

The parliamentary assessment of fiscal policies: current state and perspectives *

Andrea Morrone¹

Fiscal systems still have "a foot" in the XX century, not to say in the XIX century as far as the French fiscal system is concerned. It is therefore quite difficult to discuss parliamentary assessment of financial policies, given the risk of putting forward, today, a photography of a reality which is light years away from the actual world that we know on a daily basis.

In particular, as far as Italy is concerned, the Parliament's role, through those institutions that are called upon to evaluate public policies in general, and in particular fiscal and financial policies, poses more than one problem.

It is essential to take into consideration the general context. In fact, Constitutional Law cannot nowadays but be placed in an European dimension, to which all of the daily life phenomena must be traced back to. Everything we know, we teach and we study with regard to taxation, public budgets and assessment must take into account the revolution which has occurred in the years of the economic and financial crisis on the part of European institutions, Member States and international bodies, through all EU and international measures that have been adopted in the field of balanced budget objectives and control over public finances, with particular regard to public debt. This is particularly important with concern to balanced

* How to quote this article: A. MORRONE, *The parliamentary assessment of fiscal policies: current state and perspectives*, in *European Tax Studies*, 2016, No. 1, (ste.unibo.it/review), pp. 41-46, DOI: <https://doi.org/10.6092/issn.2036-3583/7825>.

¹ Andrea Morrone, full professor of Constitutional Law at the University of Bologna, Director of the PhD in Legal Science, past Secretary and Member of the Italian Association of the professors of Constitutional Law. Translation by Andrea Amidei, PhD in European Tax Law at European School of Advanced Tax Studies – Alma Mater Studiorum, University of Bologna, Italy.

budget purposes, because all EU measures, starting from the “fiscal compact” to the “six pack” and the “two pack”, including all those other measures adopted during these years, have more and more focused on the premise that an EU development cannot be achieved without a “EU law on budget” based on common rules, on both a fiscal and a financial level.

In this framework we can find some answers, with regard, for example, to the “Italian way”, which, together with the “Spanish way”, has its own original peculiarities. In France there has been an attempt to adopt the same kind of solution, but the change in the Presidency has caused the orientation to modify, leading to the fiscal compact being adopted through a modification of the Constitution. In Italy, we have enshrined the principle of balance budget in the Constitution, thus building a set of fundamental rules around such principle. All public administrations must contribute to the balance budget objectives, i.e. the State, the Regions and Local Entities. Such objective can be achieved through a strong control over public expenditure and public debt, with a consequent rigorous control over, and maybe also a prohibition of, indebtedness even to apply the “golden rule”, i.e. the use of such resources for investment expenditure. It would not make any sense to highlight such aspects if not in light of the truth: all of those rules that we constitutionally gave ourselves mean something only if placed in an European context. Which means that balanced budgets, control over public expenditure and limits to the indebtedness almost entirely depend on EU law and EU policies.

It is particularly demonstrative for the Italian case that for the first time the Constitution enshrines a set of explicit references to EU law: balanced budgets must be achieved according to European criteria, and so must managed both indebtedness and control over expenditure. The mid-term objective – an ambiguous and not so comprehensible expression – represents the polestar of national budgetary policies.

In this framework must be understood the solution adopted by the Italian lawmaker with regard to the topic of the assessment of budgetary policies.

The inauguration of the rules on the point and the consequent creation of the Parliamentary Office for Budget took place as a solution to the urgent need to get in line with EU provisions in a time of the crisis Italy underwent in the Fall of 2011; a crisis which was not only of an economic, but also of a political nature. From a comparative point of view, the Italian Parliamentary Office for Budget is way more similar to the American Regional Budget Office – i.e. a body deriving from Parliament and *à côté* of Parliamentary Assemblies – than to the widespread experiences in the European context and across the world, i.e. the so-called “fiscal councils”. They are, in fact, bodies which assess financial policies, but staying eminently bound to the executive branch (they are chaired by Ministries of Finance), even though endowed with autonomy and independence, with particularly competent and experienced members. Theirs is an entirely different perspective. One thing is a body which is close to Parliament and, therefore, close to a logic according to which the function of political control over government policies is performed through political assemblies; another thing is a body of assessment which is close to the executive branch.

