

PREFACE

The comparison between the private and public sector, especially in the field of choices and investments in the economy, that has dominated the theoretical elaboration, the political debate and the social discussion in the XX century, seems to definitely have been questioned by the globalization process of the economy and of the social-political integration (as well as the economic one) started all around the world.

The public sector, as well as the private one, assumes a fundamental role both in the field of regulation and in the field of distribution of services either in a direct or indirect way. Like for a family, to manage means to take care of daily life, of the income and the expenses, also in Public Administration it means to take care of the community life (local, national and supranational), to protect the rights of the citizens, to grant the services that society deems opportune to give everyone, possibly at different conditions, and then the general interest, the common good, or whatever contributes to the wellbeing of all.

In this context it is important to consider the transformation, the change and the innovation that are the elements upon which are founded the main determiners that influence public and private management as well as the management of economic, social and political systems.

The word “management” rises especially in the sphere of business management in the private industry. In the moment in which the organizational analysis of the so-called “formal” organizations” has moved toward efficacy and efficiency objectives, the public administration system has also become an object of study on one side, whereas on the other it has become the object of legislative intervention, in light of a higher performance standard. Also, the globalization of the markets and the economic integration processes highlight that the competitiveness of the enterprises is largely influenced by the political-institutional context in which they operate and therefore by the ability of the public administrations to grant infrastructural conditions, real services and a quality of the social environment which are favorable to the economic development.

Private and public management have long been considered as carriers of divergent and contrasting interests, on the basis of paradigms that today appear arguable, like the paradigm of the market-government contrast.

In the last few years the relationships between public and private management have been mostly observed in the sphere of the widespread privatization phenomena, that is the substitution of the private entrepreneurial actions with public investment in several sectors of daily life. Between public and private management, not only do the trade relationships tend to consolidate, but also the relationships of cooperation, to the purpose of realizing projects that, for their complexity of management and for the investments objectives, need the participation of several actors.

Private management treats its operational situation as a set of opportunities and limits given externally and it formulates policies within this framework.

Public management considers the situation as a web of relationships between organizations that can be modified through a coordinated action.

The book allows the reader to specifically realize the nature of the problem, its multidimensionality, and the need for original approaches, through the contribution of scholars belonging to several disciplines.

This book encloses only one section (Public and Private Management) with 22 chapters that, through different approaches to the topic from the view of its different authors, help to understand the issues of the public and private sector.

In **Chapter 1** “Considerations on the relationship between crowdfunding and ethical finance: The social value as a sustainable growth driver for the enterprise”, the author highlights how the mix between Ethical Finance and Crowdfunding could represent, going from niche to mainstream phenomenon, a propulsive factor for financially sustainable investments, facilitating the need to consciously invest one’s own savings, and the need of socially oriented enterprises to not be forced to favor the economic objectives sacrificing the social ones in the process for the survival of the system itself, considering the present difficulty of enterprise to create first level innovative investments, that is at core business level.

Chapter 2 “Crowdfunding: Creation of value and opportunity in the sector of art and culture” tries to analyze the use of crowdfunding for the promotion of the territory and for artistic design and it also tries to offer an input to those who want to plan and manage their ideas in these sectors. An empirical analysis was conducted on Città della Scienza, Naples, Italy, a virtuous example of reconstruction operated thanks to the funds gathered through the DeRev platform. The results have demonstrated that the value of the ideas, the

spontaneous commitment, and the great web management have made it possible for the objective to be successfully reached.

Chapter 3 “Risk management: The affirmation of the risk culture in the daily business conduct” is dedicated to the study of Risk Management that, in a macroeconomic context in which business vulnerability increases, is increasingly at the center of the attention of many directors and managers, who ask for the methods for identifying, measuring and treating corporate risks from a systematic perspective.

Acting in a globalized economical context has led to the awareness to conform to situations that involve the management to more increasing complex risks. Risk management is a continuous, gradual and proactive process that involves the corporate strategy and it must be integrated into the culture of the organization.

