

OPEN ACCESS

ISSN 2280-4056

*E-Journal of
International and Comparative*

LABOUR STUDIES

Volume 13 No. 03/2024



ADAPT
www.adapt.it
UNIVERSITY PRESS

ADAPT *International School of Higher Education in Labour and Industrial Relations*

Managing Editor

Valeria Fili (*University of Udine*)

Board of Directors

Alexis Bugada (*Aix-Marseille University*), Valeria Fili (*University of Udine*), Anthony Forsyth (*RMIT University*), József Hajdu (*University of Szeged*), Shinya Ouchi (*Kobe University*), Daiva Petrylaite (*Vilnius University*), Valeria Pulignano (*KU Leuven University*), Michele Tiraboschi (*Founding Editor - University of Modena and Reggio Emilia*), Anja Zbyszewska (*Carleton University*).

Editorial Board

Labour Law: Emanuele Dagnino (*University of Milan*); Tammy Katsabian (*College of Management Academic Studies*); Attila Kun (*Károli Gáspár University*); Adrian Todoli (*University of Valencia*); Caroline Vanuls (*Aix-Marseille University*). **Industrial Relations:** Valentina Franca (*University of Ljubljana*); Giuseppe Antonio Recchia (*University of Bari Aldo Moro*); Paolo Tomassetti (*University of Milan*); Joanna Unterschütz (*University of Business Administration in Gdynia*). **Labour Market Law:** Lilli Casano (*University of Insubria*); Silvia Spattini (*ADAPT Senior Research Fellow*). **Social Security Law:** Claudia Carchio (*University of Udine*); Carmela Garofalo (*University of Bari*); Ana Teresa Ribeiro (*Catholic University of Portugal – Porto*); Alma Elena Rueda Rodriguez (*National Autonomous University of Mexico*). **Anti-discrimination Law and Human Rights:** Helga Hejny (*Anglia Ruskin University*); Erica Howard (*Middlesex University*); Anna Zilli (*University of Udine*). **Labour Issues:** Josua Grabener (*University of Lille*); Habtamu Legas (*Ethiopian Civil Service University*); Francesco Seghezzi (*ADAPT Senior Research Fellow*).

Language Editor

Pietro Manzella (*University of Udine*).

Book Review Editors

Peter Norlander (*Loyola University Chicago*).

Scientific Committee of Reviewers

Maurizio Del Conte (*Bocconi University*), Juan Raso Delgue (*University of the Republic*); Richard Hyman (*LSE*); Maarten Keune (*University of Amsterdam*); Felicity Lamm (*Auckland University of Technology*); Nicole Maggi-Germain (*Panthéon-Sorbonne University*); Merle Erikson (*University of Tartu*); John Opute (*London South Bank University*); Michael Quinlan (*University of New South Wales*); Jean Michel Servais (*Honorary President of ISLLSS and Former Director of International Labour Office*); Anil Verma (*University of Toronto*).

*E-Journal of
International and Comparative*

LABOUR STUDIES

Volume 13 No. 03/2024

@ 2024 ADAPT University Press

Online Publication of the ADAPT Series
Registration No. 1609, 11 November 2001, Court of Modena
www.adaptbulletin.eu

The articles and the documents published in the *E-Journal of International and Comparative LABOUR STUDIES* are not copyrighted. The only requirement to make use of them is to cite their source, which should contain the following wording: **@ 2024 ADAPT University Press**.

Index

Labour Law

Giovanna Pistore, *Critical Issues Concerning the Protection of Women's Occupational Health and Safety (OHS)*..... **1**

Gianni Toscano, *Digital Platform Work and its Effects on Youth Employment in Italy: Insights for a More Effective System of Protection*.....**11**

Industrial Relations

Nicola Deleonardis and Michela Tuoldo, *Trade Unions and Young People: Tools for Their Protection and Employability* **24**

Labour Market Law

Carmela Garofalo and Claudia Carchio, *Employment in the New Era: Bridging Technology, Education, and Skills for the Next Generation*..... **40**

Marcella Miracolini, *Traineeships and Youth Employment Strategies: The Italian Case in Light of Upcoming European Reforms*..... **70**

Antonio Pellicano, *The Fundamental Role of Training Systems and Educational Policies in Preventing the NEET Phenomenon* **91**

Social Security Law

Silvia Bologna, *Guaranteed Minimum Income in Italy and the Fight Against Social Exclusion: A Downside Compromise in Light of the Principles of Equality and Solidarity*..... **110**

Anti-discrimination Law and Human Rights

Maria Cristina Degoli, *Beyond the Pink Label: Italy's Certification of Gender Equality for Organisational Change through Management Commitment and Employee Engagement*..... **131**

Marianna Russo, *Remote Work and Gender Equality: Perspectives from the EU*..... **151**

Labour Issues

Francesco Nespoli, *The Contested Realm of Reorganisation Crises: A Rhetorical Arena Approach to Understanding Communication in the Context of Workforce Restructuring*..... **164**

Critical Issues Concerning the Protection of Women's Occupational Health and Safety (OHS)

Giovanna Pistore *

Abstract: Work-related health and safety risks for women have historically been underestimated and neglected, despite Article 28 of the Italian Consolidated Law on Safety at Work stipulating that gender differences should be considered when assessing risks. However, the law does not specify the exact procedures for conducting such an assessment. Risk analyses indicate that, among the protective measures, the exercise of employer organisational powers may interfere with safety obligations.

Keywords: *OHS; Gender; Equality; Risk assessment; Protective measures.*

1. Towards a Gender Approach in Italian OHS Legislation

As is frequently asserted, equality between men and women in the workplace must be ensured through a gender-sensitive approach to risk assessment. However, in the Italian legal system, this approach was largely overlooked for a considerable period. Legislative Decree No. 626 of 19 September 1994, concerning health and safety at work, adopted a gender-neutral concept of the worker, failing to account for gender differences.

Nonetheless, the principle of equality was enshrined in the Italian Constitution, particularly in Articles 3 and 37. Article 3 promotes both formal and substantive equality, while Article 37 stipulates that female workers must enjoy the same rights and receive the same remuneration as their male counterparts for equal work, with working conditions also accommodating women's family

* Researcher in Labour and Social Security Law at the University of Rome "UnitelmaSapienza" (Italy). Email address: giovanna.pistore@unitelmasapienza.it. This paper constitutes an expanded version of the one presented at the XXIV World Congress "The Quest for Labour Rights and Social Justice", which took place from 17 to 20 September 2024 in Rome.

responsibilities, including the protection of mothers and children¹. Consequently, female workers were historically viewed primarily in their role as mothers, as reflected in Legislative Decree No. 151 of 26 March 2001, the Consolidated Law on the Protection and Support of Maternity and Paternity.

In 2008, the implementation of the Consolidated Law on Safety at Work (Legislative Decree No. 81 of 9 April 2008) marked a significant shift towards an occupational health and safety (OHS) framework that recognises gender differences, moving beyond the previous neutral approach. This shift is highlighted at the outset of the Decree, which aims to ensure consistent protection for workers across the national territory through compliance with essential service levels concerning civil and social rights, including gender differences (Art. 1, par. 1).

In a similar vein, Article 28 of the Decree mandates that employers, when assessing risks, take gender differences into account. As such, the “‘gender issue’ cannot be addressed in a specific phase of the OHS evaluation process, but rather is a cross-cutting element in OHS, thereby reducing the overall hazard aggregation by effectively doubling the ‘homogeneous group of hazard situations’ that an enterprise must consider”².

Furthermore, Article 8 of the Decree establishes the National Information System for Prevention, which also incorporates a gender perspective in risk assessments³. Article 40 requires the appointed physician to report health information and workplace hazards to public authorities, highlighting any gender-specific differences.

2. Gender, Hazards, and Risks

It is important to clarify what is meant by gender differences in occupational health and safety (OHS). These differences extend beyond biological sex—defined as the physical characteristics of an individual—and encompass a

¹ P. Perlingieri, *Commento alla Costituzione italiana*, Napoli, 2001.

² E. Sorrentino, R. Vona, D. Monterosso, A.M. Giammarioli, *Gender issues on occupational safety and health*, in *Annali dell’Istituto Superiore di Sanità*, 2016, 2, 190. See also R. Nunin, *Lavoro femminile e tutela della salute e della sicurezza: nuovi scenari per una prospettiva di genere dopo il d.lgs. n. 81/2008*, in *Rivista del diritto della sicurezza sociale*, 2011, 2, 383; A. Ninci, *Le differenze di genere e l’impatto su salute e sicurezza in ambito lavorativo*, in *Diritto delle relazioni industriali*, 2009, 3, 800.

³ The *Sistema Informativo Nazionale per la Prevenzione* (SINP) provides valuable data to guide, programme, plan, and assess the effectiveness of accident and occupational disease prevention, with reference to both registered and non-registered workers under public insurance bodies. It also facilitates the planning and evaluation of supervisory activities through the integrated use of information available in various systems, specific archives, and the creation of unified databases. The system is managed by INAIL (the Italian National Institute for Insurance against Accidents at Work).

variety of other factors, such as behaviour, lifestyle, and the roles traditionally assigned to men and women. As emphasised by the ILO “this approach also improves the understanding that the sexual division of labour, biological differences, employment patterns, social roles, and social structures all contribute to gender-specific patterns of occupational hazards and risks. This needs to be taken into account if OHS policies and prevention strategies are to be effective”⁴. A comprehensive understanding of risk exposure must consider all these factors, alongside the complexity of individuals’ lives outside of work and at various life stages.

Indeed, the law does not provide a precise definition of a “gender hazard factor”. Rather, gender serves as a lens through which to examine the interaction between hazards and risks. To recall some established definitions, a hazard refers to an inherent characteristic of a factor—such as a substance, tool, or work method—that has the potential to cause harm (e.g., electricity, chemicals, working at height, noise, repetitive tasks, workplace bullying, stress). Risk, on the other hand, is the likelihood that a hazard will actually result in harm (see Article 2, par. 1, letters r and s of Legislative Decree No. 81/2008). Although the terms “hazard” and “risk” are often used interchangeably, they have distinct meanings. A hazard may exist in the workplace, but its potential for harm depends on the specific conditions in which it occurs. The interaction between risk and hazard can ultimately result in harm, manifesting as an adverse health outcome.

In the triptych of hazard, risk, and harm that defines risk assessment, gender serves as an important criterion for evaluation. It is undeniable that: a) certain hazards disproportionately affect women compared to men; and b) the outcomes of exposure to hazards may vary by gender, particularly in terms of physical effects, such as reproductive harm.

Data from INAIL—the Italian National Institute for the Insurance against Injuries at Work—in its 2024 Women’s Dossier⁵ reveals that between 2018 and 2022, nearly a third (32.9%) of accidents involving women were due to “overflow, spillage, and vaporisation” (including COVID-19). The second most frequent cause was “body movements under physical effort” (19.2%), which, conversely, was the leading cause for men. The third most common cause was “slipping or tripping with fall” (17.3%).

In 2022, mental health issues among female workers (accounting for 1.2% of total illnesses) were more than three times as prevalent as those among men (0.4%). Traffic accidents involving female workers outnumbered those

⁴ ILO, *10 Keys for Gender Sensitive OSH Practice – Guidelines for Gender Mainstreaming in Occupational Safety and Health*, 2013, in *ilo.org*.

⁵ INAIL, *Dossier donne 2024*, in *inail.it*.

involving men, both in absolute and relative terms (17% for women compared to 15% for men). Fatal outcomes represented 61.7% of cases for women, compared to 44.2% for men.

According to the Institute, this discrepancy is largely due to traditional family and social roles, which place additional burdens on women, compelling them to balance work and family responsibilities. This situation may result in more frequent travel and insufficient recovery time, contributing to an increased risk exposure. These differing social roles and the associated workload are key factors in the variation in risk exposure.

Moreover, some employment trends, while not inherently hazardous, can have significant occupational health and safety implications when combined with other factors. For instance, different types of employment contracts (such as part-time, informal, or casual jobs), occupational segregation, work organisation, and working hours can lead to both physical and psychological harm⁶. Additionally, the risks arising from multiple jobs and their combined effects require further exploration in light of the forthcoming social, economic, and technological changes. The financial and labour market crisis has prompted a trend of multiple employment, especially among the most vulnerable segments of the workforce, such as young people and women. This trend is driven by the need to compensate for the lack of income from part-time, casual, and fixed-term jobs⁷.

3. Practical Hints for Dealing with a Gender-Oriented Approach

The introduction of a gender-sensitive approach to risk assessment has not been accompanied by specific regulations outlining how to implement this innovation. As previously mentioned, the only provisions in this area concern working mothers and encompass both physical and organisational protective measures, but only for a limited period.

In particular, Legislative Decree No. 151/2001 outlines the following provisions:

⁶ K. Sjöberg Forsberg, A. Vånje, K. Parding, *Bringing in gender perspectives on systematic occupational safety and health management*, in *Safety Science*, 2022, 152; see also EU-OSHA, *Risks and Trends in the Safety and Health of Women at Work*, in *osha.europa.eu*: «Occupational segregation, overall, the concentration of female activity in a few sectors seems to be increasing rather than falling over time. The move to service sectors particularly affects women, who work in the growing sectors health care, education and retail. Consequently, if it should be effective, OHS policy should continue to address and enhance its activities for these sectors»; R. Masike, B. Mwanza, L. Masiyazi, *A gender sensitive framework to safety and health at work*, in *European Scientific Journal*, 2014, 11, 155.

⁷ INAIL, *La valutazione dei rischi in un'ottica di genere*, 2024, in *inail.it*.

- Article 7: Specifies the activities and jobs that are prohibited from the start of pregnancy until the end of the work restriction period, with particular emphasis on Annex A (hazardous, strenuous, and unhealthy work) and Annex B (special agents and working conditions).
- Article 11: Requires that risk assessments take into account specific conditions that could pose risks to pregnancy and breastfeeding, with reference to agents, processes, and working conditions listed in Annex C (agents, processes, and working conditions to be evaluated in relation to pregnancy) and in accordance with European directives.
- Article 12: Details preventive measures and the outcomes of these evaluations, including the possibility of reassignment to a non-hazardous role or the option to request early maternity leave.
- Article 53: Imposes restrictions on night work.

Apart from these provisions, there is a lack of specific protective measures from a gender perspective. No further guidance is offered in this regard by collective agreements.

In 2014, the CGIL, CISL, and UIL unions put forward the document titled *Proposals for Negotiation on the Topic of Health and Safety at Work*⁸. The document emphasises that the organisation of work is a critical aspect of collective bargaining, directly affecting workers' health and safety. Work organisation should be designed to create a reliable and safe system, using parameters that reconcile efficiency, protection, and workers' satisfaction. However, it is often the case that health and safety management systems are unable to integrate with the actual organisation of work, even though they formally comply with regulatory obligations. In this respect, the paper raised concerns that many employers fail to recognise the direct link between these two issues, treating them as independent variables. As a result, the responsibility for implementing necessary measures is relegated to second-level collective bargaining.

Collective agreements that explicitly link work organisation issues with gender-related matters are rare. Such connections are mainly made in relation to the monitoring, research, and consultation activities carried out by commissions or other bodies established to promote gender equality and prevent discrimination⁹. In contrast, unions should take the lead in ensuring that women's health and safety at work are given due attention¹⁰.

⁸ Cgil-Cisl-Uil, *Proposte per la Contrattazione in tema di Salute e Sicurezza sul Lavoro*, 2014, in olympus.uniurb.it.

⁹ M.D. Ferrara, *Il ruolo della contrattazione collettiva e la tutela della salute nei luoghi di lavoro: la prospettiva di genere*, in G. Sclip (ed.), *Sicurezza accessibile. La sicurezza sul lavoro in una prospettiva di genere*, Trieste, 2019, 59.

¹⁰ Trades Union Congress, *Gender in occupational safety and health*, 2017, in tuc.org.uk. But also CGIL, in its Guidelines *Una prospettiva di genere su salute e sicurezza*, 2023, in midil.cgil.it, stresses

Some suggestions have emerged from non-binding documents. In 2017, the Autonomous Province of Trento issued guidelines for drafting a risk assessment document with a gender perspective¹¹. These guidelines emphasised the need to consider gender-specific indicators, particularly in evaluating work-related stress, taking into account household responsibilities, working hours, career development, harassment, and emotional stress factors. They also highlighted the importance of addressing reproductive risks for both men and women.

Earlier, in 2013, the Milan Women's Health Work Group, comprising CGIL, CISL, and UIL unions, released a paper titled *Risk Assessment with Gender in Mind*¹², identifying several quantitative and qualitative indicators for assessing risks. Their analysis was based on the following observations: 1) women and men often perform different tasks; 2) they follow different career paths both in the labour market and within companies; 3) women and men are frequently exposed to different risks, including those that are less visible, such as violence and harassment; 4) outside of work, women and men face different constraints related to time and family care.

In the same year, the ILO released guidelines, which set out the need to “carefully explore the effects of gender roles on safety and health; analyse risks in both male- and female-dominated occupations; develop sex-disaggregated OHS data; incorporate the findings from OHS research into policymaking and workplace action; and fully involve both men and women workers in the decisions that affect their safety and health at all levels, from bodies such as national safety councils to occupational health services and workplace-level safety committees”¹³.

that: Unions should work to ensure that adequate health programmes are provided in the workplace, addressing the specific needs of female workers. They should campaign against any gender discrimination and the harmful practices that may result from it, while also pressuring national, regional, and local governments to adopt international laws and conventions. Furthermore, unions should incorporate collective bargaining clauses that mandate the inclusion of occupational health as a vital tool in eliminating workplace violence, while also considering the needs of a diverse workforce. Additionally, they should advocate for the creation of independent occupational health and safety committees, which are crucial for maintaining safe working conditions. These committees should be fully inclusive of women and tasked with monitoring the conditions, organisation, and working methods within the workplace, ensuring that they account for both the biological and social needs and differences of workers.

¹¹ Provincia Autonoma di Trento, *Indicazioni per la redazione di un documento di valutazione dei rischi in un'ottica di genere*, 2017, in trentinosalute.net.

¹² Gruppo Donne Salute Lavoro CGIL CISL UIL Milano, *La valutazione dei rischi tenendo conto del genere*, 2013, in lombardia.cisl.it.

¹³ ILO, *10 Keys for Gender Sensitive OSH Practice – Guidelines for Gender Mainstreaming in Occupational Safety and Health*, 2013, in ilo.org.

Most recently, in 2024, INAIL issued recommendations on gender-sensitive risk assessment¹⁴, which included risk assessment sheets tailored to a gender-oriented approach. These sheets analyse risk exposure, harm, and necessary protective measures, distinguishing between neutral, female, and male-related risks.

4. How to Address a Gender-oriented OHS Approach?

In the absence of clear regulatory directives, how can we determine which measures are compulsory for employers in a gender-sensitive OHS approach? Article 2087 of the Italian Civil Code, which is central to safety obligations, requires employers to adopt measures that, considering the specific nature of the work, experience, and current techniques, are necessary to safeguard both the physical and moral well-being of workers.

This article functions as a “closing rule” within the occupational health and safety system¹⁵, open to broad interpretation in light of the right to health (Article 32 of the Constitution) and the principles of fairness and good faith (Articles 1175 and 1375 of the Italian Civil Code), which also govern the employment relationship. The employer’s obligation to «protect the physical integrity and moral personality of workers» involves both typical and atypical measures. Typical measures are those established by law, collective agreements, or other binding provisions, whereas atypical measures focus on protecting workers’ health and safety, such as implementing safety precautions within the technical and operational organisation of work to prevent potential harm.

However, in this context, the rule outlined in Article 2087 of the Civil Code does not imply an obligation to adopt every conceivable or unspecified precaution. Rather, the duty is to exercise due diligence, which must be concretely identified. For protective devices, jurisprudence has clarified that the benchmark is the “highest technologically possible level of safety”¹⁶. In contrast, the benchmark for organisational measures has not yet been fully clarified, though it has been traced to behavioural obligations imposed by legal

¹⁴ INAIL, *La valutazione dei rischi in un’ottica di genere*, 2024, in *inail.it*.

¹⁵ Court of Cassation, Fourth criminal chamber, 30 November 2007, no. 44791; Id., Third criminal chamber, 26 January 2005, no. 6360. See S. Aprile, *Art. 2087 c.c.*, in G. Amoroso, V. Di Cerbo, A. Maresca (eds.), *Diritto del lavoro*, I, Milan, 2017, 752; P. Albi, *Adempimento dell’obbligo di sicurezza e tutela della persona – art. 2087 cod. civ.*, in *Commentario Schlesinger*, 2008; Id., *La sicurezza sul lavoro e la cultura giuridica italiana fra vecchio e nuovo diritto*, in *Diritto della Sicurezza sul Lavoro*, 2016, 1, 83.

¹⁶ Constitutional Court, 25 July 1996, no. 312; Court of Cassation, Labour chamber, 21 June 2019, no. 16749.

sources. Thus, it can be concluded that the obligations involved **could** arise from contractual good faith¹⁷, as explained by law and collective bargaining in areas not primarily focused on security.

Furthermore, we must consider that the Consolidated Law adopts a holistic notion of health, defined as the “state of complete physical, mental, and social well-being, not merely the absence of disease or infirmity” (Article 2, par. 1, lett. o). This rule reflects a comprehensive vision of the worker, whose risks are addressed in their entirety to ensure full health. In addition to more “traditional” physical risks, employers must also evaluate those risks that can be summarised as psycho-social, linked to the interaction between the subjective characteristics of the worker (such as gender, age, and geographical origin), the objective factors (such as the type of contract), and the organisation of work¹⁸.

Applying these conclusions to our analysis, with respect to exposure to physical hazards, workplace health and safety legislation traditionally did not distinguish between genders. As a result, workplaces, machinery, equipment, workstations, and even personal protective equipment were designed primarily for men of average, standardised body size and age. This male-centric approach has also been applied to the calculation of exposure limits for hazardous substances. “Exposures to dangerous substances in service occupations are frequent but remain under-assessed. Women’s exposure in healthcare, hospitality, dry cleaning, hairdressing, and waste management may also involve carcinogens. Exposures in these occupations, as well as in other tasks such as cleaning, can vary and are often unpredictable. This underscores the importance of avoiding assumptions about what women are exposed to and applying the same risk assessment principles, including substitution and elimination, and the hierarchy of prevention measures as defined in the EU prevention approach, as for other workers. Gender differences in the uptake and metabolism of dangerous substances should also be further explored”¹⁹.

Only in recent years have work clothing, safety footwear, and certain types of PPE been made available in sizes suitable for various body types. However, there are still relatively few studies analysing gender-specific susceptibility to hazardous substances and biological agents. This highlights the need for new scientific research on gender differences in the workplace, which could help

¹⁷ Court of Cassation, Labour chamber, 11 November 2022, no. 33428; Id., 26 November 2021, no. 37035; Court of Appeal of Rome, Labour chamber, 2 March 2020, no. 75.

¹⁸ S. Laforgia, *Tutela della salute e sicurezza, benessere dei lavoratori e legalità: interconnessioni organizzative e giuridiche*, in *Diritto della Sicurezza sul Lavoro*, 2016, 1, 126. See also M.P. Monaco, *Benessere, organizzazione e contratto di lavoro: una ricomposizione*, Bergamo, 2023.

¹⁹ EU-OSHA, *Risks and Trends in the Safety and Health of Women at Work*, 2014, in *osha.europa.eu*, Id., *Mainstreaming gender into occupational safety and health practice*, 2014, in *osha.europa.eu*

develop targeted strategies for preventing chemical and biological work-related risks. In 2018, the adoption of Law no. 3 of 11 January, specifically Article 3, promoted the application and dissemination of gender medicine, aimed at ensuring the quality of services provided by the National Health Service²⁰.

The issue becomes more complex when considering “organisational hazards”. In this regard, it is difficult to assert an absolute right of the worker to obtain certain benefits or changes, as it involves a legal situation that requires balancing the interests of different workers. The criterion to follow could arise from the connection between safety obligations and contractual good faith, as explained by jurisprudence. From this perspective, many regulations that may initially appear unrelated to preventive aspects ~~can~~ could serve to define the organisational scope of the safety obligation. On the other hand, we must not lose sight of the fact that there is also a need for legal certainty on the part of the employer.

One example might be the use of anti-discrimination regulations, where a worker demonstrates sex-based discrimination. Despite some judicial and doctrinal developments, proof of a relational element is required. Specifically, it must be shown that the treatment received is less favourable compared to that received or which would be received by individuals not subject to the protected characteristic and in a similar situation²¹.

Another example is the refusal to apply reasonable accommodation to a worker who provides assistance to a disabled person. In 2008, the Court of Justice, in its judgment of 17 July 2008, Case C-303/06, *Coleman*, stated that if an employer treats a worker less favourably than another in a similar situation, and it is proven that the treatment is due to the disability of their child, for whom they provide essential care, such treatment constitutes direct discrimination under Article 2(2)(a) of Directive 2000/78/EC. Consequently, the caregiving worker is entitled to “reasonable accommodations”, including organisational adjustments, as provided for by the Directive. Furthermore, in a recent order dated 17 January 2024, the Court of Cassation referred to the Court of Justice the question of whether EU law entitles the caregiver of a severely disabled child to invoke the anti-discrimination protections granted to disabled individuals under Directive 2000/78/EC, even in cases of indirect discrimination²².

²⁰ See the monographic issue of *The Italian Journal of Gender-Specific Medicine, La normativa sulla medicina di genere in Italia*, Supplement to Volume 5, Issue 3, 2019.

²¹ E. Consiglio, *Che cosa è la discriminazione? Un'introduzione teorica al diritto antidiscriminatorio*, Turin, 2020; M. Barbera, A. Guariso (ed.), *La tutela antidiscriminatoria*, Turin, 2020.

²² Court of Cassation, Labour chamber, 17 January 2024, no. 1788, with the comment of F. Andretta, *La centralità della figura del caregiver nell'assistenza ai disabili: effettività della tutela e adattamenti ragionevoli. La resilienza è donna*, in *Labor, Rubrica Aggiornamenti*, 1 February 2024.

Additionally, the provisions of collective bargaining addressing work-life balance measures may come into play: leaves and scheduling flexibility measures, such as remote work, flexible daily working hours, solidarity time banks, and provisions for reducing working hours to support employees' needs during specific life periods. Viewing these clauses from a preventive perspective would help define the obligation of organisational safety and also carries several implications²³. In the event of an injury, if a causal link is established between the injury and the failure to implement the measure, the employer could be held liable.

Nevertheless, it is undeniable that, in this way, the employer is burdened with a significant safety obligation, without clear guidance. The sensitivity of the issue would require, for reasons of legal certainty, the intervention of sources capable of managing the employer's powers, namely the law and collective bargaining. Nonetheless, the silence on the matter continues to make the gender approach an unresolved problem, still lacking a defined framework.

²³ See the analysis of M. Tiraboschi (ed.), *Welfare for People. Settimo rapporto su welfare occupazionale e aziendale in Italia*, Bergamo, 2024.

Digital Platform Work and its Effects on Youth Employment in Italy: Insights for a More Effective System of Protection

Gianni Toscano *

Abstract: Digital platform work, typical of modern business organisation, can offer new opportunities on the employment side for young people, but at the same time raises many questions about the protections to be afforded to the large group of workers concerned.

These reflections, starting from the work on the digital platform and the relative legal framework of reference, intend to highlight the lights and shadows of the phenomenon investigated and suggest, without any claim to exhaustiveness, some possible lines of intervention capable of guaranteeing the numerous workers involved truly decent and quality employment.

Keywords: *Digital platform work; Youth employment; Italy; Labour exploitation; Worker protections.*

1. Introduction

This paper aims to contribute to the understanding of work through digital platforms and its effects on youth employment¹.

* Fixed-term Researcher in Labour Law at the Department of Law, University of Messina (Italy). Email address: gianni.toscano@unime.it.

¹ This contribution is a reworking and update of the paper presented at the “XXIV ISLSSL World Congress - Work in a Changing World: The Quest for Labour Rights and Social Justice,” Rome, 17-20 September 2024. It is attributable to the activity carried out by the local research unit of the University of Messina (CUP J53D23018860001), as part of the PRIN PNRR 2022 “YES - Youth Employment Strategy” (P.I. Prof. Carmela Garofalo, Code: P2022H89ZS), funded as part of Mission 4 “Education and Research” of the PNRR (component C2 - investment 1.1, Fund for the National Research Programme and Projects of Significant National Interest - PRIN), utilising the European funds from the NextGeneration EU Programme.

Digital platforms represent a typical and essential organisational model in modern enterprises², through which the process of producing goods and services takes on a new form³.

Focusing these reflections on the pairing of “digital platform work – youth employment,” it can be stated that, within the current production context, this type of work⁴ undoubtedly represents an opportunity for young people seeking employment⁵.

The employment options offered by platforms are, in fact, particularly attractive to the younger segments of the workforce, who are often looking for flexible jobs or, in some cases, for their first job.

However, the new form assumed by the process of producing goods and services, while appealing and offering increasing opportunities, raises numerous questions about working conditions and the protections to be provided to the large group of workers involved.

The job opportunities offered by digital platforms are often characterised by irregularity and marginality, leading to an increasing number of so-called working poor, even among younger generations, who are forced to work under

² It has been observed in the literature that “the changes in the organisational models of companies, resulting from the ongoing processes of digitalisation, profoundly alter the way of working and producing – in terms of the role of the human being in the production process, the times and methods of performance, and the professional content – involving all workers across the board. However, in this new phase, the human being, with their knowledge, skills, and abilities, is placed at the centre of the production system, as they are capable of managing the new forms of production” (my translation) – (L. Ferluga, *Nuove tecnologie e professionalità*, in A. Bellavista, R. Santucci, eds., *Tecnologie digitali, poteri datoriali e diritti dei lavoratori*, Giappichelli, Torino, 2022, p. 160 s.).

³ As highlighted by U. Carabelli, *Presentazione del Convegno e introduzione dei lavori*, in *Riv. giur. lav. prev. soc.*, 2, 2017, p. 12, digital platforms represent, in any case, «only one facet of the polyhedron of the global digitalization of production processes» (my translation).

⁴ Numerous contributions have been made on digital platform work, e.g., G. Pisani, *Piattaforme digitali e autodeterminazione. Relazioni sociali, lavoro e diritti al tempo della “governabilità algoritmica”*, Mucchi Editore, Modena, 2023; M. Novella, P. Tullini, eds., *Lavoro digitale*, Giappichelli, Torino, 2022; R.E. Restelli, *Le piattaforme digitali. Dall’intermediazione all’impresa*, Giuffrè, Milano, 2022; P. Loi, ed., *Il lavoro attraverso piattaforme digitali tra rischi e opportunità*, Edizioni Scientifiche Italiane, Napoli, 2021; A. Donini, *Il lavoro attraverso le piattaforme digitali*, Bologna University Press, Bologna, 2019. Also, reference is made to G. Toscano, *Il lavoro digitale. Prime riflessioni*, Edas, Messina, 2021.

⁵ See, in particular, the reflections of T. Treu, *La digitalizzazione del lavoro: proposte europee e piste di ricerca*, in *federalismi.it*, 9, 2022, p. 190 ff.; A. Pizzoferrato, *Digitalisation of work: new challenges to labour law*, in *ADL*, 6, 2021, p. 1329 ff.; G. Santoro-Passarelli, *Civiltà giuridica e trasformazioni sociali nel diritto del lavoro*, in *Dir. Rel. Ind.*, 2, 2019, p. 421; P. Ichino, *Le conseguenze dell’innovazione tecnologica sul diritto del lavoro*, in *Riv. it. dir. lan.*, 4, 2017, p. 525 ff.

suboptimal conditions and without the necessary protections⁶. This paper, without any claim to exhaustiveness, will therefore attempt to highlight the pitfalls surrounding digital platform work and, at the same time, identify potential protection tools for the large number of workers involved, with particular attention to younger generations.

2. The New Frontier of Labour Exploitation: The so-called “Digital Gangmasters”

Among the primary risks associated with digital platform work, the most concerning is labour exploitation. The application of information systems, algorithms, and automated decision-making mechanisms in the workplace has not only profoundly transformed the organisation of labour relations but has also heightened the risk of illicit behaviour, fostering the emergence of increasingly sophisticated methods of exploiting workers⁷.

In particular, recent judicial cases have highlighted phenomena that legal scholars have not hesitated to classify as forms of “digital gangmasters”⁸, where the abusive conduct of employers is carried out through the mechanisms and tools typical of the gig economy⁹.

Thus, digital gangmasters join their traditional counterparts in agriculture or construction, sharing several common characteristics, particularly the

⁶ On the topic, see B. Caruso, *I diritti dei lavoratori digitali nella prospettiva del Pilastro sociale*, in *WP CSDLE “Massimo D’Antona”.IT - 146/2018*, especially p. 18 ff.

⁷ See A. Bellavista, *Intervento alla tavola rotonda “Innovazioni tecnologiche e nuovi lavori: quali tutele per i lavoratori?”*, in *Riv. giur. lav. prev. soc.*, 2, 2017, p. 165.

⁸ See P. Ichino, *Il nuovo «caporalato digitale». La faccia scura della Gig economy*, in *L’avvenire*, April 29, 2018. Additionally, another form of gangmasters has been identified, referred to as “grey gangmasters.” The term is used by E. Tomasinelli in *Intermediazione illecita e sfruttamento del lavoro: una recente pronuncia del Tribunale di Milano in tema di “caporalato grigio”*, in *Giur. Pen. Web*, 12, 2019, p. 1 et seq. Specifically, with this term, the author refers to a situation “in which workers are forced to work without any protection and/or guarantee, to sign blank resignation forms, to suffer wage and treatment abuses in a state of constant anxiety due to the possibility of losing their job if they do not passively accept the conditions imposed” (my translation) – (ibid., p. 20).

⁹ The gig economy is characterised by occasional or marginal work engagements and develops through digital platforms that facilitate the matching of supply and demand for labour, as well as manage, on an algorithmic basis, the relationship between the parties. However, the gig economy should not be confused with the sharing economy, despite both sharing the use of digital platforms. The latter constitutes a model of collaborative economy, in which the parties, through specific digital platforms, create an open market for the temporary use of goods or services (e.g., Uber’s car-sharing services or Airbnb’s accommodation sharing). In this regard, for further insights, reference is made to the European Commission Communication No. 356 of 2016 titled “*A European Agenda for the Collaborative Economy*.”

exploitation of the workforce. Indeed, digital gangmasters, much like their “traditional” counterparts, embody elements typical of the criminal offence outlined in Article 603-bis of the Italian Penal Code, which addresses the crime of “Illicit Intermediation and Labour Exploitation”¹⁰. It is no coincidence that, under this provision, a recent ruling saw the conviction of a manager from a company engaged in recruiting riders for a well-known food delivery company¹¹.

More specifically, during the trial, a concerning picture emerged, offering significant insights into the nature of the labour dynamics under review. Workers were hired by intermediary companies through pre-agreements or occasional collaboration agreements and paid “per delivery,” approximately three euros net per delivery, sometimes in cash, and in some cases, even for amounts lower than those agreed upon¹². A strict “punitive” system also emerged, whereby riders, to avoid penalties, were forced to endure gruelling working hours.

In light of this scenario, the Court of Milan identified the elements of the crime of illicit intermediation and labour exploitation under Article 603-bis of the Penal Code, issuing the first conviction for “digital gangmasters.”

Although this is a first-instance judgment and, as such, is generally not final, the facts outlined in the ruling still represent an alarming signal of the degradation that often characterises such labour practices. Beyond the specific outcome of the case, these facts underscore—on a broader level—how digital platforms, in addition to revolutionising labour dynamics, have helped transcend the stereotypical image of exploitation as a phenomenon tied exclusively to rural settings, thereby opening the door to new forms of the “reification” of the worker, reduced to a mere object of another’s action¹³.

Moreover, as appears to emerge from the referenced judicial case, “digital gangmasters” are not only equally harmful to the legal good protected by the traditional criminal offence but also manifest in even more insidious ways, as they are concealed by the platforms themselves.

¹⁰ See A. Andronio, *Il reato di intermediazione illecita e sfruttamento del lavoro: evoluzione normativa e giurisprudenziale*, in *Dir. lav. merc.*, 3, 2019, p. 431 et seq.; M. Miscione, *Caporalato e sfruttamento del lavoro*, in *Lav. giur.*, 2, 2017, p. 113 et seq.

¹¹ Trib. Milano, sez. G.I.P./G.U.P., October 15, 2021, n. 2805, in *Sist. pen.*, 3, 2022, p. 149 et seq., with a note by P. Brambilla.

