The person as a strategic resource in the administration of sustainable development

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1. Introductory remarks on the theme of sustainable development, on the role of the administration, and on human resources

The concept of sustainable development, as it is known, has many facets, all of them related in various ways to the current and future quality of human life. The core of the notion is the idea of an overall improvement of the living conditions of the society compatible with the needs of future generations. Therefore it involves economic, environmental, socio-cultural, and institutional factors. This objective is fundamental, but also complex; in order to achieve it a series of integrated actions is required necessarily providing a key role for the governance of the processes that cannot but directly involve all levels of public administrations: to them are mainly entrusted activities involving operations, guidance, control, promotion and penalties, which are all necessary in order to pursue the objective of sustainable development.

By this time, there is a widespread awareness of the function of the national and supranational administrations in these processes, as it is clear from the references made to them in many fundamental documents: first, Agenda 211, beyond including the “institutional” factor among the indicators of sustainable development, devotes an entire

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section to the role of efficient, participatory administrations in reaching this objective; second, among the common European indicators of “local sustainability” many indices, such as the level of satisfaction of the citizens, the quality of services, public participation, and the rational management of land use\(^2\) refer to the performance of the administrations; finally, point 3 of the Lisbon Action Plan provides for the involvement of the entire structure of local administrations in the path towards development\(^1\).

A common conviction emerging from all these references is the necessity for the administrations willing to play a leading role in sustainable development to attain increasingly to higher quality and greater efficiency levels.

In Italy, as in the rest of Europe, the past decade witnessed a steady succession of attempts to reform public administrations for the very purpose of improving operational standards.

The aim of the present contribution is to provide an illustration of certain juridical instruments introduced by the recent reforms, in order to explore the different possibilities of making the best use of the factors that administrations employ in operating, including a basic resource – “people”.

The hypothesis that will be examined here is that one of the key features of the transformations currently underway in the Italian administration involves an attempt to employ human resources in a different and innovative way as compared to past attempts\(^4\).

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\(^2\) [http://www.minambiente.it.SVS].

\(^3\) [http://www.sustainable-cities.org/lis_it.html].

\(^4\) In the course of the last decade, Italian legislators acted to regulate anew the functioning and organisation of public administration with many normative measures, which deeply transformed the arrangement thereof. Of key relevance in this respect is Legislative Decree N. 29 of 1993, modified by a series of subsequent measures, among which Legislative Decree N. 80 of 1998, currently incorporated in the single text on public employment adopted with Legislative Decree N. 165 of 2001. Important innovations were then introduced by Legislative Decree N. 286 of 1999 on the reform of the system of internal controls. Legislative decrees N. 300 and N. 303 of 1999 revised the organisation of the Government and of the Office of the President of the Council of Ministries, whereas Law N. 59 of 1997 redefined the allocation of the administrative functions among various levels of government. Most of the delegations contained in this law were carried out with Legislative Decree N. 112 of 1998. Moreover, Law N. 127 of 1997 introduced important measures for the simplification of decision-making and control processes of the public administration. Finally, Law N. 94 of 1997 and Legislative Decree N. 279 of 1997 provided for the reform of the national budget. These normative texts are available on the Web site of the Italian Senate: [http://www.senato.it]. Additional information is available on the Web site of the Office of the President of the Council of Ministries: [http://www.palazzochigi.it]; and that of the Civil Service Department: [http://www.funzione pubblica.it].
This is not dictated by the ambition to suggest sound general solutions at all levels where administration is called upon to better answer to the need for sustainability in the development of growing societies. More modestly, the hope is to succeed in indicating some modalities, through which individuals are employed and exploited in the dynamics of the administration, without overlooking the existing limits of this kind of operations.

In choosing the title of this speech the word “person” was preferred to the expression “human resources” that is frequently used in tandem with “material resources”. This choice is meant to indicate that even in lexical terms individuals do not constitute an interchangeable asset that is neutral with respect to how it is used, but are instead endowed with specific characteristics and energies that the administration can employ as means for change.

The preference for “person” is also explicatory of the intent to broaden the viewpoint of the analysis to include, along with public administration personnel, those with whom the administration entertains relations, meaning individual citizens who, as will be seen, can also constitute a resource for administering.

The novelty of such a perspective can be fully appreciated only in consideration of the break it represents as compared to the idea of administration based on an opposite logic informed by criteria that have attempted to eliminate the individual, personal, and subjective aspect of the administrative action and organisation.

What has been preferred under the first profile is the unilateral public decision as a guarantee of the prevalence of an interest predefined at the legislative level, impervious to individual considerations and intended as a representation of the entire collectivity as opposed to the specificity of the individual.

