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Evolution and Challenges of Public Administration for a Modern Governance

• Abstract •

The paper analyzes the evolution of public administration in the Italian legal order and some of its main challenges in the contemporary context. Global transformations—such as the spread of artificial intelligence, geopolitical tensions, new rights and risks, and persistent social and territorial inequalities—require a public administration capable of making decisions that are swift, effective, transparent, and accountable. However, systemic weaknesses persist, including inefficiency, regulatory overload, fragmented governance, and limited digital expertise. The analysis emphasizes the centrality of human capital, highlighting the need for merit-based recruitment, continuous training, and professional specialization to build a competent and autonomous bureaucracy. At the same time, digitalization emerges as both a structural necessity and a source of new risks, calling for careful governance and robust cybersecurity. Overall, the paper underlines that modernization is not only legal and organizational but also cultural, and that inclusiveness and equality must be core principles of a modern administration.

Keywords: Public Administration, Transformations, Human Resources, Digitalization, Public Policies.

Introduction

Since the 1990s, the Italian administrative system has undergone radical and profound changes that have defined its most distinctive features across various aspects, including regulatory simplification, removal or reduction of bureaucratic constraints on economic activities, privatization of public entities, and outsourcing of functions of general interest. Furthermore, since the XX century the Italian

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legal order has experienced a progressive quantitative growth of the public administration, which has become a polycentric and multilevel apparatus.

At the beginning of the XX century, beside the traditional models of public administration—represented by the State and the territorial levels of government—an increasing number of public entities has been instituted to encourage and strengthen the intervention of the State in the economy, through an entrepreneurial and planning logic. Progressively, at the end of the XX century, the model of the entrepreneurial State has shown its weaknesses due to unsustainable costs, imbalances in the public finances and lack of efficiency. During the following decades, also under the impulse of the EU competition policies in the market, the State has progressively launched privatization and liberalization policies, through the abolition of legal monopolies, the transformation of public entities into public limited companies and the divestment of shares held by the State, becoming a model of “regulatory” State. Meanwhile, the State has promoted a greater organizational, fiscal and administrative decentralization of the administrative apparatus at the territorial level.

In the current legal context, the multiplicity and variety of public administrations determine a complexity in the enucleation of a notion of public administration. Indeed, the Italian legal order lacks of a univocal legislative definition of “public administration” to which it may be linked a homogeneous set of rules and principles. Instead, the legal order provides sectorial laws, which define their own scope or, sometimes, laws which apply to all the public administrations, without defining what should be considered “public administration”. For this reason, through a functional perspective, a notion of public administration may be identified through the scope of the sectorial administrative rules (such as the civil servant employment law, the public procurement law, the public finances law, the administrative procedural code and the administrative proceeding law) and through the analysis of the specific public activity/function exercised.

Multiple paths appear relevant to understand the evolution and the transformation of administrative law over the past thirty years to appreciate the status of contemporary public administration. Throughout the 1990s, numerous reforms have affected the overall structure of powers and the structure and functions of public bodies.

In particular, in the political context of the 1990s, characterized by events such as the dissolution of the Italian Communist Party, the disintegration of the political unity of Catholics, the disappearance of the anti-fascist parties that had founded the Republic, referendums and the 1992 political elections with the rise of the Northern League party, and “Tangentopoli” (De Bernardi, 2021; Ferla, 2021),

the identity of the State, the Nation and the loss of nation sovereignty were at the center of political discussion and eventually this has also strengthened decentralization instances.

Regions and local authorities have gained spaces of statutory, organizational and financial autonomy. The Ministries and the State apparatus have also been reformed during the last decades (especially with the so-called Bassanini laws of March 15, 1997, No. 59, and May 15, 1997, No. 127).

This evolution has subsequently led to a constitutional reform on October 18, 2001, no. 3, which redesigned the allocation of legislative powers between the State and the Regions, as well as of the administrative functions within the different levels of government (State, regions, provinces, metropolitan cities, and municipalities). Administrative functions have been allocated to the level of government closest to the citizens who are the recipients of activities and services. As legal scholars have pointed out (Falcon, 2001, p. 1150), the regionalism of 2001 emphasized regional articulation as a structural element of the State: granting Regions general legislative competence, even if not unlimited, and freeing them from the network of preventive controls meant focusing on them as an opportunity to shape the institutional design starting from the intuitions and creativity of the individual realities.

In these terms, Regions shift from a *condition of mere autonomy* to what could be described as a *state of freedom*, while the State is called to transform from the *exclusive creator* of fundamental models of action to a *guarantor* ensuring that the exercise of the various regional and local freedoms is coordinated within the framework of common progress.

Additionally, within the context of reforming public bodies, the employment relationship of civil servants has been largely brought under a privatized regime, and the role of public management has been enhanced by granting greater managerial powers and limiting the role of political leaders to functions of guidance and control, according to a principle of separation between the political sphere and the administrative sphere (Legislative Decrees No. 29/1993 and No. 165/2001).

In relation to administrative activity, it is worth mentioning that Law no. 241 of August 7th, 1990, entitled “New rules on administrative procedure and the right of access to administrative documents”, consolidated a new paradigm of administrative action, already emerged in case law and theorized by legal scholars (Sandulli, 1940, p. 119; Benvenuti, 1952, p. 118; Nigro, 1996, p. 1446) strongly anchored to the principles of legality, transparency, participation, efficiency, paving the way for a new model of relationship between public administration and citizens, open to consensual approaches.