Chapter 4 “Maritime and port concessions in the Bolkestein Directive. Ongoing debate” intends to be a brief analysis of the state of play of the legislation on maritime and port concessions. First, the focus is on the proposal and implementation of the Bolkestein Directive and its effects. Then, the emphasis is put on the Italian Transposing Law of the Directive, later subject to infringement proceedings closed in 2012, and on the several judgments that have followed one another. Among these, the judgments of the Constitutional Court and those of the Council of State, aimed at recognizing the primacy of Community law on national laws, and against any kind of nationalism.

Chapter 5 “Multiculturalism and internationalization: Intra and inter-organizational relationships management” presents some considerations about the internationalization of enterprises and the cultural diversity that companies have to face in order to develop their business. This is because the culture of single countries could influence the culture of the company and, more generally, the management; at the same time, the business culture may be somehow influenced by it. In fact, businessmen, in order to create value, must be able to work with actors belonging to different cultures: cross cultural management could be a great useful help for this purpose. Moreover, businessmen should possess and be able to use good negotiation.

Chapter 6 “Financial leasing and its financing function within the Italian economic system” tries to analyze the range of the “leasing” phenomenon and the reasons behind its success, which can be identified, first of all, in the versatility of this type of contract as a tool of acquisition of factors of production, but also as an extreme business financing source. In the article, we will move on to explore the legal features of the contract and its financing function, highlighting its advantages compared to other ordinary means of financing, such as bank debt.

Chapter 7 “Powers and managing functions of the insolvency administrator and the missing recording of the bankruptcy judgment: The protection needs of the buyer and enterprise regulations” moving from the examination of the managing function of the Insolvency Administrator, deals with the problem linked to the possibility, for him, to include, in the bankruptcy estate, an asset that the bankrupt has sold after the judgment has been pronounced, but before the related recording. The legal problem generating from this situation concerns the “enforceability” against the bankrupt’s creditors, of the sales contract the bankrupt has entered to sell one of his unmovable assets, being it a sales contract registered before the recording of the bankruptcy judgment, despite being entered into after the ruling of it.

Chapter 8 “The geographical transfer of the worker under the Italian law” examines the legal problems concerning, in the Italian legal system, the discipline on the geographical transfer of the worker. This having first of all as a reference the content of the art. 2103 del Codice civile il quale statuisce, in modo alquanto sintetico, che tale provvedimento del datore di lavoro può essere disposto soltanto per comprovate ragioni tecniche organizzative e produttive. 2103 of the Civil Code which states, in a very concise manner, that this provision of the employer can be arranged only for proven organizational and productive technical reasons.

Chapter 9 “The new public management of the states in South America” presents the new public management in Latin America that is a series of administrative reforms involving management by objectives that uses indicators: quantitative use of privatization, separation between customers and contractors, disintegration of traditional administrative institutions, focusing of the State as a producer of public services, use of salary incentives, cost reduction and greater budget discipline. Use evaluation as a tool to improve the process.

Chapter 10 “Public management and constitutional principles” highlights how the Italian system, the evolution that the executive function has had in the Government system, whose creation has historically

been centered on the constitution of a professional bureaucracy as a tool for the exercise of public authority, has inextricably linked the concept of public employment and modern Government: the State conducts activities and covers function whose management depends from the bureaucratic mechanism.

Chapter 11 “The corruption phenomenon: Regulatory and managerial aspects” proposes an organic analysis of the Anti-Corruption Law: Law No.190 of 2012, adopted by the National Legislator in response to the proliferation of the harmful practices damaging the country and in compliance with precise international directions from the UN Merida Convention and the Conventions approved by the Council of Europe.

Chapter 12 “The controversial discipline on subcontracting in the New Code of Procurement” shows that The New Code of Procurement, as well as the subsequent corrective decree of 2017, intervene significantly on the controversial matter of subcontracting, leaving many questions unresolved. They show an ambivalent attitude of the Italian legislator between favor, also in the light of the suggestions coming from the EU law, and a restrictive application, in turn dictated by the often elusive use of the legislation on the matter that has actually been done.

Chapter 13 “The relationship between tourism and sport in a civil setting”, in light of the jurisprudence and the norms of the Italian Civil Code, intends to focus the attention on the two relevant civil profiles of the aforementioned phenomenon, namely: the protection of the personality, on the one hand, and the contractual autonomy on the other. During the course of the work, the relevance that sports activities are increasingly acquiring in the tourism market will emerge, impacting on the reconstruction of the causal profile of the relative contracts (as in the sponsorship contract).

