Twenty years of administrative reform in Italy

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Reforming and modernizing the public administration, a historic drag on Italian growth and competitiveness, is once again a priority question for Italian Government. Despite significant innovations, the new measures display more elements of continuity than discontinuity with the reforms of the 1990s (under Ministers Cassese and Bassanini), which were among the most important in this field since the unification of Italy. The essay draws a balance of the administrative reforms of the 1990s, their quantitative and qualitative results, successes and failures. It analyzes the causes of the failures and delays in the implementation of the reform, and particularly in the introduction into Italy's public administration of modern systems of performance evaluation, productivity incentives, merit-based management of human resources and accountability of administrators for results. These issues are now addressed by the Brunetta reform, whose strengths and weaknesses are examined. The proper setting of objectives, cutting down the role of politics in the public administration, upgrading the quality of expenditure and consistent implementation will be crucial to its success.

1. The reforms of the 1990s: the results

Administrative reform was among the crucial commitments of the Amato, Ciampi, Prodi and D'Alema governments in the 1990s. A period of inaction on this front ensued, coinciding with the second and third governments headed by Silvio Berlusconi and the second headed by Romano Prodi. Under the fourth Berlusconi government, formed in 2008, work has resumed on the modernization of the Italian administrative system. Comparing the second reform effort with the first, the factors of continuity outweigh the few innovations, although these

are not unimportant.[1] This is unusual in a country accustomed, in reform processes, to going back to square one with each change of political majority. This continuity is not only positive as a method but also commendable on its merits, because the reforms of the 1990s, though not carried to completion and notwithstanding their indubitable contradictions, shortcomings and compromises, were the most significant attempt to modernize the public administration since national unification, as a summary balance of what they produced demonstrates.

Let us begin with some numbers, first of all on the reduction of the cost of the administrative apparatus, which from the early 1990s on, was the first objective of the reform. Between 1992 and 2000 the cost of the item "compensation of public personnel" (including the central government, regions, local authorities, public entities, armed forces and police) diminished by two percentage points of GDP, from 12.6 to 10.6 per cent (adjusted Istat data). The contribution to the consolidation of the public finances that enabled Italy to join the European Monetary Union was second only to that deriving from the reduction in interest payments on the public debt. So, at the end of 2000 Italy had nearly two million fewer public employees than France or the United Kingdom. The number of public employees in relation to the population and the ratio of staff costs to GDP had both fallen below the average for the OECD countries. Accordingly, there is reason to argue that since 2000 the problem of Italy's public administration is not so much the cost of general government bodies, which naturally must be contained and, if possible, reduced further, but the quality of the goods and services that they supply to individuals and firms, together with the quality of regulation and the regulatory and bureaucratic burden imposed on individuals and firms.

Nor were the results of the reforms of the 1990s trivial from the qualitative perspective. Vital sectors of the economy, from steel to

[1] The Minister for the Public Administration and Innovation, in his pamphlet on the current reform, appears instead to regard it as a fundamental break with the past. See Renato Brunetta, *Rivoluzione in corso*, Milan 2009.

telecommunications, banking and energy, previously public monopolies or oligopolies, were liberalized and privatized. Subnational governments were given much more modern institutional arrangements, more stable governance structures, and more substantial tasks, powers and resources, anticipating decentralization processes now under way in all the leading European democracies. The architecture of the central government was overhauled: ministries were regrouped by homogeneous missions, new organizational entities were introduced (agencies, "territorial offices of the Government"), and Italy was brought into line (in this case very tardily) with the arrangements in place in the major European states. Methods of management and labour relations long in use in the private sector (and in Anglo-Saxon administrative systems) were imported into the public sector, albeit with adaptations and derogations. Strategic planning, management control, performance evaluation, accountability, merit, customer satisfaction ceased to be concepts foreign to the culture of governmental entities and became, at least in theory, ordinary instruments of their activity. Italy was one of the first countries in the world to equip itself with the necessary instruments for the digitization of administration, from the electronic document to the digital signature, the computerization of the revenue service and the trial introduction of electronic identity cards. The success of self-certification kindled hope in a rapid achievement of the sought of certificates and for radical digitization and re-engineering of the administrations, outlined in 2000 in the e-government plan. The introduction of regulatory impact assessment portended a radical reduction in red tape.

By March 2001 the OECD was able to attest to the "impressive progress" that Italy had made in just a few years in the quality of regulation, bureaucratic simplification and administrative modernization,[2] listing achievements which, truth be told, appear to have been ignored by public opinion and the Italian politicians (while, most unusually, the Italian reform was appreciated abroad, particularly in France.[3])

[2] OECD, *Regulatory Reform in Italy*, Paris 2001.

