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Corporate and Occupational Welfare: the Need for a Quantitative Approach to Modern Industrial Relations

Massimiliano De Falco *

Abstract

Lacking a legal definition, corporate welfare can be understood as the set of goods, services, and benefits with a social purpose, provided by employers to their workers, in addition to remuneration. In the transition from the welfare state model to the welfare society one, where industrial relations actors become relevant figures, a new approach should be promoted, to understand whether the benefits satisfy the current needs of employers, employees, and workers. Consequently, this paper focuses on the value of welfare measures in collective agreements as only through a “quantitative” approach, the “qualitative” path of modern industrial relations can be traced.

Keywords: Corporate and occupational welfare; Italian legal system; Industrial Relations; Trade Unions; Employers’ Associations; Collective bargaining; Quantitative approach.

1. Measuring what Counts for the “Social Construction of new Labour Markets” **

Quoting Stiglitz, “*if we want to put people first, we have to know what matters to them, what improves their well-being, and how we can supply more of whatever that is*”. In this sense, “*we need to measure what matters, and what matters is well-being*”¹. It

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¹ J. E. STIGLITZ, J. FITOUSSI, M. DURANT, *Beyond GDP. Measuring What Counts for Economic and Social Performance*, OECD, 2020.

is believed that the social construction of new labour markets can be approached considering people's needs.

However, «the scale of [social] needs is an evolving concept, and reacts to the mobility of a country's familiar, social, productive, and legislative structure»². Nowadays, the transformations affecting the world of work – especially the technological ones, which have already evolved from the Industry 4.0³ to the Industry 5.0 paradigm⁴ – are generating new risks and new needs for workers⁵, not only for safety in the workplace but also in terms of 'organizational well-being'⁶.

In this scenario, the aim is to provide a more effective form of protection than the social security traditionally guaranteed by the Italian welfare state model⁷, which, with the shift to a «welfare society»⁸, today give industrial relations actors a prominent role⁹. The actions implemented for this purpose by trade unions and employers' associations enable the social construction of new labour (and industrial) relations, where the well-being of people must be given priority.

Nevertheless, in the academic debate, there is a lack of reflection on the value of the actions taken, measuring their capacity to meet the needs of

² A. DE FILIPPO, *Contenuti e tipi di welfare aziendale*, in T. TREU (ed.), *Welfare aziendale. Migliorare la produttività e il benessere dei dipendenti*, Ipsos, 2017, spec. 35.

³ M. TIRABOSCHI, F. SEGHEZZI, *Il Piano nazionale Industria 4.0: una lettura lavoristica*, in *LLI*, 2016, 2, 1.

⁴ EU COMMISSION, *Policy Brief Industry 5.0. Towards a sustainable, humancentric and resilient European industry*, 2021.

⁵ E. PAVOLINI, U. ASCOLI, M. L. MIRABILE, *Introduzione. Gli ambivalenti processi di trasformazione del welfare in Italia fra Stato, imprese e sindacato*, in E. PAVOLINI, U. ASCOLI, M. L. MIRABILE (ed.), *Tempi moderni. Il welfare nelle aziende in Italia*, Il Mulino, 2013, spec. 41, distinguish the «historical major “social risks” (income preservation, pensions, health, illness, unemployment) » from the «new “social risks” (school-to-work transition, work-life balance policies, childcare, housing emergencies, non-self-sufficiency)».

⁶ On this topic, see S. BUOSO, *Definire e qualificare il benessere organizzativo*, in *DSL*, 2019, 1, 26, who identify the «organizational well-being [as the set of] actions, procedures and guarantee techniques aimed at the joint improvement of “health and safety”», which, according to F. MALZANI, *Ambiente di lavoro e tutela della persona*, Giuffrè, 2014, spec. 160, «reflect the content of fundamental rights».

⁷ The Italian Welfare State system is based on Art. 38 of the Italian Constitution, which states that «all citizens unable to work and lacking the resources necessary for their existence are entitled to assistance support» (Par. 1) and that «workers are entitled to adequate insurance for their needs in the case of accidents, illness, disability, old age and involuntary unemployment» (Par. 2).

⁸ R. PESSI, *L'accordo sul modello di welfare aziendale nel distretto industriale pratese: l'avvio di una possibile esperienza di welfare society*, in *DLRI*, 145/2015, 133.

⁹ For a more detailed examination of this topic, please refer to § 2.

employers, employees, and workers. The variety of measures provided through collective bargaining requires a meticulous examination of their effects on the recipients. This seems necessary to understand which actions, better than others, can be qualified as a source of value for the involved parties.

The condition for trade unions and employers' associations to fulfil their mission – promoting, in addition to contractual exchange, opportunities for collecting needs and satisfying them – is the development of appropriate evaluation tools. What yesterday was the “times and methods”, today becomes the “impact assessment” of actions taken.

In this paper, I will deal with the evolution of social protection measures promoted through collective bargaining, focusing on ‘corporate welfare’ in the Italian labour market, to emphasize the relevance of a quantitative approach to this issue, and to support the qualitative path of modern industrial relations.

2. The Role of Private Actors in the Italian Social Security System

The Italian social security model, through which the state protects citizens in socially relevant situations of need¹⁰, has undergone profound changes over the years, as the suitability of the measures and the system could only be achieved with «multi-actors and multi-level governance, [able to reach an] efficient and socially balanced distribution of the resources employed»¹¹.