¹² During the proceedings, it was also established that the tips paid by the customer through the app were not distributed, and even the amounts paid by the workers as a deposit to obtain the thermal bag and thereby begin their activity were withheld.

¹³ See P. Brambilla, *“Caporalato tradizionale” e “nuovo caporalato”: recenti riforme a contrasto del fenomeno*, in *Riv. trim. dir. pen. ec.*, 1-2, 2017, p. 191 et seq.

In light of these pathological developments in labour relations, lawmakers must necessarily intervene to establish a protection system suitable for this category of workers, or risk facilitating—if not failing to effectively counter—the proliferation of such forms of labour exploitation. In this regard, it is essential to assess whether the need to protect the workers involved requires the introduction of a broader protective framework than the one currently in place, one capable of providing responses not only from a reparative perspective but also from a preventive one, intervening before labour exploitation occurs and harm is inflicted upon the worker.

In such cases, any subsequent compensation, even of a compensatory nature¹⁴, would hardly represent the most effective solution, as it would be impossible to ensure specific protection for the victim.

3. The Controversial Legal Qualification of Digital Labour Relations in Light of the Recent Directive (EU) 2024/2831

Given the premises outlined above, the first and perhaps most complex issue to address concerns the legal qualification of digital labour relations. The interpretative effort required to properly categorise such relationships is closely linked to the system of protections intended for the workers involved.

Considering the complexity of the issue, the scope of this contribution does not allow for a general reconstruction of the phenomenon. Therefore, the investigation will be limited to the paradigmatic case of riders, for whom, even today, there are diametrically opposed positions in both legal scholarship and case law, with a debate that reveals an almost excessive approach to the qualification dilemma.

The first significant ruling on the legal qualification of the labour relationship of riders and the protections to which they are entitled is, as is well known, from the Court of Turin¹⁵, which categorised the relationship as self-employment. In the second instance, however, the Court of Appeal chose a different qualification, classifying these relationships as “collaborations organised by the principal,” under Article 2 of Legislative Decree No. 81/2015,

¹⁴ On this topic, a rather controversial aspect is the compensability of so-called “punitive damages.” Since it is not possible to provide an in-depth analysis of this issue in this context, it seems appropriate to refer to the detailed reflections of I. Alvino, *Sulla questione della risarcibilità dei c.d. «danni punitivi» alla vittima di una discriminazione fondata sul sesso*, in *Arg. dir. lav.*, 3, 2016, p. 579 et seq.

¹⁵ Trib. Torino, May 7, 2018, in *Law. Dir. Eur.*, 2018, p. 1, with a comment by P. Tullini.

an approach that was later confirmed, albeit with different reasoning, by the Court of Cassation¹⁶.

However, shortly after the ruling by the Supreme Court, several subsequent rulings established the existence of an employment relationship with subordination¹⁷. From the brief outline above, it is clear that uncertainty remains regarding the legal qualification of the situation at hand, despite the introduction of specific legislation aimed at protecting digital platform work¹⁸.

In this case, a new trend in labour law also emerged, aiming to reduce the boundaries between autonomy and subordination¹⁹, by introducing a minimum level of protections even for platform workers²⁰, formally classified as “self-employed”²¹. It is evident, however, that this intervention cannot be considered

¹⁶ Cass. Civ., January 24, 2020, n. 1663, in *Lav. Dir. Eur.*, 1, 2020, pp. 2 et seq. This ruling has sparked significant interest in legal scholarship, as evidenced by the numerous contributions dedicated to it. Among others, by way of example, V. Maio, *I riders nella “terra di mezzo”, tra crisi dei rimedi e necessità logica della fattispecie*, in *Giur. it.*, 7, 2020, p. 1797 et seq.; M. Persiani, *Osservazioni sulla vicenda giudiziaria dei “riders”*, *ivi*, p. 1801 et seq.; ID., *Note sulla vicenda giudiziaria dei riders*, in *Lav. Dir. Eur.*, 1, 2020, p. 2 et seq.; M. Biasi, *Le (in)attese ricadute di un approccio rimediabile al lavoro tramite piattaforma digitale*, in *Giur. it.*, 2020, p. 1806 et seq.; P. Ichino, *La stretta giurisprudenziale e legislativa sulle collaborazioni continuative*, in *Riv. it. dir. lav.*, 2020, p. 90 et seq.; A. Maresca, *La disciplina del lavoro subordinato applicabile alle collaborazioni etero-organizzate*, in *Dir. Rel. Ind.*, 1, 2020, p. 146 et seq.; O. Mazzotta, *L’inafferrabile etero-direzione a proposito di ciclofattorini e modelli contrattuali*, in *Labor*, 1, 2020, p. 5 et seq.; A. Perulli, *Collaborazioni etero-organizzate, coordinate e continuative e subordinazione: come “orientarsi nel pensiero”*, in *Dir. Rel. Ind.*, 2, 2020, p. 267 et seq. Also noteworthy is the Focus titled «*La sentenza di Cassazione n. 1663 sui riders. Un approdo e un punto di partenza*» in *Lav. Dir. Eur.*, n. 1/2020 and the special issue n. 2/2020 entirely dedicated to this ruling in the journal *Mass. Giur. lav.*

¹⁷ The first, in chronological order, is Trib. Palermo, November 24, 2020, n. 3570, in *Guida dir.*, 49, 2020, p. 54, to which reference is made in G. Fava, *Nota alla sentenza del Tribunale di Palermo n. 3570/2020 pubbl. il 24/11/2020*, in *Lav. Dir. Eur.*, 1, 2021, p. 2 et seq. ed E. Puccetti, *La subordinazione dei Riders. Il canto del cigno del tribunale di Palermo*, in *Lav. Dir. Eur.*, 1, 2021, p. 2 et seq.

¹⁸ The reference is to d.l. n. 101 del 2019 (the so-called “decreto imprese”), converted into l. n. 128 del 2019, which added a new Chapter V-bis to d.lgs. n. 81/2015, entitled «*Tutela del lavoro tramite piattaforme digitali*».

¹⁹ On this point, see F. Carinci, *La subordinazione rivisitata alla luce dell’ultima legislazione: dalla “subordinazione” alle “subordinazioni”?*, in *ADL*, 4-5, 2018, p. 961 et seq.

²⁰ In this regard, the regulation seems to align with Directive n. 2019/1152 of the European Parliament and Council of June 20, 2019, on transparent and predictable working conditions in the European Union, which establishes «*minimum rights that apply to all workers in the Union who have an employment contract or a working relationship as defined by law, collective agreements, or practices in force in each Member State, taking into account the case law of the Court of Justice*». For an in-depth examination of these provisions, see, among others, the detailed reflections of D. Garofalo, *La prima disciplina del lavoro su piattaforma digitale*, in *Lav. giur.*, 1, 2020, p. 5 et seq.

²¹ Beyond the legislator’s intentions, however, it does not seem that the qualifying doubts raised in legal scholarship and emerging in practice have been dispelled by this provision, and consequently, the protections provided do not appear to be certain and effective. As evidence

a final solution. While it represents progress in terms of protections, it still leaves many questions unanswered and invites further reflection on the need for solutions aimed at more comprehensive and functional regulation of platform workers – a category that is continuously expanding and goes well beyond the figure of the rider.

In this context, it will also be crucial to assess the impact of the recent directive on improving working conditions within digital platforms²², which introduces, among other things, a legal presumption of subordination “when facts indicate direction and control, in accordance with national law, collective agreements, or prevailing practices in the Member States, taking into account the case law of the Court of Justice” (Article 5, paragraph 1).

The introduction of a simple presumption of subordination represents a significant test, both for the legal qualification of labour relations and for defining the protections to be granted to digital platform workers²³. The issue, as can be easily inferred, has an urgent character, as it involves the protection of the rider’s person and dignity²⁴.

While digital platform work appears to open new possibilities for young people entering the labour market, the lack of clear legal qualification and adequate protections risks relegating these new forms of employment to a legal limbo,

of this, several positions taken by early commentators can be noted: see, among others, M.T. Carinci, *Il lavoro etero-organizzato secondo Cass. n. 1663/2020: verso un nuovo sistema dei contratti in cui è dedotta un’attività di lavoro*, in *Dir. Rel. Ind.*, 2, 2020, p. 488 et seq.; A. Perulli, *La nuova definizione di collaborazione organizzata dal committente e le tutele del lavoro autonomo tramite piattaforme digitali. Note al d.lgs. 81/2015*, in *Riv. it. dir. lav.*, 4, 2019, p. 163 et seq.; P. Tosi, *Le collaborazioni organizzate dal committente nel decreto crisi*, in *Guida Lav.*, n. 47, 2019, p. 10 et seq.

²² At the time of the report, the text of the directive had not yet been definitively approved. Only recently was the final approval of Directive (EU) 2024/2831 of the European Parliament and the Council of October 23, 2024, concerning the improvement of working conditions in platform-based work. The Directive, published in the Official Journal of the European Union on November 11, 2024, will enter into force on December 1, 2024, and must be transposed by December 2, 2026. For an initial commentary on the directive, see G. Smorto, A. Donini, *L’approvazione della Direttiva sul lavoro mediante piattaforme digitali: prima lettura*, in *Labour & Law Issues*, 10, 1, 2024, p. 25 et seq.

²³ As for contractual relationships established before December 2, 2026, and still ongoing on that date, Article 5, paragraph 6, of the directive expressly provides that *«the legal presumption set out in this article applies only to the period starting from that date»*.

²⁴ As noted by P. Passaniti, *La dignità nell’ordinamento italiano. Un percorso storico*, in *Variaz. Temi Dir. Lav.*, 3, 2020, p. 514, «dignity represents the exact point of intersection between the person and their work: the dignity of the person is also the dignity of their work, because through work, people can elevate themselves» (*my translation*). On this topic, see also G. Santoro Passarelli, *Dignità del lavoro e civiltà digitale*, in *Riv. giur. lav. prev. soc.*, 1, 2023, p. 53 et seq. and L. Ratti, *Funzione della dignità e regolazione del rapporto individuale di lavoro*, in *Variaz. Temi Dir. Lav.*, 3, 2020, p. 607 et seq.

exposing especially young workers to precarious working conditions and forms of exploitation that are difficult to counter.

4. Possible Future Scenarios for a “Digital” Occupation that is Dignified and of High Quality

At this point, it is necessary to take a step forward and consider potential future scenarios, offering insights that, in the humble opinion of the author, could contribute to the development of a more effective system of protections for the numerous workers in this sector.

The scenario with which labour law scholars are confronted, as outlined previously, undoubtedly involves considerable systematic and interpretative efforts to comprehensively address (and attempt to overcome) the numerous pitfalls present in digital platform work. The task of the legislator, from this perspective, is just as difficult, not only due to the intrinsic complexity of the subject but also because of the continuous technological innovations that risk quickly rendering any regulatory framework obsolete.

While awaiting developments on the legislative front, it can still be stated that the variety of solutions that have emerged thus far, while illustrating the uncertainty surrounding the qualification of digital platform work, offers a potential compromise²⁵. In fact, in the absence of the requirements for subordination, the regulation of collaborations organised by the principal²⁶ (at least until the adoption of Directive (EU) 2024/2831) could represent a reasonable point of balance between the need for worker protections, to which subordinate work rules would apply, and the productivity efficiency of the platforms.

With the introduction of a simple legal presumption of subordination, as outlined in Article 5 of the directive, this compromise approach will seem less satisfactory for platform workers. The European legislator’s choice has the advantage of relieving the worker of the difficult burden of proof²⁷ regarding

²⁵ See C. De Marco, A. Garilli, *L'enigma qualificatorio dei riders. Un incontro ravvicinato tra dottrina e giurisprudenza*, in *WP CSDLE “Massimo D’Antona”.it* – 435/2021, p. 3.

²⁶ See V. Fili, *Le collaborazioni organizzate dal committente del d.lgs. n. 81/2015*, in *Law. giur.*, 12, 2015, p. 1091 et seq. For a comparison of the main positions that have emerged in legal scholarship, see A. Vallebona, ed., *Il lavoro parasubordinato organizzato dal committente*, in *Colloqui Giuridici sul lavoro*, 2015.

²⁷ The burden of proof has been the subject of numerous studies, e.g., G. Verde, *L'onere della prova nel processo civile*, Jovene, Napoli, 1974; G.A. Micheli, *L'onere della prova*, Cedam, Padova, 1942; G. P. Augenti, *L'onere della prova*, Soc. Ed. del Foro italiano, Roma, 1932. With particular reference to labour law, see A. Vallebona, *L'onere della prova nel diritto del lavoro*, Cedam, Padova, 1988, and more recently, F. De Michiel, *Questioni sull'onere della prova nel diritto del lavoro*, Cedam, Milano, 2019.

the existence of a subordinate employment relationship between the parties²⁸. Given that labour trials inherently involve two opposing spheres of interest with different contractual powers²⁹, this provision is significant and should undoubtedly be welcomed.

To ensure the effectiveness of the protections for the parties involved, the procedural rules must, in fact, necessarily be balanced with the substantive data. Too often, however, especially in labour law, the legislator has not fully grasped the impact of procedural law in labour law, and thus the interplay between substantive and procedural norms³⁰, with inevitable negative effects on the protection of the weaker party in the relationship.

The key issue will be to understand how the legislator will implement the directive and how it will reconcile the new provisions with those already outlined in Articles 47 bis et seq. of Legislative Decree No. 81/2015, which establish minimum protections for self-employed workers performing delivery services *through digital platforms*³¹. These provisions, while representing a commendable attempt to ensure minimum protections for workers in the sector, present numerous controversial aspects. For example, one might consider the extension of certain protections of subordinate work to workers classified as “self-employed” in the absence (at least) of a compatibility clause, or the fact that these provisions have been limited solely to the category of riders, excluding others working through digital platforms³².

While awaiting a legislative harmonisation intervention, it is not far-fetched to hypothesise that, with the implementation of the directive, unless repealed or

²⁸ The simple presumption indeed results in a reversal of the burden of proof, meaning that, in this case, the platform is required to provide evidence to counter the fact or indicative evidence presented by the worker, namely the subordinate nature of the relationship.

²⁹ In labour proceedings, in fact, “the burden of proof is closely related to an issue of material inequality” (my translation) – (G. Nicosia, *Onere della prova e 'canone inverso' nel processo del lavoro*, in C. Romeo, ed., *Processo del lavoro*, Giappichelli, Torino, 2016, p. 471).

³⁰ On this point, see C. Romeo, *Il difficile rapporto tra processo e diritto del lavoro*, in *Law. giur.*, 1, 2020, p. 14.

³¹ Article 47 bis, paragraph 2, of d.lgs. n. 81/2015, defines digital platforms as «*the programs and computer procedures used by the client which, regardless of their place of establishment, are instrumental to the activities of goods delivery, setting the compensation and determining the methods of performance of the work*» (my translation).

³² On this latter aspect, however, the authoritative position taken by D. Garofalo, *La prima disciplina del lavoro su piattaforma digitale*, cit., p. 7, is shared, who believes that such regulation can be extended to other categories of workers operating on digital platforms by means of an analogous interpretation, as these are situations characterized by the eadem ratio. Indeed, in the author’s view, «to affirm the opposite, invoking the literal text or the voluntas legis, would open the door to a constitutional issue regarding the provision, at least for violating Article 3 of the Constitution, by regulating in an unreasonably differentiated manner situations that deserve the same treatment» (my translation).

significantly amended, the provisions contained in Articles 47 bis et seq. of Legislative Decree No. 81/2015 will become closing provisions in the system. They will apply only on a residual basis, whenever the platform is able to overcome the simple legal presumption of subordination and demonstrate the autonomous nature of the relationship.

Apart from qualification aspects, legislative efforts must also focus on a more incisive valorisation of the functional phase of the employment relationship to ensure the certainty of legal relationships and the effectiveness of protections³³. This valorisation becomes even more crucial when considering young workers, whose vulnerability is heightened by the general lack of previous work experience, making them more exposed to poorly protected working conditions and forms of exploitation often masked by the facade of presumed autonomy, as occurred in the case examined by the Milan court.

To effectively combat such exploitation, it will then be necessary to focus on preventive protections for the numerous workers involved, before they become “victims” of exploitation, thus avoiding serious harm to their well-being. In this sense, concrete actions for raising awareness about the phenomenon will be necessary, ensuring full application of the provisions already provided for by the relevant national and international legislation, including enhanced controls by competent authorities.

In this regard, from a preventive perspective, special attention should be paid to provisions that impose specific obligations on employers, even within digital platforms, such as risk assessment, training, monitoring, and health surveillance³⁴. Moreover, the informational obligations introduced by the so-called “Transparency Decree”³⁵, partially amended by the “Labour Decree”³⁶, in cases involving fully automated decision-making or monitoring systems, are of particular importance.

³³ Similarly, C. Romeo, *Le nuove regole del diritto del lavoro tra algoritmi e incertezza delle tutele*, in *Lan. giur.*, 2, 2021, p. 139, observes that «the issue at hand could be usefully framed by considering the functional phase of the execution of the employment relationship, rather than focusing on the frantic search for a nomen iuris to be necessarily assigned to the specific facts of the various forms of work» (*my translation*).

³⁴ The reference is to Articles 47 bis et seq. of d.lgs. n. 81/2015 on «*Labour protection through digital platforms*» and, in particular, to Article 47 septies, paragraph 3, which extends the application of the provisions of d.lgs. n. 81/2008 to the client using digital platforms as well.

³⁵ D.lgs. n. 104 of June 27, 2022, which introduced Article 1 bis, within d.lgs. n. 152 of May 26, 1997, titled «*Additional disclosure requirements in the case of the use of automated decision-making or monitoring systems*» (*my translation*).

³⁶ D.l. n. 48 of May 4, 2023, converted into l. n. 85 of 3 July 3.

While it is not possible to examine these changes in detail here³⁷, the key point to highlight is the centrality of information in the (decidedly asymmetric) context of digital labour, much as has already occurred in other sectors of the legal framework³⁸. The introduction of specific informational obligations in the use of fully automated decision-making or monitoring systems can, in fact, reduce the informational asymmetries typical of employment relationships, create more transparent management of labour relations, and ultimately improve working conditions.

The second direction to pursue is more repressive and punitive. In this respect, it is necessary to emphasise the efforts made by the legislator in attempting to counteract labour exploitation. In this sense, the innovations introduced in 2016, especially in extending the applicability of Article 603 bis of the Penal Code to include the user of labour services, are commendable³⁹.

At the same time, it cannot be denied that the excessive openness to intermediary schemes, combined with the proliferation of platform work, has triggered worrying phenomena of digital “gangmasters” (exploitation). From this perspective, to address the problem comprehensively, more rigorous limits on intermediary schemes will be necessary (though not sufficient).

The challenge faced in protecting and promoting workers in this sector requires, however, a comprehensive revision of the entire system of

³⁷ For a thorough and accurate examination of the innovations introduced by the so-called “Transparency Decree”, reference is made to D. Garofalo, M. Tiraboschi, V. Fili, A. Trojsi, eds., *Trasparenza e attività di cura nei contratti di lavoro. Commentario ai decreti legislativi n. 104 e n. 105 del 2022*, ADAPT University Press, 2023. In the literature, among others, see A. Zilli, *La trasparenza nel lavoro subordinato. Principi e tecniche di tutela*, Pacini Editore, Pisa, 2022; R. Rainone, *Obblighi informativi e trasparenza nel lavoro mediante piattaforme digitali*, in *federalismi.it*, 3, 2024, p. 279 et seq.; G. Peluso, *Obbligo informativo e sistemi integralmente automatizzati*, in *Labor & Law Issues*, 9, 2, 2023, p. 100 et seq.; G. A. Recchia, *Condizioni di lavoro trasparenti, prevedibili e giustiziabili: quando il diritto di informazione sui sistemi automatizzati diventa uno strumento di tutela collettiva*, *ivi*, 9, 1, 2023, p. 34 et seq.; M.T. Carinci, S. Giudici, P. Perri, *Obblighi di informazione e sistemi decisionali e di monitoraggio automatizzati (art. 1-bis “Decreto Trasparenza”): quali forme di controllo per i poteri datoriali algoritmici?*, in *Labor*, 1, 2023, p. 7 et seq.; A. Zilli, *Condizioni di lavoro (finalmente) «trasparenti e prevedibili»*, in *Labor*, 6, 2022, p. 661 et seq.; M. Faioli, *Trasparenza e monitoraggio digitale. Perché abbiamo smesso di capire la norma sociale europea*, in *federalismi.it*, 25, 2022, p. 104 et seq. For a comparison with the German legal system, reference is also made to M. Corti, *L’intelligenza artificiale nel decreto trasparenza e nella legge tedesca sull’ordinamento aziendale*, in *federalismi.it*, 29, 2023, p. 163 et seq.

³⁸ Consider, by way of example, the legislation protecting consumers, which imposes specific informational obligations on the professional. In any case, regarding the role of information in asymmetric relationships, see F. Rende, *Informazione e consenso nella costruzione del regolamento contrattuale*, Giuffrè, Milano, 2012.

³⁹ In the version currently in force, anyone who «recruits labour with the aim of assigning it to work for third parties» (intermediary) or «uses, hires, or employs labour, even through intermediary activity» (user) is sanctioned, pursuant to Article 603 bis of the Italian Criminal Code.

protections, starting with a reduction in flexibility policies. In our legal system, the lack of an effective active labour policy system has contributed to an exponential increase in precarious work. It will also be indispensable not to overlook collective bargaining in the relevant sectors—currently absent in some areas of production—and to begin paying more attention, albeit with the necessary adaptations, to the exercise of trade union rights in the gig economy context⁴⁰.

In this direction, for instance, the introduction of a legal minimum wage⁴¹, now also promoted at the European level through EU Directive 2022/2041 on adequate minimum wages in the European Union, would guarantee support for low-income workers, especially in sectors without a reference collective agreement⁴².

In conclusion, it can be asserted that the continued growth of digital platform work, if not accompanied by a more effective system of protections, risks fuelling precariousness and, in the most severe cases, translating into forms of labour exploitation, with diverse and significant harmful effects for the workers involved⁴³. Indeed, what seems to emerge from the framework just outlined is a tendency toward the progressive commodification of labour⁴⁴, which can

⁴⁰ On this aspect, in particular, see A. Bellavista, *L'unità produttiva digitale*, in *Labour & Law Issues*, 9, 1, 2023, p. 97 et seq. e R. Di Meo, *I diritti sindacali nell'era del caporalato digitale*, *ivi*, 5, 2, 2019, p. 65 et seq.

⁴¹ On this topic, reference is made to V. Bavaro, «Adeguato», «sufficiente», «povero», «basso», «dignitoso»: il salario in Italia fra principi giuridici e numeri economici, in *Riv. giur. lav. prev. soc.*, 4, 2023, p. 510 et seq.; R. Santucci, *L'appalto e il lavoro: interessi e tecniche di tutela*, in G. Proia, ed., *Appalti e lavoro: problemi attuali*, Giappichelli, Torino, 2022, p. 137 et seq.; G. Proia, *La proposta di direttiva sull'adeguatezza dei salari minimi*, in *Dir. Rel. Ind.*, 1, 2021, p. 26 et seq.; M. Biasi, *Il contrasto al "lavoro povero" e i nodi tecnici del salario minimo legale*, in *Law. Dir. Europa*, 1, 2021, p. 1 et seq.; A. Bellavista, *Il salario minimo legale*, in *Dir. Rel. Ind.*, 3, 2014, p. 741 et seq.

⁴² EU Directive 2022/2041 of the European Parliament and the Council of 19 October 2022 on adequate minimum wages in the European Union.

⁴³ On this point, the reflections of A. Bellavista, *Intervento alla tavola rotonda "Innovazioni tecnologiche e nuovi lavori: quali tutele per i lavoratori?"*, cit., p. 165, are fully shareable, in which he states «the factual examination of the new modes of work, made possible by technological innovations and exemplified by the models of the digital economy or the gig economy, reveals a peculiar blend of old and original forms of labor utilization that raise many doubts about their alignment with the fundamental principles of personal protection. The originality essentially lies in the fact that we are always dealing with a work organization managed through information systems, algorithms, and automated decision-making mechanisms. The old aspect is that, nevertheless, the realization of a society where work is fully valued and properly regarded is not clearly evident, but rather the specter of exploitation looms» (*my translation*).

⁴⁴ The reference is to the guiding principle of the *Philadelphia Declaration* of the ILO 1944, according to which «work is not a commodity». L. Gallino, observes in *Il lavoro non è una merce. Contro la flessibilità*, Editori Laterza, Bari, 2007, p. 59, that «in those six words, the principle is condensed that labor cannot be considered a commodity, as it is an integral and defining

only be avoided through incisive and targeted legislative interventions aimed primarily at ensuring the value of work, the protection of the worker's dignity, and the pursuit of full and quality employment⁴⁵. Only then will it be possible to ensure that digital platform workers, particularly younger ones, have access to truly dignified and high-quality employment.

element of the person who performs it, of their identity, self-esteem, position in the community, and their present and future family life» (*my translation*). This principle is also present in the reflections of M. Tiraboschi, «*Il lavoro non è una merce: una formula da rimeditare*, in *Var. Temi Dir. Lav.*, 1, 2021, p. 1163 et seq.; V. Bavaro, *Sul concetto giuridico di Lavoro fra merce e persona*, in *Lav. dir.*, 1, 2021, p. 41 et seq.; U. Romagnoli, *Il lavoro non è una merce, ma il mercato del lavoro è una realtà*, in *Dir. lav. mer.*, 1, 2019, p. 17 et seq.; F. Scarpelli, «*Esternalizzazioni*» e diritto del lavoro: *il lavoratore non è una merce*, in *Dir. Rel. Ind.*, 3, 1999, p. 351 et seq.; M. Grandi, *Il lavoro non è una merce: una formula da rimediare*, in *Lav. dir.*, 4, 1997, p. 557 et seq.

⁴⁵ Emblematic in this regard are the reflections of A. Bellavista, *Appalti e tutela dei lavoratori*, in G. Proia, ed., *Appalti e lavoro: problemi attuali*, cit., p. 84, according to whom, «the value of work, the protection of the worker's person, the pursuit of "full and good employment"» must represent «the guiding star of any change» (*my translation*).

Trade Unions and Young People: Tools for Their Protection and Employability

Nicola Deleonardis, Michela Tuoldo *

Abstract: This paper aims to analyse the role of trade unions in protecting young people in the labour market. In particular, the study intends to first assess whether workers' representatives believe that this role is their prerogative, and only subsequently to explore how it has been legally recognised by the European Union and Italian legislators.

Keywords: *trade unions; labour market; young people*

1. Introduction

The labour market, in its original sense, fulfils two fundamental functions: through the intermediation between labour demand and supply, it enables not only the determination of the content of the contract outside the company context but also the conditions for the use of the contract within the company. In other words, it outlines how labour is incorporated into the company's organisational structure¹.

In the labour market, labour is thus offered to the highest bidder. Unlike capital, labour produces social and economic effects for the worker when it is engaged in productive activity.

This distinction helps to explain the contractual asymmetry between capital and labour. Such asymmetry is evident in the labour market even before the employment relationship is formed. This pre-employment imbalance is

* Nicola Deleonardis (nicola.deleonardis@uniba.it) is a Research Fellow at the University of Bari, Ionian Department (Italy). Michela Tuoldo (michela.tuoldo@uniud.it) is a PhD student in Labour Law at the University of Udine. While this contribution is the result of a joint reflection, the introduction and conclusions were written by both authors, paragraphs 2-3 by Michela Tuoldo, and paragraphs 4-5 by Nicola Deleonardis.

¹ For the legal regulation of the labour market see N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, 2024, ADAPT Labour Studies e-Book Series, E-Book n. 106, p. 51 ff.

characterised by socio-economic subordination, which pertains to the supply of (not yet provided) labour in relation to demand. This results in the subjugation of the worker to a legal regulatory power granted to the employer as the holder of capital.

The new labour market is marked by a mismatch between labour demand and supply, alongside a high vacancy rate and a shortage of skilled labour. Although this mismatch has always been a structural feature of the labour market, it has intensified in recent years, driven by the digital and ecological transitions.

This phenomenon is accompanied by another: in-work poverty². Alongside the group of long-term unemployed individuals and first-time jobseekers, a new group has emerged—those who are poor despite being employed.

Once seen as a pathological manifestation of economic-productive relations affecting those excluded from the formal labour market, unemployment has become a physiological component of the new labour market. This shift has blurred the line between poverty resulting from inactivity and poverty despite being employed. Consequently, protection in today's labour market is needed not only for the traditionally defined unemployed but also for those facing involuntary unemployment, underemployment, and short-term³ or precarious employment.

The difficulty in matching labour supply and demand, coupled with in-work poverty—particularly among young people—has been exacerbated by the widespread use of non-standard contractual arrangements. These conditions have led to unequal access to quality and/or decent job opportunities.

In light of this, the central question explored in this analysis is whether trade unions can play a pivotal role in the governance of the contemporary labour market. Specifically, can they extend protection to individuals, particularly young people, even before the employment relationship is formally established, while still retaining their traditional function as contractual agents?

1.1. The Qualification of Trade Union Organisations and Its Consequences

The answer to this question must begin with an analysis of the interests involved.

The non-implementation of the second part of Article 39 of the Italian Constitution has had a significant impact not only on the interpretation of

² Regarding in-work poverty, see M. Brollo et al., *Dal lavoro povero al lavoro dignitoso. Politiche, strumenti, proposte*, 2024, ADAPT Labour Studies e-Book Series, E-Book n. 101.

³ N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, cit., p. 48.

collective bargaining⁴ but also on the function of trade unions⁵. Italian labour law doctrine has long been divided between two schools of thought: one qualifies the trade union as an association that acts based on a mandate with representation⁶, as an extension of the private autonomy of individual workers; the other views the trade union as an organised social power, which, from a legal perspective, functions as an autonomous system alternative to the state, in line with the multi-state perspective⁷.

This distinction is not without consequences, as it reflects the interests that the trade union represents. The selection of the subjects to be represented, in fact, directly influences the organisational and operational capabilities of trade unions. The issue at hand concerns the concrete ability of trade unions to extend the scope of their representation beyond their members, to achieve convergence (but not overlap) with broader societal interests.

From this standpoint, the associative approach does not fully account for the role that trade unions should play as organisations representing interests that extend beyond those of their immediate membership, with the goal of contributing to the general interest of promoting employment. By qualifying the trade union merely as an association acting on behalf of its individual members, the associative perspective tends to limit each organisation's focus to the protection of the interests of its own members.

In contrast, the multi-state perspective allows trade unions to broaden their range of representation, positioning them as advocates of wider societal interests, which may align with public interests without directly overlapping with them.

These issues have drawn significant interest from legal scholars, particularly since the late 1960s, when trade unions were assigned a role in supporting

⁴ Concerning the consequences of the non-implementation of the second part of Article 39 of the Italian Constitution, see M. Persiani, *Saggio sull'autonomia privata e collettiva*, Cedam, Padova, 1972.

⁵ G. Giugni, *Introduzione allo studio sull'autonomia collettiva*, Giuffrè, Milano, 1960, p. 19.

⁶ F. Santoro-Passarelli, *Inderogabilità dei contratti collettivi di diritto comune*, in *Diritto e Giustizia*, 1950, p. 299 ss., now in Id., *Saggi di diritto civile. Vol. I*, Jovene, Napoli, 1961, p. 217 ff. To qualify the activity of the trade union as a free, private, but collective subject, Francesco Santoro Passarelli characterised collective autonomy as a form of private autonomy. Just as the legal system recognises the power of individuals to regulate their interests independently, it similarly acknowledges the power of groups to regulate their interests collectively, through contract rather than individually. The theory of collective private autonomy also served as an important legal policy framework, laying the groundwork for the theory of the inter-union system developed by Gino Giugni. For a more detailed analysis of the theory of collective autonomy as a form of private autonomy, see G. Santoro-Passarelli, *L'autonomia collettiva: da Francesco Santoro-Passarelli a Gino Giugni*, in *Diritti Lavori Mercati*, 2021, no. 3, p. 687 ff.

⁷ G. Giugni, *Introduzione allo studio sull'autonomia collettiva*, cit.

public authorities in social control functions and political-economic policymaking. The trade union's involvement in public functions found legitimacy in the alignment of the interests to be protected, rather than any direct overlap with public interests. However, this arrangement was not without risks. Scholars observed that the direct involvement of trade union organisations in public law institutions could blur the distinction between trade union action and public action, potentially undermining the clear delineation of roles and responsibilities.

It is in the practical implications of trade union participation in labour market governance, particularly in the phase preceding the establishment of the employment relationship, that the issue of representing workers' collective interests—and their convergence with public interests—becomes most evident.

1.2. The Convergence of Collective and Public Interests: The Case of Job Placement Regulation

A convergence between public interests and those of trade union organisations has emerged in the Italian post-constitutional context, particularly in relation to the activity of intermediation between labour supply and demand, aimed at achieving public goals. This is clearly exemplified in the regulation of public job placement⁸.

The public interest in promoting full employment and protecting workers was aligned with collective autonomy, where the trade unions' control over recruitment processes was intended to ensure more effective negotiation of working conditions⁹. As a result, the activity of labour market intermediation was not solely the responsibility of public administration; trade union organisations also played an active role. This dual involvement sought to reduce unemployment while simultaneously safeguarding the public interest in securing employment, as guaranteed by Article 4 of the Italian Constitution, and addressing the social interests of workers by supporting and promoting employment opportunities¹⁰.

In this framework, the trade union emerged as the representative of individual workers' interests in securing employment, as protected by Article 4 of the Italian Constitution. This became a broader, community-wide interest, with the

⁸ Law No 264 of 29 April 1949. For more information about public job placement, see N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, cit., p. 11 ff. and the scholarly work quoted there.

⁹ E. Ghera, *Lavoro (collocamento)*, voce del Digesto, Volume VIII, 1992, Utet, Torino, p. 107.

¹⁰ *Ivi*, p. 103.

provision of employment opportunities regarded as a protected right benefiting society as a whole¹¹.

By qualifying the protection of this employment need as a collective interest, trade unions not only responded to workers' demands but also advanced the public interest in employment protection. The individual protection of employable individuals thus became a mechanism for fulfilling public goals, reflecting the integration of private interests into the broader scope of public welfare. In essence, the private citizen's right to employment found its protection through the alignment of individual interests with public objectives, managed by the public administration. Consequently, through this convergence of public and private interests, trade union organisations were empowered to actively participate in the governance of the labour market.

2. The Collective Trade Union Interest in the Protection of Workers in the Labour Market: The Trade Union's Free Selection of Collective Interests

The participation of trade unions in the governance of the post-constitutional Italian labour market is justified by the temporary convergence of collective interests with public interests, as reflected in the regulation of job placements. Once the era of public monopoly in the labour market ended, trade unions found themselves tasked with safeguarding workers' interests while being mindful of the non-automatic convergence of these interests with the broader public good.

For trade union involvement in labour market governance to remain legitimate today, it is necessary to ascertain whether there exists a collective interest underlying the trade union's actions. The legitimacy of trade union participation in the labour market stems from the principle of trade union freedom under Article 39(1) of the Italian Constitution¹², which grants trade unions the authority to autonomously select the collective interests they seek to represent and protect.

Thus, while the freedom to select their own interests is inherent to trade union organisation, the next crucial question is whether the protection of workers in the labour market through trade union actions can be classified as a collective interest.

¹¹ M. Persiani, *Saggio sulla autonomia privata collettiva*, Cedam, Padova, 1972, p. 127 ff.

¹² On the principle of trade union freedom and its implications see G. Giugni, *Diritto sindacale*, 2015, Cacucci Editore, Bari, p. 25 ff.

2.1. The Collective Interest in the Protection of the Individual in the Labour Market: Undeclared Work, Employability, and Professionalism

The existence of a collective interest in the protection of workers in the labour market becomes evident from the characteristics of the labour market itself. This collective interest is manifest in the protection of workers against undeclared work, the guarantee of employability, and the safeguarding of professionalism.

The distinction between undeclared work and irregular work is well understood, though subtle: while undeclared work refers to the failure to declare the existence of an employment relationship, irregular work pertains to the violation of legal or collectively agreed terms. Although undeclared work does not necessarily entail the breach of labour protection laws, there is a widespread consensus in academic literature that it is often intended to circumvent worker protections¹³. As a result, undeclared work represents an area in which workers' organisations should be actively involved¹⁴. The trade unions, rather than being passive observers, must play an active role in ensuring transparency in the labour market, protecting workers' rights¹⁵.

Additionally, there exists a collective interest in guaranteeing the employability of workers. Given the central role of training in addressing in-work poverty¹⁶, it enables workers' professional skills to adapt to ever-changing economic and production environments. Employability has been defined as an "individual right with a mainly collective implementation"¹⁷, highlighting the close link between the individual and collective dimensions of social rights. The collective exercise of the right to employability is essential to its realisation.