[3] See, among others, R. Fauroux and B. Spitz, *Notre État. Le livre vérité de la Fonction Publique*, Paris 1999, and P. Winicki, *Réussir la réforme publique*, Paris 2007.

2. Drawing the balance of the "Bassanini" reform

A decade into the new century, what still survives from that season of reforms and what instead has fallen by the wayside? What is its legacy?

The slimming down of Italy's governmental apparatus has stood the test of time, keeping us below the OECD average, even if the consequent containment of staff costs has been offset in part by an increase in expenditure for the purchase of goods and services (consultancies, offices of direct collaboration, outsourcing, etc.). Variable results – but, all in all, short of expectations – have come from the project, contained in the 1997 enabling law, with the aim of rethinking and redrawing the perimeter of public intervention and public services, by focusing public administrations on its "core business" and systematic outsourcing.

We have not turned back from the liberalizations, even if some of them have revealed the defects of an approach dominated by the demands of consolidation of the public finances; but neither have we advanced by opening up other important sectors, such as the liberal professions, to competition. A fresh attempt is now being made for local public services with a law passed a short time ago and now undergoing the test of implementation.

Self-certification has remained a success. It has eliminated three quarters of the certificates and 85 per cent of the signature authentications required by government offices. Nowadays Italians resort to self-certification without even being aware of it,[4] but the radical decertification plan drawn up in 2000 has not gotten off the ground.

The reorganization of the major ministries (Internal Affairs, Foreign Affairs, Defence, Economy and Finance), a product of Legislative Decree 300/1999, has survived the changes of parliamentary majority and government virtually intact. And the drastic simplification of the architecture of the executive, dismantled by the second Berlusconi

[4] For example, when they register a child at school after the first year. Until 1997 they had to submit the child's birth certificate every year; now they sign, automatically, a form that already incorporates the self-certification formula.

government and even more by the second Prodi government with an irrational "unbundling" of ministries, was restored *in toto* by the Finance Law for 2008. But the boldly conceived simplification and streamlining of the peripheral administration of the state, envisaged by Legislative Decree 300/1999 with the institution of territorial offices of the Government, has been utterly forsaken.

The reform of the rules on trade-union representation and representativeness has cleared the hurdle of two changes of parliamentary majority and government and has been tested in three rounds of voting for trade union representatives, always with high turnout (more than 80 per cent of public employees). Italy will not return to the era when the Government had to call 102 different trade union organizations (including some delegates who represented no one but themselves) to the bargaining table with ARAN, the general government negotiating agency. But, owing in part to lack of financial resources, second-round bargaining has totally failed to achieve its assigned objective of effectively promoting productivity and rewarding merit.

The digital signature, the electronic document and the e-government plan of 2000 had opened the way to making information and communication technologies the driver of a quantum leap by the administrative system, to be accomplished through the re-engineering of public services and the reorganization of the public administration. But the plan, though approved unanimously, has remained a dead letter and, for the time being, the digitization of the administration must be counted among the major lost opportunities.

The reforms of the chambers of commerce, the company registry office and the tax agencies have withstood the changes of parliamentary majority. School autonomy too, at least on paper; in practice, however, it has been emptied of most of its innovative potential by the resistance of the Education Ministry bureaucracy, skilled in making purely cosmetic changes.

Regulatory and bureaucratic simplification has been marking time, after a sparkling launch at the end of the 1990s and some initial successes (more than two hundred authorizations and permits abolished). And regulatory impact assessment has become a formality,

unable to check the headlong race of administrations and legislative offices to increase the regulatory and administrative burden.

As for so-called administrative federalism, what survives of it is a major redistribution of powers and tasks among the central government, regions and local authorities. The case of the provinces is emblematic. Ten years ago they were a residual institution with fragmented tasks and marginal competences; today they are very similar to the intermediate jurisdictions that one finds in the institutional arrangements of all countries of a size and population comparable to Italy.[5] However, the resistance of the ministerial bureaucracies has produced a general disapplication of the provisions of the reform laws calling for the simultaneous dismantling or downsizing of the central government offices previously responsible for the functions, activities and services devolved to the regions and local authorities and the parallel reallocation of the requisite financial and human resources. Overlapping functions and structures and inadequate resource reallocation have caused problems whose solution demands rigorous, correct implementation of the Enabling Law 42/2009 concerning fiscal federalism.

