). *Ex multis*, cf. A. Barbera, *Transizione alla democrazia maggioritaria? Riflessioni in due puntate*, in *Quaderni costituzionali*, n. 3/1994; G.U. Rescigno, *Democrazia e principio maggioritario*, in *Quaderni costituzionali*, n. 2/1994.

⁴⁵ Cf. M. D. Poli, *Der Wandel der politischen Parteien in Italien*, in *ZParl - Zeitschrift für Parlamentsfragen*, 47 (2016), p. 800 ff.

⁴⁶ M. Calise, *Presidentialization, Italian Style* in T. Poguntke – P. Webb (eds.), *The Presidentialization of Politics. A Comparative Study of Modern Democracies*, New York 2005, p. 105 – 124. However, a correlative presidentialization in the organization of political parties cannot be recognized, cf. O. Massari, *The Absence of Party Presidentialization in Italy*, in G. Passarelli (ed.) *The Presidentialization of Political Parties*, London 2015, p. 241 – 260.

⁴⁷ M. Calise, *op. cit.*, p. 19.

the outcomes have not been homogeneous. While in some cases the figure of a strong, recognizable leader was likely to increase responsiveness to public opinion in a majoritarian context, in other cases the personalization led to the fragmentation of parties (especially the left-wing oriented) in factions. The new conditions caused organizational changes, linked with the development of a two-level party system: individual parties need lighter and more flexible organizations in order to adapt themselves to the building of coalitions⁴⁸.

The law n° 515 of 10 December 1993 modified the system of reimbursement of electoral expenditures in order to take account of the new legal framework created by the new electoral law. Public contributions are given to parties *sub forma* of electoral reimbursements, until the lawmaker intervened in 1997⁴⁹, regulating the financing of parties' organizations too. The legal framework of party financing was then modified in 1999, 2002 and 2006⁵⁰, providing increasing generous reimbursements, non-selective criteria for the allocation of funds and an extension of the range of beneficiaries⁵¹. The critical issues of party financing were clear to public opinion, but the referendum promoted by Radicals to abolish the Law n. 157/1999 that took place in May of 2000 failed because of a too weak participation⁵². It was a symptom of resignation toward a situation perceived as pathological but unchangeable. In 2005 the Parliament adopted a new electoral law⁵³. Law n° 270 emphasized the struggle

⁴⁸ L. Bardi, *op. cit.*, p. 135.

⁴⁹ Law n° 2 /1997. For an overview on the historical - chronological vicissitudes of the party funding regulation: P. Ridola, *Parteienfinanzierung in Italien*, in *Parteienfinanzierung im internationalen Vergleich*, Mainz – Hechtsheim 2000, p. 23 ff.; M. Rubechi, *Il finanziamento pubblico ai partiti e la sua trasparenza: profili storico-evolutivi*, in *Giornale di Storia costituzionale*, n. 31, I, 2016, p. 125 ff.

⁵⁰ Law n° 157/1999; Law n° 156/2002; Law n° 51/2006.

⁵¹ The most “scandalous” provision concerned the so called “multiple reimbursement”, according to which parties would have the right to receive a second reimbursement in the case of premature ending of the legislature. For further details on the laws on party financing adopted between 1999 and 2006, see F. Sgrò, *Le sovvenzioni all'attività politica tra azzeramento della contribuzione pubblica e sostegno economico alle fondazioni politiche*, www.federalismi.it, 09.05.2018, p. 16.

⁵² Only the 32,2% of the population voted.

⁵³ Law n° 270/2005, named as “Porcellum” by G. Sartori.

between coalitions and highlighted the difficulties the single parties had to organize themselves according to a majoritarian mechanism. The law n°270 was deemed to violate the principle of fair political representation and the Constitutional court declared it void in 2014⁵⁴. This is an unprecedented decision: the Constitutional court had never admitted before an *incidenter* proceeding questioning the constitutional legitimacy of an electoral law.

This has been a further step toward the complete realization of a pyramidal structure in party organizations. Party membership was very low, abstention from voting rose to a very high level⁵⁵ and people felt disconnected from their representatives, now conceived as a “caste”⁵⁶. Parliament turns into a “tuna can” that needs to be opened, as one of the mottos of the leader of the Movimento Cinque Stelle⁵⁷ says.