The widespread need for employment conditions shapes trade union activity, steering it toward the protection of employment opportunities and the regulation of job distribution. The collective interest in the employability of workers, therefore, can be understood as an interest chosen by trade unions to ensure equality and eliminate discriminatory practices in the market, promoting minimum standards for training and development¹⁸. This interest aligns with

¹³ S. Ciucciovino, *Undeclared work e lavoro sommerso: definizioni e fenomenologie nella prospettiva nazionale e sovranazionale*, in *Rivista Giuridica del Lavoro e della previdenza sociale*, 2023, n. 3, p. 354 ff.

¹⁴ A. Bellavista, *Al di là del lavoro sommerso*, in *Rivista Giuridica del Lavoro e della previdenza sociale*, 2008, n. 1, p. 19.

¹⁵ N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, cit., p. 75.

¹⁶ For further information, see N. Deleonardis, *Lavoro autonomo povero e politiche (attive) di contrasto. L'importanza della formazione*, in *Argomenti di Diritto del Lavoro*, 2022, n. 5, p. 49 ff.

¹⁷ E. Ghera, *Diritto del lavoro*, 2000, Cacucci Editore, Bari, p. 524.

¹⁸ The irregular distribution of professional skills represents one of the main reasons for inequalities and poverty in contemporary society.

the values of freedom and equality enshrined in the Italian Constitution (arts. 2, 3, 4, and 35), which not only guarantees the rights of workers but also upholds the dignity of the individual. These rights are exercised by the worker as a person, with trade unions playing a key role in their enforcement through their constitutional freedom under Article 39(1).

Lastly, training in the labour market is crucial to safeguarding workers' professionalism, becoming an object of interest for trade union organisations, particularly in light of technological innovations. Technology has significantly altered workers' professional profiles, requiring not only skill updates but also the acquisition of entirely new competencies to facilitate workers' integration into evolving production systems. In this context, collective bargaining assumes a pivotal role.

The Italian legislator has moved away from viewing professionalism solely in terms of static skills possessed by workers, now placing greater emphasis on the dynamic professionalism based on a worker's position within the company structure. This shift is reflected in the revised Article 2103 of the Italian Civil Code, which addresses horizontal mobility¹⁹ within organisations. As professionalism is no longer defined only as a set of specific skills but as the ability to contribute to a range of tasks within the company, collective bargaining must update job classification systems to reflect this evolving reality. Technological and digital advancements also give rise to new professional profiles, necessitating a continuous update of workers' skills. This not only fosters economic growth and corporate productivity but also prevents technological unemployment by guiding the workforce toward sectors experiencing high demand. Collective bargaining plays a critical role in defining these new professional profiles.

A modern system of industrial relations cannot afford to remain passive or neutral in the face of new models of production organisation. Thus, protecting workers' professionalism becomes a collective interest, both in terms of adjusting existing professional roles and defining new ones in accordance with evolving production needs. This interest not only serves to protect workers already in the labour market but also extends to safeguarding workers even before the employment relationship is formalised²⁰.

3. The Trade Union's Selection of the Collective Interest in the Protection of Workers in the Labour Market

¹⁹ On the changes made to Article 2113 of the Italian Civil Code, see M. Brollo, *La disciplina delle mansioni dopo il Jobs Act*, in *Argomenti di Diritto del Lavoro*, 2015, n. 6, p. 1156 ff.; C. Pisani, *La nuova disciplina del mutamento delle mansioni*, Giappichelli, Torino, 2015; G. Zilio Grandi, E. Gramano, *La disciplina delle mansioni prima e dopo il Jobs Act*, Giuffrè Editore, Milano, 2016.

²⁰ N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, cit., p. 84.

Given the potential existence of a collective interest in the protection of workers in the labour market, it is essential to examine whether this interest has been deliberately selected by trade union organisations. The collective subject, as an expression of trade union freedom under Article 39(1) of the Italian Constitution, holds the authority to choose the interests it deems worthy of protection.

This investigation must begin with an analysis of the inter-union system, which is expressed not only through collective bargaining but also in inter-confederal agreements²¹. The inter-union system's commitment to playing a significant role in training and active policies is already evident in the 1993 *Protocollo Giugni*, where the parties agreed on the need for an evolution in industrial relations and company policies to implement integrated training, retraining, and continuing education²².

However, it is particularly in the *Patto per il Lavoro* (1996) and the *Patto di Natale* (1998) that the collective interest in the protection of worker training within the labour market is clearly evident. This interest arose both due to the growing prevalence of discontinuous work, which made access to training difficult for vulnerable individuals, and from the reforms initiated by Law no. 92 of 28 June 2012 and completed by Law no. 13 of 16 January 2013, which renewed the lifelong learning system.

When considering job placement and outplacement, recent agreements demonstrate the collective autonomy's willingness to collaborate with the public sector, encouraging the public actor to fulfil its function of mediating labour supply and demand while reserving external control for trade unions. Notably, in terms of outplacement for workers covered by the wage supplementation scheme (*Cassa integrazione guadagni*) or those involved in dismissal procedures, the *Accordo sulla formazione* (January 20, 1993) signed by Confindustria, CGIL, CISL, and UIL, as well as the *Proposta per le politiche del lavoro* (September 1, 2016), are significant. Both agreements reflect the desire to promote an industrial relations model based on active cooperation with the public sector, positioning trade unions to play a direct role in the relocation of redundant workers.

A particularly important area in which a collective interest in protecting workers in the labour market emerges is youth employment. This is evident in the *Patto per il Mezzogiorno* (October 14, 2019), which advocates for the enhancement of targeted active policy programmes for young people,

²¹ For an analysis of the several agreements from which the existence of a collective interest in the protection of the worker in the labour market can be derived, see N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, cit., p. 92 ff.

²² Point 2 of the 1993 Protocollo Giugni.

facilitating their entry into the workforce. Equally emblematic is the *2021 Protocollo di Intesa per le Politiche Attive del Lavoro tra la Regione Lazio e le Parti Sociali*, which forms part of a territorial plan aimed at modernising the regional labour agency. This initiative, supported by the establishment of a Labour Market Observatory, seeks to identify trends and predict key labour market indicators. The agreement includes actions aimed at promoting employability and employment, with a particular focus on generational turnover measures, thus supporting youth inclusion in the labour market²³.

Of particular interest, in terms of protecting professionalism in the labour market, is the *Patto per le nuove competenze* signed by the social partners and the Lazio region. This agreement complements the *Protocollo di Intesa per le Politiche Attive*, emphasising the parties' role in fulfilling the subjective right to training. It also promotes a series of discussions among all stakeholders to identify new skills and professional profiles, anticipating the needs arising from changes in the regional economic, productive, and social context²⁴.

Upon reviewing the recent developments within the inter-union system, it is clear that not only does a collective interest in the protection of workers in the labour market exist, but it has also been intentionally selected by trade union organisations as part of their broader role in shaping the governance of labour relations.

4. The Trade Union's Role According to the European Union

Thus far, the analysis has primarily focused on the social self-regulation resulting from inter-union coordination and concerted agreements. Scholars have suggested a direct, though not necessarily essential, link between the authoritative selection of collective interests by trade unions prior to their formation, the subsequent inter-union coordination, and their formal legal recognition by state authorities²⁵. While legal recognition by the state is not a crucial moment in this process, it is nonetheless a step that could facilitate the achievement of the unions' interests, particularly when public and private (collective) interests converge.

At this stage, it is necessary to explore whether the selection of these interests has been officially recognized and, if so, to assess its impact. This approach leads to examining how the function of collective autonomy has been recognized by the domestic legislator within the specific areas under investigation. This choice stems from the idea that, within the context of multi-

²³ Article 6 of the Protocol.

²⁴ Article 3 of the Pact.

²⁵ M. Persiani, *Saggio sulla autonomia privata collettiva*, cit., p. 47.

level protection²⁶, the relationship between European and national law²⁷, is not hierarchical but functional, aimed at preserving a dynamic balance. The integration of economic and monetary policies at the European level has increasingly shaped the powers of national legislators, who sometimes must fulfil European obligations or align with European guidelines. This broader legal framework has also affected the exercise of self-protection by trade unions, which has been influenced or limited²⁸ by the European Union's legal norms.

The interaction between public and private actors takes on a unique dimension when viewed through the lens of this investigation²⁹. Importantly, the satisfaction of collective interests in this context occurs via a governance model distinct from the formal legalism associated with hard law measures. This model utilizes minimum provisions as outlined in Article 153, letters a-i³⁰, of the Treaty on the Functioning of the European Union (TFEU) and relies on the “open method of coordination” (now Article 149 TFEU). This method involves non-binding instruments as set out in Article 288, § 4, TFEU, and seeks to coordinate employment policies across member states, particularly by defining common guidelines to promote a high level of employment, adequate social protection, the fight against social exclusion, and improved education, training, and health protection (Article 9 TFEU).

This model acknowledges the role of social partners in managing employment “on the supply side” of the labour market, a role that has its roots in Italy's

²⁶ See S. Sciarra, *Considerazioni conclusive. Metodo e linguaggio multilivello dopo la ratifica del Trattato di Lisbona*, in B. Caruso, M. Militello (a cura di), *I diritti sociali tra ordinamento comunitario e Costituzione italiana: il contributo della giurisprudenza multilivello*, Working Paper CSDLE “Massimo D’Antona” – Collective Volumes, 2011, n. 1, 76-90.

²⁷ See article 53 of the Nizza's Chart, which reasserts the collaboration principle between European and national authority in order to allow the best protection for workers. On this point, B. Caruso, *I diritti sociali fondamentali dopo il Trattato di Lisbona (tanto tuonò che piove)*, Working Paper CSDLE “Massimo D’Antona” – INT, 2010, n. 81, 11; M. D’Antona, *Diritto del lavoro di fine secolo: una crisi di identità?*, in *Rivista Giuridica del Lavoro*, 1998, n. 2, I, 311-331.

²⁸ The reference is to the Viking and Laval cases. See B. Veneziani, *La Corte di giustizia ed il trauma del cavallo di Troia*, in *Rivista Giuridica del Lavoro*, 2008, n. 2, II, 295-311; F. Bano, *Sovranità regolativa e subordinazione del diritto del lavoro*, in *LD*, 2017, n. 1, 15-36; A. Lo Faro, *Diritti sociali e libertà economiche del mercato interno: considerazioni minime in margine ai casi Laval e Viking*, in *Lavoro e Diritto*, 2008, n. 1, 65-96; B. Caruso, *I diritti sociali nello spazio sociale sovranazionale e nazionale: indifferenza, conflitto o integrazione? (prime riflessioni a ridosso dei casi Laval e Viking)*, Working Paper CSDLE “Massimo D’Antona” – INT, 2008, n. 61.

²⁹ *Amplius*, N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, cit., 103 ff.

³⁰ About the distinction between hard and soft law in the labour law, F. Bano, *Diritto del lavoro e nuove tecniche di regolazione: il “soft law”*, in *Lavoro e Diritto*, 2003, n. 1, 49-75; M. Roccella, *Formazione, occupabilità, occupazione nell'Europa comunitaria*, in *Giornale di Diritto del Lavoro e delle Relazioni Industriali*, 2007, vol. 113, 187-241.

tradition of concertation and has extended into broader European practices, especially in the 21st century when the need for a renewal of industrial relations became widely accepted³¹.

As a logical extension, Title X of the Treaty specifically addresses the procedures that structure social dialogue, particularly Articles 154 and 155³², underscoring the recognition that “the labour market area is, by definition, the place where prior consent to public policy is required”³³. This highlights how the recognition of trade unions’ role in employment strategies is crucial for the implementation of the right to work, both at the European and domestic levels³⁴. By doing so, it enriches or compensates for the typically distinctive functions of collective autonomy, in both top-level strategies where the EU legislator interacts with European social partners, and in “cascade” strategies following the framework of vertical and horizontal subsidiarity³⁵.

While numerous European documents emphasise the involvement of social partners in protecting youth in the labour market³⁶, one key reference is the *Council Recommendation of January 30, 2023*, on ensuring an adequate minimum income to support active inclusion (2023/C 41/01). This recommendation

³¹ T. Treu, *Compiti e strumenti delle relazioni industriali nel mercato globale*, in *Lavoro e Diritto*, n. 2, 1999, 191-208, where the Author argues that «the use of social concertation aimed at employment, both at the national and European levels, represents an unprecedented challenge, as this tool has primarily been applied in the distributive field to date»

³² On the relationship between the Title on Employment and Social Dialogue in the TFEU, see already G. Arrigo, *Dalla concertazione al dialogo sociale: Europa e Italia*, in *Lavoro e Diritto*, 2004, n. 2, 391-404, here p. 398, where the scholar underlines «the scope of consultation with the social partners is not defined in advance, but is rather broad, potentially coinciding with the area of action of the Commission in the field of social policy and employment.»

³³ B. Veneziani, *Concertazione e occupazione: un dialogo interrotto?*, in *Lavoro e Diritto*, 2004, 2, 287-315; A. Abignente, *Fonti, principi, concretizzazione. Spunti di riflessione sul dibattito intorno ai diritti sociali nel sistema comunitario*, in B. Caruso, M. Militello (edited by), *op. cit.*, p. 53.

³⁴ D. Garofalo, *Formazione e lavoro tra diritto e contratto. L'occupabilità*, Cacucci, Bari, 2004, 351.

³⁵ Is allowed the reference to N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, cit., p. 107.

³⁶ For instance, see the Council Recommendation of April 22, 2013, on the establishment of a Youth Guarantee (2013/C 120/01), which promotes the development of partnerships aimed at strengthening “collaboration between employers and labour market stakeholders (employment services, various government levels, trade unions, and youth services) in order to increase employment, training, and internship opportunities for young people” (point 4); but see the European Social Dialogue Work Programme 2022-2024, signed by the European social partners (ETUC, BusinessEurope, SGI Europe, SME United), which includes as one of the priorities of social dialogue the goal to “improve job opportunities, working conditions, including wages and/or compensation, and skills adjustment so that young people enter the labour market with relevant skills, but also with various forms of employment with sufficient job protection” (priority 3, Youth employment). For further details, N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, cit.

encourages social partners to intervene in the labour market, focusing on measures to promote high employment rates, foster inclusion, remove barriers to employment, support people in finding quality work, and reduce in-work poverty. Specifically, the recommendation advocates for cooperation with social partners to enhance investments in human capital through inclusive education and training policies, especially for individuals with low qualifications or outdated skills.

In conjunction with this, the *European Commission's Communication on Labor and Skills Shortages in the EU: An Action Plan*³⁷ directly addresses both member states and social partners, urging their involvement in all priority areas, not just in improving working conditions through collective bargaining. The social partners are tasked with supporting the activation of underrepresented groups in the labour market, particularly women, people with disabilities, and youth, as well as providing support for skills development, training, and education. This reinforces the call for member states to fully implement the *Agenda for Skills for Europe*, in cooperation with social partners, and highlights the critical role that social dialogue plays in identifying skills shortages and improving skills within the labour market.

There are two central points to consider: first, the active involvement of social partners in developing skills agreements to improve working conditions; and second, the use of tools suited to their role in addressing labour market needs. To paraphrase a recurring academic observation³⁸, there is an “expectation” that social partners, and particularly trade unions, will be actively engaged by national legislators in establishing a social safety net to protect young people from unemployment and support their personal life projects. This expectation, when applied to the multi-layered national reality of Italy, aligns with the principle of trade union freedom outlined in Article 39 of the Italian Constitution. This principle legitimizes trade unions in aligning with EU employment policies according to the methods and practices they deem most appropriate to meet the challenges of the labour market.

³⁷ On March 20, 2024, COM(2024)131 final. See the European Commission: Directorate-General for Employment, Social Affairs and Inclusion, *Employment and social developments in Europe 2023*, Publications Office of the European Union, 2023, pp. 130-133. See here <https://data.europa.eu/doi/10.2767/089698>.

³⁸ S. Sciarra, *La costituzionalizzazione dell'Europa sociale. Diritti fondamentali e procedure di soft law*, Working Paper CSDLE “Massimo D'Antona” – INT, 2003, n. 24, 9; M. Biagi, *L'impatto della European Employment Strategy sul ruolo del diritto del lavoro e delle relazioni industriali*, in *Rivista Italiana di Diritto del Lavoro*, 2000, n. 4, I, 413-436.

5. Territorial Pacts: What's New?

Especially following the Covid-19 pandemic, the national legislator has adhered to the guidelines set by the European Union. It is pertinent to focus on the territorial pacts outlined in the GOL Programme (Guarantee of Employability of Workers), as incorporated in Law No. 234/2021, Articles 1, paragraphs 249-250, which proposes an experiment with a long tradition in Italy and Europe³⁹ but remains “alive” in certain regions of Italy⁴⁰. In line with the EU’s Skills Pacts⁴¹, territorial pacts aim to establish new governance models for the labour market to promote, among other things, the training and professional integration of young people, particularly in the sectors of ecological and digital transition. The institution involves all stakeholders interested in employment and employability, including trade unions, bilateral bodies, and interprofessional funds. Above all, it fits into a legal framework where economic resources are substantial⁴².

Under Article 1, paragraphs 249-250, of Law No. 234/2021, and within the framework of GOL, agreements may be signed between local authorities, public and private entities, third-sector organisations, and employer and worker associations that are comparatively more representative at the national level. The purpose of these agreements is to implement training and employment insertion projects in the sectors of ecological and digital transition. These

³⁹ M. Regini, *I patti sociali nel rapporto della Commissione Europea sulle Relazioni Industriali in Europa*, in *Diritto delle Relazioni Industriali*, 2001, n. 4, 423-428. For an analysis limited to the early years, of the territorial pacts of the 1990s., see CNEL, *I patti territoriali: stato di avanzamento delle proposte pervenute al CNEL*, 1995 and CNEL, *Rapporto sulla concertazione negoziata*, 1999; B. Caruso, *Patti sociali decentrati, sindacato e contrattazione collettiva: un osservatorio sui cambiamenti del lavoro*, in *Diritto delle Relazioni Industriali*, 2001, n. 4, 429-456, A. Viscomi, *Prassi di concertazione territoriale: spunti per una riflessione critica*, in *Lavoro e Diritto*, 2004, n. 2, p. 335-350.

⁴⁰ The reference is to the “Patto per il lavoro dell’Emilia-Romagna”, subscribed by 50 public and private subjects: regional government, local body, entrepreneurial and trade union associations, universities and schools, in harmony with the national government and Europe. See P. Bianchi et al., *Coesione e innovazione. Il Patto per il Lavoro dell’Emilia-Romagna*, Il Mulino, 2020; Iseri Europa (edited by), *Il patto per il lavoro: un modello di sviluppo inclusivo. Rapporto finale, Regione Emilia-Romagna*, 2020. Recently, see D. Chapellu, *Risvolti giuslavoristici della concertazione territoriale. I casi di Milano e della Valle d’Aosta*, in *Rivista Giuridica del Lavoro*, 2024, n. 2, I, p. 155-175.

⁴¹ See the outcomes shared by European Union, *Pact for Skills Annual Report 2022. Progress on upskilling and reskilling the European workforce*, 2023. For the preliminary results of the 2023, see *Pact for Skills Annual Report 2023. Progress on upskilling and reskilling the European workforce*, 2024.

⁴² D. Garofalo, *Gli interventi sul mercato del lavoro nel prisma del PNRR*, in *Diritto delle Relazioni Industriali*, 2022, 1, 114-160, here 117-118; P.A. Varesi *Una nuova stagione per le politiche attive del lavoro. Le prospettive tra azioni dell’Unione europea e riforme nazionali*, in *Diritto delle Relazioni Industriali*, 2022, n. 1, 75-112, here 110-111.

projects are aimed not only at retraining already employed workers (paragraph 249, letter b) but also at “inserting and reinserting, with adequate training, unemployed, inactive, and out-of-work individuals” (letter a). For this purpose, the legislator provides that, based on these agreements, companies, including those operating in networks, may conduct training for the individuals referred to in letter a), following a thorough analysis of the skills needs, including through the use of apprenticeship contracts.

The territorial agreements outlined in Law No. 234/2021 imply the sharing of active labour market policy functions with organised interests (especially trade unions) within a framework of regulatory policies rather than redistributive ones. This approach aims to address the well-known challenges associated with public intervention in the labour market, according to a logic of reconciling the particular interests at stake and seeking consensus⁴³, within a public utility design aimed at direct involvement in the production system and territorial development objectives⁴⁴.

As for the beneficiaries, territorial agreements target not only those already employed but also those who are temporarily unemployed (the unemployed), those who have never been employed (inactive individuals such as NEETs or, in general, young people), or those who face particular difficulties in accessing the labour market (fragile and vulnerable individuals)⁴⁵. To promote active policies for young people, territorial pacts represent an interesting approach to enhancing employability while also protecting them from undeclared work. This is because these pacts involve ongoing trade union oversight of working conditions before the employment relationship is established.

Until recently, there had been no implementing decree for territorial pacts⁴⁶. However, the Interministerial Decree of March 29, 2024, reintroduces them, albeit in a different form, focusing only on the ecological transition sector and requiring regions to legislate on the matter by September 30, 2025. To support the thesis presented here, it is useful to highlight a particularly interesting passage from the PNC-Transitions, which outlines an ideal process that active labour market policies should follow in regard to young people. It is

⁴³ B. Caruso, *Patti sociali decentrati, sindacato e contrattazione collettiva: un osservatorio sui cambiamenti del lavoro*, cit., 444.

⁴⁴ L. Bellardi, *Contrattazione territoriale ed enti bilaterali: alcune osservazioni*, in *Lavoro Informazione*, 1997, n. 1, 17-23.

⁴⁵ On the need of support in the labour market for vulnerable individuals, see A. Sartori, *Transizioni occupazionali e fragilità lavorative: il difficile compito per il diritto del lavoro post-pandemico*, in *Diritto delle Relazioni Industriali*, 2021, n. 4, 967-996.

⁴⁶ See also M. Corti, A. Sartori, *La riforma delle politiche passive e attive del lavoro. La nuova CIG, l'avvio di GOL e il lancio del Piano Nuove Competenze*, in *Rivista Italiana di Diritto del Lavoro*, 2022, n. 2, III, 65-79, here 74.

particularly noteworthy that the regional implementation rules of the decree must ensure the active involvement of all stakeholders to construct a process that begins with an ex-ante analysis of training and employment needs and extends through to the “monitoring of the employment outcomes of funded training, quickly verifying whether the recipients of the training interventions have achieved employment results through the signing of an employment contract (detailed by type of contract, duration, sector in which the employer operates, and job position)”. Furthermore, in qualitative terms, it is possible to assess the consistency between the training provided and the eventual employment contract signed⁴⁷.

An interesting role in these pacts could be played not just by bilateral bodies⁴⁸ but also by interprofessional funds, as per Article 118, Legislative Decree No. 388/2000, which are mandatory funds established by law and governed by both worker and employer representatives that deal with training⁴⁹. For our purposes, it is important to note the recent changes made to the rule on interprofessional funds, which now extend training to unemployed or jobless individuals as well, thus also covering young people, and not only employed workers⁵⁰. This extension of rules and actors involved in promoting territorial pacts, starting from already established tools, moves in the direction of broader inclusivity.

The plan indeed concerns those sectors and/or professions impacted by the ecological transition (but the question arises: which sectors would be excluded?). Nonetheless, the approach taken – as expressed in the national

⁴⁷ See interministerial decree of March 29, 2024, Attached A, pag. 30.

⁴⁸ The role played by bilateral bodies is well-known. For instance, in the construction sector, vocational schools are well-established, as they have been assigned not only tasks related to the study, monitoring, and guidance of training policies at the national and regional levels but also the management of training organisations or vocational schools. Their primary responsibility is to qualify young people entering the workforce and to update the skills of workers within the relevant production sector. On this point, see P. Bozzao, *Utilità sociale e rilevanza costituzionale della bilateralità italiana in funzione delle prestazioni erogate. Analisi preliminare in vista del completamento dell'indagine sui livelli territoriali della bilateralità italiana*, in P. Sandulli et al. (edited by), *Indagine sulla bilateralità in Italia e in Francia, Germania, Spagna, Svezia*, Quaderni Fondazione G. Brodolini, 2015, n. 52, 75-97; Adapt (edited by), *Cassa e Scuola Edile di Bergamo. Origini, evoluzione, prospettive*, ADAPT University Press, 2023.

⁴⁹ For a taxonomy of bilateral organizations, see M. Faioli *Gli enti bilaterali tra obbligo libertà nel sistema normativo italiano*, Working Paper Fondazione G. Brodolini, 2018, n. 13.

⁵⁰ As amended by Article 11-bis, paragraph 1, letters a and b, of Decree-Law No. 4/2019, converted with amendments by Law No. 26/2019, and subsequently by Article 1, paragraphs 240-241, of Law No. 234/2021. To this end, it is worth noting that Law No. 197/2022 had provided (in Article 1, paragraph 318) for the repeal of this article starting from January 1, 2024. Subsequently, Law No. 197/2022, as amended by Decree-Law No. 48/2023, provided (in Article 1, paragraph 318) for the repeal of this article.

document and limited to enhancing trade union-based entities – seems to be a commendable one.

6. Concluding Remarks

In conclusion, these tools should be welcomed as they not only foster the development and economic growth of the country but also strengthen union power by extending union consensus. They allow trade unions to participate in the governance of the labour market and to proactively verify the contractual conditions of newly hired young people.

However, some concerns remain. The first issue pertains to the timing and methods of implementing the decree on territorial pacts by the regions, as there is a risk that Italy may end up with both virtuous and less virtuous regions in terms of active labour market policies. The second concern relates to the difficulty trade unions face in reaching young people in the labour market. While there is clear evidence of a collective interest on the part of trade unions in protecting young people from undeclared work and supporting them in enhancing their employability, reaching and involving young people in territorial pacts presents a significant challenge. Unlike workers who are already familiar with the workplaces, where trade unions maintain contact even with non-union members, young people remain distant from the labour market, requiring an organisational capacity that trade unions currently appear to lack⁵¹. Thus, safeguarding young people, who are still far from the labour market, necessarily entails the involvement of the public sector, as territorial pacts aim to promote.

⁵¹ In this sense, see already C. Crouch *Trade unions and local development networks*, in *Transfer*, 2007, vol. 13, n. 2, 211-224.

Employment in the New Era: Bridging Technology, Education, and Skills for the Next Generation

Carmela Garofalo and Claudia Carchio *

Abstract: This paper explores how technological and digital transformation can influence both the content of training (across all levels), broadening the range of skills that young people must acquire to enter and remain in the labour market, and the methods of delivery of training. It examines how these transformations can become a powerful tool—and, consequently, an opportunity—to support and uphold the rights and interests of the most vulnerable individuals within the employment relationship and the labour market.

Keywords: *New technology, new generation, training, education, skills, employment.*

* Carmela Garofalo (corresponding author, email address: carmela.garofalo@uniba.it) is a Research Fellow at the University of Bari Aldo Moro (Italy); Claudia Carchio is a Research Fellow at the University of Udine (Italy). This contribution constitutes a revised and updated version of the paper presented at the “XXIV ISLSSL World Congress - Work in a Changing World: The Quest for Labour Rights and Social Justice,” held in Rome from 17 to 20 September 2024. It is partially the result of the activities undertaken by the local research unit at the University of Bari “Aldo Moro” (CUP H53D23010850001) within the framework of the PRIN PNRR 2022 project titled *YES - Youth Employment Strategy* (Principal Investigator: Prof. Carmela Garofalo, Code: P2022H89ZS), and partially due to the activities conducted by the local research unit at the University of Udine (CUP G53D23007840001) as part of the PRIN PNRR 2022 project *SUNRISE - Sustainable Solutions for Social and Professional Integration in the Case of Chronic Illness and Transplantation* (Principal Investigator: Prof. Valeria Fili, Code: P20229FEWC). Both projects are funded under Mission 4 “Education and Research” of the PNRR (component C2 - investment 1.1, Fund for the National Research Programme and Projects of Significant National Interest - PRIN), utilising European funds from the NextGeneration EU Programme. Paragraphs 2-5 are attributable to Carmela Garofalo, paragraphs 6-9 to Claudia Carchio, and paragraph 1 is co-authored.

1. Introduction

This contribution seeks to disseminate the preliminary findings derived from two PRIN PNRR 2022 research projects, namely the “Youth Employment Strategy” (YES) and “Sustainable Solutions for Social and Professional Integration in the Case of Chronic Illness and Transplantation” (SUNRISE).

The YES project is part of a broad research agenda focused on the employment conditions of young people in the Italian labour market. Its primary aim is to scrutinise the legislative instruments established by both national and regional authorities, with particular emphasis on the regional legislations of Sicily and Apulia, which serve as focal points for the project’s four local research units. These legal measures are critically evaluated within the framework of European Union employment policies, which aim to promote the retraining of young people and ensure their seamless integration into the workforce.

Conversely, the SUNRISE project aims to analyse and propose strategies and measures to strengthen the current regulatory frameworks for the social inclusion of individuals who have undergone transplants or are coping with chronic illnesses. Its goal is to create pathways that facilitate the transition back to work for these individuals.

Drawing a common thread linking the two research strands, this paper explores the cross-cutting theme of the impact of technological and digital transformation on emerging professions and the professional profiles required by today’s labour market. Particular emphasis is placed on the pivotal role that education and training play in ensuring the alignment of skills with labour market demands, thereby enabling young people to secure and retain employment. The paper also critically examines the content and delivery of education at all levels, highlighting how the integration of technology can ease the transition from school to work and enhance the competitiveness of future workers.

Additionally, the study explores the employment conditions of individuals with disabilities, emphasising how inadequate quality education from early stages is a significant factor contributing to their disadvantages in the labour market. In this context, the potential of digital transformation to expand educational and training content, methodologies, and participation in social life (both in educational and work settings) is highlighted, thus offering significant opportunities for the empowerment of young individuals with disabilities and those living with chronic conditions.

Overall, this paper underscores the critical importance of creating inclusive and adaptive educational and working environments that meet the dynamic demands of the modern labour market, thereby promoting the comprehensive

development and inclusion of vulnerable groups. It concludes by affirming that the integration of technology into educational and professional training programmes can serve as a powerful tool for making the rights and interests of the most vulnerable workers tangible and enforceable in labour relations and the labour market.

2. The ‘Youth Question’

Starting with the first profile, young people represent a vulnerable segment of the population due to the challenges that characterise the transition from education and vocational training to the world of work¹.

This critical situation is evidenced by the high rates of youth unemployment and inactivity, particularly with reference to NEETs (Not in Education, Employment, or Training), with significant territorial disparities, especially in the southern regions. In these areas, age-related disadvantage intersects with issues such as the gender gap.

Although there has been some improvement since the pandemic, the overall state of youth employment in Italy remains less than encouraging in absolute terms when compared with other EU countries. The gradual ageing of the population, caused by increased life expectancy and a declining fertility rate, alongside the challenges faced by younger generations in securing stable and well-paid jobs, the low rate of access to university education, and the difficulties in establishing new family units, have all contributed to the emergence of a genuine ‘youth issue’². This issue requires an integrated strategy of actions capable of supporting (rather than merely assisting) young people in the transition from the education and training system to the labour market.

The younger generation finds itself in a particularly challenging ‘middle of the road’, where education and training offer advantages throughout their careers, ensuring better employment opportunities and partially protecting against unemployment. However, upon entering the labour market, even well-educated young people often find themselves lacking practical work experience, leading to a gap between the skills they have acquired through education and those required in the workplace. Once they enter the workforce, they are often unable to bridge this gap, resulting in precarious and

¹ According to the UN definition, ‘youth’ refers to the 15-24 age group for statistical purposes. However, the 15-29 age group also warrants attention, as it was considered in the European Year of Youth (2022). For this reason, this paper considers young people aged 15-29 but also provides data on those aged 15-34 to encompass the transition from formal education to the labour market.

² See XXIII INPS Annual Report published on 23 September 2024 available at <https://www.inps.it/it/dati-e-bilanci/rapporti-annuali/xxiii-rapporto-annuale.html>

discontinuous forms of employment, lower classification levels (and thus lower wages), and further de-skilling, with potential long-term negative effects on their careers³.

The analysis provided by the Eurostat Report⁴ “Participation of young people in education and the labour market”⁵, published on 29 September 2023, which examines the participation of young people in education and the labour market across European countries, supports the above observations and raises important reflections about the direct relationship between adequate alternation between study and work and the ability to integrate into the labour market⁶.

The Report, which uses the 15-29 and 15-34 age groups as reference, reaffirms that in Italy, the extremely low level of alternation between training and work for young people (partly due to the limited diffusion of dual apprenticeships) corresponds with a high youth unemployment rate. This is evidenced by the upward trend in the youth inactivity rate as age increases, reaching a peak of 20% at age 33.

In contrast, countries such as Ireland, Germany, and Austria present a more promising labour market, offering abundant job opportunities for students. This is consistent with the widespread participation of young people in training programmes and the establishment of a robust apprenticeship system in secondary education, particularly in Germany.

These findings are further corroborated by the latest Inapp-Inps monitoring report from October 2024, titled ‘Signs of Enhancement of Dual Apprenticeship,’ which shows that, in Italy, the predominant form of apprenticeship is the professional apprenticeship, which accounts for 97.7% of contracts, often with limited training content. In contrast, dual apprenticeships (i.e., first and third-level apprenticeships) are still struggling to establish themselves, except in certain regions⁷.

These research findings provide a starting point for investigating potential tools to address the issue of youth unemployment and underscore, particularly in the context of the ongoing technological revolution, the strategic role of education and training in supporting young people during the development

³ See C. Garofalo, *Età e incentivi: il rimedio allo svantaggio*, *Variazioni su Temi di Diritto del Lavoro*, 2023, n. 2, 365-387.

⁴ The Report analyses the European Union Labour Force Survey 2022 data.

⁵ The text is available at <https://www.bollettinoadapt.it/participation-of-young-people-in-education-and-the-labour-market/>

⁶ See C. Innamorati, *Tra studio e lavoro: l'occupazione giovanile in Europa*, *Bollettino Adapt*, 30 ottobre 2023, n. 37.

⁷ See G. Impellizzieri, *Apprendistato duale: ancora la lezione di Bolzano*, *Bollettino Adapt* 21 febbraio 2022, n. 7.

and design phase of their professional profiles. This would also foster practical work experience and skills enhancement, ensuring a smoother transition to the labour market.

3. New technologies, Training and Skills

Defending and enhancing human capital has become an increasingly urgent imperative, particularly for the new generations, within an ever-evolving context where modern production processes, the advent of new technologies, artificial intelligence, and robotics demand a continuous expansion of knowledge and constant updating of previously acquired skills (commonly referred to as re-skilling/up-skilling) to remain competitive in the labour market⁸.

The speed of these transformative processes is outpacing the capacity for both quantitative and qualitative adjustment of the necessary skills, resulting in significant skill gaps and labour shortages that are creating serious deficits in the labour market, not only in Italy but in other regions as well⁹.

A digital divide is gradually emerging within the world of work, particularly with regard to the accessibility of digital skills and, more broadly, the skills driving technological change¹⁰. This gap, which already exists and is likely to expand exponentially without adequate countermeasures, threatens to marginalise workers who are unable to equip themselves with the necessary skills and professionalism to keep pace with technological advancements and meet the innovation needs of businesses¹¹.

Such disparities give rise to new forms of polarisation¹², particularly in relation to professional skills and the training required to make them accessible. This results in the creation of restricted and privileged markets for in-demand and

⁸ During the pandemic emergency, the Presidency of the Council of Ministers promoted the National Digital Competence Strategy, the ‘Italy 2025 Strategy’, based on the recognition that digital competencies are a fundamental strategic axis for the social and economic growth of the country.

⁹ See T. Treu T. (2024), *Intelligenza Artificiale (IA): integrazione o sostituzione del lavoro umano?*, WP C.S.D.L.E. “Massimo D’Antona”. IT - 487/2024, 1-19.

¹⁰ See S. Ciucciovino, *Professionalità, occupazione e tecnologia nella transizione digitale*, federalismi.it, 2022, n. 9, 129-148.

¹¹ See R. Cirillo, D. Evangelista., D. Guarascio, M. Sostero, *Digitalization, routineness and employment: an exploration on Italian task-based data*, INAPP Public Policy Innovation, Working Paper, 2020, 1-37.