Thus, there has been a gradual erosion of the difference between social assistance and social security (provided for in Par. 1 and 2, Art. 38, Italian Constitution¹²) in favour of a «hybridisation [...] with labour law»¹³. This

¹⁰ See W. SIR BEVERIDGE (*Report by*), *Social Insurance and Allied Services*, HMSO, 1942, and, referring to Italian legal system, M. PERSIANI, *Il sistema giuridico della previdenza sociale*, Cedam, 1970, who identifies its scope in «social security, social assistance and health protection», which find their constitutional reference in Art. 32 and 38 of the Italian Constitution, in a perspective oriented to Art. 2 and 3 of the Italian Constitution.

¹¹ T. TREU, *Introduzione Welfare aziendale*, in *WP CSDLE “Massimo D’Antona”.IT*, 297/2016, 16. In the same direction, see B. CARUSO, “The bright side of the moon”: *politiche del lavoro personalizzate e promozione del welfare occupazionale*, in *RIDL*, 2016, 1, 187, who, on this point, highlights the «crisis of universal welfare as a single actor».

¹² O. BONARDI, *Separate in casa? La distinzione tra previdenza e assistenza oggi*, in *RDSS*, 2021, 4, 694.

¹³ G. CANAVESI, *Le interazioni tra diritto all’assistenza sociale e diritto del lavoro. Un tentativo di ricognizione*, in *VTDL*, 2019, 2, spec. 429. On this topic, see also R. PESSI, *Tornando sul welfare*, in *WP CSDLE “Massimo D’Antona”.IT*, 311/2016, 8, who envisaged «the transition from an occupational model to a universalist one».

path has led to the «creation of a welfare mix, of public and private experiences, no longer limited to social assistance and anti-poverty benefits, but extended to social security protection for workers»¹⁴.

It should be noted that the public-private partnership is «a phenomenon dating back to the origins of the [Italian] social protection system»¹⁵, especially considering that the first experiences of («factory) welfare»¹⁶ were born at the corporate level, in the context of the so-called «industrial paternalism [or] neo-paternalism»¹⁷. These actions consisted of disbursements provided by employers, who, providing basic forms of social security, avoided the risk of insurrection by the workers.

Afterwards, the need to cover workers against social risks became a matter of public interest, no longer a mere allowance paid by farsighted entrepreneurs. This process – which was reinforced with the advent of the fascist regime and culminated with the promulgation of the Italian Constitution in 1948¹⁸ – outlined a set of mandatory public tools, resulting in the gradual repeal of existing forms of private social protection, but also the weakening of the need for workers themselves to receive benefits from employers, as these were guaranteed by the welfare state¹⁹.

However, the rise and diversification of «socially relevant needs»²⁰ led to moving beyond the traditional (exclusively) public model, entrusting the task of providing social protection for workers to private entities²¹. In this

¹⁴ G. SIGILLÒ MASSARA, *L'insostenibile tensione verso il welfare mix, tra fondi di solidarietà bilaterali e previdenza complementare*, in *RDSS*, 2017, 3, spec. 484.

¹⁵ M. CINELLI, *Pubblico, privato e Costituzione nelle attuali dinamiche della previdenza*, in *RDSS*, 2017, 3, spec. 402, who highlights that the Italian Constitutional system, while maintaining a «rigidity of purpose», has a «flexibility of manner» (here spec. 412). More generally, on public-private complementarity, see J. FORRER, J. E. KEE, K. E. NEWCOMER, E. BOYER, *Public-Private Partnerships and the Public Accountability Question*, in *Public Administration Review*, 2010, 475 and G. ESPING-ANDERSEN, *Three worlds of welfare capitalism*, Princeton University Press, 1990, 21.

¹⁶ F. SANTINI, *Profili di regolamentazione collettiva del welfare aziendale*, in *ADL*, 2018, 6, spec. 1480.

¹⁷ U. ASCOLI, M. L. MIRABILE, E. PAVOLINI, *Dal welfare di cittadinanza al welfare nel lavoro? Contrattazione collettiva e iniziativa d'impresa in Italia*, in *RPS*, 2012, 3, 55.

¹⁸ P. OLIVELLI, *La Costituzione e la sicurezza sociale. Principi fondamentali*, Giuffrè, 1988, spec. 69.

¹⁹ M. PERSIANI, *Previdenza pubblica e previdenza privata*, in *GDLRI*, 2000, 2, spec. 208.

²⁰ R. PESSI, *La collocazione funzionale delle recenti innovazioni legislative in materia di previdenza complementare nel modello italiano di sicurezza sociale*, in G. FERRERO (ed.), *La previdenza complementare nella riforma del Welfare*, Vol. I, Giuffrè, 2000, 53.

²¹ For example, consider, from the social assistance point of view, the establishment of supplementary health funds (provided for in Legislative Decree no. 502/1992), or, in the

context, a central role was progressively played by industrial relations actors, when companies, trade unions and employers' associations sought to promote, privately, decentralized forms of social protection, with subsidiary functions²² «compared to those (increasingly less, both qualitatively, and quantitatively²³) ensured by welfare state policies».

Nevertheless, it should be noted that the scholarly work on the connection between the rise of “private social protection” and the retrenchment of the Welfare State includes those that identify a direct causal link – pointing out that public finance has been placed under stringent constraints²⁴ – and those who partially reject this approach²⁵. Alongside these interpretations, a new suggestion has been recently proposed: it describes «a path (consciously or unconsciously) undertaken by IR actors (including the State) to support the profound transformations of the world of work»²⁶.