Under the second profile, organisation has been configured as an inflexible fact delegated to the law and other normative sources, which, in defining the way the offices and their competencies are articulated, expresses – also in the static administration’s way of being – the pre-determination of a path where those who act in the offices represent a merely instrumental element.

At the origin of these basic choices there is the need for guarantee that is met by reworking the organisation of the public offices and related activity, as a gradation corresponding to the stages of the implementation of whatever legislative decision, with each succeeding step being legitimated by the connection with the previous one and predetermined in relation to it. From this derives a natural prevalence of the objective element, intended as a preconstitution of the sequence, by means of which the abstract will expressed by the law takes concrete
form. Within this framework a complete break within the rigid scheme that would be necessary to give more room to the individual would prove useless and perhaps harmful. The role of the individual is thus exhausted in the function of the political legitimation of the legislative power. He consequently remains extraneous to the process of the production, fulfilment and execution of the law.

In this regard, it has been effectively emphasised how at the bottom of the public law culture, which has created the categories of modern administration, there is a sort of “anthropological pessimism”, which, in opposition to individualities in perennial conflict, has posited the positive value of the collectivity organised institutionally, and, therefore, in a State.

The picture remained unchanged at the time when the plurality of social classes enfranchised by the advent of universal suffrage caused the number of interests included in the public arena to multiply, forever putting an end to the notion of a unitary public interest.

The response to this greater complexity was to institutionalise conflicts, for which reason pluralism has become a variable of public organisation, while the law has been recognised as the place for the resolution of conflicting interests and for the selection of those prevailing from time to time.

It was asked to legislators to dampen and neutralise conflicts by providing solutions, which the administration could apply while remaining, at least formally, extraneous to the dynamics of strife.

Faith in the capacity of the law to definitively resolve conflicting interests has confirmed the idea of an administration that represents in both operational and organisational terms the sequence of events necessary to move from an abstract solution to a practical decision. Such administration is legitimated, then, by the fact of being a “machine” for obedience to the law, and organised by law according to rigid schemes for the distribution of tasks among the offices.

There is no room along this way for individualities to emerge in terms of organisation, even less in terms of action. With respect to the order which the synthesis produced by legislation instils throughout the administration, the individual, as a specific element untranslatable into the general qualifications necessary to abstract rules, represents disorder.

In the individual’s relationship with the administrative activity, he (or she) is “the administered”; that is, the object of a unilateral decision, which translates the abstract public interest into a practical decision. Within the administrative organisation the individual is instead a component part of the office, a necessary resource – though neutral as regards the modalities for the functioning of the apparatus.
2. The crisis of the ordering capacity of legislative abstraction and the possible new role of the individual resource

What seems to have become increasingly inadequate in most recent years is the very underpinning of the situation just described, meaning the possibility to recognise to the law and, more generally, to the abstraction and resolution of differing interests that the law presupposes, the capacity to reduce and regulate the complexity of social realities.

In the background there is the profound transformation of the structure of society, upon which the model of modern administration was built.

The current scenario is reflected increasingly less accurately in a vision of reality where the powerful interests are stabilised in a perpetual controlled conflict requiring a stable administration able to translate legislative decisions into action.

Nowadays, technology and information transform the perception of time and space, and redesign society's interests and needs on the basis of schemes that are difficult to reconcile with the concept of duration (time) and territoriality (space), which the traditional model for rules-making and administration rests upon.

Phenomena such as globalisation, the transnationality of economic processes and the world-wide dimension of certain environmental concerns annul the territorial reference for many of the fundamental issues affecting society.

Contemporaneously, we witness a fragmentation and multiplication of ties that form and dissolve themselves in relation to various interests and increasingly more rapidly, so that the time required for making rules is overly long to such an extent that by the time they come into being they are frequently already outdated.

Analyses of the social dynamics of law describe a profound crisis of the ordering capacity of the juridical approach, as it has been understood up to now in continental European culture. What has lost ground is the idea that through law it is possible to furnish solutions and provide answers.

The monopoly of law as written by legislators and put into practice by the administration is increasingly more threatened by dynamics, which tend to drastically reduce the importance of the typical juridical categories to make room for new, atypical forces.

What derives therefrom is a considerable transformation of the role of law, which loses its function as the only seat for the resolution of disputes and conflicting interests, and as the sole appointed place where solutions are found, instead acquiring that of the delimitation of areas where the same disputes and conflicting interests are reproposed in a
dynamic fashion, and solutions to them are formulated from case to case on the basis of differing factors.