¹² See A. Maresca, *Il nuovo mercato del lavoro e il superamento delle disegualianze: l’impatto della digitalizzazione e del remote working*, federalismi.it, 2022, n. 9, 176-179.

hard-to-find professions¹³, particularly those linked to STEM (Science, Technology, Engineering, and Mathematics) skills, with all the direct and indirect discriminatory implications that follow. These include the gender gap, owing to the well-documented underrepresentation of women in these fields, and the generational divide, as older workers¹⁴ face greater difficulty in adapting their skillsets to keep up with these changes.

The new generations, navigating an increasingly polarised and continuously shifting labour market, must be supported in positioning themselves effectively within it. This support should enable them to secure quality employment or, at the very least, remain in less advantageous positions for a transitional period rather than indefinitely.

The ability to harness the opportunities presented by the technological and digital revolution for both workers and enterprises hinges largely on the viability of several enabling factors, among which training plays a central role. Training serves as a key vehicle for ‘regulatory subjectivisation’, facilitating workers’ acquisition of greater substantive freedom in their employment relationships and professional trajectories¹⁵.

4. Italian Measures to Strengthen Young People’s (New) Skills

The right to training and, more generally, investment in individuals and their skills, have become priority issues on the EU political agenda. These initiatives are informed by the European Pillar of Social Rights (and earlier by Article 14 of the European Social Charter), responding to the challenges posed by the dual green and digital transitions. These transitions require companies to create new job profiles to meet evolving production needs, while workers must retrain or refine their skills to adapt to changes in the labour market¹⁶.

¹³ See M. Barbera M. (2018), *Impresa, lavoro e non lavoro nell’economia digitale, fra differenziazione e universalismo delle tutele*, *Giornale di Diritto del Lavoro e delle Relazioni Industriali*, 2018, n. 158, 403-422; L. Pennacchi, *Innovazione e lavoro: la cerniera umanistica tra macroeconomia e microeconomia*, A. Cipriani, A. Gramolati, G. Mari (ed. by), *Il lavoro 4.0: la Quarta Rivoluzione Industriale e le trasformazioni delle attività lavorative*, Firenze University Press, 2018, 389-404.

¹⁴ XXVI AlmaLaurea Report on the Profile and Employment Status of Graduates, 13 June 2024 available at <https://www.almaLaurea.it/i-dati/le-nostre-indagini/condizione-occupazionale-laureati>.

¹⁵ See A. Perulli, *La “soggettivazione regolativa” nel diritto del lavoro*, WP CSDLE “Massimo D’Antona”. IT-365/2018, 406-136.

¹⁶ The year 2023 was declared the ‘European Year of Skills’ (European Year of Skills, https://year-of-skills.europa.eu/index_en) to raise awareness among European institutions, Member States, social partners, companies, and EU workers (stakeholders) about the need to invest in training and skills development. This initiative aims to address labour shortages and empower individuals to actively participate in ongoing transitions through lifelong learning.

Lifelong learning is a strategic aspect for the development of individual competencies, social cohesion, and the economy at large. It has become such a significant focus that it was incorporated as one of the commitments made by EU states at the Porto (Social) Summit on 7 May 2021¹⁷, aiming to achieve the UN 2030 Agenda target of an employment rate of at least 78% by 2030¹⁸.

If we contextualise these objectives within Italy, the challenges faced by the country in addressing the structural deficiencies of its training system and bridging the skills gap are immediately apparent. These challenges stem from various factors, chief among them the inability to build an effective system of active policies. Additionally, there is a misalignment between the business and labour systems and the education and training sectors, particularly in the context of technological changes that necessitate the integration of new skills into production processes¹⁹.

This explains why training—aimed at broadening the skills of employed workers (continuous training) and those excluded from the workforce, i.e., the unemployed and first-time job seekers—has become a strategic focus of the National Recovery and Resilience Plan (NRRP) for Italy's economic and social recovery in the wake of the pandemic crisis²⁰.

Thanks to the momentum generated by the reforms and investment programmes under the National Recovery and Resilience Plan (PNRR), particularly in the areas of active labour and vocational training policies

¹⁷ At the *Porto Social Summit*, 7-8 May 2021 in <https://www.2021portugal.eu/en/porto-social-summit/porto-social-commitment> the EU states committed to ensuring that at least 60 per cent of adults participate in training activities each year.

¹⁸ At the same time, in July 2021, the EU Commission approved a new 'European Skills Agenda', a five-year programme comprising twelve actions across five action areas. Member States are called upon to implement these actions, primarily through their Recovery and Resilience Plans, and funded not only indirectly by Next Generation EU, but also through other structural channels of the EU budget, such as the European Social Fund Plus, the Erasmus programme, and the European investment programme InvestEU (see *European Skills Agenda* in <https://ec.europa.eu/social/main.jsp?catId=1223&langId=en>.)

¹⁹ See P.A. Varesi, *Il sistema nazionale di servizi per l'impiego e politiche attive del lavoro: aspetti strutturali*, *Variazioni su Temi di Diritto del Lavoro*, 2022, n. 4, 607 ff.

²⁰ The Council's Recommendations on Italy's 2020 National Reform Programme (appropriately considered in the drafting of the NRRP) already highlighted training as a key priority. Among the recommended interventions, it emphasised the need to improve educational levels and the qualification of skills as a primary driver of development. Simultaneously, it advocated for the increased training of the labour force, ensuring system coherence. Indeed, "the low participation rate of low-skilled adults in training is concerning, particularly given the decline in jobs requiring low qualifications. Skills upgrading and retraining have become more crucial than ever to equip workers with labour-market-relevant skills and promote an equitable transition to a more digital and sustainable economy" (Chapter 19). See G. Mammona, *Ripresa e resilienza dopo il Covid-19. Gli ammortizzatori sociali tra cooperazione europea e progettualità nazionale*, *Rivista del Diritto della Sicurezza Sociale*, 2021, n. 2, 261-262.

(M5C1) and secondary and tertiary education (M4C1), Italy has initiated several interventions to innovate its education and training system. These efforts are increasingly aligned with the European model, with the stated goal of enhancing the appeal of vocational pathways and improving the alignment of young people's skills with the needs of businesses and local economies²¹.

The areas of legislative and regulatory intervention cover various segments of the vocational education and training (VET) chain. These range from state-run technical and vocational education and training to regional VET (including dual-mode options), and extend to the tertiary sector. The goal is to establish a technological-vocational education and training chain, creating an integrated approach to education and training at all levels.

In 2022, the reform of Higher Technical Institutes (ITS Academies)²² under Law no. 99 strengthened the link between tertiary professional training and the labour market. The reform aimed to resolve, or at least alleviate, the long-standing mismatch between skills and market needs, and to ensure the supply of technicians with high technological and technical professional skills in areas considered strategic for economic development and the revitalisation of the production system²³.

ITS Academies are tasked with promoting technological and scientific culture, providing lifelong guidance for young people, and training highly specialised technicians. Furthermore, their actions are transversal, targeting the professional development and in-service training of teachers in scientific, technological, and technical-professional disciplines within schools and vocational training. ITS Academies also contribute to active employment policies, with a specific focus on young people's transition into the world of work, the continuous training of highly specialised technical workers within the framework of lifelong learning, and technology transfer, particularly to small and medium-sized enterprises (SMEs).

The concept of scientific culture is broad, and it is primarily focused on “technological areas considered strategic in the context of industrial and technological development and ecological reconversion policies.” These areas

²¹ See L.V. Casano, *Formazione continua e transizioni occupazionali*, *Variazione su Temi di Diritto del Lavoro*, 2022, n.4, 659-686.

²² The PNRR (Reform 1.2, M4C1) has allocated EUR 1.5 billion in funding for ITS to enhance the educational offerings of these institutes. The stated objective is to double the number of enrolled students, invest in high-tech laboratories, ITS campuses and facilities, and strengthen relationships with companies.

²³ See A. Zuccaro (ed. by), *Istituti Tecnologici Superiori – Monitoraggio nazionale 2023*, INDIRE, Firenze, 1-314.

were definitively identified by Ministerial Decree No. 203 of 23 October 2023²⁴.

Interwoven with the ITS Academy reform is Law No. 121 of 8 August 2024 (the so-called Valditara Reform), which reforms the current technological-professional training chain model to promote youth employability and innovation in the production system.

Pending the approval of Law No. 121/2024, an experiment is planned to begin in the 2024-2025 academic year²⁵ involving voluntary participation in a four-year second-cycle state vocational education and training (IeFP) pathway, followed by an additional two years at ITS Academies under the '4+2' model (four years of technical or vocational secondary education and training, followed by two years of vocational tertiary education and training at ITS Academies).

Technological-professional training chains may span sectors such as information technology, electronics, mechanics, energy, and construction, or other ITS technological areas as per the DPCM 25 January 2008, updated by the implementing decrees of Law 99/2022. These may also be linked to other economically and professionally crucial sectors for specific regions or territories.

However, it should be noted that the current professionalising chain—linking regional Vocational Education and Training (IeFP) pathways to the ITS system—currently exists only on paper. The professional nature of these pathways and the complex transitions between segments (IeFP, IFTS, ITS), which depend on annual regional calls for applications, means that an actual chain supporting students through non-academic pathways to the ITS diploma is not yet operational. Consequently, the outcomes and impact of the experimentation proposed by the Valditara reform—aimed at developing synergies and facilitating transitions from the upper secondary system (schools

²⁴ MIM Decree No. 230 of 20 October 2023 (one of the 18 implementing decrees required by the reform), which contains provisions regarding the technological areas, national reference professional figures of the ITS Academy, and the minimum standards for technological and technical-professional competencies, introduces new technological areas, increasing the total from 6 to 10.

²⁵ To accelerate the implementation of the reform from the 2024/2025 school and training year onwards, the Ministry of Education and Merit (MIM) has launched, through Decree No. 240 of 7 December 2023 and the associated Notice (MIM Decree No. 2608 of 7 December 2023), a National Experimentation Plan for the establishment of the integrated training supply chain. This plan will assess the capacity to activate an integrated training system, organised and delivered by specialised networks of purpose, known as 'campuses'. These campuses will be established under agreements between the Region and the Regional School Office, following the model previously trialled with the Technical and Professional Poles.

and IeFP) to the non-academic tertiary system (ITS)—will need to be assessed²⁶.

In addition to shortening the length of the supply chain, the reform has provided an overview of both state and regional vocational-technological education. The Valditara reform proposes a ‘single’ supply chain model that integrates regional (IeFP, IFTS, ITS) and state (IT and IP) programmes within supply chains related to the same economic-professional/technological areas. Educational institutions must cooperate with training agencies and ITS Academies to set up these integrated training chains.

The integrated training offer must implement measures to enhance the quality of courses, including strengthening STEM disciplines, offering on-the-job experiences (with increased use of apprenticeships), expanding the number of hours²⁷ for transversal skills and orientation courses (PCTO), and introducing teaching and laboratory activities led by experts from the professional world. The reform also aims to boost internationalisation and student mobility, with a focus on obtaining language certifications and adopting CLIL (Content and Language Integrated Learning) methodology to improve micro-language skills in technical education.

Another key aspect of the reform is the involvement of local stakeholders, such as enterprises, trade union representatives, and vocational needs assessment experts, in both defining training curricula and providing training. This collaboration is essential for aligning training programmes with labour market needs and facilitating practical vocational orientation for students in preparation for job placement.

These measures are supported by actions to incentivise the dual transition, particularly through dual apprenticeships²⁸, which the NRP has prioritised²⁹. In

²⁶ See M. Colombo, *Le prospettive del sistema ITS Academy. Dati e spunti dall'ultimo rapporto di monitoraggio INDIRE*, Bollettino ADAPT 9 ottobre 2023, n. 34.

²⁷ See Law No. 145 of 30 December 2018 (Budget Law 2019, Art. 1, Paragraph 784), which renamed the school-work alternance pathways (Legislative Decree No. 77 of 15 April 2005) to ‘pathways for transversal skills and guidance’ (PCTO). As of the 2018/2019 school year, it established the overall duration of these pathways over the final three years, depending on the type of institution (lycées, technical institutes, and vocational institutes): no fewer than 210 hours in the final three years of the vocational institute pathway; no fewer than 150 hours in the second two-year period and the final year of the technical institute pathway; and no fewer than 90 hours in the second two-year period and the fifth year of *licei*.

²⁸ The MLPS circular of 6 June 2022 provided a vademecum on apprenticeships for professional qualification and diploma, upper secondary education diploma and certificate of higher technical specialisation (so-called first level) to identify the critical aspects of the apprenticeship contract of both a legal and practical nature, which have hindered its wider use, to facilitate its uniform application throughout the country, while respecting the right of Regions and PAs to set additional requirements on the matter.

line with EU Council Recommendations³⁰, these measures aim to develop skills that meet the needs of a rapidly changing economic system³¹. They focus on strengthening vocational education and training (VET) and higher technical education and training (HTET) provision, with direct involvement from enterprises in the planning and implementation of training interventions. This approach also seeks to expand learning models based on practical work experience³².

To achieve these goals, the ‘Guidelines for Planning and Implementing Vocational Education and Training and Higher Technical Education and Training Pathways in Dual Mode’ were adopted under Ministry of Labour Decree No. 139 of 2 August 2022. A dedicated ‘Dual System Observatory’ was established to oversee the implementation of these pathways and address any issues that arise, including proposing necessary adjustments to the guidelines.

The ‘Guidelines’ outline the framework for these activities, specifying their general characteristics, the recipients and providers of measures, and the criteria for determining simplified cost options.

Several aspects deserve mention, including the range of pathways eligible for funding through the NRP’s resources. These include new dual pathways, the conversion of traditional VET pathways into dual ones, and programmes outside the compulsory education system, aimed at acquiring either a VET or HTET qualification, or the certification of specific competences.

The desire to capitalise on the experience gained from previous experiments is clear, as this experience forms the basis for ensuring continuity and further development of the dual system in Italy.

The ‘Guidelines’ also revise and diversify the minimum standards for the use of teaching methods within dual pathways. This expansion also includes new pathways focused on “Entrepreneurship and Digital Transition,” aligning with the PNRR guidelines and the National Green and Digital Agenda (NGUE).

²⁹ The investment programme for the enhancement of dual regional pathways and the apprenticeship institution (Investment 1.4, M5C1), intends to incentivise the increase in the number of participants in the dual IeFP and IFTS pathways (at least 135,000 ‘additional people’, of which 90,000 exclusively with PNRR resources) and to favour the achievement and dependability in the labour market of a qualification - ‘relevant certification’ - in the five years 2021-2025.

³⁰ See EU Recommendations of 15 March 2018 and 24 November 2020.

³¹ See G. Impellizzeri, *Contributo allo studio giuridico del “sistema” dell’apprendistato*, Adapt University Press, 2024.

³² See XXI INAPP Report on the Monitoring of the Vocational Education and Training System and of the Dual Pathways in Vocational Education and Training (a.f. 2021-22), December 2023 available at <https://oa.inapp.gov.it/items/96d4c1e7-7381-4292-aa4a-f977cebeaf2e>.

Finally, measures adopted under the PNRR (M5C1) include reforms to active labour policies and vocational training³³. These include the Workers' Employability Guarantee Programme (GOL)³⁴ and the National New Skills Plan (PNC). The most recent update to the PNC³⁵, the New Skills-Transition Plan (PNC-Transition)³⁶, was published by inter-ministerial decree on 29 March 2024³⁷.

The GOL Programme and the PNC are interrelated, aiming to address the training and retraining needs of unemployed youth and workers affected by labour market shifts³⁸. The GOL Programme focuses on providing essential services and fostering employability, especially for vulnerable groups, and facilitating social inclusion for individuals in fragile conditions³⁹. This is achieved through customised active policy paths⁴⁰, implemented through public-private partnerships and territorial networks that involve support services for the most vulnerable⁴¹.

The National New Skills Plan (PNC) is a strategic coordination framework for upskilling and qualification/requalification interventions aimed at responding

³³ See D. Garofalo, *Gli interventi sul mercato del lavoro nel prisma del PNRR*, in *Diritto della Relazioni Industriali*, 2022, n. 1, 114-160; A. Sartori A.(2021), *Il diritto del mercato del lavoro tra pressioni economiche, trasformazioni sociali e nuove istanze di tutela*, in *Diritto della Relazioni Industriali*, 2021, n. 4, 967-996; L. V. Casano, *Transizione ecologica e riqualificazione dei lavoratori: vincoli del quadro giuridico- istituzionale e prospettive evolutive nell'ottica dei mercati transizionali del lavoro*, S. Ciucciovino, D. Garofalo, A. Sartori, M. Tiraboschi, A. Trojsi, L. Zoppoli (ed. by) *Flexicurity e mercati transizionali del lavoro. Una nuova stagione per il diritto del mercato del lavoro?*, Adapt University Press, 2021, 14-47.

³⁴ See Art. 1, para. 324, Law No. 178/2020, so-called Budget Law 2021 and Interministerial Decree of 5 November 2021.

³⁵ The PNC was adopted by decree on 14 December 2021.

³⁶ For employed workers, moreover, the strengthening of the New Skills Fund (FNC), introduced initially during the Covid-19 pandemic emergency, by Art. 88, co. 1, d. l. n. 34/2020, conv. in l. n. 77/2020, to allow companies to reshape working hours and favour training activities based on specific collective agreements with trade unions.

³⁷ With the MLPS decree of 30 March 2024, following an agreement in the State-Regions Conference, the PNC-Transitions, adopted on 14 December 2021, and the related Roadmap were introduced. The Roadmap outlines the procedural steps for the activities to be implemented and defines several general principles that are to be developed and specified in regional regulations.

³⁸ See L. Valente, *Gli attori del mercato del lavoro in rapporto diretto con imprese e lavoratori*, *Variazioni su Temi di Diritto del Lavoro*, 2022, n. 4, 633-657.

³⁹ See P. Bozzao, *L'intermediazione del lavoro nel Programma GOL: potenzialità e criticità*, *Lavoro e Diritto* 2023, n. 2, 259-278.

⁴⁰ See P.A. Varesi, *Una nuova stagione per le politiche attive del lavoro*, *Diritto della Relazioni Industriali*, 2022, n. 1, 75-113.

⁴¹ See N. Deleonardis, *L'organizzazione sindacale e il mercato del lavoro*, ADAPT Labour Studies e-Book Series, E-Book, 2024, n. 106, 240-256.

to the demand for new skills resulting from digital and ecological transitions, as well as the effects of the COVID-19 pandemic.

In comparison to the GOL Programme, the PNC orients the measures regarding the professional training of the programme beneficiaries in a synergistic and integrated manner. This functional connection is crystallised by the objectives to be pursued in the five-year period 2021-2025: at least 800,000 workers—out of the total 3 million hired by the GOL Programme—will need to be involved in training activities, 300,000 of whom will strengthen digital skills.

Following the inclusion of the new REPowerEU - Mission 7 chapter in the PNR, the New Skills Transition Plan was adopted, updating the 'New Skills Plan'. Adopting the new Plan responds to the need to provide the country with a practical and stable mechanism to combat skills mismatches, with "new skills" now playing a key role in an increasingly digital and green job market. The instrumentation is expanded by bringing training policies closer to active labour policies, integrating what is foreseen by the GOL Programme in terms of minimum standards of content, accessibility, customisation, and usability, with regard to the retraining and professional reintegration paths of unemployed workers or those undergoing collective redeployment.

To summarise, the key innovations of the New Skills-Transition Plan⁴² are twofold: the first is a shift towards vocational training pathways that increasingly focus on work-based learning, which enables participants to acquire relevant, transferable skills in real-world work environments; the second is the promotion of enhanced collaboration between stakeholders (public institutions, employment centres, private-sector actors, and companies) to improve the provision of services and training, ensuring it is more closely aligned with the needs of both the production system and individual workers. A central aim is to actively involve enterprises in identifying sectors with the greatest demand for qualifications and in designing training programmes that support the 'dual transition' and encourage the use of high-quality extracurricular apprenticeships.

⁴² Following recent international developments and with the aim of accelerating the transition of the energy system, the European Commission presented the REPowerEU Plan on 18 May 2022. With Regulation (EU) 2023/435 of 27 February 2023, which came into force on 1 March 2023, Member States are now able to include REPowerEU chapters in their National Recovery and Resilience Plans and adapt already planned measures to meet the macro-objectives of the REPowerEU Plan. On 8 December 2023, the ECOFIN Council approved the REPowerEU chapter of the Italian National Recovery and Resilience Plan and the reformed Council Implementing Decision (CID), in line with the additions and changes agreed at the European level.

5. News and Perspectives on Recent Reforms

Compared to the period at the onset of the pandemic crisis, some clear elements of discontinuity emerge in the latest legislative interventions outlined above.

The first discontinuity is evident in the shift from rigid distinctions of roles in learning processes to a multiplication of experiences that foster dialogue between the worlds of education—tertiary education included—and vocational training and work. This reflects a progressive move from a learning model primarily based on the transfer of theoretical knowledge towards the adoption of experiential teaching methodologies, which require the involvement of new actors and the development of new skills.

The second discontinuity lies in overcoming the fragmentation of responsibilities for implementation, as well as the planning of separate, sector-specific interventions that have historically led to overlapping, displacement, or redundancy effects. This approach, which has characterised policy design and the drafting of strategic programmes in our country for decades, is now being restructured.

By analysing documents of political relevance such as the National Plan for Recovery and Resilience (PNRR), the National Plan for New Skills (PNC), the Guarantee Program for the Employability of Workers (GOL), the Fund for New Skills (FNC), the National Implementation Plan (NAP) of the Recommendation on Vocational Education and Training (VET), and the series of National Plans (NAP) and Regional Plans (RP) that define actions for the period 2021-2027, supported by the European Social Fund Plus (ESF+), one can easily identify the elements of internal coherence. These documents reflect the continuity and mutual reinforcement of interventions, an attention to clearly defined and quantifiable challenges and objectives, and the use of data and evidence to support strategic decision-making.

A third significant discontinuity is the increasing reliance on network strategies, whose effective implementation is crucial in determining the success of the reform initiatives mentioned earlier.

Finally, the fourth discontinuity is seen in the adoption of the centrality of the learner as a guiding principle for navigating the digital and green transitions. This responds to the need to make the individual right to training enforceable. What is changing most markedly, compared to the past, is the orientation of educational planning. Moving away from rigid planning—where there was limited flexibility to adapt curricular content, learning times, and methodologies—there is now a trend towards adaptive, flexible, and sustainably customised educational planning and programming.

Notable examples of this shift include the variety of refresher courses planned under the GOL programme. These courses are differentiated according to factors such as age, skill level, complexity of need, reconciliation requirements, the relevant labour market context, company needs, and specific employment opportunities (e.g., re-employment, refresher training, and retraining).

However, one must ask whether this complex, adaptive, and flexible educational and training offer is sufficient to bridge the mismatch between the skills demanded by the labour market and those offered by workers, particularly young people. More importantly, one must ask whether it is sufficient to increase the participation rates of the population in training courses. The low attractiveness and visibility of training opportunities, the continued lack of guaranteed accessibility, their uneven territorial distribution, and the insufficient perceived return on investment for potential users are some of the factors contributing to the low levels of engagement observed to date.

Accompanying the digital and technological transitions involves not only regulatory adjustments to support the sectors and production chains affected but also a reorientation of the content of upskilling and reskilling pathways for workers. This process necessitates rethinking and restructuring the educational offer—from basic to advanced and specialised levels—and equipping and adapting the logistics, contexts, and places where learning occurs.

This requires not just better and more efficient distribution of these services throughout the territory, including those designed to enhance the value of skills acquired through short learning options⁴³, but also ensuring that competent operators (not merely formally qualified or appointed individuals) are available to manage complex relationships. Additionally, functional and up-to-date information infrastructures are essential, as are territorial networks that can effectively support users.

In conclusion, the key challenge lies in the issue of resources. All the reforms discussed so far require substantial human and financial investment. Their success will depend on the capacity to secure the resources necessary for implementation, in terms of qualified teaching and technical staff, innovative technologies, and, most critically, the engagement and participation of individuals and institutions in the project. This, in turn, will depend on the

⁴³ It should be noted that the recent update of the Italian Qualifications Referencing Report to the European EQF Framework 2022, adopted by a Ministerial Decree of the Ministry of Labour, in agreement with the MIM and the MUR on 15 June 2023, marks a significant step forward for Italy in aligning the mechanisms for the certification of skills and the portability of knowledge with European standards, in implementation of the European Council Recommendation on the EQF of 22 May 2017.

effectiveness of promotion efforts and the ability of the stakeholders involved to foster effective relationships with local communities.

6. The ‘Occupational’ Question for People with Disabilities

Having outlined the primary challenges that young individuals may encounter while transitioning from education and vocational training to the professional sphere, and highlighted the significant opportunities that modern technologies offer to ease these transitions—particularly in training and skills acquisition—this paper now seeks to reexamine the same topic from a different perspective: that of individuals with disabilities.

A preliminary step towards this objective involves analysing the occupational situation of these individuals to discern the critical aspects and, above all, the factors that determine them. It must be stated unequivocally from the outset that individuals with disabilities face compounded challenges from their early school years, extending into their professional lives and throughout their entire careers. Consequently, they are subjected to a heightened risk of poverty and social exclusion compared to their peers without disabilities.

Illustrative of this issue are data concerning the employment and working conditions of individuals with disabilities. According to the Seventh Edition of the European Disability Forum’s *Human Rights Report*, published in 2023⁴⁴, employment remains a particularly challenging frontier for most European citizens with disabilities. Not only do they experience significantly lower employment rates, but they also earn lower wages compared to their non-disabled counterparts.

The employment situation of citizens with disabilities in the EU is starkly highlighted by overall employment statistics, which reveal a substantial disparity known as the disability employment gap. In 2020 (the most recent data available)⁴⁵, only 51.3% of working-age individuals with disabilities in the EU were employed, compared to 75.6% of those without disabilities, resulting in an average employment gap of 24.4 percentage points. This figure varies considerably across member states, ranging from 18.2 percentage points in Portugal to nearly 40 percentage points in Ireland. However, it is crucial to note that even in countries with high overall employment rates, the situation for individuals with disabilities does not necessarily improve. For instance, in Sweden, where the general employment rate stands at 80.8%, the disability

⁴⁴ European Disability Forum, *7th Human Rights Report – The Right to Work: The employment situation of persons with disabilities in Europe*, 2023, Issue 7.

⁴⁵ S. Grammenos, *European comparative data on Europe 2020 and persons with disabilities: Labour market, education, poverty, and health analysis trend* (developed under Contract VC/2020/0273 with the European Commission), Luxembourg: Publications Office of the European Union, 2022.

employment gap remains at 28.9%. This underscores the persistent challenges that individuals with disabilities face in securing and maintaining employment, despite broader economic success⁴⁶.

Moreover, the intersection of disability with other identity factors, such as gender and age, further exacerbates these inequities. In the pursuit of employment, women with disabilities confront multiple layers of discrimination. A comparative analysis of employment data for individuals with disabilities reveals that only 49% of women aged 20 to 64 with disabilities were employed in 2019, in contrast to 53.9% of men with disabilities. The disparity is even more pronounced when considering individuals without disabilities: the employment rate for women without disabilities stood at 69.3%, while it was highest among men without disabilities, reaching 82%⁴⁷.

Young people with disabilities are similarly disadvantaged. In 2019, just 47.4% of individuals with disabilities aged 20 to 29 were employed, compared to 57.8% of their non-disabled counterparts in the same age group⁴⁸.

It is also important to note that the likelihood of unemployment for people with disabilities is a global phenomenon, not confined to the European context. According to recent research conducted by the International Labour Organization (ILO)⁴⁹, however, the unemployment gap between individuals with and without disabilities appears to be less pronounced in developing countries. Notably, this disparity is not statistically significant for women in lower-middle-income countries and for men in low-income countries. In fact, for women in low-income countries, the gap is even negative (-1.5 percentage points), suggesting that women with disabilities are less likely to be unemployed than their non-disabled counterparts.

This finding may reflect the relative scarcity of resources in developing economies compared to high-income countries, which could incentivise individuals with disabilities to reduce their periods of unemployment and accept any available job opportunities, regardless of working conditions or compatibility with their health conditions.

Furthermore, in analysing the current employment situation of individuals with disabilities, it is crucial to consider another additional factor⁵⁰: the real extent of

⁴⁶ European Disability Forum, *7th Human Rights Report – The Right to Work: The employment situation of persons with disabilities in Europe*, cit., 8.

⁴⁷ *Idem*, 35.

⁴⁸ *Idem*, 38.

⁴⁹ S. Ananian, G. Dellaferrera, *A study on the employment and wage outcomes of people with disabilities*, ILO Working Paper 124, 2024, Geneva, ILO.

⁵⁰ ILO & Fundación ONCE, *An inclusive digital economy for people with disabilities*, Joint publication by Fundación ONCE and the ILO Global Business and Disability Network, developed within

employment challenges for individuals with disabilities is often underrepresented, as many may not register as unemployed due to the formidable barriers they face in entering the labour market⁵¹.

Additionally, people with disabilities are not only less likely to be part of the labour market, but when they are, they also earn, on average, less than those without disabilities. In this regard, the ILO estimates that employees with disabilities earn a wage that is below the wages earned by 80% of employees⁵². This disparity is further exacerbated for women with disabilities, owing to the confluence of the disability pay gap and the gender pay gap⁵³.

Moreover, in many countries, employed individuals with disabilities are disproportionately represented in precarious employment situations. These roles are typified by inadequate earnings, low productivity, and poor working conditions, all of which fundamentally compromise the essential rights of workers⁵⁴.

In this context, it is noteworthy that individuals with disabilities are disproportionately inclined towards self-employment. Empirical evidence indicates that, upon securing employment, these individuals are less frequently found in employee positions compared to their non-disabled peers. This pattern persists even after adjusting for variables such as age, educational attainment, and occupational category.

The limited literature⁵⁵ highlights that disabled individuals are overrepresented in self-employment due to the greater flexibility and better alignment between disability status and working life that self-employment affords, as well as for

the framework of Disability Hub Europe, a project led by Fundación ONCE and co-funded by the ESF, 2021.

⁵¹ See S. Ananian, G. Dellaferrera, *A study on the employment and wage outcomes of people with disabilities*, 14, according to which, on average, across countries, having disabilities decreases the likelihood of labour market participation by 29% for men, and by 20% for women; World Health Organization, & The World Bank, *World report on disability*. World Health Organization, Publications of the World Health Organization, 2011.

⁵² See S. Ananian, G. Dellaferrera, *A study on the employment and wage outcomes of people with disabilities*, 19.

⁵³ European Disability Forum, *Disability and Gender Gaps: Addressing unequal employment of women with disabilities*, EDF Position paper and Recommendations on employment of women with disabilities in the European Union, September 2022.

⁵⁴ United Nations, *Disability and Development Report: realizing the Sustainable Goals by, for and with persons with disabilities*, Department of Economic and Social Affairs, United Nations, New York, 2018.

⁵⁵ E. Gouskova, *Why Self-Employment Rates Are Higher among People with Work Limitations*, in *Journal of Disability Policy Studies*, 2020, 31 (1), 15–25; R. Pagán, *Self-Employment among People with Disabilities: Evidence for Europe*, in *Disability & Society*, 2009, 24 (2), 217–229.

non-monetary reasons. However, it also hints at possible employer discrimination that might drive some individuals into self-employment⁵⁶.

Despite the reasons behind the higher propensity for self-employment among disabled individuals, this trend implies an increased risk of engaging in informal work, particularly in developing countries. Indeed, global estimates indicate that the majority of self-employed workers manage and operate informal economic units, with a significant proportion (eight out of ten) in developing countries working informally⁵⁷. In contrast, only 40% of employees worldwide engage in informal work, a figure that drops to merely 10% in high-income countries.

Moreover, in most countries with accessible data, individuals with disabilities are more frequently found in informal employment compared to their non-disabled counterparts⁵⁸.

Furthermore, aside from variations in the likelihood of being employed or self-employed, people with disabilities also display distinct working-time patterns. A detailed examination reveals that, in comparison to non-disabled individuals, they often work fewer hours. Additionally, in developing countries, they are more likely to be employed under temporary contractual arrangements.

In conclusion, the employment landscape for individuals with disabilities is characterised by a distinctive set of challenges that necessitate meticulous consideration and strategic intervention. These challenges encompass significant barriers to entering the labour market, a tendency towards self-employment, and the prevalence of precarious employment situations. Such circumstances are frequently marked by inadequate earnings and substandard working conditions, which collectively contribute to lower wages and exacerbate economic instability.

7. Bridging the Disability Employment Gap: Education and Training as Pathways to Employment for Young People with Disabilities

After elucidating the distinctive characteristics of the occupational situation and working conditions of individuals with disabilities, it is crucial to delve deeper into the underlying causes that exacerbate the challenges faced by these individuals in the labour market.

⁵⁶ S. Ananian, G. Dellaferrera, *A study on the employment and wage outcomes of people with disabilities*, cit., 15.

⁵⁷ ILO, *Women and Men in the Informal Economy: A Statistical Update*, 2023.

⁵⁸ V. Stoevska, *New ILO Database Highlights Labour Market Challenges of Persons with Disabilities*, ILOSTAT Blog, 13 June 2022, in <https://ilostat.ilo.org/new-ilo-database-highlights-labour-market-challenges-of-persons-with-disabilities/>.

Major studies conducted in this domain have highlighted various factors that intensify the employment gap and the substandard working conditions encountered by people with disabilities. Among these primary factors, which often operate in combination, are systemic barriers such as inaccessible work environments, a lack of reasonable accommodations, insufficient inclusive policies, entrenched structural discrimination and prejudice, and inadequate access to inclusive and high-quality education⁵⁹.

It is precisely this latter aspect that warrants focused attention, as it significantly affects young individuals on the verge of entering the labour market, hindering their ability not only to secure employment but also to obtain stable and better-paid job opportunities. Indeed, it should be noted that young people with disabilities often achieve markedly lower levels of education compared to their non-disabled peers. In particular, the provision of mainstream education continues to pose significant challenges, especially for individuals who require substantial support.

Data from 2019 (the most recent available) reveals that more than double the number of students with disabilities in the EU leave school prematurely compared to their non-disabled peers, with figures standing at 21.8% versus 9.6%⁶⁰. A more nuanced analysis of these disparities, conducted among OECD countries, reveals significant variation based on the severity of disability: on average, 15% of individuals with moderate disabilities and over 35% of those with severe disabilities discontinue their education prematurely⁶¹. The particular disadvantage experienced by young people with severe disabilities is prevalent in most nations, with countries such as Lithuania, Portugal, and Spain reporting figures as high as 60%. Conversely, in a few countries, including the United Kingdom and the United States, early school leaving is uncommon across all groups.

This premature exit from the educational system results in a substantial deficiency in the formal qualifications requisite for numerous occupations, thereby severely restricting the employment prospects for individuals with disabilities.

Regarding educational attainment, it is noteworthy that, in general, across OECD countries, there has been an improvement between 2005 and 2019, for

⁵⁹ See among the others European Disability Forum, *7th Human Rights Report – The Right to Work: The employment situation of persons with disabilities in Europe*, cit.; OECD, *Disability, Work and Inclusion: Mainstreaming in All Policies and Practices*, OECD Publishing, Paris, 2022; Eurofound, *Disability and labour market integration: Policy trends and support in EU Member States*, Publications Office of the European Union, Luxembourg, 2021.

⁶⁰ S. Grammenos, *European comparative data on Europe 2020 and persons with disabilities: Labour market, education, poverty, and health analysis trend*, cit., 10.

⁶¹ OECD, *Disability, Work and Inclusion: Mainstreaming in All Policies and Practices*, cit., 35.

both people with and without disabilities. Nonetheless, individuals with disabilities continue to experience a significant relative disadvantage in education and skills development⁶². Specifically, the proportion of people with disabilities possessing a low level of education has declined from approximately 48% to about 30% between 2005 and 2019. In contrast, the share of people without disabilities with a low level of education decreased from about one-third to one-fifth over the same period. Thus, while the educational gap has slightly narrowed, the percentage of individuals with disabilities who have a low level of education remains higher by approximately 10% compared to their non-disabled peers.

Simultaneously, data reveals a substantial disparity between people with and without disabilities in the increase of those achieving higher levels of education at the tertiary level⁶³. The growth rate for those attaining higher education was markedly slower for individuals with disabilities. Although there is a substantial demand for workers with vocational education, this trend suggests that individuals with disabilities may be more adversely affected in labour markets characterised by a high degree of job polarisation, i.e., a reduction in middle-skilled jobs.

Furthermore, the elevated proportion of young people with disabilities educated in isolated settings exacerbates this predicament, as it further impedes their acquisition of the qualifications required for many jobs⁶⁴.

