

Quality of Legislation and Technological Evolution*

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Many thanks for your invitation to introduce the second inaugural conference of the EUPADRA Joint Master in Parliamentary Procedures and Legislative Drafting.

I am pleased and honored to welcome all of you at the Chamber of deputies. I would like to wish students and conference participants, professors and instructors, a fruitful learning and teaching experience. The duties you will be called to, in your different capacities, are as important as challenging.

A proper functioning of representative democracy is an ambitious target, that is far from easy to achieve. Parliamentary procedures and drafting play a crucial role within this framework. On the one hand, procedures shall grant transparency and equal opportunities for all those representatives who participate in the legislative process. On the other hand, legislative drafting shall serve the objective of approving clear and understandable laws, making thus the mediation of experts unnecessary and facilitating a precise compliance with the law.

Unfortunately, many factors contribute to the distortion of the representative democracy. Among these factors, let me focus on two examples: first, a poor circulation of information that impedes an effective, generalized, simultaneous access to legislative bills, opinions, and deadlines; second, the use of the Parliamentary sessions as a mere theatrical performance that forces MPs in lengthy and useless confrontations that only serve the aim of personal visibility. These factors have the effect of creating a separation between a Parliamentary elite, benefiting of appropriate means and times for the exercise of their representative mandate, and the remaining part of MPs – just simple MPs or backbenchers some rude press defines them – who are forced in the limited role of MPs just pressing buttons and debating by the need of having good marks in the statistical overviews of MPs productivity or by mere camera visibility necessities.

The picture I have drawn is maybe too harsh, and may be not expected from my role in this institution. However, if we really aim at discussing about transparency, innovation and transformations of parliamentary procedures, then we need to start from these grounds.

The main duty of a Parliament, both of its MPs and its administration, is producing good, clear and understandable laws, that are efficient for the objectives there were designed for. This task is a central responsibility not only for the national Parliament, but also for other constitutional bodies, such as independent authorities, the

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Council of State, the State-Regions Conferences, the Executive, Legislative offices in each Minister, and the President of the Republic.

Unfortunately, this objective has not always been met in our Country history. As a consequence, not only the good functioning of the whole system was seriously compromised, but also the level of public confidence in democratic institutions was harshly endangered by the institutions' failure to accomplish their constitutional tasks. A tight relationship exists, in my opinion, between the level of public confidence in democratic institutions and the regulatory quality.

On the one hand, it is clear that a growing separation is emerging between the electorate and its representatives. Ilvo Diamanti, a prominent political scientist and sociologist, recently wrote that "citizens are unsatisfied of public services, they distrust workers and employers' unions, and – above all – they distrust political actors. Parties, and the Parliament, as usual, are placed at the bottom of the ranking [...]" He continues: "The very foundation of our democratic system is at stake, as main actors of political representation, namely political parties, are not only distrusted, but they are also held as corrupted actors, as much as (if not more than) in times of Bribesville ["Tangentopoli"]." (The quotation draws from the nineteenth Report by the Demos institute, published last January).

On the other hand, in recent years the goal of simplification of the regulatory system was hardly met. In this regard, the findings of the Eurispes Report "Italy 2016" support my opinion. In the presentation of the report, the Eurispes President, Gian Mario Fara, affirmed that among the worst brakes slowing down the Country's growth, "the overproduction of norms, laws, regulatory provisions" take center stage. These brakes not only slow down the growth, but also – so he said – they "mortify the determination and talent of those who are willing to contribute to the Country's transformation". Additionally, he affirmed that "regulatory paranoia reached its highest and unbearable levels: while on the one hand commissions for the simplification and reduction of laws are being created, on the other side we assist to a continuous and relentless production of new laws that contradict, overlap, intertwine with existing ones".

Within this picture, the quality of political representatives and of the administration of democratic institutions takes center stage. And always within this picture, a crucial role may be played by technology, or – to say better – by a proper use of technology, in particular in relation to an essential aspect connected to technology: transparency.