In relation to the time of execution/fulfilment, all this is expressed in a shift in expectations from guarantee, which results from the conformation to a unitary, predetermined model, to efficiency, which instead derives from the capacity for differentiated responses. If in the first case what is asked to the law is the capacity to describe the expected behaviour, what is asked in the second is to circumscribe spaces, within which it is possible to include differing forms of behaviour.

A different type of involvement of the administration also derives therefrom in the process of the creation and life of the law, with repercussions in terms of both organisation/management and decision/action.

Under the first profile the administration is asked to conform to increasingly higher standards of efficiency, but most of all to provide a swift response to different needs and demands. This means that the greatest expectations are concentrated on organisation for cost cutting, quicker service and the providing of more and different products.

Many of the possible responses to demands of this kind are not found in the law, nor could they be, since they presuppose punctual organisational solutions tailored to fit the actual circumstances.

In a word, it could be said that the key to the new organisation is summed up in “flexibility,” in contrast to the inflexibility and predetermination typical of the traditional model.

Under the different heading of activity, today the administration is faced with a twofold challenge: one, meeting the demand for better quality services and end products; two, the multiplicity of the factors, which must be taken into account in making programming and planning decisions.

Meeting these two challenges entails changing the administration’s traditional modus operandi.

The former translates into the introduction of “results” among the parameters of public action, side by side with legality.

The latter recognises the necessity of coming to grips with a composite reality where the data to be considered in formulating programmes of public action are manifold.

This last aspect is particularly evident in interventions that bear contemporaneously on different, potentially contrasting elements, all of fundamental importance for the collectivity.

Sustainable development is among the objectives that best exemplify the new type of demand made on the public institutions. The issues that arise in attempting to reach this objective continue to regard the various interests involved and the use of resources, but many new ones have been added in reference to the environmental, economic,
productive, and/or social impact produced by every decision in the short, medium and long-term.

If one wanted to summarise the features that best characterise the new administration in its activity, it might be said that today public decision-making is conspicuous for a new interest in results and for greater complexity as compared to the past.

This is the general picture wherein new prospects arise for the “person” factor in the course of administering.

The “subjective” factor may in fact bring a dynamic element to the system, making it more flexible and potentially better able to respond to the changing needs of a reality that is increasingly more complex. In the activation of individual resources lies a possibility of using organisational resources in a way at once more economic and more efficient, of changing the way such resources are employed in the sense of serving whatever needs the action calls for, of introducing into public decision-making elements left out of the synthesis performed by norms, of instilling a result-oriented outlook and safeguarding interests active outside institutional circuits.

The thesis sustained is that the reforms over the last few years have gone in this direction, albeit with vicissitudes and uneven results.

In this perspective it seems useful to analyse certain of the solutions and legal instruments, through which an attempt has been made to introduce the subjective/individual factor into administrative organisation and action in order to assess, whenever possible, their results and limits.

3. The individual in the new administrative organisation: autonomy, valuation, and responsibility of management

An area where the administrative system’s decision to invest in the subjective factor appears most convincing regards the role recognised to management in the new model of administration.

In the background there is an affirmation of the principle of distinction between political direction and management. Involved is a modality for the articulation of competencies through a functional definition of the two different phases of the administrative decision-making process arranged in sequence. The first phase concerns the identification of the objectives of the activity and the allocation of resources, and is a matter proper to the organs for political legitimation. The second, operative phase is for the realisation of the same objectives, and is the province of the bureaucratic management organs, to which the law recognises an area of reserved competencies in the matter of administrative management.
However, the heading, under which the individual aspect is found is not that of activity in a strict sense, understood as the adoption of acts and measures coherent with the guidelines. In fact, in this field the manager not only executes programmed acts that frequently exhaust the discretionary element inherent in the decision, but also is in any case an organ of the administration and as such acts in the name and interest of it. Different is the case of certain choices that are organisational, preliminary or in any event instrumental to activity pertaining to administration and provisions, which the manager answers for directly and personally.

From a legal standpoint this is essentially realised by the inclusion of three elements in the organisation of the public offices: autonomy, evaluation and responsibility.

The first element takes concrete form in the introduction of an individual, subjective decision-making phase as an addition to organisational tools. This is made possible by a legislative decision to limit the province of public law sources, as well as by the consequent functional definition of an area, within which decisions are made by the managers in the exercise of private powers.

Let us examine the details.

The principles in the matter of the organisation of the public offices are presently contained in the single text on public employment\(^5\), which in Section 2 identifies a first sequence of organisational sources, to which is delegated the discipline of the tasks and way of functioning of the offices. In this provision it is established that public administrations shall define, in accordance with the general principles established by law and by means of organisational acts, the fundamental lines for the organisation of the offices, the offices of greatest importance, and the methods for assigning the headship thereof, as well as the overall number of staff.