In summary, while higher levels of educational attainment significantly enhance the prospects of employment and the ability to maintain and advance skills necessary for career progression⁶⁵, data indicates that the education and vocational training currently available for individuals with disabilities frequently fall short of addressing their specific needs. Moreover, these provisions are often neither pertinent nor aligned with the demands of the labour market⁶⁶.

⁶² OECD, *Disability, Work and Inclusion: Mainstreaming in All Policies and Practices*, cit., p. 35.

⁶³ Accordingly, in the EU in 2019, as reported by S. Grammenos, *European Comparative Data on Europe 2020 and Persons with Disabilities: Labour Market, Education, Poverty, and Health Analysis Trend*, cit., p. 10, only 32.5% of individuals with disabilities attained tertiary education, in contrast to 43.6% of those without disabilities.

⁶⁴ See for more details on this topic UNESCO, Global Education Monitoring Report Team, *Inclusive education: Children with disabilities*. Background paper prepared for the 2020 Global education monitoring report: Inclusion and education, 2020.

⁶⁵ OECD, *Adult Learning and COVID-19: How much informal and non-formal learning are workers missing?*, OECD Policy Responses to Coronavirus (COVID-19), OECD Publishing, Paris, 2021, 11.

⁶⁶ UNESCO, Global Education Monitoring Report Team, *Inclusive education: Children with disabilities*. Background paper prepared for the 2020 Global education monitoring report: Inclusion and education, 2020.

Overall, the transition from school to work is challenging for most young people, but it is particularly arduous for youth with disabilities, who often struggle to continue their education beyond compulsory schooling or to reach the high levels of education required in the labour market. This results in a pronounced educational attainment gap.

The persistent disability employment gap is closely linked to the enduring disability gap in education and skills. Despite notable improvements in educational attainment for individuals with disabilities, they continue to lag behind their non-disabled peers. This disparity begins early in life, as children and youth with disabilities face multiple disadvantages that hinder their success in school and transition to the labour market. Consequently, young individuals with disabilities are disproportionately represented among those who leave the education system prematurely and struggle with labour market integration. A significant number of these young individuals are NEETs (Not in Employment, Education, or Training), highlighting the need for targeted support during their transition to the workforce.

Moreover, higher education is pivotal in easing entry into the labour market and fostering career advancement. It is essential to support youth with disabilities in continuing their education and reaching their full potential. However, the existing educational and skills gap among people with disabilities poses a significant challenge to their success in the labour market. They can only secure and retain employment if they possess the necessary skills and consistently update them to keep pace with the dynamic and ever-evolving labour market.

8. Enhancing Education and Employment for Individuals with Disabilities through Digital Innovation

The data presented underscores the urgent need to enhance educational and training systems for individuals with disabilities, ensuring not only access to quality education but also fostering robust employment prospects.

In this regard, new technologies can play a transformative role. The digital revolution, driven by advancements in artificial intelligence (AI) and globalisation, is dramatically reshaping the labour market, and this trend is not expected to slow down⁶⁷. Tasks amenable to automation (commonly referred to as routine tasks) are being rendered obsolete, while non-routine tasks ascend in importance. New vocations are emerging, certain other occupations are facing obsolescence, and recruitment processes are undergoing significant alterations.

⁶⁷ OECD, *Vectors of digital transformation*, OECD Digital Economy Papers, n. 273, 2019.

Additionally, the rise of new organisational business models has led to an increase in non-standard forms of work, which, while offering greater autonomy and flexibility, also bring heightened labour market insecurity and reduced access to health, social protection, and employment support.

The COVID-19 pandemic has intensified these trends, precipitating a rapid acceleration of the digital economy and highlighting the imperative for a digital response, whereby remote working, digital learning, and the acquisition of digital skills swiftly became the prevailing norms in record time. According to McKinsey, “we have vaulted five years forward in consumer and business digital adoption in a matter of around eight weeks”.⁶⁸

Digitalisation, pivotal in the immediate response to the COVID-19 pandemic, remained essential in the recovery policies of companies and institutions, firmly establishing itself as an enduring facet of modern economies⁶⁹.

In this context, digital transformation exerts varied influences across societal groups, affecting not only the workforce but also access to both physical and virtual environments, as well as new products and services. When harnessed effectively, these technological advancements present significant opportunities to enhance the daily and professional lives of individuals with disabilities. Nevertheless, they also introduce challenges, potentially impacting these individuals.

It is imperative that digital transformation addresses the needs of people with disabilities to prevent their marginalisation from technological progress and to harness new technologies to broaden their skills. Employing these technologies wisely and centring development and innovation around people will expand the capabilities of individuals with disabilities, thereby fostering a more inclusive society.

To this end, the European Commission has launched multiple initiatives—such as the European Digital Strategy⁷⁰, the Digital Europe Programme (2021-2027)⁷¹, and the European Digital Education Action Plan (2021-2027)⁷²—designed to shape Europe’s digital future while promoting equality to ensure a prosperous future for all.

⁶⁸ McKinsey Digital, *The COVID-19 recovery will be digital: a plan for the first 90 days*, 2020.

⁶⁹ OECD, *OECD Employment Outlook 2021: Navigating the COVID-19 Crisis and Recovery*, OECD Publishing, Paris, 2021.

⁷⁰ Communication to the Commission - C(2022) 4388 final - *European Commission digital strategy Next generation digital Commission*, Brussels, 30.6.2022.

⁷¹ Regulation (EU) 2021/694 establishing the digital Europe programme.

⁷² European Commission: Directorate-General for Education, Youth, Sport and Culture, *Digital education action plan 2021-2027 – Improving the provision of digital skills in education and training*, Publications Office of the European Union, 2023.

Despite the emphasis on equality within these initiatives, explicit references to individuals with disabilities remain regrettably sparse. This omission persists, notwithstanding the fact that these digital initiatives, in accordance with Principle 17 of the European Pillar of Social Rights⁷³, ought to guarantee equal opportunities for people with disabilities. Even the Disability Employment Package, introduced by the EU Commission as part of the Strategy for the Rights of Persons with Disabilities 2021-2030⁷⁴, which aims to assist Member States in promoting social inclusion and economic autonomy for individuals with disabilities through employment, dedicates only minimal attention to their digital empowerment.

Nonetheless, given the role that digitisation plays in the future of work, engaging people with disabilities in the digital sphere has become a non-negotiable issue. Understanding and addressing the economic and social dimensions of digital transformation is essential to ensure inclusivity and that no one is marginalised.

In this regard, the guidelines outlined by the ILO are of paramount importance in enabling the inclusion of people with disabilities. They identify several essential measures to be adopted: firstly, ensuring accessibility to technology for people with disabilities; secondly, promoting digital skills among people with disabilities; and thirdly, encouraging the digital employment of people with disabilities⁷⁵.

Accessibility, as defined in Article 9 of the UN Convention on the Rights of Persons with Disabilities (CRPD), entails “ensuring that persons with disabilities can access and use, on an equal basis with others, the physical environment, transportation, information and communications, including information and communications technologies and systems, and other facilities and services open or provided to the public, both in urban and rural areas.”

More specifically, digital accessibility fundamentally involves making digital products accessible to everyone, ensuring usability for all individuals. For example, digital content may require specific formatting or assistive software to accommodate individuals with visual impairments. Similarly, those with physical disabilities might encounter difficulties using standard devices to navigate the internet, necessitating alternative solutions to ensure inclusivity.

Despite the pressing need for digital accessibility to include everyone in the ongoing transformation of society, the economy, and the labour market,

⁷³ European Commission: Secretariat-General, *European pillar of social rights*, Publications Office of the European Union, 2017.

⁷⁴ European Commission: Directorate-General for Employment, Social Affairs and Inclusion, *Union of equality – Strategy for the rights of persons with disabilities 2021-2030*, Publications Office, 2021.

⁷⁵ ILO & Fundación ONCE, *An inclusive digital economy for people with disabilities*, cit.

technology remains largely inaccessible to persons with disabilities. They frequently experience digital exclusion due to various barriers, including affordability and access to Information and Communications Technologies (ICTs) and the internet. For instance, the EU Strategy on the Rights of Persons with Disabilities 2021-2030⁷⁶ notes that only 64.3% of persons with disabilities over the age of 16 have internet access at home, compared to 87.9% of those without disabilities.

Assistive technologies (AT), such as screen readers, braille writing equipment, and speech recognition software, are crucial for enabling equal access to the digital world. However, many digital tools are not designed with the needs, rights, and abilities of individuals with disabilities in mind, rendering them unusable without specialised AT. Furthermore, digital tools must be inherently accessible and compatible with AT, yet the affordability of these technologies often remains prohibitive for low-income individuals with disabilities⁷⁷. Additionally, organisations frequently lack the necessary knowledge to ensure accessibility, and governmental regulations on digital accessibility are often insufficient.

This has a significant impact on the employment opportunities and conditions for individuals with disabilities, in a context where digital accessibility is not particular to a specific industry, as all industries use technology. The inaccessibility of many websites, software, and applications used by employers in recruitment and daily operations remains a significant concern. Thus, ensuring digital accessibility and promoting digital skills among people with disabilities are crucial steps toward enhancing their employment prospects in the evolving job market.

Specifically, digital accessibility involves making digital products accessible to everyone. For example, digital content may need accessible formatting or assistive software for individuals with visual impairments, while those with physical disabilities might face challenges in using standard devices for navigating the internet.

The second critical aspect necessitating focus for the inclusion of individuals with disabilities in the labour market is the enhancement of digital competencies. In the midst of a technological revolution that continually reshapes and generates employment opportunities, the requisite skill sets are also evolving. The demand for digital skills, both within traditional roles and in emerging digital vocations, is escalating. Consequently, there exists a widening

⁷⁶ European Commission, *Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030*, Employment, Social Affairs & Inclusion, Joint Commission Services, 2021.

⁷⁷ P. Tsatsou, *Digital Inclusion of People with Disabilities: A Qualitative Study of Intra-disability Diversity in the Digital Realm*, in *Behaviour and Information Technology*, 39(5), 2019, 1-16.

disparity between the skills currently available within the workforce and those sought by employers.

Significantly, 71% of employees within the EU require basic or moderate digital skills for their job roles⁷⁸. Projections further indicate that more advanced digital skills will be increasingly necessary to meet market demands. However, as of 2019, only 58% of EU citizens possessed basic or above-basic digital competencies⁷⁹. Specific data regarding the digital skills of individuals with disabilities is limited; nonetheless, it is evident that they generally experience lower levels of education and training. Moreover, their ability to acquire digital skills is often impeded by barriers in accessing Information and Communications Technologies (ICTs) and assistive technologies (AT).

The acceleration of digital transformation, catalysed by the COVID-19 pandemic, has significantly heightened the need for digital skills. Digital upskilling has emerged as a universally effective solution across countries and sectors during the pandemic. Furthermore, the ongoing climate crisis necessitates augmented efforts in digital reskilling and upskilling to adapt to the rapid pace of societal evolution⁸⁰.

This imperative underscores the necessity of addressing the unique challenges faced by individuals with disabilities in acquiring digital skills, ensuring their full participation and inclusion in the labour market.

The third crucial aspect to be addressed to ensure that individuals with disabilities are not left behind in the evolving digital labour market is the enhancement and promotion of digital employment opportunities specifically tailored to their needs. Responses to the COVID-19 pandemic, such as the Recovery Plan for Europe, have already highlighted the importance of including people with disabilities in initiatives aimed at promoting digital employment with decent working conditions.

In this regard, it is imperative to develop digital employment initiatives specifically targeting people with disabilities. While ensuring accessibility and fostering digital skills are crucial to their inclusion, initiatives that go a step further and address the labour inclusion of people with disabilities will have a more profound impact. Programmes that assist individuals with disabilities throughout the hiring process, connect them with digital opportunities, or

⁷⁸ Cedefop, *Insights into skill shortages and skill mismatch: learning from Cedefop's European skills and jobs survey*, Luxembourg: Publications Office, Cedefop reference series, 106, 2018.

⁷⁹ Eurostat 2019 data for the Community survey on ICT usage in European households and enterprises; the full data set from the survey is available at <https://ec.europa.eu/eurostat/web/digital-economy-and-society/database>.

⁸⁰ International Labour Organization, *Navigating the future: Skills and jobs in the green and digital transitions*, Research Brief November 2024, <https://www.ilo.org/publications/navigating-future-skills-and-jobs-green-and-digital-transitions>.

promote their experiences in the labour market are examples of initiatives that can directly enhance their employment prospects⁸¹.

Digital tools and platforms serve as powerful enablers, dismantling disability-related obstacles. Hence, initiatives aimed at fostering digital employment must prioritise the inclusion of individuals with disabilities, with particular emphasis on young people and women with disabilities, who, as observed, occupy a more disadvantaged position in the labour market.

A notable example is the use of digital tools to enhance reasonable accommodations in education, training, and employment. Assistive technologies powered by AI cater to individuals with visual, hearing, mobility, and learning disabilities⁸². Recent advancements in predictive text, visual recognition, speech-to-text transcription, and captioning have significantly increased the accessibility of digital tools. Video conferencing software, often equipped with captioning, has made meetings more accessible, especially for participants in different locations.

Additionally, remote training, learning, and teleworking hold immense potential. Technological advances and AI can make education and adult learning more accessible, independent of place and time, and adaptable to individual learning speeds and difficulty levels⁸³.

When equipped with the proper technology, remote education and employment can significantly broaden access to learning and job opportunities for individuals with disabilities, overcoming obstacles related to infrastructure, workplace settings, and transportation. However, the complexities of remote learning can exacerbate existing disparities for students and learners with disabilities, including technical and organisational challenges, the necessity for adequate online support, and difficulties in interacting through a monitor.

The impact of emergency online teaching and learning during the COVID-19 crisis on equality and inclusion highlights these challenges⁸⁴.

⁸¹ For same examples see ILO & Fundación ONCE, *An inclusive digital economy for people with disabilities*, cit., 35.

⁸² European Disability Forum, *Assistive Technologies and AI for People with Disabilities*, Position Paper on the European Commission Proposal for Regulating Artificial Intelligence (AI), 2021; OECD, *Disability, Work and Inclusion: Mainstreaming in All Policies and Practices*, cit., 179.

⁸³ McKinsey & Company, *How COVID-19 Has Pushed Companies over the Technology Tipping Point and Transformed Business Forever*, McKinsey & Company, 2021.

⁸⁴ OECD, *The State of School Education: One Year into the COVID Pandemic*, OECD Publishing, Paris, 2021.

8. Toward a Multidimensional Approach to the Labour Inclusion of Disabled Persons in the Digital Age

The utilisation of technology and the development of digital skills are crucial factors for enhancing employability and improving the working conditions of individuals with disabilities. Despite improvements over time, these levels remain lower than those of individuals without disabilities.

Despite the existence of numerous policies aimed at including people with disabilities in the labour market throughout the EU, available data show that we are still far from significantly bridging the disability employment gap. In a labour market shaped by digital transformation, there are increasing opportunities not only to raise the percentage of people with disabilities who are employed but also to optimise the quality of employment and career development prospects.

Quality improvement can stem from the increase and diversification of employment opportunities, which largely depend on, but are not limited to, the new potential that technology offers in providing reasonable accommodations and greater flexibility, allowing people with disabilities to manage their own time and workspace. Moreover, access to employment and its quality also depend on education and training, specifically the preparation of people with disabilities for the needs of the digitised labour market.

However, to maximise the impact of the potential benefits of technological progress on employment and, more generally, on the improvement of the social and economic conditions of people with disabilities, a holistic and cross-sectoral approach is necessary. This means they must be considered and exploited in a comprehensive and integrated manner, encompassing educational pathways, assessments of developmental disabilities for school inclusion, school-to-work transition programmes, vocational training, and even recruitment processes, working conditions, and career evolution.

Firstly, educational pathways must be designed to integrate technology from the early stages, ensuring that students with disabilities have access to digital tools that facilitate learning and interaction. School-to-work transition programmes should be developed to provide a seamless shift from education to employment, leveraging technology to bridge gaps and create opportunities.

Secondly, vocational training programmes must be tailored to equip individuals with disabilities with the necessary digital skills, which are increasingly in demand in the labour market. This includes not only basic digital literacy but also advanced skills in areas such as artificial intelligence, data analysis, and digital marketing.

Furthermore, the assessment of developmental disabilities for school inclusion should be enhanced with technological tools that allow for more accurate and

individualised evaluations. This will ensure that the specific needs of each student are met, fostering an inclusive educational environment that supports their growth and development.

Policies should also focus on creating inclusive digital employment opportunities. This involves promoting remote work, ensuring workplace accessibility, and providing continuous development of digital skills. Employers should be encouraged to adopt inclusive practices and utilise assistive technologies that enable individuals with disabilities to perform their roles effectively.

Within the scope of this integrated approach to the work inclusion of individuals with disabilities, it is noteworthy to mention a specific legal institution recently introduced into the Italian legal framework: the so-called personalised and participatory individual life project. This institution was established by Legislative Decree No. 62/2024⁸⁵, which, in turn, forms part of the broader reform initiated by Law No. 227/2021⁸⁶. This law empowered the government to reform the disability sector as envisioned in the National Recovery and Resilience Plan (NRRP) agreed upon by Italy and the European Union.

Introduced in 2024 and now in its pilot phase for 2025, the life project epitomises an innovative approach to evaluating and promoting the social inclusion of individuals with disabilities. Its primary objective is to ensure their full participation in all areas of life⁸⁷.

This novel approach highlights that it is not only the responsibility of institutions (such as lawmakers, regional authorities, educational institutions, and training centres) to identify suitable training paths. Instead, from the inception stage of the personalised and participatory life project, a clear path

⁸⁵ See M. P. Monaco, V. Falabella, *Prima analisi del decreto legislativo 3 maggio 2024, n. 62 in materia di disabilità: una "rivoluzione copernicana"*, in Bollettino ADAPT, May 20th 2024, n. 20; C. Carchio, *Rischi e tutele nel reinserimento lavorativo delle persone con malattie croniche e trapiantate: prime riflessioni alla luce del d.lgs. n. 62/2024*, in DSL, 2024, n. 2, 162 ff.; E. Dagnino, G. Impellizzieri, E. Massagli (eds.), *L'inclusione sociale e lavorativa delle persone con disabilità nel d.lgs. n. 62/2024*, in Bollettino ADAPT Speciale, July 3rd 2024; M. A. Leonardi, *Reasonable Accommodation for Workers with Disabilities: Analysis of the New Italian Definitions within the Multi-level Legal System*, in MGL International, 2024, n. 1, 93 ff.; A. M. Battisti, *Il legislatore accoglie (con qualche riserva) la nozione euro-unitaria di disabilità*, in *Ambientediritto*, 2024, n. 3, 1 ff.

⁸⁶ O. Bonardi, *Luci e ombre della nuova legge delega sulla disabilità*, 8 febbraio 2022, in <https://www.italianequalitynetwork.it/luci-e-ombre-della-nuova-legge-delega-sulla-disabilita/>; M. Cingolani, P. Fedeli, F. Cembrani, *Disabilità: quel silenzio assordante sulla legge delega che cela diversi aspetti da rivedere*, in *Quotidiano Sanità*, 12 gennaio 2022; M. De Falco, *Ragionando attorno alla legge delega in materia di disabilità: una prospettiva giuslavoristica*, in RCP, 2022, n. 5, 1744 ff.

⁸⁷ Art. 18 and ff., Legislative Decree No. 62/2024.

for labour and professional inclusion should be established, involving various stakeholders.

Legislative Decree No. 62/2024 mandates a comprehensive assessment, leading to the development of a personalised and participatory individual life project. This document encompasses detailed information about the individual with disabilities and must be consistently aligned with educational projects, rehabilitation programmes, school inclusion initiatives, and social and labour insertion efforts to ensure equal opportunities in every aspect of life.

The foremost aim of this regulation is to integrate various health and social care profiles within the life project, thereby avoiding the implementation of multiple, potentially conflicting interventions, which can lead to overlapping efforts and diminished service efficacy.

A notable feature of the life project regulation is the establishment of a participatory process and a comprehensive network that brings together various professional entities, including territorial authorities, guardians (for minors), social workers, educators, health professionals, representatives of educational institutions, and, when necessary, representatives of public employment services for individuals with disabilities⁸⁸.

Furthermore, the life project must maintain its sustainability over the long term by ensuring the continuity of tools, resources, interventions, benefits, services, and reasonable accommodations to protect the beneficiary. To achieve this, a designated professional is tasked with overseeing the implementation of the project and coordinating the involved professionals⁸⁹.

Finally, Legislative Decree No. 62/2024 establishes a fund dedicated to the implementation of life projects, allocating 25 million euros annually to support the initiation of additional interventions, services, and supports that are not currently part of the standard territorial offerings⁹⁰.

To summarise, the individualised and participatory life project, when meticulously crafted to reflect the actual potential of the environment and the unique characteristics of the individual with a disability, can serve as a pivotal instrument for effectuating comprehensive inclusion across all areas of life. Fundamentally, it can address the obstacles that individuals with disabilities encounter when entering the labour market, securing appropriate employment, and performing dignified and well-compensated work, thereby mitigating the risk of social and occupational exclusion.

⁸⁸ Art. 24, Legislative Decree No. 62/2024

⁸⁹ Art. 29, Legislative Decree No. 62/2024

⁹⁰ Art. 31, Legislative Decree No. 62/2024

Traineeships and Youth Employment Strategies: The Italian Case in Light of Upcoming European Reforms

Marcella Miracolini *

Abstract: The April 2023 Eurobarometer survey confirms that traineeships are vital for young people’s transition to stable employment, though they can also lead to exploitation. This arises from traineeships being used to disguise actual employment relationships or from their inherent precariousness. While Italy’s 2022 Budget Law tightened traineeship conditions, reform is still ongoing. The lack of common EU legislation poses challenges, despite the 2014 Council Recommendation on “quality traineeships”. The European Commission’s proposal for a Directive aims to ensure quality traineeships across the Union, supported by an enhanced Council Recommendation. This paper assesses the EU’s proposals, highlighting systemic concerns that require further examination.

Keywords: *Traineeships; Exploitation; Proposal for a Directive; Recommendation; Quality Traineeship.*

* Research Fellow of Labour Law at the University of Palermo (Italy). Email address: marcella.miracolini@unipa.it. The present research and update of the paper presented at the XXIV World Congress of the International Society for Labour and Social Security Law, entitled “*Work in a Changing World: The Quest for Labour Rights and Social Justice*”, held in Rome from 17-20 September 2024. It is attributable to the activities carried out by the local research unit at the University of Palermo (CUP B53D2303269 0001), as part of the PRIN PNRR 2022 project “YES – Youth Employment Strategy” (Principal Investigator: Prof. Carmela Garofalo, Code: P2022H89ZS). This project is funded under Mission 4, “Education and Research”, of the PNRR (Component C2 - Investment 1.1), within the framework of the Fund for the National Research Programme and Projects of Significant National Interest (PRIN), and is supported by European funds from the NextGeneration EU Programme.

1. Introduction: Context and Key Data on Traineeships

Traineeships can be considered a key instrument within both national and supranational legal frameworks, facilitating the integration of young individuals into the labour market. They represent a strategic approach to training, providing practical experience and, at the very least, holding the potential to ease young people's transition into stable employment. This aim aligns with initiatives such as the enhanced *Youth Guarantee*¹, revitalised after the pandemic and building on the framework initiated in 2013. Additionally, the *National Programme for Youth, Women, and Work* – part of the ongoing reform of active labour policies driven by the *Employability Guarantee for Workers and the National Recovery and Resilience Plan* (PNRR) – further supports this objective², enabling traineeships with cost coverage for employers, benefiting from an inevitable productive contribution.

Essentially, the overarching goal has been to utilise available European funds to remove barriers hindering young people's entry into the labour market,

¹ Since 2013, the *Youth Guarantee*, supported by the *Youth Employment Initiative* funding stream, has served as the cornerstone of European policies aimed at combating youth inactivity and promoting employment. This initiative was launched in response to the Council Recommendation of 22 April 2013. In Italy, the Recommendation was implemented through the *National Plan and the Youth Employment Initiative Programme* (PON IOG), which was managed by the National Agency for Active Labour Policies (ANPAL) and executed by the regions. The initiative provided funding for active labour market policies targeting young NEETs (those aged 15 to 29 who are neither in education, employment, nor training). For Italy, the *Youth Guarantee* represented a key opportunity to standardise interventions and tools across the regions under a coordinated national framework, introducing significant innovations to services and active policies. In 2020, the EU reaffirmed its commitment to supporting youth employment through a coordinated response by adopting a new Recommendation on the *Youth Guarantee* (Council Recommendation of 30 October 2020), which relaunched the initiative originally introduced in 2013. See A. Eleveld, T. Bazzani, A. De Le Cour, E. Staszewska, *Implementation of the European Youth Guarantee and the Right to Work: A Comparative Analysis of Traineeship Programmes Under the Eu Active Labour Market Policy*, in *International Journal of Comparative Labour Law and Industrial Relations*, Vol. 38, n. 3, 2022, 269-297.

² In response to the economic crisis triggered by the pandemic, the European Union provided exceptional financial support aimed at stimulating and sustaining growth. This effort has been primarily channelled through the *Recovery and Resilience Facility* and the *Next Generation EU* initiative, which prompted the Italian Government to implement the *National Recovery and Resilience Plan*. A key component of this plan is the *Workers' Employment Guarantee Programme* (Mission 5C1), which introduces a comprehensive reform of active employment policies, as formalised by the Interministerial Decree issued by the Ministry of Labour and Social Policies and the Ministry of Economy and Finance on 5 November 2021. The *National Programme for Youth, Women, and Employment* aligns with the *PON IOG*, which, in the previous programming phase, served as a pivotal pilot initiative in defining and standardising a set of active policy measures to be delivered uniformly across the country.

while implementing a systemic strategy focused on creating quality jobs. In this context, traineeships and apprenticeships³ have assumed a central role in European youth employment policies.

Young people remain a particularly vulnerable group, for whom the transition from education and training to employment continues to present significant challenges. This is especially true when employers prioritise candidates with specific, transferable skills or prior professional experience, acting as significant barriers to entry for others.

The most recent data on youth employment rates present a rather discouraging picture, particularly in certain national contexts. The latest Eurostat surveys, published in May 2024 and referencing the year 2023, indicate that the percentage of NEETs (*Not in Education, Employment or Training*), defined as inactive young people aged 15 to 29 who are neither employed nor engaged in education or training, averages 11.2%, with considerable variations across Member States⁴.

While some countries have already succeeded in reducing their NEET rates below the 9% target for 2030 (such as the Netherlands, Sweden, Malta, Slovenia, Ireland, Luxembourg, Denmark, Germany, and Portugal), many others still display rates well above the average. Italy, for example, registers a NEET rate of 16.2%, reflecting a modest improvement from the previous year but still the second highest in the EU, after Romania. Furthermore, the employment rate of young people in Italy is influenced by territorial factors, with higher rates observed in southern regions, particularly in Sicily, followed by Campania, Calabria, and Apulia.

In this precarious context, the Eurobarometer survey from April 2023 on “Integration of Young People into the Labour Market” reaffirmed the strategic importance of traineeships as steppingstones for young people, particularly

³ See, *ex alia*, E. Ghera, D. Garofalo, *Contratti di lavoro, mansioni e misure di conciliazione vita-lavoro nel Jobs Act 2*, Bari, 2015; F. Carinci, *E tu lavorerai come apprendista, (l'apprendistato da contratto “speciale” a contratto “quasi unico”)*, in *Arg. dir. lav. Quaderni*, 11, 2012, 9-83; M. Tiraboschi (ed.), *Il testo unico dell'apprendistato e le nuove regole sui tirocini. Commentario*, Milano, 2011; D. Garofalo, *L'apprendistato*, in A. Vallebona (ed.), *I contratti di lavoro*, in P. Rescigno, E. Gabrielli, *Trattato dei contratti*, Torino, 2009, II, 1505-1564.

⁴ The data are available for consultation on the Eurostat website, in https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Education_and_training_in_the_EU_-_facts_and_figures. It is important to note that data on youth unemployment are not entirely comparable, as they include both young people who are actively seeking employment and those who would be willing to accept a position if the opportunity arose. The average youth unemployment rate across the EU is approximately 14.4%, with Italy exhibiting a notably higher rate of 20.2%. The second category of data can be accessed via the following link: <https://ec.europa.eu/eurostat/en/web/products-euro-indicators/w/3-30052024-ap>.

those vulnerable to labour market exclusion. Among respondents aged 18 to 35, four out of five reported having attended at least one traineeship (of any kind), representing a more than 30% increase since the previous survey in 2013⁵. Furthermore, 68% of this group indicated that they had secured employment as a result of their traineeship. This success can be attributed to the direct exposure traineeships provide to the workplace, helping young people acquire transferable professional skills that can be applied in various work environments, thus overcoming barriers to employment.

Since 2014, public funding from European programmes has supported the creation of over 1.5 million extracurricular traineeships in Italy⁶. These traineeships are those not linked to formal educational pathways within regional, school, or university systems, and involve a diverse range of social categories. Indeed, if they can be utilised in conjunction with the education system, these resources can also be applied within the context of active policy measures to support the integration of individuals entering the labour market for the first time following training, as well as unemployed individuals, non-EU residents, and those requiring support for social inclusion⁷.

However, despite the potential positive impact of this instrument, especially in countries with more advanced systems, practical experience has revealed a more troubling dimension. The “marketless” or “market-devalued” space in which traineeships operate can facilitate exploitative labour practices, particularly when they are used to disguise genuine employment relationships

⁵ The data pertains to the survey detailed in the first of the two Eurobarometer surveys: the 2013 survey entitled “*The Experience of Traineeships in the EU*”, which, although not statistically representative, allows for the delineation of trends, particularly when compared across countries.

⁶ The data were presented in the *Fourth National Monitoring Report on Extracurricular Traineeships*, published in February 2024 and produced by ANPAL in collaboration with INAPP, with reference to the situation during the period 2020-2022. The full report can be accessed at the following link: <https://www.anpal.gov.it/documents/552016/587068/IV+report+traineeships.pdf/484ac195-aea0-152f-a6e6d01a2f22a77b?t=1709022413808>.

⁷ In this regard, it should be noted that, according to Note No. 320 of 14 February 2023, the Italian National Labour Inspectorate, assuming that national and regional regulations permit citizens of non-EU countries to benefit from internships, specified the following: a foreign citizen already present in Italy with a residence permit (for study or vocational training) may engage in all “curricular” traineeship activities provided for by the course of study or vocational training for which the residence permit was issued; a foreign national who has entered Italy with a residence permit for study or vocational training may engage in a “non-curricular” traineeship activity, provided that such activity is consistent with the completion of the course of study or vocational training that underlies the issuance of the entry permit. In the latter case, it is irrelevant whether the activity constitutes an employment relationship, in accordance with Article 14, Paragraph 4, of Presidential Decree No. 394/1999.

or serve as cost-saving mechanisms for employers. In such cases, traineeships effectively mask full-time employment arrangements. Moreover, the intrinsic precariousness of such positions within the contemporary capitalist system often exacerbates the exploitation of traineeships, positioning them as prerequisites for future stability without the legal protection promised.

This highlights the importance of implementing measures to prevent severe forms of abuse, while simultaneously preserving and enhancing the strategic function of traineeships and increasing the protection afforded to young people entering the workforce.

This paper, beginning with a concise analysis of the current state of Italian legislation on traineeships, aims to focus on the potential impact of the recent package of measures proposed by the European Union. These measures seek to complement existing employment policy frameworks. Although they can be regarded as a positive step, a preliminary assessment reveals some systemic concerns and gaps that warrant further exploration.

2. Protective Measures for Traineeships in a Multilevel Framework: A Brief Review of National Legislation

The need to safeguard the objectives of traineeships from potential distortion and misuse has long been a concern at various levels of legal regulation. Indeed, nearly two decades ago, an authoritative legal scholar cautioned against the potential risks associated with the inappropriate use of “*stages*”⁸ as a “*picklock*” to establish camouflaged labour relations⁹.

In response to these concerns, the national legal system has gradually sought to emphasise the educational purpose of traineeships while simultaneously introducing measures to dissuade exploitative practices. Without intending to present a detailed and systematic reconstruction, it can be stated that, while the regulatory framework initially exhibited a lack of coherence and organisation¹⁰,

⁸ For an understanding of the term “*stages*” in a non-technical but descriptive sense, commonly used to identify a variety of different situations that have a training intervention in common, see G. Canavesi, *Stage* (voce), in *Enc. giur. Agg.*, Treccani, Rome, 2022, 1-6.

⁹ M. Napoli, *Prefazione*, in P. Pascucci, *Stage e lavoro. La disciplina dei tirocini formativi e di orientamento*, Giappichelli, Torino, 2008, XVII.

¹⁰ This phase was characterised by an unsystematic approach and the overlapping of relevant provisions, leading to a degree of ambiguity. This uncertainty was such that even legal scholars questioned the coherence of the phenomenon being regulated. For instance, Article 16 bis of Law No. 285/1977 introduced an early form of traineeships, defined as a period of on-the-job training within companies. Similarly, Article 15 of Law No. 845/1978 addressed vocational training. Moreover, Decree-Law No. 726/1984, converted into Law No. 863/1984, and Article 9 of Decree-Law No. 148/1993, converted into Law No. 236/1993, introduced additional forms of orientation traineeships. See, *ex alia*, G. Loy, *Formazione e rapporto di lavoro*, Franco

a more structured and systematic approach has since been adopted. The primary rationalisation of the discipline and regulation of traineeships can essentially be traced back to the so-called “*Treu law*” (Law No. 196 of 24 June 1997). This legislation formalised the concept of training internships and, in conjunction with Ministerial Decree No. 1427 of 25 March 1998, established the parameters and conditions for their utilisation¹¹.

Training and orientation internships were defined as instruments designed to facilitate transitions between education and work, and to assist in career choices through direct exposure to the labour market, aimed at individuals who had completed their compulsory education. Therefore, on one hand, the training and guidance aspects of this relationship were emphasised; on the other, it was established as distinct from the typical synallagmatic contractual relationship and, more specifically, from a subordinate employment contract. This is exemplified by the paradigm “*I train you (potentially) for future employment*”¹², later confirmed by further regulatory interventions aimed at preventing the proliferation of low-quality traineeships or those lacking training content, without ever questioning the essential elements of the instrument¹³.

Following the declaration of the illegitimacy of Article 60 of Legislative Decree No. 276/2003 on summer orientation traineeships¹⁴, an attempt was made to establish a systematic framework within the discipline through Article 11 of Legislative Decree No. 138/2011¹⁵ (converted into Law No. 148 of 14 September 2011). However, this approach was ultimately deemed inadequate

Angeli, Milano, 1988; M. Napoli, *Gli stages nel diritto del lavoro*, in M. Napoli, *Questioni di diritto del lavoro*, Giappichelli, Torino, 1996, 154 ff.

¹¹ See P.A. Varesi, *Art. 18. I tirocini formativi e di orientamento*, in M. Napoli (ed.), *Il «Pacchetto Treu» (L. 24 giugno 1997, n. 196 - Norme in materia di promozione dell'occupazione [...])*, *Commentario sistematico*, in *Leggi civ. comm.*, 1998, 1359 ff.; A. Maresca, S. Ciucciovino, *Regolamentati i tirocini formativi e di orientamento*, in *Dir. prat. lav.*, 1998, 1571-1576.

¹² M. Napoli, *Disciplina del mercato del lavoro ed esigenze formative*, in *Riv. giur. lav.*, 1997, I, 267.

¹³ See P. Pascucci, *Stage e lavoro. La disciplina dei tirocini formativi e di orientamento*, Giappichelli, Torino, 2008; M. Tiraboschi, *Problemi e prospettive nella disciplina giuridica dei tirocini formativi e di orientamento*, in *Dir. rel. ind.*, 2001, 1, 61-77.

¹⁴ Constitutional Court 28 January 2005, No. 50 in *Giur. cost.*, 2005, 4, 3370, with a note by I. Pellizzone, *La «concorrenza di competenze» ovvero la formazione professionale tra ordinamento civile e competenze regionali*. In addition, see A. Garilli, *La riforma del mercato del lavoro al vaglio della Corte costituzionale*, in *Riv. giur. lav.*, 3, II, 425-440; V. Fili, *La “Riforma Biagi” corretta e costituzionalizzata. Appunti dopo il decreto correttivo ed il vaglio costituzionale*, in *Lav. giur.*, 2005, 405-419; G. Canavesi, *La giurisprudenza costituzionale sulla potestà legislativa in materia di lavoro, con particolare riferimento alla formazione professionale e alla previdenza sociale*, in *Dir. merc. lav.*, 2005, 479-516.

