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ACCESS TO ELECTORAL RIGHTS

ITALY

Guido Tintori

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European University Institute, Florence
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Access to Electoral Rights

Italy

Guido Tintori

1. Introduction

Limiting this overview to the period from the restoration of democracy after the fascist era, the political debate regarding the electoral system in Italy has historically revolved around two main aspects: protecting the presence of small parties in the parliament, to ensure the highest degree of democratic participation and political representation and the pursuit of governability and political stability. The former was a direct reaction to the experience of the fascist dictatorship during which opposition parties had been progressively outlawed. The Republic thus adopted universal adult suffrage and a proportional representation system for elections at all levels.

The political system of the Republic produced though fragmented majorities and short-lived legislation: from 1948 to 2013 there have been seventeen legislatures and 59 governments¹, meaning therefore that each government lasted for an average of about one year. For this reason, particularly since the 1990s, governability and stability became the new priority and reforming the electoral system the main way to achieve them. A popular referendum, held on 18 April 1993, proposing the abrogation of the proportional system was passed by a large majority of voters. This led to the adoption by parliament of a mixed-member majoritarian system for the Chamber and the Senate (the two houses of parliament), in August 1993 (Acts n. 276 and Act n. 277). For both houses, 75 per cent of representatives were to be elected through single-member districts and 25 per cent were to be elected through a proportional system of lists. These lists were to be compiled by the parties and had to overcome a nationwide four per cent electoral threshold to secure representation (Renwick 2010: chapt. 6; Cuono 2012). On 21 December 2005, the parliament approved another reform of the electoral system (Act n. 270), setting it back to a ‘full proportional representation’, as it is referred to by the Chamber of deputies itself², even though several commentators and scholars described it as rather ‘bonus-adjusted proportional representation’ (Renwick, Hanretty and Hine, 2009: 1) or ‘counter-tempered proportional rule’ (Cuono 2012: 159). This is the law presently in force, although parliament has been discussing several bills of electoral reform since 2006 and it is currently working on a package of reforms that would change both the electoral system and the state’s institutional architecture.

¹ <http://www.governo.it/governo/governi/governi.html>

² http://en.camera.it/4?scheda_informazioni=28

According to the 2005 law, both in the Chamber and the Senate, the seats are to be distributed by proportional representation. Seats for the Chamber are distributed nationally whereas they are distributed regionally for the Senate. The electorate cannot choose individual candidates in the party/coalition lists. The threshold system is rather complicated, but an acceptable approximation is the following: for the Chamber, parties running alone must obtain four per cent of votes to secure representation; the threshold decreases to two per cent for parties which are members of a coalition obtaining at least ten per cent of the votes; for the Senate, the electoral threshold is eight per cent for single parties and three per cent for parties which are members of a coalition obtaining at least twenty per cent of the votes. A different system is applied for the autonomous Region of Aosta Valley in both houses, and Trentino Alto-Adige in the Senate only³.

In this context, relatively speaking, the legislative reforms concerning citizens abroad, EU citizens and foreign residents have not traditionally played a major role in the Italian political debate. Given the long-standing status of Italy as a country of emigration, the topic of the electoral rights for citizens abroad has occupied a larger share of the parliamentary activities and the general debate than those dedicated to EU citizens and foreign residents. Only since the mid-1990s the debate on the political inclusion, both of external citizens and third country nationals (TCNs), has gained visibility at the national level. As we shall see in sections 2.2. and 2.3 below, the debates yielded opposite results for these categories of person.

We should highlight another important feature of Italy's law-making process. It is traditionally based on a sluggish, consensual and 'cumulative' style that, most frequently, leads to a plethora of micro-sectional amendments of a previous Act, scattered over many years, instead of introducing a new organic law (Borghetto and Giuliani 2012; Giuliani 2008; Capano and Giuliani 2001). This practice results in a complexity of intricate, sometimes even contradictory, norms and regulations, only occasionally collected in a consolidated act (*Testo Unico*). For example, the Italian Ministry of the Interior's publication on the norms for national elections alone is almost 600 pages long, addressing twenty-one general subjects and based upon 77 legislative measures adopted between 1948 and 2011, all of which currently contribute to regulating electoral practices (Ministry of the Interior 2011).