It has also been observed that the process of complementing the welfare state by private entities has proved suitable to protect workers from the mentioned emerging risks²⁷, and, even more, to guarantee the continuity

field of social security, the introduction of complementary pension funds (provided for in Legislative Decree no. 124/1993, as amended by Legislative Decree no. 252/2005).

²² On the principle of subsidiarity, as «the distribution of functions among a plurality of subjects [aimed at] equality and [at] equal opportunities», see G. G. BALANDI, “Pubblico”, “privato” e principio di sussidiarietà nel sistema del welfare state, and M. PERSIANI, *Crisi e riforma del welfare State*, both in *RGL*, 1998, 1, respectively 213 (here spec. 226) and 299.

²³ F. BACCHINI, *Welfare aziendale: illazioni (ricostruttive) giuslavoristiche (I. Parte generale)*, in *ADL*, 2017, 3, 636.

²⁴ J. S. HACKER, *Privatizing Risk without Privatizing the Welfare State: The Hidden Politics of Social Policy Retrenchment in the United States*, in *American Political Science Review*, 2004, 243, and, referring to the Italian case, M. FERRERA, *Secondo welfare: perché? Una introduzione*, and F. MAINO, *Tra nuovi bisogni e vincoli di bilancio: protagonisti, risorse e innovazione sociale*, both in F. MAINO, M. FERRERA (ed.), *Primo rapporto sul secondo welfare in Italia*, Centro Einaudi, 2013, respectively 8 and 23.

²⁵ M. FERRERA, A. HEMERIJCK, *Recalibration European Welfare State Regimes*, in J. ZEITIN, D. TRUBECK (ed.), *Governing Work and Welfare in a New Economy: European and American Experiments*, Oxford University Press, 2003, 88, and, referring to the Italian case, T. TREU, *Introduzione Welfare aziendale* cit., spec. 6, and B. CARUSO, “The bright side of the moon” cit., spec. 187. According to them it is not a retrenchment but a «recalibration» of Welfare State resources.

²⁶ M. TIRABOSCHI, *Il welfare aziendale e occupazionale in Italia: una prospettiva di relazioni industriali*, in *DRI*, 2020, 1, spec. 88.

²⁷ P. TAYLOR-GOOPY, *New risks and social change*, in P. TAYLOR-GOOPY (ed.), *New risks, new welfare?*, Oxford University Press, 2004, 2, who clarifies that «new social risks are the risks that people now face in the course of their lives as a result of the economic and social changes associated with the transition to a post-industrial society».

and the effectiveness of «social rights»²⁸. In this sense, the legislator has more recently wanted to facilitate private (and subsidiary²⁹) social protection measures with a tax reform, which replaces the previous approach³⁰.

In particular, Law no. 208/2015 – as subsequently amended by Law no. 232/2016³¹ – recognised fiscal and contribution incentives for goods, services, and benefits, with social purpose, provided by employers to the whole of the workers in the plant, in addition to the wage and the benefits provided by a collective agreement or a (mandatory) corporate regulation³². Thus, the Italian legal system (re)discovered «corporate and occupational welfare».

Considering this tax legislation, the focus of the paper will be on collectively negotiated corporate welfare, as it is considered suitable to realise the interests of the parties involved³³. Collective bargaining is the privileged forum for balancing demands and addressing people with needs and expectations.

²⁸ As defined by E. ALES, *Diritti sociali e discrezionalità del legislatore nell'ordinamento multilivello: una prospettiva giuslavoristica*, in *DLRI*, 2015, 147, spec. 458, as «the rights instrumental to the social inclusion of the owner in the community, [ensuring] certain qualitative-quantitative level of well-being».

²⁹ It should be noted that the concept of «subsidiarity» is placed in antithesis to the «substitution» one, because the participation of private actors in the social protection system does not substitute the Welfare State but, on the contrary, complements it. See E. ANDERSEN, *Welfare regimes and social stratification*, in *Journal of European Social Policy*, 2014, spec. 124, and, regarding the Italian case, W. CHIAROMONTE, M. L. VALLAURI, *Trasformazioni dello Stato sociale ed ascesa del welfare aziendale. L'esperienza italiana*, in W. CHIAROMONTE, M.L. VALLAURI. (ed.), *Modelli ed esperienze di welfare aziendale*, Giappichelli, 2018, spec. 19.

³⁰ Before the tax reform, the legislator had foreseen incentives for social protection measures *voluntarily* provided by employers to their workers. In this way, the provisions of collective agreements and of (mandatory) corporate regulations played a marginal role, because, although they were present, they were not tax-privileged.

³¹ For a detailed reconstruction of developments in tax legislation on this topic (spec. with respect to Art. 51 and 100, Italian Tax Code, 1986), see E. MASSAGLI, *Le novità in materia di welfare aziendale in una prospettiva lavoristica*, in M. TIRABOSCHI (ed.), *Le nuove regole del lavoro dopo il Jobs Act*, Giuffrè, 2016, 600.

³² M. SQUEGLIA, *Il welfare aziendale è la risposta al bisogno previdenziale e al "welfare integrato"?*, in *LD*, 2019, spec. 693, clarifies that «with regard to the deservingness of need [...] the tax legislator has allowed exclusions from taxable income».

³³ See T. TREU, *Introduzione Welfare aziendale* cit., spec. 14, who qualifies the collective dimension as a suitable vehicle «for responding to the increasingly personalized needs of workers». In these terms, see M. SQUEGLIA, *La disciplina del welfare aziendale. Linee evolutive, sentieri di indagine e prospettive di sviluppo*, in *RSDD*, 2018, 4, 828.