Therefore, the relevant public law sources are twofold: legislative, whose only remaining task seems to be to establish “the general principles” in the matter of organisation; and administrative (regulations and general administrative acts), which intervene to regulate the subject matter on the basis of the principles laid down by law.

If one considers the material ambit delegated to administrative sources, however, it is evident that it is insufficient to exhaust the entire matter of organisation, since it only contemplates the “fundamental lines for the organisation of the offices” and not the detailed discipline, and the identification of “the offices of greatest importance” and not all the offices, etc.

What is witnessed is a sort of withdrawal by the public sources of organisation, which no longer exhaust all possible choices, but instead limit themselves to a general discipline of the subject, leaving room for a further decision-making level. This latter is now the competence of the management organs, to which legislators have left the adoption of further “decisions for the organisation of the offices”.

As anticipated, the other key element in the situation lies in the nature of the acts adopted by the managers in the matter of organisation, which are defined by the law as acts undertaken with “the capacity and the powers of a private employer”.

What this means first of all is that at this level the organisational choices are not effected in the exercise of a discretionary public power, but are the expression of a private autonomy. All this is functional to a more flexible organisation, and forms a corollary to the privatisation of employment by public administrations. Such privatisation would have been only formal in nature except for the fact that the transformation of the legal regime pertaining to labour relations came in tandem with the parallel privatisation of the organisational choices that most directly bear on the modalities of job performance.

However, along with these assuredly pivotal aspects, the introduction of a level of private decision-making in the organisation of the public offices is one of the most tangible indications of the reform’s investment in what we have called the subjective factor.

An organisational choice made by a manager with the capacity and powers of a private employer is not in fact configured as measure taken by the administration as such, but as the personal decision of the subject who adopts it, imputable only to the same.

The novelty is not merely formal, but rather marks the entrance into administrative organisation of a dynamic force unknown to the discipline of the offices entire based on public law, as was true up until the reform of the 1990s.

The making of organisational decisions in the exercise of a private power, albeit within the limits previously established with reference to public law sources, does not mean translating an abstract precept contained in a higher-ranking source into practical terms. The differing nature of the power (private) that the manager exercises in organising the offices represents a break in the different stages of the process that begins with the general principles established by law, continues along the basic lines set by regulation, and finally identifies the offices of greatest importance and makes it possible to frame the pertinent organisational decisions as “free” choices within a circumscribed sphere.

Within this sphere any lawful decision is possible in the abstract, just because a “legitimate” decision in the public law sense does not exist.
This means that in order to modify the organisation of the offices at this level it is not necessary to modify the public law sources of reference, which would instead be necessary if the organisational decisions to be changed were in the form of the execution/fulfilment of previous decisions. All of this represents a decisive gain in terms of flexibility and the potential for adapting the organisational set-up to fit the changing requirements of the activity.

However, what this means above all is that each manager can “make the difference” compared to another based on his or her personal qualities.

Linked to this point is the second instrument identified as a sure sign of the emergence of the individual factor to the organisational level: evaluation. Involved here is a verification process that allows such personal qualities to emerge and to be assigned a value.

Above and beyond the different facets and problems in application bound up with these processes, it is interesting to note how in the early stage of the reform, evaluation was essentially conceived as a verification of the results produced by the activity of each manager. What was to be taken into consideration was supposed to be mainly the costs of management and the achievement of objectives. A certain importance was also to be attributed to the modalities for action though a finding in relation to the proper and economical management of public resources, as well as the observance of impartiality and the proper course of administrative affairs.

Therefore, while there was an evaluation of the subject/manager, it was essentially through the “objective” data in relation to the activity.

The current situation partially differs. The same evaluation, which per se was already an appropriate tool for allowing specific individual qualities to come to the light, has become even more subjective, not in an arbitrary sense, but in the sense that attention is shifted from objectively measurable factors (activity/products) to aspects typical of and exclusive to the individual, such as personal skills and attitudes in the field of management.

The reform of the internal controls\(^6\) in fact distinguishes between the control of management, which aims at ascertaining the costs, output and products of the activity, and the evaluation of staff with management responsibilities. This latter is specifically for the purpose of ascertaining the job performance of the managers, as well as their behaviour with respect to the development of the professional, human and organisational resources assigned to them (organisational competencies).

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The reference to “performance” and above all to “behaviour” makes evident the new attention to aspects able to reveal the specific qualities of the individual manager and to assign a value to them.

All this is also reflected in the third legal instrument indicating the importance of the individual in the organisation: responsibility. The assignment of powers, including organisational, to a manager in fact corresponds to a particular type of responsibility normally defined “for results”, which serves to indicate the connection between results, understood in a broad sense, and a series of consequences affecting the manager in terms of pay and labour relations.