³ The fundamental rules governing the Chamber's system of elections are contained in the consolidated text no. 361 of 30 March 1957, which has undergone a number of amendments. They include, in particular, Law no. 270 of 21 December 2005, which introduced innovations in the system for the election of Deputies by rewriting many of the articles of the original text, and by Decree Law no. 75 of 8 March 2006 confirmed by Law no. 121 of 20 March 2006 (see also: http://en.camera.it/4?scheda_informazioni=28). For the Senate: Consolidated Act no. 533 of 1993, amended by Law n. 270 of 21 December 2005.

2. Eligibility: Who has electoral rights under national law?

2.1 Citizen residents – Age threshold, Mental disabilities, Criminal offences

Citizens who have permanent residence in an Italian Municipality (*Comune*) and are in the national territory on Election Day are normally enfranchised in all elections, if they meet the age requirements and are not subject to restrictions ‘for civil incapacity or as a consequence of an irrevocable penal sentence or in cases of moral unworthiness as laid down by law.’⁴

The age thresholds for voting and running as candidate (active and passive voting rights) were established by articles 48, 56 and 58 of the 1948 Constitution and remain unmodified to this day. Every citizen is enfranchised when coming of age (eighteen years old) for all types of elections, with the exception of elections for the Senate where the age threshold is raised to 25 years. As far as passive voting rights are concerned, the age threshold for running as a candidate in local elections (municipal and provincial⁵) is eighteen; for the Chamber and European Parliament, 25; for the Senate, 40.⁶

Mentally disabled persons cannot be disenfranchised and special provisions are enforced to foster the electoral participation of all disabled persons (see Art. 11 of Law No. 180 of 13 May 1978 and Law n. 104 of 5 February 1992).

As far as convicts are concerned, only prisoners who are banned from public office (*interdizione dai pubblici uffici*) are disenfranchised (Art. 2, Law n. 223 of 20 March 1967). Ban from public office is an ancillary penalty associated to a final judgment either for specifically defined offences irrespective of the duration of the sentence (e.g. mafia crimes, extortion, embezzlement of public funds by a public official – *peculato* – etc.) or when the term of imprisonment exceeds three years. The ban entails forfeiture of the right to vote or stand for election and may be for life or temporary. ‘A sentence of life imprisonment or of imprisonment for no less than five years shall entail a lifetime ban from public office for the convicted person; sentencing to imprisonment for not less than three years shall entail a five-year ban from public office’ (Art 29 of the Criminal Code). The ban may be terminated if a court recognises the convict as rehabilitated⁷.

2.2 Citizens abroad

The first recorded requests of electoral participation and representation of external citizens were advanced already on the occasion of the First and Second Conference of the Italians Abroad group, held in Rome in 1908 and 1911 respectively. The Constituent Assembly (1946-1948) discussed proposals for overseas voting, but normative, political and technical concerns all concurred to adopt the solution to grant Italians residing abroad voting rights starting with the new Republican Constitution of

⁴ Art. 48, Italian Constitution.

⁵ As for the Regional elections, see section 4 of this report.

⁶ The parliament is currently discussing a Bill introduced on 13 May 2011 by former Minister of youth, Giorgia Meloni, aimed at establishing the same age thresholds for active and passive electorate both at the Chamber (eighteen) and at the Senate (25): DDL Costituzionale n. 4538 "Partecipazione dei giovani alla vita economica, sociale, culturale e politica della Nazione ed equiparazione tra elettorato attivo e passivo".

⁷ See the judgment of the Grand Chamber of the European Court of Human Rights on the case *Scoppola v. Italy* no. 3 (no. 126/05) 12 May 2012.

1948, provided that they returned to Italy to cast their ballots. The first bill, of a long series, to reform the electoral rights of external citizens was introduced already during the second legislature (1953-1958). As many as 48 bills were discussed between the second and the ninth legislature (1983-1987). It was only at the end of the 1990s that the Italian Parliament superseded the traditional concerns regarding overseas voting and almost unanimously passed the laws by which Italy granted absentee voting rights to nationals residing abroad: Constitutional Law no. 1 of 17 January 2000, no. 1 of 23 January 2001, and Law no. 459 of 27 December 2001.