3. The Contents of Corporate Welfare Promoted through Collective Bargaining

The aim of defining corporate welfare and its characteristics seems very difficult to be achieved. The absence of legal indications (except for the fiscal one³⁴) calls for interpretative efforts to identify a phenomenon «whose development is linked to economic and social demands, deeper than the taxation lever»³⁵.

The definition of this expression – unquestionably «non-technical»³⁶ and «not legally prescriptive»³⁷ – has been entrusted to scholarly work. Legal scholars have been called upon to perform a difficult interpretative task, in the search for a balance between tax legislation and the (various and often «contradictory»³⁸) and collective bargaining.

The concept of corporate welfare belongs to sociological, economic, and political language, identifying the set of benefits that employers grant to their workers, to improve their private and professional life³⁹. However, it is a definition that does not consider the legal value of corporate welfare, whose emergent characteristic is the fact that «pertains to a limited context, such as the corporate one»⁴⁰.

In addition to this, corporate welfare has been variously denominated in relevant research, changing its semantic scope «according to the sources of the benefit, or according to the financing, disbursing or promoting subjects»⁴¹. This «definitional chaos»⁴² has led to the (disorganised⁴³)

³⁴ According to M. SQUEGLIA, *L'evoluzione del "nuovo" welfare aziendale tra valutazione oggettiva dei bisogni, regime fiscale incentivante e contribuzione previdenziale*, in *ADL*, 2017, 1, spec. 131, here emerges «the need for a transversal definition across all areas of the legal system [...], explaining what corporate welfare is or, alternatively, identifying the requirements that corporate welfare must meet to acquire legal validity».

³⁵ M. TIRABOSCHI, *Il welfare aziendale e occupazionale in Italia* cit., spec. 87.

³⁶ T. TREU, *Il welfare aziendale: problemi, opportunità, strumenti*, in T. TREU (a cura di) *Welfare aziendale 2.0. Nuovo welfare, vantaggi contributivi e fiscali*, Ipsoa, 2016, spec. 3.

³⁷ G. CANAVESI, *Le interazioni tra diritto all'assistenza sociale e diritto del lavoro* cit., spec. 424.

³⁸ F. SANTINI, *Profili di regolamentazione collettiva del welfare aziendale* cit., spec. 1476.

³⁹ R. TITMUS, *Essay on the Welfare State*, Allen and Unwin, 1958, 100.

⁴⁰ D. GRANDI, *Redistribuzione o retribuzione: le diverse funzioni del welfare aziendale*, in E. MASSAGLI, (ed.), *Il welfare aziendale territoriale per la micro, piccola e media impresa italiana. Una indagine ricostruttiva*, ADAPT University Press, 2014, spec. 12.

⁴¹ E. MASSAGLI, S. SPATTINI, *Cosa intendiamo quando parliamo di welfare aziendale? Un tentativo di mappatura concettuale di un concetto abusato*, in *Bollettino ADAPT*, January 23, 2017, to which please refer for a careful terminological survey.

⁴² F. BACCHINI, *Welfare aziendale: illazioni (ricostruttive) giuslavoristiche* cit., spec. 634.

⁴³ A. TURSI, *Il «Welfare aziendale»: profili istituzionali*, in *RPS*, 2012, 4, spec. 213, who points

inclusion in corporate welfare of all well-being promoting actions «provided by companies to the workers in execution of the agreements that link them to each other, regardless of both the type of measure and its normative source»⁴⁴.

Occupational welfare delineates a «complex private system, with a corporate or collective bargaining nature, [...] that, limited to the workers employed in a plant and their relatives, affects the same needs satisfied by the welfare state system, or protects, with additional benefits compared to the public ones, other needs»⁴⁵.

If such an observation perspective were to be adopted, the topic of the investigation would appear excessively broad, and any assessment on this point would lead to some ambiguities⁴⁶. Consequently, the need arises to pursue an industrial relations law-oriented approach⁴⁷, enhancing corporate welfare promoted through collective bargaining («in all its dimensions and levels»⁴⁸).

Nevertheless, the main reports on the issue⁴⁹ have highlighted the variety of benefits that can be planned in a (national, corporate, or territorial)

out that the «conceptual clarity of the expression “corporate welfare” [is] inversely proportional to its diffusive and evocative capability».

⁴⁴ M. TIRABOSCHI, *Il welfare aziendale e occupazionale in Italia* cit., spec. 98, recalling the definition of «occupational welfare» used by R. TITMUS, *Essay on the Welfare State* cit., in the Italian version, in *Saggi sul “welfare state”*, Edizioni Lavoro, 1963, 58.

⁴⁵ F. OLIVELLI, *L'inquadramento sistematico del welfare aziendale*, in *RDSJ*, 2020, 1, spec. 103.

⁴⁶ The variety of the sample would result in the comparison of «non-comparable forecasts, [and, above all] without a precise system view» (on this point, see M. TIRABOSCHI, *Il welfare aziendale e occupazionale in Italia* cit., spec. 98).

