

**Joint parliamentary administration for an asymmetric bicameralism?
The challenges posed by the constitutional reform of the Italian Senate**

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Abstract:

It is generally acknowledged that parliamentary administrations play a fundamental role in addressing, underpinning, counseling representative assemblies in the exercise of their functions. However, few studies have been conducted on the relationship between parliamentary administrations and bicameralism. In particular, a question arises as to whether and how parliamentary bureaucracies of bicameral Parliaments tend to adapt their administrative framework to the nature and type of bicameralism involved. This question becomes particularly relevant in case of reform of bicameral system, especially when the reform aims to transform a symmetric bicameralism in an asymmetric one.

This theoretical question is addressed in the proposed paper by focusing on the ongoing Italian constitutional reform whose main aim is to transform the most symmetric of the existing bicameralisms into an asymmetric one, characterised by the existence of a Senate indirectly elected and representative of the territorial autonomies. The constitutional bill, in fact, expressly obliges to proceed to the functional integration of the parliamentary administrations belonging to the two Houses through the creation of common structures, the co-sharing of their asset or other possible forms of cooperation. Furthermore, the definition of a single status for the parliamentary staff serving the two Houses is directly provided by the bill.

The feasibility of this proposal, consisting in the creation of a joint parliamentary administration in a Parliament composed of two Houses with different composition and functions, is assessed by focusing on the experience of three asymmetric bicameralisms (those of Switzerland, Austria and Spain) characterised by the presence of parliamentary bureaucracies serving both House.

This analysis seems to evaluate whether the specialisation and differentiation of parliamentary functions require a unitary parliamentary administration – or at least two strictly coordinated administrations – capable of offering a whole range of technical and professional competences and experiences; or whether, on the contrary, the asymmetry of legitimation and functions of the two Houses should be mirrored by two independent parliamentary bureaucracies.

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1. Introduction. A 'functional' approach to the study of parliamentary administrations

It is generally acknowledged that parliamentary administrations play an important role in addressing, underpinning and counseling representative assemblies in the exercise of their functions. It is also largely recognised that their organisation design, and their responsibilities as well, reflect the historical, political, social arrangements of a certain society and tend to change over time in relation to institutional contingencies, namely the transformation of the form of government, the evolution in the role of the parliament, the requirements of policymaking and lawmaking, the changing role of the means of information, and so forth². For instance, it is normally acknowledged that the dimensions and the high degree of autonomy of the US Congressional administration is strictly dependent on the features of the presidential form of government. No parliamentary administration in Europe has the same dimension of the US Congress, as there is less need of ensuring this body a set of instruments and personnel enabling it to act, both for the legislative and the oversight functions, fully independently from the Executive.

However, the relationship linking the structural and functional features of a given parliamentary administration and the reference constitutional system has not yet been sounded out.

The idea that a relationship exists between parliamentary administration and the constitutional system is considered and analysed among the factors identifying the rise of the liberal-democratic State³.

A parallel has been drawn between the general transformation that occurred with regards to the public administration in the transition between the liberal State and the democratic and social State. The liberal State, in fact, has been characterised by a substantial continuity in the conception of the administrative structures of Parliament, which were meant to respond to a limited number of tasks, basically consisting of providing physical facilities for the assembly, performing the financial accounting and executing transcription of the debates. By contrast, the evolution towards a mature democratic system that occurred after World War II has led parliamentary administrations to expand their dimension and role, pressing their organisation to perform further, more sophisticated functions requiring higher professional standards. According to this vision, the change in the position and role of Parliaments, as well as the demand for more complex legislation has fostered

² See Romzek and Utter, 'Congressional legislative staffs: political professional or clerks', *American Journal of Political Science*, vol. 41, no. 4 (1997); Blischke, 'Parliamentary Staff in the German Bundestag', *Legislative Studies Quarterly*, vol. 6, No. 4 (1981): 556. Within the Italian scholarship, the issue has been widely debated; among many others, see Cheli, 'Ruolo del Parlamento e nuovi caratteri della burocrazia parlamentare', in *Studi in memoria di Vittorio Bachelet* (Milano, 1987), 187 ff. Traversa, 'Riflessioni sull'organizzazione amministrativa della Camera dei Deputati dalle origini alla caduta del fascismo', *Rassegna parlamentare*, Vol. 1 (1997), 25 ff; Pacelli, 'Le amministrazioni delle Camere tra politica e burocrazia', in Violante (Ed.), *Il Parlamento* (Torino, 2001), 746 ff.

³ See Campbell and Laporte, 'The Staff of the Parliamentary Assemblies in France', *Legislative Studies Quarterly*, Vo. 6, No. 4 (1981): 524 ff.

the shift of parliamentary administrations towards committee activity, documentation, technical assistance, recruitment and management of staff and the organisation of the office of the President. This evolution in the role of parliamentary administrations as a side effect of the more general transformation of the parliamentary function has been clearly highlighted in the debates on the rise of parliamentarism. By contrast, as Parliaments have seen their role durably recognised and effectively performed at constitutional level, such a ‘functional’ approach to the study of parliamentary administrations – considering the internal bureaucratic organisation of a representative assembly as a specular factor to the overall parliamentary structure and to the position reserved to the parliamentary function within the constitutional framework⁴ – seems to have lost its institutional relevance and scientific appeal.

In the last few decades, in fact, studies on parliamentary administrations have been developed mainly by parliamentary bureaucracies themselves either in international forums aimed at promoting a confrontation on the macro features characterising different parliamentary administrations⁵ or, at national level, in sectorial publications⁶. Only occasionally have scientific studies considered it as an autonomous field of inquiry⁷ not just to be deepened for a survey of ongoing practices, but rather to be assessed critically as a factor of major constitutional and political relevance.

This lack of a prominent scientific investigation on the relationship linking parliamentary administrations to the parliamentary structure finds further confirmation when focusing on the impact of bicameralism on the organisation of the parliamentary staff. In particular, a question arises as to the possibility that a major change in the structural and functional features of the bicameral system would require, or in any case support, a reorientation of the organisation of the parliamentary administration.

⁴ To fully understand the meaning and implications of the above mentioned ‘functional’ approach to the study of parliamentary administration, it is important to consider that - as clearly highlighted by Giannini, ‘Istituzioni e funzionalità degli apparati’, in Camera dei Deputati, *La burocrazia parlamentare: funzioni, garanzie e limiti* (Roma, 1983) - functions ‘come first’: the organisational model, in fact, ‘follows’ the functions, but without any sort of automatism, as not all functions necessarily require a dedicated administrative unit.

⁵ See the materials published by the European Center for Parliamentary Research and Documentation (ECPRD) at the end of the Seminar on parliamentary administrations held in Rome, in October 2003 (ECPRD, ‘Reports of the Seminar on parliamentary administrations and legislative cooperation’, Seminar organised by ECPR and the Italian Chamber of Deputies, 30-31 October 2003, <http://legislature.camera.it/files/pdf/dossier.pdf>).

⁶ With reference to the Italian debate on the organisation and functions of the parliamentary administration, see for instance the collective volume *La burocrazia parlamentare: funzioni, garanzie e limiti* (Roma, 1983), edited by the Italian Chamber of Deputies and, more recently, the volume *Il ruolo degli apparati serventi delle assemblee legislative tra tradizione e linee di sviluppo: atti del convegno, Palermo 20 gennaio 2012* (Napoli, 2013), edited by the Sicilian Legislative Assembly.

⁷ Among the most relevant comparative studies, it is possible to mention the insight on parliamentary staffs in the United States and Europe published on Vol. 6, No. 4 of *Legislative Studies Quarterly* in 1981; see in particular the Editor’s introduction (Erikson, *ivi*, 489 ff.) which, by highlighting the differences among the European and American parliamentary staffs has come to the conclusion that “the staff reflects a legislature’s historic functions in the political system to which it belongs”. On the role of the bureaucracies of constitutional bodies, in Italy and in other foreign experiences, see D’Orta and Garella (Eds.), *Le amministrazioni degli organi costituzionali: ordinamento italiano e profili comparati* (Roma-Bari, 1997).

Among more recent contributions that have approached the study of parliamentary administrations from a functional perspective, see Romanelli, ‘Governance and organisation of parliamentary administrations’, Paper presented at the XI Workshop dei Docenti e dei Ricercatori di Organizzazione Aziendale, Bologna, 16-18 June 2010, www.almaweb.unibo.it, who has faced the study of the organisation design of parliamentary administrations as an evolving factor, which changes according to the historic, political and institutional contingencies. With specific reference to the Italian parliamentary administration, Lupo, ‘Burocrazie parlamentari e ruolo del Parlamento: alla ricerca di una nuova autonomia’, in *Le autonomie in cammino. Scritti dedicati a Gian Candido De Martin* (Padova, 2012), 349 ff. and De Caro, ‘Le amministrazioni parlamentari e la riforma dei regolamenti del 1971’, in Manzella (Ed.), *I regolamenti parlamentari a quarant’anni dal 1971* (Bologna, 2012), 65 ff. have analysed the evolving role of the parliamentary bureaucracy according to the transformation of the Italian form of government and the major reforms of the Rules of procedures of the two Houses. Among Spanish parliamentary studies, Aranda, ‘La Administración parlamentaria en la encrucijada de la renovación’, *Corts. Anuario de derecho parlamentario*, No. 23 (2010), 157 ff. has approached the Spanish parliamentary administration and its call for reforms moving from the public parliamentary function that they identify. A more specific approach focused on the role played by parliamentary officials in the assistance offered to MPs in the autonomous collection of information is to be found in Piccirilli and Zuddas, ‘Assisting Italian MPs in pre-legislative scrutiny: the role played by Chambers’ counsellors and legislative advisors in enhancing the knowledge and skills development of Italian MPs: the assistance offered to an autonomous collection of information’, *Parliamentary Affairs*, Vol. 65 (2012), 672 ff.

This theoretical question is addressed in this paper by focusing on the ongoing Italian constitutional reform⁸ whose main aim is to transform the most symmetric of the existing bicameralisms into an asymmetric one, characterised by the existence of a Senate indirectly elected and representative of the territorial autonomies and devoid of the confidence vote to the Executive. The constitutional bill, in fact, in a final provision, establishes the need to proceed, in implementing the constitutional reform, to a functional integration of the parliamentary administrations belonging to the two Houses through the creation of common structures, the co-sharing of their asset or other possible forms of cooperation. Furthermore, the definition of a single status for the parliamentary staff serving the two Houses is directly provided for by the bill.