3. Modernization grinds to a halt (2001-2008)

It is true, then, that some parts of the administrative reform of the 1990s have sunk deep roots and are now irreversible, that some of the innovations made back then have held up, and that some signal of best practices survive. But it is doubtful that the OECD would now reiterate the enthusiastic (possibly overgenerous) evaluation it offered in 2001. The analyses conducted by leading international organizations, albeit not always with accurate and reliable methods,[6] still point to generally poor quality of the goods and services provided

[5] Let me remind the many illustrious "commentators" who recommend abolishing the provinces that in Europe all the countries whose population exceeds 6 million, that is to say all the larger countries except Denmark, have an intermediate level of government between regions and municipalities or analogous territorial institutions.

[6] See, among others, ASTRID, *Gli indicatori di competitività dell'economia italiana nel quadro del processo di Lisbona*, edited by P. Ranci and A. Forti, Florence, 2008.

by public administrations and high regulatory and bureaucratic costs as two key factors in the decline of Italian competitiveness.

The ratio of public staff costs to GDP has begun to rise again, although it is still slightly below the OECD average. An incomplete federalism has created duplications and conflicts of duties between the central government, regions and local authorities, squandered resources and engendered a welter of legal disputes. The second Prodi government's short-lived "unbundling" of ministries has had analogous effects on central government departments and, above all, spawned the belief that administrative organization is not the product of rational planning of the instruments for implementing public policies but a dependent variable of the demands of a bloated, sinecure-hungry political class. The e-government plan is a dead letter. The simplification of regulatory and bureaucratic formalities, barely begun, has given way to a revival of the culture of over-regulation. Accountability, merit, performance assessment are still the exception, not the rule; they have been overwhelmed by the spoils system, by the scattershot distribution of performance bonuses, by the explosion of the costs of politics, by the resistance of an entrenched bureaucratic culture, by the conservatism of the bodies responsible for auditing, by the inability of the political class to conceive of public policies in terms of strategies, objectives and quantifiable, measurable results.

4. The causes of the halt: political discontinuity and Italy's bipolar system

Why did the reform process stop? Given the state of our administrative system twenty years ago, unmercifully but faithfully depicted in the Giannini Report, only a radical, sweeping reform stood a chance of success. But such a reform cannot be carried out in the span of a single legislature; at most, the reform laws can be passed (as happened in the 13th legislature between 1996 and 2001), but their implementation certainly cannot be completed. And implementation is the decisive phase, for a number of reasons. One is that the laws in themselves do not change the lives of men and women, or even the

working of the public administrations. Another is that no reform is perfect; only during implementation can the flaws be detected and the necessary adjustments made, can the ordinary and extraordinary maintenance be conducted to correct the features, perhaps mere details, of the design that prevent the entire reform from working properly and effectively. This is why the planning and adoption of administrative reforms needs to be bipartisan: to prevent successive changes of parliamentary majority from creating roadblocks during the decisive phase of implementation.

The administrative reform of the 1990s had been planned and adopted on a bipartisan basis. Three of the five so-called Bassanini laws were passed with the votes of the centre-right opposition and all the implementing decrees were unanimously approved by the Unified Conference. Why, then, did the change of parliamentary majority in 2001 arrest the implementing process? Chiefly for two reasons. The first is the anomalous, if not schizophrenic, characteristics of Italy's bipolar system. Italy's tardy changeover to a democratic system based on alternation between the majority and the minority has been interpreted in Manichean fashion, as if majoritarian democracy necessarily implies that the winners take all and must wipe out whatever was done by their predecessors, even things on which there had been bipartisan accord. Even if those coming to power would like to continue the reforms designed and approved using the bipartisan method, they find it hard to explain to their own majority that there is no need to go back to square one; that what is needed is simply to forge ahead, to adjust, supplement and complete a reform that was fashioned together.

The second factor is to be found in the reform of Title V of the Constitution. That reform was largely well designed; as examples, we can cite the rewriting of Article 118 and the consequent reformulation of the constitutional principles of the administrative system, and the definition of the principles of fiscal federalism in Article 119, whose paternity is claimed by Giulio Tremonti on the centre-right and Michele Salvati on the centre-left, and whose bipartisan genesis is accordingly uncontestable. However, Title V also includes Article 117, establishing the new distribution of legislative powers between the

central government and the regions. For one thing, this reallocation has glaring weaknesses, most notably the absence of that supremacy clause which in contemporary federal constitutions insures against confederal or even secessionist drift, and which in the American federal system was forged by the courts as early as the 1800s. The absence of a supremacy clause has led to an excess of concurrent legislation and has rendered less sustainable the removal of matters from the sphere of central government legislation that instead require unitary regulation in order to safeguard the fundamental interests of the nation and the citizenry. For another, the disagreement between the majority and the opposition on Article 117 triggered a political showdown. A constitutional reform should never be forced through by dint of majority votes. The violation of this principle was an inducement to further discontinuity, which spread to the field of administrative reform, where bipartisan cooperation is essential. Public opinion and even the political class are not very clear on the distinction between the constitutional reform introduced by amending Title V and the administrative reform introduced, without amending the Constitution, by Law 59/1997 (of which so-called "administrative federalism" was an integral part). The clash that marked the passage of the constitutional reform (and has impeded its implementation) has ultimately harmed the administrative reform as well.