¹⁵ See P. Pascucci, *La disciplina dei tirocini formativi e di orientamento: ieri, oggi e... domani (ovvero prima e dopo l'art. 11 del d.l. n. 138/2011)*, in *WP C.S.D.L.E. “Massimo D’Antona” .IT* - 135/2011; M. Tiraboschi, *Tirocini e apprendistato: impianto e ragioni della riforma*, in *Dir. rel. ind.*, 2011, 4, 947-970.

and was ruled unconstitutional for violating Article 117(4) of the Italian Constitution¹⁶.

The so-called “*Fornero Law*” represented a significant step forward in addressing the issue more incisively, introducing a comprehensive set of measures. Article 1, paragraphs 34, 35, and 36, of Law No. 92 of 28 June 2012 aimed to guarantee the genuineness and quality of traineeships and to prevent regulatory gaps that allowed traineeships to be transformed into “*a sort of apprenticeship without pay or a long probationary agreement*”¹⁷. Additionally, the law identified common provisions to prevent inconsistencies in the regional regulatory framework, which had been reaffirmed by the 2001 reform as falling within the exclusive legislative competence in the field of training (Article 117, paragraph 4, of the Constitution).

In this regard, the law addressed the complex issue of the division of competencies between the State and the Regions, setting forth general guiding principles and entrusting the task of drafting specific guidelines to the Permanent Conference for relations between the State, Regions, and Autonomous Provinces of Trento and Bolzano, with the ultimate aim of harmonising and coordinating regional legislation¹⁸. This effort resulted in the adoption of the *Guidelines on Traineeships* on 24 May 2013, which were later updated by an additional agreement signed on 25 May 2017.

¹⁶ Constitutional Court 19 December 2012, No. 287, in *Foro it.*, 2013, 2, 1, 458. In this case, the Court was tasked with determining whether the exclusive legislative competence of the State, as outlined in Article 117, paragraph 2, letter m) of the Constitution, included the “determination of essential levels of services concerning civil and social rights that must be guaranteed across the national territory”. Regarding Article 11, one could argue that the intention was to limit the number of individuals eligible for apprenticeships, modify their duration, and introduce a national framework to regulate training experiences, albeit with some degree of subsidiary application. The Court identified an “undue invasion” of the national legislature into the domain of exclusive regional legislative competence in vocational training. This interpretation was grounded in the view that the State’s competence under Article 117, paragraph 2, letter m) of the Constitution applies only to specific services for which national legislation defines the essential level of provision. See A. Cardone, *Il riparto di competenze legislative in materia di “formazione professionale”: alcune questioni aperte alla luce della sentenza n. 287 del 2012*, in *Dir. lav. rel. ind.*, 2013, 3, 429-436.

¹⁷ P. Pascucci, *La disciplina dei tirocini formativi e di orientamento: ieri, oggi e... domani (ovvero prima e dopo l’art. 11 del d.l. n. 138/2011)*, in *WP C.S.D.L.E. “Massimo D’Antona” .IT* - 2/2011, 337; and see also V. Fili, *Riforma Fornero. Politiche attive e servizi per l’impiego*, in *Lav. giur.*, 2012, 10, 19-45; Id., *Politiche attive e servizi per l’impiego*, in F. Carinci, M. Miscione (ed.), *Commentario alla Riforma Fornero (Legge n. 92/2012 e Legge n. 134/2012)*, suppl. a *Dir. prat. lav.*, 2012, n. 33, 192-199.

¹⁸ See M. Casiello, *La genuinità dei tirocini extracurricolari nell’inestricabile intreccio di competenze legislative*, in *Labor*, 2023, 5, 467-482.; M. Barbieri, M. D’Onghia, *I tirocini formativi*, in P. Chieco (ed.), *Flessibilità e tutele nel lavoro. Commentario della legge 28 giugno 2012 n. 92*, Bari, 2013, 173-198.

Nevertheless, despite these efforts, considerable discrepancies remain between regional regulations, particularly concerning key issues, such as the stipulation of the allowance amount, the identification of authorised entities for traineeship promotion, and the maximum number of traineeships that can be initiated by the host entity¹⁹.

Among the significant protective measures were the prohibition on replacing employees with trainees during periods of peak activity or replacing absent staff on account of holidays, maternity, or illness with trainees. Additionally, traineeships cannot be initiated if the trainee has had an employment relationship with the same host within the two years preceding the activation of the traineeship.

Furthermore, a legal obligation was introduced for host entities to provide trainees with a financial contribution, designated as a “participation allowance”. This was intended to prevent the misuse of the traineeship for productive purposes. However, in practice, the payment of a fee has frequently been used to justify the reduction of the educational scope of the programme, aligning it with the operational needs of the host organisation.

Conversely, the Guidelines established a system of sanctions, the implementation of which accelerated significantly in 2021²⁰.

The most recent legislative intervention in Italy can be traced to the Budget Law of 2022, which introduced significant restrictions on the conditions for the use of traineeships (Article 1, paragraphs 720–726, of Law No. 234/2021)²¹. This reform sought a comprehensive revision of the traineeship framework, beginning with a more precise delineation of the instrument. Paragraph 720 defines traineeships as educational programmes structured to alternate between study and work, with the intention of providing professional orientation and training while improving the match between labour supply and demand. This is commonly referred to as an “extracurricular” traineeship, historically a focal point for regulatory concerns. It is kept distinct from the so-called “curricular” traineeship, which is defined in the second sentence of the provision as being functional to the attainment of a formally recognised qualification.

¹⁹ With regard to the transposition of the guidelines by regional laws see S. Donà, *Garantire l’attivazione di tirocini di qualità: gli obiettivi delle ultime riforme legislative in materia*, in *Riv. it. dir. lav.*, 2019, 3, 137-153.

²⁰ It should be noted that other measures have been provided, for example, by the Decree Law No. 76/2013, converted into Law No. 90/2013, for which see C. Garofalo, *I tirocini formativi e di orientamento*, in *Law. giur.*, 2013, 11, 47-58.

²¹ P. Varesi, *Tirocini formativi e di orientamento*, in *Dir. prat. lav.*, 2023, 20, 1235-1239; P. Galeotto, *Il tirocinio e le sue molteplici articolazioni nell’incrocio tra definizioni nazionali e regolazioni regionali*, Adpat. Materiali di discussione, n. 4, 2022.

In accordance with previous legislative regulation, the law reaffirms that a traineeship must not be used as a substitute for subordinate employment and, to this end, introduces a series of prescriptive and punitive measures to reinforce the existing legal framework and combat abuses more effectively. The law explicitly identifies, in particular, for the first time, the unlawful case of the so-called “fraudulent traineeship,” which occurs when the traineeship is used to disguise an actual employment relationship. Article 1, paragraph 723, of Law No. 234/2021 imposes a penalty of EUR 50 for each trainee involved and for each day of the traineeship, without prejudice to the possibility, at the trainee’s request, of recognising the existence of an employment relationship as from the court order²².

Nevertheless, although these provisions mark a significant advance, the reform process remains incomplete, even three years after its enactment. The law mandated the adoption of new guidelines to replace those of 2017; however, progress was abruptly halted due to the Constitutional Court’s ruling of April 2023, which declared one of the criteria set forth in paragraph 721(a) to be unconstitutional²³. The Court ruled that limiting traineeships to individuals facing social inclusion difficulties infringed on regional autonomy over “vocational training” – under which traineeships fall – and lies within the exclusive competence of the Regions. The imposition of such a criterion constituted an undue infringement on regional authority, effectively limiting their capacity to adopt alternative approaches during the negotiation of the guidelines. Furthermore, it can be argued that the attempt to restrict traineeships to socially disadvantaged individuals fails to acknowledge the fact that young people, in general, in the transition from education to employment, are transversally vulnerable and require specific attention. While it is undoubtedly crucial to provide targeted support for socially disadvantaged groups²⁴ – already addressed in the 2017 Guidelines (e.g., promoting

²² In this regard, the Italian National Labour Inspectorate has issued a note (Note No. 1451 of 11 July 2022), which provides further clarification. It states that, to contest the newly established offence, the inspector identifying the illicit situation may focus solely on demonstrating that the traineeship was conducted in a manner akin to a subordinate employment relationship. This is because, as outlined in the legislation, the essence of fraudulence lies in the exploitation of workers under the guise of trainees. Moreover, the illicit traineeship is classified as a continuing infraction, as the unlawful conduct carried out by the employer (pseudo-host) is characterised by an intent to circumvent the legal provisions, which is evidenced by the significant continuity of the unlawful act. For further details see P. Rausei, *Tirocinio extracurricolare: norme e prassi per contrastare gli abusi*, in *Dir. prat. lav.*, 2024, 4, 217-221.

²³ Constitutional Court 14 April 2023, No. 70 in *Riv. giur. lav.*, 2023, 4, 486 with a note by P. Pascucci, «Detto» e «non detto» nella recente giurisprudenza costituzionale in tema di tirocini extracurricolari.

²⁴ See V. Fili, *L’inclusione da diritto a obbligo*, in M. Brollo, C. Cester, L. Menghini (ed.), *Legalità e rapporti di lavoro. Incentivi e sanzioni*, EUT, 2016, 132 ff.

traineeships through therapeutic communities or extending the maximum traineeship duration for individuals with disabilities) – it is unjustifiable to deny substantial segments of young people access to this essential instrument for personal and professional growth. Traineeships serve as a bridge between education and employment, and limiting access to this opportunity risks exacerbating youth unemployment and social exclusion.

3. The EU Perspective: A Preliminary Assessment of the European Commission’s Traineeships Package

This brief overview aims to foster a comprehensive and systematic approach to the discipline, including its relationship with the European framework. Indeed, the role of traineeships as a mechanism for enhancing employability has also been recognised at the supranational level, where, however, the complexity and the lack of common standards among EU Member States, along with their insufficient capacity to monitor the fair use of traineeships, still pose significant challenges.

The 2014 Recommendation of the Council of the European Union on a “Quality Framework for Traineeships” has constituted a fundamental reference point for defining the minimum standards of a “quality traineeship”. This framework has also inspired national initiatives, such as Italy’s 2017 Guidelines. The Recommendation provides a definition of a traineeship, at EU level, as “a limited period of work practice, whether paid or not, which includes a learning and training component, undertaken in order to gain practical and professional experience with a view to improving employability and facilitating transition to regular employment” (Considerando No. 27). Thus, according to the definition, the characteristics of the phenomenon should be found in both the work component and the learning/training component, while excluding from the scope of the Recommendation those curricular traineeships that are an integral part of formal education and training programmes (ECT - Education Curricula Traineeships) and those that are mandatory for access to a specific profession (MPT - Mandatory Professional Traineeships)²⁵. Conversely, it should include the hypothesis of what are commonly referred to as non-formal placements, both in the form of the so-called Open Market Placements (OPM), which aim to provide initial work experience and on-the-job training, and in the form of placements carried out within the framework of Active Labour Market Policies (ALMP) and therefore activated by a tripartite

²⁵ Considerando No. 28 of the Proposal for a Council Recommendation of 10 March 2014 on a reinforced quality framework for traineeships. COM(2014) 133 final

agreement between the employer, the trainee and the public employment services.

However, despite the broad framework that it sets out, the Recommendation lacks a precise and unambiguous definition, which blurs the distinction between traineeships and other legal schemes that similarly aim to provide young people with work and learning opportunities (the prototypical example being apprenticeships²⁶). It has not significantly altered the European legal landscape or provided substantive guarantees²⁷. Although it has encouraged the adoption of more concrete forms of internal regulation to guarantee the required quality standards, the situation across EU Member States remains highly fragmented. The legal systems regulating the phenomenon are not easily comparable, and the soft law nature of the Recommendation has failed to consolidate a uniform approach.

It thus becomes necessary to consider whether an approach to the multilevel legal system by means of stronger instruments can lead to effective improvements.

In response, in March 2024, the European Commission proposed a package of measures to enhance the conditions of traineeships across the Union. It includes a proposal for a Directive (referred to as the “Traineeships Directive”²⁸), currently undergoing the approval process, which aims to guarantee quality working conditions for trainees and to combat the misuse of traineeships as a substitute for regular employment; and a new Council Recommendation, to revise and replace the 2014 Recommendation on a Quality Framework for Traineeships.

This initiative is a consequence of the evaluation conducted by the European Commission of the 2014 Recommendation and the European Parliament’s

²⁶ Also at the EU level, it is important to distinguish between the two cases, although “in the literature, the definitions of apprenticeship and traineeship are not always distinct, and some features may overlap. [...] Some of the characterising elements of this definition apply to certain types of traineeships (e.g. MPI), but, in general, traineeships do not satisfy all of the relevant characteristics and are typically of much shorter duration than apprenticeships”, C. Alcidi, C. Astarita, H. Crichton-Miller, T. Kiss-Galfavi, A. Ounnas, L. Westhoff, L. Lechardoy, G. Stazi, *Study exploring the context, challenges and possible solutions in relation to the quality of traineeships in the EU*, European Commission, Publications Office of the European Union, May 2024, 39-40. This recent study, conducted as part of the activities of the European Commission, provides a general interesting valuable overview of the discipline, of the use of the instrument and of initiatives.

²⁷ J. Helme, *The problems and paradoxes with the EU’s regulation of Traineeships: a way forward*, in *Industrial Law Journal*, 2024, 1-32.

²⁸ “This Directive lays down a common framework of principles and measures to improve and enforce the working conditions of trainees and to combat regular employment relationships disguised as traineeships”, Article 1 of the Proposal for a Directive of the European Parliament and of the Council (COM(2024) 132 final).

2023 Resolution (in accordance with Article 225 TFEU), which called for the implementation of more robust legislative measures.

The proposal for a Directive, aligned with Article 153(1)(b) TFEU – concerning the advancement of employment and the enhancement of living and working conditions through the implementation of hard law instruments – signals the intention to utilise more binding measures, as demonstrated by the proposal’s legal basis, Article 153(2)(b) TFEU. This authorises the adoption of directives establishing minimum requirements, including those related to “working conditions”, rather than non-binding recommendations, with the consequence that any development is thus potentially bound to have a different and greater impact on the internal systemic framework.

It is the result of an extensive process of analysis and discussion with stakeholders. It considers the feedback provided by the consultation of the European social partners, under Article 154(2) TFEU, which requires the Commission to consult management and labour on the necessity and potential direction of EU action prior to the submission of proposals in the field of social policy. It was therefore developed in a two-stage process: the first phase, which concluded on 15 September 2023, involved the gathering of reactions from 13 European social partners (four trade union organisations and nine employers’ organisations). The second phase, which began shortly thereafter, was undertaken once legislative action was deemed necessary, in accordance with Article 153(3) TFEU²⁹.

The results present a partially innovative and undoubtedly complex picture, which, upon preliminary and general assessment, highlights both key aspects and potential pitfalls (that are open to re-evaluation).

While the advantages of this initiative are clear and substantial, representing a significant step towards a virtuous process of integrating and harmonising disciplines and addressing exploitative practices, the complexities and specificities of the legal national frameworks require a prudent and methodical approach.

Regarding the proposal for a Directive – which comprises a total of five Chapters and 15 Articles – the first critical considerations pertain to the identification of its scope of application, as this has already emerged during the examination and discussion of the initiative at the Committee for EU Policies of the Italian Chamber of Deputies. The definitions set out in Article 2 give rise to the preliminary question of the nature of traineeship and its integration

²⁹ The documents accompanying the consultations can be accessed at the following links:
https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3746 and
https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4606.

with the domestic system. And this is not merely a formal detail; rather, it raises substantial questions regarding the nature of the instrument itself.

According to the proposal for a Directive, a “traineeship” is to be qualified as “a limited period of work practice which includes a significant learning and training component, undertaken to gain practical and professional experience with a view to improving employability and facilitating transition to a regular employment relationship or accessing a profession” (Article 2, letter a); while a “trainee” is further defined as “any person undertaking a traineeship who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in every Member State with consideration to the case law of the Court of Justice” (Article 2, letter b). This implies, therefore, a systemic integration with EU case law, which has developed criteria for determining a worker’s employment status on a case-by-case basis.

In any case, it can be seen that the provision, at the very least in its definition of the term “trainee”, makes a clear and unambiguous reference to the existence of an employment contract. This, in turn, raises the question of whether the proposal seeks to equate the status of a trainee with that of a subordinate employee, thereby aligning traineeships more closely with the parameters of employment relationships and, indeed, potentially leading to a misalignment with several national legal systems. As previously stated, for instance, in Italy, a traineeship is not considered to be an employment relationship. This is one of the defining characteristics of an apprenticeship, which serves to distinguish it from other forms of training contracts. Although apprenticeships may include a training element, they are, in essence, an employment relationship, characterised by differences in terms of their nature, purpose and disciplinary aspects.

These concerns were underscored during the aforementioned examination of the proposal at the European Union Policies Commission of the Chamber of Deputies, in light of the feedback provided by the social partners during the hearings. A risk identified is that the provision will lead to the subsumption of traineeships into the broader category of subordinate employment, effectively nullifying the distinctive characteristics of domestic regulations.

A different interpretation is warranted, notably in view of the fact that the definition of a traineeship (unlike that of a trainee) does not explicitly refer to a “contract of employment or an employment relationship as defined by law”. Furthermore, the proposal appears to presuppose the existence of traineeships that cannot be classified as an employment relationship under European law³⁰.

³⁰ This is exemplified by the Considerando No. 16 of the Proposal for a Directive of the European Parliament and of the Council, which specifies that the “Directive should apply to

This would suggest that the proposal does not intend to impose an automatic equivalence. Conversely, by indiscriminately categorising them as employees, it is, in effect, making a distinction based on the status recognised by the Member States. In other words, the proposal for a Directive would pertain solely to that group of trainees who could conceivably be classified as employees. Consequently, in the section dealing with the application of terms and conditions of employment, the proposal makes reference to the term “trainees” (and not to the concept of traineeships)³¹.

However, this approach not only generates a degree of uncertainty but also risks leaving the current framework unchanged. The reconstruction suggests that the European Commission’s proposal would not obligate Member States to categorise every form of traineeship as employment. Instead, it would mandate that trainees employed under an employment contract, as opposed to other legal forms devoid of a training component, be granted the protections typically afforded to ordinary workers.

This, within the Italian legal framework, gives rise to questions regarding the applicability of the directive and the specific hypothesis to which the proposal should be referred, given the general exclusion of traineeships from employment relationships in national legislation. In practical terms, the question arises as to what legal framework would need to be implemented to ensure compliance with European requirements if a potential directive were to be adopted. While it is true that the proposals must take into account the specificities of each legal system (in this case maintaining the prerogative of the legal system not to classify traineeships as employment relationships), it is equally true that such a “definitional ambiguity” risks undermining the objective of bringing coherence to an extremely fragmented landscape that currently lacks a common basis. Unless one imagines a distortion of basic legal assumptions, the risk is to nullify the effects of the desired instrument and its potential to achieve the objectives of improving the conditions of a wide target group and combating exploitation.

It is evident that the question currently remains unresolved at this stage.

By the way, it is also notable that Article 2 defines the “trainee” in a manner that encompasses not only the practice in force in every Member State but also with consideration of the case law of the Court of Justice. This is an important

trainees in the Union who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in the Member States, with consideration to the case-law of the Court of Justice of the European Union”.

³¹ A more detailed examination of this interpretation is provided by G. Impellizzeri, *La proposta di direttiva UE sui tirocini: problemi definitivi e principio di non discriminazione*, in *Professionalità studi*, 2024, 2, 232-252.

aspect to consider, as the case law of the CJEU demonstrates a tendency to categorise trainees as if they possessed the status of workers³².

Therefore, in light of these concerns, it would appear prudent to provide immediate clarification on the qualification level, as also recommended in the Opinion of the European Economic and Social Committee (EESC)³³, in order to prevent unwarranted overlap and a dangerous heterogeneity of objectives.

The proposal for a Recommendation, in turn, offers no specific clarification in this regard: while acknowledging the limited impact of its non-binding nature on domestic regulations, it must be recognised that it extends its provisions to all traineeships, including those designated as curricular and compulsory vocational traineeships, which were previously excluded from the 2014 Recommendation (“This Recommendation should cover all trainees, regardless of their employment status, including trainees who are workers only insofar and to the extent that equivalent or more favourable provisions are not laid down in Union law”, Point No. 2), combining distinct categories and potentially leading to confusion and legal ambiguity.

4. Further Considerations: Disciplinary perspectives and Open Questions

Following the preliminary delineation of the prospective scope of the proposal for a Directive, which is characterised by a certain degree of ambiguity, the text proceeds to set forth measures based on several key principles, the first of which is the principle of non-discrimination.

Article 3, in Chapter II, establishes that trainees should not be treated less favourably than comparable regular employees in terms of working conditions, including remuneration. Member States are required to ensure that trainees receive treatment comparable to that of regular employees at the same establishment or, in the absence of such employees, in accordance with collective agreements or national law (“Member States shall ensure that, in respect of working conditions including pay, trainees are not treated in a less favourable manner than comparable regular employees in the same establishment [...] Where there is no comparable regular employee in the same

³² By way of example: CGUE, 26 febbraio 1992, C-3/90, *Bernini v Minister van Onderwijs en Wetenschappen*; CGUE 9 luglio 2015, C-229/14 *Ender Balkaya v Kiesel Abbruchund Recycling Technik GmbH*; CGUE 13 ottobre 2022, C-344/20 *LF v SCRL*; CGUE 10 febbraio 2022, C-485/20, *XXXX v HR Rail SA*, in https://curia.europa.eu/en/content/juris/c2_juris.htm.

³³ See Recommendations No. 1.1. and No. 1.2. of the Opinion of the European Economic and Social Committee - Employment Section of 28 June 2024, available at the following link: https://eur-lex.europa.eu/legal-content/IT/TXT/HTML/?uri=PI_EESC%3AEESC-2024-01418-AS.

establishment, the comparison shall be made by reference to the applicable collective agreement, or where there is no applicable collective agreement, in accordance with national law or practice.”). However, it allows for differential treatment based on objective reasons, such as the nature of tasks performed, the level of responsibility, and the intensity of work (“unless different treatment is justified on objective grounds, such as different tasks, lower responsibilities, work intensity, or the weight of the learning and training component”).

While this clause aims to safeguard trainees from exploitation, it raises concerns about potential regulatory conflicts. First, if one accepts the premise that the directive should only apply to traineeships that can be classified as employment (and for as long as there remains space for the concrete application of it), the provision could be understood as a specification of the principle of non-discrimination in a manner comparable to that which applies to fixed-term work or temporary agency work.

However, in its current form, and in view of the critical issues relating to the coordination of discipline with the internal regulatory frameworks, the provision risks creating a real short-circuit. In addition to the danger of “flattening” the figure of trainees to that of employees, specifically, in legal systems like Italy, the very elements listed as justifications for differential treatment (such as the lower intensity of work and responsibilities) are intrinsic to the nature of traineeships.

These characteristics are fundamental to distinguishing traineeships from a conventional employment relationship. If these distinctions are disregarded or blurred, the legal clarity regarding the trainee’s specific status could be further compromised, leading to the erosion of the safeguards and guarantees associated with traineeships.

For this reason, a more suitable approach would be to adopt a set of non-derogable minimum rights, rather than simply applying the principle of equal treatment. For example, it is crucial to ensure that trainees benefit from full workplace health and safety protections and are entitled to exercise trade union rights. Establishing such baseline protections would avoid the pitfalls of conflating traineeships with subordinate employment while still safeguarding trainee rights. Moreover, it represents a crucial step in addressing not only the misuse of traineeships but also the issue of “poor-quality” traineeships. This implies interventions not only on the learning component but also on fair

remuneration, social protection, transparency of working conditions, and the learning element³⁴.

In this regard, the question of compensation, to which the proposal for a Recommendation refers by using the term “fair remuneration” (Point No. 6), is one that should be assessed differently. This is particularly important given that its scope also extends to traineeships defined as curricular and that its risks obscuring the training component that remains the distinguishing feature of the institution. A few years ago, a legal scholar admitted the existence of “*forms of work services that do not constitute a formal subordinate employment relationship and are not accompanied by remuneration*”, which are supplementary to the main obligation. This is exemplified by traineeships, where the possible absence of a fee does not constitute “free labour,” even when unpaid³⁵.

Lastly, the measures to combat regular employment disguised as traineeships, outlined in the following chapters, appear to be less problematic.

Chapter III outlines provisions to detect and prevent abuses. Article 4 requires Member States to adopt measures to monitor and inspect traineeships in cases where they are used to evade protections for workers. Article 5 further requires competent authorities conducting inspections to evaluate a range of factors that may indicate the abuse of traineeships, including the absence of a meaningful learning component, the excessive duration of the traineeship, the assignment of tasks, responsibilities, and work intensity equivalent to those of regular employees, etc.³⁶

These measures, combined with the enforcement mechanisms and sanctions outlined in Articles 6 to 10, represent a significant step forward in addressing exploitation. For instance, Article 6 establishes that employers must inform the relevant authorities to facilitate their assessments. Furthermore, there are “support measures” that aim, among other things, to ensure that the host institution provides clear, complete, and easily accessible information on the rights of trainees. This is in line with the broader process at the European level, which is guided by the principles of transparency and awareness as antidotes to labour exploitation, inequalities, and discrimination.

³⁴ C. Alcidi, C. Astarita, H. Crichton-Miller, T. Kiss-Galfavi, A. Ounnas, L. Westhoff, L. Lechardoy, G. Stazi, *Study exploring the context, challenges and possible solutions in relation to the quality of traineeships in the EU*, op. cit., 80-87.

³⁵ M. Grandi, *Osservazioni critiche sulla prestazione gratuita di lavoro subordinato*, in *Arg. dir. lav.*, 2000, 3, 439-465.

³⁶ The European Economic and Social Committee has indeed emphasised, for example, that the absence of a tutor should also be included among the elements to be taken into consideration; or, again, that the conditions legitimising the excessive duration of a traineeship should be better specified (see Point No. 2.5 Opinion of the EESC).

Additionally, a series of supplementary stipulations are set forth, pertaining to the establishment of effective mechanisms for reporting unfair practices and the implementation of inspection systems capable of imposing meaningful and deterrent sanctions (see Articles 7-10). Nevertheless, the same limitation in the scope of application persists, as evidenced by the Italian experience. If these provisions were to be interpreted as applying to forms of traineeships that are assimilable to employment, they would effectively be irrelevant in practice. This reinforces the overarching necessity to resolve the definitional issues.

It must be noted, however, that the Commission has not heeded the calls from social partners for more effective measures to support young people in particularly vulnerable situations, who frequently face greater difficulties in accessing traineeships. This is the case, for example, of young people from rural areas, from remote regions like the EU's outermost regions or from lower socio-economic backgrounds, or young people with disabilities, with a migrant background, young LGBTIQ people, and underrepresented ethnic minorities. To address this gap, the implementation of targeted initiatives, such as the introduction of incentives to employ trainees after the traineeship or the expansion and improvement of the quality of remote or hybrid traineeships, could prove instrumental. Such measures have the potential to reduce the obstacles to traineeship access for vulnerable groups, thereby aligning the proposal with the principle of reasonable accommodation for trainees with disabilities.

Conversely, this strategy may also result in a reduction in associated costs for employers, particularly small and micro-enterprises. Notably, the Commission has not given significant attention to this aspect in the proposal for a Directive, as it does not encompass any specific provisions aimed at addressing this concern.

For its part, the accompanying Council Recommendation advocates for adequate social protection and inclusive traineeships, recommending equal access for vulnerable groups and adapting programmes to meet individual needs. It is an innovative element that, despite being attributed to a non-binding instrument, is to be hoped will be more fully actualised, along with others. One such example is the additional recommendation to ensure access to adequate social protection for trainees, including adequate coverage in line with the national legislation of the Member State.

These suggestions are also consistent with the overarching European goals of fairness and the promotion of social equity in the labour market, and their effective implementation could help reduce disparities and discriminatory practices related to traineeships across the Union.

5. Concluding Remarks

The recent legislative developments within the European Union, along with the increased investment aimed at expanding the availability of traineeships, are commendable steps towards enhancing both the quality and accessibility of traineeships. These initiatives play a pivotal role in improving the quality and accessibility of this instrument across EU Member States.

However, these concerns are not insignificant, considering that the primary risk lies in the current ambiguity regarding the specific scope of the directive and the particular scenarios it would encompass. To a certain extent, there exists a risk of future non-compliance by Member States, as it may prove challenging to identify the appropriate framework for implementing the measures.

Nevertheless, even a preliminary and comprehensive examination reveals the necessity of assessing the distinctive characteristics of domestic systems and clarifying several unresolved issues. This is essential to ensure that these efforts align with the specific legal frameworks of individual Member States, avoiding regulatory approaches that may inadvertently lead to adverse effects.

Effective regulation, intended to safeguard both the authenticity and quality of traineeships, must prioritise the ontological and teleological dimensions of the traineeship experience. Traineeships are, and must remain, structured learning opportunities designed to facilitate the transition of young people into the labour market, offering a gradual progression from learning to stable employment. Unlike conventional employment, the primary purpose of a traineeship should not be economic remuneration (though it is imperative that it is not lacking when work is actually being done); rather, it should focus on personal development and career orientation. The educational component is the element that, more than any other, must retain a central role and help prevent the concealment of “bogus traineeships.”

A particularly illustrative example is the intervention in which the European Committee of Social Rights noted Belgium’s violation of the European Social Charter. In examining the applicability of Article 4(1) of the Social Charter and determining whether the trainee should be considered a “worker,” the Committee should indeed take into account the nature of the work performed by the intern and whether the educational aspect is predominant in the work context, including a substantial learning and training component³⁷.

³⁷ The reference is to the ruling of the European Committee of Social Rights (ESCR) of 16 February 2022 (Complaint No. 150/2017 – European Youth Forum v. Belgium). The Belgian government was found to be in breach of the European Social Charter due to its failure to effectively detect and prevent the phenomenon of “bogus traineeships”. These traineeships

While ensuring fair compensation is essential, it is equally crucial to maintain the distinction between traineeships and salaried employment. Blurring this line risks creating a class of “working poor” who are treated as employees yet compensated at significantly lower rates, thus defeating the purpose of traineeships as a bridge to full employment and potentially concealing discriminatory outcomes³⁸.

The European legislative framework must strike a balance between economic guarantees and the integrity of training. This oversight should extend across all phases of the traineeship relationship, ensuring that the educational and developmental aspects of the experience remain central³⁹. Hence, for example, there is a desirability for a greater focus on the actors involved.

An additional consideration concerns the silence of the proposal for a Directive on public sector traineeships. Despite the significant role played by the public sector in employment creation, as evidenced by recent measures, the directive remains silent on this issue. In certain cases, public sector traineeships have constituted a preliminary step towards the establishment of a long-term employment relationship. It should be noted that, at the national level, the principles and criteria outlined in the 2017 Guidelines are explicitly applicable when the host entity is a public administration, thereby ensuring substantial convergence between public and private sector practices. Nevertheless, the public sector is not immune to the abuse of traineeships, which can deviate from their intended purpose.

The complexity of public sector traineeships arises when public administrations act as both the promoter and the host entity⁴⁰. In this context, challenges include budgetary constraints and the applicability of sanctions. Constitutional limitations prohibit the conversion of an abusive traineeship into a formal employment relationship within the public sector, restricting the available remedies.

take the form of disguised employment, where individuals are engaged in work activities for the benefit of the employer but are not recognised as such.

³⁸ See the European Committee of Social Rights, which, in relation to the Belgian case, highlighted that the so-called “false trainees” were effectively denied the fundamental right to fair remuneration, a privilege extended to other workers engaged in comparable roles with conventional employment contracts.

³⁹ About the role of training in active labour market policies, see the contributions of D. Garofalo, *Rivoluzione digitale e occupazione: politiche attive e passive*, in *Lav. Giur.*, 2019, 4, 329 ff.; Id., *Formazione e lavoro tra diritto e contratto. L’occupabilità*, Cacucci, Bari, 2004.

⁴⁰ Regarding the Ministry of Justice trainees who were employed in the Milan Court offices and who sought to have their salaries adjusted on the grounds of accrued differences, see App. Milano 3 marzo 2023, n. 975 in *Labor*, 2023, with note by di A. Poso, *Il tirocinio «imperfetto» degli stagisti di supporto al personale amministrativo delle cancellerie presso gli Uffici giudiziari del distretto milanese. La subordinazione è nelle cose o nomen (iuris) omen?*

Given these complexities, it is evident that more specific regulatory measures may be required, particularly with respect to public sector traineeships, to ensure that the system operates fairly and effectively while achieving its intended objectives.

The European Commission's package of measures has the potential to harmonise traineeship regulations across the EU effectively, in its various profiles. By addressing long-standing concerns about the abuse of traineeships and aiming to ensure fair and equitable treatment for trainees, the proposal for a Directive and accompanying Council Recommendation could drive meaningful change.

However, as with any legislative initiative, the success of these measures will depend on careful consideration of national legal contexts and the avoidance of unintended consequences, such as the conflation of traineeships with regular employment. Ensuring that trainees receive appropriate protections while preserving the distinct educational nature of traineeships will be key to achieving the desired outcomes.

The Fundamental Role of Training Systems and Educational Policies in Preventing the NEET Phenomenon

Antonio Pellicano *

Abstract: Over the last two decades, the NEET phenomenon has become a pressing social issue, prompting intervention by the European Union. As early as 2013, the EU introduced the Youth Guarantee programme to promote youth employment and reduce both unemployment and inactivity across all member states. This paper provides an updated overview of the NEET phenomenon in Italy, explores its primary causes, and evaluates the effectiveness of initiatives aimed at facilitating young people's integration into the labour market. Special attention is given to the crucial role that education systems and training policies can play in addressing this issue. Finally, the paper proposes future actions to reduce the significant gap between Italy and more successful European countries in combating NEETs.

Keywords: *NEETs; Youth Guarantee; GOL; National New Skills Plan; School-to-work transition; education.*

1. Framing the Issue¹

While in the past the transition to adulthood followed a relatively straightforward trajectory, marked by well-defined and sequential stages², in recent decades the modalities and timing of these stages have evolved in response to economic, social, and cultural changes. The transition to adulthood has, in fact, become considerably more complex and decidedly less linear³, characterised by de-standardised⁴, reversible stages⁵ that can easily lead to “interrupted transitions” in which the risk of social exclusion becomes highly tangible.

NEETs (Not in Education, Employment, or Training) represent a paradigmatic example of a “blocked transition”.⁶ In much the same way as souls not yet freed from original sin wander in Catholic limbo, NEETs find themselves in a cyclical existence where no one works, studies, or follows an educational path, trapped in an existential stalemate from which escape is exceedingly difficult⁷.

* Research Fellow at the University of Bari (Italy). Email address: antonio.pellicano@uniba.it

¹ This contribution is a reworking and update of the paper presented at the “XXIV ISLSSL World Congress - Work in a Changing World: The Quest for Labour Rights and Social Justice,” Rome, 17-20 September 2024. It is attributable to the activity carried out by the local research unit of the University of Bari (CUP H53D23010850001), as part of the PRIN PNRR 2022 “YES - Youth Employment Strategy” (P.I. Prof. Carmela Garofalo, Code: P2022H89ZS), funded as part of Mission 4 “Education and Research” of the PNRR (component C2 - investment 1.1, Fund for the National Research Programme and Projects of Significant National Interest - PRIN), utilising the European funds from the NextGeneration EU Programme.

² The transition to adulthood has traditionally been characterised by progressive stages, such as the completion of one’s education, entry into the world of work, housing independence, the formation of one’s own household and ultimately parenthood.

³ These non-linear transitions have been termed “yo-yo transitions”. See, on this point, A. Biggart, A. Walter, *Coping with Yo-Yo Transitions: Young Adults’ Struggle for Support, between Family and State in Comparative Perspective*, in C. Leccardi, E. Ruspini (eds.), *A New Youth? Young People, Generations and Family Life*, Ashgate Publishing, 2006, pp. 41-60.

⁴ H. Brückner, K.U. Mayer, *De-Standardization of the Life Course: What it Might Mean? And if it Means Anything, Whether it Actually Took Place?*, *Advances in Life Course Research*, n. 9, 2005, pp. 27-53.

⁵ M.J. Shanahan, *Pathways to Adulthood in Changing Societies: Variability and Mechanisms in Life Course Perspective*, *Annual Review of Sociology*, n. 26, 2000, pp. 667-692.

⁶ M. Santagata, R. Lodigiani, *Ripensare la socializzazione alla vita adulta tra lavoro e partecipazione sociale. Il contributo della riflessione teorica*, in Vv.Aa (eds.), *From NEET to Need. Il cortocircuito sociale dei giovani che non studiano e non lavorano*, FrancoAngeli, 2020, p. 104. Also emblematic is the title of the recent report conducted by the National Youth Council, published in March 2024, *Lost in transition. Contrasto al fenomeno dei NEET: azioni di prossimità*.