⁴⁷ According to M. TIRABOSCHI, *Teoria e pratica dei contratti di lavoro*, ADAPT University Press, 2016, spec. 33, the «Industrial Relations Law» represents «the set of formal and informal rules, intended to systemically regulate the methods of production of a Country, and which are the result of the interrelation between the State, the Employers' Associations and Trade Unions». In the same direction, B. KAUFMAN, *The Theoretical Foundation of Industrial Relations and Its Implications*, in *Industrial and Labor Relations Review*, 2010, 64, 103, clarifies that the «value added employment relations approach that distinguishes the Industrial Relations field from others [consists in] a welfare function that includes not only consumers' interests and economic efficiency but also workers' interests and distinctly social/humanistic goals, such as procedural and distributive justice; protection of basic human rights; provision of elemental democratic procedures at work; and opportunities for human self-development and self-actualization at work».

⁴⁸ U. STENDARDI, A. R. MUNNO, *Il welfare contrattuale: un nuovo orizzonte strategico*, in T. TREU (ed.), *Welfare aziendale 2.0. Nuovo welfare, vantaggi contributivi e fiscali*, Ipsoa, 2016, spec. 145.

⁴⁹ Among the several surveys carried out on this topic, please refer at least to M. TIRABOSCHI (ed.), *Welfare for People. Quinto rapporto su Il welfare occupazionale e aziendale*, ADAPT University Press, 2022, and to the others Reports cited therein (spec. 223).

collective agreement. Considering the holistic vision of employee well-being⁵⁰, corporate welfare includes measures ranging from the social security and health area to the professional training one, even including care services for workers' families (especially for relatives with a disability or older), and parenting support tools. Moreover, welfare benefits may concern tools which are characterized by a more economic than social function⁵¹, such as leisure services or vouchers to sustain workers' income. Finally, adopting a broader conception of corporate welfare, can even include the flexible models of work oriented towards a better work-life balance (like, for example, teleworking⁵²), and the actions to implement health and safety protection in the workplace.

Leaving aside these macro-areas, welfare benefits can be divided into two different types. The first one includes the tools «allowing the workers to carry out their work more easily, moving beyond the inconveniences caused by how they perform the assigned task or supporting their personal needs». The second one includes the instrument «to which the Italian legal system confers a social value on them, so significant that they do not compete with the taxable employee income»⁵³.

⁵⁰ According to A. MARESCA, *Il welfare aziendale nella prospettiva delle politiche retributive del personale*, in I. ALVINO, S. CIUCCIOVINO, R. ROMEI (ed.), *Il welfare aziendale. Una prospettiva giuridica*, Il Mulino, 2019, spec. 69, «under a broader meaning, corporate welfare is everything that is aimed at the well-being of workers, [...], not only those referred to in the tax law». On this point, as it will be explored in § 3, E. GRANAGLIA, *Welfare fiscale: risorsa da promuovere o rischio da evitare?*, in M. JESSOULA, E. PAVOLINI (ed.), *La mano invisibile dello stato sociale. Il welfare fiscale in Italia*, Il Mulino, 2022, 329, has recently emphasized the need for a «reasoned assessment of tax-privileged welfare», which could be useful to argue for possible «extensions of existing benefits, as well as specific revisions of the most controversial aspects».

⁵¹ F. BACCHINI, *Welfare aziendale: illazioni (ricostruttive) giuslavoristiche* cit., spec. 641.

⁵² On tele-working as a work-life balance measure, see M. BROLLO, *Il lavoro agile tra emergenza pandemica e riemersione della questione femminile*, and, as a «reasonable accommodation» for disadvantaged workers, A. ZILLI, *Il lavoro agile per Covid-19 come "accomodamento ragionevole" tra tutela della salute, diritto al lavoro e libertà di organizzazione d'impresa*, both in *Labor*, 2020, 4, respectively 87 and 531. In addition to this, on the tax incentives for work-life balance corporate welfare measures, see C. GAROFALO, *Le politiche per l'occupazione tra aiuti di Stato e incentivi in una prospettiva multilivello*, Cacucci, 2021, 204.

⁵³ M. SQUEGLIA, *L'evoluzione del "nuovo" welfare aziendale* cit., spec. 114.

4. The Request for an Impact Assessment: Some Insights from the Italian Third Sector

Corporate welfare, as defined in the previous paragraph, seems to be at the heart of modern industrial relations, for three reasons at least.

First of all, the Italian legal system recognizes corporate welfare as a social benefit, which is realized through tax incentives for its provision. These fiscal advantages are suitable to raise the interest of both sides of the employment relationship: workers can obtain (customized) wage additions, with a reduced tax burden, able to meet their social needs and desires; employers can reduce the labour costs, improving corporate wellness and, consequently, the productivity of their workers, ensuring positive effects on the competition in the market⁵⁴.

The second point regards the well-being of people in the post-pandemic era⁵⁵, where new sustainability seems to be found through a tool that (potentially) guarantees equal opportunities and improved satisfaction for all workers⁵⁶. The long-standing challenge of achieving «equal pay for work of equal value», which was even more arduous in the emergency context,⁵⁷ could be successfully met with corporate welfare, which could allow, in addition to benefits with significant economic impact, supplementary (and indispensable) social protection measures for all workers in a plant⁵⁸, «leaving no one behind»⁵⁹.

⁵⁴ B. CARUSO, “The bright side of the moon” cit., spec. 185.

⁵⁵ The pandemic has raised the «new social issue» [D. GAROFALO, M. TIRABOSCHI, V. FILÌ, F. SEGHEZZI (ed.), *Welfare e lavoro nella emergenza epidemiologica, Contributo sulla nuova questione sociale*, ADAPT University Press, 2020], which is already evolving into the «new geo-eco-social issue» due to climate change (A. PERULLI, V. SPEZIALE, *Dieci tesi sul diritto del lavoro*, Il Mulino, 2022, spec. 146).