5. The problem of financial resources

Another significant factor is finances. In the mid-1990s the state of the public finances (with the debt exceeding 125 per cent of GDP) and the imminence of the final examination for admission to the European Monetary Union precluded investing budgetary resources in the modernization of the public administration. On the contrary, administrative reform was supposed to contribute to fiscal adjustment – and indeed it did, by reducing government personnel costs by two percentage points of GDP.

But this meant that resources were unavailable for investment in the computerization of general government, for productivity and

performance incentives (second-level bargaining), for the recognition of merit and professionalism, for improving the quality of services, for staff training and development, for recruiting young people and bringing experts with new skills and a modern technological and organizational culture into government.

The question remains topical today, when the economic and financial crisis has burdened all the industrial countries with a legacy of public debt that has breached warning levels and is rising back towards 120 per cent of GDP in Italy. With the situation now no better than it was then, we will once again have to "do it on a shoestring".

6. Budgetary reform and management autonomy of governmental administrations

Another key mechanism that did not work, compromising the overall outcome, was the state budget and accounting reform introduced by Law 94/1997 (the Ciampi Law), contemporaneous with and closely linked to Law 59/1997. The aims of that measure were to reorganize government budgets according to mission and programme, assign the resources required to implement each programme to the responsible administration as an aggregate, and give each organization and its administrators complete autonomy in managing their financial and human resources, a precondition for making public bodies and their administrators accountable for performance and results. Essentially, these provisions were much like those introduced a few years later in France with the LOLF, the budget and finance law that is today France's principal instrument for modernizing the public administration.

However, the Ciampi Law met fierce resistance from the State Accounting Department, which employed the most sophisticated techniques of Italian transformism. When sabotage is successful, obviously the saboteur is to blame, but in this case some of the blame – for failure to exercise oversight – also falls on those who were supposed to enforce the law and carry out the reforms passed by Parliament.

Here, too, recent years have brought some progress. The state budget has been structured by missions and programmes, initially only

for fact-finding purposes, a limit now overcome with the accounting and budget reform approved by Parliament (Law 196/2009). Yet for all their positive features, the new provisions do not make a clear-cut choice in favour of granting each administration effective autonomy and flexibility in managing the resources assigned to each programme.

Perhaps a more substantial contribution can come from the enabling law on fiscal federalism (Law 42/2009). Its approach of holding subnational governments clearly accountable for resource use, expenditure control and the assessment of results obviously entails making individual administrative units accountable for service costs and quality. In practice, however, this will depend on mandated implementing legislation that presumably will encounter formidable obstacles and opposition.

7. Performance assessment: a meritocratic revolution resisted

The components of the reform that have remained in midstream, in the absence of resolute implementation, include one that it is no exaggeration to call fundamental inasmuch as it would have deeply affected the operation and organization of all administrations by working an authentic "cultural revolution", replacing legal formalism with the culture of performance, of results, of attention to the quality of services and recognition and advancement of merit and professionalism. The reference is to the part of the reform governed by the opening articles of Legislative Decree 80/1998, subsequently incorporated in the consolidated law of 2001: the provisions establishing that for each administration the political authorities are responsible for defining public policies, translating them into strategic guidelines, setting precise, quantified goals, and introducing objective, reliable systems of evaluation; that administrators are completely autonomous and accountable for managing their units; that careers, promotions, removal from position, and even a part of pay must be related to results; and that public employees can be dismissed under the same rules that prevail in private law (and, consequently, for just cause). Although these provisions have been on the books for a

decade, only a few administrations have applied them with conviction. The objectives, when they exist, are often generic and vague; performance is either not measured at all or is assessed in purely summary and discretionary fashion; the portion of pay linked to results is often minimal and not infrequently distributed to all, irrespective of results. The number of cases where incompetents or "slackers" have been fired can be counted with one's fingers.

