UNIVERSITÀ DEGLI STUDI DI PALERMO

GAETANO ARMAO

OPEN GOVERNMENT
Total trasparency and implementation in Italy and in the Sicilian Region

Department of Political Science and
International Relationships

A popular government without popular information or the means of acquiring it in but a prologue to a farce or a tragedy or perhaps both.

J. MADISON, Letter to W.T. Barry, 4 Aug. 1822

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Foreword

This short essay collects contributions and documentation relating to Rapporto sull'Open Government in Sicilia 2015 (the second Report on Open Government in Sicily), presented in March 31th, 2015 in the Department of Political Science and International Relationships department lecture hall at the University of Palermo. It is the result of the research carried out in the course compendium of European Administrative Law of the academic year of 2014-2015 and of the master's degree in Science of administration and complex organizations.

The introductory essay was then presented in the form of a report 2014 to the Roundtable on Administrative transparency after the Legislative Decree no. 33/2013, which was organized at the Faculty of Law, University of Palermo, April 10th, 2014 as part of the conference supported by the 'Group of San Martino' on Administrative Transparency. Subsequently it was the subject of a lecture held on May 23rd 2014 for the Palermo University Master degree in Labour law and industrial relations within public administrations in collaboration with the INPS (National Social Security Institute) and the higher School of Economy and Finance Ezio Vanoni; and now finally it has been by the Department of Political Science and International Relationships - University of Palermo. A heartfelt thank you goes to the Director of the Department prof. Giovanni Fiandaca, to the staff and students of Department of Political

Science and International Relationships who have worked for the publication of the volume.

I am indebted to Marco Mazzamuto, Andrea Piraino and Riccardo Ursi for those comments that helped to improve this work for which I am the sole responsible.

I intend to dedicate my contribution to the memory of Antonio Romano Tassone, a professor of administrative law at the University of Messina, an educated and polite scholar, a leading figure of the Sicilian School of Public Law and among those who have welcomed me into it, who recently died prematurely.

And last but not least, I thank Dr. Angelo Pizzuto and Maria Capuana for the collaboration in the review of materials.

Palermo, March 18th, 2015

Introductory Essay

1.Open Government: the new frontier of administrative transparency

The Open Government or open Administration collects the set of institutions aiming to ensure the full transparency of public administration, citizens' participation in public decision-making through measures that help responsibility, organizational performance, widespread control, the simplification and use of new information technologies, data reusing, the interaction, and bidirectionality[1].

Most of the Country e-government experiences have a one-way approach aiming at the information, where the citizen is passive, rather than at the active participation and interaction. By doing so the Vision-transparency open access to government information on Voice-participation open access to decision-making arenas prevails[2].

Meant in this sense, open administration goes beyond the traditional dichotomy advertising/transparency, which already framed transparency as an extra element both with respect to advertising and the same right of access, forcing the administration to act correctly, beyond mere formal requirements of the rule. In the knowledge that democracy needs an intelligible clarification of power, up to emphasizing the ability to of-

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[1]CARLONI E., *L'Open Government. Lezioni di diritto della comunicazione pubblica*, parte I, Perugia, 2013.
[2] Cfr. MEIJER A.J., CURTIN D., HILLEBRANDT, 2012, see also U.N. Reports on e-government http://www2.unpan.org/egovkb/global_reports/10report.htm.

fer a widespread control on administrative activities and on the organization. This is a way to strengthen democracy in the perspective of a necessary participatory democracy (Manganaro, 2009).

It is possible to glimpse also a correlation with a more traced foreign experience back to the Anglo-American legal systems[3] (Battini, Mattarella, Sandulli, Coglianese, 2009), now followed also by Latin America countries[4] up to Indonesia[5].

The countries that undertook Open Government initiatives later joined the Open Government Partnership (OGP) and, eventually, presented the achieved results at the 2013 London Summit[6].

Articles 41, second paragraph letter b) and 42 of the Charter of Fundamental Rights of the European Union explicitly recognize the right of access to European law as a fundamental right and a formal confirmation of the reception in this regulations of the Open Government principle in virtue of which all decisions taken by the institutions must be made accessible of those who have an interest upon request (Della Cananea, Franchini, 2010).

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[3] In USA Freedom of information act - FOIA 1966, Government in the Sunshine, 1976, Electronic freedom of information act, 1996, and after the Open Government initiative in 2008 and OG Plan of 2011; in U.K. Freedom of information act 2000, but see also similar legislation in France in 1978 and in Spain since 1958, in this country the principle of administrative transparency is recognized in the Constitution of 1978 (art. 105 b).

[4] See, for example, Brasil, Mexico and Colombia and their programs Gobierno Abierto and Gabinete digital.

[5] Cit., OECD, *Open Government in Latin America*, 2014, OECD Public Governance Reviews, OECD Publishing, in http://dx.doi.org/10.1787/9789264223639-en.

[6] See in http://www.opengovpartnership.org.

In another profile, the open government initiatives are linked to the European expectations on the right to good administration (Article 41 CFREU), which has to be open, efficient and independent (Article 298 TFEU), prompted by the maximum transparency principle (Art. 15 TFEU) and the proximity to citizens (Articles 1 and 10 TEU) (Della Cananea, 2011) as well as:

- Directive 2003/98/EC of the EU Parliament 17th November 2003 on the reusing of public sector information, and to

- Council of Europe Convention of 18th June 2009, CETS no. 205 on access to public documents held by authorities;

- G8 leaders signed the Open Data Charter on 18 June 2013. The Open Data Charter sets out 5 strategic principles that all G8 members will act on. These include an expectation that all government data will be published openly by default, alongside principles to increase the quality, quantity and re-use of the data that is released. G8 members have also identified 14 high-value areas – from education to transport, and from health to crime and justice – from which they will release data[7].

These will help unlock the economic potential of open data, support innovation and provide greater accountability.

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[7] CASTRO D., CORTE T., *Open Data in the G8: A Review of Progress on the Open Data Charter*, Center for Data Innovation, 2015.

2.Administrative transparency after the Legislative Decree no. 33/2013

The legislative decree of 14th March 2013, no. 33[8] and subsequent amendments, come into force april 20th 2013, contains provisions relating to the reorganization of the law regarding disclosure obligations, transparency and circulation of information by public administrations, by which has been given effect to the legislative mandate contained in art. 1, paragraph 35 of the Law of 6thnovember 2012, no. 190 (provisions for the prevention and repression of corruption and illegality in the public administration), it modifies the legal regime of administrative transparency (Law 241 of 1990 and subsequent amendments, Law no. 69 and Legislative Decree no. 150 of 2009 and subsequent amendments) by identifying it as the tool to fight against corruption and recognizing the citizens right to full knowledge in the public decisions (*the right to know*) (Patroni Griffi, 2013 Savino, 2013, Orofino, 2013).

The total transparency and open data represent in this way a secure defenses of legality and efficiency to which administrations cannot escape, because they are the new frontier of citizenship rights and participatory democracy (democratic value against the democratic deficit)[9].

The decree no. 33/2013 and subsequent amendments codify disclosure and transparency requirements of public administration, by introducing major changes and amendments to the previous system, recognizing a general right of access of the citizen (so called civic - full

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[8] G.U.R.I., april 5th 2013, no. 80.
[9] CARLONI E., *L'amministrazione aperta. Regole strumenti limiti dell'open government, in Giorn. Dir. Amm.,* n. 7/2014.

disclosure) to administrative information and the usability of data, thus confirming the public administration characteristics as service structure for the community and the businesses[10].

It is thus established a close correlation between the strengthening of administrative transparency and anti-corruption regulations (Clarich, Mattarella, 2013), which identifies the total transparency as a tool to combat corruption in one of the countries most afflicted by this phenomenon of the world[11,] allowing Italy to conform to Conventions against corruption.

The problem of civic control on public administrations and the protection of the citizenship rights had been, for some time now, properly framed as an effect of "*progressive concentration in the administrative report of the qualifying moments of citizenship and the consequent formation of the increasing instances of administrative democracy*" (A. Romano Tassone, 2002), reaction to the lack of decision-making capability of politics, and the pervading spread of corruption and mismanagement (Merloni, 2008).

It is well known that, the legislative decree no. 33/2013 and subsequent amendments, aimed to ensure all citizens the widest opportunity to gather information concerning the organization and activities of public administrations, in order to implement the "*principle of democracy and the constitutional principles of equality, impartiality, good performance, effectiveness and efficiency in the use of public resources for the realization of an open*

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[10] ZUENELLI E., *Amministrazione digitale e innovazione tecnologica. Analisi, riflessioni, proposte,* in *Quaderni Di Diritto ed Economia delle Comunicazioni e dei Media*, Rome, 2014.
[11] *See Global Corruption Barometer 2013 - Transparency International's Global Corruption Barometer 2013.*

administration at the service of citizens" and "*in order to encourage forms of widespread control on the pursuit of official duties and the use of public resources*"(Art. 1).

Qualifying features of the new discipline - based on the principles in art. 1 - that is, the elements that make up the transformation of the legal framework of administrative transparency are:

• the right to know the administrative information;

• civic access;

• the reconciliation of public administration with the protection of personal data and the privacy;

• reuse of open data;

• strengthening of the government coordination functions.

It is recognized, in accordance with the general principle of full transparency, the right of citizens, social groups and companies to know the information in the administration's possession or which concern those who are called to public offices[12].

To this aim, generalized and extended the obligations of the publication of a comprehensive set of information to public authorities are encoded. In addition, these obligations were accompanied by sanctions and constraints against bureaucracy (Carloni, 2009).

The route taken by the regulations towards a more effective transparency of information, as is known, went far beyond the rules, although modified and integrated over time, the Law no. 241/1990, in the effort to produce special rules - as often happens – does not always coordinate with each other. However, this feature is found in the discipline of transparency since its genesis in 1990, when two provisions saw the light, the first one was con-

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[12] VACCARI L., *Dati aperti della PA in Trentino:uno strumento di crescita economica,* in *OPENdata Trentino,* February 12th 2014.

tained in the last-mentioned law and art. 7, third paragraph of Law no. 142/1990 which have regulated the right of access in differentiated forms (Arena, 2006).

An effective change of model: hierarchical management, closed, secret, is a paradigm now exceeded what criterion authorizing the normal functioning of institutions, as the transition is not complete and the opposite paradigm of government still appears in a drawing chiaroscuro (Carloni, 2014).

For this reason it should be recalled:

- Articles. 2, 12 and 50 of the Legislative Decree of 7th March 2005 no. 82 and subsequent amendments (digital administration code); and art. 50, paragraph 1 bis of the same Decree, introduced by the so-called third correction (Legislative Decree of 30thdecember 2010 no. 235), which contain both definitions and publication requirements, now they merged into the Legislative Decree no. 33/2013 and subsequent amendments;

- Art. 2 of Legislative Decree 12th April 2006 no. 163, which recognizes transparency among the general principles of the discipline in public contracts;

- Art. 10 of the Law of 18th June 2009 no. 69, that by intervening to amend art. 22 of Law no. 241 of 1990, has explicitly linked the right of access to the principles of impartiality and transparency, as well as art. 21 of the call-back no. 69/2009, which introduces obligation for public administrations to publish on their own website "*annual salaries, curricula vitae, the e-mail addresses and phone numbers of municipal and provincial managers and secretaries, as well as to make public, by the same means, the rates of absence and presence of personnel, separated for executive level offices*"; and to make public:

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a) an indication of their average payment relating to purchases of goods, services and supplies, called "*indicator of payment timeliness*";

b) the average time of definition of the processes and service delivery with reference to the preceding financial year;

- Art. 11 of Legislative Decree 27th October 2009, no. 150[13] and subsequent amendments, which offered a definition of "*transparency*", described as *'total'*, even larger than the one ratified by the discipline on access to administrative documents, relating it to the information regarding every aspect of the organization, of the indicators connected to management trends, and of the resource use in the pursuit of official duties, of the results of measurement and evaluation activities carried out by the competent bodies, in order to encourage widespread forms of control on observance of the principles of fairness and good performance planning the publication, in institutional sites of public administrations, of all information relating to the organization and utilization of resources for the performance of official duties in order to embody "*full accessibility*" (Sartori, 2013). In this sense, transparency is considered a basic level of performances under Article 117, second paragraph, letter m) of the Constitution. The same law, Art. 3, indicated among the general principles: "*the transparency of the public administration results and the employed resources to implement them,*" and the need to ensure "*full transparency of information concerning the measurement and evaluation of performance*";

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[13] See SARTORI A., *La pubblica amministrazione: da castello inespugnabile a casa di vetro?,* in NAPOLI M., GARILLI A., (eds), *La terza riforma del lavoro pubblico tra aziendalismo e autoritarismo*, Padua, Cedam, 2013, 279 et seq.