Chapter 14 “Reform of the third sector and religious organizations” analyzes not only the contents of the 2016 law and the implementation decrees of 2017 but focuses specifically on the role that civilly recognized religious organizations have in the reform. Starting from the secular commitment that the religious confessions, and the Catholic in the parish, have in the social sector, it is necessary to highlight the new relations between the ecclesiastical law and the common law that emerged following the Third sector reform, the aspects of the reform that most closely interest the religious organizations and the ways in which these institutions can participate in the reform continuing to provide their valuable contribution in implementing the principles of charity, solidarity and subsidiarity.

Chapter 15 “Public goods and tourism companies: Social purposes and use of the marine demanum” has the aim to find interdependencies with the structure of the tourist enterprise, aimed at enhancing the social and economic aspects of society and distinguished by a typical offer of cultural, environmental and tourist assets, enhancing the a private sense of the activity aimed at affirming the public’s interest in the appropriate professional and organizational skills of the sector operators.

Chapter 16 “The phenomenon of corruption: With particular attention on the economic and institutional effects and on the level of perception of crime” analyses the complex and systematic phenomenon of corruption which regards all areas of civil society and prevents institutions from operating correct The negative repercussions on the level of economic efficiency as a consequence of the offence of corruption influence negatively the reputation and credibility of a country and strongly lowers the level of social well-being.

In **Chapter 17** “Big Data Analytics in public administration: Legal and economic profiles” the author shows how the Bid Data revolution represents a great opportunity for the relaunch of the public and private sector, granting a better future efficiency and cost effective services.

Chapter 18 “The conciliation in canonic administrative process” analyzes the duty of Catholics to avoid any contention, in the field of the Canonic Administrative Process, in case of appeals against acts issued by the ecclesiastical authority and the attempt at conciliation. Later on, it elaborates on the provision of can. 1733 of the Code of Canon Law concerning the possibility of establishing in the diocese an office or council whose function is to seek and suggest equitable solutions to settle the controversy. The particular law produced on the subject has been examined with a specific reference to the intervention of the Italian Episcopal Conference.

Chapter 19 “Labour flexibility policies and unemployment” presents some key elements of the theoretical debate on the labor market liberalization and proposes a simple econometric analysis of the relationship between labour protection (EPL) and unemployment. It is obviously important to establish if there is a correlation between EPL and unemployment. Especially if economic policies are required in order to recover a wide employment loss, like the one occurred during the crisis started ten years ago.

Actually, in recent decades, governments have reduced labor protection, stating that this policy would have the effect of reducing unemployment.

Chapter 20 “Therapy with adults stem cells: Risks for the nature of man. Ethical, legal and health management problems” deals with the risks related to stem therapy. Stem cell therapy, in conjunction with converging technologies (NBIC), could be directed to satisfying the desire to have a body that goes beyond human endurance. There are risks that impose a rigorous ethical assessment to prevent science, which is no longer guided by wisdom, from accepting a mechanistic conception of man. Access to innovative therapies could entail the possible violation of the principle of equality amongst all citizens, if it results from a mismanagement of public resources available in the health sector.

Chapter 21 “Public order: Limit or value? Inequality and poverty in the relationship between credit concession, child support, manners, education and accomplishment of the human being” has the purpose of research, to show that in a finance which is proclaiming itself respectful of ethical values, possible request for financial support, which are intended to allow the full accomplishment of the individual, must be always considered worthy, finding directly in the order’s fundamental principles their right foundation.

Chapter 22 treats about “The intricate relationship between administrator, judicial authority and property”. The Mafia code law (cam) reshapes the tasks of the judicial administrator of the assets subject to seizure precautionary measure and the requirements for this position, placing highlighting among other things, the impartiality of the Pro nominated and the need for an autonomous administration that does not suffer the interference, even marginal, on the management decisions by judicial decision or by the people linked to it and in accordance with and within the limits of the roles and of the given the tasks to the law courts and the judicial administrator.

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