CERIDAP

Rivista Interdisciplinare sul Diritto delle Amministrazioni Pubbliche

Estratto

Fascicolo

4 / 2021

OTTOBRE - DICEMBRE

Technological Transition in response to COVID. Scattered Thoughts on the possibility of a (Technological) transition to a Digitalized Public Administration in Italy, with the help of the Recovery and Resilience Plan

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Il Piano di Ripresa e Resilienza per l'Italia è subordinato, per il suo successo, al superamento delle lentezze e inefficienze della Pubblica Amministrazione italiana. Allo stesso tempo, il Piano di Ripresa e Resilienza può svolgere un ruolo cruciale per operare quel miglioramento dell'effettività della Pubblica Amministrazione in Italia che appare oramai come assolutamente necessario ed imprescindibile. Per raggiungere questo obiettivo è necessario, tuttavia, anzitutto completare il processo di dematerializzazione e di archiviazione digitale dei documenti della Pubblica Amministrazione, nonché superare la mancanza di interoperabilità dei servizi digitali pubblici. Il che implica anche una solida "strategia delle risorse umane" al fine di innescare una reale trasformazione per la Pubblica Amministrazione nel suo complesso.

In order for the Recovery and Resilience Plan for Italy to be a success it is necessary to overcome the slowness and inefficiencies of the Italian Public Administration system. At the same time, the Recovery and Resilience Plan can play a crucial role in enhancing the effectiveness of Public Administration; something that is badly needed in Italy. To achieve this goal it is necessary, however, to first of all complete the process of full "dematerialisation" and of digital archiving of Public Administration documents, as well as to overcome the lack of interoperability of public digital services. What is needed is a solid "human resources strategy" in order to trigger a transformational change for Italian Public Administration.

1. Introductory remarks[1]

In the Country-specific recommendations - formulated each year by the European Council (on the basis of a proposal from the EU Commission) and subsequently adopted by the Council of the European Union in the form of a Recommendation addressed to the different Member States[2] - the May 2020 "Recommendation for a Council recommendation" 2020-2021, addressed to Italy[3], suggested (Recommendation nr. 4) to «*Improve (…) the effectiveness of Public Administration*»[4]. In fact, the «*low level of digitalisation and weak administrative capacity*» were clearly identified as two of the major weaknesses in Public Administration of Italy, but the report also mentioned «*the lack of interoperability of public digital services*»[5].

This "weakness" of Italian Public Administration has always been a problem because of scarce resource; something that I have referred to elsewhere as the "reforms at zero cost" scenario[6]. The Recovery and Resilience Plan for Italy has altered that scenario by making available (at least potentially) the money needed to carry out necessary reforms[7]. Therefore, a well-functioning Public Administration is needed for the plan to effectively produce "value for money" and the hoped-for changes[8]. Indeed, the Recommendation itself points out that «*An effective Public Administration is crucial to ensure that measures adopted to address the emergency and support the economic recovery are not slowed down in their implementation*»; and that «*The disbursement of social benefits, liquidity measures, and the front-loading of investments, etc. may not be effective if hampered by public sector bottlenecks*»[9].

So, one could certainly say that the success of the Recovery and Resilience Plan for Italy is dependent on the need to overcome the slowness and inefficiencies of Italian Public Administration. The Recovery and Resilience Plan has the capacity to enhance the effectiveness of Public Administration, something that is badly needed in Italy, because the plan contains measures specifically designed to foster digitalisation of the Italian Public Administration and for whose implementation there will be (at last!) adequate economic resources available[10].

2. Digitalizing Public Administration as a non-stop job and very expensive activity (and the consequences of this)

In the "Recommendation for a Council Recommendation" 2020-2021 addressed to Italy it was clearly stated that «*Digitalisation across Public Administrations was uneven prior to the crisis*» and that online interaction between authorities and especially with the general public was still too low[11]. According to the "Digital Economy and Society Index" (DESI), which summarises indicators on Europe's digital performance and tracks the progress of EU countries, for 2020 Italy ranks 19th among EU Member States, being the worst performing country in the EU when considering e-Government users[12].

The Covid-19 crisis has also clearly exposed that one of the most crucial issues is still the lack of interoperability of public digital services[13].