- Art. 18 of the Decree Law of 22th June 2012 no. 83, entitled "*Urgent measures for the growth of the Country"*, converted with amendments by Law 4th April 2012, no. 35, which provides that "*notwithstanding any other provision of law or regulation*", and consequently the rules on confidentiality, stated the obligation for public administrations to publish on their respective institutional websites "*name of the company or other beneficiary and their tax information; the amount; the norm or title on which is based the attribution; the office and the responsible officer or manager of the administrative proceeding; the followed procedure for the identification of the beneficiary; the link to the selected project, to the in charge subject curriculum, as well as to the contract and specifications of the provision, supply or service*";

- Art. 9 of Decree-Law of 18th October 2012, no. 179 "*Further urgent measures for the growth of the Country*", converted with amendments by Law of 17th December 2012 no. 221, which introduced the open data model and digital inclusion, has prescribed further publication requirements on institutional websites;

- And also the already mentioned Art. 1, paragraphs 15, 16 and 29 of the Law of 6th November 2012, no. 190, which - as part of a regulations that combines useful measures to those appropriately referred to as "*unrealistic*" (Clarich, Mattarella, 2013) - has laid down the criteria for the exercise of the delegation on the basis of which Legislative Decree no. 33/ 2013, and subsequent amendments, was issued;

- Article 14 applies to all members of political bodies in office on the date of entry into force of the legislative decree, n. 33/2013, or 20 April 2013. At the expiration of the mandate or the data remain posted for three years following the date of termination, together with the

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statements of art. 4 of Law 441/1982, except for information relating to the balance sheet and, where permitted, the declaration of the spouse not separated and relatives within the second degree;

- Resolution no. 148 of December 3rd, 2014 Attestations OIV, or structures with similar functions, on progress of the obligations of publication for the year 2014 by the government and activities of supervision and control of the Authority (Published in the Official Gazette no. 5 of January 8th 2015)[14].

3. *Right of Access and civic right of access – in the paradigm of the right-to-know of administrative procedure.*

As it has been pointed out, the right of access (art. 22, paragraphs 3, 1 letter b and 24, paragraphs 3 Law no. 241 - 1990 and subsequent modifications and supplements) has been amended by the new right of civic access (Pajno 2013, Merloni 2013).

And actually, the latter guarantees the implementation of publication of a series of documents on Public Administration institutional websites, legislating a right to directly and automatically enter these websites, without any authentication and identification[15].

In case of omitted publication, according to the art. 5 legislative decree it is possible to exercise the so-called civic access consisting in a request, without any justifi-

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[14]In,http://www.anticorruzione.it/portal/public/classic /AttivitaAutorita/AttiDellAutorita/_Atto?id=76ccc9080a77804270 d585dc0d04b1cf

[15] MORANDO F., *Legal interoperability: making Open Government Data compatible with businesses and communities,* in *JLIS.IT*, vol. 4, n. 1, 2013, 441-452.

cation being given, to free implement this right, and, in case of insolvency, to appeal to the courts under administrative process code (art. 116 legislative decree no. 104/2010 and subsequent modifications and supplements).

Thus, a new balance towards privacy (public and private) is fulfilled. A system more oriented and favorable to openness since it guarantees the right of access to information and more restrictive than models inspired by FOIA (Savino, 2013), as regards information indicated in the legislative decree no. 33/2013 and subsequent modifications and supplements).

Thus, on the one hand, with the exception of information subject to the publication requirement, there is still the traditional right of access even with its limitations and relevant needs for reconciliation with the various forms of confidentiality, in the case of information required under the legislation in question (about 270). On the other hand, the balance is solved by the legislator, in a direct and generalized way, and in this context, the peculiar figure of civic access plays an active role (Ponti, 2013).

On this matter, a recent case law shows valid readings. According to the administrative judge[16], the access to administrative documents is: "*a general principle of the administrative activity aiming at fostering openness and impartiality*". It is also true that access requests "*a direct, concrete and existing interest corresponding to a juridically protected situation and connected to the document you request to access to*" and that "*requests of access are not receivable if they aim to supervise government actions*",

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[16] Consiglio di Stato, VI, 20th november 2013, no. 5515, in *Foro amm.- CdS*, (II), 2013, 11, 3166.

since it is not in compliance with the (art. 22, paragraphs 3, 1 letter b and 24, paragraphs 3 l. no. 241/1990 and subsequent modifications and supplements).

There, the new disposals established by the legislative decree 14th March 2013, no. 33 and subsequent modifications and supplements, on publicity, transparency and dissemination of information by public authorities regulate neither interchangeable situations compared to ones that allow the access to administrative documents, under articles 22 and following of the law 7th August 1990, no. 241 as subsequently amended and supplemented.

The decree under consideration also recognizes the right to re-use the information that must be displayed through open data[17]. In this way, information is made

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[17] *See* J.KOHNSTAMM, *Advice paper on essential elements of a definition and a provision on profiling within the EU General Data Protection Regulation*" Working Party set up under Article 29 of Directive 95/46/EC, Brussels, 13 May 2013, in http://ec.europa.eu/justice/data-protection/index_en.htm and C KUNER, *The European Commission's proposed Data Protection Regulation: A Copernican revolution* in *European data protection law'* (2012) 11 Privacy and Security Law Report, 1–15.

The European Commission unveiled its detailed plans to create a Digital Single Market thereby delivering on one of its top priorities.

The Digital Single Market Strategy includes a set of targeted actions to be delivered by the end of 2016.

For this purpose the Digital Single Market is built on three pillars:

(1) better access for consumers and businesses to digital goods and services across Europe;

(2) creating the right conditions and a level playing field for digital networks and innovative services to flourish;

(3) maximising the growth potential of the digital economy.

public and represents a basis for new data processing of public administration.

Thus a dynamic knowledge system based on publicity is fulfilled and where the achievements in the field of open data re-use are of paramount importance to ensure the full implementation of the decree no. 33/2013 and subsequent modifications and supplements.

The Open data system requires high quality public and usable data and this implies:

a) the creation and protection of data by public bodies and officers;

b) the implementation of back office processes so as to guarantee production, publication, upgrading, re-use, preservation and oblivion (Ponti 2013).

The Public Administration Department, in collaboration with the Department for Computerization and Technology Innovation of Public Administration, the Ministry of Education, Universities and Research, the Ministry for the Territorial Cohesion, the Independent Committee for the Evaluation, Integrity and Openness of Public Administration - CIVIT (now transformed into Anti-corruption National Authority)[18] and with the contribution of FOR-

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The 6th may 2015 - after the presentation of this report - the European Commission's released Digital Single Market strategy paper. The paper discusses key areas for action: e-commerce, geo-blocking and copyright, the VAT framework, telecoms infrastructure, online platforms, privacy, cyber security, data ownership and flow, ICT standards, e-government.

[18] The *Independent Commission for Evaluation, Integrity and Transparency (*CIVIT) as the new national anti-corruption authority; according to the Law no. 125, approved by Parliament on the 29th of October 2013 the name CIVIT has been changed to: *Anticorruption National Authority and for evaluation and transparency of public administrations* (A.N.AC.)

MEZ PA, has developed the Italian Action Plan, launched in 2012 at OGP.

The paper summarizes, in a unified framework, the various initiatives undertaken in the field of Open Government and identifies the main lines of development to be realized[19].

The concept of transparency in the direction of OpenData systems implies a change in the paradigm: it is no more intrinsic, top-down and connected with competitive values/interests in an authoritative way, but rather a dynamics starting from users, socially diffused, plural, often unplanned, starting different kinds of processes and not only aiming at reinforcing there presentativeness and participation circuits. It is a challenge whose results are unexpected (because unplanned) and there for every interesting and involving[20].

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[19]*See*,http://www.funzionepubblica.gov.it/media/968937/piano% 2011%20aprile%20%20%20opengovpartnership%20per%20consul tazione.pdf "*Transparency is not only a right of citizens and business, but also an opportunity for the administrations themselves, as the latter have to account not only for "what" they do but also for "how" they do by ensuring accessibility of data on organization and staff, services, payments, as well as performance measurement and assessment. Moreover, PA's commitment to transparency and accessibility will provide a useful tool to better identify areas in need of reform, rationalize resource allocation, identify areas to implement anti-corruption and simplification measures and to promote a competitive exchange between public entities*"

[20]*See* PONTI B., *Open Data and Transparency: A Paradigm Shift,* in *Informatica e diritto*, Vol. XX, 2011, n. 1-2, 305 et seq.

4. The administrative transparency system in the Sicilian Region

As regards the administrative transparency system in Sicily, it is worth mentioning that it is based on regulations only partly different from the Government law, and we should stress the following laws:

- the regional law 30th April 1991, no. 10 and subsequent modifications and supplements, law on administrative process and the right of access that has partly repeated in the regional system the legal provisions of the above mentioned law no. 241/1990 and subsequent modifications and supplements. (Mazzamuto, 1993, and, reference allowed, Armao, 1993);

- the decree of the President of the Sicilian Region 16th June 1998, no. 12, on provisions concerning the right of access, subsequently modified by the art.7, second paragraph of the regional law no. 5 (decree of the President of the Region no. 352/1998 and subsequent modifications and supplements);

- the decision of the Regional government 4th December 2009, no. 514, *'Codice antimafia ed anticorruzione della pubblica amministrazione'*, developed by *'Vigna Committee'*, that has anticipated the national legislator introducing innovative solutions included in the executive decrees of the law no. 190 of 2012[21];

- the regional law 5th April 2011, no. 5 that has amended and complemented regulations on administrative process and right of access, under the digital Administration (decree 7th March 2005, no. 82 and subsequent modifications and supplements) making a reform of the

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[21]*See*,http://pti.regione.sicilia.it/portal/page/portal/PIR_PORTAL E/PIR_Ammtrasparente/%20PIR_Altricontenuti/PIR_Corruzione/P IR_Pianoprevenzionecorruzione/Codice%20Vigna.pdf

regional law on this issue and, better defining the dynamic reference to state legislation (Immordino, 2012);

- the regional law 11th May 2011, no. 7 (art. 13) that has envisaged to immediately publish the decisions of the regional government online (apart from presidential acts, or councillor acts, now envisaged by art. 23, subject to the disclosure requirements of the above mentioned legislative decree;

- the PITRE *(Plan for the Region Technology Innovation)* [22], required by the provision that fully adopted the digital administration code into regional regulations (art. 3 regional law no. 5/2011)[23];

- the regional Open data: in 2011-12 the Open Data platform was launched after the approval of the draft law dn. 851 on open data by the regional Government (on these initiatives being allowed refer Armao, 2013).

In order to successfully implement the Open Government, the Regional Administration has identified the following objectives:

1.digitizing the administrative system, simplifying procedures, and ensuring the management of the administrative information;

2. ensuring the plan governance through the establishment of a body responsible for their implementation and monitoring;

3. initiating and sustaining the process of technical architecture standardization, both hardware infrastructures and application services;

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[22]http://pti.regione.sicilia.it/portal/page/portal/PIR_PORTALE/PIR_LaStrutturaRegionale/PIR_AssessoratoEconomia/D%20A%20%2037Gab%20del%208%2011%202012%20%20PITRE.pdf

[23] Issued by the outgoing regional government and then abolished by the incoming government in november 2012.

4. fostering a systemic approach so that information become interoperable among different government areas and public administrations;

5. promoting and implementing on-line services, safe applications and content based on a widely available broadband infrastructure available in the Region;

6. providing for an extensive training of all users of the services available on the *web*;

7. involving service recipients (citizens, businesses, stakeholders, internal operators, other public administrations) in the administrative and governance processes so that the Administration could benefit from collective knowledge;

8. implementing transparency principles of public administration in terms of *"total disclosure"*;

9. divulging and promoting the exploitation of public data in accordance with the principles of "*Open Government*" and "*open data*";

10.using the process of dematerialization of information and administrative action to better involve regional staff employed in peripheral structures in order to initiate and support a model of cooperation among different departments.