It is on this terrain that the reform of the 1990s has registered its principal failure (and it is no coincidence that it is from here that the Brunetta reform has started). What are the causes? To begin with, there is the reluctance of the Italian political class to set precise objectives for productivity, for quantity and quality of services, and to devise objective, reliable mechanisms for verifying their attainment. In my view, there are two reasons for this. The first is that the reform, by taking a discretionary power of evaluation away from the politicians, prevents the meting out of rewards or punishments on the basis of cronyism or political loyalty, making it harder for them to use administrative patronage (if the director of a local health unit knows he will lose his performance pay and maybe even his job if he fails to cut waiting lists in half, it will be harder for politicians to get him to hire their friends, clients and cronies). The second is that setting significant but realistic objectives is a demanding exercise that requires time and attention on the part of ministers, regional presidents, mayors and councilors; an exercise calling for a political class that understands it must honour the holding of government office by dedicating full time to it and putting it before party, factional, local electoral commitments and the like (and even sacrificing some attention from the media).

The bureaucratic class shares the blame, however. Accustomed to exercising power without accountability, subject to purely formal controls, indifferent to results and performance, comfortable with the trade-off between lack of accountability and a complaisance with improper, patronage-driven requests from the politicians, the bureaucratic class has mainly interpreted the reform as a tool for indiscriminately increasing the incomes of administrators through the

redistribution of portions of variable pay that necessarily go – in the absence of performance indicators and instruments for measuring results – to one and all, meritorious and incompetent, hard workers and slackers alike.

This brings us to an ineluctable issue: the spoils system. While in the United States an executive removed from a position following a change of administration loses his job, in Italy he loses his position but not his employment, at least if he has tenure. Consequently, in Italy a change of government and parliamentary majority gives rise, at most, to a mere rotation of appointments. Still, the loss of a position can be nearly as important as the loss of employment, if the position is coveted and prestigious. Now, if loss of position depends on unsatisfactory performance or results, there is a powerful spur to administrative efficiency; but if it depends on political assessments, cronyism or clientage, the result is a disincentive to productivity, efficiency and better services for citizens. Bad money (cronies, bootlickers) drives out good (well-trained, competent administrators attentive to service quality and to satisfying the public).

8. Politics and administration: the constitutional principles and the 1998 reform

Before the Bassanini reform (1998), fully half of all high-ranking public employees (prefects, ambassadors, generals and colonels) could be removed from their position at the discretion of the political authorities. The other half, though nominated in discretionary fashion by those authorities, were legally irremovable. The reforms of 1997-98 intervened with respect to the latter, introducing the principle that appointments were temporary and renewable only in the case of positive assessment of results. Revocability depending not on results but merely on a change of government was strictly limited to the most senior positions, the juncture between politics and administration. This was consistent with the rules in France and nearly every other European country allergic to the spoils system. Italy's Constitutional Court found this solution compatible with the principle of administrative impartiality,

whereas, not by chance, it has ruled that the provisions of Law 145/2002 (the Frattini Law) giving the political authorities broader powers and discretion of appointment and confirmation were unconstitutional.

Both the Constitutional Court and the legislation of the 1990s had correctly grasped a key point of the reconstruction of Italy's constitutional system, one that the spoils system contradicts, namely the distinction between politics and administration. Recasting the relations between politics and administration by rigorous distinction between their respective roles and tasks is a crucial passage in that reconstruction: it is for the political authorities to make public policies, but it is up to the administration to carry them out. Consequently, the public administration must be assessed on its results in implementing policies, on the quality and quantity of goods and services provided to the population, not on its willingness to bend to the interests and partisan logic of the political class.

Three constitutional principles are relevant, and their combined effect is the standard for judging the constitutionality of the rules on high administrative officials. The first is that which teleologically characterizes the mission of public institutions and administrations as instruments for guaranteeing and actuating the fundamental rights of the citizens. Guaranteeing the right to education for all requires a good public school system. Guaranteeing the right to health requires an efficient health care system. Guaranteeing citizens' right to security requires an effective apparatus of law enforcement. The more modern and efficient the administration, the more it offers goods and services of a high standard of quality and quantity in relation to the available resources, the more it will fulfill the objective of safeguarding the rights of the citizens and the obligation of contributing to the realization of the constitutional programme. The administration and the institutions are meant to serve the citizens and are instruments for guaranteeing and satisfying their rights. They are not meant to serve the patronage requirements of the political class.