In 2011, when Italy was sinking in debt crisis, the Prime Minister Berlusconi resigned after the Parliament approved austerity measures required by the European Union. In that way the Presidente del Consiglio paved the way to the installation of a technical government called to adopt measures reducing public debt and increasing growth. Almost all political parties, with the exception of Lega Nord, a member of the center-right coalition that since its foundation has exploited the ability to channel long-repressed popular dissatisfaction, have said they would support the new PM Monti, an economist and former member of the European Commission.

In these times of political uncertainty and economic austerity a partial reform of party financing took shape in 2012. The Law n° 96

⁵⁴ Corte cost., sent. n° 1/2014.

⁵⁵ L. Bardi, *op. cit.*, p. 116 ff.

⁵⁶ S. Rizzo, G.A. Stella, *La casta. Così i politici italiani sono diventati intoccabili*, Milano 2007. The term is used with a different connotation from the '70s and highlights the nexus between corruption and the failing of a model of politics. Written by two journalists of *Corriere della Sera*, the book had a great impact on public opinion.

⁵⁷ Cf. J. Iacoboni, *L'esperimento. Inchiesta sul Movimento 5 Stelle*, Roma-Bari 2018. M5S political proposal is inspired by the principles of direct democracy, in order to by-pass political parties through the internet. M5S presented itself as a radically new subject, not a party but a “movement”, apparently without a recognizable social basis, whose transversal success came from the radical opposition to all previous political and organizational forms.

diminished the amount of public financing and changed the system of contribution⁵⁸: the 70% of the sum was given both as a reimbursement for the expenditures of the electoral campaign and for the organizational expenses, while the remaining 30% was related to the self-financing capacity and allocated proportionally to membership fees⁵⁹ and private donations⁶⁰. While in the previous situation financing relied basically on electoral consensus, now it rewards the ability in collecting private funding and new partisans.

A comparative study, focused on various European countries, shows that parties in the late '80s received almost 30% of their incomes from membership fees. After thirty years this percentage has nearly halved: the relevance of the membership fees has gone down, on average by 13%, while the relevance of state subsidies has grown at 22,2%⁶¹. Thus, in Italy, both the share of membership fees and of state subsidies has decreased. While in all other countries the amount of public money injected into the system has grown, Italy has been the only country that has shown a decrease⁶².

4. *“The final cut”: the complete abolition of the direct public funding*

⁵⁸ L. n° 96/2012, art. 2.

⁵⁹ Giving state contribution correspondingly to membership fees means rewarding the representative potential of a party.

⁶⁰ This reform is inspired to the German model of party financing. There are several previous Italian studies comparing the two systems. Cf. C. Pinelli, *Prefazione agli Atti del Convegno su “Elezioni e finanziamento dei partiti: il sistema italiano e quello tedesco”*, in *Quaderni del Circolo Rosselli*, n. 2/1985; A. Somma, *Circolazione dei modelli superati: il legislatore italiano ed il sistema tedesco di finanziamento della politica*, in *Quad. cost.*, 1993, p. 623 ff.; C. Panara, *Il rapporto tra il finanziamento pubblico dei partiti politici ed il principio di eguaglianza delle chances: i casi tedesco ed italiano*, in *Dir. pubb. Comp. ed europeo*, 2006, p. 181 ff.; I. Pellizzone, *Il finanziamento della politica in Germania*, in F. Biondi, G. Tarli Barbieri (eds.), *op. cit.*, p. 365 – 386; G. Repetto, *Appendice normativa*, in R. Salari, *Quali regole per i partiti politici? Esperienze europee a confronto*, Soveria Mannelli 2008. The new system was adopted coherently with the *Nota sul finanziamento della politica* written in 2012 by G. Amato, http://www.camera.it/temiap/XVI_0437.pdf

⁶¹ I. van Biezen, P. Kopecky, *op. cit.*, p. 88

⁶² Ivi, p. 89 – 90.