It has to be mentioned that we believe it is necessary to guarantee the full implementation of the right of access to information so that all citizens could be informed (art. 3 d.lgs. 33/2013 subsequent modifications and supplements) above all in important fields (planning, public procedures and contracts, appointments) even reaching those areas affected by *digital divide* and where citizens are not allowed to easily enter the web. In view of the above, the full implementation of transparency principles and access can be fulfilled through both innovative

and traditional communication tools (paper and online publications).

With reference to the above mentioned 2013 regulations on transparency, it is worth stressing their direct implementation in the Sicilian region, as stated in the art. 1 third paragraph, decree no. 33/2013 and subsequent modifications and supplements. The provisions of this Decree, as well as the implementing rules adopted under Article 48, extend the identification of the essential level of benefits paid by public authorities for the purposes of transparency, prevention, combating corruption and maladministration, pursuant to Article 117, second paragraph, letter m) of the Constitution and also constitute exercise of the function of coordinating statistical and computerized data of state, regional and local level, referred to in article 117, second paragraph, letter r), of the Constitution.

On this issue, the Regulation of the President of the Region (6th June 2013, no. 9679) has taken note of such direct enforceability in the Sicilian Regional legal system. Anti-corruption and Transparency Officers have been appointed by the President of the Region.

However, despite recent efforts (see, "*Three-year Plan*" for anti-corruption prevention, PTPC and the three-year program for transparency and integrity approved by Decree of the President of the Sicilian Region 28th January 2014, no. 53), there are clear indications that regulations on total transparency and right of access are not properly implemented, as evidenced by the Report below cited.

With the aim to implement transparency the presidential and members of Government decrees, simultaneously with the publication in the Official Journal of the Sicilian Region, to be published in full on the website of

the Sicilian Region, directors of departments and offices's decrees must be fully published on the website. The non-publication within the next 48 hours from the date of issue, peremptory term, as well as being reason for invalidity of the act.

It's also important to point out the art. 68 of the Regional Law n. 21 of 12 August 2014 (Rules on transparency and publicity of administrative) that prescribe that Government is obliged to publish on the website of the Region of Sicily in full, including any attachments, within 48 hours of approval, final deadline, his deliberations of the Regional Council. The prevision continue "*the act takes effect after its publication that has to happen within five days, on pain of invalidity*".

5. The implementation of the legislative decree 33/2013

Sicily, as well as Italy, is not at the fore in implementing the *Open Government*, leading not only to a breach of the rights established by the law on transparency and documents disclosure and administrative decisions but also to a serious bias on citizen's rights and democratic participation[24].

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[24] In particular this in pointed out by *Open Government Partnership - Independent reporting mechanism Italia 2012-13*, in http://www.opengovpartnership.org/sites/default/files/ Italy_OGP_IRM_Public_Comment_(Ita).pdf. Italy, officially began participating in OGP in September 2011, when the Minister for Public Administration and Innovation declared the government's intent to join. The Department of Public Administration (DPA) and the Presidency of the Council of Ministers lead the OGP in Italy. Although senior staff of the DPA coordinated the implementation of Italy's OGP commitments, other key government actors with their own budgets and mandates had a certain amount of

This is demonstrated by the report on *Open Government in Sicily 2015*[25] that examine the implementation of the above mentioned issue in every Department of the Sicilian Regional Government and in some public bodies (IRSAP, Chamber of Commerce Enna, the Municipality of Messina and Catania, Regional District of Ragusa, Palermo Health Authority) and subsidiary companies (IRFIS S.p.A., AST S.p.A., Sicilia & servizi S.p.A.) (up to 31-12-2014).

The analysis shows a scarce and notably confused framework in which many administrative departments are defaulting, despite the penalties to be enforced under legislation pursuant to the directive.

In other words – paradoxically - a region that aims at achieving free zones to encourage economic development, fails because of the strong compression affecting

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discretion over the implementation of the action plan, including the Agency for Digital Italy; the Ministry of Education, Universities and Research; the Departments for Communication, and Economic Development and Cohesion; the Ministry of Economic Development; the Independent Commission for the Evaluation, Transparency, and Integrity of Public Administrations; the National Anti-Corruption Authority; and, the Centre of Services, Assistance, Studies and Training for Modernizing Public Administration (Formez PA).

The independent reporting point out "*Italy's action plan was highly ambitious and included several commitments with high transformative potential. Most notably, the commitments on open data have strong potential in the coming years. Italy can make progress on its commitments on transparency and anti-corruption by taking a more proactive role in adopting a comprehensive freedom of information law that meets international standards*".

[25] The Report is available on portale.unipa.it/dipartimenti/dems, completed with the collaboration of the students of the course of European administrative law 2014-2015 of the Faculty of Political Science-University of Palermo.

financial autonomy[26], determining a powerful deterrent to attracting investments in areas where the bureaucratic burden is more serious and the corruption and pollution are higher. This led to the creation of "*zero bureaucracy zones*" in those areas characterized by low development indicators in order to attract new investments.

It turns out a scenario characterized by non-transparency and intelligibility of information delivered by regional administration, public companies and public regional bodies, by the huge under-use of *open data*, and an absolute shortage of bidirectionality in almost every public administration[27].

At a regional level, many of the mentioned requirements are then disregarded, and when they are complete they are not upgraded (dated to 2012 or 2011). As it has already been mentioned, decisions by regional government are completely published under the decree no. 33/2013 (art.13 of Regional Law no. 7/2011). However, Regional government websites, except for a few cases, do not include any publications of the decrees of the President of the Region or Councillors (art. 12, 23, 35 legislative decree no. 33/2013 and subsequent modifications and supplements).

Information on policy costs: both for the Regional Parliament and Government. Particularly alarming is the situation of subsidiary companies that violate the implementation of the law on transparency and the dis-

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[26] *See*, e.g. my work, *L'attuazione dell'autonomia differenziata della Regione siciliana*, Napoli, 2013, 30 *et seq*.

[27] The Municipality of Palermo (www.comune.palermo.it/opendata.php) and the healthcare sector (Asp Palermo cf. http://www.asppalermo.org/copertina.asp), are exceptions to this trend.

cipline on whistleblowers (art. 54 bis of the legislative Decree 165/2001 and subsequent amendments updated by the art. 1, paragraph 51, Law no. 190/2012 and subsequent amendments).

A perfect example: the Interporti siciliani S.p.A. company, basically illegible, and this happens nevertheless there is a supervision body nominated and paid on purpose.

As evidenced by the attached summary records, it is equally hermetic the situation of the following companies: Irfis S.p.A. or AST S.p.A., Irsap, Sicilia & servizi S.p.A.

In particular, those relating to remuneration and tax statements for the administrators who, right callbacks predictions of the decree of 2013, follows the inability of the Administration to respond in any way to the company's financial resources and institutions (it is not possible to recognize, for example, the remuneration received by directors of certain companies or declarations subject to mandatory publication).

In particular, concerning the subjective definition of application field of transparency rules, referred to in Legislative Decree 33/2013 and subsequent amendments, an interpretative direction was offered to administrations and bodies through the recent Circular no. 1/2014 by the Ministry for Public Administration and simplification[28].

The circular access to a broad interpretation of the category of subjects referred to in Articles 11 and 22 of Legislative Decree no. 33/2013, to whom these provisions apply. It is to be expected, therefore, that among

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[28] *See* in http://www.funzionepubblica.gov.it/media/1158262/circolare_1_2014_trasparenza.pdf

the subjects required to comply with the transparency requirements government-owned businesses and other private entities must be included; they, beyond their legal form, play "*activities of the public interest*"; the entities which constitute this category are the bodies that perform the same activity by virtue of a controlling relationship, which determines the total application of the transparency rules, and those who play under a minority report, for which the rules of transparency shall apply with respect to activities carried out in the public interest.

Fulfillment problems in the regional administration are also recorded with regard to the provisions of Legislative Decree of 8th April 2013, no. 39 laying down - as well know - "*Provisions of unappointable and incompatible positions in government and in private organizations under public control*" and delays on discipline replacement intervention in the exercise of powers of appointment. The region neglected to regulate the exercise of powers of appointment in case of injunction against the President or the Councilors, legitimizing in this way the substitution intervention by the state.

In this regard, It should be noted that the Legislative Decree no. 39/2013, which was also issued in implementation of the so-called anti-corruption law (Law 6th November 2012, no. 190), that in conformity with art. 22, first paragraph, has to be considered directly applicable in the Sicilian Region as its provisions "*bear implementing rules of Articles 54 and 97 of the Constitution and prevail on different provisions of regional regulations concerning unappointable and incompatible positions in public administrations, public bodies and private entities under public control*".

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With the result that the provisions of that legislation introduced in the regulations integrate those contained in Regional Law no. 19/1997 and subsequent amendments which regulates the appointment of positions in regional institutions and companies within Sicily. The direct and immediate applicability of Legislative Decree no. 39/2013 is, on the other hand, recognized by the Sicilian Region in the circular dated 10th June 2013, no. 28913, signed by President of the Region itself.

It should be noted the delay in implementing article 18, third paragraph, of the legislation in re, according to which: "*regions, provinces and municipalities shall, within three months from the entry into force of this decree, adapt their legal systems by identifying the internal procedures and bodies that can proceed to the appointment of positions in its stead during the period of disqualification of the holder bodies*".

In this regard, it seems appropriate to point out that not only the Regional Government has not drawn any bill on the subject, but not even the Regional Assembly has approved the planned regional discipline of replacement interventions.

The reported delay depicts the conditions for the start of the process for the exercise of replacement powers by national government, under art. 8 Law 5th June 2003, no. 131, towards the Sicilian Region, in particular since the fourth paragraph of article 18 of the aforementioned Legislative Decree no. 39/2013 states that "*after the period referred to in paragraph 3 it applies the replacement procedure under Article 8 of the Law of 5th June 2003, no. 131*", even if it is not known that such action has been initiated by the competent state structures.

6. Concluding Remarks

Contemporary democracy is itself multifaceted and polyarchic (remembering to well known the definition by R.A. Dahl, recently passed away), characteristic shape that democracy has taken in the twentieth century, in which citizenship is extended to the majority of the community adult members, while the rights of citizenship provide the opportunity to object to the holders of government offices.

However, in it coexist not only strongly differentiated political, social and cultural components, but also democratic and non-democratic ones which through the more and more extensive direct and/or indirect participatory tools contribute to the formation of public decisions.

If, as recently pointed out, democracy is "*the opinion-based government*" which is a diarchic system where next to *"will"* (which takes the form in the representative democracy institutions and in procedures of binding or sovereign decisions) there is the opinion (extra-institutional sphere of political opinions, which as monads influence each other without ever merge) - democratic societies can be so defined not only when they provide free elections, or democratic participation mechanisms, but also because they ensure "*that opinions contribute both to the rightful functioning of institutions and their evaluation and critical control*"(Urbinati, 2014).

In this sense, the examined legislation, as it gives the right to full transparency and the knowability of

administrative decisions, it is a defining feature of public administration democratic progress[29].

Therefore, what makes '*open*' institutions is not the presence of citizens in the places in which decisions are taken (direct or in streaming as somewhere promises), but rather the fact that elected institutions and elected representatives, every level public administrators can be judged by concomitant forms of control, by people, associations, companies using the tools of *Open Government* and total transparency[30].

In this way the *Open Government*, even in its germinal meaning still that emerges from the Italian legislation, contribute to change the traditional paradigm that has initially focused on the election, then even on the instruments of direct participation, the mechanism of control of public institutions[31].

The control and the participation of citizens in decision-making through administrative bidirectionality become so concurrent with the political action and administrative institutions in a sort of interactive system of which social control becomes an integral part, and

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[29] Presidency of the Council of Ministers and Ministry of Simplification and Public Administration*, Open Government Partnership National Action Plan 2014/2016*, December 2014, in http://www.euroinfosicilia.it/programmazione-20142020/open-fesr-percorso-di-consultazione-pubblica-online/.