⁵⁶ L. BARBIERI, G. SCANSANI, M. TOMBARI, *Welfare aziendale, leva strategica tra sviluppo sostenibile e PNRR*, in *DPL*, 14/2022, 841. On this point, see also C. MURENA, *Il welfare aziendale come strumento di sostenibilità*, in *VV.AA., Il diritto del lavoro per una ripresa sostenibile. XX Congresso Nazionale AIDLASS. Taranto, 28 – 30 ottobre 2021*, La Tribuna, 2022, 501.

⁵⁷ A. ZILLI, *Parità di retribuzione per lavori di equo valore: un passo avanti e uno di lato*, in *DRI*, 2021, 3, 956.

⁵⁸ Although, historically, corporate welfare has been associated with the risk of widening social inequalities between workers [as highlighted by E. PAVOLINI, U. ASCOLI, M. L. MIRABILE, *Conclusioni*, in E. PAVOLINI, U. ASCOLI, M. L. MIRABILE (ed.), *Tempi moderni. Il welfare nelle aziende in Italia*, Il Mulino, 2013, 259], recent surveys show how it can guarantee new forms of equal pay. On this point, please refer to C. ALTILIO, M. DALLA SEGA, M. DE FALCO, *Apprendistato e dinamiche retributive. Una ricerca nel settore metalmeccanico*, in *WP ADAPT*, 16/2022, spec. 30.

⁵⁹ Recalling the motto of UNITED NATIONS, *Transforming our world: the 2030 Agenda for Sustainable Development*, 2015.

The third aspect – which is related to the second one but considered on the employer side⁶⁰ – concerns the ongoing difficulties of companies in attracting and retaining (essential) human resources. These hard times are witnessing large flows of workers moving from one job to another, looking for more gratifying working conditions, not only in terms of salary but also well-being⁶¹. It follows that the challenges of attraction and retention in the current labour markets require looking at the changed circumstances of the world of work with new eyes, focusing action on the satisfaction of the needs and desires that everyone is seeking today.

It is a matter of understanding how the exchange between employers and workers is transforming – “beyond” the traditional references to wage, tasks, environment and working time⁶² – and how corporate welfare could fit into these new metrics. Moreover, the variety of measures, with social relevance, promoted through collective bargaining requires a detailed analysis of the effects on the well-being of people and the company, to assess the value of the actions implemented.

⁶⁰ According to S. CIUCCIOVINO, D. GAROFALO, A. SARTORI, M. TIRABOSCHI, A. TROISI, L. ZOPPOLI (ed), *Flexicurity e mercati transizionali del lavoro*, ADAPT University Press, 2021, the doctrinal debate on «flexicurity» – i.e., on the reconciliation of flexibility of company and (social) security of workers – does not seem to have been resolved yet, and, on the contrary, it faces new challenges imposed by European impulses for «Sustainable Development» in the *post* Covid-19 emergency recovery.

⁶¹ N. RICHARDSON, M. ANTONELLO, *People at Work 2022. A Global Workforce View*, ADP Research, 2022 highlight how the needs of people have radically changed after the two-year pandemic experience: today, the added value for attracting and retaining human resources, as well as for creating stronger and more resilient organizations, lies in «flexibility, health protection, well-being and work-life balance». On the Italian phenomenon of the 2021 Great Resignation, see R. BRUNETTA, M. TIRABOSCHI, *Grande Dimissione: fuga dal lavoro o narrazione emotiva? Qualche riflessione su letteratura, dati e tendenze*, Working Paper ADAPT n. 6/2022, and for a quantitative “brain drain” survey FONDAZIONE STUDI CONSULENTI DEL LAVORO, *Le dimissioni in Italia tra crisi, ripresa e nuovo approccio al lavoro*, 2022.

⁶² According to M. BROLLO, *Il lavoro agile alla prova dell'emergenza epidemiologica*, in V. FILÌ (ed.), *Volume I. Covid-19 e rapporto di lavoro*, in D. GAROFALO, M. TIRABOSCHI, V. FILÌ, F. SEGHEZZI (ed.), *Welfare e lavoro nella emergenza epidemiologica. Contributo sulla nuova questione sociale*, ADAPT University Press, 2020, spec. 169 the new employment relationships assign «more relevance to “what” workers do than to “where” and “when” they do it». The expression, already adopted during the pandemic with the massive adoption of telework, emphasizes a «new exchange between employer and workers [in which there is] no longer an exchange between presence and wage, but between autonomy, responsibility, and result», as in A. BOSCATI, *L'inquadrimento giuridico del lavoro da remoto tra potere direttivo e autonomia della prestazione*, in M. MARTONE (ed.), *Il lavoro da remoto. Per una riforma dello smart working oltre l'emergenza*, La Tribuna, 2020, spec. 61.

Some insights can be taken from the «social impact evaluation systems» provided for Italian third sector (ITS).

Looking at Art. 118, Par. 4, Italian Constitution⁶³ – ITS constitutes the second pillar of the welfare society, «adding the civil dimension to the public and private ones, under the principles of equity, efficiency, and solidarity»⁶⁴.