The report realized by the *Groupe d'Etats contre la corruption*⁶³ in 2012 contained some recommendations addressed to Italy in order to prevent corruption and abuses of state resources. These phenomena did not decrease, despite the enactment of law n° 96. The media relevance of new abuses committed by politicians from all political areas exacerbated the public opinion's aversion towards public financing of politics. After the installation of a new Prime Minister⁶⁴, Letta, the Government adopted in a very short time the decree-law⁶⁵ n. 149/2013, that completely abolished public financing⁶⁶.

So Italy moved suddenly from a massive State-funded political system to a substantially privately-funded one. Electoral reimbursements were indeed completely abolished since 2017. During the period 2013-2017, the lawmaker established a transitional regime that enabled parties to benefit public funding in a decreasing percentage⁶⁷.

One of the forms of financing replacing state funds deals with a mechanism called "due per mille", according to which Italian taxpayers can choose to devolve a two per thousand from their annual income tax return to political parties.

⁶³ GRECO evaluation report on Italy, Strasbourg, 23.03.2012. Italian version available at www.anticorruzione.eu

⁶⁴ M. Revelli, *op. cit.* After the adoption of the "legge di stabilità", Monti resigned without a vote of no confidence. Then the President of the Republic dissolved the Parliament and held consultations.

⁶⁵ Many scholars are critical towards the use of the decree – law, "decreto – legge", as normative tool to regulate party financing. See R. Calvano, *La disciplina del finanziamento dei partiti, caso straordinario di necessità e urgenza?*, in Id.(ed.), «Legislazione governativa d'urgenza» e crisi. Atti del I Seminario di studi di diritto costituzionale Unitelma Sapienza, Napoli 2015, p. 43 ff.; F. Biondi, *Riflessioni sull'uso del decreto-legge come "disegno di legge rinforzato" (a partire dalla vicenda del decreto-legge n. 149 del 2013, in tema di riforma del sistema di finanziamento dei partiti politici)*, in R. Calvano (ed.), *op. cit.*, p. 73 ff.; A. Saitta, *Sulla straordinaria necessità e urgenza di abolire il finanziamento pubblico dei partiti*, in *forumcostituzionale.it*, 17.12.2013.

⁶⁶ The only European countries in which any form of direct public funding is not allowed are Malta and Switzerland.

⁶⁷ D. L. n°149/2013, art. 14, co. 1-3. Political parties continue receiving state subsidies until 2016. In 2014 there is a reduction of the amount of state financing received in 2013 of 25%; in 2015 a reduction of 50%; in 2016 a reduction of 75%.

The second form relies on individual donations⁶⁸. Citizens that donate up to 30.000 euros to political parties can deduce 26% of the donation as tax credit, but they cannot donate more than 100.000 euros⁶⁹. Contribution limits are directed to prevent that economic inequality would determine political inequality, avoiding financial disparities between parties. Financial exchange relationships between parties and candidates and private individuals or groups could set the conditions for a conflict of interest. So the recipient may prioritize the interests of its donors, prevailing on general interest. Private donations can thus generate suspicions of vote buying and trading influence. Some restrictions are generally applied to corporate donations, trying to prevent a “plutocratic shift” of democracy. A clear regulation aimed at preventing undue influences into politics and conflict of interests is yet to be adopted. Improving transparency could be an answer, but without an effective enforcement, the newly introduced rules could be easily circumvented.

Parties have to be enrolled in the “Register of political parties” established by the decree-law. It can be considered as a disposition directed to enhance transparency and a partial execution of the art. 49 of the Constitution. Combining the articles 1, 2, 18 and 49 of the Constitution, political parties enable citizens to take part to the political process, «contribut(ing) to determining through democratic method⁷⁰ national policies».

⁶⁸ D. l. n°149/2013, art. 11.

⁶⁹ Cf. R. Dickmann, *La contribuzione su base volontaria ai partiti politici prevista dal decreto legge n. 149 del 2013. Molte novità ed alcuni dubbi di costituzionalità*, in www.federalismi.it, 05.03.2014

⁷⁰ The expression “democratic method” has been interpreted in different ways. The traditional theories, that cannot be analysed here, rely on the conceptions of “democracy as a method or procedure” and “democracy as social status”. Anyways, the democratic method imply that parties could not subvert the constitutional order; they have to shape their internal structure according to democratic and transparent procedures (on internal democracy see *infra*, nt. 71) and then respect political, ideological and cultural pluralism. Cf. P. Ridola, *Partiti politici*, cit.; Id. *Democrazia pluralistica e libertà associative*, Milano 1987; Id. *Le regole costituzionali del pluralismo politico e le prospettive del diritto dei partiti*, in *Giur. Cost.*, 1993, p. 2996 ff.; A. Pace, *Problematica delle libertà costituzionali. Lezioni. Parte speciale*, Padova 1992, p. 339 ff.

