

The Potential Foreign Investor is an increasingly successful figure in the political debate. He's gradually earned his spurs as the stone guest in every discussion between political forces and the intellectuals or the journalists who praise or lambast them. He's present in every discussion among "serious people": the ineffable, apprehensive, strictly anonymous and undefined "Potential" Foreign Investor (PFI). Just imagine him: melancholic, waiting in line at the Ponte Chiasso border, a disappointed man in love with Italy. Oh yes, *he* would know how to enhance its treasures and flood it with capital if only we decided, to abolish the administrative judiciary! What? Yes, the administrative judiciary: we certainly can't expect the PFI to invest in strategic infrastructures and run the risk of seeing each tender award procedure paralysed for years, the victim of appeals and counter-appeals, suspensions, long eons waiting to see an end to litigation, etc... But there're some shady areas in all this. For example; the analysis performed by the Nimby Forum revealed that bid protests

against infrastructures are entered upon roughly in one out of two cases, firstly by Institutions, and then by movements, environmental associations, unions, etc.

On a negative note, it appears that in many cases politics exploits the administrative judiciary and then accuses the Regional Administrative Courts of being responsible for the delays. But, isn't it Parliament and Government that draft the laws disciplining the administrative judiciary? "Serious people" have a prompt answer to this: the legislator has good intentions, but the corporation of State Councillors has infiltrated even the highest levels of the administration and from that elevated position stops any and all reforms. So, do we need to get rid of Heads of Cabinet so that the PFI can finally arrive?

No. Michele Corradino, who is a serious person (please note, without inverted commas), has told us that something else is needed to uproot and eradicate this Italian anomaly: more transparent procedures, a filter against the possibility to appeal, and extrajudicial ways to solve litigation.

Easy to understand principles, and yet, turning these principles into norms and regulations is a highly complex operation, and it's even more difficult to implement them. This is why politics needs the (albeit rare) expertise of the *grand commis*; likewise high-level bureaucracy needs the (albeit very doubtful) drive and temporal logic of political initiatives.

Passing reforms is an extremely difficult task, especially in fields where we need to test new forms of representation (when will we have a *débat publique*?) or even have the courage to review the constitution, as well as the tenacity to keep a close eye on the quality of the legislation and block out unnecessary procedures. Undoubtedly, a serious Country (without inverted commas) doesn't need idol-heroes like the Potential Foreign Investor; but nor does it need scapegoats.

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CORRADINO

NO BUREAUCRAT, BUT A CIVIL SERVANT

“Europe is asking us to implement reforms crucial to ensure the stability and growth of the country. Heads of Cabinet have to become the engine behind these reforms. We have to stop being institutional custodians so that our technical expertise energises change.”

Telos: The new National Anticorruption Authority (ANAC), of which you are a member, was just taking office while the State Prosecutor's Office was drawing back the curtain on the opaque and illicit operations which many people thought were a thing of the past. Does the ANAC have the powers it needs to be incisive?

Michele Corradino: Recent current events have once again brought the diffuse, ongoing corruption in Italy to the attention of the media. Several surveys by the European Commission and by Transparency show that neither entrepreneurs nor ordinary citizens have ever underestimated the seriousness of this corruption; 97% of respondents believe that it is widespread (European average 75%) and even 42% (European average 26%) say they have been asked for money. Italy ranks 69th in the Corruption Perceptions Index (the so-called CPI), well below our European partners.

If you consider that every point affects 16% of foreign investments you can understand why a pre-emptive and repressive policy against corruption is so important. The ANAC was created precisely to identify the tools required to prevent corruption; we need a transparent and accountable public administration, especially as regards the control of public tenders which have traditionally been the most vulnerable to corruption. The ANAC President has the powers to place tenders under receivership if corruption is suspected. This measure avoids stopping the work in question and adding the social cost of its non-construction to the damage done by the corruption itself, something that has happened so many times in the past.

“If we abolished the Regional Administrative Courts and the Council of State, our GDP would veer considerably into the positive!” For those who missed the article published last summer, Romano Prodi said the phrase was pronounced by a “potential investor!” So our question to the State Councillor is obligatory: is the administrative judiciary responsible for the bulimia of the appeals, the uncertain deadlines of the award of contracts, and the fact infrastructure investments are blocked for years? In short, to make everything normal again, is abolishing you all we have to do?