The change in organizational forms has also shifted towards a progressive reduction of public organizational apparatus through the emergence of privatistic or hybrid models, such as single-shareholder companies owned by the public sector and in-house companies, as well as through a consolidation of new administrative bodies, such as independent administrative authorities, established as a consequence of the influence of supranational law on national law, of the emergence of new fundamental interests to protect, and of the progressive opening of markets to competition.

Following the economic and financial crisis that affected the Eurozone in the first decade of the twenty-first century, processes of rationalization of public bodies, liberalization of economic activities, and adoption of spending review mechanisms aimed at containing costs were initiated, starting around 2011 and 2012. At the end of 2012, the anti-corruption law was approved (Law No. 190/2012), imposing on administrations the adoption of prevention measures and duties of publicity and transparency. In 2015, the enabling law of August 7, 2015, No. 124 (the so-called Madia law) was approved, laying the foundations for an ambitious reform of public administration, which was then only partially implemented.

In the context of the pandemic and economic crisis started in 2020, the role of the State in supporting the economy has been reaffirmed through measures of indirect fiscal incentives, the strengthening of public guarantees, and the provision of substantial resources to support private entrepreneurship.

As highlighted by some legal scholars (Averardi et al., 2021, p. 1183; Carmosino et al., 2021, p. 1037), these interventions have been based on a dual logic: compensating the damages suffered by businesses active in specific sectors or service areas through facilitated financing and non-repayable grants, and promoting the recovery of businesses operating in strategic areas of production and services.

In the contemporary context, the State and public administration are profoundly influenced by the development of technology in all main sectors of action and public services, leading to an inevitable impact on public organization, on the performance of administrative functions and on the forms of regulation of digital markets, following a process of continuous transformation which is one of the main characteristics of the Digital State (Torchia, 2023, p. 19).

Administrative law today exists in a context characterized by transdisciplinarity, where it is recognized the need to integrate knowledge from different disciplines to address the complexity of modern reality. This approach not only enriches the field of administrative law but also allows for the development of innovative and more effective solutions to contemporary challenges. Transdisciplinarity promotes interaction, dialogue, and collaboration among experts from various fields, facil-

itating authentic and sustainable progress and, as legal scholars have highlighted, “administrative law, rooted in the dimension of reality, must therefore integrate with science and technology, understand their scope and opportunities, and become their custodian and promoter. It should integrate with these fields to the extent of becoming a qualifying element, not an obstructive one” (Spasiano, 2021, p. 693).

Through the investigation of some sectors of administrative law (such as human resources, public policies, digitalization and innovation, public procurement), the paper aims to offer an overview of the historical evolution and of the main challenges faced by the Italian public administration in the contemporary context, sketching some features of a modern paradigm of public administration.

Indeed, in a legal context marked by profound transformation—such as the expansion of artificial intelligence, increasing geopolitical tensions, the emergence of new rights and risks, and the persistence of social and territorial inequalities—it becomes crucial to assess how public administration can ensure decision-making that is rapid, effective, transparent, and accountable.

The research therefore seeks to identify and analyse some systemic weaknesses that continue to hinder the modernization process, including inefficiency, regulatory overload, fragmented governance structures, and insufficient digital competence. These limitations highlight the centrality of human capital as a strategic resource for administrative reform. In this regard, the study underlines the need to strengthen merit-based recruitment, promote continuous training, and foster professional specialization, to develop a competent and autonomous bureaucracy capable of responding to the complexity of present challenges. At the same time, digitalization emerges as both a structural imperative and a potential source of new risks, calling for sound governance mechanisms and robust cybersecurity frameworks. Overall, the paper argues that modernization must not be confined to legal or organizational dimensions; rather, it must also encompass a profound cultural transformation. Inclusiveness and equality should thus be recognized as foundational principles of a modern and sustainable public administration.

Towards a New Paradigm in Public Administration

The 36th Italy Report presented by Eurispes in May 2024 opens with a chapter dedicated to “Italy at the Crossroads” (Fara, 2024, p. 17) where the different crossroads faced by Italy, as well as by many modern states, are explored in light of the multiple transformation processes and complexity as a defining element of contemporaneity.

The contemporary complexity is appreciated in the report according to at least three dimensions, necessary for understanding the phenomenological reality of Italy: the dimension of *expansion*, in terms of the increase in subjects that assume relevance concerning the production of reality. In this sense, it could be considered the role of private entities, such as large companies that dominate the technology market, alongside the emergence of new digital rights and, at the same time, new individual and collective risks (Torchia, 2023, p. 26). The second dimension of complexity is *variety* since expansion multiplies the opportunities for interaction between public and private entities, individuals and society, imposing the necessity to regulate and manage the multiple points of contact. The third dimension of complexity is *mutation*, where the change of the nature of certain problems has direct or indirect consequences on the behaviors of some subjects within the system. An example is given by science and technology and their constant and rapid development, which seem to necessitate a transversal and multidisciplinary approach to the study of reality, integrating both humanistic and technical disciplines (Fara, 2024, p. 17).

In the described complexity, a new paradigm of public administration emerges, where the PA is both an entity affected by the change and a vehicle to promote change in private and public sectors. The epochal change does not consist in the wider use of digital tools but is represented by a true transformation in the approach and organization of society and the economy, which requires significant investments, adequate skills, and the strategic capacity to manage these tools.

Moreover, one of the main and most ambitious goals of the European Union is to ensure that by 2030 all fundamental public services are fully accessible online for everyone, including the most vulnerable population groups, in a user-friendly, personalized, interoperable, efficient digital environment with a high level of security and privacy.