During the years, many legislative proposals were made to regulate parties⁷¹, but they were unsuccessful: parties remained in the private law category of “not recognized associations”. According to the decree n. 149, political parties, movements, organized political groups who have presented candidates under their symbol and parliamentary groups who are enrolled in the Register fall within the definition of political parties. The enrollment of the parties in the two-sectioned Register depends on the successful control of political party statutes, provided by an oversight organ called *Commissione di garanzia degli statuti e per la trasparenza e il controllo dei rendiconti dei partiti politici*. It is composed by five judges appointed by the Presidents of Corte di Cassazione, Consiglio di Stato and Corte dei Conti. The *Commissione* was established in 2012⁷² in order to control balance sheets submitted by political parties. Since 2013 the overseeing functions are extended to political party statutes⁷³. The successful control enables parties to be enrolled in the second section of the Register and benefit the “due per mille” devolutions⁷⁴. In 2018 the overseeing organ adopted some guidelines for parties⁷⁵ to submit their statutes. After a brief overview of the legal framework, the Commission dedicates a specific paragraph to explain the necessary requirements to be enrolled in the “National Register of political parties” and then specifies the whole procedure of enrollment, the

⁷¹ Cf. Servizio Studi – Camera dei deputati, *Attuazione dell'articolo 49 Cost. in materia di disciplina dei partiti politici*, Documentazione per l'esame di progetti di legge, n. 398/2, 16.03.2016, www.camera.it; G. Amato, *Nota su una legge sui partiti in attuazione dell'art. 49 della Costituzione*, http://www.camera.it/temiap/XVI_0438.pdf; E. Gianfrancesco, *I partiti politici e l'art. 49 della Costituzione*, in *Forum di Quaderni Costituzionali*, 30.10.2017.

⁷²L. n. 96/2012, art. 9, co. 3.

⁷³ The «Commissione» was not able to comply with its task until 2015, as more resources were allocated for its proper functioning. The *Commissione* has not enough resources still today. It has only 9 employees and has no own budget. For a further analysis of these issues, see A. Cardone, *Il controllo sui bilanci dei partiti «registrati» tra «delusioni» della prassi e riforme che si susseguono*, in F. Biondi, G. Tarli Barbieri, *op.cit.*, p. 73 ff.

⁷⁴ For a further inquiry, see G. Maestri, *Simboli dei partiti, controllo degli statuti e registrazione: gli effetti delle nuove norme sul finanziamento*, in www.federalismi.it, 05.03.2014.

⁷⁵ Deliberazione 12 febbraio 2018, n.1, *Linee guida per la redazione degli statuti dei partiti e dei movimenti politici*, available at www.parlamento.it

essential elements of the statute, the reviewing procedure for an already approved statute. These guidelines (*Linee Guida*) add further elements to what the d.l. 149/2013 provided on the essential elements of statutes, and at this respect they can be considered as *praeter legem* dispositions. Party statutes have to contain a minimum set of guarantees concerning internal organization, rights and duties of the members, access to the offices, gender equality and resources assignments, with the aim of enhancing transparency and internal democracy⁷⁶. This operation is directed not only to improve transparency (these documents were once inaccessible to public opinion), but also internal democratic organization of parties and political accountability. The new political finance regime introduced stricter requirements for disclosure of financial accounts and monitoring by a specially designated body. But an effective system of enforcement demands effective sanctions which impose penalties on violations of the legal rules.