If the Recovery and Resilience Plan will hopefully once and for all put an end to the recent negative trend in Italy of "reforms at zero cost", it still is not the solution, as such.

To explain this point, I need first of all to get back and clarify what the "reforms at zero cost" are/were.

With this expression I refer to the fact that all reforms concerning Italian Public Administration of the last decades came to life with a so-called "financial invariance clause": a provision according to which such reforms had not to cause new or increased burdens on public finances and according to which the administrations concerned had therefore to ensure their implementation by using human, instrumental and financial resources already available[14].

This is tantamount to saying that the only way to carry out the reforms would have been to subtract already scarce resources from the other activities that Public Administrations are called to carry out.

This is in my opinion - if not the only reason why – certainly one of the reasons why, as it has been correctly underlined, «*Italy's Public Administration has been subject to numerous reforms, whose implementation was (...) often incomplete and ineffective*»[15] .

The risk of an incomplete and ineffective reform would have been, in fact, very high also with regard to the technological transition the Italian Public Administration needs to go through, and which we can roughly identify as its

"Digital revolution"[16]: if the financial resources rendered available by the Recovery and Resilience Plan had not been there!

Now that the financial resources are there, first of all the (inescapable) process of fully dematerializing and digitally archiving Public Administration documents can (and has to) be successfully completed.

The dematerialization issue is not an insignificant detail when we talk about Public Administration documents. It involves the progressive loss of the traditional physical paper-documents-archives belonging to the Public Administration and, as a consequence, the progressive growth in the use of electronic documents, as well as of electronic archives[17].

In a "digitalized environment" dematerialization is essential in order to enhance greater efficiency and control of documents, as well as the easy sharing of documents and data.

It is also essential in the perspective of the conservation and security of information and saves time and resources.

Digital files take up less space, can be retrieved and copied easily, and can be mined for content far more efficiently than paper records.

Nonetheless, electronic records are not less vulnerable than paper ones[18].

Just to mention a few of the critical situations that may occur: the software that originally read the file format may not exist anymore; the medium the file is stored on could get lost/destroyed; the data might be corrupted; or one may not have the hardware to read the data, etc.[19].

In addition to all this, the way in which Public Administration documents are stored in Italy has led to a messy fragmentation, as well as to a multiplication of the public information assets of the Public Administration.

This is clearly underlined in the Three-Year Plan 2017-2019 for ICT in Public Administration, where it is clarified how data is often stored in information silos ("containers") in which information is replicated and stored unevenly or even inconsistently and in a misaligned manner[20].

From this point of view the new Three-Year Plan 2020-2022 for ICT in Public Administration places a very strong emphasis on the interoperability objectives and the steps necessary to achieve them[21].

Furthermore, as data on electronic documents are not physically "attached" to the media (as ink is to paper) they can easily be changed. More attention is

therefore required when dealing with the integrity, authenticity and trustworthiness of electronic documents[22].

There also exists a problem of media, hardware and software obsolescence.

So that, as it was correctly pointed out, «*the "once-for-all" archiving principle for paper documents no longer holds for electronic data. We now talk about a "non-stop-job" principle for Public Administration*»[23].

A direct and very important consequence of such a non-stop-job principle is that the risk of economic failure is much more threatening than with a paper archive.

The ongoing costs for system administration, IT upgrading, human resources, etc. can be substantial[24].

That is also the reason why, at the end of the day, digital archiving is much more vulnerable to the interruptions of money supply.

This all may obviously become a real problem in a post- Recovery and Resilience Plan scenario: assuming that the financial resources available for the future will not be as substantial as they are at present!

3. Technological Transition in response to COVID

Although we must remain aware of all the above-mentioned problems, it is now necessary to explain how the Recovery and Resilience Plan intends to intervene in order to allow the necessary technological transition in response to COVID.

A consistent part of the Recovery and Resilience Plan is in fact made of measures that aim to reform Italian Public Administration and improve administrative capacity by using the potential offered by IC technologies.