In this context of change and transition, the paradigm of *New Public Management*—which addressed public sector reforms in the 1990s mainly through privatizations, liberalizations, and the introduction of managerial tools borrowed from the private sector, has experienced, according to the widespread opinion of many scholars, a decline due to multiple causes, including the inefficiency and rigidity of the model, the increase in social and territorial inequalities, the weakening of modern leadership, and the richness and complexity of administrative systems (Di Mascio and Natalini, 2018, p. 11; Torchia, 2022, p. 991).

The specificity of contexts and the complexity of each administrative system has hindered the use of a rigid and holistic approach for comprehensive change, preferring a method focused on promoting some sectoral reforms that are easier

to implement (Torchia, 2022, p. 993), in the perspective – also promoted by the *New Weberian State* paradigm—that “the State is not a problem to minimize but a possible answer to collective problems” (Di Mascio and Natalini, 2024, p. 8).

Thus, it seems reasonable to agree with scholars who believe that—considering the number of reforms and, at the same time, the implementation difficulties, the territorial differences, the overlapping structures, and center-periphery conflicts—the Italian state cannot be understood except as a structure with different levels of statehood, that is, varying degrees of autonomy, differentiation, and internal coordination (Cassese, 2014, p. 355; Vincelli, 2018, p. 176).

Starting from 2020, due to the significant resources allocated to address the pandemic crisis and the resulting economic crisis, Public Administration seems to have regained a central role as the main actor for implementing the necessary interventions and investments to ensure the recovery of the productive system and to pursue ecological and digital transitions. This necessarily requires investing in human capital, promoting an idea of administrative culture based on a sense of belonging of officials to institutions, and strengthening decision-making processes aimed at ensuring a greater orientation towards achieving results to optimize resource management based on the needs of the reference communities.

In this perspective, the main axes of intervention for the Public Administration as outlined by the National Recovery and Resilience Plan are represented by the simplification and digitalization of recruitment procedures to streamline recruitment processes, attract the best talents, and facilitate a rapid generational turnover; by the promotion of good administration, i.e., the implementation of simplification policies and interventions aimed at reducing the time of administrative procedures and the burdens borne by citizens and businesses in accessing services; and lastly, by the strengthening of human capital to promote training and work organization to align knowledge and organizational skills with the needs of an efficient and modern administration.

Human Resources as an Essential Driver for a Modern Administration

The capacity of Public administrations to adopt quick, effective, coordinated, transparent, responsible, proportionate, and flexible choices while pursuing public interests is a primary challenge for modern administration especially after the pandemic emergency has brought to light several administrative inefficiencies rooted in the system, such as disorganization, regulatory overproduction, fragmentation of political decision making centers, absence of digital skills and difficulties in coordinating different decision making levels.

The essential coordinates about human resources in PA and public employment in the Italian legal order may be found in the Constitution which does not directly regulate the system of public employment but includes some provisions concerning the civil servants.

Indeed, the Italian Constitution disposes that “Any citizen of either sex is eligible for public and elected offices on equal terms, according to the requirements established by law. To this end, the Republic shall adopt specific measures to promote equal opportunities between women and men” (Article 51, para. 1) and that the “Access to the civil service shall be through competitive examinations, except in the cases established by law.” (Article 97, para. 4). Furthermore, it states that “Civil servants shall be exclusively at the service of the Nation.” (Article 98, para. 1), thereby ensuring the separation between politics and administrations and emphasizing the principle of impartiality of the administration. The Constitution also contains a provision about the liability towards third parties of officials of the State or public agencies for acts committed in violation of rights (Article 28); in addition, other constitutional guarantees regarding the protection of labor and the freedom to establish trade unions are considered applicable also to the public employment regime.

Currently, a widespread belief in the Italian legal order, among both citizens and scholars, is that public administration represents an obstacle and a burden, and the everyday experience of anyone (citizen or business) who relates with administration often tends to confirm this negative opinion (Ramajoli, 2017, p. 188): from a regulatory standpoint, it seems possible to detect a trend by the legislator oscillating between interventions aimed, on the one hand, at promoting an “administration through law” which entails a compression of the administrative discretion (in the balancing of public and private interests) and a limitation of liability in concrete choices, and, on the other hand, at promoting simplification measures and reforms to enable the administration to make decisions and avoid paralysis of administrative action (Cassese, 2019, p. 4). However, legislative and regulatory production is often abundant, chaotic, occasionally contradictory and overly detailed with the consequence that the risk of failures in simplification attempts becomes more tangible resulting in a reduction of guarantees and rights for citizens (Sandulli, 2020, p. 1).

Furthermore, from the perspectives of administrative organization and of distribution of administrative functions, some scholars argue that there is a proliferation of unnecessary structures, while necessary ones are sometimes lacking, and when present, they are often governed by outdated and unproductive mechanisms (Ramajoli, 2017, p. 188) and refer to “self-destructive pluralism” (De Lucia, 2016,

p. 12) to highlight the significant degree of dispersion of administrative function among different administrative bodies. The inefficiencies and the low-quality levels of public services have also contributed during the last decades to the negative perception of the public administration's efficiency. Overall, the fear of corruption within administrations has influenced the drafting of numerous regulations, such as those regarding transparency in the exercise of administrative action and public procurement (Mattarella, 2017, p. 141).