Despite the efforts in transforming parties in glass houses, the citizens have not yet recovered their confidence towards politics. Looking at the period between 2013 and 2017, it can be seen a decrease in party incomes up to 60%⁷⁷, demonstrating the low level of “due per mille” devolutions and the incapacity in attracting private donations. The case of Partito Democratico is a good example of the difficulties that “traditional” parties had in managing the new introduced ways of financing⁷⁸. Coherently with the general

⁷⁶ The issue of internal democracy of political parties has been widely discussed by Italian legal scholars. *Ex multis*, cf. C. Pinelli, *Discipline e controlli sulla “democrazia interna” dei partiti*, Padova 1984; Id. *Il punto su disciplina e finanziamento dei partiti*, in *Diritto pubblico*, 2000; S. Merlini, *I partiti politici, il metodo democratico e la politica nazionale*, in *Annuario AIC 2008*, Napoli 2009, p. 51 ff.; Id. (ed.), *La democrazia dei partiti e la democrazia nei partiti*, Firenze, 2009; F. Scuto, *La democrazia interna dei partiti: profili costituzionali di una transizione*, Torino 2017; M. R. Allegri, *Principi democratici negli statuti dei partiti politici. Trasparenza e controllo*, in D. R. Piccio, (ed.), *Il finanziamento alla politica in Italia. Dal passato alle prospettive future*, Roma 2018.

⁷⁷ Cf. Openpolis, *Partiti in crisi*, ed.2018, www.openpolis.it.

⁷⁸ Cf. *I partiti italiani sono rimasti senza soldi. Un rapporto*, www.agi.it/politica/partiti_senza_soldi_finanziamenti-4187552/news/2018-07-23/. In 2013 the PD balance sheets reported 37,6 million euros of income (24,7 million were constituted by electoral reimbursements), that in 2017 decreased to 17,7 million (-

European trend, “new parties” seem more able to raise money from private donations than the “old ones”⁷⁹.

The newly introduced forms of financing are very far from covering the monetary requirements for party activities. This is not the only critical point: tax benefits on donations is extended to those that are not really voluntary, like the sums that MPs are statutory obliged to devolve to their party once elected. And then, even if political parties received a decreasing sum of public contributions since 2012, parliamentary groups continued (and still continue) to get very conspicuous subsidies from the budget of both Chambers, quantifiable in 52 million Euros, almost the triple of the incomes obtained through the “due per mille” devolutions⁸⁰. This is a relic of that public financing that the entire political class was so impatient to abolish.

Parliamentary groups financing is provided by the Regulations of Camera and Senato, implying that the rules concerning balance sheets and publicity requirements are not the same adopted for political parties⁸¹. The 2012 reform of parliamentary Regulations introduced some new dispositions impacting on the relations between groups and parties to enhance transparency. In the Regulation of Camera of 2012 it is provided that parliamentary groups, defined for the first time as “associations of deputies⁸²”, have to adopt a statute before the thirtieth day from their constitution⁸³. The introduction of the statute as mandatory element integrating the parliamentary groups’ regular constitution and functioning created an area of self-

53%). The “due per mille” devolutions amounted only to 8 million (1/3 of the electoral reimbursements perceived in 2013).

⁷⁹ I. van Biezen, P. Kopecky, *op. cit.*, p. 92.

⁸⁰ Cf. Openpolis, *Partiti in crisi*, ed. 2018, www.openpolis.it

⁸¹ Cf. T. F. Giupponi, *Finanziamento dei gruppi parlamentari, autonomia contabile e regime dei controlli interni nella riforma dei Regolamenti di Camera e Senato*, in F. Biondi, G. Tarli Barbieri (eds.), *cit.*, p. 275 – 299; L. Bardi, E. Calossi, E. Pizzimenti, *Which face comes first? The Ascendancy of the Party in Public Office*, in S. E. Scarrow, P. Webb, T. Poguntke (eds.), *cit.*, 69; L. Bartolucci, *I gruppi parlamentari nella XVII legislatura: cause e conseguenze della loro moltiplicazione*, in *Osservatorio sulle fonti*, 2, 2018; A. Ciancio, *I gruppi parlamentari. Studio intorno a una manifestazione del pluralismo politico*, Milano 2008.

⁸² Reg. Camera, art. 14, co. 1.