The issue posed by the ongoing reform of Italian bicameralism is addressed in the paper by starting from a general overview of the different formats shaping the organisation of parliamentary administrations in bicameral Parliaments (§ 2) and then moving to a detailed analysis of the bicameral structure of the two Italian parliamentary administrations (§ 3). § 4 highlights the two parallel paths leading the Italian parliamentary administration towards its unification: the constitutional path, prefigured by the constitutional reform of bicameralism (§ 4.1.); and the administrative path, promoted by each House within its statutory autonomy (§ 4.2.). A comparative overview of the most relevant European examples of joint parliamentary administrations is offered in § 5, by focusing on the Spanish, Swiss and Austrian cases. Finally, the conclusions (§ 5) are meant to demonstrate why, especially in the Italian system, the creation of a unitary bureaucracy could be considered as a means, if not to better serve an asymmetric bicameralism, at least to strengthen the ‘Europeanisation’ process of the parliamentary administration.

2. Parliamentary administrations in bicameral systems: a general overview from comparative studies

There is no clear scientific evidence as to whether and how parliamentary bureaucracies of bicameral Parliaments tend to adapt their administrative framework to the nature and type of bicameralism involved.

While all unicameral Parliaments are obviously supported by one single administration, a general overview of existing bicameralisms shows that there is no one single relationship linking the nature and type of the bicameral parliamentary structure to the format of the parliamentary administration’s organisation.

Generally speaking, a distinction can be made between two main formats - the ‘joint’ vs the ‘composed’ parliamentary administrations -, each format showing a plurality of variations giving origin to quite a large number of sub-types.

A ‘joint’ administration is characterised by the presence of one single bureaucracy serving both Houses, usually sharing a common status⁹, most often headed by a single apical administrative position (the Secretary General) or in any case ruled by both Houses on the basis of bicameral agreements. The presence, in some joint administrations, of one single member of the bureaucracy – the Secretary General – who has the power to represent the administration as a whole versus the political authorities, constitutes an exception to the practice of the majority of bicameral Parliaments, which are usually organised with one Secretary General for each House¹⁰. On this point a different arrangement characterises the Spanish *Cortes Generales* which, although inscribed

⁸ The reference is to the constitutional bill for the reform of the symmetric bicameralism and the amendment of Title V of the Constitution, approved, although in a different text in the 1st reading by both Chambers, and at the moment under the examination of the Italian Senate of the Republic (AS 1429-B, <http://www.senato.it/leg/17/BGT/Schede/Ddliter/45358.htm>)

⁹ At this regard, a peculiar solution characterises the Spanish parliamentary administration which, although sharing the same status, which according to Constitution is defined in the *Estatuto del Personal de las Cortes Generales*, enables the adoption of separated trade agreements and organisational solutions for the staff working for the Senate (see *infra* § 5.2.)

¹⁰ For a detailed comparative overview on this issue, see the Report by Ugo Zampetti, at the Meeting of the Association of the Secretary Generals of Parliaments (ASGP), ‘The role of the Secretary-General in the administration of Parliament’, Amman, 1-4 May 2000. The only cases of Secretary Generals serving two Chambers are Austria, Fiji, South Africa and the Swiss Federal Assembly.

among the ‘models’ of unitary parliamentary administrations, is served by one Secretary General for each House, but shares common rules on the parliamentary staff adopted through a bicameral decision-making process. The Spanish solution is somehow atypical given that the Secretary General is usually the one who exercises the unifying function of the bureaucratic structure, performing it according to the guidelines established by the political authorities¹¹.

The unitary nature of the parliamentary administration does not prevent, in any case, the creation of distinct services and structures for each House, which in the minimum hypothesis are exclusively in charge of the Secretariat of the two Houses (the Swiss case) but can possibly cover also the core legislative activity (the Austrian case) and, in the most divided forms of joint administration, extend their domain over large part of the legislative and administrative branches (as in the Spanish experience).

On the other hand, the ‘composed’ administration is featured by the presence of two separate parliamentary administrations, one for each House, endowed with their own internal organisation, corporate governance and also status. The existence of two different administrative bodies has not impeded the establishment of shared services and bicameral structures, in most of the Parliaments, as in most cases the two Houses tend to share or integrate areas of activities and structures¹².

This general overview of existing formats of bicameral parliamentary administrations, if analysed in parallel with the nature and type of bicameral system, proves that there is no clear connection between these two factors.

As in the Italian case, there are in fact symmetric bicameralisms, whereby the two Chambers, although sharing exactly the same functions, are supported by two distinct parliamentary administrations, strongly independent one from the other and differentiated also in their internal organisation and functioning¹³. By contrast, the Federal Assembly of Switzerland, composed by two Houses, differentiated in the representation but sharing the same powers, is characterised by the presence of one single parliamentary administration, the *Services du Parlement*, serving the two Councils, only marginally backed up by some internal unicameral arrangements.

On the other hand, asymmetric bicameralisms can be assisted either by a unitary parliamentary administration - which, as in the Spanish case (see *infra* § 5), is formally unitary (in the organisation of the bureaucracy), but intrinsically ‘bicameral’ (in the management of the personnel and possibly also in the definition of its status) - or by a joint, deeply consolidated and integrated parliamentary administration, as in the Austrian experience (see *infra* § 5).

However, in other national models (among others, Germany, France and Belgium), asymmetric bicameralism goes along with two distinct parliamentary administrations, whose independence and autonomy is sometimes directly provided by the Constitution¹⁴.

Generally speaking, if the asymmetric bicameralism prevails over the symmetric one among bicameral systems, also among their parliamentary administrations do the composed formats clearly overcome the joint models. In both formats, hybrid solutions are usually adopted in order either to support the requirements of each House (in the joint parliamentary administrations) or, by contrast, to enable economies of scale in the organisation of the areas of activity of common interest (in the composed administrations). The variety of solutions adopted, together with the absence of a clear

¹¹ *Ibidem*.

¹² A typical example is represented by the bicameral offices of the UK Parliament, responsible for the parliamentary archives or the POST (Parliamentary Office for Scientific and Technological Affairs). For further details, see Marcelli, “Aspetti comparati del supporto amministrativo agli organi costituzionali: tutele e sinergie”, in *L'autonomia degli Organi costituzionali alla prova delle riforme. Il ruolo della dirigenza* (Roma, 2015), 99 ff.

¹³ Also in Romania, where only recently have we seen the introduction of a differentiation in the functions of the two Chambers, according to art. 61 of the Constitution each House has a specialised service system and its own administrative bodies. See the Report on Romania (Senat) in ECPRD, “Reports of the Seminar on parliamentary administrations”, cit., 163 ff.

¹⁴ It is the case, in particular, of Belgium, whose art. 60 of the Constitution provides that each legislative assembly of the Federal Parliament determines, in its rules of procedure, the way it exercises its competences. For further details, see the Report on Belgium (Senat) in ECPRD, “Reports of the Seminar on parliamentary administrations”, cit., 11 ff.

connection to the nature and type of the supported bicameralism, do not however make it possible to foresee an automatism among the two terms of analysis.

3. The Italian parliamentary administration and its deep integration in the most symmetric of existing bicameralisms

The Italian parliamentary system is known for being one of the most symmetric of existing bicameralisms.

Under a structural viewpoint, both Houses, in fact, are directly elected, although some elements of differentiation exist, according to the Constitution: the reference is in particular to the differences in the active and passive electorate for the two Houses, in the number of parliamentarians and in the presence of a limited number of appointed and for-life MPs in the Senate. Further differences derive, even most significantly, in the electoral law, especially from that just approved in April 2015, which has somewhat anticipated the reform of the Italian bicameralism¹⁵.

Also from a functional perspective, the Chamber of Deputies and the Senate of the Republic share exactly the same powers, not just in the development of the legislative activity, but also in the confidence circuit and in holding the government accountable through the exercise of the scrutiny and oversight powers.

The autonomy entitled to the two Houses by art. 64 of the Constitution - which requires each House to adopt, by absolute majority, its Rules of procedure - has posed the legal basis for the creation of two independent parliamentary administrations, neatly separated in terms of internal organisation and governance, status of the personnel¹⁶ and, at least up to the last decade, also in terms of the exercise of their functions (see *infra*, § 4.2.).

The following two sub-paragraphs are meant to investigate the characteristics of the two parliamentary administrations more deeply, distinguishing the definition of the organisational model (§ 3.1.) - which implies the choice of the apical administrative positions, the departmental structures and the relative sub-units - from the identification of the functions exercised by the parliamentary bureaucracy.

3.1 The autonomy of each parliamentary administration of the Chamber of Deputies and the Senate of the Republic

¹⁵ Law 6 May 2015, No. 52 - the so called *Italicum* - has reformed the electoral law of 2005 (Law 21 December 2005, No. 270), based on a proportional system with a majority prize differentiated among the Chamber of deputies (where it was assigned at national level, thus granting the presence of a parliamentary majority) and the Senate of the Republic (where the prize was distributed at regional level, thus leading to a potential differentiation of the political representation in the two Houses). On the disconnect between the *Italicum* and the ongoing constitutional reform, see Zanon, 'Fare la legge elettorale "Sous l'oeil des russes"', *Rivista AIC*, 2 May 2014, <http://www.rivistaaic.it/>. On the electoral formula which inspires the new electoral law, Bertolini, 'Soglia per l'accesso al premio di maggioranza e ballottaggio di lista', *ivi*. The 2015 electoral law has been approved as a response to the Decision of the Constitutional Court No. 1/2014, which has declared unconstitutional some parts of the 2005 electoral law; on this point, see the debate on the No. 1/2014 of the Review *Quaderni costituzionali* by Morrone, 'La sentenza della Corte costituzionale sulla legge elettorale: exit porcellum', *ivi*, 119 ff.; Pertici, 'La sentenza della Corte costituzionale sulla legge elettorale: l'incostituzionalità ingannevole', *ivi*, 122 ff.; Guzzetta, 'La sentenza della Corte costituzionale sulla legge elettorale: molti, forse troppi, spunti di riflessione', *ivi*, 126 ff. For a critical analysis of the *Italicum* in perspective of the above mentioned jurisprudential decision, see Trucco, 'Il sistema elettorale "*Italicum*" alla prova della sentenza della Corte costituzionale n. 1 del 2014 (note a prima lettura)', 24 September 2014, *Consultaonline*, www.giurcost.org

¹⁶ The Italian Constitutional Court, in its sent. No. 154/1985, has detected in the constitutional reserve of competence on the adoption of the Rules of procedure a fundamental guarantee of the independence of the two Chambers, whose regulatory acts are therefore excluded from the judgment of external authorities. This regime of autonomy has founded the in-house judicial system of the Italian Parliament according to which each Chamber holds reserved judicial review of internal acts, including those of an administrative nature regarding Parliament's staff or third parties. This in-house judicial system is regulated by each House through their internal rules. For further details, see Lehner, 'Regolamento per la tutela giurisdizionale relativa agli atti di amministrazione della Camera dei deputati non concernenti i dipendenti' vs. «giusto processo», precettività della Costituzione e primato del diritto comunitario', in *Giurisprudenza costituzionale* (2000), 480 ff. and Randazzo, 'L'autodichia della Camera e il diritto al giudice: una condanna a metà', in *Giornale di diritto amministrativo* (2009), 1057 ff. On the latest jurisprudence on the subject, see Griglio, 'Le assemblee parlamentari, giudici in causa propria, ma non a titolo esclusivo? I seguiti della sent. n. 120/2014 della Corte costituzionale', *Osservatorio sulle fonti*, No. 1 (2015), www.osservatoriosullefonti.it

The parliamentary administrations of the Italian Chamber of Deputies and Senate of the Republic have been shaped as two autonomous administrative bodies, fully independent one from the other.