In this respect the Recovery and Resilience Plan for Italy includes investments aiming at a set of very ambitious goals:

- rationalising and consolidating the existing digital infrastructures of Public Administration;
- fostering the uptake of cloud computing;
- implementing the 'once-only principle' and the accessibility of data through a catalogue of Application Programming Interfaces (APIs). A goal[25] which requires a particular attention to the harmonisation and interoperability of platforms and data services;

- improving the availability, efficiency and accessibility of all digital public services with the aim of increasing the level of adoption and users' satisfaction;
- strengthening Italy's defences against the risks posed by cybercrime;
- fostering the digital transformation of large central administrations;
- tackling the digital divide by strengthening citizens' digital skills.

I obviously do not have the time to analyse all this in detail.

I will therefore confine myself to making just a few brief comments.

The first comment is that, in order to achieve all these ambitious goals, a simplification of administrative procedures is certainly needed.

This does not mean, obviously, that administrative procedure - as it was designed by our National Law No. 241/90 on Administrative Procedure[26]- needs to be reinvented.

It certainly needs, though, to be adapted to the on-line way of interacting of Public Administrations: among themselves and with the addressees of Administrative activity.

In this regard, the implementation of the "once-only principle" (acronym OOP) is crucial.

Its origin is in European Union law. According to article 14 para 2 of the Single Digital Gateway Regulation «*Where competent authorities lawfully issue, in their own Member State and in an electronic format that allows automated exchange, evidence that is relevant for the online procedures (...) they shall also make such evidence available to requesting competent authorities from other Member States in an electronic format that allows automated exchange*»[27].

The "OOP technical system" the Single Digital Gateway Regulation refers to aims therefore at reducing administrative burdens on citizens and businesses across the European Union[28].

The goal of such a principle is to simplify, by avoiding duplication, the interaction with Public Administrations. This was also underlined in the Three-Year Plan 2020-2022 for ICT in Italian Public Administration according to which «*once only: public administrations should avoid asking citizens and businesses for information already provided*»[29].

However, this is exactly the contrary of what happens at present when interacting

with almost all Italian Public Administrations. The interaction with the until now only semi-digitalized (or badly digitalized) Italian Public Administrations basically consists in a delirium of forms to fill-in and documents to up-load.

It therefore resembles much more a "once-again principle" interaction, rather than a "once-only principle" interaction. Not surprisingly, in the already mentioned Digital Economy and Society Index (DESI) - which summarises indicators on digital performance and tracks the progress of EU countries - Italy underperforms in the EU context also in relation to the amount of data that is pre-filled in Public Services online-forms[30].

In order to cope (also) with this problem, it is certainly what the Recovery and Resilience Plan identifies as "human resources strategy" that is most needed[31]: if the aim is not just to make a nice bit of chitchat[32] but to really trigger a transformational change for the Italian Public Administration (as a whole).

As it was clearly underlined in the 2021 Commission Staff Working Document, accompanying the Proposal of Decision concerning the Recovery and Resilience Plan for Italy, «*The Italian public sector workforce is one of the oldest and less skilled in EU, with about half of the staff set to retire in the next 15 years*»[33].

That's the reason why "Reform 1.9" of the Recovery and Resilience Plan for Italy includes a list of very ambitious goals, amongst which are included:

- updating job profiles;
- reforming hiring procedures to be more targeted and effective;
- reforming the senior civil service to homogenise appointment procedures across Public Administration;
- strengthening the link between life-long learning and rewarding mechanisms or specific career paths;
- defining or updating ethics principles of Public Administrations;
- strengthening the commitment to gender balance;
- reforming horizontal and vertical mobility of staff.

One can only hope that this "human resources strategy" will really work and make the strictly connected reform of the organizational structure of Italian Public Administrations also possible: because it is obviously not possible to fully implement the "Digital revolution" of (Italian) Public Administration without

adapting its organizational structure to the needs that this technological transition inevitably carries with it.

Without such reforms - that are in my opinion necessary "enabling reforms" - the technological transition in response to COVID risks, as well as all the objectives to which it aims, to remain just on-paper.

1. For the first part of the title ("Scattered Thoughts") I took inspiration from Gary Davenport's song, Scattered Thoughts, which has been described as «*Perfect for when the days feel like the colour of a turned-off TV screen*» (see at https://worldofechomusic.com/products/gary-davenport-scattered-thoughts).