⁸³ Reg. Camera, art. 15, co. 2 – bis and 2 – ter.

regulation within which it could be possible to adopt different provisions from those contained in political parties' statutes⁸⁴. On the other side the Regulation of Senato did not give a definition of parliamentary group and did not prescribe to adopt a statute, but a regulation⁸⁵. Furthermore, the Regulations of both Houses prescribe that the state financing perceived by the groups must be exploited to realize institutional functions⁸⁶, even if related extra-parliamentary activities are not radically excluded⁸⁷.

Another relevant lack of transparency affects political foundations. They need an autonomous regulation, but they are still classified as "cultural foundations"⁸⁸. Their tasks are progressively increased: many assignments once properly absolved by parties are now delegated to foundations, standing the contraction of party incomes. The recently introduced "Third sector Code⁸⁹" is not still sufficiently clear in regulating the phenomenon⁹⁰. The new party financing rules determined an increase of new born political foundations. They were traditionally involved in political education, policy development, study and research activities, but in some cases they became tools through which politicians could raise money without complying with transparency requirements or contribution limitations and the principle of connection between parties and foundations is merely formalistic⁹¹.

This brief overview shows that the extreme resolution to abolish public financing has been clearly adopted in order to redeem the

⁸⁴ T. F. Giupponi, *op. cit.*, 279 and bibliography ivi cited.

⁸⁵ Reg. Senato, art. 15, co. 3 – bis and 3 – ter.

⁸⁶ Reg. Camera, art 15, co.4; Reg. Senato, art. 16, co. 2.

⁸⁷ T. F. Giupponi, *op. cit.*, 279 - 280, 282.

⁸⁸ C. Martinelli, G. E. Vigevani, *Il finanziamento delle associazioni e delle fondazioni politiche*, in F. Biondi, G. Tarli Barbieri (eds.), *cit.*, p. 203 – 216; S. Amorosino, *I soggetti del settore culturale. Le fondazioni culturali "di origine" o "a vocazione" politica*, in www.aedon.mulino.it, n.3/2010; M. Demarie, *Le fondazioni culturali in Italia, profili organizzativi*, in AA. VV. *Il problema delle fondazioni*, Roma 2004.

⁸⁹ D. lgs. n. 117/2017.

⁹⁰ For a further inquiry on the "Third Sector Code", see F. Sgrò, *cit.*, p. 30 ff.

⁹¹ Only 109 of the 121 political foundations listed have a website and only 19 publish regularly their balance sheets. Cf. Openpolis, *Cogito ergo sum. Think tank, fondazioni e associazioni politiche in Italia*, ed. 2018, www.openpolis.it

entire political establishment and stop the rising consensus of anti-political movements. The new discipline is affected by many grey zones, that do not allow to consider the decree law number 149 as an overall reform⁹².

5. Recent legislative innovations

The populist majority of a newly elected Parliament has recently approved the so called “anti – corruption law”⁹³, an inhomogeneous law that adds some non-criminal dispositions concerning political parties, movements and foundations⁹⁴. A closer look at these dispositions gives the idea that a new conception of political parties is emerging: the fact that dispositions on political parties are contained in a law concerning corruption in public administration assumes that they are ontologically corrupt. The measures introduced by the decree n. 149 were directed to enhance transparency and responsiveness in order to regain citizens’ trust and generate an increase of private donations and “due per mille” devolutions. The abolition of public funding has been adopted in the same “moralizing perspective” that supported its introduction in the ’70s, representing a sort of Dantesque “contrappasso”.

⁹² The last GRECO Report *Third Evaluation Round Addendum to the Second Compliance Report*, <https://rm.coe.int/third-evaluation-round-addendum-to-the-second-compliance-report-on-ita/16808b7947>, 22.06.2018 highlights that many of the 2012 recommendations have been «implemented satisfactorily», but many critical points still subsist. See M.C. Ubiali, *La disciplina italiana in materia di corruzione nell'ultimo rapporto del GRECO: tra le criticità, la corruzione degli arbitri, la corruzione internazionale, il finanziamento dei partiti*, in www.penalecontemporaneo.it, 10.07.2018.

⁹³ L. n°3/2019. Cfr. R. Orlandi, R. Seminara (eds.), *Una nuova legge contro la corruzione*, Torino 2019.

⁹⁴ L. n°3/2019, art. 1, co. 11 – 28. Some dispositions contained in the anti – corruption law concerning transparency requirements for parties, movements and committees has been amended by the d.l. 34/2019, “decreto crescita”, (see art. 43, co. 1-4) converted by L. n° 58/2019.