According to Legislative Decree no. 117/2017⁶⁵, ITS entities are «voluntary organizations, associations for social promotion, philanthropic entities, social enterprises, including social cooperatives [and other private entities] established for the non-profit pursuit of civil, solidarity and socially useful purposes, by carrying out, exclusively or principally, one or more activities of general interest» (Art. 4). The Italian legal system recognizes to ITS entities their «value and social function, [...] as an expression of participation and solidarity» (Art. 2) that characterize the «social economy»⁶⁶, to which post-pandemic recovery and resilience should be inspired⁶⁷.

As a result of the «Guidelines for the implementation of social impact evaluation systems of the activities carried out by Third Sector organizations» (Decree of Minister of Work, July 23, 2019⁶⁸), it is

⁶³ The Art. 118, Par. 4, Italian Constitution states that «the State, Regions, metropolitan cities, provinces, and municipalities shall promote the autonomous initiatives of citizens, both as individuals and as members of associations, relating to activities of general interest, on the basis of the principle of subsidiarity».

⁶⁴ S. ZAMAGNI, *Prefazione*, in C. CITTADINO (ed.), *Dove lo Stato non arriva. Pubblica Amministrazione e Terzo settore*, ASTRID, Passigli Editori, 2008, spec. 9.

⁶⁵ For a comprehensive overview of the Italian Third Sector and of its Labour Law dynamics, see D. GAROFALO, *Il lavoro nel Terzo settore*, in *MGL*, 2018, 1, 91, and, for a monographic research on this topic, A. RICCOBONO, *Diritto del lavoro e Terzo settore. Occupazione e welfare partenariale dopo il d.lgs. n. 117/2017*, Edizioni Scientifiche Italiane, 2020.

⁶⁶ Recalling VV.AA., *Social and Solidarity Economy: Our common road towards Decent Work*, ILO, 2011, E. DAGNINO, *Diritto del lavoro ed economia sociale. Appunti per una ricerca*, in *DRI*, 2021, 4, spec. 1060, defines the social economy as «a concept that refers to enterprise and organizations [...] which specifically produce goods, services and knowledge while pursuing economic and social aims and foresting solidarity».

⁶⁷ Indeed, the Italian «National Recovery and Resilience Plan» (NRRP) assigns a leading role to ITS entities, as clearly shown by IRIS NETWORK – FORUM DISUGUAGLIANZE E DIVERSITÀ, *PNRR: alcune linee di indirizzo e priorità*, in *Impresa Sociale*, 1/2021.

⁶⁸ In the Italian legal system, the issue of social impact assessment of ITS enterprise had already been addressed in Law no. 328/2000, where the focus on evaluation processes is mentioned in several steps: for example, the Art. 3 provided that «the implementation of social services [requires] the systematic assessment of the results in terms of quality and effectiveness of the services», while Art. 20 referred to «forms of monitoring,

recommended that these entities produce a social impact assessment once a year, to «report on the quantity and quality of their activity, and the effects, they produce about the identified objective»⁶⁹. Hence, this evaluation represents «the tool through which [an ITS organization] reports to its stakeholders on its effectiveness in creating social and economic value» (Art. 2)⁷⁰.

If it is true that trade unions and employers' associations, as well as ITS organizations, carry out their activity to produce a positive effect on their stakeholders, even a quantitative impact assessment of corporate welfare benefits promoted through collective bargaining becomes crucial for the social construction of new labour (and industrial) relations.

Thus, the new challenge is to guide the social partners, through a quantitative approach, towards collective qualitative choices able to respond to the new demands of employers, employees, and workers. Concerning the employers' associations, it is a matter of supporting employers, with the method to know the value of corporate welfare measures, by going beyond tax benefits and quantifying the return on investment. Referring to trade unions is a matter of enabling them to suggest, assess, and convey customized offers that do meet the needs and desires of workers⁷¹.

verification, and evaluation of the costs, yields and results of interventions». The measurement of the results achieved by ITS entities was subsequently regulated by the Ministerial Decree of January 24, 2008, where the guidelines for drawing up the «social statement» were adopted. Lastly, the Law no. 106/2016, containing the «Delegation to the Government for the reform of the Third Sector», provided a precise specification of the social impact assessment in the new regulatory framework of ITS entities, defining it as «the qualitative and quantitative evaluation, in the short, medium, and long term, of the effects of the activities, carried out on the community of reference with respect to the identified objective» (Art. 7, Par. 3). This definition was incorporated in the mentioned Decree of Minister of Work, July 23, 2019.

⁶⁹ On this point, even before the legislative provision, see S. ZAMAGNI, P. VENTURI, S. RAGO, *Valutare l'impatto sociale. La questione della misurazione nelle imprese sociali*, in *Impresa Sociale*, 12/2018, to which please refer for proposed economic measurement indicators.

⁷⁰ The process of measuring Social Impact, which must be based on the principles of «intentionality, relevance, reliability, measurability, comparability transparency and communication», is divided into five steps: *i*) context and needs analysis with stakeholder participation; *ii*) planning of impact objectives; *iii*) choice of methodologies, tools, and timing of measurement, with respect to the set objectives and to the characteristics of the intervention; *iv*) attribution of a value to the results achieved by the measurement process; *v*) communication of the results of the evaluation. On the different steps of the social impact assessment and on their purpose, see M. RENNA, *L'impatto sociale del Terzo settore: finalità, attività e governance*, in *RDI*, 2021, 2, 363.