The law requires the administrative judiciary to touch the nerve centres of power: the administration and the economy. It judges the provisions issued by the public administration and verifies whether or not they correspond to the law; it also judges the rules governing the economy and checks the measures taken by the market control authorities (Consob, Antitrust, etc.). Like all actors of these complex scenarios it judges and is judged, often acrimoniously, by the actors it controls and which



Michele Corradino graduated aged 21 and the following year won a competition to work at the Bank of Italy where he was responsible for bank and financial oversight. He then became a magistrate of the Regional Administrative Courts and finally in 2002 a State Councillor. Researcher at the University of Pavia, he is currently a member of the National Anticorruption Authority. At a mere 46 years of age he has already occupied important government positions: legal advisor to the Minister of Justice, Head of Cabinet at the Ministry of the Government Programme Implementation, the Ministry of the Environment and the Ministry of Agriculture, Food and Forestry Policies. He has also been Coordinator of the Expert Group of the Prime Minister's Office for the regulation of lobbying and prevention of corruption. He drafted the first form of regulation of lobbying activities at the Ministry of Agriculture, Food and Forestry Policies.

He is the author of numerous monographic publications: *Il Diritto amministrativo, Manuale di diritto amministrativo*, Cedam 2007 and a second updated edition in 2009; *Il procedimento amministrativo*, Giappichelli 2010, and *Il processo amministrativo*, Giappichelli 2014.

Married, with 2 children, Corradino commutes between the grey buildings in Rome and the blue Sicilian sea, his one great passion.

sometimes have a hard time obeying these rules. I'll give you an example of the very popular Italian penchant to avoid tenders: more than 17% of public works (European record) are assigned by a limited tendering procedure and often the Regional Administrative Court stops it.

That said, I have to admit that we really need to think about the role of judges in our social and economic system; we should ask ourselves whether this role is the one outlined in the post-war Constitution drafted in a completely different scenario.

For example, we should ask ourselves if we should all be allowed to appeal against everything, because then every time we have to decide whether or not to build a public work the nimby syndrome kicks in and leads to dozens of appeals which paralyse the public administration.

Likewise we should ask ourselves whether everything has to be judged by a judge or whether there are more efficient ways to resolve controversies. For instance in all other western countries, the more complex issues are left to judges while issues with lesser social and economic impact are dealt with differently and ensure quicker, more tangible and citizen-friendly justice. The Justice Reform by the Renzi Government and the Draft Bill for the reform of tenders are moving in the right direction.

For many years you acted as the Head of Cabinet in several important Ministries and served under Ministers from different political parties. Can you explain, perhaps with the help of an anecdote, this important role which remains somewhat incomprehensible to the public at large?

The Head of Cabinet is an extremely important figure in a Ministry because the person acts as a link between politics and the administration. Like many of my colleagues, I was nominated by four Governments with completely different political backgrounds because the job requires technical expertise rather than a political affiliation. Anecdotes? I have no end of them but I'd violate my oath to secrecy! But I'll tell you about the time I came back from a meeting during which there'd been a decision to adopt an important measure and I "forgot" to refer to a right-wing Minister that a left-wing Minister had surprisingly, and I'd say imaginatively, maintained that the regulation that they were about to approve was in line with his idea of "abolition of private property".

It was a good measure which everyone was in favour of. My "forgetfulness" emphasised the technical aspect and broke down ideological barriers. In the current economic and social crisis, however, I believe that the role of the Head of Cabinet should change. It's no longer enough to technically "smooth out the edges": Europe is asking us to implement reforms crucial to ensure the stability and growth of the Country. Heads of Cabinet have to become the engine behind these reforms. We have to stop being institutional custodians so that our technical expertise energises change.

Your name has more than once been associated with attempts to regulate lobbying activities. Do you think, based on your own personal experience, it's really possible to combine more transparent procedures with the involvement of all interested parties and quicker decisions? What do you think about the idea of creating a National Lobbying Register?

We can no longer postpone this issue. The public administration is required to operate with society and the market and must be in contact with those who work in it. The new European regulations regarding tenders permit consultation with entrepreneurs even before the tender.

What's important is that relations are regulated and organised in such a way that the regulated cannot hold the regulator hostage, and that all players in the market and society have equal access to ministerial backrooms and decision-making centres.

In 2007 I coordinated the commission that drafted the Santagata Bill which was submitted by all successive governments; nevertheless, final adoption was never achieved. When I was at the Ministry of Agriculture I played an active part in drafting a regulation introducing a register of lobbyists, while leaving national legislation unaltered. It didn't last long, but I think it was a good experiment. Paradoxically, lobbyists insist on a regulation to which politics appears to turn a blind eye.