The several implications of the mentioned issues have seemed to be understood by the post-pandemic legislator, who set among the ambitious goals of the National Recovery and Resilience Plan (NRRP) the innovation of public administration in order to make it *capable, competent, simple, connected* and *smart*, through the rethinking of recruitment procedures, the enhancement of administrative skills, administrative simplification, and digitization processes. The need to reform public administration has been, after all, a primary concern also at the EU level, as the European legislator itself considered the structural change of PA as one of the criteria to assess the effectiveness of NRRP, also to determine the financial contribution to be allocated to each Member State. Therefore, public administration represents, today, both the implementing subject and the object of reforms and investment, with an absolutely central role in the post-pandemic reconstruction.

Indeed, some specific lines of intervention—such as the use of internal resources through the increasing of expertise and the reduction of outsourcing or the promotion of continuous and specialized training for public employees—represent fundamental opportunities to recover the centrality of the bureaucracy in view of a truly efficient administration, able to serve and benefit the entire community in a long-term perspective and capable of implementing the numerous reforms envisaged by the legislator promptly and effectively in a short/medium term period.

The pillars of the public administration reform, in recent normative trends, concern four aspects: *access, good governance, skills*, and *digitalization*. Focusing on *skills*, the declared objective in the NRRP is to build strategic resource planning capacity of public administrations in order to match professional profiles' offer with the specific needs of each administration, as well as to create differentiated, highly specialized training paths and to increase the technical and managerial culture of administrators, in order to promote a proactive and stimulating attitude for digital transition and the recovery of ethics, prestige, and the sense of mission of the civil servant. To achieve those goals, it appears crucial and urgent to act on the training and skills enhancement paths within public administrations, since, as highlighted by legal scholars, "the main factor in improving administrative performance should be its human capital, to avoid falling into the error of considering

the normative reform process more important than the change of people” (Ramajoli, 2021, p. 451; Battini, 2021, p. 226) and also because the concrete experience and knowledge of practices and operating mechanisms, more or less useful or efficient, acquired by individuals are not to be underestimated, as they constitute a body of knowledge to be enhanced and exploited in combination with increased specialization and technical skills.

Moreover, alongside with continuous and individual training, which focuses on increasing the capacities of the officials for the exercise of assigned competencies, the goal is to induce an overall change of the belonging environment where the individual official acts (Cassese, 1989, p. 432; Saltari, 2009, p. 30).

To ensure the effectiveness of training, furthermore, the theoretical and empirical aspects should be constantly integrated, so that the learning of a theoretical model can be concretely applied and eventually perfected in practice through experience. Even setting aside for a moment the urgency determined by the pandemic and the reforms envisaged by the PNRR, it would seem reasonable and necessary to invest in the continuous training of the public sector given the disorganization and rapid change of rules in the legal system, as well as the technological revolution witnessed in the contemporary world. However, data analysis shows an opposite and unsettling trend, which could be defined as a “training emergency”, generated by the progressive cut in education and training expenses for public employees and the limited percentage of public employees attending courses to enhance their digital skills.

From the final data of the Annual Account of the State Accounting Office, it emerges that over thirteen years, from 2008 to 2021, spending on the training of public employees has nearly halved, from 301 million euros in real terms in 2008 to 158.9 million euros in 2021. The number of training days has decreased from a peak of 4.9 million in 2008 to 2.9 million in 2021, less than one day on average per employee. Furthermore, regarding content, training is mainly on technical-specialist and legal-regulatory skills, while only a minority of employees have trained to increase digital skills or project management.

In light of such data, it would be desirable—also considering the flexibility and speed required in the implementation of NRRP reforms—to make a greater quantitative investment in the training of public employees and, from a qualitative perspective, to promote courses aimed at increasing digital skills, as well as stimulating cross-sectoral and interdisciplinary knowledge.

In this regard, it is possible to mention recent legislative initiatives to enhance the improvement of skills and competencies of public employees through the promotion of training by entities such as the National School of Administration

(SNA), Universities, and national research institutions, aimed at promoting and supporting qualification, requalification, growth, and professional updating of personnel throughout their career path.

Such initiative deserves a positive assessment and should be welcomed considering both the variety of continuous and permanent training courses offered, divided into thematic areas such as public management, digitalization and innovation of public administration, economy, finance, and statistics, as well as internationalization and the European Union, and the training methods used, which encompass technical knowledge and human skills, with an emphasis on behavioral approaches grounded in cognitive and social psychology (Cafaggio et al., 2021) aiming to overcome a bureaucratic attitude that, according to some scholars, “combines subordination and self-referential closure towards the external world, or, better, towards external worlds that interact with it” (Battini, 2021, p. 11).

In conclusion, the legislative trends briefly outlined seem to reconcile different but contextual needs: the awareness that enhancing skills within the public administration is a necessary but longer-term process appears to prompt the legislator to resort to an external market to ensure the recruitment of highly technical and specialized professional profiles capable of swiftly and effectively executing the complex implementation projects of the PNRR.

This choice seems a reasonable compromise between the stringent timelines for the implementation of the NRRP and the need to invest in the training of human capital within the public administration, with the aim of creating, in the medium to long term, an administration keeping pace with the ongoing digital transformation and reclaiming the image of a strong, efficient, capable, and innovative bureaucracy, even in the eyes of civil society.

Public Policies and the Challenge of the Quality of Regulation

As highlighted in scholarly discourse, until recent times, “the analysis of institutions in action, of how they make their decisions to address collective problems, remained largely in the shadows”, while the debate seemed to be focused more on the struggle for power, the means to achieve it, and its distribution within the public apparatus (Capano and Natalini, 2020, p. 9).