The two bureaucracies have always been extremely jealous of their autonomy, advocating it both in the regards of the governmental administration (consequently denying any assimilation of their status to the ‘general’ public service¹⁷) and in the regards of the other branch of the Parliament. These factors have contributed to shape, on the one hand, the relationship of the two parliamentary bureaucracies with the political sphere, leading them to embrace the model of the ‘support-services oriented’ administration; on the other hand, they have emphasised the impartiality of the parliamentary bureaucracy, to be considered as a shadow of the impartiality embodied not only by the Secretary General, but also by the Speaker of each Chamber.

In their internal structure, the two administrations tend to follow similar criteria and guidelines in the internal governance design (and in the connection of the bureaucracy with the political authorities), but are by contrast quite differently arranged in the administrative architecture (and consequently in the organisation of macro-units and sub-units).

In both Chambers, the strategic apex of the parliamentary bureaucracy is the Secretary General, who is appointed by the governing collegial body representing all the parliamentary groups (Bureau) acting on proposal of the Speaker. This appointment procedure favours the impartiality and autonomy of the Secretary General from the political sphere¹⁸ and at the same time emphasises its relationship of loyalty with the Speaker¹⁹, thus deeply rooting its action in the institutional architecture of the reference parliamentary institution.

A double bond ties the action of the Secretary General to the affiliation Chamber. In first place, the Secretary General assists the President in fulfilling his or her institutional mandate by exercising consultative functions, which during sittings of the plenary meetings are associated to a role of guarantee and enforcement of procedural rules. Secondly, the Secretary General provides functions of policy-setting, scrutiny and control over the activities of the administration; he or she is not only the apex of the parliamentary administrative structure, but above all is in charge of the coordination among the different units and the strategic allocation of resources.

The oversight of the Secretary General ensures that the parliamentary administration functions as a strongly unitary body²⁰, which is a fundamental prerequisite for the principle of impartiality. All the administrative units of each House, in fact, are placed under the unitary responsibility of the Secretary General.

Due to this organisational principle, derived from the hierarchical principle, the parliamentary organisation of both the Chamber of Deputies and the Senate of the Republic has been associated to the ‘hourglass model’, with the Secretary General operating as main coordinator of the activity of the administrative units and principal focal point in the interaction among these units and the political authority, identified essentially with the Speaker: the bottleneck linking the administrative sphere with the political sphere is therefore represented by the Speaker and the Secretary General²¹. This model presents the disadvantage of being strictly dependent on the characteristic of these two figures: in particular, a transformation of the Speaker’s role, that in the Italian experience has been

¹⁷ This feature has been stressed by Massimo Severo Giannini, who has depicted the parliamentary bureaucracies as ‘private administrations’ of each Chamber. See Calandra in *La burocrazia parlamentare*, cit, 128.

¹⁸ Zampetti, Report, cit., 5.

¹⁹ Posteraro, ‘Contribution’ to the general Debate on ‘The office of Secretary General’, ASGP Geneva Session – October 2009, www.asgp.com.

²⁰ According to art. 67 of the Rules of procedure of the Chamber of Deputies, the Secretary General is accountable to the Speakers of all the administrative services and offices. A similar rule is provided for by art. 3.2. of Unified code of the regulatory norms of the administration concerning the personnel of the Senate of the Republic (Unified code on the personnel).

²¹ On this point, and for a more detailed analysis of the ‘hourglass’ and of the ‘network’ model (the latter defined as a format supporting two main lines of coordination, the first centered on the Secretary General who decides on the allocation of resources, the second on the role of the administrative units in the activation of the resources for the production of final services), see Bontadini, ‘Strutture e dinamiche organizzative degli apparati’, in *La burocrazia parlamentare*, cit, spec. 38-39.

acquiring a stronger political and partisan position in the last twenty years, risks undermining the impartiality of the administration or at least putting it ‘under stress’²².

Nevertheless, a careful analysis of the organisational charts of the two administrations shows that the ‘hourglass model’ is only apparent, as there is a plurality of interconnections between the final administrative offices and the MPs that rather tend to introduce patterns of the ‘network’ model into the organisational design. Most of the units developing a consultative, legislative or research activity, in fact, often work in direct connection with the political authorities.

In any case, intermediate top management positions have been created in both Chambers in between the Secretary General and the final administrative units, in order to fill in potential gaps of oversight and responsibility.

In particular, both Houses see the presence of Deputy Secretary Generals, who are appointed by the Bureau following the proposal of the Secretary General. The number, the fields of competence and the repartition of responsibilities among the Deputy Secretary Generals varies between the two Houses, in compliance with the differences characterising the internal structure of the two administrations.

At the Senate of the Republic, the role of the Deputy Secretary Generals follows the general organisational design, structured in three administrative Areas, the macro-administrative units comprising a plurality of Services²³. Each Deputy Secretary General is responsible for one of the Areas, namely the Area for the legislative and research activity (1st Area, which covers both plenary meetings and Committee affairs), the Area for administrative affairs (2nd Area, comprising all technical and administrative support activities) and the Area of the international and external relations (3rd Area). The Services internal to the Areas are headed by Directors, senior parliamentary officials appointed by the Bureau, following the proposal of the Secretary General.

In the Chamber of Deputies, by contrast, there is neither a fixed number of Deputy Secretary Generals²⁴, nor a permanent division among their sectors of competence. They are responsible for systematic sectors of the Administration, which are determined by the Secretary General and assigned at the act of appointment. The flexibility in the internal administrative governance of the Chamber of Deputies can at this level be considered as the consequence of the lack of macro-administrative units similar to the Senate’s Areas. The principal unit is in fact represented by the Services, which however cover a more specific area of administrative activity²⁵, corresponding to the Senate’s counterparts, and directed by a Head of Service appointed by the Bureau following the proposal of the Secretary General²⁶.

The existing asymmetries in the administrative structures of the two Chambers, which also influence the repartition of responsibilities among the Deputy Secretary Generals, can be considered as a factor which does not favour the exploitation of existing synergies among the corresponding areas of administrative activity of the two Houses.

Generalising, the sharp separation among the two parliamentary administrations has been depicted as one of the disadvantages coming from the symmetric bicameralism which, by involving the parliamentary personnel in a sort of ‘institutional patriotism’²⁷, has indirectly fed the

²² See Lupo, ‘Il ruolo delle burocrazie parlamentari alla luce dei principi generali e dei mutamenti dell’assetto istituzionale, nazionale e sopranazionale’, *Rassegna parlamentare*, Vol. 1 (2012), 51 ff., spec. 66 ff.

²³ According to art. 2.4 of the Unified code on the personnel, periodically adjourned by the administration, the administrative structure of the Senate is organised in Areas, Services and Offices. Such units are established by a Decree of the Bureau. At the moment (Table A annexed to the Unified code on the personnel) the Areas are three.

²⁴ According to 8 of the Unified Code of the services and of the personnel of the Chamber of deputies, there only exists a maximum number of Deputy Secretary Generals, which is determined as being five.

²⁵ The Chamber’s administration is divided into 21 Services (Administration, Assembly, Library, State Budget, Committees *et al.*)

²⁶ A recent modification of the Unified Code of the services and of the personnel of the Chamber of deputies has introduced a fixed term of 7 years to the mandate of both the Secretary General (art. 7.1*bis*, introduced by the Deliberation of the Bureau 22 December 2014, No. 113, enacted with the Speaker’s Decree 22 December 2014, No. 965) and of the Deputy Secretary Generals (art. 8; for the Deputy Secretary Generals, the mandate is renewable). The norm only apparently weakens the mandate of these apical positions, as the fix term can be interpreted as a sort of additional guarantee of their independence from the political authority.

²⁷ See Long, ‘Il monocameralismo imperfetto’, in *Il Parlamento nella Costituzione e nella realtà* (Giuffrè, Milano), 1979.

differentiation in the regime of the two administration, thus sacrificing the upcoming expectations of coordination among the two branches of Parliament (which by contrast is foreshadowed by art. 70 and 94 of the Constitution). This arrangement has brought in some not irrelevant weaknesses of the two administrations: the self-referential framework in which the administration exercises its functions, often disconnected from the outside dimension; the de-specialisation of parliamentary councillors, who are expected to cover a variety of activity and to change with extreme rapidity from one office to the other; the sole reference of the administration to the House's Speaker; the unicameral nature of the procedures for the recruitment of personnel, announced with no regular deadlines following the occasional expectations of the political sphere.

Notwithstanding the presence of all these adverse factors, which traditionally have dissuaded any form of coordination among the two parliamentary administrations, as it will be highlighted in § 4 in the last few years the bureaucracies have started a structural cooperation in fields of common interest, most often with the purpose of taking advantage of bicameral economies of scale.

3.2 The functions of the Italian parliamentary administration and the experiences of functional integration among the two branches of the Parliament

The symmetric nature of the Italian bicameralism has favoured the development, in the two parliamentary administrations, of a similar approach to the back-up functions developed in the regards of the political sphere. The bureaucracies of the Chamber of Deputies and of the Senate of the Republic, in fact, have come to exercise the same activities, but always acting independently one from the other.

Generally speaking, the functions exercised by the parliamentary bureaucracies of the two Chambers can be classified according to the nature of the 'service' offered to the political authorities. Four types of functions, in particular, have shaped the role of the administration, namely: the 'substantial' function, providing tailored services whose main aim is to support the informative and knowledge background of MPs (as in the case of the research activity); the 'consultative' function, whose aim is to support the final decision-makers in the choice among existent alternatives; the 'technical' function, directed at providing a logistic support through the exercise of executive activities; the 'formal' function, entitled with the task of giving formal vest to the activities developed by the political authorities (as in the case of the stenographic transcriptions)²⁸.

The importance gained by each of these functions has changed over the decades in the two parliamentary administrations, in parallel with the major changes in the law-making and the main reforms of the Rules of procedure and of the internal praxis.

Some internal administrative units of the two Chambers have been created as a response to upcoming institutional demands solicited by the political sphere. Probably the most significant example, at this regard, is represented by the creation in each of the two Houses of a standing Drafting Parliamentary Unit, settled in 1989 at the Senate and in 1991 at the Chamber, as a response to the adoption, in 1986, of a Circular Letter on the guidelines of legislative drafting, addressed by the Speakers of the two Houses to MPs²⁹.

Among the most recent significant changes, it is important to mention the impact exercised on the role of the parliamentary bureaucracy by the reforms of the Rules of procedure of 1997-1999, which especially in the Chamber of deputies have reinforced the control of the Parliament on the

²⁸ See Bontadini, 'Strutture e dinamiche organizzative degli apparati', cit., 32-33.

