

Evaluating public policies in the contemporary parliamentary system

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The evaluation of public policies is **a tool that**, whilst not replacing the political decision within the democratic circuit, **enables lawmakers to wittingly take well-informed decisions**. The goal is not that of biasing political decision-makers, rather that of making them aware of the consequences their choices will have, **promoting knowledge and transparency of information that is crucial for the decision-making process**.

From constitutions to practice

In the scenario of modern constitutions, the evaluation of public policies is sometimes simply *stated*, as in the French and Moroccan constitutions; sometimes it is acknowledged as *routine procedure* and in some cases it is considered *custom*, as in the Anglo-Saxon and Anglo-American traditions.

Even acknowledgement, in regulatory terms, can be broken down into a number of law-related sources, not necessarily on a constitutional level. **In Italy, the institutions deemed most akin to the logic of the impact analysis** – despite being officially instituted through a juridical approach – **are the AIR (regulation impact analysis) and the VIR (regulation impact verification)**, currently regulated by article 14, law no. 246 of 2005 and by D.P.C.M. (Prime Minister's Decree) no. 170 of 2008. Plus, assuming that the starting point of a good public policy is the quality of regulatory documents, it is worth mentioning – going beyond the mere technical meaning of the term *evaluation* – **the ATN (regulatory-technical analysis)**, which characterises several aspects of legislative drafting. Another discipline that is closely related to evaluation processes is the **verification of the efficacy of the administrative action, of performance and of personnel**, recently amended by law no. 124 of 2015 and by the subsequent delegated legislative measures.

Objectives

The analysis and the evaluation of public policies can pursue **general goals**, such as **the correct use of resources and the modernisation of public structures** (for example in the United States), **administrative streamlining** (in Germany, measures constantly aim at cutting red tape-related costs) and **cutting public expenditure** (in Italy this is still at an embryonic stage, and it supports the most recent spending review plans). In other cases, they might focus on **sectorial targets in strategic fields**, such as the **labour market** (in Germany this also encompasses national insurance), **poverty and welfare** (in France, comprehensive political projects have been drafted but not fully implemented), **education** (a clear example was to be seen in the U.S., some time ago), **health, accounts auditing, inflation**.

It is possible to define *evaluation* (using the term very generically) as **the standpoint of the European economic governance**, which amid *Six Pack*, *Fiscal Compact* and *Two Pack* focuses on the European and national authorities' **checking** of the **consistency of budget-related decisions taken by the single member states vis-à-vis the Treaties**. The concept underlying such check – which considers prevailing the role of the European Commission, of Central Banks, of the Court of Auditors, of Fiscal Councils and of Monitoring Committees – looks to the rules adopted by the European Union to make the evolution of public finance sustainable (unlike the evaluation of public policies, strictly speaking).

A further analysis area that tends to focus on the specific matter of a policy is the **territorial impact evaluation**.

Evaluating *activities*, evaluating *policies*

In the former case, evaluation tends to focus on **performances**; in the latter, on **design, fulfilment** and **implementation** of public decisions. Depending on the object being evaluated (an activity, hence performance, or public policies, hence proper evaluation) the indicators change: alternatively, **the analysis may focus on results or effects**.

Alongside this sort of *main division* between activity/results and policies/effects, we can further discern a *formal* type of logic – based on the analysis of regulatory provisions – from a more *substantial* approach, which tends to identify the effects caused by the actual enforcement of the rules. The evaluation logic does not rest on the regulatory exegesis of the single provisions; it rather requires the **full comprehension of a policy, defined as the effective regulation of a socio-economic trend**.

The evaluators

The *subjects* that must carry out evaluation activities fall within an *institutional* perimeter when the prevailing role is taken on – alternatively or concurrently – by the **Parliament**, by the **Government**, by the **Court of Auditors**, or by **independent authorities**. The *extra-institutional* perimeter, on the other hand, includes the models that entrust to **universities, research centres** and **public or private documentation institutes** the task of asseverating the results and effects of activities and polices implemented by public bodies.

In the institutional circuit, it is possible to identify a more *participative* approach when the Parliament has a leading role, while the verification task assigned to the Government or to independent economic governance-supporting bodies seems to be associated with an admin-

istrative-accounting control, with the monitoring of economic indicators and with the assessment of the performance of budget policies (in terms of stability and sustainability of public finances) or of reforms aimed at promoting growth and employment. In Italy, the effort of the *Ragioneria Generale* (State accounts department) in verifying the State budget structure – in terms of *performance budgeting* – is well known.

