

NICOLA GRECO

Main aspects and ambiguities of “regulation”

The regulatory issue emerged among Italian institutions as well as juridical and economic doctrine to coincide with the birth and the proliferation of the independent regulatory agencies. In addition to this it began the political and technical interest in “Regulatory impact analysis” (Ria), promoted in Italy particularly in consequence of the intervention of Oecd. The Ria is just one of the instruments used to improve the regulatory quality but it has different implications and ways of execution depending on whether it is applied to legislative or administrative rules, standards or regolative rules in the strict sense.

The implementation of the Ria presuppose the study and the application of the general category of regulation, which connects the legal system with the efficiency of market and enterprises, of public administrations as well as of some essential sectors of contemporary world, such as the environment.

Then the Author reconstructs and evaluates all the ambiguous, contradictory, uncertain and topical aspects of the regulatory sector: it consists of experiences of different States, international negotiations, European supranational pressures and recently of the (massive but immature) attention of Italian political and legal system.

CESARE DELL'ACQUA

Effectiveness principle and preventive analysis of rules

Crisis of law and ineffectiveness of rules are used as equivalent expressions in many contemporary legal systems. The latter is also used to express the separation between formal and material dimensions.

In this context, the only possible therapy seems to be the preventive analysis of rules, i.e. the prejudicial evaluation on their “effectiveness”. The Regulatory Impact Analysis, which has been recently introduced in Italy and still in a phase of experimentation, should be considered in this perspective.

ALFONSO CELOTTO

The consultation of rule's addressees

The Author analyses the issue of consultation of rules' addressees which represents a specific case of legislative negotiation. The consultation of rules' addressees is obviously very different from the consultation of technical or political bodies, typical of the rulemaking traditional process.

As a matter of fact regulatory consultation contributes to the democracy of choices; it increases transparency and efficiency of regulatory process; it brings the regulated people nearer to the regulators; it promotes rules acceptance by the regulated people.

Just because of its importance, regulatory consultation must be guided by accepted and effective rules and forms.

NICOLETTA RANGONE

Principles of economic regulation's reform

The need to reform the regulatory system starts from the awareness that all regulations create costs, that are justified only when benefits are higher than the disadvantages, hypothesis happening in market failures. The regulatory reform objectives should be achieved through different instruments: liberalisation, simplification and regulation impact assessment. The impact assessment allows to define the necessity of a designed intervention and then to choose the most effective device to carry it out. This method implies a case by case analysis that has to comply with the general principles of economic regulation. In particular, the principles of competition, transparency, proportionality (and the connected regulation criteria) are the legitimacy benchmark of the new and existent regulations.

DAMIANO NOCILLA

Legislative regional competences and quality of regulation after the reform of Title V of Italian Constitution

In the present constitutional context, the central legislative power can't issue significant rules on formal and substantial drafting of regional rules so that it will be difficult to have a uniform quality drafting for regional regulation. Many activities which the Regulatory Impact Analysis (R.I.A.) applies to form part of the administrative function, which the new article n. 118 of the Italian Constitution assigns to municipalities. For this reason it is important to guarantee the municipalities' cooperation to the Regulatory Impact Analysis.

Moreover the Author analyses the issue of the controls on the application of good regulation and rule clearness principles which each regulatory provisions mean to introduce.

In this context the role that Constitutional Court and administrative jurisdiction play in controlling respectively legislative and regulatory acts' quality is emphasized.

The extension of controlling power of judges could be based on the implementation of "reasonableness" principle.

Anyway, it emerges a close link between regionalism evolution and R.I.A evolution in Italy.

CARMEN IUVONE

Regulatory experiences and Regulatory Impact Analysis (RIA) in some italian Regions: results and expectations

The innovative potential of Regulatory Impact Analysis (RIA) can be fully understood if considered as the mature result of the improving process of the legislative techniques within the overall background of the regulation quality.

RIA allows Public Administrations and both direct and indirect recipients to point out costs and benefits related to the adoption of each regulatory option.

It is a procedure aiming to evaluate the opportunity of adopting new law provisions in order to add value and effectiveness to the regulatory process itself.

RIA has been introduced mainly referring to bills adopted by regional cabinets. In any case, the implementation of the RIA involves high organizational and administrative costs which make the extension of the RIA to all regional bills very difficult. Moreover that extension would involve complex organizational and professional solutions. Finally, the essay points out the principles of regulation quality as they emerge from the regional statutes of Emilia Romagna, Toscana, Calabria, Umbria, Lazio, Abruzzo, Liguria and Puglia.

MARIA DE BENEDETTO

The Regulatory Impact Assessment quasi-procedure

In the Italian legislative framework of Regulatory Impact Analysis (RIA) it is necessary to distinguish "government RIA" (experimental) from parliamentary RIA and RIA conducted by independent agencies (immedia-

tely operative). At the moment, this legislative framework is not sufficient to design a formal procedure and a consistent process. In particular, it is crucial to define the RIA in the scheme of administrative law, as well as connecting consultations with citizens, enterprises and administrations into the RIA scheme. The consequences of these crucial definitions will have a strong impact on the RIA review and on the organization in charge of the RIA. Within this framework, participation, prognostic evaluation of public policies and transparency will play a leading role in order to increase authority legitimization.

EMANUELE SGROI

About an effective management of the regulation

In the contemporary State the regulatory function prevails over direct intervention in economy and in society. This emphasizes the importance of quality and effectiveness of regulation.

RIA (an instrument found within the domain of policy analysis) is a combination of different approaches and it is based on qualitative as well as quantitative techniques. In any case it involves the administrative organization, which has to point out the critical elements that a rule, a policy or a programme reveal in the implementation phase trying to eliminate or to correct them. For this reasons the RIA process must include the active participation of all subjects involved in the management of the whole regulatory system.