According to this legislation, Italian citizens permanently residing abroad can vote for Italy's parliamentary elections and national referenda by mail – not for European elections, unless they reside in an EU member state. As far as national elections are concerned, the system establishes a special representation with discrete seats for external voters. Italian non-residents elect six senators and twelve deputies to the national parliament, in representation of one constituency (*Circoscrizione Estero*) divided into four geographic districts (*Ripartizioni*) – Europe, South America, North and Central America, and Asia-Africa-Oceania. The electoral system is proportional and voters can choose individual candidates (Tintori 2012; Colucci 2012; Tintori 2011: 174-176).

Previous or future residence in the country is not a condition for the franchise. Italian citizens residing abroad do not lose their electoral rights in all elections. To exercise their rights, external citizens must register with the registry office of Italians Abroad (AIRE) of the consulate in the country where they reside. Electoral regulations are such that the many descendants of Italian emigrants who get their citizenship by descent abroad are more likely to be enrolled in the electoral lists than Italians temporarily residing or traveling out of the country, because the former are automatically registered with the AIRE when they receive their passport and their electoral cards are delivered to their residence⁸. Italians temporarily residing or travelling abroad, in order to vote, must instead actively register at the consulate by 31 December of the year preceding the elections and provide a permanent address abroad.⁹ Those officially serving overseas who are members of the army, police corps, civil service and diplomatic representations; and professors, researchers and students temporarily employed by universities or research centres out of the country, are allowed, since 2006, to vote by mail from abroad with a special late enrolment.¹⁰

The right to run as a candidate for the external constituency is reserved exclusively to Italian nationals listed in the AIRE. Permanent non-resident citizens can choose between personal in-country voting or postal voting from abroad.¹¹ If they are dual nationals and are elected to the Italian parliament, they are not required to renounce their other nationality.

⁸ On this issue, see my note on the EUDO Citizenship website: [More than one million individuals got Italian citizenship abroad in twelve years \(1998-2010\)](#)

⁹ Art. sixteen and seventeen of the Regulations of the Law on external voting (DPR n. 104 of 2 April 2003) seem to open the opportunity for late registration of nationals who are temporarily out of the country, provided they make a request to vote from abroad at an Italian consulate eleven days before the elections are held and are able to demonstrate that their registration to the AIRE is still being processed or that they were mistakenly excluded from the electoral lists.

¹⁰ Act n. 22 of 27 January 2006.

¹¹ If they opt for personal in-country voting, they must communicate their decision to the Consulate by December 31 of the year before the elections are held or, in case of snap elections, ten days after the new elections are officially called (art. 4 Law N. 459 of 2001).

As far as local elections are concerned (municipal, provincial, regional and local referenda), there are no provisions for external voting. In order to vote, non-residents, both permanent and temporary, must return to the country when elections are held. All categories of non-resident citizens can run as candidates. The main rules about eligibility to candidacy at local level are: being eighteen years old and a resident in the territory of the local administration. Non-resident citizens, when they register with the AIRE, are enrolled in a “special” list at the Civil registry (*Anagrafe*) in the Municipality where they had their last residence in Italy. Moreover, if an external citizen is born abroad and has never resided in Italy, s/he is automatically enrolled in the Municipality of the capital city, Rome. Even permanent external citizens therefore are eligible for candidacy in local elections.

2.3 Foreign residents

The electoral rights of EU citizens will be dealt with in section three below. For now, I discuss the case of TCNs who do not enjoy any electoral rights in any elections regulated by Italian national and local laws.

The transformation of Italy from a country of emigration into a country of immigration started in the mid-1970s, became evident and an object of public and political debate already at the end of the 1980s, and assumed dramatic dimensions from the 1990s on (Colombo and Sciortino 2004; Einaudi 2007; Finotelli and Sciortino 2009). The question of the political rights of the constantly growing foreign resident population arose out of this context.