⁷¹ Along these paths, B. CARUSO, *Sviluppi normativi e contrattuali del welfare aziendale*, in

5. Closing remarks

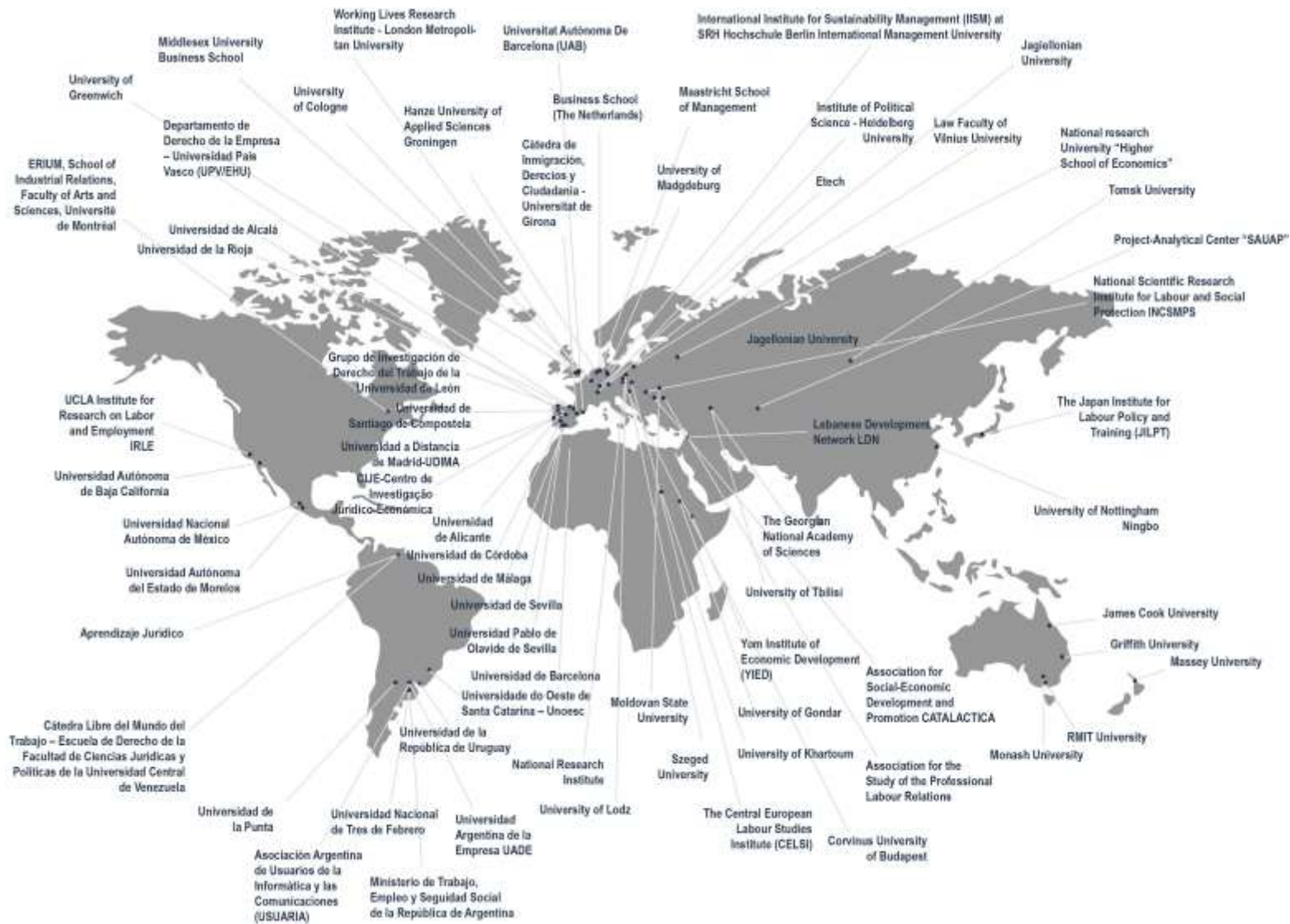
This paper attempted to highlight the need for a quantitative approach to the issue of social needs that could be satisfied through corporate welfare in the new era of industrial and labour relations.

A new research perspective emerges, which allows us to reflect both on the capacity of industrial relations actors in providing (structural and durable) answers in a deeply transformed framework, and on the suitability of corporate welfare measures in satisfying the social and economic needs of workers and companies, beyond the mere contractual exchange. The more corporate welfare promoted through collective bargaining meets the needs and desires of the involved parties, the best the resources allocated will be able to spread their value, in broader terms than a wage addition or a tax benefit.

A greater awareness among IR actors of the value of corporate welfare could enhance the social construction of a new labour market through participatory models, also as a tool to face the transition underway, and to sustain attraction and retention.

RIDL, 2018, 1, spec. 376 qualifies corporate welfare as a «propulsive tool for the reorganization of the collective bargaining structure».

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ADAPT is a non-profit organisation founded in 2000 by Prof. Marco Biagi with the aim of promoting studies and research in the field of labour law and industrial relations from an international and comparative perspective. Our purpose is to encourage and implement a new approach to academic research, by establishing ongoing relationships with other universities and advanced studies institutes, and promoting academic and scientific exchange programmes with enterprises, institutions, foundations and associations. In collaboration with the Centre for International and Comparative Studies on Law, Economics, Environment and Work, (DEAL) the Marco Biagi Department of Economics, University of Modena and Reggio Emilia, ADAPT set up the International School of Higher Education in Labour and Industrial Relations, a centre of excellence which is accredited at an international level for research, study and postgraduate programmes in the area of industrial and labour relations. Further information at www.adapt.it.

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