⁷ Cf. M.S. Agnoli, *Generazioni sospese. Percorsi di ricerca sui giovani NEET*, FrancoAngeli, 2014, pp. 280 ss.

The term “NEET” first appeared in the late 1990s in a British government document, replacing previous labels, and was used to refer to young people aged 16-18 who had left the education system early⁸. Later, in response to growing attention to this group at the European level, the age range was expanded to include all young people who are neither employed nor engaged in education or training⁹.

As is well known, NEET is an “umbrella category”¹⁰, capable of encompassing a wide range of young people with differing circumstances. According to an initial classification proposed by Eurofound, NEETs are divided into five subgroups: the conventionally unemployed; the unavailable due to family responsibilities, illness, or disability; the disengaged, those who are neither seeking work nor education and are not constrained by other obligations or incapacities; and, finally, the opportunity seekers and voluntary NEETs, who do not face significant hardship because they are engaged in other activities or are awaiting a specific professional and/or life opportunity¹¹.

A subsequent analysis introduced a further disaggregation of the NEET population into seven subgroups: the re-entrants, who may soon become involved in employment or education and training; the short-term unemployed, who are job seekers and available to start within two weeks, and who have been unemployed for less than one year; the long-term unemployed, who are job seekers and available to start within two weeks, but who have been unemployed for more than one year; those unavailable due to illness or disability; those unavailable due to family responsibilities; discouraged workers, who have stopped searching for work due to a belief that no opportunities are

⁸ The term NEET was initially preceded by the term “Status 0” to refer to those young people who didn’t fall under any labour market analysis status due to the absence of work experience or education and training. Later, the term “Status A” was adopted to emphasize the drop-out status (A, *abandoned*) of a generation. For an effective reconstruction of the origin of the NEET phenomenon, M. Mascherini, *Origins and Future of the Concept of NEETs in the European Policy Agenda*, in J. O’Reilly, J. Leschke, R. Orlic, M. Seeleib-Kaiser, P. Villa (eds.), *Youth Labor in Transition: Inequalities, Mobility, and Policies in Europe*, Oxford University Press, 2018, pp. 503 ss.

⁹ In recent years, and particularly in the aftermath of the pandemic, the target age group for scientists and policy-makers has expanded to include young people neither employed nor in education or training aged 15-29. It should be noted, however, that in Italy the acronym is now used to refer to the inactive aged 15-34 in some regions (Basilicata, Campania, Calabria, Apulia, Sicily, Abruzzo, Molise and Sardinia).

¹⁰ V. Cuzzocrea, *Projecting the category of NEET into the future, Perspectives on Youth*, 2014, p. 72. Cf., also, S. Maguire, *Young people not in education, employment or training (NEET): Recent policy initiatives in England and their effects, Research in Comparative and International Education*, n. 10, 2015, p. 534: “NEET has become a “catch all” definition for young people who have failed to make successful transitions”.

¹¹ Eurofound, *NEETs. Young People not in Employment, Education or Training: Characteristics, Costs and Policy Responses in Europe*, Publications Office of the European Union, Luxembourg, 2012.

available to them; and other inactive individuals, who do not fit into the previous categories¹².

Beyond these different individual characteristics¹³, NEETs share a condition of vulnerability that exposes them to a significantly higher risk of social marginalisation. This condition arises from a complex network of intertwined individual, family, social, and economic factors¹⁴.

Specifically, among the key individual factors are early school leaving, low self-esteem and confidence, and mental health issues. At the family level, factors such as low socio-economic background, poor-quality family relationships, and limited encouragement for autonomy can play a significant role. At the social level, the opportunities available in the country in which these individuals reside are also a critical factor.

Regarding the latter aspect, there is a high risk that these young people will remain passive observers of life, resigned despite their efforts and goodwill, if they are not provided with the necessary tools to enter the labour market. Furthermore, the more they encounter difficulties in accessing education and employment, the more likely they are to be affected by what is known in the literature as the “scarring effect”¹⁵. This term refers to the permanent consequences of long-term inactivity, such as a heightened risk of future unemployment or reduced income levels due to the gradual obsolescence of their human capital.

The long-term NEET status produces negative consequences not only on an individual level but also in terms of the costs a country must bear¹⁶. In addition to the loss of potential earnings and productive capacity, there is also increased expenditure on welfare and social protection.

In general, the waste of youth capital represents a significant obstacle to a country’s economic and social growth. Depriving young people of their

¹² Eurofound, *Exploring the Diversity of NEETs*, Publications Office of the European Union, Luxembourg, 2016.

¹³ M. Levels, C. Brzinsky-Fay, C. Holmes, J. Jongbloed, H. Taki, *The dynamics of marginalized youth. Not in education, employment, or training around the world*, Routledge Studies in Labour Economics, 2022, p. 41, point out that NEETs are commonly painted as “the most vulnerable among all youth”.

¹⁴ For a recent and detailed analysis of the numerous scientific studies carried out, including bibliography, H. Rahmani, W. Groot, *Risk Factors of Being a Youth Not in Education, Employment or Training (NEET): A Scoping Review*, *International Journal of Educational Research*, v. 120, 2023, pp. 1-16.

¹⁵ Cf. K. Ralston, D. Everington, Z. Feng, C. Dibben, *Economic Inactivity, Not in Employment, Education or Training (NEET) and Scarring: The Importance of NEET as a Marker of Long-Term Disadvantage, Work, Employment and Society*, n. 36, 2022, pp. 59-79.

¹⁶ According to A. Rosina, *I NEET in Italia. Dati, esperienze, indicazioni per efficacy politiche di attivazione*, *StarNet-Network transizione scuola-lavoro*, 2020, p. 18, the NEET rate is “considered the main measure of how much a community squanders the potential of the younger generation”.

specific talents and their ability to innovate, while treating them as an “invisible generation”¹⁷, effectively means abandoning any vision of a prosperous future¹⁸.

2. Understanding the High Rate of NEETs in Italy

The high percentage of young NEETs remains a significant concern today. Despite the fact that important steps have been taken over the years to mitigate the phenomenon, the recent “Global Employment Trends for Youth 2024” report, prepared by the International Labour Organisation (ILO), continues to present an alarming picture, highlighting that there is still much work to be done to address the issue¹⁹.

It is important to clarify that, while the proportion of young people who are neither employed nor in education or training in regions such as Arab countries, Africa, and South Asia—already high in itself—has remained largely unchanged over the past decade, more encouraging signs of a reduction have emerged in Europe. Europe is progressively advancing, albeit with regional inequalities, towards the goal of reducing the NEET rate for 15-29-year-olds to 9% by 2030²⁰. Furthermore, the latest Eurostat survey presents a divided Europe: on one hand, there are countries that have already reached this target or are close to doing so²¹; on the other, there are countries still facing serious challenges, with NEET rates well above the desired threshold.

Among these countries, Italy ranks near the bottom of the European list, surpassed only by Romania and far behind nations such as Germany, France, and Spain. This is undoubtedly a distressing situation, reflecting the struggles

¹⁷ M. Sacconi, M. Tiraboschi, *Un futuro da precari? Il lavoro dei giovani tra rassegnazione e opportunità*, Mondadori, Milano, 2005, p. 37. Cf., also, A. Rosina, *NEET. Giovani che non studiano e non lavorano*, Vita e Pensiero, 2015, p. 7, which defines NEET as a “spectre” roaming Europe, a kind of “zombie” of our time.

¹⁸ After all, as President of the Italian Republic Sergio Mattarella recently emphasised during the ceremony of awarding the insignia of Cavaliere del Lavoro at the Quirinale on 30 October 2024, “investment in young people represents the future”.

¹⁹ In fact, based on this study, the ILO report “*World Employment and Social Outlook: September 2024 Update*” shows that the incidence of NEETs worldwide decreased only slightly from 21.3 per cent in 2015 to 20.4 per cent in 2024.

²⁰ This ambitious target was introduced as part of the “*European Pillar of Social Rights Action Plan*”, adopted in March 2021.

²¹ Eurostat, *Statistics on young people neither in employment nor in education or training*, published in May 2024, shows that in 2023 one third of EU countries are already below the target of 9 per cent by 2030: Netherlands (4.8 per cent), Sweden (5.7 per cent), Malta (7.5 per cent), Slovenia (7.8 per cent), Luxembourg (8.5 per cent), Ireland (8.5 per cent), Denmark (8.6 per cent), Germany (8.8 per cent) and Portugal (8.9 per cent).

and deep frustration of an entire group, often harshly labelled as lazy, apathetic, or “big babies”²².

The question that arises is straightforward: why is Italy one of the largest “factories”²³ of NEETs in Europe? Although the issue is multifaceted and cannot be fully explored within the scope of this paper, an initial answer can be provided by examining the most recent ISTAT report on the “Education Levels and Employment Performance of Italians 2023”²⁴. This report records a reduction in the NEET rate by nearly 2.9 percentage points compared to 2022, and by 7 points compared to 2021, with the current rate standing at 16.1%.

The survey, while presenting a positive outcome, highlights the influence of educational opportunities on the status of young NEETs. The employment advantage of having at least a diploma is clearly evident, confirming the importance of policies that promote, at a minimum, the completion of secondary education. These data also reveal gender differences. In fact, the female labour market participation rate is closely linked to educational qualifications, with significant disparities: the employment rate of female graduates is 19% higher than that of female high school graduates (4.3% among men), and, among the latter group, it is 25.6% higher than that of women with at most a lower secondary diploma (14.9% among men).

Therefore, it can be argued that the level of education is a fundamental “driver”²⁵ in determining the NEET profile, with educational attainment still acting as a significant barrier for women in accessing the formal labour market. Beyond this aspect, Italy still faces considerable challenges in the areas of education and training. The country’s high school dropout rate places it fifth in Europe, with only Romania, Spain, Germany, and Hungary²⁶ having higher rates. This issue is undoubtedly influenced by territorial disparities, as the highest percentages of NEETs are found in southern Italy, particularly in Sardinia, Sicily, Campania, Apulia, and Calabria. This can be explained by the fact that early school leaving is strongly correlated with the socio-economic background of the family: if parents have a low level of education, the

²² Thus emblematically defined in 2007 by Tommaso Padoa-Schioppa, Minister of Economy and Finance, during a hearing in the Chambers.

²³ A. Rosina, *NEET. Giovani che non studiano e non lavorano*, cit., p. 15.

²⁴ Istat, *Livelli di istruzione e ritorni occupazionali - Anno 2023, Statistiche Report*, 2024.

²⁵ T. D’Amico, *NEET in Europa e nel mondo: 289 milioni di giovani al centro delle sfide del nostro tempo*, INAPP Paper, n. 50, 2024, p. 33.

²⁶ The reference is to Eurostat data 2022, according to which 11.5% of young people between 11-24 in Italy leave the education system prematurely, almost two percentage points above the European average of 9.6%. A positive figure, despite everything, since the country has exceeded the 16% target set by the European Union for 2020 and aims to reach 9% by 2030.

incidence of early school leaving is much higher, as young people tend to have limited expectations and little confidence in the value of education²⁷.

Furthermore, Italy's education system lacks a well-structured pathway that provides young people with clear and personalised guidance regarding their future educational trajectory. Often, choices are influenced by external factors, such as the advice of parents or family friends²⁸, who, while well-intentioned, fail to take into account the individual strengths, weaknesses, talents, and aspirations of the young person. Consequently, this results in a high risk of poor educational choices and, ultimately, school dropout.

A substantial rate of school drop-out is often accompanied by a high implicit dropout rate²⁹, that is, the attainment of higher education qualifications without the acquisition of basic skills—again, a challenge particularly affecting young people in southern Italy³⁰. This gap between the skills acquired and those demanded by the labour market has a direct and negative impact on the employability of young people.

A recent study conducted by EY, titled “School-to-Work Transitions”³¹, further reinforces the importance of adapting the education system to meet the demands of the labour market, emphasising the need for specific interventions to address the skills gap and improve the alignment between labour supply and demand.

In Italy, the transition from school to work is notably prolonged, lasting between two and three years, compared to the European average of less than one year. According to the report's estimates, 30% of high school leavers will face difficulties during this transition until 2030. Specifically, vocational school leavers are expected to experience the highest rate of mismatch (+94%) among all school types.

Given such a long school-to-work transition period, it is inevitable that many young people “age” during the process³², leading to what can be described as a

²⁷ Cf. R. Sicurello, *Preventing school dropout and early leaving from education and training: a school for any and every one*, *Italian Journal of Special Education for Inclusion*, n. 1, 2024, p. 119.

²⁸ Cf. F. Bergamonte, E. Mandrone, M. Marocco, *I canali di ingresso nel mondo del lavoro*, *INAPP Policy Brief*, n. 29, 2022, pp. 1-12.

²⁹ Italy is among the few European countries to have introduced a system of monitoring and census survey of implicit school drop-outs through the “Anagrafe nazionale degli studenti”.

³⁰ Although the latest “*Rapporto nazionale Invalsi 2024*” is decidedly encouraging on the front of implicit school drop-out, which drops to 6.6%, the gap between North and South is still too wide. In fact, primary schools in the South struggle more to guarantee equal learning opportunities for all students, with obvious negative effects on subsequent school grades.

³¹ This is a study presented during the event held on 5 March 2024 “*Costruire ponti tra istruzione e lavoro: UPSHIFT for Youth*”, organised by UNICEF, Junior Achievement Italia, EY and EY Foundation.

³² Cf. F. Pastore, C. Quintano, A. Rocca, *Una riflessione sulla durata della transizione scuola-lavoro in Italia*, *Scuola democratica*, n. 2, 2021, pp. 274-275.

“lag syndrome”³³. In fact, a prolonged transition limits the chances of entering the labour market through quality, adequately remunerated, and legally regulated employment³⁴.

It is for this reason that many young people, despite having a high level of education, often struggle to find positions that align with their professional expectations³⁵, leading to their exit from NEET status only through emigration or by accepting downward occupational adjustments³⁶.

This brings us to an issue that is particularly pertinent when considering the specificity of the NEET phenomenon in Italy: the concept of “decent work.” It is significant to note that Italy has a high proportion of informal or “shadow” economy activities, in which undeclared work proliferates³⁷. Many young people opt to settle for insecure and poorly paid jobs rather than engage in the formal education and training system³⁸.

At the same time, however, this trend increases the risk of young people slipping into petty crime, believing that delinquency may offer better financial rewards than school or formal work.

3. Activation Policies for Young NEETs: The “Youth Guarantee” Experience

Having analysed the key factors exacerbating the NEET issue in Italy, it is now necessary to examine the role of the Youth Guarantee as the main response to the “youth question” in our country³⁹. Established at the European level by the

³³ M. Livi Bacci, *Il Paese dei giovani vecchi*, il Mulino, n. 3, 2005, p. 412.

³⁴ Cf. M. Tiraboschi, *Il problema dell'occupazione giovanile nella prospettiva della (difficile) transizione dai percorsi educativi e formativi al mercato del lavoro*, WP C.S.D.L.E. “Massimo D’Antona”.IT, n. 38, 2005, p. 9.

³⁵ Cf. A. Salvini, F. Ruggiero, *I NEET, l’Europa e il caso italiano*, C.S.E. Working Papers, n. 4, 2016, p. 21; F. Gaspari, *Giovani NEET e mondo del lavoro: una transizione complessa*, Polis, n. 3, 2018, p. 294.

³⁶ We can understand why, not infrequently, young people prefer to give up finding employment rather than accept such work “opportunities”. Moreover, this situation accentuates the typically Italian phenomenon of young people staying in families for a long time. Cf. Eurofound, *Becoming adults: Young people in the post-pandemic world*, Publications Office of the European Union, Luxembourg, 2024, pp. 31-34.

³⁷ Cf. report of National Youth Council, *Lost in transition*, cit., p. 14. In particular, it is shown that metropolitan NEETs are more active in the informal economy and in participating in social and political networks: 74.8% of NEETs have done “odd jobs” in the last month. In the metropolitan areas, 88.9% of NEETs are involved in informal activities, while in the inner areas the percentage drops to 53.6%.

³⁸ Cf. L. Casano, F. Seghezzi, *I giovani tra mercato e non mercato. Lavoro, competenze e nuove professionalità*, Rapporto di ricerca Unipolis-Fondazione ADAPT, 2021, pp. 44-45.

³⁹ In this respect, it has been considered by S. Ciprietti, *Welfare e lavoro. L’inserimento dei giovani nel mercato del lavoro e la Garanzia Giovani*, Rubbettino Editore, 2017, p. 104 “[...] the first active

Recommendation of 22 April 2013⁴⁰ and renewed with the Recommendation of 30 October 2020⁴¹, the Youth Guarantee represents the first significant programme introduced in Italy to enable young people who are neither studying nor working to access a quality job, education, or vocational training opportunity within four months of becoming unemployed or leaving the formal education system.

The primary objective of the programme is not simply to secure employment but to foster “employability”—the ability to navigate the labour market and make oneself attractive to employers. This is achieved by offering targeted services at a specific stage in a person’s life cycle⁴². In Italy, to facilitate the achievement of the Youth Guarantee objectives, the “Decreto Letta” (No. 76 of 28 June 2013, converted with amendments by Law No. 99 of 9 August 2013) established a dedicated “Mission Structure.” This structure serves as a forum for collaboration among all the actors involved in the programme’s implementation and was Italy’s interlocutor for presenting the national Youth Guarantee plan to the European Commission in December 2013⁴³, which was subsequently launched in May 2014.

The Youth Guarantee in Italy substantially follows the European Union’s directives. Specifically, after registering on the national portal or on the appropriate regional sites, users wait for a call from a public or private employment service. After the universal reception and intake phase, the process continues with the signing of a “service agreement,” which marks the

policy experiment and as an important opportunity to give new impetus to the employment services sector and policies in general. This programme [...] can become a premise for testing a new approach coordinated at the national level and the general basis for an effective and well-structured active policy in Italy that overcomes the existing structural gap in access to the world of employment for the younger generations and guarantees the youngest a pathway to autonomy in work and life”.

⁴⁰ Council Recommendation of 22 April 2013 on the establishment of a Youth Guarantee (2013/C 120/01).

⁴¹ Council Recommendation of 30 October 2020 on a bridge to work, strengthening the Youth Guarantee and replacing the previous Recommendation of 2013 (2020/C 372/01). It is pointed out that this recommendation first of all provided for the extension of the age limit of the young recipients of the measures from 25 to 29 years, as already envisaged in Italy, implicitly recognising that the transition from school to work and sustainable insertion in the labour market certainly take longer. Furthermore, it highlighted the need for a greater understanding of the characteristics of young NEETs in order to be able to involve them more closely and adapt the interventions to their distance from the labour market.

⁴² P. Vesan, *La Garanzia Giovani: una seconda chance per le politiche attive del lavoro in Italia?*, *Politiche Sociali*, n. 3, 2014, p. 492.

⁴³ It should be noted that the “Mission Structure” ceased to function in 2014, delegating its coordination functions to the ministerial level before the takeover of Anpal, whose functions are now assigned to the Ministry of Labour and Social Policies, having recently been abolished by Prime Ministerial Decree no. 230 of 22 November 2023, with effect from 1 March 2024.

point at which a personalised, shared pathway is defined, taking into account the individual's personal, educational, and professional characteristics—assessed through a profiling system—for job placement or re-entry into training and/or education.

The operationalisation of the plan at the financial level is ensured by the “National Operational Programme on Youth Employment Initiative” (PON IOG), which is almost entirely delegated to regional administrations as intermediate bodies responsible for designing and implementing measures at the territorial level.

In this framework, the measures that can be activated are divided into two categories: “measures related to access to the programme and to the definition of the service agreement,” and “measures aimed at offering active labour market policies”. The former includes activities preparatory to young people's inclusion in the programme, such as reception and orientation, while the latter encompasses a range of support and integration measures for the labour market, such as specialised training, job accompaniment, extracurricular internships, apprenticeships, civil service, support for self-employment and entrepreneurship, transnational and territorial professional mobility, and employment bonuses.

Following the refinancing of the Youth Employment Initiative and the reprogramming of PON IOG, approved on 18 December 2017⁴⁴, new measures were introduced, including measure 1D, which aims to engage young people furthest from the labour market, training measure 2C, for newly recruited young people, measure 5-bis, which supports geographically mobile traineeships, measure 6-bis, allowing civil service to be carried out in one of the European Union's member states, and measure 9-bis, an employment incentive. Additionally, alongside Axis 1, which is exclusively dedicated to young NEETs, Axis 1-bis was established to promote the job placement of unemployed young people up to the age of 34, regardless of their NEET status, with a particular focus on residents in lagging and transition regions.

Since its implementation in Italy, the Youth Guarantee programme has encountered several difficulties⁴⁵, raising serious concerns about its

⁴⁴ The reprogramming request was sent to the Commission on 1 December 2017. The amendment of the Operational Programmes is governed by Article 96(10) of Regulation (EU) No 1303/2013. It was approved by Commission Implementing Decision C(2017) 8927 of 18 December 2017 amending Implementing Decision C(2014) 4969.

⁴⁵ Among the initial difficulties is the slowness with which the regions formally approved their implementation plans. Cf. L. Casano, C. Di Stani, L. Petruzzo, G. Rosolen, *Giovani e lavoro: manca la “garanzia”. Il caso di “Garanzia Giovani” e il fallimento delle politiche attive in Italia*, Working Paper ADAPT, n. 155, 2014, pp. 3 ss.; U. Buratti, *Regioni: una fase due ancora incerta*, in U. Buratti, G. Rosolen, F. Seghezzi (eds), *Garanzia giovani, un anno dopo. Analisi e proposte*, ADAPT University Press, n. 43, 2015, pp. 21 ss.

effectiveness⁴⁶—concerns that have not been dispelled, such that, ten years after its inception, it can be argued that the “challenge”⁴⁷ has largely been lost. To understand the reasons behind the programme’s lack of success, it is helpful to examine some data from the latest monitoring of the measure⁴⁸. Although young NEETs responded positively to the initiative, with almost 2 million registered users, difficulties became apparent during the transition from intake to inclusion in activation or guidance pathways⁴⁹, particularly for the most vulnerable groups⁵⁰.

In fact, the Youth Guarantee ended up engaging the young people who were most easily employable—those most inclined to take advantage of the opportunities offered—while yielding significantly poorer employment outcomes for groups most distant from the labour market and at high risk of social exclusion without targeted “proximity strategies”⁵¹.

In this context, it is important to note that measure 1D, which aimed to involve young people from households receiving the “Reddito di Inclusione” (REI) and later the “Reddito di Cittadinanza” (RdC), has not been effective in addressing the problem. This failure is largely due to the complex nature of social vulnerability, which extends beyond mere economic factors.

Despite the wide range of active labour market policies provided by the employment services network, the Youth Guarantee programme has essentially become a “Traineeships Guarantee.” In practice, there has been a significant increase in the use of extracurricular traineeships⁵², raising concerns that they

⁴⁶ Cf. M. Tiraboschi, *Una Garanzia che (ancora) non c'è. Le ragioni del cattivo funzionamento di Garanzia Giovani in Italia*, Report di sintesi per Jyrki Katainen Vice-Presidente della Commissione Europea, ADAPT University Press, 2015, pp. 5 ss.; G. Rosolen, F. Seghezzi, *Un anno dopo, al punto di partenza (o quasi): cronaca di un fallimento annunciato*, in U. Buratti, G. Rosolen, F. Seghezzi (eds.), *Garanzia giovani*, cit., pp. 5 ss.; P. Vesan, *Lost in implementation? Limiti e prospettive della Garanzia Giovani in Italia*, in F. Maino, M. Ferrera (eds), *Secondo Rapporto su Secondo Welfare in Italia*, Centro Luigi Einaudi, 2015, pp. 265-287; F. Giubileo, *Garanzia Giovani, attuazione e problemi del programma*, *Economia & Lavoro*, n. 1, 2016, pp. 139 ss.

⁴⁷ Echoing D. Fano, E. Gambardella, F. Margiocco, *Garanzia Giovani. La sfida*, Brioschi, 2015.

⁴⁸ ANPAL, *L'attuazione della Garanzia Giovani in Italia. Un bilancio del periodo maggio 2014-dicembre 2022, 2023*; as a complement, ANPAL, *Garanzia Giovani in Italia. Nota quadrimestrale n. 3/2023*, which updates the data to 31 December 2023.

⁴⁹ T. Galeotto, *Garanzia Giovani alla resa dei conti: perché non possiamo parlare di successo*, *Bollettino ADAPT*, 13 June 2023, n. 22.

⁵⁰ S. Ciampi, C. Lion, K. Santomieri, V. Sciatta, *Per un bilancio della Garanzia Giovani. Evidenze dalle valutazioni e sfide di policy*, *Sinapsi*, n. 1, 2023, pp. 112-113.

⁵¹ A. Rosina, E. Marta, D. Marzana, A. Ellena, G. Cerruti, *Intercettare i NEET: strategie di prossimità*, *L'osservatorio Giovani*, 2021, pp. 3 ss.

⁵² Cf. M. De Minicis, *La teoria del programma e l'attuazione della Garanzia Giovani in Italia: il protagonismo dei tirocini*, *Professionalità Studi*, n. 3, 2018, pp. 71 ss.

have been exploited as a source of very low-cost labour⁵³, given that internships aimed at qualified professionals have often been posted on regional institutional portals⁵⁴.

Moreover, the number of trainees who were actually hired by companies at the end of their internship period remained relatively low, especially in Southern Italy. This has given rise to the perception that the programme has become a “continuous turnover mechanism”⁵⁵ for traineeships, with minimal costs and no real obligations on companies.

This suspicion is further substantiated by the fact that many of the tasks performed by interns required basic knowledge, similar to what can be acquired through compulsory schooling. This is particularly concerning when we consider that internships should ideally focus on providing clear and high-quality training contributions⁵⁶.

While extracurricular traineeships are one of the measures in place, the programme also includes employment incentives, training pathways, community service, and support for self-entrepreneurship.

Finally, the very low utilisation of the apprenticeship contract in Italy is noteworthy, which is a distinctive and negative anomaly⁵⁷ in comparison to other European countries. Studies have shown that countries that make extensive use of apprenticeships—particularly as a means of facilitating smoother integration between the education and training system and the labour market—tend to experience more success in addressing youth inactivity⁵⁸.

It is believed that the failure of apprenticeships in Italy is largely due to the misapplication of traineeships. Apprenticeships entail more complex

⁵³ L. Casano, F. Seghezzi, *I giovani tra mercato e non mercato. Lavoro, competenze e nuove professionalità*, cit., p. 62.

⁵⁴ Cf. F. Alifano, *Tirocini extracurriculari nella normativa della Regione Campania: una misura di politica attiva a basso costo*, *Bollettino ADAPT*, 17 October 2022, n. 35.

⁵⁵ T. Galeotto, *Garanzia Giovani e tirocini: le ragioni della grande diffusione degli stage extracurriculari*, *Bollettino ADAPT*, 27 June 2022, n. 25.

⁵⁶ It is worth pointing out that the adoption of the incentives under the Youth Guarantee programme didn't have a statistically significant effect in terms of youth employment. Cf. I. Brunetti, A. Ricci, *Programma Garanzia Giovani, occupazione e produttività. Evidenze su dati employer-employees*, *Sinapsi*, n. 1, 2023, p. 99.

⁵⁷ Also Corte dei Conti, *Disoccupazione giovanile: le politiche dell'UE hanno migliorato la situazione? Una valutazione della Garanzia per i giovani e dell'iniziativa a favore della occupazione giovanile*, Relazione speciale n. 5, 2017, p. 31, had highlighted the anomaly: “employment is the most common destination for “positive exits” in all Member States visited, except Italy, where traineeships account for 54% of these. In all other Member States visited, exits to employment ranged from 64% in Ireland to 90% in France”.

⁵⁸ S. D'Agostino, S. Vaccaro, *L'evoluzione dell'apprendistato in Europa, Economia & Lavoro*, n. 3, 2023, pp. 5 ss.

bureaucratic and administrative requirements, which impose a greater organisational and financial burden on companies. Consequently, companies often prefer to use extracurricular internships as a “trial period” before offering a formal contract, rather than as genuine training opportunities⁵⁹.

At the same time, the limited success of apprenticeships can also be attributed to a persistent cultural and structural issue. Despite some progress, there remains a significant difficulty in integrating training and work, resulting in insufficient dialogue between companies and educational institutions⁶⁰. In this context, although apprenticeships have the potential to be an ideal tool for matching labour supply with demand and promoting the development of vocational skills that enhance employability, they continue to be used primarily as a way of reducing labour costs, rather than for their training benefits or to improve labour quality and productivity⁶¹.

For apprenticeships to fully realise their potential, it is essential to adopt a systemic and coordinated approach involving the public sector, educational institutions, and businesses. Only through synergistic collaboration will it be possible to design high-quality apprenticeship pathways that guarantee significant professional development and the acquisition of skills that are truly valuable in the labour market.

Overall, the Youth Guarantee programme has proven inadequate as the sole solution to the NEET phenomenon. This has stimulated important reflections on the need for new models in the design and implementation of activation policies and initiatives to combat this issue. Furthermore, there is a need to identify successful local practices that can be expanded and systematised at the national level⁶². It can be argued that the programme has not only failed to

⁵⁹ C. Catalano, R. Fasola, D. Frisoni, T. Galeotto, G. Iacobellis, M. Sacconi, M. Tiraboschi, *Abolire i tirocini extracurriculari*, *Bollettino ADAPT*, 6 December 2021, n. 43.

⁶⁰ Cf. P. Tomassetti, *Apprendistato di primo livello e legislazione speciale sul lavoro dei minori: profili critici e prospettive evolutive*, *Variazioni su Temi di Diritto del Lavoro*, n. extraordinary, 2019, pp. 1866 ss.

⁶¹ As pointed out recently in Cnel, *XXV Rapporto Mercato del Lavoro e Contrattazione Collettiva*, 18 April 2024, p. 12.

⁶² According to G. Terzo, *Il terzo settore come driver delle politiche di attivazione dei giovani NEET in un’ottica di “secondo welfare”. Alcune riflessioni a margine dell’iniziativa Youth Guarantee*, *Paper presentato in occasione del XII Colloquio Scientifico sull’impresa sociale*, Dipartimento di Sociologia e Ricerca Sociale, Università degli Studi di Trento, 25-26 maggio 2018: “in order to intercept the most vulnerable NEETs, outreach actions must be promoted that adopt a model of intervention that is transversal to the multiplicity of problems to be addressed [...] The reference framework can be provided by the Public-Private-People-Partnership (4P) model that has been effectively adopted in the youth guarantee schemes promoted by Sweden and Finland. It envisages a partnership between all the actors involved in active employment policies - public institutions, social partners, enterprises, third sector - and the beneficiaries, who must actively participate in the definition of their career path”. Cf., also, C. Agostini, T. Sacconi, *Una*

produce the desired outcomes but may also lead Italy to return at least 160 million euros in unused resources to the European Union, as these funds have not been spent since 2014⁶³.

4. Training and Active Labour Market Policies

The process of significant and profound technological innovation, accelerated by the eruption of an unprecedented health emergency, has brought about substantial changes in the labour market, deeply affecting both the nature of work and its organisation. In fact, there has been an explosion of new organisational models that, on the one hand, challenge the “fixity”⁶⁴ and uniformity of working hours and, on the other hand, give rise to unprecedented “processes of dematerialisation and dispersion of production sites”⁶⁵.

Consequently, this “new production paradigm” alters the concept of place and time in work, creates new professional roles, and demands continually updated skills. These skills can be developed “through public interventions aimed at strengthening the education system, the vocational training system, and harmonising the accumulation of knowledge with work”⁶⁶.

In this context, of particular relevance are the “GOL programme,” the “Dual System”⁶⁷, and the “New Skill Fund”⁶⁸ which have been integrated into the broader “National New Skills Plan.” This plan serves as a strategic coordination framework for updating and qualifying/re-skilling interventions

Garanzia per i NEET. Garanzia Giovani in quattro regioni italiane: Calabria, Lombardia, Piemonte e Puglia, Percorsi di secondo welfare, 2020, pp. 60 ss.

⁶³ This is the provisional outcome of research by ActionAid and CGIL, *NEET: giovani in pausa. Superare gli stereotipi per costruire politiche pubbliche efficaci*, 2024, p. 9, according to which Italy used only 1.9 billion euro of the resources of the National Operational Programme - Youth Employment Initiative, i.e. 62% of the allocated budget of approximately 2.7 billion euro.

⁶⁴ M. Magnani, *I tempi e i luoghi di lavoro. L'uniformità non si addice al postfordismo*, WP C.S.D.L.E. “Massimo D’Antona”.IT, n. 404, 2019, p. 2.

⁶⁵ P. Bozzao, *Lavoro subordinato, tempi e luoghi digitali*, *Federalismi.it*, n. 9, 2022, p. 106.

⁶⁶ See *Il lavoro che cambia. Digitalizzazione, automazione e futuro del lavoro*, a document prepared by the Ministry of Labour in 2017 and presented on the occasion of the centenary of the International Labour Organisation, p. 2.

⁶⁷ It should be noted that the analysis of the “New Skills Fund” doesn’t fall within the scope of this study, as it doesn’t target young NEETs. For a more in-depth study, see C. Valenti, *La valorizzazione della professionalità nel post-pandemia: nuove opportunità per il dialogo sociale*, *Lavoro Diritti Europa*, n. 3, 2021, pp. 14 ss.; G. Impellizzieri, *Fondo nuove competenze e contrattazione collettiva: una rassegna ragionata*, *Diritto delle Relazioni Industriali*, n. 3, 2021, p. 895 ss.; L.V. Casano, *Formazione continua e transizioni occupazionali*, *Variazioni su Temi di Diritto del Lavoro*, n. 4, 2022, pp. 669 ss.; G. Impellizzieri, *Il Fondo nuove competenze cambia (ancora): al via la terza edizione*, *Bollettino ADAPT*, 9 December 2024, n. 44.

⁶⁸ Adopted by D.M. 14 December 2021, in G.U. no. 307 of 28 December 2021.

aimed at addressing the demand for new skills arising from digital and ecological transitions, in line with Mission 5 (Component C1, Intervention 1.1: Active Labour Policies and Training) of the Italian National Recovery and Resilience Plan (NRRP). Similarly, the recent “National New Skills-Transition Plan”⁶⁹ responds to the need for an effective and stable mechanism to combat skills mismatches, given the crucial role now played by “new skills” in an increasingly digital and green labour market.

Among the three aforementioned key programmes, the GOL introduces a “system reform”⁷⁰ of active labour market policies based on broad and well-known objectives, including the centrality of Essential Levels of Benefits (LEP), the proximity of services, integration with regional active policies and training policies, the construction of a territorial service network, a unified information system, and extensive monitoring activities. The GOL programme is implemented by the Regions and Autonomous Provinces based on the Regional Plans (PAR) approved by ANPAL.

The GOL programme aims to promote the reintegration of individuals benefiting from social safety nets, income support institutions (e.g., *Supporto per la formazione e il lavoro* and *Assegno d’inclusione*, with reference only to the “employable” members among the beneficiaries, who are required to sign a service pact with employment centres), all unemployed individuals regardless of gender, age, and duration of unemployment, workers with very low incomes (working poor), and vulnerable workers, including young NEETs under the age of 30⁷¹.

The programme is based on the customisation of services according to the individual characteristics of beneficiaries. The measures are divided into five pathways: occupational reintegration, upskilling and reskilling, work and inclusion, and collective outplacement.

Examining the results of the measure at a national level, the GOL programme has involved over 2.5 million users, of whom 28.7% are young people. Regional figures vary, with participation rates ranging from a low of 18.2% in Liguria to over 30% in Puglia, Sardinia, Friuli-Venezia Giulia, Veneto, and Piemonte. Specifically, young people have primarily benefited from re-employment pathways, as well as further training and retraining. However, the percentage of young people engaged in work integration and inclusion

⁶⁹ Adopted by D.M. 30 March 2024, in G.U. no. 120 of 24 May 2024.

⁷⁰ P.A. Varesi, *Una nuova stagione per le politiche attive del lavoro. Le prospettive tra azioni dell’Unione Europea e riforme nazionali*, *Diritto delle Relazioni Industriali*, n. 2, 2022, p. 75.

⁷¹ D.M. 5 November 2021, *Adozione del Programma nazionale per la garanzia di occupabilità dei lavoratori*, in GU no. 306 of 27 December 2021, supplemented by D.M. 30 March 2024, *Aggiornamento del programma GOL*, in GU no. 120 of 24 May 2024.

pathways for individuals with complex needs requiring multidimensional support is significantly lower.