2. See the note drafted by J. Angerer, K. Grigaitė, O. Turcu (Directorate-General for Internal Policies), Country-specific recommendations: An overview, September 2020, Doc. PE 624.404 - September 2020 at https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/624404/IPOL_BRI(2018)624404_EN.pdf. The document provides an overview of the country-specific recommendations issued annually to EU Member States under the European Semester for economic policy coordination and how these recommendations evolved over time (2012-2020).

3. Recommendation for a Council Recommendation on the 2020 National Reform Programme of Italy and delivering a Council opinion on the 2020 Stability Programme of Italy. Country-specific recommendation 4, 2020 at: https://ec.europa.eu/info/publications/2020-european-semester-country-specific-recommendations-commission-recommendations_en.

4. See also Country-specific recommendation 3, 2019 at: https://ec.europa.eu/info/publications/2019-european-semester-country-specific-recommendations-commission-recommendations_en. During the 2021 Semester Cycle, exceptionally, due to the preparations and adoptions of the Recovery and Resilience Plans under the Recovery and Resilience Facility, no further Country Specific Recommendations (CSRs) have been issued under the European Semester.

5. See Country-specific recommendation 4, 2020 quoted above.

6. See D.U. Galetta, Information and Communication Technology and Public Administration: through the Looking-Glass, in D.U. Galetta, J. Ziller (Eds.), Information and Communication Technologies Challenging Public Law, beyond Data Protection, Nomos Verlagsgesellschaft, 2018, p. 119 ss. I return to this in the subsequent paragraphs.

7. See at https://www.governo.it/en/articolo/italian-national-recovery-and-resilience-plan/17027. The Plan includes 16 components and is structured around 6 areas of intervention ("Missions"), focusing on three horizontal priorities: digitalization and innovation, ecological transition and social inclusion.

8. As it is clearly underlined in the Recommendation for a Council Recommendation

«*Procedures and checks need to be dealt with swiftly, in a context where public resources are being significantly increased to support economic activity*» (para. 24).

9. Recommendation for a Council Recommendation 4, 2020 cit., para. 24-25

10. 27% of the resources of the Recovery and Resilience Plan for Italy are dedicated to Digital Transition.

11. Recommendation for a Council Recommendation, para. 24..

12. See at https://digital-strategy.ec.europa.eu/en/policies/desi.

13. To understand this concept and its implication see, most recently, G. Misuraca, G. Alfano, G. Viscus, Interoperability Challenges for ICT-enabled Governance: Towards a pan-European Conceptual Framework, in Journal of Theoretical and Applied Electronic Commerce Research, Vol. 6 , Issue 1, April 2011, p. 95 ss.

14. See further to this point D.U. Galetta, La trasparenza, per un nuovo rapporto tra cittadino e Pubblica Amministrazione: un'analisi storico-evolutiva in una prospettiva di diritto comparato ed europeo, in Rivista italiana di diritto pubblico comunitario, 2016/5, par. 5.8., p. 1054 ss. See also D.U. Galetta, Information and Communication Technology and Public Administration: through the Looking-Glass cit., passim.

15. See Commission Staff Working Document. Analysis of the recovery and resilience plan of Italy. Accompanying the document Proposal for a Council implementing Decision on the approval of the assessment of the recovery and resilience plan for Italy, 22.6.2021, SWD (2021) 165 final, p. 12.

16. The Digital Revolution (also known as the Third Industrial Revolution) is the shift from mechanical and analogue electronic technology to digital electronics which began in the latter half of the 20th century. See for more details: D.U. Galetta, J. G. Corvalán, Intelligenza Artificiale per una Pubblica Amministrazione 4.0? Potenzialità, rischi e sfide della rivoluzione tecnologica in atto, in Federalismi.it (http://www.federalismi.it), 3/2019, p. 1 ss. (and see references within).

17. See among others: S. Armenia, D. Canini, N. Casalino, A system dynamics approach to the Paper Dematerialization Process in the Italian Public Administration, in A. D'Atri et al. (Eds.) Interdisciplinary Aspects of Information Systems Studies, Physica-Verlag HD, 2008, p. 399 ss., at https://link.springer.com/book/10.1007/978-3-7908-2010-2.