When **judicial bodies** conduct the evaluation – or when a **monitoring body** is urged to fulfil its mandate in advisory terms and not in strictly judicial terms (consider the Anglo-Saxon experience of the *Comptroller and Auditor General*) – the decisive verification index for public actions is the weighty one of responsibility and accountability.

Things change yet again should the evaluation be entrusted to an **independent authority**, which tends to act as a balancing point between public institutions and citizens, allowing the subjects holding jurisdiction to take decisions on the subsequent regulatory, judicial and bargaining measures. The evaluation conducted by an independent authority is therefore *open* to further detailed studies and decisions; when conducted by parliament, government, judicial and monitoring bodies, on the other hand, it is the conclusive part of a deliberative, practical and coercive process.

Spaces and resources

Sometimes the involved institution is capable of dealing autonomously with a public policy evaluation request. However, sometimes it turns to an external advisor, depending on the specific object to be evaluated. In either case it is essential to interpret and understand the evaluations; failure to do so would make the research outsourcing procedures inefficient.

The availability of human and material resources is still the main element required to ensure a robust and wide-ranging analysis that lasts in time and that is consistent with methods and targets; were it not so, the analysis level would be inconsistent and limited to single spheres and methodologies. Constant training and refresher courses for personnel are a must.

Linear or spiralling timing?

The impact analysis can be conducted before the public decision (*ex ante*) or after (*ex post*). The *in itinere* (ongoing) evaluation – conducted while the decision-making process is underway, as the public policy is being implemented, or at the end of the actual implementation stage – is more complex.

The *ex ante* – *ex post* scheme, despite deserving credit for providing an immediate understanding, can result fleeting and hardly usable, in terms of facts: making the exact moment of

the public decision the cornerstone of the evaluation process, thus excluding the drafting, fulfilment and implementation phases, demotes the analysis to a mere, basically irrelevant, appendix of a fact-check. It could be more useful to view ***ex-ante* evaluation as *prospect evaluation*, and *ex-post* evaluation as *retrospective evaluation*.**

Indeed, a hallmark of public policy evaluation is that of not being enclosed in a *linear* type of logic that features a temporal succession of unconnected stages. **The evaluation model is structured in a *spiralling* way, which envisages the build-up of strata of analyses and evaluations over time.** For this very reason, evaluation entails the most advanced models of **transparency, sharing, interaction between evaluating subjects, and between the evaluators and the recipients (stakeholders) of the assessed public policies.**

The latter (citizens, businesses, organisations, public administration offices) can be either *stakeholders* of a policy or can *measure and identify* its effects or how it is perceived. The difference between *effects* and *perception* of the very effects is crucial for public policy evaluation to become the tool that can truly foster the growth of a community's civic, well-informed, rational, free and democratic awareness.

Methods and limits

Fundamentally, it is possible to identify models **based on evidence and empirical measurement of the effects** (*evidence based policy*), based on **experimentation** and **counter-factual check**, based on the **devising of continuous evaluation procedures** and based on the **active participation of stakeholders** in the evaluation path (viewed as a process).

It is worthwhile to pre-emptively stress the *limits* and *assets* of each analysis, to acknowledge the inadequacy of other approaches vis-à-vis the addressed cases, to sometimes acknowledge the impossibility of validly answering an evaluation-related question or, better still, to primarily and clearly focus on the correct formulation of the questions themselves. These are fundamental, inescapable requirements for the asseveration of the nature of public policy evaluation, which must be the expression of *validity*, not a *judgement* of the single decisions taken by the public decision maker.

Indeed, to evaluate does not mean judging the worthiness; it rather means checking the soundness of a public policy with reference to the goals it aimed to pursue.

And the Parliament?

Taking cue from Luigi Einaudi's quote "*know before deciding*", **it is necessary to spread, develop and enhance the culture of evaluation, even *inside* the institutional perimeter** for this precious indication given by Einaudi to translate into *knowing, monitoring, checking, evaluating in order to decide, address, make accountable*.