²⁹ It is not casual, moreover, that the role of the parliamentary administration on drafting has been reinforced, especially at the Senate of the Republic, by the adoption, in 2001, of the new, reinforced, *Rules and Recommendations on the drafting of normative texts*. As a sort of reaction to the new guidelines, the administration of the Senate, in its reform in 2001, has decided to strengthen and to expand the scope of the 'Service for the drafting and revision of the legislative bills and of the other documents' by providing for the establishment, within the Service itself, of two Units, one for the ex ante evaluation of legislation, the second for the ex post evaluation, focused on the monitoring of the implementation of legislative acts. A signal of a new, integrated, approach to drafting, as a continuous activity which follows the entire cycle of life of the act, see Ravenna, 'Qualità delle norme. Realtà e tendenze in Italia e in Europa. Il Senato per la qualità della legislazione', *Nomos* (2002), 61 ff.

legislative agenda and on the planning of parliamentary activities³⁰. Following these major changes, in the last fifteen years the two parliamentary administrations have strengthened the substantial and consultative functions, promoting at the same time those sector of activities which had experienced a major evolution, such as the activities supporting the EU affairs and those related to the information and communication system³¹.

Generally speaking, the two administrations have given proof over the decades of their capacity of adaptation in the regards of the major transformations of the law-making, of the non-legislative parliamentary functions, of the role of the Parliament itself. For a long time, these adaptations have been shaped by the two bureaucracies through decisions and organisational arrangements formally unicameral, but intrinsically interdependent, as the decision of one of the two administrations has always exercised a sort of 'moral' suasion on the other branch³².

In the last few years, however, the two parliamentary administrations have gradually overcome the strict unicameral perspective which up to that time had informed the administrative reforms, gradually embracing a stronger bicameral cooperation on certain administrative fields.

Traditionally, an administrative cooperation among the bureaucracies of the two branches of Parliament has been developed in support of those joint functions related to the 'unitary' dimension of the parliamentary institution. The reference is, in particular, to the Secretariats of the Parliament in joint session and of the Joint Parliamentary Committees, which have been provided on the basis of occasional agreements and informal practices by the two parliamentary administrations. Practices that often follow symmetric but old and formalistic criteria, like the choice of the administration (and of the rules of procedure) according to the attribution of the presidency of the joint committee to a senator or to a deputy. Also the joint meetings of the standing committees of the Chamber of Deputies and the Senate of the Republic competent on the same policy area have been based on the functional coordination of the two parliamentary administrations: the latter, in particular, is functional to the definition of the agenda of the joint sessions, to the procedural consultancy during the meetings, for the keeping of the records .

More recently, however, in addition to these established patterns of functional integration, the forms of the administrative bicameral cooperation³³ have experienced an increase, both in terms of the type of activity addressed and in terms of their degree of institutionalisation. Within the variety of formats, a common feature is represented by the 'functional' nature of the cooperative dimension which, independently of any structural or organisational arrangement, structures the coordination among the two parliamentary administrations with the aim of better serving their common functional requirements³⁴. This feature distinguishes the 'functional' cooperation from the latest trends leading to a structural integration among the two administrations (§ 4). The functional cooperation among the bureaucracies has mainly involved the substantial and technical functions

³⁰ On the changes affecting the functions exercised by the Italian Chamber of deputies and of the Senate of Republic in parallel with the main reforms of the parliamentary Rules of procedures, see respectively Zampetti, 'Le riforme del regolamento della Camera dei deputati e i riflessi sull'amministrazione', in Manzella (Ed.), *I regolamenti parlamentari a quarant'anni dal 1971* (Bologna, 2012), 61 ff. e Ciaurro, 'Caratteristiche delle linee di sviluppo del Senato della Repubblica', in *Il ruolo degli apparati serventi*, cit., 39 ff.

³¹ See Zampetti, 'Il funzionario parlamentare fra tradizione e innovazione', in Associazione dei consiglieri parlamentari della Camera dei deputati (Ed.), *La formazione della classe dirigente per l'Europa. Spunti di riflessione per l'alta burocrazia pubblica*, Palazzo Montecitorio, Roma 14 gennaio 1999 (Roma, 1999), 207-208.

³² On this point, see Gianniti, 'Per un ragionevole bicameralismo paritario', in Manzella and Bassanini (Eds.), *Per far funzionare il Parlamento. Quarantaquattro modeste proposte* (Bologna, 2007), 77, who has highlighted that the product of the symmetric bicameralism is the presence of two parliamentary administrations often driven by competitive behaviours, virtuous, but also uselessly emulative. According to the Author, such a bicameralism, if correctly interpreted, should therefore product, when required by the function exercised, cooperative procedures and structures.

³³ The Libraries of the Chamber of deputies and of the Senate of the Republic, created in 1848 and open to the public respectively since 1988 and 2003, have been involved in a project of integration and coordination of the librarian services, announced on 10 November 2006 by the Speakers of the two Houses and then started in 2007. The integration has been physically executed through the demolition of the wall which separated the Library of the Chamber of the Senate and is daily carried out through an intense functional cooperation among the parliamentary personnel of the two administrations in charge of this sector.

³⁴ On the necessity to figure out a coordination among the administrations of the two Chambers especially for those procedures or sectors which require unitary answers from the Parliament, see Decaro, 'Le amministrazioni parlamentari e la riforma dei regolamenti del 1971', in Manzella (Ed.), *I regolamenti parlamentari a quarant'anni dal 1971* (Bologna, 2012), 71.

which, most probably, are better suited to be shared, while the consultative and formal functions are more radically rooted in the reference unicameral framework.

In particular, the functional cooperation has at first affected the Library services, which have not been unified from an administrative point of view, but yet support a common structure, the Joint Parliamentary Library, created in 2007 through the integration of the libraries of the two Chambers³⁵.

Within the field of the technical functions, it is important to mention the functional cooperation which links the information technology services of the two administrations, leading to the repartition of the parliamentary data-base and specialised search engines inbetween the websites of the two Chambers³⁶.

The functional cooperation has however included also the 'substantial' functions: an informal coordination among the research services of the two House has in fact been started in the last few years, especially in the analysis of budgetary coverage, in order to prevent the duplication in the report and study activity for those bills which, through the *navette*, are passed by one Chamber to the other.

Finally, some experiences of informal functional cooperation among the two parliamentary administrations have involved, some years ago, also the administrative activity developed in the support of the parliamentary oversight of budget and public finance (which falls in between the categories of the 'substantial' and 'consultative' functions). The reference is, specifically, to the cooperation developed among the secretariats of the Budget Committees of the two Houses started in the XV legislature, and then interrupted in 2008, in order to support a practice of joint activities in the monitoring of public finance³⁷. This cooperation, based on the voluntary behaviours of parliamentary bodies and actors³⁸, has finally led to the introduction, in the National Accounting Bill, of a formal bicameral mechanism for the integration of the activity of the two parliamentary administrations in the preliminary analytical activity functional to parliamentary oversight of budget³⁹.

Finally, this field of activity has lately experienced a structural cooperation among the two parliamentary administrations, based on a constitutional norm and directed at supporting the activity of the Parliamentary Budget Office, the Italian fiscal agency set up in compliance with the commitments of the European economic and financial governance. Article 5, Section 1, (f) of the

³⁵ The Joint Parliamentary Library has been created in 2007 through an agreement among the two Houses. Since 2008, the cooperation in this field has led to a specialisation and distribution of tasks among the administrative structures of the two bureaucracies responsible of the librarian services: in particular, the Senate of the Republic has kept the management of the daily press, while the Chamber of Deputies is competent for the selection, acquisition and distribution of scientific reviews.

³⁶ In particular, the institutional website of the Chamber of deputies hosts the database of the non-legislative acts and procedures of the two Chambers (<http://www.camera.it/leg17/170>), while the institutional website of the Senate of Republic offers a specialised search engine for the legislative bills and procedures, covering the proceeding of both Houses (<http://www.senato.it/ric/sddl/nuovaricerca.do?params.legislatura=17>). The cooperation among the information technology services of the two Chambers has moreover enabled the creation of coordinated 'bicameral' websites dedicated either to the activity of the 'Parliament' in its unitary dimension (and as such devoted to the activity of the Parliament in joint session, to bicameral committees and to international relations; see <http://www.parlamento.it/home>) and the historic records of the two Chambers (<http://storia.camera.it/>).

³⁷ This practice led to the creation of two sub-committees, named 'Joint Committee for the monitoring of public finance', acting by the Budget committees of the Chamber of deputies and the Senate. These two bodies were created separately for each Chamber, but they used to carry out joint meetings, with joint agendas, which were made possible by the cooperation among the correspondent structures of the two parliamentary administrations supporting the Budget Committee. The initiative, however, was interrupted with the beginning, in May 2008, of the new legislature. For further details, see Goretti and Rizzuto, 'Il ruolo del Parlamento italiano nella decisione di bilancio : evoluzione recente e confronto con gli altri paesi', *Rivista di politica economica* (2011), 51-52.

³⁸ Perna, 'Le procedure di bilancio, fra Governo e Parlamento, in una democrazia maggioritaria', in *Il Filangieri – Quaderno 2007, Il Parlamento del bicameralismo. Un decennio di riforme dei regolamenti delle Camere* (Napoli, 2008), 175, has expressed his criticism on such informal initiatives, which do not seem able to offer structural solutions to the institutional call for empowered budgetary information available to Parliament.

³⁹ The reference is to art. 4.2. of the Law n. 196/2006, which provided for the adoption of agreements subscribed by the Speakers of the two Houses in order to promote the joint execution of preliminary activities propaedeutical to parliamentary oversight of budget, to the development of expertise capable of deepening the technical profiles of the national accounting system and to the integration of the activity of respective administrative structures.

Constitutional Law no 1/2012, which ratified the Treaty on Stability, Coordination and Governance (the so called Fiscal Compact) and introduced the budget balance rule in the Italian Constitution⁴⁰, has in fact provided for the establishment of an independent body, to be created *by the Chambers*, with due respect of their constitutional autonomy; and entitled to analyse and assess the public-finance trends and to monitor the respect of budgetary rules. The Office's internal composition and organisation have been disciplined by the re-inforced law no 243/2012 of 24 December 2012. The Italian Parliamentary Budget Office represents a unique example (at least in Europe) of Fiscal Council strongly parliamentary-centred⁴¹, not just for the criteria of appointment of its members, but also for its administrative structure⁴², as the Office's staff and funding⁴³ are firmly rooted in the coordination among the two parliamentary administrations.

4. Italian parliamentary administration facing the reform of the perfect bicameralism

The patent unicameral inclination of the parliamentary administrations of the Italian Parliament has undergone relevant changes in the last few years. As highlighted in § 3.2., some functional integrations have enabled, in the last decade, a strengthened coordination of the two bureaucracies in the exercise of those functions which either are better practiced in a unitary form (as the activity carried out in support of the parliamentary oversight of budget) or gain more advantage from economies of scale (as in the case of information technology services).