The subjection to such responsibility represents the link necessary for giving substance to the two aspects considered above and for relating certain juridical consequences to them, which take into account that the autonomy and organisational capacity of managers must in any case be directed to reaching the objectives set by the leadership organs.

Significantly, this type of responsibility has been considered as at once answering the need to assure effective compliance with the political direction given and the autonomy of the managerial function. In fact, it takes the place of every other form of control over the “free” activity of the manager, which is to say over the choices made within a sphere of autonomy, and cannot be evaluated in terms of the legitimacy/correspondence to a predetermined model.

Responsibility for results is construed by the regulations as the subjection of the manager to a series of consequences connected to the emergence, through the evaluation process, of how the said manager has used his autonomy in the employment of the resources allocated for the achievement of expected results. Obviously, responsibility has a positive side that takes concrete form in the pay variable awarded in relation to results obtained or the assignment to a higher position of leadership responsibility. Just as obviously, there is a negative side ranging all the way from failure to receive the monetary reward for results attained, to involuntary retirement from public service.

Above and beyond the characteristics of such a responsibility, which here can only be described in summary fashion, the point to stress in terms of the interpretation proposed is how – unlike with other forms of legal responsibility – responsibility for results does not concern the violation of the rules or the causing of damage, but managerial performance evaluated in terms of both results and conduct.

This makes it possible to state that the heart of the legal mechanism of managerial responsibility is not a hypothetical “culpable act”, but a whole set of factors where the fitness of the individual, the adequacy of the activity, and results obtained all intertwine.
All this has the effect of producing a further consequence readable in terms of the introduction of the individual element into the organisation, albeit considered in a partially different sense than heretofore.

Based on a process specular to the process of the administrative organisation’s investing in personal resources, one consequence is that attaining a result that is efficient, in addition to being legitimate, becomes in the “interest” of those who work in the administration, in the sense that attached to results are consequences that regard them directly and personally.

This, too, is symptomatic of the role of the individual resource in an administration called upon not just to apply rules, but increasingly more to deal with complex goals that require taking into account manifold interests and calling for a variety of job performance able to adapt swiftly to changing needs in an increasingly more articulated society.

In a situation of this sort it is evident that the requisites demanded of those who operate at managerial levels in the administration can not revolve around just a knowledge of the technical and legal rules in relation to the activity to be performed, but must also give due weight to managerial skills and attitudes.

Not to be overly technical, it might be said that the passage is from the expert manager to the motivated manager.

Here certain traces are to be found in connection with the discipline regulating admission to positions of leadership in the national health service, which includes among its requirements a certificate of attendance in management training courses stressing administrative, organisational, and leadership skills.

The foregoing taken as a whole obviously represents a clean break with the model where the administrative employee formed a neutral resource vis-à-vis the functioning of the offices.

That notwithstanding, there is no lack of difficulty in implementing this kind of process.

The state of advancement in the application of many of the novelties introduced by the reform of the sector is not such as to allow an overall assessment to be made of the results and the limits of all aspects considered.

Nevertheless, one thing already clear is that the various instruments identified are closely interconnected, so much so that if all are not employed together the likelihood is that at best no effective change will be produced, and at worst there will be negative effects on the system.

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At present, there are many situations where the obstacles deriving from uneven fulfilment of the three aspects – autonomy, evaluation and responsibility – are creating problems.

One rather widespread difficulty, especially at the local level of public administration, is that of bringing the organisational autonomy of management up to an adequate level, owing to the resistance of the political organs to effectively limit the public law discipline of the offices to the “fundamental lines” and to the identification of the units “of greatest importance”.

On the other hand, the managers are not always really interested in having areas of autonomy for themselves in the employment of organisational resources to the detriment of the organs for providing direction, among other things because the dynamics of their relations with the latter are often far removed from the idea of a complete realisation of the principle of distinction between political direction and administrative management.

Finally, the lack of real room for decision-making in organisational matters makes it difficult to even evaluate “the difference” between managers, consequently weakening the evaluation system, with repercussions in terms of accountability processes as well.

4. The individual and work in the employment of the new administration

Signs of the tendency of the administrative system to take a fresh approach to investing in persons in its employ are also evident in certain aspects of public administration labour relations.

In the first place, the decision to privatise the pertinent discipline per se represents an overture to increased flexibility in relations in the workplace and, therefore, goes in the direction of being able to employ persons in a way more in keeping with the real contribution of each.