The new stricter regime provides more incisive dispositions concerning transparency⁹⁵. Parties, movements and candidates for mayor in municipalities with more than fifteen thousand inhabitants are now obliged to record in a register the amount of the contribution or the value of a service or other form of support received, together with the identity of the lender. Forms of support coming from foreign Governments⁹⁶, public entities and corporates are forbidden, as well as from people not registered on the electoral lists and from social cooperatives and consortiums. Parties, movements and lists are obliged to publish the candidates' CV and their criminal certificate before the elections. Foundations, associations and committees showing a "relation evidence"⁹⁷ with parties or movements are obliged to attend at the transparency requirements established for parties⁹⁸.

After this quick overview, some critical points could be made. Firstly, the legislation seems to discourage private financing, diminishing the facilitations addressed to the donors and adding other rules that make the system of contribution more intricate. This could appear unjustified because after the complete abolition of public financing, private donations are one of the two main pillars of funding for political parties. But as we have already seen, these forms of indirect contribution cannot recover the economic requirements needed by parties, that finish to get resources from the reimbursements assigned to parliamentary groups, whose major beneficiaries are the majority parties. Then, the complete disclosure of the private donors could imply the unconstitutionality of the provision because it violates the laws protecting sensitive data. And the obligation for parties to publish the criminal certificate of their

⁹⁵ T. F. Giupponi, *Gli obblighi di trasparenza per partiti e movimenti politici*, in R. Orlandi, R. Seminara (eds.), *op. cit.*, p. 365 ff.

⁹⁶ Parties may be banned from accepting money from foreign entities, governments or individuals in order to safeguard the country's domestic autonomy and sovereignty and to avoid the difficulties in ensuring the accountability of the donor.

⁹⁷ L. n°3/2019, art. 1, co. 28 extends all the dispositions contained in the law itself to political foundations, associations and committees, regardless the party or movement they are linked to is enrolled in the National Register.

⁹⁸ M. C. Ubiali, *Le disposizioni extra – penali della legge cd. Spazza – corrotti: trasparenza e finanziamento dei partiti politici e norme sulla regolamentazione delle fondazioni*, in www.penalecontemporaneo.it, 21.01.2019.

candidates before the elections gives some causes for concern, because it could appear as an effect of the general criminalization of politics, that is one of the main themes of populist rhetoric.

Other reform proposals, coming from political areas near to the parliamentary opposition, remain in the path traced by the decree law n°149, relying on the strengthening of forms of indirect financing⁹⁹ or on reintroducing forms of direct state financing. Currently this hypothesis does not seem to find support.

6. Some final remarks

The lawmaker has abdicated for too long to regulate political financing in a coherent and clear manner. The various reforms of party funding were adopted after the emersion of abuses with great media relevance with the aim to show a strong discontinuity from the past. The complete abolition of public financing made Italy an *unicum* in the European context, causing problems to parties' structure and organization and then discovering that this radical change has not automatically increased transparency and internal democracy, highlighting the persistence of an ambiguous relation between politics and private interests.

The last reform provided stricter rules for private donations, in this way making the "traditional" parties that suffered a relevant decrease of incomes weaker, while the parties at the head of government continue receiving the most considerable amount of money *sub forma* of contributions to parliamentary groups. The logic behind this new anti-corruption law is then coherent with many assumptions supported by Movimento Cinque Stelle. They promoted a model of "movement" alternative to parties, funded only through small private donations managed by web platform and characterized by a pervasive control on the costs of politics and by the radical aversion towards state funding and electoral reimbursements as well as towards every form of registration.

⁹⁹Cf. S. Ceccanti, *Il finanziamento della politica*, in *Nomos. Le attualità nel diritto*, 3, 2018.

Another Italian anomaly consists in the absolute inexistence of any decision of the Constitutional Court on party financing, despite the clearly established link between the regime of financing and the effectiveness of the party as a tool of constitutional democracy. In other constitutional experiences (e.g. Germany and U.S.A.) the discipline of party funding is almost co-decided by the lawmaker and the Constitutional Court. After the recent introduction of the new dispositions contained in the anti-corruption law, a pronouncement of the constitutional judge appears even more necessary.