The second principle is that of democracy (Article 1 *et seq.* of the Constitution). Sovereignty belongs to the people, which exercises it in the forms and within the limits established by the Constitution. The

people exercises it directly (with referenda, bills of popular initiative, petitions) but mainly indirectly, through the instruments of representative democracy. The people chooses who will represent it, and in so doing approves a political programme. Those elected, at the various institutional levels, have the right and duty to carry out that political programme, to seek to honour the promises and commitments made to the voters. To this end they avail themselves of the administration, to which they must be able at least to indicate objectives, policies and target results. Just as the public administration must operate to safeguard and realize the rights of the citizens and the general interest, so too, in a democracy, the political authorities elected by the citizenry are legitimately empowered to decide how the public administration must do this in practice; it is they who set public policies, allocate resources and indicate objectives.

The third principle is that of the impartiality and good performance of the public administration (Article 97 of the Constitution). The public administration must faithfully implement the directives and strategies of the political authorities, but in doing so it must be non-partisan; it must not participate in the political competition, nor discriminate between citizens, because it is an instrument for realizing their rights, which are the rights of all. In organizing and managing public services, the pubic administration must not prefer or discriminate against any citizen on the grounds of his or her political, religious or cultural opinions. Public administrations and their executives and employees exclusively serve the Nation (Article 98 of the Constitution), not a part of it, even the part that won a general election.

How can these apparently contradictory principles be reconciled in practice? The reforms of the 1990s came to grips with this problem but succeeded only in part. They did not substantially reform the special career paths of prefectural, diplomatic and military personnel, still governed by the regime of precarious appointment (and by a persistent influence of hierarchical and gerontocratic models). For other executive-level staff (of the central government and local authorities) they introduced new rules based on the principles of distinction between the role of politics and administration, the

autonomy of administrators and their accountability for results, the temporary nature of appointments, the stipulation of contracts for administrators and performance evaluation. Under the new rules, the political authorities remain responsible for making appointments (only for general managers or the equivalent), but they are required to select from among the winners of competitive examinations and to adopt criteria of competence and capability (though these are often ignored in practice); the appointment of persons not belonging to the public administration, not selected through a public competition, was strictly limited in number and permitted only for temporary appointments. The political authorities were given the task of setting objectives and targets, administrators the duty of implementing policy in complete autonomy. Results would be assessed at the end of the period covered by the contract using objective criteria and methods as far as possible. If results were positive, the executive would be entitled to reappointment, or to appointment, with his or her consent, to an equivalent or more challenging position. If they were negative, the executive would be assigned to a less important position or, in the most serious cases, to no position at all or possibly even dismissed.

There was self-evident logic to these choices. A decisive reorientation of the modus operandi of administrations towards results, productivity, quality, is possible only if those running each unit know that their career and also part of their pay depend on the results they achieve, not on the party card they carry or their willingness to accede to the patronage demands of the majority of the day; only if the results are assessed by impartial judges using objective criteria and indicators; consequently, only if executives are loyal to the political authorities, i.e. actively engaged in implementing the strategies and guidelines set at political level, but also impartial, serving the citizens regardless of their opinions, and efficient, i.e. able to foster and guide the upgrading of public goods and services, which are the concrete means of safeguarding the rights of the citizenry. And only if they know that their performance will be gauged by their results, not their fidelity to whomever is momentarily in power or their willingness to humour the potentates' every whim.

9. Collusion between politicians and bureaucrats comes back (2001-2008)

After the reform of 2008, are executive-level public employees in Italy governed by a system that obeys the constitutional principles recalled above? Are they, as a whole, responsible, autonomous, loyal to the political authorities, impartial, competent and efficient, modern and innovative? Is the model we have outlined actually at work in the Italian administrative system?

The reform's first failure came even before the turn of the century, during its gestation, when it proved politically impossible to extend the new rules on high civil servants to the "regalian" administrations. The resistance on this point was insurmountable. One reason for this is that while prefects and ambassadors are officers in important administrations, they are also representatives of the Government and have tasks and duties bordering on those of the political authorities. In addition, the authoritativeness, professionalism and esprit de corps of the regalian bureaucracies were, by themselves, more than enough to oblige the politicians to use their formal powers very sparingly. Even excluding the regalian administrations, however, the reform was applied spottily and poorly. Some examples of best practice were seen, but by and large the political authorities showed little interest or ability in translating their decisions into strategies, objectives and target results while they did display a keen reluctance to cease time-honoured practices of meddling in administrative questions and using administrative structures for patronage purposes. Consequently, only in rare cases were precise, quantified objectives set, backed by suitable performance indicators and benchmarking to other government departments in Italy and abroad, or were adequate systems put in place to monitor and assess results, administrative units' productivity and executives' performance.