For purpose of comparison, in the public law regime the idea of the pivotal role of the office prevailed, so that by specific appointment the worker used to become part of an organisational entity, of which he or she constituted the so-called “personal element”, whereas in private sector employment the pivotal role is played by the contractual commitment to perform work, which is susceptible to taking different forms within the organisation, albeit within the limits of agreed professional activities.

The employee no longer represents an element in the organisational system where the mere fact of belonging to a certain office used to determine the job duties. In the current system the employee constitutes a resource usable as such, and not just within the limits of his or her initial placement in the system.
From a technical legal standpoint all this cannot be realised by simply changing the sources for the discipline of the relationship from public to private, but instead requires a rethinking of the relation between organisation and work.

The passage from the idea of an organic staff understood as the framework for the assignment of each staff member to a single office, to the concept of a pool of human resources with a plan for distribution among the various managerial units, can be read in this sense. This entails that within the organisational division, each with its appointed head, the employment of staff and assignment to the single offices must be decided by the head. In fact, only decisions regarding the total number of staff are up to the political organs.

All this is in turn closely tied to our earlier consideration on managerial autonomy in the organisation of the offices.

If, as previously maintained, a sphere exists for organisational decisions not predeterminable in the light of public law discipline in the matter, then it evidently is not possible to inflexibly link the single job performance to a given office. Here, then, we see that corresponding to the private power to define the articulation of the offices at a certain level is an identical private power to fit job performance to needs, in terms of the way the organisation has been set up.

It is in this perspective that the provision contained in the single text on public employment stating that “the decisions regarding the organisation of the offices and the measures inherent to the management of labour relations shall be made by the organs responsible for management with the capacity and the powers of a private employer” can be fully comprehended.

The national contracts by sector or branch8 have moved in the same direction with their revision of the system for grouping personnel so as to make the profile of the duties ascribable to each category broader and thus, more flexible. Only when different ways of using staff are effectively available it is in fact possible for the manager to be recognised a real (private) power for shaping job performance.

The different approach to making use of the contribution of the persons who work in the public administration is therefore delineated in the changeover from a model where human resources were one component of a rigid organisational system, where the articulation of the offices was linked to the organic staff, to qualifications and to a list of duties, to a model with a higher degree of flexibility where the organisational decisions made with private powers are linked not only to the possibility of employing people in a manner functional to the decisions

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8 The texts of the contracts are available at the Web site of ARAN, the agency for collective bargaining for the public administrations: <http://www.aranagenzia.it>.
in the matter of the articulation of the offices, but also to the possibility
of shaping the articulation around the different professional skills and
aptitudes expressed by the workers.

A powerful potential for making the best use of individual human
resources lies in this arrangement.

The management of work relations with private law instruments
within a framework of greater flexibility introduces the subjective rela-
tions factor into the dynamics of work in the employ of the administra-
tion. This allows individual differences and specific characteristics to
emerge and be used to best advantage, whereas in the previous model
they were widely neutralised by the placing of each in a rigid scheme:
organisation, office, qualification, job duties.

All this naturally also presents some risks in relation to the even-
tual misuse of the pertinent instruments, but the greatest risk is that of
a substantial draining of their meaning due to the inability of the sys-
tem to equip itself in a way that is coherent with the new perspectives
for investment in personal resources.

A necessary complement for the success of the new arrangement is
in fact an effective mechanism for recognising, putting to good use,
and rewarding personal performance, so as to allow those responsible
for the way staff is used to put sound personnel policies into effect.

Practical experience in this field in recent years has yielded results
that are less than satisfactory, above all as concerns the mechanisms for
economic incentives for individual and collective productivity.

In the public administration productivity incentives have been
prevailently conceived as the redistribution of economic resources to
employees as a type of pay raise. As a result, the tendency is to distri-
bute incentive funds uniformly among all staff members or, at best, to
connect the amount of the incentive awarded and “outside” factors,
such as attendance records or the type of duties assigned.

The attempts made in national contracts involving specific depart-
ments to link productivity incentive funds to a requirement to formul-
ate projects and objectives, and to subject the results to some sort of
evaluation have been of little avail, as is likewise the case with the ban
on the distribution of at least a portion of available incentive awards to
the entire staff. To the contrary, the reaction has been an effort at the
decentralised bargaining tables to get around the rules and neutralise
their potential effects.

If to this is added the merely economic nature of the incentive and
the small sums involved, it is easy to understand why this experience
has basically been a failure.

At present, with the most recent national contracts an attempt has
been made to overcome some of the system’s most obvious shortcom-
ings by making the arrangements for productivity incentives more flex-
ible, in order to encourage experimentation useful for adapting them
to different needs and to allow putting them to different uses even within
the same administration.