Apart from these functional forms of cooperation, the ongoing legislative mandate, started in Spring 2013, has witnessed also a new incentive towards the introduction of structural forms of integration among the two parliamentary administrations. This process has been driven, at the same time, by two parallel reforming paths. On the one hand, the unification of the two parliamentary administrations is explicitly provided by the constitutional bill for the reform of the symmetric bicameralism currently under the discussion in the Italian Parliament. On the other hand, the constitutional reform of the parliamentary administration has been backed up, and somehow even moved up, by the 'administrative' path towards the unification of some parliamentary services and the consolidation of their personnel started at the beginning of the current legislative mandate.

4.1. The constitutional amendment: the proposal for a creation of a joint parliamentary administration in an asymmetric bicameralism

In the last four decades, the reform of the symmetric bicameralism has represented a cyclic discourse of the Italian institutional debate on constitutional amending. Starting from the IX legislative term (1983-1987), the interest vested on this issue of reform has started different proceedings which, although varying in the nature and type of the initiative, in the promoter and in

⁴⁰ On the reform, see, *inter alia*, Brancasi, 'L'introduzione del principio del cd. pareggio di bilancio: un esempio di revisione affrettata della Costituzione', *Quaderni costituzionali*, Vol. 1 (2012), 108 ff. and Cabras, 'Il pareggio di bilancio in Costituzione: una regola importante per la stabilizzazione della finanza pubblica', *ivi*, 111 ff.; Nicola Lupo, 'La revisione costituzionale della disciplina di bilancio e il sistema delle fonti', in Lippolis (Ed.), *Costituzione e pareggio di bilancio, Il Filangieri – Quaderno 2011* (Napoli, 2012), 89 ff.; Groppi - Spigno and Vizioli, 'The Constitutional Consequences of the Financial Crisis in Italy' (2012), www.astrid.eu. On the features of the Italian Fiscal Institution, see Franco, 'Comments on 'The Role of Fiscal Policy Councils in Theory' by Xavier Debrun', Presentation held at the Conference on 'Fiscal Policy Councils: Why do we need them and what makes them effective', Vienna, 31 January 2011, <http://www.staatsschuldenausschuss.at/en/>; and Goretti, 'Pareggio di bilancio e credibilità della politica fiscale: il ruolo del fiscal council nella riforma costituzionale italiana', 20 January 2012, www.astrid-online.it.

⁴¹ For a deepening on the Italian Fiscal Council and an overview of other European experiences, see Fasone and Griglio, 'Can Fiscal Councils enhance the role of National Parliaments in the European Union? A comparative analysis', in De Witte - Héritier and Trechsei (Eds.), *The Euro Crisis and the state of European Democracy* (Fiesole - European University Institute e-book, 2013), 264 ff.

⁴² Art. 16 of the law, in fact, provides that the Council is made up of three members appointed upon the basis of common agreements by the Chairs of the two Houses within a list of ten persons drawn up by competent parliamentary committees (upon the basis of agreements adopted by a two-thirds majority) from the experts in public finances.

⁴³ See, in particular, Articles 17 of the Law n. 243/2012 on the contribution offered by the two parliamentary administrations to the definition of the Office's staff; and Art. 19 of the Law, which discipline the financial participation of the two Houses at the funding of the Office.

the format as well, are associated by their common purpose to overcome existing symmetries in the functional and structural features of the bicameral system.

In the current legislative term, the constitutional reform of bicameralism has at first been debated by the governmental Committee for constitutional reforms established by the Letta Government in June 2013⁴⁴; after the settlement of the Renzi Government, the issue has been resumed in the parliamentary debate on the new governmental constitutional bill submitted to the Senate on 8 April 2014⁴⁵, whose aim is to overcome the symmetric bicameralism, to reduce the number of parliamentarians, to restrain the costs of institutions and to reform the Title V - Part II of the Constitution, which distributes the competences among the State and the territorial entities.

In particular, the main aim of the reform is to introduce in the Italian Parliament an asymmetric bicameralism⁴⁶, whereby the Chamber of Deputies keeps a role of political representation, entrusted on its 630 deputies, and the Senate of the Republic is turned into an assembly of territorial representation, composed of 100 representatives of the regional and local entities indirectly elected by the regional legislative assemblies (called 'Councils')⁴⁷.

Asymmetries in the composition of the two Houses are accompanied, in the bill currently under discussion in Parliament, by a differentiation of their functions, as the confidence powers are reserved to the Lower Chamber and the Senate is entitled only with the power to 'contribute' to the exercise of the other functions, therefore leaving out any chance of functions exercised by the Senate alone or in autonomy from the Chamber.

Even in the lawmaking process, the role of the Senate is reduced to a consultative role in the unequal legislative procedure, which covers most of the subjects: in these cases, which constitute the 'rule', the Senate may decide to intervene when the bill has already been approved by the Chamber⁴⁸, formulating amending proposals which are submitted to the Chamber of Deputies for confirmation or denial.⁴⁹

The above mentioned revision of the symmetric bicameralism has been accompanied by the introduction, within the constitutional norm itself, of a process of unification of the two parliamentary administrations, whose execution is delegated to the two Chambers, respecting precise time limits. Art. 39. 3 of the constitutional bill (AS 1429-B) determines, in fact, that by the end of the current legislative term the Chamber of Deputies and the Senate of the Republic shall provide, following criteria of efficiency and rationalisation, to the functional integration of the parliamentary administrations through the establishment of joint services, the coordinated use of the human and technical resources and the promotion of any other form of cooperation. To this aim, the

⁴⁴ The Committee of experts, appointed by the Councils of Ministers on the 13 June 2013 with the task to instruct issues inherent to the reform of the Title I, II, III e V of the II Part of the Constitution, in September 2013 has licensed its final Report (<http://riformecostituzionali.gov.it/documenti-della-commissione/relazione-finale.html>), which, among other themes, include also some proposals for the transition to an asymmetric bicameralism.

⁴⁵ AS 1429-B, now under discussion (for a second, but not definitive, reading) by the Italian Senate of the Republic.

⁴⁶ See the transcriptions of the hearings of academics and other experts carried out by the Senate in the Survey on the pre-legislative examination of the constitutional bills for the reform of the Part II - Titles I and V of the Constitution, available <http://www.senato.it/Leg17/1122?indagine=43>. Many contributions on the impact of the reform on the symmetric bicameralism have been published on the Italian on-line Reviews; among others, see Bin, 'Coerenze e incoerenze del disegno di legge di riforma costituzionale: considerazioni e proposte', *Forum di Quaderni costituzionali*, 22 aprile 2014, <http://www.forumcostituzionale.it/>; Anzon Demming, 'Il progetto di riforma costituzionale del Governo Renzi: una sorpresa positiva', *Rivista AIC*, April 2014 and D'Atena, 'Luci ed ombre della riforma costituzionale Renzi-Boschi', *Rivista AIC*, 26 June 2015, both available at <http://rivistaaic.it/>; Pajno, 'Considerazioni sulla riforma costituzionale in progress, tra Governo, Senato e Camera dei deputati', *Federalismi.it*, No. 24, 24 December 2014, <http://www.federalismi.it/>.

⁴⁷ See Luciani, 'La riforma del bicameralismo, oggi', *Rivista AIC*, 2 May 2014, <http://rivistaaic.it/>

⁴⁸ The intervention of the Senate in the unequal legislative procedure is contingent and is submitted to strict time constraints: the initiative, advanced by at least 3/3 of the senators, must be approved by the assembly within ten days from the Chamber's approval. A term of 30 days is instead referred to the conclusion of the bill examination by the Senate, in the case the latter decides to participate at the procedure (see art. 10 AS 1429-B). By contrast, the equal legislative procedure, based on the intervention of the two Houses, with the same powers, is reserved only to a limited number of bills (constitutional bills, bill dealing with issues related to the role/organisation/representation of the territorial entities and to the participation at the European Union).

⁴⁹ For a detailed analysis of the text of the constitutional bill, see the Report drafted by the Research Service of the Senate of the Republic, 'Riforma costituzionale. Il testo approvato dalla Camera dei deputati in prima lettura (A.S. n. 1429-B) Schede di lettura', <http://www.senato.it/service/PDF/PDFServer/BGT/00930270.pdf>.

constitutional norm establishes the joint payroll of the parliamentary personnel, as composed of all the permanent members of staff of the two Chambers, which shall adopt a joint statute of the employees embracing all the rules already in force in the respective legal orders and determining the procedures for future amendments, to be approved in compliance with the principles of autonomy, impartiality and exclusive recruitment through public competition⁵⁰.

Such constitutional amending proposal on the unification of the bureaucracies of the two Houses sounds possibly peculiar, given that some legitimate doubts raise on the possibility to foster a cooperation among parliamentary administrations in asymmetric bicameralisms where the requirement of a dual relationship among the two Chambers tends to prevail over that of the cooperation⁵¹.

On the whole, the provision is directed at overcoming the presence of two distinct administrative bodies respectively serving the Chamber of deputies and the Senate of the Republic, nonetheless without clarifying what should be the final outcome of this process. The drafting of the norm makes use of a plurality of concepts, all potentially feasible, but associated to quite different organisational designs. In particular, three alternative formats of unification of the two parliamentary administrations are prefigured by the constitutional reform. The weakest model corresponds to the formula of the 'functional integration', to be pursued by working on each sector of activity and pooling resources and tasks. This process, which has already experienced some developments in the last few years due to the voluntaristic initiative of the two administrations (see § 4.2.), could be formalised and institutionalised in order to gain full effectiveness, but without altering its constitutive flexibility and the functional nature of the coordination among administrations, which by definition does not impact the structural and legal foundations of the two administrative bodies.

A more intensive form of unification is offered by the formula of the 'joint statute', which by contrast is associated to a revision of the norms on the working status of the personnel of the two Chambers, which in its turn calls for the settlement of joint bicameral procedures for the revision of the rules currently in force by each parliamentary administration.

Finally, the formula of the 'joint payroll' makes reference to a full process of unification of the two bureaucracies, which comprises both the functional integration and the definition of a joint statute and in addition requires a revision of the internal organisational charts of the two administrative branches of Parliament. As § 5 will demonstrate, a unified administration can be associated to a plurality of organisational designs and governance models, but the transition from a divided to a joint administration will inevitably require a change of existing arrangements.

The ambiguity of this formulation seems to confirm that the hint on the unification of the two parliamentary administrations, apparently counter-intuitive within a constitutional reform designed to overcome the symmetric bicameralism, represents in fact a sort of 'defensive *manoeuvre*' whose aim is to protect the role and the autonomy itself of the parliamentary administration in face of a bicameralism not just differentiated in the composition and in the functions of the two Houses, but also extremely asymmetric in their relationship with the political sphere.