This is certainly not a new topic in public debate concerning the relationship between new technologies and public administration. A report prepared by the national council for economics and labor (CNEL) in November 1981 testifies that a discussion on informatization of public administration is taking place since the eighties. This discussion not only concerns the importance of information technology in the public administration, but also the modalities of modernization of the administrative system. From that report, dated 1981, a striking level of awareness emerges. I quote: "the capacity of development of a modern society depends mainly on its capacity to properly utilize information technologies". The mentioned report held information technology as a crucial sector, with the same level of importance of iron and steel industry or energy development. The challenge underpinning these statements was certainly taken up by the legislatures. However, there is a long road ahead.

Coming back to transparency.

The legislative process in nowadays designed as it was in an era where the impact of information technology barely existed. Technology innovations have increasingly facilitated the dematerialization of some steps of the process, but a new design of the whole process never occurred.

The application of new technologies to the legislative process does not only mean dematerializing, and saving paper and time in the process of data transmission. It does mean getting used to work in a transparent and joint way. It does mean empowering legislatures so to create equal opportunities of access and understanding for everybody (parliamentary elite, simple MPs and citizens). It does mean designing participatory processes in rule-making. All this requires an extraordinary effort and concentration, at least at an initial step.

Making the legislative process transparent requires the possibility for everybody to verify the appropriateness and accuracy of every step of the process. It moreover requires the empowerment of citizens and the press in guarding the guardians, by checking if supervisory bodies did their job accurately. Who is responsible for amending a given norm? At what time was a given amendment introduced, discussed and voted? Who is the author for a committee modification of a bill? These are common questions and sometimes answers exclusively rely on rumors, journalistic sources, leaks and alike.

What are the effects that the approval of a given provision on the existing regulatory scheme? Which norms are repealed and which are not? Dull processes and complex norms facilitate experts and compromise the understandability of laws and citizens' trust on their elected representatives, moving them further away from politics.

An accurate use of information technology may already serve as a low-cost remedy for these deficiencies.

Akoma ntoso, for example, is a standard digital format for legal documents. Its name derives from the Akan language spoken in Western Africa and recalls the friendship between peoples. It was developed on the basis of an initiative of the Department for Economic and Social Affairs of UN within the framework of the "Africa i-Parliament" program with the participation, among others, of the Italian Senate. We helped to develop a very advanced mechanism for sharing and collaboration, and some Italian professors are at the forefront of the research in these fields and are now collaborating with the Chamber of deputies with the aim of accurately and efficiently digitalizing internal legislative processes.

To sum up, and to conclude, a more transparent normative process would make the process itself more accessible, more understandable to citizens, bringing them closer to political institutions and making them more informed and aware. Such a normative process would increase the degree of confidence in the system and in political representatives. This would increase the legitimacy of institutions and would make democracy richer.

Does this mean that everybody may become legislator? Certainly not. Your effort and your role is crucial. Thomas Nichols, an American Professor, wrote in "The Death of Expertise" – a book recently recommended by our Prime Minister Gentiloni in Cernobbio – that "we are currently living in an age where inaccurate information compromises real knowledge. This is very bad. A modern society cannot work without a social division of labor and without relying on experts, professionals and intellectuals. Nobody is expert in everything. No matter what your ambitions are: we are forced by reality, by time availability and by incontrovertible limits to our own talent. We flourish

because we specialize ourselves and because we develop formal and informal mechanisms along with attitudes that generate a mutual trust with regards to these specializations.”

We have a moral duty to recreate adequate conditions for public confidence in institutions. We have the opportunity of making legislative processes simpler by digitalizing them and by making evident current complexity and competences that are necessary to take up this challenge.

Transparency, however, requires a two-way relationship. It is not enough to allow cooperation, as we need to claim cooperation. A proactive approach is necessary between the agent of transparency and who is claiming transparency. The legislative process will never be transparent if nobody then cares about it. And this is again up to politics and its ultimate mission to realize a richer democracy.

Thank you and I wish you a fruitful conference and inspiring debate.