[30] Italy has increased number of datasets catalogued in the portal (www.dati.gov.it): although the portal increased the number of datasets however, the total number of datasets available is still limited.
See Open Data Institute and the World Wide Web Foundation, Open Data Barometer: 2013 Global Report, by Tim Davies (Report, United States, 2013), http://bit.ly/1c5qnLe

[31] *Open Fesr – Final Report*, July 30th 2014, *Consultazione on line sul Documento di Programmazione FESR 2014-2020,* Formez PA.

not external or assigned to a specific phase of a procedure to progressive formation[32].

Thus, it deals with making the institutions growing that set in motion the judgment on decisions and decision-makers next to political participation in the decisions of a 'government by discussion', because the demand for publicity or transparency and the election of representatives (representative democracy is still the only chance) are the only political rights that citizens continue actually to enjoy (Urbinati, 2013).

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[32] LATHROP D. and RUMA L., *"Open Government. Collaboration, Trnsparency and Participation in Practice"*, Mountain View, California, 2010.

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Appendix: Documentary Sources

Open Government Partnership National Action Plan 2014/2016

Table of contents

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Introduction

The Open Government Partnership (OGP) is a Governments' multilateral initiative for the promotion of innovative policies aimed at making public institutions more open and accountable through transparency in the public sector, the fight against corruption and the implementation of participatory democracy principles. The OGP was established in 2011 and in three years it has grown from 8 to 64 members: Governments, by signing the declaration on open government, commit to implementing the OGP objectives through initiatives, summarized in an Action Plan whose content is established through a participatory process with civil society.

Italy joined the OGP with a letter by the Minister for Public Administration and Simplification on 5 September 2011. The DPA - Department for Public Administration coordinated public institutions involved in the Digital Agenda program and presented the 1st Italian Action Plan on the occasion of the OGP Ministerial Meeting held in Brasilia (17-18 April 2012).

The open government actions foreseen in the first Action Plan included measures for transparency, integrity, open data simplification as well as actions to support collaboration and public involvement in the implementation of public policies. In April 2012, an online consultation on the document was launched. All the comments were analyzed with a view to improving the implementation of the Plan and presented at the 3rd European OGP meeting held in Rome on 10 December 2012.

In September 2013, the Italian public administrations drew up and published a self- assessment document on the implementation of the commitments undertaken within the

framework of the OGP. Italy, as all OGP member Countries, set up a public consultation on the document. The text and the comments received were forwarded to the OGP Secretariat and informed the IRM — Independent Report Mechanism. On 10 February 2014, the IRM released the report on the state of play of Italy. The report was published on the OGP official website, on the DPA's website and on other institutional websites.

The actions of the Italian Government

The Italian Government has been implementing policies for a more open public administration within the framework of broader administrative modernization policies and the digital agenda program for several years. The objective is to increase efficiency and effectiveness of public sector activities, supporting the integrity of institutions and thus improving the relation between PA and citizens by increasing their confidence.

On 22 February 2014, a new government officially settled in and Matteo Renzi, the Prime Minister, during his inaugural speech made a clear reference to issues such as transparency, accountability and open data. One of the first measures taken was the public opening of the SIOPE database (an information system on the transactions made by government bodies) for anybody to be able to check receipts and payments of all public institutions. Several references to open government measures are also included both in the 2014 NRP - National Reform Program and in the new Public Administration Reform that was the object of a public consultation on its 44 main points last May.

In particular, open data policies are central in two documents submitted by AgID — Agency for Digital Italy, in the year 2014: the National Agenda for the Enhancement of Public Information and the National Guidelines for the Enhancement of Public Information. Both of them have been carried out in cooperation with public authorities and in response to specific requests from civil society with the purpose of improving the quality of released data and, especially the guidelines, to provide technical guidance to facilitate interoperability, comparability and re-use of data.

The OGP main challenges and basic principles also

underpin the policies and strategies established by the government in the Italian Digital Agenda that sets measures for the growth and development of economy and education, based on the adoption of extensive digital tools and processes, both in the private and public sector. Thus it establishes the basic rules and laws, for example, for a digital citizenship based on the delivery to citizens of a identity and a digital domicile to have online access to public services, on a wide availability and interoperability of databases on general government digital transformation, education, health and justice. In all these areas the AgID has contributed with its technical regulations, guidelines and projects in collaboration with other administrations.

The regulatory and legal basis for a digital citizenship was laid down. Citizens will be provided with digital identity and domicile and will have online access to public services, to a wide range of available and interoperable PA databases, to digital education, justice and health services. AgID made its contribution to all these innovations with guidelines, technical regulations and a number of projects in cooperation with other administrations.

The OGP 2nd Action Plan drafting process

The 2nd OGP Action Plan is the outcome of a process of collaboration and participation where representatives from the DPA - Department for Public Administration, the AgID - Agency for Digital Italy and the A.N.AC. National Anti-corruption Authority, exchanged experiences and worked with civil society representatives for the preparation and drafting of the document.

On 7 October 2014, the DPA hosted a Focus group with civil society where CSOs representatives and the administrations involved discussed the objectives to be taken into account: they gathered ideas, views, suggestions and identified problems in the areas concerned. The thematic areas of the discussion were: Participation, Transparency, Technological Innovation, Integrity and Accountability.

Then, the Focus group participants continued to work together through Google docs. The discussion about possible actions as well as the elements emerged during the meeting were taken into account when preparing the first draft of the Plan.
The draft was published online and a public consultation was launched on the portal Partecipa!, from the 4 to the 21 November 2014, in order to receive feedback from stakeholders. The results of the consultation: 40 users who cast 174 votes and 60 comments.

A second meeting between civil society representatives and PA representatives took place on the 27 November 2014 at the DPA. The event was streamed online in order to have a wider participation. The discussion also focused on the

outcomes of the public consultation and led to the final drafting of the document. The 2nd OGP Action Plan was officially published in December 2014.

The process of involvement and participation of civil society will not end with the publication of the plan. Indeed, the discussion will also take place during the implementation phase of the actions described in the document and for the purpose of any update of the plan.

The actions

The commitments below fall into the following areas: participation, transparency, integrity, accountability and technological innovation. All goals are S.M.A.R.T. and therefore Specific, Measurable, Achievable, Realistic and Time-based.

PARTICIPATION

Action 1 – Partecipa!

State of play

Currently the level of citizens' participation and involvement by the PA for the definition, implementation and evaluation of modernization policies and for the development of services or works is low and uneven.

In the PA, the culture of participation is still immature, unclear about the aims and methods, with little understanding of the processes that need to be activated and of the available means for doing so. Basically, the current organization is inadequate to manage the processes of participation as part of the system and not as one-time events. It is appropriate, therefore, to rethink participation models taking into account the point of view of citizens/stakeholders and to develop participatory processes based on a circular approach, in contrast with the current unidirectional top-down approach and in the perspective of a shared administration.

General objective

Restructure and revamp the Partecipa! portal as a reference platform for processes of public participation, expanding the current context, limited to consultation, to the stages of monitoring the implementation and the evaluation of services/policies.

Create a single sign in system for the citizens who participate, so that they can follow the evolution of the initiatives in which they are involved and can also have a public structured space where they can make proposals to the institutions and administrations. Foster the management and dissemination of available applications, optimizing the use of civic media.

Specific objectives

» Restructure and revamp the Partecipa! portal as open front-end where you can:

o activate a public structured space to receive proposals and requests for administrations;

o set up a smart repository for all the participation processes, clustering the experiences on the basis of similarity, reuse, performance offered, best practices and collect the tools, the technical documentation, the methods, the guides, etc., to manage the consultation processes;

» set up a single sign in system for the citizens, with the option to subscribe to a newsletter and the possibility to receive automatic alerts on the progress of the initiative which they have participated in;

» create a repository of the civic open source applications and of the civic media that can be (re) used to build the consultation processes, with summary profiles and opportunity for comment by users.

PA responsible	DPA	Possible metrics
Other PA involved	AgID	Number of participation processes measured Number of civic applications measured
Implementation	June 2016	

Action 2 – Organize the PA for the participation

State of play: see Action 1

General objective

Organize the management of the participation processes (inform, consult, involve, collaborate), taking into account already existing experiences , establish guidelines shared with civil society and identify a center of expertise at the Prime Minister's Office. Develop skills and culture both for PA and citizens in order to manage and participate in the processes of participation, including through the use of open data. Ensure external monitoring on participation.

Specific objectives

» Define a policy document/guidelines for the participation processes of the PA to be tested by applying an iterative model and also through the analysis of the previous experiences of participation, so as to achieve a consolidated version of the document as a basis for a next update which restarts the cycle;

» implement a monitoring process with members outside the Administration to follow the participation processes since the definition of the guidelines;

» set up a central coordination, which spans over all the administrations and acts both as a network of exchange and sharing and also as a center of expertise for the dissemination and implementation of best practices on participation.

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PA responsible	DPA	**Possible metrics**
Other PA involved	AgID	Number of participation processes activated using the guidelines.
Implementation	June 2016	

Focus group with civil society on partecipation

On October 7, 2014, the first focus group between participating public administrations and civil society took place in Palazzo Vidoni, in view of the presentation of the 2nd Italian OGP Action Plan by December 2014.

The following public administrations participated in the event: DPA, AgID and A.N.AC. Ten representatives from civil society attended the event. The main aim of the meeting was to involve representatives of civil society in the preparation of the 2nd Italian OGP Action Plan.

Representatives of the DPA in the role of moderators from the public side, together with four representatives of the following associations: Cittadinanzattiva, Open Economics Working Group @OKFN Yourtopia Italy Project, World Economic Forum and Stati Generali dell'Innovazione - the latter in the role of moderators from NGOs -, sat around the table in the panel about participation.

Compared to the initial ideas proposed by the DPA, the discussion and debate led to identify a set of goals and objectives that have outlined a broad and complex framework of actions and opportunities to ensure the effective use of public participation at all stages of the processes of developing and implementing policies and activities such as conception, design, implementation, evaluation, monitoring.

An important element that emerged during the discussion was the urgency for the government to focus on participatory processes that are useful for citizens and stakeholders as each involvement process implies a cost for those who are part of it (in terms of time, effort, expertise

invested) and it itherefore crucial that the players involved can have an interest in terms of relevant content and feedback.

The need was also highlighted for the PA to allocate a specific budget for the participation initiatives that can not and must not rely solely on approximate and voluntary approaches both in terms of trained and skilled human resources and structural and functional economic investment.

In some cases, on the other hand, the shared objectives go beyond the time and functional horizon of this plan, as for the idea of creating a platform for popular legislative proposals, the implementation of which would require institutional actions that would be impossible to implement under this Plan or the creation of training programs for the PA on the processes of consultation and participation, which could become effective downstream the implementation of the second action "Organize PA for participation".

As for the proposal emerged to make it compulsory for the PA to appoint staff responsible for participation and implement openness policies for example through the mandatory use of the portal Participa!, it is not considered that the OGP Plan is the appropriate forum to achieve organizational changes that necessarily require different steps (eg. parliamentary) and to impose formal behaviours on PA.

A less formalistic and more substantial approach to the participation policies might be the most appropriate solution that, if well implemented and monitored, could lead to a similar result in terms of connection between the various participatory initiatives at central and local level, not on the basis of a constraint but of a tangible and real interest.

Transparency, integrity and accountability

Action 3 — transPArent + 1

State of play

Legislative decree no. 33/2013 renewed the entire legal framework on transparency. On the one hand, it sets forth the obligation for public administrations to publish on their own web site a relevant number of documents, information, data; on the other hand, it provides through the so called "civic access" ("accesso civico"), the right for anyone to ask for such documents, when the publication is omitted.

An empirical analysis carried out by A.N.AC. on public administration's websites showed that, a little over a year after the entry into force of the decree, a number of public administrations still have not fully implemented the accesso civico and have not fulfilled their publication obligations.

On 2013 A.N.AC. developed a web platform, the so-called "Communicate with Authority" ("Comunica con l'Autorità") with the aim of facilitating the communication between citizens and A.N.AC. This platform aims at raising the level of transparency in public administrations, through a campaign for citizens engagement and provides a concrete support to public entities in implementing transparency regulations. The platform has been operating in a pilot phase since March 2014.

The experimental use of the web interface allowed users to submit requests, reports, and proposals on transparency regulations and allowed A.N.AC. to acquire systematic and structured information on transparency levels

in public administration, enabling the creation of a valuable information asset.

The first six months of experimentation showed, from the very beginning, a wide use of the web platform. However, the pilot project also revealed the limits of the current data acquisition and management process that could be enhanced by an automated management.