This consideration for the new constitutional provision does not invalidate, but rather enables to correctly frame its potential effectiveness in perspective of a more efficient parliamentary administration capable of supporting the changing role of the Parliament also in its European dimension.

4.2 The 'administrative' path towards the unification of some parliamentary services and the consolidation of their personnel

⁵⁰ The provision also delegates both Chambers to determine, on the basis on a bicameral agreement, the rules disciplining the working conditions of the members of staff of the parliamentary groups.

⁵¹ In this sense, on the possibility to imagine forms of cooperation among the parliamentary administrations in a symmetric bicameralism which intrinsically encourages the logic of the coordination, see Gianniti, 'Per un ragionevole bicameralismo paritario', cit., 77 ff.

Independently of the constitutional path towards the unification of the two parliamentary administrations, the current legislative term has experienced some relevant novelties affecting the level of the ‘administrative’ rules and procedures internal to each House and related to the regulation of the working status of the parliamentary personnel.

The debate on the reform of the parliamentary bureaucracies and the creation of a joint administrative body is not absolutely new to the debate internal to the two Houses. However, in the last two years the issue has experienced an acceleration and intensification, entrenching itself in the internal administrative practice ruling the relationship among the political bodies and the union representative associations of the administrative personnel⁵².

Traditionally, all administrative decisions affecting the status and working conditions of the personnel have been approved by each House independently one from the other. The procedure is divided into two stages. The first stage is entitled to set the conditions of the working discipline on the basis of an agreement among the Representation for matters related to personnel - a political body composed by representatives of the Bureau and headed by a President delegated by the Speaker of the House - and the union representatives of the permanent members of staff of the two bureaucracies. The second stage, by contrast, is devoted to the formal adoption of the decision by the Bureau and to its enacted with a Decree of the Speaker. Formally, these two stages have always been carried out autonomously by each House.

Conversely, from the beginning of the current legislative terms, the two Houses have started to conduct together the first stage of the negotiations and the definition of an agreement: such practice has been carried out on the basis of joint meetings involving both the political representation and the union associations of the two Houses, summoned alternatively at the Chamber of deputies and at the Senate of the Republic. The launch of the new procedure is to be ascribed to a contingent political will directed at harmonising the basic working conditions of the two bureaucracies in order to rationalise their status and reduce the costs of personnel. The original incidental purpose has however gained a different institutional meaning, directed at pursuing a wholesale integration of the two bureaucracies, as the constitutional debate on the reform of the symmetric bicameralism has become the main issue in the agenda of the two parliamentary assemblies. Not by chance, soon after the approval of the constitutional bill in 1st reading by the Senate of the Republic (occurred at the beginning of August 2014), the Bureau of the two Houses have approved, on the same day, in the identical text although formally with two distinct acts, a reform of the employees’ maximum compensation which, apart from its implications on the status of the parliamentary staff⁵³, includes a provision on the unification of the two administrations.

Art. 9 of the two Deliberations⁵⁴, in fact, provide that the process of harmonisation of the legal and economic status of the personnel of the Chamber of Deputies and of the Senate of the Republic shall lead to the establishment of the joint payroll of the employees of the Parliament and to the identification of the administrative structures of the two Houses to be unified⁵⁵. The deadline for this process, fixed in the 31st December 2014, has already passed, but the norm confirms the idea

⁵² The new administrative practice has been formally announced by the Speakers of the two Houses with a joint public statement which presented a calendar of joint meetings directed at examine the stages of the process of integration of the activities developed by the two administrations and harmonisation of the norms concerning the personnel. See <https://www.senato.it/Leg17/comunicato?comunicato=46873>.

⁵³ The main purpose of the reform was to apply to the parliamentary staff the discipline introduced for public service by the Decree law 24 April 2014, No. 66, which set a maximum level of compensation applicable to all public officials, exception made for the personnel of the constitutional bodies, which due to their administrative autonomy were not subject to statutory law.

⁵⁴ Deliberation of the Bureau of the Chamber of Deputies 30 September 2014, No. 102. Deliberation of the Bureau of the Senate of the Republic 30 September 2014, No. 47. The two Deliberations have been enacted respectively with the Speaker’s Decree 6 October 2014, No. 824 and with the Speaker’s Decree 15 October 2014, No. 12184.

⁵⁵ As for the drafting of art. 39 of the constitutional bill, also this provision is somewhat ambiguous in the definition of the administrative unification path, referring both to the creation of a ‘joint payroll’ and to the integration of the administrative structures of the two Chambers.

that the reform of the parliamentary administration is perceived as somewhat prior to the constitutional reform⁵⁶.

In other terms, the prefigured transition to a radical different system of representation and lawmaking has solicited the urgency of a reform of the parliamentary administration capable to anticipate the challenges of an asymmetric bicameralism and to adapt existent resources to the requirements of a revised Parliament shaped by the factual legislative unicameralism and by the incorporation of territorial representatives in the national political dimension.

The attempt of the administration to 'anticipate' the constitutional reform adapting itself to the requirements of a 'unitary' parliamentarism is however facing more than one obstacle. Apart from the resistance exercised by part of the parliamentary personnel, the 'administrative' reform is restrained by existing difficulties in homogenising the working conditions applicable to the employees of the two branches of Parliament, amplified by the internal domestic regime of jurisdiction, which does not grant unitary responses to the administrative matters of common interest for the two bureaucracies.

5. Other cases of joint parliamentary administrations in asymmetric bicameral systems

Among bicameral Parliaments, the solutions adopted in the organisation and structure of the parliamentary administration are manifold. Three national experiences are of particular interest for the Italian case being analysed, as they are characterised by the presence of a joint parliamentary administration serving both Houses, whose legitimacy is to be found directly in the Constitution.

The Spanish, the Swiss and the Austrian Parliaments, in fact, share the presence of one single parliamentary administration, a unitary administrative body comprising the personnel serving both Houses. All the three cases examined include a formal recognition in the Constitution not only of the autonomy of the parliamentary administration and its fundamental features - as it is provided also in other Constitutions - but, most significantly for the issue debated, of the unitary nature of the administration and of its being placed at the service of the Parliament as a whole⁵⁷.

Differences among the three cases are related to: the governance structure, and specifically to the presence of one Secretary General for the whole administration or, by contrast, for each Chamber; the existence of unicameral services and structures serving the activity of only one of the two Houses; the opportunity to differentiate the status of the personnel according to the destination branch of the Parliament.

5.1. Spain

Comparatively speaking, the Spanish parliamentary administration is the least integrated and unitary of the three national models examined. It refers to a bicameral system - the *Cortes Generales* - imperfect in its nature, deeply asymmetric both from the structural and functional point of view.

While the *Congreso* interprets the function of political representation, the *Senado* is formally⁵⁸ entitled to grant a representation to the territorial autonomous entities, as it is composed of 266

⁵⁶ The possibility to reform the parliamentary administrative structures on the basis of an autonomous timeline, independent from the reform of the Parliament as a whole, has been recognised by Giannini, 'Istituzioni e funzionalità degli apparati', cit, 216.

⁵⁷ Art. 72 of the Spanish Constitution, in fact, provides that the Chamber, on the basis of a common agreement, discipline the status of the personnel of the *Cortes generales*. Also art. 155 of the Swiss Constitution recognises that "the Federal Assembly" (as a whole) has parliamentary services at its disposal. Finally, art. 30 of the Austrian Constitution includes an even more detailed regulation of the issue, which explicitly places parliamentary staff under the authority of the President of the House of representatives, even if "the internal organization of the Parliamentary Staff for matters of the Senate shall be settled in agreement with the Chairman of the Senate who is likewise invested with authority to issue instructions as to implementation of the functions assigned to the Senate on the basis of this law" (par. 3). "The nomination of Parliamentary Staff employees and all other competencies in personnel matters lie with the President of the House of Representatives." (par. 4).

⁵⁸ According to the prevailing scholarship, the Spanish *Senado* does not constitute an authentic example of a 'federal' second chamber. Among many others, see Machetti, 'En torno al principio de cooperacion', *Revista de Derecho politico*, Vol. 21 (1983), 106; Echavarría, 'Estado autonómico', in *Enciclopedia jurídica básica* (Madrid, 1995), 2893, and Blanco, *Las relaciones de funcionamiento entre el poder central y los entes territoriales: Supervision, solidaridad, coordinacion* (Madrid, 1985), 270; Aja, 'I

members, 208 directly elected in the provincial boundaries, while the residual 58 are indirectly elected by the *Comunidades Autonomas*; as a consequence, only one-fifth of the senators can be considered as real ‘territorial’ representatives⁵⁹.

From the procedural point of view, the bicameral architecture of the Spanish parliament is characterized by the exclusion of the Senate from the confidence circuit. The bicameral legislative process itself is not based on a repartition of competences between the two chambers (as provided for by the German Constitution), but it is rather characterised by the attribution of the priority right to the *Congreso* in the examination of the bills. After the approval in the Low Chamber, the bills are submitted to the Senate, which can either reject the whole proposal or amend it; in both cases, its decisions must be motivated⁶⁰. The last word is in any case given to the *Congreso*, which can restore the original bill or decide on the amendments proposed by the Senate. In a comparative perspective, the role attributed to the High Chamber is extremely limited, and this contributes to explaining why part of the Spanish scholarship defined the Spanish bicameralism as “utterly unequal”⁶¹.

The unitary nature of the parliamentary bureaucracy, founded on art. 72 of the Constitution, finds its discipline in the *Estatuto del Personal de las Cortes Generales*⁶². As explicitly recognised in the Premises of the *Estatuto*, the dual nature of the *Cortes Generales* does not invalidate the unity of the status of its personnel, which finds in the Rules of procedure of the two Chambers the regulation of their rights, duties, functions and powers.

The *Estatuto* itself states the fundamental conditions of the joint status of the parliamentary staff.

The recruitment of the staff is performed through a single channel of selection, based on a public competition announced on the basis of the Annual Offer of public employment approved in a joint meeting by the Bureau of two Chambers. According to art.10.8 of the *Estatuto*, such offer must guarantee an adequate supply of officials to the administrative organisation of each Chamber. The role of parliamentary officials is assigned jointly by the Speakers of the *Congreso* and *Senado*.

Apart from the recruitment criteria and procedures, the *Estatuto* also sets down the basic discipline of the legal status of the parliamentary officials, from the regulation of the working day to the professional duties, from the discipline of working sanctions to the regime of jurisdictional safeguards.

These common rules on the parliamentary staff’s status are integrated by the internal regulation of each Chamber, which defines in detail the functions and position of the assigned personnel⁶³. Due to the existence of two levels of regulation, according to art. 5.1. of the *Estatuto*, the competences on staff management are exercised by the Speakers and the Bureau of the two Chambers, acting jointly or separately, in the latter case through their respective Secretary Generals.