The most evident critical profile is the violation of the rules on sensitive data coming from the complete disclosure of the private donors regardless their consent¹⁰⁰. There is a remarkable “trade off” between transparency and privacy¹⁰¹. According to some scholars, disclosure requirements reflect the notion that «the collective benefits of disclosing sources of financial support of political actors outweigh the donors’ right to privacy¹⁰²». These rules were introduced or extended after the introduction of state financing, while in many countries where parties do not receive direct public funding, disclosure regulations are weak or absent¹⁰³. Despite the abolition of public financing, in Italy the lawmaker adopted stricter disclosure requirements for private financing. This solution is regarded as a tool to control political corruption because public opinion can evaluate whether there is a link between donations and relevant political decisions. According to some scholars, enhancing transparency could

¹⁰⁰ T. F. Giupponi, *op. cit.*, p. 380 ff.

¹⁰¹ I. van Biezen, *Campaign and Party Finance*, cit., p. 65 ff. On the relation between transparency and privacy, see recently: E. Carloni, M. Falcone, *L’equilibrio necessario. Principi e modelli di bilanciamento tra trasparenza e privacy*, in *Diritto Pubblico*, n. 3/2017, p. 723 ff.; S. Calzolaio, *Protezione dei dati personali*, in *Dig. pubbl., Aggiornamento*, vol. VII, 2017.

¹⁰² K. Casas-Zamora, *op. cit.*, p. 23.

¹⁰³ K. H. Nassmacher, *Monitoring, control and Enforcement of Political Finance Regulation*, in R. Austin, M. Tjernström (ed.), *Funding of Political Parties and Election Campaigns*, Stockholm 2003, p. 141. The A. highlights that in some consolidated democracies in which parties are not entitled to receive state subsidies, the absence of control on private party financing is due to the notion of parties as voluntary associations of civil society and so a matter of internal autonomy.

have an adverse effect on democratic legitimacy¹⁰⁴. On the other side, the donors' willing to preserve the privacy of their political orientation is legitimate. Disclosure requirements may appear as an unjustified infringement on both individual privacy and autonomy of political parties as private associations¹⁰⁵. Private donations to political parties represent a form of political participation and an expression of political support. Coherently with the principle that every democratic regime would safeguard the secrecy of the vote, donors should not be required to declare the party they give support. This issue is particularly relevant for public officials who are expected to stay behind a shield of political neutrality, or to representatives of business organizations who fear to be discriminated if they are known to have supported a certain party¹⁰⁶.

Another problem concerns the equality of chances of parties, because empowering private donations indirectly assure a more favourable treatment to those parties having the majority in Parliament, that receive also a relevant sum of contributes devolved to parliamentary groups. The relationships between article 49 of the Constitution, pluralism and the forms of indirect financing is a relevant issue. According to the lawmaker, indirect financing would have taken the place of public direct financing, but the former is still a form of public financing. In fact the "due per mille" devolutions and the facilitation of 26% are sums of money the State renounces to give to the parties, but these funding instruments do not promote a fair and equal political competition as required by the Constitution. Instead of encouraging pluralism in party competition, these forms of financing seem directed to overstress their differences, trying to perpetuate the momentary position of the parties at the head of government.

¹⁰⁴ J. Fisher, T.A. Eisenstadt, *Introduction: Comparative Party Finance. What is to be done?* in *Party Politics*, 10, 2004, p. 619 ff.

¹⁰⁵ I. van Biezen, *Campaign and Party Finance*, cit.

¹⁰⁶ Ivi.

Abstract: The essay aims to analyse the impact of the party funding regulation on the changing role of the parties in the constitutional and political scenario in Italy. The author moves from the assumption that there is no Italian model of party financing, because of the erratic approach of legislative reforms in the field at stake. In particular, the idea is challenged that a stricter party financing regulation is a remedy to corruption and inefficiency. Against the background of recent innovations aimed at eliminating public funding, the author focuses on the need to preserve the role of public institutions, mainly through a combination of public funding and the regulation of fair electoral competition and political equality among political parties.

Keywords: political parties, party funding, corruption, constitutional principles, law-making

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