First attempts to implement comprehensive immigration policies took place in the second half of the 1980s (Act n. 943 of 1986 and Act n. 39 of 1990). Yet the question of political rights for TCNs was addressed only during the discussion of the first systematic immigration law approved by the centre-left government led by Mr. Romano Prodi between 1996 and 1998, the so called Turco-Napolitano Act (n. 40 of 1998, then Consolidated Act n. 286 of 1998). An initial draft included the right to vote in local elections for TCNs after five years of legal residence, at which time they would be entitled to apply for a permanent residence permit. The provision was withdrawn from the final text of the law to secure its passing and avoid the oppositions’ filibustering. In fact, both the populist Northern League and the post-fascist National Alliance had expressed strong objections against immigrant enfranchisement. Plus, the centre-left government believed that it would have been necessary first to amend article 48 of the Constitution where electoral rights were explicitly attached to citizenship (Zincone 2006a; 2006b: 149; Finotelli and Sciortino 2009).

Since the mid-1990s, a few local councils have established advisory bodies where elected representatives of TCNs are granted a symbolic political “voice” on matters of direct interests for the immigrant communities of the territory (ASGI and FIERI 2005). In addition, since the first half of the 2000s, an initiative was taken up by some local and regional councils that approved statutes in which ‘proper’ electoral rights were granted to TCNs. All these actions were ruled out between 2003 and 2005 by decisions of the Council of State and Constitutional Court that judged them either unconstitutional – electoral rights are confined only to citizens (Art 48 of the Constitution) – or an invasion of central state competences which maintain full

sovereignty in regulating the status and rights of immigrants (Tintori 2009; Grosso 2007; ASGI and FIERI 2005)¹².

The last true attempt to pass a law on this matter was during the fifteenth legislature (April 2006-February 2008), when the Amato-Ferrero bill for a new immigration law was introduced on 24 April 2007. As it has been the case for most of the proposals mentioned so far, the part regarding electoral rights for TCN's was explicitly inspired by the text of the Convention on the Participation of Foreigners in Public Life at Local Level (CoE Treaty 144, 5 February 1992). This document was ratified by Italy in 1994, with the exception of Chapter C on the right to vote in local authority elections, since it was considered to be in conflict with the above mentioned article 48 of the Constitution. With the premature dissolution of the centre-left government, led by Mr. Romano Prodi, the bill was abandoned and any decision deferred until after the 2008 elections which were won by the coalition led by Mr Silvio Berlusconi. Parties forming the coalition were strongly against the enfranchisement of third country nationals. This was the case even though the former leader of the National Alliance, Gianfranco Fini, had already in 2003 changed his previous negative stance towards the enfranchisement of long-term resident immigrants and has even become an advocate of voting rights for the immigrants.

Yet, in the last decade the question of electoral participation at local level for TCNs has constantly gained momentum in the political debate. For example, the Democratic Party (*Partito Democratico*) has granted the right to vote to all documented TCNs in the primaries held in November and December 2012 to decide the candidate for prime minister in view of the elections of 2013.¹³ But the most effective actions are due to the consistency of NGOs like *Rete G2-Seconde generazioni* (*The Second generation Network*), National Association of Italian Municipalities (ANCI), the Catholic Caritas, the left wing ARCI, and other sectors of civil society, which have been campaigning for a reform of the legislation on citizenship in more liberal terms and to grant immigrants the right to vote in local elections. In March 2012 a *bill* was introduced to the Chamber of deputies by means of such popular initiatives.

3. Electoral rights of EU citizens¹⁴

The transposition of EU Council Directives 93/109/EC on European Parliament elections and 94/80/EC on local elections into Italy's legislation has encountered no contestation in public debate and has been to some extent even anticipated by national legislation in the case of EP elections.

3.1 Local elections

¹² Constitutional Court judgments 196/2003, 2/2004, 372/2004, 379/2004; Council of State decisions: sec. 1 and 2, 6 July 2005, no. 11074/04; sec. z, 16 March 2005, no. 9771.

¹³ External citizens were allowed to participate too, by registering online and casting their vote at polling stations abroad.