The result of such an integration of rules and governance patterns is a composed status for the personnel of the *Cortes generales*, partially unitary and partially differentiated according to the

rapporti tra lo Stato e le Comunità autonome in Spagna’, in Rolla (Ed.), *La riforma delle autonomie regionali – esperienze e prospettive in Italia e Spagna* (Torino, 1995), 93, and Id., ‘El Senado, Cámara posible de las autonomías’, *Revista de Estudios Políticos*, Vol. 17 (1980), 27 ff.

⁵⁹ On the hybrid nature of the Spanish Senate, see Aja and Viver Pi-Sunyer, ‘Valoración de 25 años de autonomía’, *Revista española de derecho constitucional*, Vol. 23 (2003), 107.

⁶⁰ Arts. 87-90 of the Spanish Constitution.

⁶¹ Pérez Royo, *Curso de derecho constitucional*, VI ed. (Madrid, 1999), 756. On the inferiority of the Spanish Senate, see also García De Enterría, ‘Spagna’ in Palici Di Suni Prat *et al.* (Eds.), *Le costituzioni dei Paesi dell’Unione Europea* (Padova, 1998), 701-702. The Spanish Constitutional Tribunal itself (STC 97/2002) highlighted the pre-eminent position attributed by Art. 90.2 CE to the Low Chamber.

⁶² The *Estatuto* has been approved by the Bureau of the Congress and of the Senate on the 23 June 1983 (BOE of 29 June 1983) has since then been modified in nine cases, with the same procedure.

⁶³ On this integration of the unitary nature of the *Estatuto* with the autonomy recognised to each Chamber in the exercise of respective competences on the personnel, see Gómez, ‘Los retos de la gestión del personal en una administración parlamentaria neutral y moderna’, Presentation at the VII Congreso Internacional del CLAD sobre la Reforma del Estado y de la Administración Pública, Lisboa, Portugal, 8-11 Oct. 2002, <http://unpan1.un.org/intradoc/groups/public/documents/CLAD/clad0044006.pdf>. In fact, the Rules of procedure of the Senado and of the Congreso are extremely scarce in their references to the parliamentary administration; for an overview of most significant rules, see Lozano Miralles, ‘La administración parlamentaria: una visión comparada de los parlamentos autonómicos’, Presentation at the VII Congreso Español de Ciencia Política y de la Administración: democracia y Buen Gobierno, 21-23 September 2005, www.aecpa.es.

destination assembly, which however does not impede an intense mobility of personnel between the two branches of the *Cortes*.

From the internal governance perspective, the organisation of the Spanish parliamentary administration is clearly based on a bicameral architecture. The *Congreso* and the *Senado* have two distinct highest officials responsible for the management of parliamentary administration, the *Secretario General* of the Congress and the *Letrado Mayor* for the Senate. As in the Italian model, both Secretary Generals are entitled with the dual role of principal adviser on law, practice and parliamentary procedures and top manager. Also the appointment procedures follow the Italian format, whereby the position is appointed by the governing collegiate body (Bureau) following the Speaker's proposal.

Asymmetries in the internal governance are mostly based on the entitlement of the *Secretario General* of the *Congreso* as *Letrado Mayor* of the *Cortes generales*, provided for by art. 6 of the *Estatuto* except in the case of different decisions by the Bureau of the two Chambers. The *Letrado Mayor* of the *Cortes* is in charge of the two existing bicameral structures, respectively responsible for the joint activity of the *Cortes Generales* and the Technical Secretary of the Electoral Central Committee.

Apart from these joint administrative activities, although neatly separated the organisational charts of the two Chambers are structured in a much similar way, based on the existence of two administrative macro-areas - the *Secretaria General* for parliamentary affairs and the *Secretaria General* for administrative affairs, each headed by an Adjunct Secretary General - and a number of units directly dependant on the Secretary General. The solution adopted in this regard, with two autonomous administrative organisations which however follow the same internal divisions, is somewhat curious given the intense asymmetries featuring the Spanish bicameralism.

5.2. Switzerland

The Swiss case can be considered as an example of deeply unified parliamentary administration, which nevertheless experiences some unicameral arrangements. The reference bicameral system is intrinsically differentiated in terms of the composition of the two Chambers and type of representation fulfilled: the National Council, in fact, composed of 200 members, represents the Swiss people, while the Council of the States is made up of 46 representatives of the Swiss Cantons, selected by cantonal representative bodies. From the functional point of view, however, the Swiss Parliament represents a symmetric bicameralism, as, according to art. 146 of the Constitution, in order to grant a due balance between the democratic and the federal principle, the two Councils are endowed with the same powers⁶⁴.

The parliamentary administration presents a much higher level of integration and unity compared to the Spanish administration. Its discipline, founded on art. 155 of the Constitution, is included in the Law on the Federal Assembly (Law on the Parliament)⁶⁵, which sets down the internal rules and procedures for the organisation and functioning of the two Councils.

According to art. 64.1. of the Law on the Parliament, the *Services du Parlement* (the name used to defined the joint parliamentary administration) support the Federal Assembly in the fulfillment of its tasks. They are headed by the Secretary General of the Federal Assembly (art. 65.2 Law on the Parliament), who is at the same time the highest official of the parliamentary bodies and the director of the parliamentary services. As a sign of independence, the Secretary General is appointed by a parliamentary body, called the Coordination conference, and the nomination is then confirmed by

⁶⁴ See Linder and Steffen, 'Swiss Federalism', in Le Roy and Saunders (Eds.), *Legislative, executive and judicial governance in federal countries* (Montreal, 2006), 300 ff. Legislative bills can be instructed either by the National Council or by Council of State, on the basis on the working programme agreed by the Speakers of the two Chambers (art. 84 LParl). Laws must be approved in the same text by both Chambers, through the *navette* procedure, given the possibility to do so.

⁶⁵ The Law was adopted on 13 December 2002 with a Decree of the Federal Assembly of the Swiss Consideration (LParl, RS 171.10).

the Offices of the two National Council and the Council of States, composed by the respective Speakers and Deputy Speakers, with a secret ballot and by absolute majority approval⁶⁶.

The unitary direction of the administrative organisation entrusted on the Secretary General represents the result of the historic evolution which, over the decades, has led the Parliamentary Services to gain their autonomy and independence from the Federal Chancellery, which, in the XIX century and for large part of the XX century (until 1972), provided the Secretariat of the National Council, directing much part of the parliamentary administration⁶⁷.

The creation of a unitary parliamentary bureaucracy, which favoured the process of independence from the Federal Chancellery, is however tempered by some asymmetric arrangements. Due to a stable praxis, the Secretary General heads both the Secretariat of the National Council and the United Federal Assembly and at the same time directs the management board, the structure created by the reform of 1988 in order to rationalise the internal governance of the Parliamentary Services⁶⁸.

The role of the Secretary of the Council of States is instead performed by the Adjunct Secretary General. This arrangement formally grants to each Chamber a 'dedicated' top administrative position, the Secretary of the National Council and the Secretary of the Council of the States, who exercise a dual role: each Secretary is responsible for the secretarial structures of one of the two Councils, which are placed above the other services (unicameral dimension), and, at the same time, are in charge of the direction of services supporting the needs of both Chambers (bicameral dimension)⁶⁹. The solution adopted represents a sort of compromise between two distinct institutional needs. On the one hand, it preserves the unitary nature of the parliamentary services, which are shared among the two branches of Parliament not just for the technical and administrative activities (covered by the Sectors 'Information', 'International and Plurilinguisme' and 'Infrastructures', each headed by a Director), but also for the legislative and research activities (corresponding to the Sector 'Committee and research')⁷⁰. On the other hand, a distinct line of responsibility is provided in the internal governance of the two Councils, thus making the Secretary General accountable to the Office of the Federal Assembly and to the Office of the National Council, whereby the Adjunct Secretary General is accountable to the Office of the Council of States.

The unitary arrangement characterising the internal organisation of the Swiss Parliamentary Services is mirrored in the unitary status recognised to the parliamentary staff. The recruitment of the personnel is entrusted to the bodies of the Federal Assembly and to its Secretary General by art. 66 of the Law on the Parliament⁷¹. Parliamentary staff is recognised an autonomous status⁷², essentially related (in the determination of the working conditions, rights and duties, economic compensation, and so forth) to the common statute of the federal employees, as disciplined by Law

⁶⁶ On the function exercised by the Secretary General in the Swiss Parliament, on the legitimacy and independence featuring this apical position and on the contribution that it offers to the autonomy of the Parliamentary Services, see Schwab, 'Administration parlementaire suisse: partage des responsabilités en matière de gestion du personnel', Communication at the Seminar on the status of administrative personnel of the Francophone Parliaments - ASGPF, Paris, 3-4 September 2013, <http://www.parlament.ch/d/service-presse/parlamentsdienste/generalsekretaer/Documents/discours-philippe-schwab-sg-asgp-paris-2013-09-03.pdf>.

⁶⁷ See the page on the 'Secretaries to the Parliament and to the Federal Assembly' in the official website of the Federal Assembly (<http://www.parlament.ch/E/SERVICE-PRESSE/PARLAMENTSDIENSTE/PARL-BV-SEKRETAERE/Pages/default.aspx>).

⁶⁸ Schwab, 'The Swiss Parliamentary Services – tasks, principles and challenges', Speech delivered to the Parliamentary Institute of Cambodia (PIC), Phnom Penh, March 26th, 2015, <http://www.parlament.ch/i/service-presse/parlamentsdienste/generalsekretaer/Pagine/rede-schwab-2015-03-26.aspx>.

⁶⁹ The Secretary of the National Council is in fact also the Secretary General of the Federal Assembly; the Secretary of the Council of the States is also Adjunct Secretary General of the Federal Assembly.

⁷⁰ Also the supervision of the management and the financial administration of the Parliamentary Services is unified, as it is exercised by the Administrative Delegation, composed of three representatives from each Office, which as a rule are the Leader and the two Deputy Leaders of each Council (see arts. 20-21 of the Ordinance of the Federal Assembly 3 October 2003 - OLPA, RS 171.115 - related to the Law on the Parliament and to the parliamentary administration). The Administrative Delegation exercises the supreme direction on the administrative activity of the Parliament and oversees the management of the Secretary General (art. 38 LParl).

⁷¹ According to art. 27 OLPA, the Administrative delegation is competent on the establishment, revision and extinction of the working relationship with the parliamentary staff.

⁷² Art. 6 of the Law on the Parliament.

24 of March 2000. In order to grant the good functioning of the Parliament, the Secretary General of the Federal Assembly may in any case waive the general federal discipline or determine specific working conditions for the parliamentary staff⁷³.

5.3. Austria

The Austrian case offers an example of deeply consolidated and unitary parliamentary administration, not too different from the Swiss experience, but referred to an extremely asymmetric bicameral model both in terms of the composition of the two Chambers and in terms of their powers.