According to one of the earliest studies on the subject in Italy (Dente, 1990), the reason for the lack of attention from Italian political science to public policies is twofold. Firstly, it is based on the difficulty of reconstructing the underlying dynamics and consequences of public choices. Secondly, it is due to the fact that the State had long been involved in regulatory tasks and, therefore, the way of

designing and implementing public policies had fundamentally uniform characteristics, identifying with the operating rules of the State. Conversely, as the range of interventions expands, as well as the size of public organizational structures, and the complexity of interventions (e.g., regional policies, distributive policies), the possibility to provide public policies with uniform characteristics had become more unlikely.

In the subsequent decades, some scholars (Cassese, 2013, p. 2) have highlighted the inadequacy of the tools used by Italian governments, even when compared to other European experiences, in meeting the modern governance needs at all stages of the policymaking process. These stages include policy direction-setting, design, formulation and decision-making, implementation, impact evaluation, and any necessary corrective actions.

However, these organizational and methodological inadequacies have not halted the continuous trend over the past decades by governments of all political parties to enact reforms across all sectors of public intervention. This trend is driven by a decrease in citizens' satisfaction levels with the performance of public institutions, which are not deemed capable of solving collective problems (Capano and Natalini, 2020, p. 9).

Indeed, with specific reference to the administrative reforms that have occurred in Italy since the 1990s, scholars have emphasized a general inadequacy in the design of policies used during the reform processes. This inadequacy stems from a reliance on normative interventions concerning transversally all public administrations without considering the specificities of each one. Furthermore, it has been noted that the processes of change have not been accompanied by adequate implementation plans and governance mechanisms. This highlights the weakness of national programs for administrative reform (Vecchi, 2020; Butera and Dente, 2009).

Only in the last few decades, the evaluation of public policies and related studies have become an institutional challenge for the Italian system, partly as a result of the process initiated in 1995 by the OECD through the adoption of "The Recommendation on Improving the Quality of Government Regulation", providing a response to the concerns for the quality and transparency of government regulation, which is crucial for government effectiveness and the efficient use of economic resources.

Since 2005 (Law No. 246/2005), several tools have been introduced into the Italian legal system to make the analysis and evaluation of public policies more systematic and structured: firstly, the Regulatory Impact Analysis (AIR), which involves the preventive assessment of the effects of proposed regulatory interventions on the activities of citizens and businesses, as well as on the organization and

functioning of public administrations. It entails comparing alternative options and serves as support for the decisions of the top political body of the administration regarding the necessity of regulatory intervention. AIR applies, with some exceptions, to draft regulatory acts adopted by the Government. Secondly, the Regulatory Impact Assessment (VIR), which consists of the evaluation, including periodic assessment, of the achievement of objectives and the estimation of costs and effects produced by regulatory acts on the activities of citizens and businesses, as well as on the organization and functioning of public administrations.

A subsequent directive of the President of the Council of Minister of February 26th, 2009 has then provided a systematic framework of rules and procedures that the Government must follow to ensure “quality regulation” and to guarantee the implementation of the Government’s program, emphasizing that “regulatory quality” is a common term indicating regulation that adheres to formal standards, is content-wise adequate, coherent with constitutional and systematic parameters and, ultimately, effective in pursuing governmental policy objectives, and it also constitutes a priority of Government activity to be pursued through adequate planning.

Furthermore, the decree of the President of the Council of Ministers dated September 15th, 2017, No. 169, concerning “Regulation on the discipline of regulatory impact analysis, regulatory impact assessment, and consultation” intervened to strengthen the planning activity and improving the quality and timing of programming. This Regulation was further integrated by the directive of the President of the Council of Ministers dated February 16th, 2018, approving the Guide to regulatory impact analysis and assessment, which reformed the Regulatory Impact Analysis (AIR) and the Regulatory Impact Assessment (VIR). The reforms were inspired by the following principles: (a) *Programming*: enhancement of annual programming of regulatory activities, essential for effectively conducting regulatory analysis, with a corresponding link to Regulatory Impact Analysis; (b) *Selection*: modification of the scope of the two tools, reducing the number of measures subject to analysis and focusing on measure with the greatest impact on citizens and businesses.; (c) *Consultation*: introduction, for the first time, of a discipline on consultation within the scope of the two tools, including specific rules on public consultation; (d) *Comparison*: between all the feasible alternative options for intervention and not only of the preferred one; (e) *Transparency*: guarantee of greater transparency in procedures, achieved through the publication of AIR and VIR reports on institutional websites.

Although the objectives pursued by the more recent reforms, as well as the higher degree of coordination between the different tools, were valuable, the con-

crete application of these tools in the biennium 2020–2021, through the analysis of the data, has left unsatisfied both for the limited improvement in the quality of the contents and, in some cases, for the lack of utilization and transmission of the reports to the competent bodies for verification (Zaottini, 2022, p. 35).

The causes of the incomplete implementation of better regulation have been insightfully expressed in the opinion of the Advisory Section for Normative Acts of the Council of State (no. 01458/2017 — June 7th 2017) on the Draft Decree of the Prime Minister, where it was noted that the shortcomings of the AIR were not to be found in the theoretical framework of its discipline, but in the deficiencies of its practical implementation, mainly due to the difficulties faced by legislative offices in conducting an inquiry going beyond a mere legal-formal approach and allowing the public decision-maker to envision a reliable scenario of the future functioning of the rules, based on the analysis of the data available at the time of their construction. In addition to the mentioned “formalistic approach”, the causes of the shortcomings, in the opinion of the Council of State, were to be found in “cultural deficiencies or resistance” and were probably also attributable to training gaps among the staff in legislative offices, who have an almost exclusively legal-administrative background and few knowledge and awareness of the functioning and utility of these multidisciplinary tools for improving the quality of regulation.