The automation is needed particularly in view of processing data in monitoring and preventing corruption activities and in the reporting on the activities and the outcomes of A.N.AC.

General objective

The initiative, called "trasPArenti+1" aims at promoting and fostering the active participation of citizens in the A.N.AC. monitoring activity. This initiative has two main purposes: it aims at spreading the use of accesso civico by public entities and increasing the efforts to enhance transparency, as total accessibility to all information on institutional websites of public administrations (Legislative decree no. 33/2013, articles 1 and 2).

Specific objectives

In order to attain the objective, we need to reengineer the citiziens' communication web interface "Communicate with A.N.AC." through specific actions aimed at:

» enhancing the functionality, simplifying the front-end interface data acquisition and their quality (participatory supervision);

» strengthening external communication tools online;

» developing the backend functionality, creating a platform for the internal management and processing of data (database), which enables:

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o   to interpret – for corruption prevention purposes - all the information obtained also on the basis of corruption risk indicators that can be possibly identified by the Authority with reference to specific areas of activity of public administrations;

o   to report externally (web publication) the results of supervisory activities operated by the citizen (accountability);

o   encourage the use by citizens of the tool accesso civico through appropriate awareness-
raising and civic monitoring initiatives jointly developed with civil society organisations.

PA responsible	A.N.AC.	Possible metrics
Other PA involved	None	In order to monitor the satisfaction level and participation in the initiative, a counter is intended to be used as possible meter. Such meter should be able to identify the "single" users who access the communication web interface and use it for forwarding reports, questions and proposals.
Implementation	June 2016	

Action 4 — Open Data Portal

State of play

In Italy the dissemination of data produced by the State is still limited and, in the various administrative areas, it is based on extremely variable rules and practices.

The quality of published data is generally low and the possibility of their reuse is often undermined by the use of non- open formats and licenses that do not allow for their re-use for commercial purposes.

Although there are not regulatory barriers, public authorities find it difficult to publish open data (and update them).

General objective

The aim of this action is to boost transparency of administrative actions and foster the open data economy through the following activities:

a) reinforcing the National Open Data Portal dati.gov.it. Firstly, the number and quality of datasets published on the national portal will be increased, through the release of all data mentioned in the National Agenda 2014 for the enhancement of public information resources ; the portal will also host the catalogue of the applications developed through the re-use of PA open data;

b) publishing the most important data for citizens and businesses. In parallel, a public consultation open to citizens and businesses will be launched in the portal dati.gov.it ; it will be open to citizens and business for the identification of further information to be released in addition to those already provided by the National Agenda. The future

versions of the National Agenda will include the results of such consultation;

c)   hackathons and contests will be organized to promote the reuse of published data. These will involve specific categories (students, associations, startups) or will be thematic (data concerning food, traffic, public expenditure, etc.). A national contest will also be organized to reward the best applications developed using data from the portal.

The action is in line with similar international initiatives, for example the G8 Open Data Charter signed by Italy in 2014.

AgID shall take all necessary actions to provide standards for the creation of qualitative PA open data.

Specific objectives

» For citizens:
a) greater transparency;
b) possibility to use innovative online services;
c) improved quality of life.

» For companies:
a) availability of open data to develop goods and services;
b) greater transparency;
c) possibility to use innovative online services;
d) simplified relations with the PA.

» For PA:
a) rationalization of expenditure;
b) encouraging the reuse of open data;
c) greater confidence;
d) increase of productivity.

PA responsible	AgID	**Possible metris**
Other PA involved	AlI	Achieving the objectives of the National Strategy for the Enhancement of Public Information.
		Access to and e-use o the dataets published by administrations, citizens and businesses.
Implementation	All December 2015	Publication of the datasets foreseen in the Agenda for the enhancement of public information.
		Number of datasets published and downloaded.
		Number of publication requests submitted by users.
		Number of applications developed reusing public datasets.

Action 5 — follow the money (SoldiPubblici)

State of play

The traditional operating budget is not enough to explain the actions taken by public administrations to citizens.

Economic and financial data are not easy to understand and do not explain PA's work and results to citizens: they are mainly interested in understanding how the administration implements its mandate, what are the policy priorities and the real objectives, the expected performance levels and, above all, the impact of its actions.

Fiscal transparency is one of the cornerstones of the pact between governments and citizens, governments of different countries, banks and businesses, at the international level. The availability and provision of information about how and from whom public resources are collected and how they are really spent are principles generally provided by the law. However, there is an increasing demand for publishing such data in a more comprehensible way on official websites, in open format and as detailed as possible.

General objective

Improving data usability; establishing communities for data reuse; communication and awareness-raising initiatives, and training for data reuse:

» for citizens: a) greater transparency; (b) possibility to have a better understanding of public expenditure (c) possibility to be involved in participative budgeting initiatives;

» for public administrations: a) rationalization of expenditure; b) encouraging open data reuse; (c) greater confidence; d) possibility to compare expenditure with other administrations.

Specific objectives

SoldiPubblici (temporary name of the initiative): a web platform to monitor and analyze financial information from public institutions such as budgets, expenses and contracts.

An open dataset which provides greater transparency and understanding of how public money is spent through a graphic representation of data and their processing. All the platform material will be released in open data format and open content. It will be mainly provided through open tools and available under an open license.

In particular, the site will allow citizens to:

» interrogate public administrations expenses using the SIOPE database;

» interrogate central administration expenses;

» display and interrogate local public administrations' budget according to a uniform ranking;

» explore the timeframe of spending with different levels of aggregation;

» download the datasets of interest in an open format;

» display charts and benchmarking indicators.

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PA responsible Possible metrics		AgID
Other PA involved	NONE	Access to the platform and information sharing.
Implementation	December 2015	Reuse of published open data. Single users and accesses. Number of sharing of published information. Database searches and displays. Datasets downloaded. Number of developed applications that reuse published open data.

Focus group with civil society on transparency, integrity and accountability

On October 7, 2014 the first focus group meeting between public administration and civil society took place in Palazzo Vidoni, in view of the presentation by December 2014, of the 2nd Italian OGP Action Plan.

The following public administrations participated in the event: DPA, AgID and A.N.AC. Participants from civil society were between 10 and 15. The main task of the meeting was to involve representatives of civil society in the preparation of the 2nd Italian OGP Action Plan.

Representatives of A.N.AC. in the role of moderators from public sector, together with four representatives of the following associations: CAN, Cittadinanzattiva, RISSC and Stati Generali dell'Innovazione, participated in the panel "integrity, accountability and transparency".

Based on a shared methodology, the panel set a number of goals to be pursued in the field of transparency.

In particular, the need to start an initiative aiming at increasing transparency levels of public administration websites was stressed. Such initiative should ensure the widest participation of civil society, also by means of specific monitoring sessions, and provide a mechanism of shared monitoring (*vigilanza partecipativa*), to strengthen the tools, which are provided for under the current legal framework.

The discussion panel accepted the request coming from civil society regarding the possibility to present the outcomes of the monitoring activity:

»to the public, through aggregated reporting, which

should be clear and easy to understand also by using information graphic tools;

»to individual users, with a tracking function which updates the stages of the user's request in real time.

In the field of transparency, a discussion was also carried out on the initiative "*Portale open data*". Some goals to be pursued were highlighted, namely for data classification on the basis of their quality, open meta-data availability, and a function to monitor data updates.

As regards accountability, participants in the Panel, discussed, amongst others, the initiative "*BilanciAperti"* and highlighted some aspects and goals to be pursued, such as the standardisation of budget items, the involvement of ANCI, the association of Italian cities, and the implementation of graphic information with benchmarking functions.

TECHNOLOGICAL INNOVATION

Action 6 – Digital Citizenship

State of play

Existing authentication, payment, invoicing and registry services rely on decentralized heterogeneous systems which are scarcely interoperable and still heavily use paper. While the working life and personal relations of citizens take often place in the web using digital tools, the persistence of traditional analogic modalities in administrative interactions hinders economic development, leads to less and less sustainable costs for the State and appears to citizens as being in contrast with the evolution of society.

General objective

This action aims at providing citizens and businesses with the main tools needed to digitally interact among themselves and with the State. In addition to the goals of effectiveness, efficiency and cost- effectiveness, the goal is to obtain greater transparency in administrative processes, especially in those involving payments, and more generally to promote the evolution of citizenship towards the digital dimension.

The workshop "*Government as a Service*" will effectively help pursue this goal. The project will develop low-cost advanced cloud services and gradually provide them to all public administrations, partly using EU funds.

A single modern and user-oriented portal relying on the best international practices is indispensable to rationalize the supply of digital public services and drastically reduce their cost.

» For Citizens: a) more user-friendly digital services; b) availability of innovative online services; c) improved quality of life.

» For Businesses: a) simpler payments; b) greater transparency; c) availability of innovative online services; d) simplified relation with PA.

» For Public Administrations: a) simplification of processes b) better services through data analysis; c) greater confidence; d) encouraging the use of digital services.

» For everybody: reduction of transaction costs for public services and increase of digital skills.

Specific objectives

» Providing citizens with user-friendly tools to access online services.

» Reducing costs for PAs when providing digital services.

» Simplifying the online service delivery process.

» Encouraging citizens and Administrations to use digital tools for delivering services.

» Ensuring security and lawfulness of online services.

» Gradually enhancing the availability of online services delivered by PA.

» Making electronic payments available.

PA responsible	AgID	Metrics
Other PA involved	None	Transaction costs / back office costs for PAs / administrative costs for businesses. Services' adoption rate by citizens and businesses.
Implementation	June 2016	

Focus group with civil society on technological innovation

On October 7, 2014, the first focus group between participating public administrations and civil society took place in Palazzo Vidoni, in view of the presentation of the 2nd Italian OGP Action Plan by December 2014.

The following public administrations participated in the event: DPA, AgID and A.N.AC. Ten representatives from civil society attended the event. The main aim of the meeting was to involve representatives of civil society in the preparation of the 2nd Italian OGP Action Plan.

The representative from AgID took part in the debate on "Technological Innovation" and acted as moderator for the public side. Two other representatives from civil society were also involved.

Based on a shared methodology, the panel agreed on a number of goals to be pursued:

» merge all municipal population registries into a single system (ANPR);

» make a significant number of online public services accessible using citizens' public identification credentials;

» implement the Public Digital Identity System (SPID) as early as possible;

» switch off services which are not yet digital. The panel also identified some criticalities which were not included in the draft plan because they are not in line with

the scope of OGP: limited diffusion and use of Certified E-mail (PEC), lack of resources to develop digital infrastructure and the skill level of users/citizens.

An additional critical factor identified is making PA systems more interoperable.

Open Government Partnership Italian Action Plan

1. Introduction

Over the last few years, Italy has undertaken a comprehensive process of administrative modernization with a view to enhancing public service provision, touching upon the main aspects concerning Public Administration - PA transparency and citizen participation in public decision-making, through measures aimed at promoting accountability and organizational performance. Among the main actions to support promotion of economic development and growth, the Italian Government attaches special importance to systemic simplification measures, as well as promotion of use of new information and communication technologies that will result in a radical change in the relationship between PAs and citizens and business.

In line with the new reform programme, Italy has fully embraced the principles enshrined in the *Open Government Declaration*. The Minister for Public Administration and Simplification, in coordination with Ministers and public authorities involved in such programme of administrative change and within the framework of the common Open Government Partnership exercise, presents the *Action Plan* with the aim of sharing a full exchange of information with its international partners, while launching a lasting mutual updating process on the respective relevant policies in the field of PA transparency.

Over the last few months, against a backdrop of a wide-ranging reform programme to overcome the difficult

economic situation, the newly-established Italian Government has adopted a set of significant legislative measures to achieve the above-mentioned targets of administrative modernization: Law-Decree n. 201/2011 (so-called "Save Italy" Decree, "*Decreto Salva Italia*"), Law-Decree n. 1/2012 (so-called "Make Italy Grow" Decree, "*Decreto Cresci Italia*"), as well as Law-Decree n. 5/2012 (so-called "Simplify Italy" Decree, "*Decreto Semplifica Italia*").