The truth is that the 1998 reform did not fully reckon with the remnants of the past; with the persistence, among both policymakers and bureaucrats, of the old culture of political favour-trading, of party politics in the worst sense; with the rejection of accountability,

assessment and meritocracy on the part of the high bureaucratic caste.

To make matters worse, the strong political guidance that had made it possible to launch what was, altogether, a far-reaching set of reforms was lacking in the years between 2001 and 2008. That guidance had come chiefly from the strong commitment of the prime minister and the ample powers of policy direction, stimulus and coordination delegated to a minister. The unbundling of tasks begun in 2001 (Berlusconi government) and confirmed in 2006 (Prodi government), which separated responsibility for the reform of the public administration from responsibility for e-government, regulatory simplification, institutional reform and relations between central and sub-national governments, was among the causes of the failure to "maintain" (or, better, to implement) the 1998-1999 reform of the administrative hierarchy as implies the monitoring of public administrations and evaluation of executives (Legislative Decree 286/1999). The decisive blow came with Law 145/2002, which not only repealed the guarantee for executives of a minimum tenure in office, but also annulled outstanding contracts so that the new government could replace executives at will. These two key innovations were intended to put civil service executives at the mercy of the political authorities, by making the validity of contracts and tenure of office precarious and thus enabling the politicians to hold public administrators hostage.

True, the Constitutional Court later declared these provisions of Law 145 unconstitutional,[7] forcefully upholding the constitutionality of the reform of 1998-99 and the indispensable nature of the distinction between politics and administration. However, this came five years too late, when it had become difficult to stem the growing temptation on both sides of the political aisle to indulge in the spoils system, all the more since the political class and the bureaucratic machine had by then contrived effective stratagems for circumventing the meritocratic system introduced by the reform. Notable among these ploys were

[7] Decisions 103 and 104 of 2007.

bureaucratic reorganization, as an occasion for ousting unwanted even if capable executives, and the proliferation of offices of direct collaboration legally subject to the rules of the spoils system.[8]

10. The Brunetta reform: continuity and discontinuity with the Bassanini reform

The new push to modernize the Italian administrative system, begun by Minister Renato Brunetta in 2008, does not fundamentally call the achievements of the reforms of the 1990s into question (although it makes a less clear-cut choice in favour of private law to govern public employment relations and reduces the scope for additional bargaining with respect to the provisions of public law). But it does seek to overcome the difficulties and resistance that the earlier reforms had encountered.

It is difficult to quarrel with the thrust of Enabling Law 15 of 4 March 2009: to bring the quality of public goods and services into line with international standards, making this both a strategic priority and a parameter for measuring progress and failures; to reward merit and punish incompetence and lack of commitment; consequently, to replace the bureaucratic culture with the culture of results and evaluation, of performance and performance measurement, of public service and citizens' satisfaction; to restore the autonomy and

[8] The institution of offices of direct collaboration is actually the direct consequence of the recognition of the principle of the distinction between politics and administration. In the exercise of their functions, in elaborating strategies and policies and evaluating results, it is appropriate for political authorities (mayors, regional presidents, ministers) to be assisted by structures that share their values and objectives. This presupposes, on the one side, that the administrations and their executive officers are actually autonomous and accountable in performing their assigned administrative activities, and, on the other, that the offices of direct collaboration are kept small enough to avert the temptation to create a sort of parallel administration. Instead, in the span of a few years we have witnessed an exponential growth of the number of staff of the offices of direct collaboration, an evident decline in their technical and professional qualifications, and growing confusion between their role and those of the line administrations.

accountability of executives, and to modulate their career on the basis of objectively measured results; to revise the criteria, parameters, mechanisms and procedures for the evaluation of collective and individual performance and the related systems of rewards and sanctions.

These principles are developed by Legislative Decree 150 of 27 October 2009, enacted under the enabling law, through a set of instruments and innovations, some substantive, others mainly formal.

Noteworthy and positive among the substantive innovations are the setting of a minimum threshold for results-based compensation (remedying one of the worst shortcomings of the earlier reform), the institution of an independent commission for the evaluation, transparency and integrity of public administrations, selected with a bipartisan procedure (but probably endowed with fewer powers and instruments than would have been desirable), access by competitive competition to the rank of first-level executive officer for 50 per cent of the positions available, and the introduction of rules and parameters for the differentiation of evaluations in order to prevent scattershot distribution of rewards and bonuses.