The described scenario has recently become more complex due to extraordinary events—such as the Covid-19 pandemic and the national and European efforts to revive economies deeply impacted by its effects, as well as the Russo-Ukrainian conflict, which has led to increased prices of energy and raw materials and supply challenges—that have encouraged decision-making dynamics characterized by a rush to make quick decisions.

Indeed, these decisions have been aimed at addressing unforeseen events and crisis situations (mainly dealt with decree of the President of the Council of Ministries and law decree by the Government, with a substantial marginalization of the Parliament, also when affecting fundamental rights of the citizens), as well as fulfilling the commitments and obligations assumed by the Italian State through the National Recovery and Resilience Plan (NRRP).

However, according to some scholars (Di Porto and Esfa, 2022, p. 18), this trend clearly conflicts with the tools necessary for regulatory quality, which require time to understand and to consult all the stakeholders, as well as to conduct *ex ante* assessments of the impact of new norms and to elaborate appropriate measures for conducting *ex post* evaluations.

This trend highlights “the paradox of our times, seemingly unsolvable, where the pursuit of quality, established in recent decades, clashes with a world that

is increasingly fast-paced, interconnected, and complex. In such a world, democratic societies constantly acquire new sensitivities, which are not always easy to reconcile. The complexity and multitude of interests and values requires thoughtful choices—which the rapidity often hinders or excludes—capable of considering all aspects and repercussions of a normative provision” (Di Porto and Esfa, 2022, p. 18).

From another perspective, a positive mention should be recognized to legislative interventions concerning the Governance and the implementation of the Italian NRRP (decree law no. 77/2021, converted into law no. 108/2021) that seem to acknowledge that the concrete and progressive implementation of the Plan represents a unique opportunity and a necessary challenge to ensure the country’s access to economic and financial resources over the coming years and, in order to assure it, have established new structures (such as the Unit for Rationalization and Improvement of the Regulation; Unit Mission for NRRP; Central Service of NRRP within the Minister of economy and finance) or assigned new functions to existing ones (such as the Court of Auditors) in order to carry out tasks of monitoring and providing periodic information on the progress of PNRR interventions.

The attention to the monitoring phase is crucial to ensure the success and effectiveness of the Plan for a set of reasons: firstly, short-term monitoring (6 months) allows for evaluating the effectiveness of actions and implementations and intervening with corrections or adjustments in critical situation. Moreover, monitoring fosters transparency towards citizens, who have the right to be informed about the progress of initiatives and the use of public resources. This contributes to building trust between the administration and citizens, promoting participation and active involvement in public life. Lastly, monitoring facilitates coordination among the various actors involved in the implementation process, enabling more efficient resource management and better coordination. This appears, indeed, particularly important in complex contexts involving multiple institutions or organizations.

In conclusion, as highlighted in the literature, in order to avoid the ineffectiveness of public policies, it is crucial to consider them as the result of a circular decision-making process based on empirical evidence, aimed at identifying problems and needs, defining the objectives to be achieved, selecting the most suitable intervention tool or tools, writing interventions based on drafting criteria, verifying the adequacy in concrete terms of such tools, and their eventual revision, taking into account the new technological tools available (such as artificial intelligence) and the evolution of regulated markets, which may require new forms of regulation (Corso et al., 2022, p. 158).

Digitalization and Innovation as a Functional and Structural Transformation for Public Administrations

The digitalization of public administration in the Italian legal order represents both a means and a fundamental objective to enable the structural transformation of administration in a digital and modern context. Therefore, the process of digitalizing public administration is primarily focused on creating digital infrastructures for public administration, developing data interoperability, providing digital services, and ensuring cybersecurity (Perin and Galetta, 2020, p. 4; Marchetti, 2022, p. 75).

In addition to these efforts, from a general perspective, measures for innovating public administration are also implemented, primarily focusing on enhancing the personnel and administrative capacity of the public sector, as well as simplifying administrative activities and procedures.

As far back as the late 1970s, administrative law scholars highlighted that “information systems are no longer merely useful to administrations for internal management purposes, but are necessary in order to administer” (Giannini, 1979, p. 14). This keen observation foresaw one of the major challenges that would later confront modern public administration: beyond using information technology for documentation, preservation, and communication of administrative acts as a means to simplify interactions between administration and citizens and to make administration more efficient and effective, technology can be used to determine the content of an act and to make decisions, in other words, to administer (Simoncini, 2020, p. 5; Follieri, 2017, p. 7).

Among the most significant recent regulatory measures, the National Recovery and Resilience Plan has provided a decisive boost to the relaunch of the country’s competitiveness and productivity, dedicating Mission No. 1 to digitalization, innovation, competitiveness, culture, and tourism and allocating 9.72 billion euros for the digitalization, security, and innovation of public administration. The stated goal of the mission is to render Public Administration the best “ally” of citizens and private companies, offering efficient and easily accessible services.

To this end, according to the Plan, it is necessary to intervene in digital infrastructure towards a migration to the cloud for administrations, developing interoperability between public entities, simplifying procedures according to the “once only” principle—whereby public administrations must avoid asking citizens and businesses for information already provided previously—and strengthening cybersecurity defenses.