The reformed sectors include:

- Civil Service Sector, with measures to ensure top-quality performance while making the most of professional skills and abilities.
- Recruitment, training and professional status of civil servants, with key principles such as professional competence, merit, impartiality and public ethics at their core;
- Reorganization of administrative structures and machinery, so as to ensure a better functioning and provision of services while reducing inefficiency-related costs;
- Transparency, accountability and organizational performance;
- Reduction of administrative burdens for citizens and business, with sound simplification policies implemented in light the results of cost measurement of the requirements for citizens and business set forth by the existing legislation.

Throughout its mandate, this Government will adopt a working method focussed on consultation and involvement of business and citizen associations, also through telematic consultation in line with the European model. Additional packages of legislative measures to favour simplification and fight against corruption to ensure tangible results for citizens and business are currently under examination.

Transparency is not only a right of citizens and business, but also an opportunity for the administrations

themselves, as the latter have to account not only for "what" they do but also for "how" they do by ensuring accessibility of data on organization and staff, services, payments, as well as performance measurement and assessment. Moreover, PA's commitment to transparency and accessibility will provide a useful tool to better identify areas in need of reform, rationalize resource allocation, identify areas to implement anti-corruption and simplification measures and to promote a competitive exchange between public entities.

After the first decisive PA reform in 2009 (Legislative Decree n. 150/2009) to support PA efficiency, merit and integrity, transparency was defined as "total accessibility", by reinforcing the provision of information of general interest to citizens and business, while developing the *open data* set.

In Italy, the definition of a unitary National strategy on Open Government *benefited from many good practices previously carried out at regional and local level. The first national Open Government Strategy was submitted by the Minister for Public Administration and Innovation on October 18, 2011. Such strategy was mainly centred on three main axes:*

- *Open data* and applications

- Public Administration 2.0

- *Government Cloud*

On the same occasion, the Government also launched the National Open Data Portal www.dati.gov.it.

2. Open Government initiatives

The main *Open Government* initiatives realized so far can be divided into five areas of action.

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2.1. Initiatives in the area of PA transparency and integrity

The most significant, comprehensive reform action concerning Public Administration (the above-mentioned Legislative Decree n. 150/2009) incorporated the principle of transparency among the civil and social rights which, according to the Constitution, have to be guaranteed to citizens throughout the whole national territory.

The same Law, against a backdrop of a stricter respect of transparency and accountability principles, sets up the **Independent Commission on Evaluation, Transparency and Integrity of Public Administrations** (**CIVIT**). Among its main institutional purposes, CIVIT promotes and disseminates transparency within administrations, while developing actions which support the culture of integrity. Since its installation in office (December 22, 2009), the Commission has been operating in three areas falling under its remit (transparency, performance, service quality) by elaborating a set of guiding lines for the preparation and updating of the three-year Programme for Transparency and Integrity, while providing guidance on and coordinating implementation by administrations of the measures set forth by new legislation.

Currently, at the National level, most administrations have adopted the three-year Programme for Transparency and Integrity, which specifies timing and publication of "public" data and identifies initiatives related to transparency and integrity. Many administrations have also appointed internally a professional responsible for Transparency who coordinates preparation and updating of the three-year Programme; also, almost all public authorities have set up the section on "Transparency, Assessment and Merits" where easily comparable and revisable data related to the organization, the activities and use of public resources are

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made available to citizens. For the sake of a higher simplification and usability of data by citizens, CIVIT has also provided a list containing disclosure obligations, while requiring publication of the three-year Programme and data in at least one open and standardized format.

Already in 2008, the Government had launched an important process of dissemination of data on civil servants (the so-called "**Transparency Operation**"), under which each administration is required to communicate to the Department for Public Administration and/or to publish on-line:

- tasks entrusted to employees, consultants and external collaborators;

- data on consortia and companies which are either public entities or entities where the State is a shareholder;

- posting, leave of absence and time off for unions activities and elective public offices;

- striking personnel and deductions from salary in relation to strikes;

- time off for public servants assisting disabled relatives;

- *resumes*, remunerations and address details of managers, rates of absence and rates of higher presence of staff members posted to managerial offices.

All information is subject to periodic disclosure on the website of the Department for Public Administration.

Such reform also lead to the introduction of forms of user, citizen and business consultation and participation, so

as to ensure a better measurement and assessment of PA organizational performance.

The implementation of Open Government-related policies also includes enhanced anti-corruption policies, carried out by the Department for Public Administration through the **Anti-Corruption and Transparency Service** (**SAET**). In December 2011, the Minister for Public Administration and Simplification set up an *ad hoc* **Committee** to analyse and prepare proposals **on the issue of transparency and prevention of corruption** within Public Administrations. The aim was to provide, in a timely fashion, a series of guidelines for a package of measures to support PA actions in the fight against corruption, including through enhanced transparency. These include:

- measures to protect whistleblowers;
- the relaunch of codes of ethics;
- rules to better manage conflict of interest cases.

In Regions benefiting from EU cohesion and development policies (Calabria, Campania, Apulia and Sicily Regions), a series of *risk assessment* actions have been launched and a set of matrices have been developed, based on probabilities and damage stemming from highest ethical risks in the field of Public Procurement and Health. PA's inclination to transparency was measured with the **Transparency Barometer**, a self-diagnosis tool which gathers 90 items related to verifiable evidences and facts.

2.2. PA Simplification through participation

Consultation methods are a key tool for effective simplification policies. Indeed, dialogue with service users enables to identify bottlenecks in public administrations and to lay down solutions for change. Participation and

consultation strategies are therefore promoted to support simplification policies through various channels:

- the first channel relates to the promotion of permanent consultation platforms: the initiative called "**Halt Red Tape**" ("*Burocrazia: diamoci un taglio*") is a permanent tool for consultation allowing citizens and business alike to report cases of red tape and to propose a solution to fix it. Such a consultation programme was launched at the beginning of 2010: many of the resulting proposals, following an assessment by the Department for Public Administration, have become legislative rules or administrative provisions aimed at streamlining the relationship between PAs and citizens (PA payment system, identification documents renewal system, services for people with disabilities, etc.);

- the second channel has to do with relevant stakeholder participation in simplification policy drafting. The most significant experience relates to the **Programme on administrative burden measurement and reduction for 2010-2012**. Thanks to a methodology shared with European partners, such a programme enables measurement of administrative costs for business and citizens by enhancing participation of representative associations; such methodology (*standard cost model*) provides for stakeholder consultation throughout the whole process. Due to the success of this participatory approach, the Parliament decided to extend it to Regions and local authorities, as well as to independent administrations.

2.3 Engaging citizens

The promotion of citizen participation, including via the involvement of civil society organizations and user care to enhance public policies and services and to promote and increasingly open, transparent and cooperative governance, feature prominently in the national agenda. More specifically,

the Italian Government set up a series of initiatives in these areas with a view to enhancing public service quality, citizen and user relations as well as PA's accountability:

- **Linea Amica** ("Friendly Line") is a nation-wide citizen care service based on a multi-channel approach. It combines the contact center's telephone service with the "Italians' Portal" web service. *Linea Amica* provides solutions to citizen problems through an encyclopaedia of questions and answers, the online service directory, the address book of public administrations and a review of enforceable rights. It also integrates open data with smartphone apps.

- The initiative called **Mettiamoci la Faccia** ("Put your face to it") was designed to regularly review - via the use of emoticons - user satisfaction on delivered public services, both at public offices and through other channels (telephone and the web). Such initiative was launched in 2009. Today, it has a network of almost 1000 member administrations, with over 750 seats and over 3000 public offices throughout the national territory.

- The **Migliora PA** Project ("Enhance PA") aims at promoting a customer satisfaction approach and customer satisfaction management tools in Convergence Regions, with a view to improving these administrations' capacity to manage user satisfaction while enhancing their performance and increasing service quality

- The **MiaPA** Initiative ("MyPA") is the PA's social check-in which, via a smartphone, allows users to find the closest public office, to state their level of satisfaction and to leave a comment on the service received. Launched in 2010, on the basis of a totally "open" approach, it uses open data of the Friendly Line address book;

- The **pilot experience of citizen assessment of services**, launched in 2009 in cooperation with *Cittadinanzattiva* (Active Citizenship). The Initiative was designed, on the

one hand, to increase the opportunities for citizens to have a say in assessing service quality - not only in their capacity as sources of data but also as subjects able to autonomously produce information and grounded judgements - and, on the other hand, to allow experimentation of such citizen monitoring as a tool to support strategic programming and management of Public Administration, so as to evaluate the real quality of public service delivery.

2.4 Open Data

The disclosure of Public Sector Information (PSI) is a dynamic and sustained process benefiting from a pool of national, regional and local initiatives. **The Portal www.dati.gov.it***, which publishes the dataset catalogue and the smartphone app catalogue, highlighted an exponential increase in open data in six months only. This is especially due to the activities of some administrations acting as a driving force: the Italian Statistical Office (ISTAT,* Istituto nazionale di statistica*), the Italian Institute for Social Security (INPS,* Istituto nazionale per la previdenza sociale*), the Piedmont and Lombardy Regions and the Regions of* Emilia Romagna *and* Veneto*, the Provinces of* Lodi *and* Trento *and the Municipalities of Florence, Turin and* Udine*.*

The opening up of data is being supported, via dati.gov.it, through several tools and initiatives:

- the **open data guidelines**, which provide guidance on legislative issues, how to open a dataset, technical aspects and useful description rules for the national catalogue;
- weekly **online seminars** (**webinars**) to introduce, analyse and present relevant experiences;
- the definition of and support to the adoption of the **Italian Open Data License** (**IODL**);

Apps4Italy, a contest to promote open data reuse through applications and creative data processing.

2.5 Open cooperation: Public Administration 2.0

Italian PA's participation has a record of concrete experiences. The use of 2.0 tools itself is often based on a one-way communication.

With a view to promoting growth through a shared model, a **Handbook for PA 2.0** *provides an introduction on participation and social networks within the PA. The Handbook contains recommendations to map out participation in social media, as well as regulatory effects and customer care and participatory tools. The Handbook is included in the Guidelines for website quality.*

*Furthermore, the Department for Public Administration, within the framework of a comprehensive environment for knowledge management (***Cloud4PA***), identified and funded the creation of tools and environments to facilitate active citizen and civil servant participation:*

- **ParteciPA**: participatory tools based on sharing and assessing ideas (*Ideario*, a diary of ideas) and regular comments on documents (*Commentario*, a diary of comments);

- **WikiPA**, a cooperative encyclopaedia on PA terminology based on Wikipedia's editorial model and software;

- **InnovatoriPA**, an environment for social networking and best practice sharing dedicated to professionals in the field of PA innovation: a complementary platform to the more famous social networks.

Furthermore, there is a **wealth of public consultation examples**:

• National Authority for the protection of personal data;

• Department for Public Administration – Department for Digitalization and Innovation: Consultation on website quality;

• Authority for Communications (AGICOM): public consultation on provisions concerning the exercise of powers by the Authority in protecting copyrights on electronic communication networks.

• Ministry of Health: towards a National Action Plan of rare diseases;

• Ministry of Education, University and Scientific Research: Consultation on the legal value of academic qualifications, with an analysis of results through semantic analysis softwares.

On the *Linea Amica* Portal, a set of actions aimed at enhancing citizen **crowdsourcing** were designed to improve information on the address book of Public Administrations and schools.

New commitments

Italy's commitments as set forth by this Action Plan are fully in line with the above policies and initiatives.

As far as open data are concerned, commitments to the Open Government Partnership mainly draw on the **Government's Digital Agenda**, as laid down by article 47 of the "Simplify Italy" Decree.

Governance of the Digital Agenda is entrusted to a Committee composed of all relevant Ministries and it will be identified, by June 2012, in a strategy document and with ad hoc regulations ("*DigItalia*" Decrees).

Against this backdrop, the following actions will be undertaken.

3.1 Ethics, Transparency and Participation

- **The Transparency Portal**. The portal will be realized and administered by CIVIT in cooperation with DIGIT PA. As provided for by the Law, it will contain PAs' performance plans and reports. Moreover, it will make information available as regards administrations' strategic and operational objectives, alongside information on relevant indicators, targets, stakeholders (leaders and contributors) as well as on the results achieved. Deviations from standards and the reasons for not achieving set targets will be indicated too. The Portal will also contain the full texts of the three-year Programmes for transparency and integrity. As for these Programmes, the Portal will display data which could prove to be useful to assess completion rates in terms of publication of mandatory data and information, together with an analysis of deviation from standards set forth by the Programmes themselves. Finally, the Transparency Portal, once consolidated, will have to contain quality standards of services provided to external users (citizens, business, etc.) by each administration. For each service, it will indicate standards concerning the various dimension of service quality (accessibility, transparency, timeliness, efficacy). With a view to ensuring a better data readability by citizens, we will also set up a reporting system. Such a system will result in an open dataset, to be published on the relevant Portal.