¹⁴ This section is based mainly on Instituto Europeo de Derecho, *Study on possible developments of EU legislation in the field of electoral matters including possible modification of Directive 93/109/EC - National Report of ITALY*, by Angela Marila Guadagnini, 2010 and Ministry of the Interior, *Elezioni dei membri del Parlamento europeo spettanti all'Italia 6-7 giugno 2009*, 2009.

As explained in section 2.3 above, non-citizen residents in Italy do not have any right to political participation at either the national, regional or local level. The only exception is made for EU citizens in municipal elections. Italy granted to EU citizens residing in Italy the right to vote and run as a candidate for municipal elections (*Elezioni comunali*) by means of Act n. 52 of 6 February 1996 and the Decree Act n. 197 of 12 April 1996¹⁵. This was possible without introducing any change into the Constitution because the Italian legislator has maintained that Art. 11 of the Constitution can work as a sort of ‘European clause’ that allows national legislation to integrate EU laws and directives. Therefore, there is no franchise for EU citizens that goes beyond the municipal and EP electoral rights required under EU law.

In order to participate in municipal elections, both as electors and/or candidates, EU citizens are required to submit a request to the mayor of the Municipality where they reside, 40 days before the elections. They are therefore enrolled in a special electoral registry called additional lists (*Liste aggiunte*)¹⁶.

3.2 EP elections for EU citizens residing in the country

As far as EU citizens residing in Italy are concerned, Act n. 18 of 24 January 1979 and Law Decree n. 408 of 24 June 1994, converted into Act n. 483 of August 1994¹⁷, provide the procedures regulating their participation in EP elections.

Art. 40 of Act n. 18 of 1979¹⁸ already granted EU citizens in Italy the right to vote for the candidates of their original Member State on a principle of reciprocity, based on bilateral agreements, by which the Italian state and the other MS agree to provide polling stations and voting facilities for residing EU citizens.

In addition, after the approval of the 1994 Acts, EU citizens residing in Italy are entitled to vote for the election of the members of the EP attributed to Italy, if they submit to the mayor of the Municipality of residence a formal request to be included in the additional electoral list (*Liste aggiunte*) set up in the Municipality, 90 days before the elections.

In their request EU citizens must clearly state their will to exercise the right to vote exclusively in Italy. They must provide all their relevant biographic information (full name, Member State nationality, abode in Italy). They must demonstrate that they enjoy full electoral capacity in the Member State of origin and that no court judgment has deprived them of the right to vote in their Member State of origin.¹⁹

‘The municipality, after having carried out the appropriate inquiries to verify the absence of impeditive causes according to the national legislation, shall: a) register the names on the additional electoral list, which is submitted to the control and approval of the appropriate electoral commission; b) inform the persons concerned of the acceptance of his/her application (provision derived from EU law)

¹⁵ Act 52/1996: *Disposizioni per l'adempimento di obblighi derivanti dall'appartenenza dell'Italia alle Comunità europee*; Decree Act 197/1996: *Attuazione della direttiva 94/80CE concernente le modalità di esercizio del diritto di voto e di eleggibilità alle elezioni comunali per i cittadini dell'Unione Europea che risiedono in uno Stato membro di cui non hanno la cittadinanza.*

¹⁶ Art. 1 and 3, Law Decree n. 197 of 12 April 1996; Art. 1, Law Decree n. 3 of 27 January 2009 as amended by Law n. 26 of 25 March 2009.

¹⁷ As amended by Act n. 128 of 24 April 1998.

¹⁸ Amended by Art. 14 of Act n. 61 of 9 April 1984 and Art. 2 of Act n. 78 of 27 March 2004.

¹⁹ Art. 2 (2) Act n. 408 of 1994 as amended by art. 15 Act n. 128 of 1998.

and send him/her the personal electoral card; a copy of the request is forwarded immediately to the Ministry of the Interior who then transmits it, through the Ministry of Foreign Affairs, to the appropriate authorities of the Member States for cancellation (provision derived from EU law); c) notify the persons concerned the denial of the request with the explicit notice that they can make use of the right of appeal provided to Italian citizens (provision derived from EU law)' (IED-Guadagnini, 2010: 8).