On the negative side of the ledger, there is the absence of real guarantees of independence of the "independent performance-assessment bodies" which in each administration replace the internal audit departments (but continue to be the product of discretionary designation by the political authority at the top of each administration), the enfeeblement of the safeguards for executive staff against surreptitious spoils-system practices, the preference accorded to assessing individual performance rather than the results achieved collectively by each administrative unit. The last-mentioned innovation, in particular, imperils the overall outcome of the reform. On the one hand, it risks triggering conflicts and exasperated forms of competition between individuals within the administrations. On the other hand, it could, in practice, neutralize the efficacy of performance incentives based on results and benchmarked to the quality of services and output, by ultimately giving the staff of units with poor results larger bonuses than those granted to many of the employees of "virtuous" units.

11. The unsolved problems: definition of the objectives and the role of politics

Yet, the most glaring shortcoming of the Brunetta reform consists in the absence of rules and instruments compelling the political authorities, or at least giving them a strong incentive, to perform their assigned role in the circuit of quality and assessment.

Although the reform measures of the 1990s were based on the same productivist and meritocratic principles, they were undermined by the reluctance of the political authorities to set objectives for administrative units and public services. Setting challenging but credible objectives that can trigger significant improvements in the quality of services and efficient performance is a difficult task, requiring, upstream, an ability to elaborate and define the public policies for which the setting of objectives is an essential instrument, and a capacity for dialogue with the administrative units and their executives on the one hand and citizens/customers/users on the other. Without an adequate definition of the objectives, the whole reform mechanism will go nowhere, like an airplane that takes off without knowing where it is supposed to be headed.

To be sure, it is not easy to design rewards and sanctions that can induce the political class to behave virtuously (or at least to follow the reform laws). Constructing effective obligations for political institutions is notoriously one of the hardest tasks in public law. But we would have expected Minister Brunetta's fertile imagination to come up with something. For our part, several years ago we suggested kick-starting the process with drastic, temporary measures (along the lines of the asymmetrical, pro-competitive regulations necessary to facilitate the market entry of newcomers). For example, we proposed that the portion of compensation tied to results should be frozen until precise objectives and indicators had been established and an independent mechanism (like the independent commission for the evaluation, transparency and integrity of public administrations) had been activated, while in the meantime the political authorities should be stripped of the power to replace executives and managers whose

contracts had expired, in as much as there would be no reliable means of assessing their results and performance.[9]

12. The crucial challenges: implementing the reforms and improving the quality of expenditure

It is difficult at present to foretell whether the Brunetta reform will succeed or not; whether it will produce that "cultural revolution" that was envisioned by the reform measures of the 1990s but that so far only imbues the best practices of the most virtuous administrations.

Now, as then, the decisive match doesn't consist in passing legislation yet in implementing it. In the 1990s, the match was played by different players from those who had conceived and planned the reform; consequently, the innovations that could be implemented in short order remained standing (among them, self-certification, the restructuring of ministries, administrative federalism, the liberalizations carried out for better or worse), but those that required the long haul fell by the wayside.

Today the Minister for the Public Administration and Innovation can count on several years before the end of the legislature; if he wants, the time needed to play – and win – the implementation match. This will require determination, patience, and the humility to do work that is certainly less exalting and gratifying than planning legislation and announcing major reforms. However, the Minister's announcement that he intends to dedicate a significant part of his time and efforts in the coming years to the tasks and duties of the office of mayor of a large city make us fear that the challenge and the difficulty of implementing administrative reforms are yet again being underestimated by the person who ought to be providing the essential overall guidance for them.

The prognosis remains guarded for another, equally important reason. The introduction of effective means of stimulating productivity,

[9] These proposals were part of Senate Bill 1966, filed on 20 January 2003, signed by Senators Treu, Mancino and Villone along with the author.

performance and professionalism requires a certain volume of resources, at least in the initial phase. Certainly, moral incentives are necessary (and were effectively used by the National Performance Review conducted by Clinton and Gore), but are unlikely to be sufficient by themselves.

Now, the implementation of the reform must reckon with an economic and financial crisis that has already caused a sizable increase in the deficit, so the resources for the incentives and rewards envisaged by the reform will have to be wrung from steps to rationalize the expenditure of the administrations. Some results have already been achieved here and there at the subnational level, and the enabling law on fiscal federalism, if properly and rigorously implemented, will force local and regional governments to continue on that path with even greater determination. On the other hand, so far the signs from central government have been disappointing; rationalizing and improving the quality of the expenditure of central government bodies does not appear to stand high on the agenda of the Minister for the Public Administration and Innovation. The period (in the late 1990s) when the office in which he now serves was the Treasury's staunchest and most effective ally in the hard work of rehabilitating the public finances seems to belong to a distant era.