- **Approval of a more efficient regulatory framework to prevent and fight against corruption within**

PA, to ensure better market conditions for competition while promoting a reduction of public spending. Draft legislation provides for mandatory implementation of anti-corruption plans by all administrations, with the coordination of the Department for Public Administration, the designation of a person in charge of corruption prevention, the enhancement of a widespread network on the territory (namely Prefects) as a tool to support and provide information to local authorities and acting as an intermediary between the latter and the National Anti-corruption Authority.

Other provisions concern awards and anonymity for individuals reporting crimes against Public Administration (**protection of whistleblowers**), a rotation system for officials working in high-risk sectors, new incompatibility provisions and a better management of conflict of interests, enhanced transparency on assets of PA managers.

• Setting up by the Ministry for Territorial Cohesion of an **information system on the status of actions falling under the unitary regional planning (EU structural funds, national development and cohesion funds**). We will therefore anticipate a Community regulation (which will become compulsory for the 2014-2020 programming period) requiring administrations to combine – for each measure undertaken - expected results with relevant indicators in terms of quality of life of citizens. By way of an example, results will be measured in terms of reduced travel time for travellers - and not kilometres of new railways – and knowledge acquired by students according to systematic survey methodologies instead of hours of training provided. This will entail a widespread and conscious evaluation on the side of beneficiaries.

• The "Simplify Italy" Decree (early 2012) introduced an additional programme that confirms the commitment to **cost measurement and reduction by consultation with citizens and business up until 2015**. Consultation of relevant categories, besides simplifying existing regulation, also serves the purpose of streamlining future regulations: the

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Statute of Businesses (approved by Parliament at the end of 2011) provides for consultation of stakeholder organizations also in respect of new legislation in terms of ex-ante assessment of red tape impact of new regulations.

- Launch of the Initiative "**How to ...**" (*Come fare per...*) which promotes transparency on PA's websites in respect of all information on service provision and administrative procedures. A Directive of the Minister for Public Administration and Simplification (expected for the first half of 2012) will indicate publication modalities - in a dedicated section directly accessible from the homepage of each administration (identified by the logo "How to...") - of explanatory detailed sheets on relevant services and proceedings. Citizens will be provided with direct access to each administration, thereby avoiding first-hand information procedures ("how to obtain that specific document?").

- Promotion of implementation of Legislative Decree n. 150/2009, which provides for a quantitative and qualitative development of relations with citizens, stakeholders, users and service beneficiaries, with particular emphasis on citizen empowerment initiatives aimed at increasing quality of interaction and dialogue among citizens, stakeholders and public entities.

3.2. Open data, promotion of social innovation and e-gov

Since late 2011, Italian projects on open data continue to flourish both nationally and locally. With a view to enhancing and supporting such a positive trend, the Government commits to:

- amending national legislation to incorporate provisions to **facilitate publication and re-use of public data**,

including through the definition of automated processes (eg. "open by default");

• **enhancing the National Open Data Portal www.dati.gov.it**;

• **promoting National standards for open data**, to be defined in line with the perspective pan-European open data portal;

• Promoting an annual **National contest for creative re-use of public data**.

Another objective is to ensure the creation of intangible infrastructures entailing the realization of projects to improve citizen quality of life in urban contexts (*smart cities*) and widespread communities (*smart communities*):

• Preparation of the **National Plan for *smart communities***;

• Consultation with citizens in respect of new policies and new legislation;

• Enhanced participation and cooperation in territorial innovative actions;

• Opening up of new areas for public service development and delivery.

Within the framework of this Action Plan, ICT infrastructure enhancement in Public Administrations is a key driving force for *open government*. In this respect, actions will be undertaken in the following areas:

• Regulation – **Implementation of the Digital Administration Code** and other e-gov regulations;

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- **Dissemination of e-gov tools** for companies and professionals alike;
- Infrastructure systems: electronic payment for PAs, online IDs, Certified Mail, digital signature, mobility services, Country networks.

- Cloud computing strategic Plan, creation of PA's data centers within a Public-Private Partnership (*Calabria, Basilicata, Molise* and Sardinia Regions).

4. Consultation and monitoring of the Plan.

This Action Plan was edited by the Department for Civil Service in cooperation with other relevant Administrations (Department for PA Digitalization and Technology innovation – DIGIT PA, Ministry of Education, University and Scientific Research, Ministry for Territorial Cohesion, Independent Commission on Evaluation, transparency and integrity of public administrations - CIVIT) and with the support of the Italian Centre for Studies and Training (FORMEZ PA). The Action Plan provides an overview of the initiatives undertaken in the area of Open Government and identifies its future main developments.

In compliance with the principles enshrined in the Open Government Declaration, consultations on the document were launched in April 2012 on the website www.lineaamica.gov.it. The Department for Civil Service undertook a first phase of consultation with a group of qualified referees (associations and representatives from training institutions, business and civil society). After a restricted consultation phase, the page was opened up, thereby providing the possibility to make observations on and read comments via a simple "click".

All comments have been and will be taken into account to improve or further integrate the Plan. Public consul-

tation will continue even after the *Open Government Partnership Annual Meeting* in Brasilia on April 17-18, 2012, so as to enable any update following the outcome of the Brasilia Conference.

EXECUTIVE SUMMARY

INDEPENDENT REPORTING MECHANISM (IRM):
ITALY
PROGRESS REPORT 2012-2013

Italy's action plan was highly ambitious and included several commitments with high transformative potential. Most notably, the commitments on open data have strong potential in the coming years. Italy can make progress on its commitments on transparency and anti-corruption by taking a more proactive role in adopting a comprehensive freedom of information law that meets international standards.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The Independent Reporting Mechanism (IRM) carries out a biannual review of the activities of each OGP participating country.

Italy officially began participating in OGP in September 2011 when the Minister for Public Administration and Innovation announced its government's intent to join.

The Department of Public Administration (DPA) and the Presidency of the Council of Ministers and the OGP in Italy. Although senior staff of the DPA coordinated the implementation of Italy's OGP commitments, other key government actors with their own budgets and mandates had a certain amount of discretion over the implementation of the milestones, including the Agency for Digital Italy, the Ministry of Economy, Innovation and Research; the Departments for Communication, and Economic Development and Cohesion; the Ministry of Economic Development, the Intervenient Commission for the evaluation, transparency and integrity of Public Administrations; the National Anti-Corruption Authority, and the Centre of Services, Assistance, Studies and Training for Modernising Public Administration (Formez PA).

OGP PROCESS

Countries participating in the OGP follow a process to consult their citizens during the development and implementation of their OGP action plan.

Stakeholders noted that Italy's OGP action plan was developed without public consultation. Although Italy's commitments consider the entire spectrum involved, a limited number of civil society representatives and open government advocates were invited to comment on the draft action plan. While government's commitments from the consultation on a website, none of the comments were incorporated into the final action plan. No multi-stakeholder forum was created, and no consultations were held on OGP implementation. According to the government's self assessment report, two public events and a multi-stakeholder meeting were organised during the implementation period.

The government published its progress report ten days late. After the report was published, a limited number of stakeholders were invited to post comments on an online platform.

AT A GLANCE

PARTICIPATING SINCE: 2011
NUMBER OF COMMITMENTS: 16

LEVEL OF COMPLETION

COMPLETED	9 OF 16
SUBSTANTIAL	3 OF 16
LIMITED	2 OF 16
NOT STARTED	1 OF 16

TIMING

ON SCHEDULE	1 OF 16

COMMITMENT EMPHASIS

ACCESS TO INFORMATION	9 OF 16
PARTICIPATION	3 OF 16
ACCOUNTABILITY	4 OF 16
TECH & INNOVATION FOR TRANSPARENCY & ACCOUNTABILITY	6 OF 16
NONE	1 OF 16

NUMBER OF COMMITMENTS WITH

CLEAR RELEVANCE TO AN OGP VALUE	5 OF 16
MODERATE OR TRANSFORMATIVE POTENTIAL IMPACT	13 OF 16
SUBSTANTIAL OR COMPLETE IMPLEMENTATION	4 OF 16
ALL THREE (✪)	4 OF 16

EXECUTIVE SUMMARY

COMMITMENT IMPLEMENTATION

As part of OGP, countries are required to make commitments in a two-year action plan. Table 1 summarizes each of Italy's commitments, including each commitment's level of completion, ambition, whether it falls within Italy's planned schedule, and key next steps. Italy's plan covered a wide variety of sectors and had a number of ambitious commitments, as evidenced below. Table 2 summarizes the IRM assessment of progress on each commitment. Italy completed three of its 16 commitments.

Table 1 | Assessment of Progress by Commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING	NEXT STEPS
✪ COMMITMENT IS (✪) CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS SIGNIFICANT POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE		
✪ 1. Transparency Portal. Make available performance plans and reports of public authorities, full texts of 2-year programmes for transparency and integrity, quality standards of services provided to citizens and evidence, set up a reporting system for better data readability.									Behind schedule	Further work unless implementation
✪ 2. Better Regulatory Framework against Corruption within the Public Administration: Reduce public spending through better competition; draft legislation to implement anti-corruption plans; and prevent whistle-blowers									Unclear	New commitment based on existing implementation
✪ 3. Information System on the Status of Actions Falling Under the Unitary Regional Planning. Establish information systems to make accessible public data on EU structural funds, national development and cohesion funds; evaluate their impact on citizens' quality of life									On schedule	New commitment
4. Cost Measurement and Reduction. Consult citizens and businesses on cost reduction and measurement.									Unclear	Further work
5. New to...Initiative to Promote Transparency on Public Authority's Website: Promote transparency on 47% uploaded of all information related to service provision and administrative procedures.									Behind schedule	Revision of the commitment to be more achievable or measurable
6. Quantitative and Qualitative Development of Relations with Citizens and PA Stakeholders. Enhance the implementation of Legislative Decree No. 150/2009 that seeks to improve relationships between citizens, stakeholders, and public entities.									Unclear	Realization of the commitment

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COMMITMENT SHORT NAME	POTENTIAL IMPACT			LEVEL OF COMPLETION				TIMING	NEXT STEPS
✓ COMMITMENT IS CLEARLY RELEVANT TO KEY VALUES AS WRITTEN, HAS SIGNIFICANT POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE		
6.7. Facilitate Publication and Reuse of Public Data: Amend national legislation on publication and re-use of public data.									Unclear	New commitment.
8. Enhancing the National Open Data Portal (www.dati.gov.it): Enhance the national data portal.									Unclear	Revision of the commitment
9. Promoting National Open Data Standards: Promote national standards for open data that are in line with the pan-European open data portal.									Unclear	Revision of the commitment
10. National Open Data Contest: Promote an annual contest on creative reuse of public data.									Behind schedule	Further work on basic implementation
11. Preparation of the National Plans for Smart Communities: Prepare a national plan for smart communities.									Behind schedule	Further work on basic implementation
12. Public Consultation on New Policies and New Legislations: Promote public consultation on new policies and legislation.									Unclear	Revision of the commitment so to be more achievable or measurable
13. Enhancing Participation and Collaboration in Territorial Innovation Actions: Enhance participation in territorial innovation projects.									Unclear	None: Abandon Commitment
14. Opening Up of New Areas for Public Service Development and Delivery: Open up new areas to develop and deliver public services.									Unclear	None: Abandon Commitment
15. ICT Infrastructure Enhancement in Public Administrations: Regulate existing e-government regulations, disseminate information on e-government tools, and develop ICT infrastructure in public administrations.									Unclear	Revision of the commitment to be more achievable or measurable
16. Cloud Computing Strategic Plan, Creation of PA Data Centres within a Public-Private Partnership: Promote public-private partnership for creating data centers and Cloud Computing Strategic Plan.									Behind schedule	Further work on basic implementation