An amendment to Art. 4 of Act n. 18 of 1979, introduced by Act n. 9 of 18 January 1989, granted EU citizens the right to run for candidates as members of the EP attributed to Italy, provided they fulfil the requirements established by Italian and their national legislation. The current procedures to run as candidate are set by art. 2 (6) of Law Decree n. 408 of 1994. Additional conditions apply to EU citizens compared to national citizens, as the former must submit a formal declaration to the Court of Appeal in which they must clearly state all the relevant biographic information (full name, Member State nationality, abode in Italy); that they enjoy full electoral capacity in their Member State of origin and that no court judgment has deprived them of the right to vote in their MS of origin; the electoral constituency where they are enrolled as electors in their home MS; and that they will not submit another candidacy in any other MS. The declaration must be certified by the authorities of the MS of origin. Double voting is explicitly forbidden and sanctioned.

The National Association of Italian Municipalities (ANCI) has recently conducted a survey in thirteen mid-sized Italian towns (Alessandria, Asti, Bologna, Firenze, Forlì, Genova, Padova, Parma, Reggio Emilia, Torino, Varese and Verona) to monitor the electoral participation in the municipal and European elections of EU citizens, which make up 29 per cent of the total foreign population residing in Italy. The survey shows that only eight per cent of eligible EU national residents have actually registered to vote either for the municipal or the European elections (or both) in the additional lists. Among the registered EU electors of the investigated cities, over 70 per cent are enrolled for the municipal elections, while just over 40% for the EP (ANCI 2012).

3.3 EP elections for national citizens abroad

Electoral rights for external citizens participating in EP elections are not the same as for participation in national elections (see section 2.2 above). Act n. 18 of 24 January 1979 and Law Decree n. 408 of 24 June 1994, converted into Act n. 483 of August 1994²⁰ have regulated the procedures for external citizens' participation in EP elections.

A law of 1979 (Art. 26-40) granted Italian citizens permanently or temporarily residing in another MS the right to vote for members of the EP attributed to Italy, depending on bilateral agreements between the Italian state and the other MS to provide polling stations and voting facilities for Italian nationals. The procedure was in-person voting at consulates and other designated polling stations for assimilated representation into local voting districts, based on the last place of residence.

²⁰ As amended by Act n. 128 of 24 April 1998.

The transposition of EU Council Directives 93/109/EC into Italy's legislation, by means of Law Decree n. 408 of 24 June 1994, converted into Act n. 483 of August 1994²¹, has further expanded the possibility of electoral participation for Italian nationals residing in other MSs, but not modified the voting methods. Electors are all Italian nationals; legally adult (18 years old.); residing in a MS and registered with the AIRE. Italian citizens who are temporarily in another MS for work or studies can vote abroad too, provided they notify their presence and intention to vote to the competent consulate, 80 days before elections. The Italian authorities then inform the mayor of the Municipality where the citizen normally resides in Italy. Should the citizen return to Italy before the elections, they are allowed to vote at their usual polling station if they notify the electoral office of their Municipality at least one day before the elections. Exceptionally, and only for the 2009 EP elections, a few categories of citizens residing in third countries were also allowed to vote (Art. 2 of Act n. 26 of 25 March 2009). These categories of citizens were: members of the army, police corps officially serving overseas, civil servants and diplomats, professors and researchers temporarily employed by universities or research centres abroad.

While, for the categories of citizens included in the 2009 Act, postal voting was the method used to cast their ballot, the general method used for the 'regular' external electors is in-person voting at consulates and other designated polling stations. All votes converge to assimilated representation into local voting districts based on the last place of residence. The electoral system is proportional and voters can choose individual candidates representing five territorial constituencies.

Before the elections, Italian nationals residing in a MS can choose if they prefer to vote for the members of the EP attributed to Italy or to the MS in which they live.

4. Exercising electoral rights

This final section will briefly sum up the procedures of voter registration and the general methods for casting a vote in all types of Italian elections, as far as citizen residents, EU residents and non-resident citizens are concerned. TCNs, in fact, have no political rights in Italy.