18. See D. Bearman, Reality and Chimeras in the Preservation of Electronic Records, in D-Lib Magazine, 1999, Vol. 5, No. 4; P. Dwivedi, Archive – where it started and the problems of perpetuity, in Proceedings of the Eighteen IEEE Symposium on mass storage systems and technologies, 2001, at http://storageconference.us/2001/papers/p10dwive.pdf, p. 353 ss. See also the interesting comments of P. Leggate, M. Hannant, The archiving of online journals, in Learned Publishing (2000)13, p. 246 ss.

19. So that, as Dwivedi points out, «*The new era has instigated a major change for archivists from a world of "human-readable" data to one of "computer- ciphered" data, introducing a completely new set of issues and processes*». P. Dwivedi, Archive – where it started and the problems of perpetuity cit., p. 354.

20. See Three-Year Plan 2017-2019 for ICT in the Public Administration, para 4.1., Public

Administration Data at: https://docs.italia.it/italia/piano-triennale-ict/pianotriennale-ict-doc/it/2017-2019/doc/0 4_infrastrutture-immateriali.html#dati-della-pubblica-amministrazione.

21. See Three-Year Plan 2020-2022 for ICT in the Public Administration, at https://www.agid.gov.it/sites/default/files/repository_files/piano_triennale_per_l_infor matica_nella_pa_2020_2022.pdf.

22. See, among others, K. Stranache, V. Krnji, B. Zwattendorfer, T. Zefferer, Evaluation and Assessment of Editable Signatures for Trusted and Reliable Public Sector Data, in Electronic Journal of e-Government, 2013, p. 360 ss.; M. Runardotte, C. Mörtber, A. Mirijamdotter, The Changing Nature of Archives: Whose Responsibility?, in Electronic Journal of e-Government, 2011/1, p. 68 ss.; F. Buccafurri, G. Caminiti, G. Lax, Threats to Legal Electronic Storage: Analysis and Countermeasures, in K. Normann Andersen et al. (Eds.), Electronic Government and the Information Systems Perspective (Second International Conference, EGOVIS 2011, Toulouse, France, August 29 - September 2, 2011. Proceedings), Berlin, Heidelberg, 2011, p. 68 ss.

23. M. Dečman, Long-term Digital Archiving - Outsourcing or Doing it, in The Electronic Journal of e-Government, 2007/5, p. 136.

24. M. Dečman, Long-term Digital Archiving - Outsourcing or Doing it, op. loc. cit.

25. An objective to which also the Italian Three-Year Plan 2020-2022 for ICT in the Public Administration expressly refers (see at https://www.agid.gov.it/sites/default/files/repository_files/piano_triennale_per_l_infor matica_nella_pa_2020_2022.pdf).

26. Law No. 241 of 11 August 1990 setting new rules concerning administrative procedure and the right of access to documents, published in the Official Gazette of 18 August 1990, No. 1. See for a (not up-to-date) English version at https://www.legislationline.org/download/id/5393/file/Italy_Law_Administrative-proce dure_1990_am2010_en.pdf.

27. Art. 14 para. 2 of the Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012, ELI: http://data.europa.eu/eli/reg/2018/1724/oj.

28. See especially article 14 of Regulation (EU) 2018/1724 - Technical system for the cross-border automated exchange of evidence and application of the 'once-only' principle cit. See also at: https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/Once+Only+Initiative%3A +Towards+Cross-Border+Connectivity.

29. Three-Year Plan 2020-2022 for ICT in the Public Administration already quoted, p. 9. The translation is mine.

30. See at https://digital-strategy.ec.europa.eu/en/policies/desi.

31. See in this regard Axis 3 – Public Administration, Reform 1.9 – Public employment reform and simplification reform of the Recovery and Resilience Plan for Italy cit.

32. The already very well-known "blah, blah, blah" Greta Thunberg referred to (obviously to another purpose) during her speech at the Youth4Climate event in Milan, on Tuesday 28 September 2021, ahead of the Pre-COP26 climate talks. See at https://www.nationalobserver.com/2021/09/28/news/greta-thunberg-bashes-blah-blah-blah-cop26-speech.

33. Commission Staff Working Document. Analysis of the recovery and resilience plan of Italy. Accompanying the document Proposal for a Council implementing Decision on the approval of the assessment of the recovery and resilience plan for Italy, 22.6.2021, SWD (2021) 165 final, p. 11.