A very significant act was the attempt to break the rigid link be-
tween the quality of individual job performance and merely economic
incentives. In fact, it is provided in certain department contracts that
the same evaluation system prearranged for the awarding of incentives
shall be used to reward certain professional experiences that tend to
enhance the professional skills possessed or acquired by individual
employees. Involved here are horizontal advancements and certain sub-
leadership positions where the quality of individual job performance is
taken into account in making the assignment. This opens up new possi-
bilities for the use of incentives from the standpoint of coherent per-
sonnel policy.

In this perspective, it is conceivable that such instruments, which
so far have produced meagre results, might be used with greater suc-
cess in tandem with other devices for recognising and rewarding pro-
fessional contributions within the administration.

On a different plane, another modality for the valorisation/invest-
ment in personal resources present in the administration is to stimulate
individual contributions to certain processes for the betterment of the
organisation and its activity.

However, signs of this are still feeble.

A significant measure in this sense was contained in the decree for
the reform of public employment (Section 12, par. 5 bis, 5 ter, and 5
quater of Legislative Decree N. 29 of 1993), with the provision stating
that staff may promote initiatives aimed at the improvement of public
services, at the simplification and acceleration of procedures, and at
increasing ways of gaining access to information. A positive verifica-
tion of the results of such initiatives was to be included in the personal
records of the employee and was to count toward competitive exami-
nations and in career advancement.

At present, traces of the recognition of the need for individual con-
tributions from staff to the functioning of the administration, with par-
ticular reference to public relations, are to be found only in the Code of
Conduct for employees of the public administrations9, where, for ex-
ample, it is asked to the employee to carry out his professional duties in
such a way as to limit the demands made on citizens, by simplifying
administrative activity and making it as efficient as possible.

9 Decree of the President of the Council of Ministries of November 28, 2000, avail-
able at <http://www.palazzochigi.it/servizi/provvedimenti/>.
Discourse regarding the new role of the individual as a resource in the relationship between the citizen and the public administration is a much more delicate matter, and has its roots in an evolution of the administrative system that is not limited to the reforms of recent years. It is in the relationship between the administration and the administered where the basic features of an administration are in fact mostly evident.

However, certain recent innovations undoubtedly do represent significant events in the progress of the changing ratio between the regulatory function and the providing of services, with the balance progressively tipping in favour of the latter.

A first observation regards the greater attention of the administrative system to the needs of the citizen, which, as previously indicated, translates into a greater concern for the results produced by administrative activity, as well as into greater guarantees for individuals and better performance of services.

This has opened new prospects for control and verification of the administration “from below” on the part of citizens.

In the traditional model, where the functions of regulation and order prevailed, the foregoing role was limited to and mediated by the legitimation afforded by the electoral process to the top organs in the public administration, and thus exhausted in a phase preliminary to administrative action itself. In today’s model, however, other new factors come into play: in addition to social groups, individuals now have a say.

The point has been tellingly made that if a function of an administration providing a service is to satisfy the consumer of that service, then it follows that only the consumer is authorised to judge the quality of the result obtained. This is certainly true for services, and is also partly so for administrative work in a narrow sense.

Evidently, the modalities making it possible for the citizen to control the administration differ for services and administrative activity.

Control over administrative services by citizens entails providing mechanisms for gathering consumer evaluations and making effective use of the opinions expressed in the activity and organisation of services.

The provisions contained in the so-called “services charters” – written information on products provided and consumer rights – move in the direction of paying more attention to the consumers’ opinion. The need to sound the opinion of those who use a service is expressly stated in the pertinent discipline, with a view to bettering administrative performance and increasing consumer satisfaction based on the opinions expressed.
The recent provisions on the matter of public information and communication\textsuperscript{10} can be read in the same light; the provisions state that the administrations shall set up channels for the verification of the quality of services and consumer satisfaction by listening to public opinion and through internal communications.

If the system is slowly starting to record consumer opinion, the time when a legally significant recognition will be granted to such opinion still seems a long way off.

Still, a trace of this is contained in the provision for the possibility of reimbursement for the sum paid for a service in the event that it fails to meet the specified standards of quality and timely service\textsuperscript{11}.

The step is significant in and of itself, being useful in affording the citizen more protection, but it is not automatically able to set in motion processes for the transformation/improvement of the service. To this end a system of accountability would seem more appropriate, with direct involvement of both consumers and public administration employees by holding them responsible for their actions. In this way, for all intents and purposes the citizen would be able to become an active party in dealing with management, in a relation mirroring that of the leadership organs and operative managerial organs.

Under the different heading of administrative activity in the area of provisions and measures, the reforms of the recent years have produced a set of tools, which ought to favour forms of control over administrative action by those to whom such activity is directly addressed and other interested parties. Involved here are institutions set up for furthering transparency and participation, designed to enable the citizen to be informed about an action as soon as it takes place, and to intervene with the administrative agent.