In the European context, the need to introduce an evaluation of public policies in the EU decision-making process was put into practice only in 2015, in a systematic and organised set of instruments, methodologies and procedures. In order to realise how much we are **lagging behind, especially in cultural terms**, suffice it to think that the *Better Regulation* agenda came plenty of time after a similar initiative was introduced in New Zealand, back in 2009. In Italy too there are delays and difficulties in rigorously and capably implementing a well-defined public policy evaluation strategy that is consistent with the Republic constitutional structure.

In any case, **for the Parliament, the evaluation of public policies is not limited to quantifying and qualifying one's own activities** – proposing as the *output* of the *good lawmaker* the statistics concerning the decisions taken, the laws passed, the debates held, the parliament oversight documents submitted, the session hours of the assembly and the committees – **it rather means answering a key question: what effects have been acknowledged following the decisions taken?** What is the nexus between such effects and the tools, the targets, the organisational structures that characterise a policy that the Italian parliament has considered, debated and passed?

Acknowledging and consulting

Concluding the evaluation activity by simply acknowledging empirical evidence is still not enough, in the parliamentary context. It is necessary to integrate this moment with a careful (and critical) **public consultation with the final recipients**, the citizens. ***Acknowledging and consulting* means bringing the citizens' evidence and remarks into the decision-making arena**. It also means that, once the evaluation work is over, **the recipients of the examined policy must be informed and guided**, especially when the gap between impact analysis and perception analysis is such that it may cause information and behaviour distortions that undermine constitutional rights and principles.

The most striking cases surely concern phenomena that have long been involving the institutions, which are urged to disclose correct and useful information to the citizens – especially in the healthcare sector. The task of transparently, rigorously and freely **informing and guid-**

ing the citizens appears to be just as relevant as the **request for their remarks or observations**, and just as decisive as the **factual, evidence-based acknowledgement** of the effects of public decisions.

The cultural challenge

Knowing, monitoring, checking, evaluating *in order to* decide, inform and guide is a necessary task for the contemporary parliamentary system, in a post-modern constitutional outlook. A task that by no means is easy and should not be taken for granted.

The challenge is indeed a cultural and constitutional one: the logic of laws gradually drifts away from the *document* category to touch on the dynamics of regulatory *relationship*. There is a view according to which the frequency of rules included in laws that call for a subsequent government intervention (both when delegating legislative powers and when implementing) requires a further opinion of the parliamentary committees, which is provided once the very law is passed. In this case, however, the regulatory relationship is enclosed in the perimeter of institutional relations between State bodies.

The public policy evaluation system developed within the parliamentary dimension cannot be limited to such a formal type of relationship, because it makes its set of analyses widespread and pervasive, ensuring openness and flexibility in the interaction with citizens, both before the final decision is taken (asking them for their observations) and after the legislative procedure has been perfected (welcoming their complaints).

This *biunivocality* between lawmakers and citizens can concretely bring together once again the contexts that have been torn apart by language and disaggregating fences. The Parliament can be both a *recipient* and a *sender* of information to citizens, to the public opinion, to the community of partners. From this standpoint, **the focus will no longer be that of simply verifying what laws have not been enforced or implemented; rather, it will be on checking – through transparency and by giving the due priority – whether the laws are suitable.**

Bibliography

- Manski, C. F. *Public Policy in an Uncertain World: Analysis and Decisions*, Cambridge MA, Harvard University Press, 2013
- Grossi, P. *La Costituzione italiana quale espressione di un tempo giuridico post-moderno* in *Rivista trimestrale di diritto pubblico*, 3, Milano, Giuffrè, 2013
- Modugno, F. *Ordinamento, diritto, Stato* in ID (a cura di), *Diritto pubblico*, Torino, Giappichelli, 2012
- Martini, A. e Trivellato, U. *Sono soldi ben spesi? Perché e come valutare l'efficacia delle politiche pubbliche*, Venezia, Marsilio - Consiglio Italiano per le Scienze Sociali, 2011
- La Spina, A. e Espa, E. *Analisi e valutazione delle politiche pubbliche*, Bologna, Il Mulino, 2011
- Martini, A. e Sisti, M. *Valutare il successo delle politiche pubbliche*, Bologna, Il Mulino, 2009
- Lipari, N. *Le fonti del diritto*, Milano, Giuffrè, 2008
- Stame, N. *Valutazione pluralista*, Milano, Franco Angeli, 2016
- Senato della Repubblica - Servizio per la qualità degli atti normativi, *Dossier e Note brevi* citati alla pagina Esperienze

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