EXECUTIVE SUMMARY

Table 2 | Summary of Results by Commitment

NAME OF COMMITMENT	SUMMARY OF RESULTS
☑ COMMITMENT HAS CLEAR RELEVANCE TO OGP VALUES AS WRITTEN, SIGNIFICANT POTENTIAL IMPACT, AND SUBSTANTIAL OR COMPLETE IMPLEMENTATION.	
☑ 1. Transparency Portal: • OGP Value Relevance: Clear • Potential Impact: Moderate • Completion: Substantial	Although the idea of a transparency portal was introduced in 2009, it was not implemented. Its inclusion in the OGP action plan portrayed it as the main tool to proactively disclose information relevant to anti-corruption efforts. The portal was developed and should have been operational by end of 2013. However, at the time of this report, the public could not access Italy's transparency portal.
☑ 2. Better Regulatory Framework against Corruption within the Public Administration: • OGP value relevance: Clear • Potential Impact: Moderate • Completion: Complete	This commitment's focus was the adoption of a new anti-corruption regulatory framework. A law on anti-corruption (Law No. 190/2012) was introduced in November 2012 to promote greater transparency in service delivery, public procurement, conflict of interest, and whistleblower protection... the new law was in place prior to the OGP, the commitment did not advance government practice. Stakeholders noted that the new law did not provide any incentives or protection for whistleblowers... public trust in government institutions. According to the IRM researcher a new commitment to introduce a new, comprehensive access to information law should be included in the next action plan.
☑ 3. Information System on the Status of Actions Falling Under the Unitary Regional Planning: • OGP value relevance: Clear • Potential Impact: Transformative • Completion: Complete	Although this commitment existed prior to the OGP, the 2012 launch of the Open Coesione portal became a benchmark for all government departments to develop a coherent open data policy. The Open Coesione portal provided the public access to detailed public data in open data formats and constantly updated information on over 800,000 projects funded by the national, cohesion policies and European Structural Funds. Further work is necessary to strengthen the impact and expand the scope of this initiative.
4. Cost Measurement and Reduction: • OGP value relevance: Clear • Potential Impact: Moderate • Completion: Limited	According to the government progress report, this commitment was achieved by setting up four specific online consultations. This consultation was largely carried out prior to the development of OGP's first action plan and were in line with Italy's EU obligations. Given the lack of specificity of this commitment, it was difficult to assess the progress made in improving participation and reducing... overall... assessment of Italy's first action plan, no relevant public consultations were organized.
5. How to... Initiative to Promote Transparency on Public Authority's Websites: • OGP value relevance: Clear • Potential impact: Moderate • Completion: Not started	Civil society representatives strongly disagreed with the government's progress report, assertion that the Legislative Decree No. 33 of 2013 introduced a comprehensive legal framework establishing general principles of transparency and provide full access to information about government activities. Transparency experts noted that Decree No. 33 is not equivalent to a freedom of information law. Further, it did not advance government practice as it is unsupported by measures like more amendments. In this commitment to make the public administration and bureaucratic systems and procedures more open to the public.
6. Quantitative and Qualitative Development of Relations with Citizens and PA Stakeholders: • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited	This commitment focused on improving interactions between citizens, stakeholders, and public entities. However, as written, it did not specify any measureable activities that could serve as evidence of its implementation.

NAME OF COMMITMENT	SUMMARY OF RESULTS
7. Facilitate Publication and Reuse of Public Data • OGP value relevance: Clear • Potential impact: Moderate • Completion: Complete	2 new legislative decrees harmonized regulations to disseminate information about government practices and made it easier to access and share data through an "open by default" principle. A government data must be released in open data format. Furthermore, open data is defined as data that can be re-used for commercial purposes and must be accessible free of charge.
8. Enhancing the National Open Data Portal (www.dati.gov.it) • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited	The text of the commitment is not specific enough to assess its implementation. However, stakeholders considered an open data portal to be one of the most important commitments. They suggested that the commitment should be revised and taken up in the next action plan.
9. Promoting National Open Data Standards • OGP value relevance: Clear • Potential impact: Transformative • Completion: Limited	In May 2013, pursuant to a legislative decree to ensure the adoption of digital technologies and open data standards across the country, the Agency for Digital Italy (AgID) issued technical requirements to publish databases of central national interest and to update them in compliance with international standards. However, stakeholders said they were not consulted on the matter. AgID also adopted national guidelines for "enhancing public information resources." The commitment was only partially implemented. The government self-assessment report confirmed this. The potential outcome of the guidelines remain unclear. Stakeholders agreed the need for a stronger commitment and the involvement of the private sector.
10. National Open Data Contest • OGP value relevance: Moderate • Potential impact: Moderate • Completion: Not started	This commitment focused on organizing a national open data contest. However, the commitment related prior to OGP. Although the government self-assessment report noted that several local authorities launched contests, they were autonomous initiatives and did not move government practice forward. The IRM researcher did not find any new evidence on launching a new national contest.
11. Preparation of the National Plans for Smart Communities • OGP value relevance: Clear • Potential impact: Transformative • Completion: Limited	This commitment embodied the potential to foster the OGP values of innovation and technology for openness and accountability. It focused on preparing a national plan for smart communities. AgID developed a plan 'Smart Communities' that featured that would enable information sharing, improve service delivery, and make access to technology equitable and affordable. However, stakeholders noted that significant effort were needed to develop, finalize, and adopt a national plan. No plan was adopted during the review period.
12. Public Consultation on New Policies and New Legislations • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited	A public consultation platform (partecipa.gov.it) was created. According to the government's self-assessment report, using this platform, several consultations were organized with citizens on new policies and legislation. Stakeholders noted that the platform was a positive step forward. They emphasized the need for clarity on methodologies, guidelines, and how policy makers can incorporate public feedback from such consultations. Because the consultations are largely online, going forward, the government must examine its relevance for all citizens, especially those who cannot get internet access. With this commitment, the government acknowledged the importance of public consultation. Therefore, it can significantly improve the quality of these outcomes by making public consultations more widely accessible.

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RECOMMENDATIONS

Several positive actions have been carried out in Italy after joining OGP. However, the overall context for implementing core OGP principles remains difficult. Based on the challenges and findings identified in this report, this section presents the principal recommendations.

1. **Raising awareness.** The government can make efforts to reach key constituencies, in particular organize in-person outreach initiatives at the regional and local levels to publicize Italy's OGP actions.

2. **Stakeholder engagement:** (a) include multiple stakeholders into the development and implementation of the next action plan, (b) create opportunities for engagement with the OGP process at the local level; and (c) establish a website dedicated to OGP and its relevance to different stakeholders.

3. **Consultation:** Provide advance notice for public consultations, establish a multi-stakeholder forum, and create other opportunities to gather public comments.

4. **Future commitments:** (a) The government can adopt new commitments to create opportunities for public participation in decision making processes; (b) improve citizens' access to information and introduce a more comprehensive proactive disclosure policy on government held data; (c) enhance anti corruption actions and ensure whistle-blower protection; and (d) improve availability and access to government data in open data formats.

ELIGIBILITY REQUIREMENTS: 2012

To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria in key dimensions of open government. Third party indicators are used to determine country progress on each of the dimensions. The OGP Support Unit converts the raw data into a four-point scale, listed in parentheses below. For more information, visit http://www.opengovpartnership.org/ howitworks/howtojoin/eligibility-criteria. Raw data has been rounded by OGP staff into a four point scale, listed in parentheses below.

BUDGET TRANSPARENCY:
Executive Budget and Audit Report
(4 OF 4)

ACCESS TO INFORMATION:
Law Enacted
(4 OF 4)

ASSET DISCLOSURE:
Senior Officials and Politicians
(4 OF 4)

CIVIC PARTICIPATION:
8.84 OF 10
(4 OF 4)

Andrea Menapace is a London-based lawyer, project manager and researcher. He has held a variety of positions in national and international advocacy organizations focused on governance and human rights, open government and access to information, transparency and accountability.

The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

EXECUTIVE SUMMARY

NAME OF COMMITMENT	SUMMARY OF RESULTS
13. Enhancing Participation and Collaboration in Territorial Innovative Actions: • OGP value relevance: Clear • Potential impact: Minor • Completion: Not started	The text of the commitment was vague, which made assessment difficult. Stakeholders noted the commitment lacked focus and a vision. The IRM researcher recommended attention being there and direct action toward a framework and other broad analysis.
14. Opening Up of New Areas for Public Service Development and Delivery: • OGP value relevance: Unclear • Potential impact: None • Completion: Not started	The government's self-assessment is silent on this commitment. Stakeholders noted the commitment lacked focus and a vision. As written, the commitment seems too vague and is unclear on how it will promote core OGP values.
15. ICT Infrastructure Enhancement in Public Administration: • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited	This commitment focused on technology and innovation to improve public service delivery. However, it was unclear how the proposed actions on online e-government regulations would directly improve openness and accountability of public administration.
16. Cloud Computing Strategic Plan, Creation of PA Data Centres within a Public-Private Partnership: • OGP value relevance: Clear • Potential impact: Moderate • Completion: Not started	It is difficult to assess the progress of this commitment. Stakeholders understood this policy as a way to reduce the digital divide affecting the regions of Calabria, Basilicata, Molise and Sardinia as well as a way to better observe infrastructure including internet governance and digital infrastructure under development. The government's self assessment did not include any reference to plans.

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Abstract:

OPEN GOVERNMENT, TOTAL TRASPARENCY AND IMPLE-
MENTATION IN ITALY AND IN THE SICILIAN REGION

Keywords: Open Government, transparency, Public
Administrations

The web, if used in connection with Open Government
practices, it becomes an extraordinary controlling method not only to
clash inefficiencies, corruption and bad administration, but also to
promote transparency and develop participation practices.

Complete transparency and open data represents lawfulness
and efficiency outposts absolutely necessary to the public
administrations, because they are the new frontier of citizenship
rights and participatory democracy.

This paper argues that the anti-corruption provisions
applications and the subsequent applicator decree (Law no.
190/2012 and Decree 33/2013) in the subject of complete
administrative transparency of Sicilian Government administration
and the main regional governmental bodies (agencies and firms).

The Italian Government effectively, on the analogy on
european rules and significant foreign experiences - first between all
the"Open Government Initiative" by US Government dated 2009 on
transparency, participation and cooperation principles - issued a set
of rules on publicity and transparency acts by public
administrations, providing important changes to the previous
regulation and recognizing a citizen general right to the full
disclosure and exploitation of administrative data, in open format, to
strengthen the features as a service mean for people and enterprises.

GAETANO ARMAO, graduated with honors from University of
Palermo in 1985, specializes with honors on financial intermediation
jurisprudence at the University of Ferrara in 1988, attended the eu-
ropean community and internal public law doctorate at the Universi-
ty of Palermo. Assistant Professor of administrative law at the Politi-
cal Science faculty of University of Palermo in 1992 and visiting
scholar at the Institute of Advanced Legal Studies of London in 1993.

From 1996 he teaches administrative law and public account-
ing at the University of Palermo and economics public law at the

University Mercatorum. He is a fellow member of the Society of Advanced Legal Studies at the University of London.

Court of Cassation attorney with offices in Palermo and Rome, has been and expert consultant for the European Council and consultant for the Parliamentary Antimafia Commission of both national and regional governments.

He has also been vice chairman of Massimo Theatre Foundation of Palermo from 2002 to 2005, regional ministry of Cultural Heritage in 2010 and regional ministry of Economy and Treasury for the Sicilian Government up till 2012, attending the Italian Regions Conference, the State-Regions Conference, the Economic Programming Committee and the State Ministry Cabinet also representing Sicilian Government.

Member of the Guarantor's Committee for the 150^ Anniversary of Italian Republic in 2011, he has been a member of the national permanent conference for the public finance coordination committee. Since 2010 President of sicilian Unesco Commission and of Sicilian Open Government association.

He has published more than eighty essays on administrative law, regional law and public contracts law, and published essays on "Judicial system of lyric and symphonic foundations", Turin, 2008, "The compensation connected to the performance on the public sector: legislative solutions and administrative path's cases", Palermo 2008, "Fulfillment of differentiated autonomy of sicilian government", Naples, 2013.He also edited the publication of "Fiscal Federalism and equalization: the autonomy of responsibility", Rome 2013 and" New accomplishment rules for credit and savings in Sicily", Turin 2014.

GAETANO ARMAO
University of Palermo
Department of Political Science and International Relationships
gaetano.armao@unipa.it