Italy is a unitary parliamentary republic with a degree of local devolution. There are fifteen so-called Regions under ordinary statutes, and five Regions with special autonomy (Aosta Valley, Friuli-Venezia Giulia, Sardinia, Sicily and Trentino-Alto Adige/Südtirol)²². Italy also has 8,092 Municipalities and 86²³ Provinces under ordinary statutes and 3 Provinces with special autonomy. All of these administrative units have directly elected councils, presidents (Regions and Provinces) and mayors (Municipalities).

The electoral systems and voting methods, as described in the previous sections, vary quite extensively for all type of elections despite the fact that electoral

²¹ As amended by Act n. 128 of 24 April 1998.

²² Art. 116 of the Constitution.

²³ Law Decree n. 188 of 5 November 2012 *Disposizioni urgenti in materia di Province e Città Metropolitane* was meant to reduce, as of 1 January 2014, the Italian provinces to 51. The Decree has not been converted into Law and the provision will not be enforced:
http://www.corriere.it/politica/12_dicembre_10/province-decreto-non-convertito_e96f4f72-4309-11e2-af33-9cafd633849d.shtml

laws are within the competence of the central state, with the exception of regional elections. Constitutionally²⁴, in fact, Regions have the autonomy to approve their own electoral laws, even though only recently they have started making use of this right.²⁵ This might therefore increase the degree of asymmetry in the various electoral systems in the near future. It is yet unlikely that the new laws will include extension of the franchise to TCNs. As already discussed in section 2.3, after a long and complicated debate, the Constitutional Court and the Council of State have for the moment ruled out the possibility that other actors than the state have the competences to extend political rights to non-citizens (Grosso 2012: 104-105).

4.1 Voter registration

National residents do not have to register in order to vote. Citizens who come of age by Election Day and are not banned from voting are automatically enrolled in the electoral lists, compiled from the registry of the resident population (*Anagrafe*) of each Municipality by the municipal electoral office (*Ufficio elettorale del Comune*). All electors receive the electoral card (*tessera elettorale*), which was introduced in 2001, and works as an electoral document that can be used for up to eighteen elections of all types. EU residents, if they want to vote at municipal and/or EP elections in Italy, must actively register at the Municipality where they reside and produce additional documentation beyond the residence requirement (which is the only requirement that national citizens have to meet). External citizens too, if they are first generation expatriates, must actively register at the Italian Consulate in the country where they reside, in order to be included in the AIRE lists.

The registration system is quite complex, as lists of electors are divided into three types: general lists (*Liste generali*), comprising personal details of all electors residing in a given Municipality, including the special lists of those residing abroad (AIRE); sectional lists (*Liste sezionali*), used by polling officers to ascertain the identity of voters on election day; and additional lists (*Liste aggiunte*), for EU citizens who reside in the municipality and have submitted a request to vote in municipal and EP elections. The municipal electoral office updates the lists with periodic and extraordinary revisions and determines whether or not an elector qualifies to vote.²⁶

4.2 Voting methods

Voting methods vary for all type of elections. A personal voting procedure is applied in national elections (for national residents), EP elections (all type of electors), municipal, provincial and regional elections (all type of electors), with polling stations in the district where the voter is registered. Absentee voting through mail ballot is adopted for national elections (external citizens registered with AIRE and specific categories of citizens temporarily out of the country for work and study), EP elections (specific categories of citizens temporarily out of the country for work and study, limited to 2009 elections). Personal in-country voting is applied to all local (municipal, provincial, regional) elections.

²⁴ Articles 121, 122 123 of the Constitution. See also: Law 108/1968, Law 43/1995, art. 5 Constitutional Law 1/1999, Law 165/2004.

²⁵ For an almost “real time” coverage of the legislative activities on matter of electoral systems by the Italian Regions: <http://www.parlamentiregionali.it/documenti/leggielettorali.php>

²⁶ Source: ACE-The Electoral Knowledge Network <http://aceproject.org/electoral-advice/archive/questions/replies/897208261> - last accessed 1 December 2012.

At national elections, citizens residing abroad have ‘special representation’ divided by geography, with eighteen discrete seats (twelve in the Chamber, six in the Senate) for the external voters. At EP elections, external citizens have ‘assimilated representation’ into local voting districts, based on the last place of residence.

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