Additionally, the Plan aims to expand the offer of digital services to citizens, in order to improve accessibility and align central administrations with

the standards shared by EU Member States. The effort in terms of innovation in infrastructure and the extension of services is accompanied by investments related to the specific digital skills training for the human capital of the PA. Therefore, the component concerns the Public Administration in a widespread manner, with implications for technological resources, human and infrastructural capital, its organization, procedures, and the methods of delivering services to citizens.

Consistently, the Italian Strategy for Artificial Intelligence 2024–2026, adopted in April 2024, acknowledges that artificial intelligence, in a short to medium-term perspective, already offers a wide range of technologies to stimulate and develop the country's innovation, identifying four main guidelines: Scientific Research, Public Administration, Enterprises, and Education. The Strategy represents a comprehensive program of the Government (Department for Digital Transformation) and the Agency for Digital Italy with ambitious objectives, albeit referring to a short biennial period.

With specific reference to Public Administration, the Strategy appears to emphasize two aspects: firstly, it prioritizes a systematic and structured approach to the digital transformation of PAs, aiming to overcome individual and fragmented initiatives of each public entity and to promote specific projects of national interest. The need to identify unified solutions and application methods, providing a general framework within which individual administrations will be able to later develop their own initiatives, therefore leads towards a reduction of decision-making centers to avoid fragmentation of decision-making and, ultimately, of the innovative solutions. Secondly, the Strategy aims to accompany “technical” actions on infrastructures with “supporting” actions that, considering the competencies and knowledge not yet widely spread within the Public Administration, can promote a fruitful use of AI and channel procurement actions and solution development, enhancing their reuse and the sharing of best practices.

Among the most relevant sectors that will contribute to enabling the digital transition of public administration in the coming years, public procurements assume crucial relevance. This sector has been recently reformed, in implementation of the NRRP, with the adoption of Legislative Decree No. 36/2023, which adopts an innovative approach in public procurements law by prioritizing the achievement of results, i.e. the awarding and the execution of the contract promptly and through the best balance in terms of quality and price, respecting principles of legality, transparency and competition (Spasiano, 2024, p. 206).

Through the introduction, in the sector of public procurement, of the innovative principle of result (as well as other important principles, such as principle of

trust and digital rights) the Italian legislator adopts a substantive approach to the principle of legality. Here, legality is not (only) merely understood as compliance with the rules governing the public procurement procedures, but it is intended as the necessity of effectively achieving the results that the Administration aims to pursue through the initiation of a tendering procedure, in the interest of the community and to achieve the objectives of the European Union. It is indeed relevant to consider that the complexities, uncertainties in application, and formalism in the interpretation of public procurement regulations by administrations and judges, along with a general fear spread among public employees to decide in order to avoid liabilities, have resulted in past years in profound inefficiencies in the sector and delays in the construction of essential public works crucial for the community and the progress of the country. In this context, the effective execution of public works in a timely manner has become crucial to realize all the projects outlined in the National Recovery and Resilience Plan (PNRR), which will modernize the country.

The achievement of results permeates all phases of the “life cycle” of public contracts, including the planning phase, contractor selection, awarding, contract execution, and subsequent disputes. In the meantime, the digitalization principles, as outlined in Article 19 of the Code, involve all phases of public procurement procedures and aim to digitalize the entire process by acquiring data and creating native digital documents through digital platforms. This approach enables interaction with existing databases and allows for enrichment with new data from individual procedure.

In this context, the digitalization of procedures and the life cycle of contracts is a fundamental challenge and lever for innovation as it allows the reduction of times in the procedure and of margins of error while pursuing the desired outcomes. However, beyond procedural changes, the new paradigm will also require organizational and cultural changes within the public administration, which, with some exceptions, still lacks technological knowledge and seems reluctant to the use of digital infrastructure.

The digitalization of PA, indeed, influences activities and procedures in the different area of action of the administration, as well as the organization of the public institution itself, through the creation of new subjects/figures in the administration (such as the Cybersecurity Agency, the Italian Digital Agency, and the responsible for the digital transition) or the change of internal structures within existing administrations.

The major digitalization challenges that Administrations will face also need to consider and respect some principles that have emerged in the case law of Italian

administrative judges, regarding the topic of algorithmic legality, and that have recently been incorporated in the new public procurement code (Article 30 of the leg. decree no. 36/2023 concerning the use of automated procedure in the life cycle of public procurements).

In particular, the Council of State ruled on a case where the Ministry of education had entrusted a third party with the construction of an algorithm to determine the assignment and transfer to the workplace of hired teachers. Due to unreasonable and erroneous outcomes produced by the algorithm (of a rule-based type that operates according to a deterministic logic capable of generating predetermined outputs by the programmer using an if-then logic), the machine's decision was contested.

The administrative court (from decision no. 2270/2019, and after with decisions no. 8474/2019; 30/2020; 881/2020; 7891/2021), while recognizing that a higher level of digitization of public administration is fundamental to improve the quality of services provided to citizens and users, and therefore that the use of robotized procedures is a coherent expression of the principle of good governance of the PA stated in Article 97 of the Italian Constitution in the current technological evolution, has nonetheless emphasized, for the first time, that the algorithm must adhere to the general principles of administrative activity, such as those of publicity and transparency (Article 1 of Law No. 241/90), reasonableness, and proportionality, thus ensuring both *ex ante* administrative control and judicial review afterward. Following this case law, the subject being affected by a decision must be fully informed of the application criteria and the model used; the decision must be attributable to the authority holding the power, which must also be able to carry out the necessary checks of the logic and legitimacy of the choice and outcomes entrusted to the algorithm, following the “humans in the loop” approach.