The Parliamentary Office for Budget is expected to act accordingly to what European and international opinions have always thought its task should be. It is an independent body, whose independence is ensured by the “reinforced provision” which created it (Constitutional Law n. 1/2012). It is made of a Board composed by three persons, one of which assumes its presidency and direction; it has vast competences specifically aimed to the analysis and assessment in the following subjects: macroeconomic provisions on public finance, macroeconomic impact of the most relevant legislative provisions, assessment of the evolution of public finance and, above all, compliance with EU budgetary rules, public finance sustainability in the long run, activation and implementation of corrective mechanisms in case the State, as it may happen, for domestic reasons, economic contingencies or exceptional serious events, should have to adopt corrective mechanisms because the mid-term objective set by Europe cannot be

achieved. The Parliamentary Office for Budget has its own powers and may act at the request of the competent Parliamentary Commissions in the field. The Office has been functioning since 2014, but, with the limited experience acquired on the topic of assessment, it is too soon to formulate an overall opinion on its conduct, being it still positive that the Office has started operating according to its own guidelines.

The Office's intervention on the adoption of provisions before they are adopted is particularly significant to assess their financial consequences. There has been much debate in Italy concerning Constitutional Court's judgement n. 70/2015 on the adjustment of pensions to the cost of living. The Monti Government repealed such adjustment, while the Constitutional Court has later on reinstated it because it deemed the curtailing of pensions to be unlawful. Granting such adjustment, however, would have impacted on the State budget for 21,5 billion Euros, with the consequent need for the Government to adopt corrective measure to avoid a breach of European parameters. That is why the Government adopted a law decree which followed only partially the Constitutional Court's judgement, granting the adjustment only to retired persons with a very low income in order to comply with balanced budget purposes. The Parliamentary Office for Budget, during its audition, supported the choice of the Government in order to comply with such European parameters, which would have been violated by the full enactment of the Constitutional Court's judgement, and has highlighted the need to carefully perform control functions in the investigative phase of public accounts.

Another relevant experience is the one concerning budget plans: everything that has been advocated by the Premier to support such plans, e.g. the curtailing of the tax on the "first home", has been punctually criticised by the Parliamentary Office for Budget. This body, in its autonomy and independence, has criticised the political objectives set by the Government as "hardly implementable", besides from being incompatible with the European parameters.

I believed that the Office is not *ex se* very significant, but it assumes a particular meaning if included in an European network of institutions for the assessment of public finance, which is being created at the European level. It must become a tool for the economic and financial public governance, with validations, audits, controls in order to make fiscal rules constantly adopted by the EU really effective.

All of this, however, must come to terms with three problematic points that do not seem to be easily solved. The first one concerns the globalisation of the economy: a market which escapes not only the States' control, but also overcomes the European borders is hardly dealt with through such instruments.

The second is the dramatic contradiction of the European process: on one hand, we have a substantial weakness of EU institutions, while on the other hand we have a growing pervasiveness of the EU legal order in all fields of our existence (pervasiveness of EU law and administration to which does not correspond an actual strength of EU institutions). A contradiction leading to considerable limits for the States as an effect of market competition and makes all domestic choices of fiscal policies particularly complicated (how can one think of a modern fiscal system without an European fiscal Union?).

The third problem is of an entirely national nature and deals with a serious institutional deficit as a result of the clash between our form of Parliamentary Government and the Government-Parliament contrast. When we talk about Parliamentary assessment over Government we make reference to a kind of Government that is more of a Presidential than of a Parliamentary nature. This model is hardly suitable to a dialectical relationship between bodies, but would be more coherent with autonomous and independence institutions that could function as a "tool for minorities" and could make their assessment in a way to actually influence Parliamentary institutions and become actual instruments for an effective political control over the Government's choices in the financial field.

© Copyright Seast – All rights reserved