The *Nationalrat* (National Council) is composed of 183 members, directly elected by the people, and performs a political representation, while the *Bundesrat*, composed of representatives indirectly elected by the *Landtag* (the legislative assemblies) of the *Laender*, is clearly unparliamentary in nature, embodying a territorial representation⁷⁴. In the decision-making process, the *Bundesrat* exercises a marginal role, as it does not participate in the confidence relationship with the Government; it is completely excluded from the legislative decisions referred to the 'economic' Constitution (budget law, tax and finance laws, laws affecting the federal estate, and so forth) and exercises an effective role in the legislative decision-making in a limited number of cases (the most significant is the constitutional amending procedure)⁷⁵. Due to these reasons, Austria has been traditionally considered as an example of 'weak' bicameralism⁷⁶.

The fundamental rules of governance of the Austrian parliamentary administration are set down by art. 30.4 of the Constitution, which entrusts the appointment of the personnel of the Direction of Parliament and all the other powers related to staff management to the President of the *Nationalrat*. The unitary nature of the parliamentary administration is therefore granted by a joint structure, the Direction of Parliament, responsible for the auxiliary services of Parliament and the administrative affairs of the legislative bodies of the Federation, which is placed under the responsibility and the competence of the Speaker of the lower Chamber. As such the asymmetric governance of the parliamentary bureaucracy represents a specific feature of the Austrian case and can be considered a reflection of the asymmetric position reserved to the two Houses in the bicameral architecture.

The apical administrative position is reserved to one single senior official, the Secretary General, who is supported by two Deputy Secretary Generals, one responsible for the legislative branch and the other responsible for the administrative branch. The appointment procedure of the Secretary General is somehow atypical, in a comparative perspective, as the position is appointed on the basis of a public competitive examination and the formal appointment is entrusted to a collegiate body⁷⁷.

The organisational chart of the Austrian parliamentary administration, based on the above mentioned division between the legislative and the administrative branches, clearly shows that most parliamentary services and structures are shared by the two Chambers. In particular, all the structures and services of the administrative branch are meant to support the activity of both

⁷³ This possibility is explicitly provided by arts. 33-34 and 35 OLPA. Exceptions to the federal discipline include a different regulation or even a limitation (as in the case of the right to strike) of working rights for the parliamentary staff.

⁷⁴ See Falcon, 'Il modello Bundesrat e le riforme istituzionali italiane', in *Le Regioni*, Vol. 25 (1997), 277. Difficulties faced by the Austrian *Bundesrat* in the representation of the interests of territorial entities have however transformed it into a "chamber of political partisans" rather than a territorial assembly. In this sense, Gamper, 'Introduction to the Study of the Law of the Austrian Federal Constitution', *Vienna Journal on International Constitutional Law*, Vol. 2 (2008), 103. On this point, see also Erk, *Explaining federalism. State, society and congruence in Austria, Belgium, Germany and Switzerland* (London and New York, 2008), 20.

⁷⁵ Generally speaking, the Constitution determines a sharp imbalance in the position of the two Chambers within the legislative process, as the *Bundesrat* can only approve or reject the text approved in first instance by the *Nationalrat*, with no chance of amendments.

⁷⁶ Lijphart, *Patterns of Democracy: Government Forms and Performances in Thirty-Six Countries* (New Haven and London, 1999), 200-215.

⁷⁷ See the Report by Ugo Zampetti, cit., 7.

Houses. Within the legislative branch, the Legal, Legislative and Research services and the Information and Public Relations Services are shared by the two Chambers, while distinct administrative structures have been created to support the core legislative services (Presidential Committee Affairs, Plenary Meetings, Committees Support and Internal Rules, Stenographic Records, Parliamentary Documentation, Archives and Statistics) respectively of the *Nationalrat* and of the *Bundesrat*.

In synthesis, the unitary nature of Austrian administration is anchored more to the governance structure (entrusted to apical positions - the Secretary General and the Deputy Secretaries Generals - whose appointment and competence are independent from the bicameral parliamentary architecture) than to the internal structure of the administrative units (which are divided among the two Chambers in the support to the plenary and Committee legislative activity). This general feature clearly distinguishes the Austrian model from the Swiss solution, which by contrast is much more unified in its organisational design and much more divided in the governance structure.

6. Conclusions. “One is better than two”: the creation of a unitary bureaucracy as a means to “Europeanise” Italian parliamentary administration

The original question faced by the present paper is whether there is a functional and structural connection between the organisational design of parliamentary administrations and the type and nature of the reference bicameralism.

This problem has been addressed by focusing, in a dynamic perspective, on the potential impact of the ongoing constitutional reform of the Italian symmetric bicameralism on the organisation of the two existing parliamentary administrations, and specifically on their potential unification, as provided by the constitutional bill currently under discussion in the Italian Parliament. Having regard to this process of reform, the doubtful point is whether the specialisation and differentiation of parliamentary functions require a unitary parliamentary administration – or at least two strictly coordinated administrations – capable of offering a whole range of technical and professional competences and experiences; or whether, by contrast, the asymmetry of legitimation and functions of the two Houses should be mirrored by two independent parliamentary bureaucracies.

The general framework for approaching the issue has been offered by a comparative overview, developed on a static perspective, directed at assessing how bicameral Parliaments are designed in their bureaucratic organisation.

Results derived from comparative studies do not seem to offer a single answer to the question. Three cases of joint parliamentary administrations have been examined in details. The Spanish case represents the most divided of the three national experiences analysed and offers an example of a formally unitary, but substantially divided, parliamentary administration which in its delicate balance between joint and unicameral arrangements of the bureaucracy has found an administrative response to a bicameralism defined as ‘utterly unequal’. By contrast, the Swiss and Austrian cases offer two examples of deeply integrated and unitary parliamentary administrations, which however differ in the internal arrangement: the unitary nature of the Austrian administration is, in fact, anchored more to the governance structure (entrusted on apical positions - the Secretary General and the Deputy Secretaries Generals - whose appointment and competence are independent from the bicameral parliamentary architecture) than to the internal structure of the administrative units (which are divided among the two Chambers in the support to the plenary and Committee legislative activity). The opposite happens in the Swiss model, which is instead much more unified in the organisational design and divided in the governance structure. A partial explanation of this different arrangement can be referred to the divergent nature of the two bicameral architectures, with the Austrian model permeated by the asymmetries among the two Chambers whereby the Swiss format is featured by the functional symmetries inbetween the Councils.

In any case, the capacity of parliamentary administrations structured according to similar formats to coexist with a variety of bicameral systems proves that, by embracing a static comparative perspective, there is not a binding relationship among these two factors. In other terms, as a divided

parliamentary administration suits either a symmetric or an asymmetric bicameralism, the same could be said with regard to a joint parliamentary administration, potentially fitted to both types of parliamentary arrangements.

Results seem to change if the issue is analysed in a dynamic perspective, by focusing on one single national experience. The constitutional reform of the Italian Parliament witnesses, in fact, that the prefigured transition to an asymmetric bicameralism exercises a double impact on the organisation of the parliamentary administration: on the one hand, it is accompanied by a formal constitutional norm providing for the unification of the two parliamentary bureaucracies; on the other hand, it has fastened the ongoing 'administrative' path towards the creation of a joint payroll of the 'Parliament' and the integration of the structures depending from the two Chambers.

Multiple explanations can be advanced to explain this different sensitivity of the parliamentary administration to the bicameral structure.

Parliamentary administrations work in patently political environments. They are asked to develop their functions impartially, in independence and autonomy from the political sphere, embodying the permanency and the memorial of the parliamentary institution⁷⁸, but at the same time they are expected to adapt their role to the continuous changes of the political and institutional framework. If the latter changes, in order to fulfill their mission parliamentary administrations must be able to adapt themselves to this evolution. This reasoning explains why the unification of the two Italian parliamentary administrations, currently organised on unicameral basis, has become a major issue when discussing the radical transformation of the bicameral architecture.

Actually, the constitutional and administrative path towards the unification of the Italian parliamentary bureaucracies seems to be lured not so much by the need to adapt the internal organisation and functioning of the two branches of Parliament to the revised bicameralism, but rather to the attempt to fully exploit this chance as a main opportunity of reform and modernisation of the administration.

The presence of a joint parliamentary administration represents, in fact, roughly speaking, a comparative advantage in the development of those functions which more than others are better served in a unitary form. This reflection is referred, in particular, to the activity exercised by the parliamentary bureaucracy in the fields of the European affairs, with specific regard to the European relations. The process of Europeanisation of National Parliaments calls, in fact, the parliamentary institution and the respective parliamentary administration to face new challenges⁷⁹: the challenge of holding the Government accountable for the decisions adopted at European level; the challenge of interacting with other Parliaments in the interparliamentary cooperation; the challenge of being able to interpret the demands and needs of citizens in EU affairs-related matters, granting maximum transparency on the ongoing decisions⁸⁰.

Bicameral arrangements are often problematic when facing such challenges, both at political and at administrative level. Due to this reason, the ability of Parliaments to address the struggles related to the process of Europeanisation can be considered as dependent not just from the politics, but also from the willingness of the parliamentary administration to pool its internal resources, defining unitary strategies in support of the political decision-making.

To conclude, studies on parliamentary administrations and on their connection with the parliamentary function have marked the rise of parliamentarism. After World War II, a stagnation in the 'fortune' of the issue has dominated both the scientific and the institutional debate. The question is whether, on this ground, a resilience is possible. In times of strong suffering for

⁷⁸ Schwab, 'Administration parlementaire', cit., 4 has detected the three constitutive elements of a parliamentary administration in the features of neutrality, permanency and autonomy.

⁷⁹ See Lupo, 'Il ruolo delle burocrazie parlamentari alla luce dei principi generali e dei mutamenti dell'assetto istituzionale, nazionale e sopranazionale', cit., 51 ff.

⁸⁰ The wish for a new definition of the role of parliamentary administration non just in support of the 'served' administration, ma directly addressed to the general community, with the purpose of granting full access to the public to the information and documents submitted to the Parliament, see Cassese and Elia, 'Le amministrazioni e il personale degli organi costituzionali. A proposito di un recente libro', *Il lavoro nelle pubbliche amministrazioni*, Vol. 6 (1998), 1341 ff.

parliaments, the chance to open a new frontline digging up the reform of parliamentary administration reveals itself possible. The challenge dwells in the capacity to relate this reform with the upcoming expectations for a rediscovery of the parliamentary function, in perspective also of the strengthening of the democratic oversight, thus approaching parliamentary administrations as a crucial factor capable to make Parliaments more alive and more effective, especially in the European dimension, where (national) and parliamentary politics need to be accompanied by a strong and equipped technical staff if it wants to be able to play a significant role⁸¹.

⁸¹ This suggestion is supported by the thesis, advanced in recent literature, according to which National Parliaments' growing relevance in EU affairs might have led to the empowerment of legislative bureaucrats rather than elected politicians. On this point, see Winzen, 'Bureaucracy and Democracy: Intra-Parliamentary Delegation in European Union Affairs', *Journal of European Integration*, Vol. 36 (2014), 677 ff.