In conclusion, judicial rulings and recent legislative reforms exhibit a willingness to incorporate technological tools into the decision-making processes of public administrations, whether constrained or discretionary. However, such advancements should not jeopardize well-established protective principles and guarantees deep-rooted within Italy's legal and cultural heritage concerning the interplay between freedom and authority. This is why current discussions surrounding the potentials and limitations of artificial intelligence appears very complex and still very open, requiring not only legal considerations but also philosophical, ethical, and cultural dimensions, in the common belief that this progress and its challenges are upcoming and relentless.

Conclusions

As emerged from the analyzed paragraphs, the evolution of public administration represents an ongoing transformative process in which the public administration itself is subject to necessary reforms to implement the main investments and projects in various sectors of the national economy.

In the complexity of the contemporary world, characterized by the advent of artificial intelligence, geopolitical challenges, the emergence of new rights and risks, and cultural, territorial, and economic inequalities, it is necessary to have a public administration capable of making quick, effective, coordinated, transparent, responsible, proportionate, and flexible decisions to pursue public interests and address the primary needs of the communities.

The conducted analysis shows that the transformation of public administration faces a reality characterized by deeply rooted critical issues within the system, such as administrative inefficiencies and disorganization, excessive regulatory production, fragmentation of decision-making centers, lack of technological competence among public employees, difficulties in coordinating different centers of power, territorial and social disparities, as well as a spread conception of administration as an obstacle to the country's growth and to the satisfaction of collective needs. In this context, some preconditions for ensuring the necessary transition to a modern administration have been outlined in various paragraphs.

The recruitment of human resources in public administrations is crucial, both at the stage of selection of personnel through public competitions and after the selection, through a continuous training process that allows employees to be updated and face new challenges. In this sense, the idea shared by some scholars (Fracchia et al., 2021, p. 1) emphasizes that public competitions, as the primary recruitment tool for public employees, should be seen as a way to select the best professionals, based on a less formalistic and more substantive evaluation of the qualities, capacities, and skills of the candidates, to be a truly meritocratic way to access public career. The goal is to form a competent bureaucracy, selected according to merit criteria (i.e., based on the actual ability to perform functions), for which training and professional specialization paths are provided, in order to progressively decrease political influence.

Moreover, a reform aimed at increasing the staffing levels of public administrations, enhancing their technical and professional preparation and valuing the professional and social prestige of public employees, also through appropriate salary levels, can be an effective formula to combat the so-called "fear of signing", which is the fear of public employees to make decisions, even on a technical level, that

entail significant legal and financial responsibilities for the administrations and, consequently, in terms of administrative and accounting responsibility for public employees, leading to overall inefficiency of the administrative apparatus (Police, 2021, p. 2; Sandulli, 2020, p. 2).

As legal scholars have highlighted, the modernization of public action relies on a *progressive construction*, and the success of the processes of adaptation of the public sector to the underlying reality depends on how these processes are administratively implemented, even more than how they are legislatively outlined (Ramajoli, 2017, p. 189). In this logic, the training and qualification of public employees transcend the individual sphere of the single recipient and serve primarily a public interest, benefiting the entire community. In other words, it is a matter of institutional culture (Ramajoli, 2017, p. 189; Melis, 2016, p. 165; Cassese, 1971, *passim*; Cassese and Torchia, 2014, p. 36; Cassese, 2010, *passim*).

Furthermore, the digitalization of public administration is decisive, representing both a means and a fundamental objective to enable the structural transformation of administration in a digital and modern context. The phenomenon is pervasive and relevant in—at least—two dimensions: digitalization is the way to simplify and increase the efficiency of administrative action; on the other hand, it increases risks that are much more significant when the subject of digital transformation is the public administration itself, which must comply with the principles of legality, participation, transparency, motivation, and justiciability, as reiterated by the administrative judge (Marchetti, 2022, p. 77). It is also worth noting that one of the necessary preconditions to ensure the digitalization process of the country is to guarantee cybersecurity which, as highlighted by the National Cybersecurity Strategy 2022–2026, is an essential element of digital transformation, aiming to achieve strategic autonomy in the sector and promoting a cyber-resilient digital transition for the public sector and the productive fabric. The issue is central considering that in the last few years, hostile activities in the national cyber space increasingly targeted the digital infrastructures of public entities, particularly those related to the central administrations of the State and National Institutes and Agencies.

As highlighted in the previous paragraphs, the national debate surrounding the potentials and limitations of artificial intelligence appears very complex and still very open, requiring not only legal considerations but also philosophical, ethical, and cultural dimensions, in the common belief that this progress and its challenges are upcoming and relentless.

In conclusion, among the multiple themes intersecting PA transformation, the ability of public administration and administrative law to support greater social and economic justice is crucial. As some authors have pointed out, public admini-

nistration should not be an obstacle to the exercise of legitimate freedoms but a catalyst for growth, in a participatory and supportive logic, to ensure the best living conditions for communities, starting with the most vulnerable groups (Spasiano, 2021, p. 690; Franchini, 2021, p. 36). In this sense, the National Recovery and Resilience Plan (PNRR), is directed towards pursuing transversal priorities related to generational, gender, and territorial equal opportunities, conditioning the evaluation of projects and future investments to their impact on the potential recovery of youth, women, and territories, and providing opportunities for all without any discrimination, fully implementing the principles outlined in the Italian Constitution.

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