This provides the key for reading such tools as the requirement to give notice of the beginning of proceedings, which informs the interested parties that the administration has begun the decision-making process, or the requirement to allow access to administrative records, which makes possible the acquiring or viewing of necessary documentation\textsuperscript{12}.

Another of the possible fruits of participation is an agreement between the administration and the interested parties on the discretion-

\textsuperscript{10} See Law N. 150 of 2000, available at \texttt{<http://www.senato.it/parlam/leggi/00150l.htm>}.

\textsuperscript{11} Directive of the President of the Council of Ministries of 27 December 1994, available at \texttt{<http://www.palazzochigi.it/servizi/provvedimenti/>}.


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ary content of a decision with regard to a measure being taken. The contribution of a participant can extend to suggesting an alternative solution to the administration’s original proposal, with such input necessarily being taken into account by the decision-making authority whenever pertinent.

Probably, behind the break with the obligatory unilateral nature of the administrative action and its typicalness there is also the awareness of the impossibility of resolving the dynamics set in motion by differing interests once and for all, meaning by law. Hovering in the background is the perception that the world is too multi-faceted and changeable to be contained in a abstract general provision such as found in legal standards.

However, the reality is that today these institutions still have not had an appreciable effect. One plausible theory is that what is involved here is not a mere normative novelty, but a transformation so profound as to require time for it to be absorbed by the administration and citizenry alike.

Above and beyond the possible outcome in terms of mutual accords, the participation of private individuals in public decisions can represent a resource of great importance, considering that the administration operates in a highly complex context where certain interests operate outside institutional circuits because they lack channels for access to them or because these interests have come into being so rapidly that there has been no chance for the administration to attend to the matter, while at the same time the data and information, which the administration must take into account are increasingly more and the time available for making decisions is increasingly less.

Just think of the myriad facets in connection with the idea of sustainable development, which is an idea based on the need to reconcile a great many aspects and factors that are not always compatible.

It is no mere happenstance that the following statement is contained in Agenda 21: every local administration ought to engage in dialogue with the citizens, local organisations and private enterprise, and adopt its own local Agenda 21. Through consultation and consensus building, the local administrations should obtain from the local and business communities whatever information necessary for formulating the best strategies.

According to this guideline, participation of citizens in administrative decisions is not conceived as a function of potential agreements, but construed as a true and proper contribution to the decision-making process regarding collective interests, which cannot be unilateral because of the complexity and magnitude of the consequences, so that an on-going process for creating awareness and consensus is required.

In this whole question, however, there is no use hiding the potential dangers that might be lurking if the institutions were to abdicate their role as the appointed place for resolving differing interests.
The risk is in fact twofold. On the one hand, it must not be forgotten that in participation there is always the danger that the interests of the weak will be excluded from the decision-making process, most of all since the process takes place increasingly less in the political seat as an expression of collective interests, and increasingly more in the administrative seat in relation to private interests.

On the other hand, the mechanisms designed to involve individual citizens and associations in public decisions might lead to a weakening of responsibility for decisions made, which is and must remain exclusively public, on pain of otherwise causing certain dynamics of power to be removed from the democratic process.

In contrast, making citizens responsible can be conceived within a different framework. The individual can in fact be called upon to make declarations, for which he or she assumes full responsibility, in place of public certification.

Here the involvement of citizens in administration is not so much in the form of a contribution to/participation in public decision-making as a sort of “self-administration”.

Within the framework of the reforms, including for the purpose of simplifying relations between the citizenry and public institutions, ways have effectively been provided for the substitution of certain public certificates with declarations made by individuals\(^\text{13}\). Along the same line, there are instances where those seeking authorisation to perform certain activities can merely declare that they meet legal requirements without having to wait for the administration to examine the case. These are possible situations where the citizen himself plays an active administrative role.

In view of these last remarks, a final consideration can be made concerning the fact that based on a reconstruction of the characteristics of the reforms what emerges is not only a new administration, but also a new type of citizen. In view of the instruments now available for allowing individuals a greater role in administrative action, the new citizen that the reform seems to have in mind is certainly more aware and informed than before, more attentive to the system, and more of a participant in the life of the community. The new citizen is now in a dialectical position with proposals and pretences, rather than in a position of passive waiting. Here, we are evidently dealing with a citizen conscious of his or her rights and responsibilities, and able to interact with a public administration that must place increasingly greater trust in the individual citizen.

\(^{13}\) [http://www.funzionepubblica.it/intranet/Autocertif/index.htm].