This statistic is particularly concerning, as young NEETs under the age of 30 represent 33.6% of those who could have benefited from this type of support, having been identified as vulnerable. Currently, it can be argued that even the GOL programme is struggling to ensure truly personalised pathways for young dropouts. This challenge highlights the need for a shift in approach to more effectively engage and address the needs of individuals in vulnerable conditions, both from an educational and labour market perspective.

If, as it stands, the impact of the GOL programme on young NEETs cannot be considered satisfactory, more positive outcomes emerge from the “Dual System.” This system, which originated as an experiment in 2015⁷² represents the first major national investment initiative aimed at developing first-level apprenticeships. The goal is to integrate the school training system with the labour market, focusing on enhancing school-to-work alternation measures, with particular attention to dual apprenticeship contracts.

The programme aims to facilitate the transition from education to work for young people using three main tools: simulated alternance, enhanced alternance, and first-level apprenticeship (dual apprenticeship). More specifically, simulated alternance involves learning pathways within a training institution, using a simulated experiential context or through visits to productive company environments. Enhanced alternance entails experiential learning in companies or non-profit organisations, either inside or outside the training institution, with a specific focus on involving trainees in the provision of services or production of goods. Dual apprenticeship allows, on one hand, the attainment of an upper-secondary qualification, including IeFP qualifications and diplomas, and on the other, direct professional experience, thereby combining theoretical training with practical experience.

The provisions introduced in 2022 launched a major investment programme aimed at strengthening regional dual pathways and the apprenticeship institution. The programme’s implementation has been entrusted to the Regions, with the primary goal of increasing the number of participants in Vocational Education and Training (IeFP) and Higher Technical Education and Training (IFTTS) pathways in dual mode. Additionally, the programme seeks to promote the attainment and market viability of “relevant certifications.”

In this context, one of the interventions involves establishing a technological and vocational training chain, consisting of experimental courses in the second

⁷² The dual system was launched with the reform of the apprenticeship contract discipline with Legislative Decree no. 81/2015 and the subsequent interministerial decree of 12 October 2015.

cycle of education, training courses at Higher Technical Institutes (ITS Academy), and vocational and technical higher education and training courses (IFTS)⁷³.

Looking at the results on a national scale, the first monitoring report on the implementation of NRRP Intervention Mission 5 - Component 1 - Investment 1.4 related to the “Dual System” shows positive outcomes concerning the evolution of regional training offerings. A comparison of performance indicators for the 2022-2023 training year with those prior to the launch of the NRRP reveals a significant increase in enrolments in dual-mode IeFP courses (Years I to IV). This increase is particularly evident in the southern regions of Italy, reinforcing the trend of constant growth in the dual system. The system is proving increasingly effective, responding to both the training needs of students and the demands of enterprises directly involved in implementing these measures⁷⁴.

5. Conclusions and Prospects

“Despite the unprecedented opportunities offered by modern Europe, young people encounter difficulties in the education and training system and in accessing the labour market.” The European Commission’s reflection, contained in the “Youth on the Move”⁷⁵ report, aimed at promoting the potential of young people for smart, sustainable, and inclusive growth in the European Union, remains dramatically relevant today, more than a decade later. This is particularly true for Italy, which continues to stand out among advanced economies for its lack of effective tools to ensure the full and qualified inclusion of new generations in the labour market.

The NEET (Not in Education, Employment, or Training) phenomenon constitutes a complex challenge that requires a necessarily multidimensional and integrated approach. Reflection must begin with the education system, as it is a key element in defining concrete employment opportunities for young people. Indeed, an effective education system not only promotes the acquisition of knowledge and skills relevant to the labour market, but also contributes to reducing inequalities and fostering social inclusion, thus serving as a pillar for the economic and social progress of a country.

⁷³ L. 8 agosto 2024, no. 121, in G.U. no. 196 of 22 August 2024.

⁷⁴ Ministry of Labour and Social Policy, INAPP, Sviluppo Lavoro Italia, *Attualizzazione dei percorsi in modalità duale dell’Istruzione e Formazione Professionale (IeFP) e dell’Istruzione e Formazione Tecnica Superiore (IFTS)*, Report 1/2024.

⁷⁵ European Commission, *Youth on the move. Analytical report*, Flash Eurobarometer Series 319b, 2011.

A confirmation of this comes from an international study by Gi Group Holding⁷⁶, which shows that countries that invest more strategically in education, such as the United Kingdom, Sweden, and the Netherlands, are more successful in reducing the gap between school and work. These countries are better at counteracting the NEET phenomenon and supporting young people's entry and permanence in the labour market⁷⁷.

To achieve these positive results, the study emphasises that investments in education must be targeted towards fields of study closely related to the world of work, such as university STEM (Science, Technology, Engineering, and Mathematics) pathways. Furthermore, it is essential to promote the diversification of tertiary education through the organisation of technical pathways designed to provide immediately applicable skills, which involve companies directly in defining courses and subjects. This ensures alignment between the skills acquired by students and the needs of the labour market.

In this context, it is believed that the ITS Academy can offer a concrete solution to youth unemployment⁷⁸. ITS graduates, who acquire highly specialised skills in the field, are much more likely to find employment than those with bachelor's or master's degrees⁷⁹, as their expertise is highly sought after by companies.

Another tool with great potential—but one that is still struggling to take off, although “signs of enhancement”⁸⁰ can be discerned—to reduce the skills mismatch is the first-level apprenticeship. This represents the Italian approach to the German dual system, structured to combine in-company training with vocational education and training provided by training institutions⁸¹. It is believed that institutionalising first-level apprenticeships within the training offerings of agencies providing vocational education, or in technical or

⁷⁶ Gi Group Holding, *Youth and work, a comparative study. How to empower young people to enter and remain in employment and avoid the phenomenon of NEETs*, 2023.

⁷⁷ Despite a gradual improvement in recent years, Italian spending on education and training, at 4.1 per cent of gross domestic product, is still below the European average, with greater investment allocated to primary and secondary education and fewer resources allocated to tertiary education than in other countries. See, on this point, “*Education at a Glance 2024*” report, edited by the Organisation for Economic Cooperation and Development.

⁷⁸ Cf. A. Rosina, *Il contributo delle nuove generazioni*, in CNEL, *Rapporto 2024. Demografia e forza lavoro*, pp. 33-34.

⁷⁹ Indire, *Rapporto Nazionale. ITS Academy. Monitoraggio nazionale*, 2024.

⁸⁰ Inapp, *Segnali di potenziamento dell'apprendistato duale. XXII Rapporto di monitoraggio*, October 2024.

⁸¹ Cf. M.A. Impicciatore, *La formazione per l'occupazione nel mercato del lavoro che cambia*, *Diritti Lavori Mercati*, n. 3, 2020, p. 619.

vocational school courses, could encourage greater use of them, both by students and companies⁸².

Looking beyond the school-to-work transition, it is also necessary to consider unemployed young people who, after work experience, find themselves forced to look for a new job, often entering the critical area of long-term unemployment. When the main barrier to re-employment is the lack of adequate skills, it becomes crucial to offer them the opportunity to participate in medium- to long-term training courses. Among these, vocational qualification and IFTS courses are valid alternatives to the ITS Academy, as they allow young people to acquire technical and practical skills that are immediately applicable in the labour market.

Finally, learning from past mistakes, it is essential to promote actions aimed at identifying and reaching young people who are furthest from the labour market. This requires implementing strategies that raise awareness in local areas and disseminate knowledge of the opportunities offered by available programmes. These actions must include the active involvement of the third sector, educational institutions, and other local entities, creating collaborative networks capable of effectively reaching young people in more vulnerable situations.

In this context, the “Programma Nazionale Giovani, Donne e Lavoro”⁸³ is an opportunity not to be missed. Part of the active policy reform process implemented by the GOL, this programme is structured around five priorities, the first of which is aimed specifically at promoting the entry of young people into the labour market, with the goal of reducing the NEET rate to 9%.

⁸² E. Cappellini, S. Duranti, N. Faraoni, *L'apprendistato di primo livello vent'anni dopo. Un'analisi del mancato successo del duale all'italiana*, *Storia Democratica*, n. 2, 2024, p. 296.

⁸³ Commission Implementing Decision (EU) C 2022/9030 1 December 2022.

Guaranteed Minimum Income in Italy and the Fight Against Social Exclusion: A Downside Compromise in Light of the Principles of Equality and Solidarity

Silvio Bologna *

Abstract: This study examines the Italian social assistance system in the context of antipoverty measures, primarily structured through the minimum income guaranteed by the legislator. Adopting a multi-level perspective, the analysis highlights several critical issues within the legislation enacted over the past decade: administrative barriers to benefit allocation, the lack of coordination between the State and regional authorities in developing antipoverty strategies, and discriminatory practices against immigrants. The author concludes that these factors collectively hinder efforts to address the “poverty trap”.

Keywords: *Minimum income guaranteed; Poverty; Social exclusion; Italy; Discrimination*

* Associate Professor of Labour law at the University of Palermo (Italy). Email address: silvio.bologna@unipa.it. This work is based on the paper presented at the “XXIV ISLSSL World Congress - Work in a Changing World: The Quest for Labor Rights and Social Justice”, held in Rome on 17-20 September 2024. It is part of the activities carried out by the local research unit of the University of Palermo (CUP B53D23032690001), within the framework of the PRIN PNRR 2022 “YES - Youth Employment Strategy” (Principal Investigator: Prof. Carmela Garofalo, Code: P2022H89ZS). This project is funded under Mission 4 “Education and Research” of the PNRR (Component C2 - Investment 1.1, Fund for the National Research Programme and Projects of Significant National Interest - PRIN), using European funds from the NextGeneration EU Programme.

1. Tackling Social Exclusion in Italy: Socio-Economic Data and Theoretical Models

Statistical data clearly demonstrate that poverty and social exclusion in Italy have reached devastating proportions. According to a Eurostat survey, Italy exceeds the European average of poverty risk, with 28.3% of the population (compared to the EU average of 24.4%) exposed to the risks of income poverty and poverty even after intervention from social services. This is either because individuals experience specific material deprivations or because they live in families with low work intensity¹. The situation is no less concerning according to data from the Italian Institute of Statistics (ISTAT). A 2015 survey reveals that 7.6% of the population has experienced absolute poverty, unable to afford essential goods and services to maintain a dignified standard of living, while 10.4% of families suffer from relative poverty, with their purchases falling below the national average².

The geographic distribution of poverty presents the most striking data. EU reports clearly show that social exclusion particularly threatens the southern regions of Italy, where, in Sicily (55.3%), Campania (49%), and Calabria (43.5%), the rate of poverty risk and material deprivation is 20% higher than the national average³. In recent years, this geographical gap has widened following the pandemic and the economic turmoil caused by high inflation and rising prices of essential goods⁴. According to a Censis survey, 9.8% of Italians over 18 live in households where income is insufficient to cover monthly expenses. Additionally, 8.4% of Italians are experiencing food poverty, 9.5% energy poverty, and 2.7 million adults face financial hardship related to eye care. These are just a few examples of specific forms of poverty, which help explain the growing complexity of social hardship, beyond merely economic factors⁵.

The interpretation of these data must be approached from a dual perspective, considering not only Italy's specific macroeconomic context but also the broader transformation of Western capitalism. More

¹ See Eurostat, *People at risk of poverty or social exclusion – Statistics explained*, 2015, www.ec.europa.eu/eurostat.

² See Istat, *La povertà in Italia. Anno 2015*, www.istat.it.

³ See Commissione Europea, *Relazione per paese relativa all'Italia 2016 comprensiva dell'esame approfondito sulla prevenzione e correzione degli squilibri macroeconomici*, SWD (2016) 81 final, Bruxelles, 26th February 2016, 90 et seq.

⁴ Istat, *Torna a crescere la povertà assoluta*, 24th June 2021, www.istat.it.

⁵ Censis, *Il capitolo «Il sistema di welfare» del 58° Rapporto Censis sulla situazione sociale del Paese/2024*, 6th December 2024, www.censis.it

precisely, the spread of poverty and social exclusion is not solely the result of weaknesses within the Italian economy and labour market. Contributing factors include the absence of public investment programmes aimed at economic recovery, the prevalence of corruption and organised crime in certain regions, and a lack of investment in research and development by companies. Furthermore, Italy's labour market is not immune to the 'Great Transformation' of capitalism: the digitisation of the economy (including platform work, Industry and Logistics 4.0, and Artificial Intelligence) and the delocalisation of production resulting from global marketisation have significantly eroded employment rates, with domestic labour increasingly replaced either by machines or workers from developing countries across various economic sectors.

Additionally, even those in employment experience forms of social exclusion. Since the 1980s⁶, the liberalisation of the labour market has led to the introduction of various employment contracts (fixed-term, temporary, zero-hour contracts) that fail to ensure job stability and social security.

Lastly, the rigid monetarist policy and the 'dogma' of low inflation rates promoted by EU institutions act as obstacles to expansive macroeconomic policies aimed at raising wages and improving the quality of social services⁷. In this context, wage growth in Italy has been modest in comparison to other EU Member States in recent years⁸. Moreover, the lack of legislation concerning trade union representativeness and the absence of a binding mechanism on the general efficacy of collective agreements has resulted in very modest wage growth, exacerbating the issue of low-paid workers⁹. Less representative trade unions and employers' associations typically agree on wages lower than those set by the more representative unions.

In this context of declining employment and economic wealth, which supports the notion of an irreversible crisis in the Taylorist-Fordist socio-economic compromise¹⁰, it is crucial to reconsider the protective institutions of capitalism against poverty originally conceived in both the

⁶ A. Supiot, *L'esprit de Philadelphie. La justice sociale face au marché total*, Seuil, Paris, 2010, 32 et seq.

⁷ L. Cavallaro, *A cosa serve l'articolo 18*, Manifesto libri, Roma, 2012, 61 et seq.

⁸ C. Arena, *Eurostat. L'Italia è l'unico Paese europeo in cui le retribuzioni orarie sono in calo*, *Avvenire*, 19th March 2024.

⁹ T. Treu, *Labour law in Italy*, fifth edition, Wolters Kluwer, the Hague, 2016, 98.

¹⁰ F. Martelloni, *Il reddito di cittadinanza nel discorso giuslavoristico: le interferenze con la disciplina del rapporto di lavoro*, *Rivista del Diritto della Sicurezza Sociale*, 2014, 193.

Bismarck and Beveridge models as responses to temporary unemployment. In short, the two theoretical models of basic income and guaranteed minimum income have been developed¹¹. The former is an unconditional benefit provided to all members of the political community to satisfy their basic needs (food, education, healthcare), simply because they belong to that community, regardless of their status or economic situation. In contrast¹², the latter is means-tested, granted only to those living in poverty who agree to participate in ‘resocialisation’ projects (such as training or community-based social work).

2. The Italian and EU *Grundnorm* against Social Exclusion

The Italian social security system, established by the post-World War II Constitution, assigns marginal importance to the direct fight against poverty and social exclusion. Instead, it primarily reflects the model of a Taylorist society, which is focused on full employment as the economic and political goal, alongside a generous system of redistributive welfare benefiting workers.

Article 38 of the Italian Constitution, which governs social security, is the normative embodiment of this model of productive capitalism centred on work. Specifically, under Article 38, paragraph 1, “Every citizen unable to work and without the necessary means of subsistence is entitled to welfare support.” Social assistance, therefore, is primarily reserved for marginal cases, such as those experiencing psychophysical disabilities that prevent them from working, thus justifying state intervention in the form of monetary transfers. In line with the literal interpretation of Article 38, paragraph 1, the focal point of the social security system has been pensions, which provide workers with adequate resources to meet their

¹¹ For a reconstruction of the politic science scholars’ debate on the topic see F. Ravelli, *Il reddito minimo. Tra universalismo e selettività delle tutele*, Giappichelli, Torino, 2018, 35-66.

¹² The model of basic income was theorised by Philipp van Parijs: P. Van Parijs, *Basic income: a simple and powerful idea for the twenty-first century*, *Politics and Society*, 2004, p. 7 ss. In practice, it has been implemented only in some areas of Finland in an experimental way and in Alaska: see G. Impellizieri, *Finlandia: l’esperimento del reddito di base*, Id., *Il reddito di cittadinanza in Alaska*, in M. Morocco, S. Spattini (eds.), *Diritto al lavoro, contrasto alla povertà, politica attiva, inclusione sociale: le tante (troppe?) funzioni del reddito di cittadinanza all’italiana. Primo commento al d.l n. 4/2019*, Adapt University Press, Bergamo, 2019, 145 et seq.; J. Murto, *Finnish basic income experiment and the simultaneous discussions on the employment rate and continuous learning*, in M.G. Greco (a cura di), *Contrasto alla povertà e rischio di esclusione sociale. Le misure di sostegno al reddito*, Giappichelli, Torino, 2021, 183-190.

needs in the event of old age or involuntary unemployment, in accordance with Article 38, paragraph 2 of the same Constitution¹³.

In the context of today's Italy, which faces challenges such as working poverty, NEE'Ts (Not in Education, Employment, or Training), and high unemployment rates, the legal foundation for a normative action against poverty and social exclusion can be found in the fundamental principle of material equality. In particular, Article 3, paragraph 2, states: "It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organisation of the country." This provision must be read in conjunction with Article 4 of the 'Bill of Rights', which not only recognises the fundamental right to work but also states that every citizen must contribute to the material and spiritual development of society.

If we follow a systematic interpretation of Articles 4 and 3, paragraph 2 of the Italian *Grundnorm*, we can identify the legal basis for a guaranteed minimum income model as a fundamental tool in the fight against social exclusion¹⁴. In this framework, monetary transfers to the impoverished are aimed at resocialising individuals through active labour policies that enhance their skills and capabilities, helping them to re-enter the workforce. While the Constitution does not preclude the introduction of a basic income, which would align with the same principles of equality and solidarity, the minimum income model is likely more appropriate at present, given the labour-based foundation of the Italian political community enshrined in Article 1.

Turning to the EU legal framework, several provisions address the fight against social exclusion. Notably, Article 34, paragraph 3, of the Charter of Nice states: "The Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources" thereby enshrining the European fundamental

¹³ Under Art. 38, par. 2 of the Italian Constitution "Workers have the right to be assured adequate means for their needs and necessities in the case of accidents, illness, disability, old age and involuntary unemployment".

¹⁴ C. Tripodina, *Reddito minimo garantito e reddito di base allo specchio nella Costituzione italiana*, in M.G. Greco (a cura di), *op. cit.*, 63 et seq.; V. Bavaro, *Reddito di cittadinanza, salario minimo legale e diritto sindacale*, *Rivista del Diritto della Sicurezza Sociale*, 2014, 174; M. Ferraresi, *L'Assegno di inclusione tra vincoli costituzionali ed europei in tema di reddito minimo garantito*, *Lavoro diritti Europa*, 2024, 1, 7: in any case, the author argues that the Constitution is not entirely centered on the right to work when ensuring social assistance.

right to a guaranteed minimum income¹⁵. However, the same Article also stipulates that actions against social exclusion must be carried out “in accordance with the rules laid down by Community law and national laws and practices.” Since, under Article 153 TFEU, the EU has no specific competence in social security, aside from coordination, and can only theoretically intervene to harmonise domestic systems with the unanimity principle, the normative policy against poverty rests largely in the hands of individual Member States¹⁶.

This conclusion is reinforced by the European Pillar of Social Rights, which was prominently presented in 2017 by the EU Commission as a political response to the social deficit within the Union¹⁷. The Pillar asserts that “Everyone lacking sufficient resources has the right to adequate minimum income benefits ensuring a life in dignity at all stages of life, and effective access to enabling goods and services,” along with “incentives to (re)integrate into the labour market” (Article 14). Nevertheless, the Pillar remains a non-binding declaration and is not accompanied by concrete EU action, as outlined in the treaties. At best, it may serve as a useful interpretive guideline, should the EU decide to intervene further on the matter via the open method of coordination, which governs EU action on guaranteed minimum income¹⁸.

The EU’s inadequacy in providing social assistance is further exacerbated by the regulations embedded within the ‘New European Economic Governance’. These tools, which include both soft and hard law (such as the Europlus Pact, ECB letters, Six-Pack and Two-Pack Regulations), sometimes overlap between EU and international law (e.g., the Fiscal Compact Treaty and Memoranda of Understanding). They impose significant constraints on state spending, particularly in Southern Europe, in the aftermath of the 2010 Great Recession¹⁹. During this period, the

¹⁵ See G. Bronzini, *Il reddito di cittadinanza, tra aspetti definitivi ed esperienze applicative*, *Rivista del Diritto della Sicurezza Sociale*, 2014, 14.

¹⁶ See J.L. Monereo Pérez, *Artículo 34*, in C. Monereo Atienza, J.L. Monereo Pérez (dir.), *La Europa de los derechos. Estudio sistemático de la Carta de los derechos fundamentales de la Unión Europea*, Comares, Granada, 2012, 906-907.

¹⁷ See https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_it.

¹⁸ G. Bronzini, *Il contrasto del rischio di esclusione sociale nel diritto europeo*, in M.G. Greco (a cura di), *op. cit.*, 42.

¹⁹ See T. Schulten, T. Müller, *A new European interventionism? The impact of the new European economic governance on wages and collective bargaining, Social developments in the European Union*, ETUI, Brussels, 2012, 193-194.

emphasis on balancing public finances often took precedence over ensuring the effectiveness of social rights²⁰.

These regulations have been revisited in the 2024 reform of the EU Growth and Stability Pact²¹. All EU member states will be required to reduce their debt to 60% of GDP, a stark contrast to the 92.5% debt ratio in the Eurozone as of late 2022. Additionally, they must move towards a structural deficit of 1.5%. It remains unclear how these fiscal constraints will allow the EU to meet the sustainable development goals mentioned in the approved documents by EU institutions, such as the green and digital transitions, social resilience, poverty reduction, and addressing the ageing population. These long-term projects will inevitably impact future generations, for which the use of debt financing would be fully justified²².

3. The Choice for a Guaranteed Minimum Income: From the Onofri Commission Report to the *Reddito di Inclusione Attiva*

The first theoretical proposal for a social security strategy aimed at combating material deprivation was outlined in a 1997 report by the Onofri Commission, commissioned by the Ministry of Labour to map the transformation of work and the new forms of poverty emerging after the collapse of the First Republic, when a centre-left government governed Italy. In particular, the report emphasised the need for a minimum income as part of a broader strategy for the social inclusion of the most disadvantaged individuals, in combination with other social services interventions²³.

For a long time, however, the legislator was reluctant to implement the Onofri Commission's recommendations, due to both cultural and financial reasons. Firstly, the legacy of the Bismarckian social security model, based on workers' contributions, posed an obstacle to the introduction of universal welfare schemes funded by taxpayers. Secondly, the shift towards minimum income schemes required a redistribution of social expenditure, a significant challenge given that in 2013, 50.1% of

²⁰ S. Giubboni, *Solidarietà e condizionalità nella garanzia dei diritti sociali*, Prisma Economia Società Lavoro, 2023, 1-2, 97-98.

²¹ For a detailed analysis of the reform of the Growth and Stability Pact, see S. Menguy, *Reform of the Stability and Growth Pact: Which changes for the governments?*, *Journal of government and economics*, 2024, 1-11.

²² G. Pisauro, *La riforma delle regole fiscali europee, il Mulino*, 2024, 2, 117.

²³ See Commissione per l'analisi delle compatibilità macroeconomiche della spesa sociale, *Relazione finale*, 28th February 1997, available at www.reforming.it.

social spending was still allocated to old-age pensions, with only 0.7% directed towards anti-social exclusion strategies²⁴.

Consequently, all social assistance measures aimed at combating poverty until 2017 were not part of a comprehensive social security reform. Instead, these were sporadic interventions—whose scope was determined by the annual budget bill—targeted solely at the most impoverished families. These included the *reddito minimo di inserimento* (Minimum Insertion Income) established by Legislative Decree no. 237/1998 and the *reddito di ultima istanza* (Income of Last Resort) introduced by Act no. 350/2003. Later, the legislator introduced the *social card* (Law Decree no. 112/2008), a type of credit card for destitute individuals to pay for food and energy tariffs, which was replaced in 2016 by the *SLA* (Sostegno per l’Inclusione Attiva), a temporary social security measure for low-income families.

4. The *Reddito di Cittadinanza* under Law Decree No. 4/2019: Between Continuity and Ambiguity

Until October 2017, Italy was the only country in the EU, alongside Greece, without a permanent measure to combat social exclusion and poverty, despite several recommendations from the EU on this matter²⁵. It was only with Legislative Decree No. 147/2017 that the Italian legislator introduced a structural measure aimed at addressing material deprivation, the *reddito di inclusione attiva* (hereinafter REI).

The REI, one of the last provisions enacted during the centre-left legislature, which saw the alternation of the Letta, Renzi, and Gentiloni governments, was a form of guaranteed minimum income based on a *do ut des* approach: money transfers were contingent on the beneficiary’s engagement in active labour market policies. Unfortunately, an exhaustive evaluation of the measure’s concrete impact is difficult, as it was replaced in March 2019 by the *reddito di cittadinanza* (henceforth RDC) under Law Decree No. 4/2019²⁶. In practice, the structural differences between the REI and the RDC are minimal, apart from some technical adjustments, as

²⁴ See Istat, *Rapporto annuale 2016*, chapter 5, available at www.istat.it.

²⁵ See European Parliament, *Minimum income policies in EU member states*, April 2017, in http://www.europarl.europa.eu/RegData/etudes/STUD/2017/595365/IPOL_STU%282017%29595365_EN.pdf.

²⁶ Law decree no. 4/2019 was converted into law by Act no. 26/2019.

both are based on the same axiological principle of guaranteed minimum income²⁷.

The introduction of this new legislative measure and the rebranding of the scheme (from REI to RDC) were driven by political strategy and media propaganda. Firstly, the term *reddito di cittadinanza* literally translates to “basic income” in Italian. Secondly, during the 2018 electoral campaign, the *Movimento Cinque Stelle* presented the RDC as a central pillar of its platform to secure victory in the legislative elections. Thirdly, in the agreement with *Lega Nord* to form a new coalition government, the RDC was presented as a tool for Italian citizens facing hardship, with a total sum of 780 euros for one-person households²⁸. In other words, the political strategy of the government was based on a conscious and deliberate misunderstanding: the benefit was presented as unconditional to gain electoral support, even though it was designed as conditional²⁹ by senior civil servants.

The RDC consisted of two components: firstly, an economic sum dependent on household size and income (higher than the REI), aimed at integrating incomes and assisting with rent payments, ranging from 480 to 9,360 euros per year for households of five or more people; secondly, a personalised social inclusion programme based on the assessment of household members.

In brief, the RDC was based on four main pillars: the measure aimed to tackle poverty not at the individual level, but at the family level, with compliance with income and asset thresholds set by law. Its operation, influenced by the principles of *flexicurity* and active labour market policies, was strictly conditional on the participation of all working-age family

²⁷ R. Casillo, *Il reddito di cittadinanza nel d.l. 28 gennaio 2019, n. 4: precedenti, luci e ombre*, *Rivista del Diritto della Sicurezza Sociale*, 2019, 558; C. Del Bò, *Reddito di cittadinanza italiano e reddito di cittadinanza correttamente inteso. Chiarimenti concettuali e riflessioni etiche*, in M.G. Greco (a cura di), *op. cit.*, 93; P. Sandulli, *Nuovi modelli di protezione sociale fra istanze risalenti e pretese recenti: profili di criticità e problemi di finanziamento*, *Massimario di Giurisprudenza del Lavoro*, 2019, 629; in a similar vein, see V. Fili, *La sostenibilità del sistema pensionistico italiano tra equilibri ed equilibrismi*, *Massimario di Giurisprudenza del lavoro*, 2018, 35.

²⁸ See Art. 19 (*Reddito di cittadinanza e pensione di cittadinanza*) of the *Contratto per il governo del cambiamento*, available at http://download.repubblica.it/pdf/2018/politica/contratto_governo.pdf.

²⁹ C. Del Bò, *Il reddito di cittadinanza tra mito e realtà*, *il Mulino*, 2013, 790: since the original proposal of 2013, for the *Movimento Cinque Stelle* the “reddito di cittadinanza” was a form of minimum income guaranteed. More in general, on the semantic ambiguities of the language related to measures of fight against poverty see P. Tullini, *Opinioni a confronto sul reddito di cittadinanza. Un dialogo aperto*, *Rivista del Diritto della Sicurezza Sociale*, 2018, 687.

members. As a result of *flexicurity*, the subsidy was granted temporarily for a maximum of 18 months³⁰, and applicants were required to accept a “fair job offer”; failure to do so resulted in automatic forfeiture of the benefit. Beneficiaries could refuse the first two job offers, but the third refusal led to the loss of the benefit.

Delving deeper into the technicalities of Act No. 4/2019, the granting and functioning of the RDC could be likened to an actual “hurdle race,” creating the potential for social control over the most disadvantaged families. For example, individuals under 26 could not apply for the measure if they still lived with their parents. Additionally, all family members had to provide an immediate declaration of availability for work—not just the applicant. Furthermore, if the family did not spend the entire amount of the benefit in the designated month, the subsequent monthly payment would be automatically reduced by 20%.

The definition of a “fair job offer” was also highly controversial: an offer was deemed fair and must be accepted if the workplace was located at least 100 km from the applicant’s place of residence during the first 12 months of the benefit. After the first 12 months, the minimum distance increased to 250 km, and in the case of a renewal of the benefit, the offer could come from anywhere within the national territory.

Given that the maximum amount of the RDC was 780 euros for one-person households, and that the highest unemployment and poverty rates were concentrated in Southern Italy, the legislator seemingly envisaged a forced migration of the workforce from Southern to Northern Italy, where demand for workers was higher³¹. In practice, however, this did not occur, as there was a mismatch between labour demand and supply. Most RDC recipients had limited skills due to their previous work experience and social backgrounds. Moreover, the reach of public employment services as an effective means of matching labour demand and supply was limited.

In the spirit of *flexicurity* and conditionality, the strategy to combat poverty was not simply a matter of providing money for no more than 18 months. The RDC was framed as a pathway to social and employment inclusion, requiring an initial assessment of the family to evaluate living conditions, employability, education, and training. Based on this assessment, a personalised social inclusion programme was designed by public

³⁰ Under Art. 3 par. 6 of Law decree no. 4/2019, it was possible to renew the RDC after a suspension of one month before the same renewal.

³¹ R. Ciccarelli, *Il reddito del controllo sociale: contro i giovani, sanziona i poveri, sorveglia gli affetti*, *Il manifesto*, 22nd March 2019.

administrations, with the goal of helping applicants access the labour market through participation in specific activities. The related conditionality mechanism was rigid, placing excessive emphasis on the role of the family unit in the implementation of the measure³². All family members—not just the applicant—were required to provide an immediate declaration of availability for work to the relevant authority. Furthermore, the entire family could lose the benefit if one member failed to attend two consecutive meetings with social services without a valid justification, or if they did not sign the declaration of availability for work.

Another significant issue was the lack of sufficient financial and human resources allocated to the administrative authority responsible for implementing the personalised social inclusion programme—the *centri per l'impiego* (employment centres), managed by regional authorities. These centres lacked the necessary resources to meet the ambitious goals set out by the RDC. Comparatively, Italy was far behind Germany, which allocated 12 billion euros annually to fund its public employment services (*Bundesagentur für Arbeit*), employing approximately 111,000 staff³³. Public investment in this regard was modest and inadequate. For example, Law Decree No. 4/2019 allocated only 160 million euros for 2019, 130 million euros for 2020, and 50 million euros for 2021. In response, the ANPAL (National Agency for Active Labour Policies) launched a recruitment campaign for 3,000 “navigators” to support the *centri per l'impiego* in managing RDC-related activities³⁴. However, the recruitment of “navigators”—temporary workers under collaboration contracts until April 2021—was merely a stopgap measure, underscoring the need for a broader reform of Italy’s social security and labour market policies. Moreover, the employment contracts of navigators were not renewed upon expiry, and the ambitious plan to create a “federal agency” to tackle unemployment was ultimately abandoned.

A further challenge in implementing an effective strategy to combat poverty lies in Italy’s regionalised institutional structure. Following the 2001 constitutional reform³⁵ and earlier 1990s legislation, social assistance

³² P. Pascucci, *Note critiche sparse a margine del reddito di cittadinanza*, *Rivista del Diritto della Sicurezza Sociale*, 2020, 280.

³³ D. De Masi, *Inclusione e cittadinanza*, *Diritti Lavori Mercati*, 2019, 370.

³⁴ See Anpal, *Avviso pubblico procedura selettiva pubblica per il conferimento di n. 3000 incarichi di collaborazione ex art. 12 del Decreto Legge 28 gennaio 2019, n. 4, convertito in legge con modificazioni dalla Legge 28 marzo 2019, n. 26 recante disposizioni urgenti in materia di Reddito di cittadinanza e di Pensioni*, available at <https://www.anpalservizi.it/home>.

³⁵ S. Bologna, *Internal coordination of social security in Italy*, *European Journal of Social Security*, 2019, 142-143.

is a shared responsibility between the State and the Regions. Under Article 117 of the Italian Constitution, the State determines the basic levels of benefits related to civil and social entitlements that must be guaranteed throughout the national territory. However, individual regions can enhance these benefits depending on their financial resources.

In this context, the RDC (like its predecessor, the REI) represented the basic level of benefits in the fight against poverty, but it was only implemented effectively by certain regions with higher spending capacities, such as Emilia-Romagna, Friuli, Puglia, and the Province of Trento. In brief, some regions increased the national economic benefit or expanded the scope of beneficiaries³⁶. This fragmented system can lead to inequalities in the battle against social exclusion, as the extent of protection ultimately depends on the region in which the disadvantaged person resides. Local social benefits cannot be transferred to another region if the person moves, thus creating a paradox: the more developed regions, with higher spending capacities, are better positioned to combat social exclusion than the poorer regions, where the struggle against poverty is more urgent and much needed.

5. The *Assegno di Inclusione*: A Downside Maquillage of the *Reddito di Cittadinanza*

As previously outlined, the RDC was characterised by a dual objective: firstly, it served as a social assistance measure to combat social exclusion; secondly, it functioned as an active labour market ‘tool’ to enhance the skills of individuals seeking employment. According to data from the Bank of Italy, it significantly contributed to supporting the income of families and mitigated the negative impact of the pandemic³⁷.

However, in terms of active labour market policies, the measure did not effectively activate the unemployed for several reasons: firstly, the weak demand for labour in the southern parts of Italy, where the majority of RDC applicants resided; secondly, delays in empowering the public bodies responsible for facilitating the match between labour demand and supply; and finally, the financial amounts of the RDC led to an effective marginal

³⁶ On the regional measures against poverty, see S. Laforgia, *I dispositivi regionali di contrasto alla povertà: dalla periferia al centro... e ritorno*, *Variazioni su Temi di Diritto del Lavoro*, 2019, 489-507.

³⁷ G. Bovini, E. Dicarlo, A. Tomasi, *Banca d'Italia Occasional papers. La revisione delle misure di contrasto alla povertà in Italia*, no. 820, December 2023, 5.

tax rate that discouraged labour supply, as in many cases, an increase in labour income resulted in an equal reduction in the subsidy³⁸.

With Law Decree No. 48/2023³⁹, the new right-wing government led by Giorgia Meloni reshaped the legislative framework for national social assistance measures against poverty and social exclusion. As of 1st January 2024, the “Allowance of Inclusion” (Assegno di Inclusione, hereinafter ADI) replaced the RDC. This measure, more selective⁴⁰ and structured into two components—income integration and tenancy support—represents a form of minimum income guarantee⁴¹ that is less generous than the RDC⁴². The ADI will be granted for up to 18 months, and, after a month of suspension, it can be renewed for up to 12 months (18 months under the RDC). Moreover, access to the ADI is subject to more restrictive personal and age criteria than those for the RDC⁴³: the benefit is now available only to poor households with disabled individuals, minors, or those over 60 years of age.

The logic of conditionality has been exacerbated⁴⁴: to retain the benefit, the applicant must accept the first job offer with a permanent employment contract, deemed adequate anywhere in the national territory. Additionally, the sanctioning approach to participation in active policy programmes is evident in Article 4.5, where submission is regarded as a burden rather than an opportunity. In fact, “every ninety days, beneficiaries are required to report to employment centres to update their status,” and in the event of absence, “the economic benefit is suspended.” Furthermore, receiving the allowance requires the signing of the “activation pact,” the “inclusion pact,” and the “customised service pact,”

³⁸ G. Bovini, E. Dicarlo, A. Tomasi, *op. cit.*, 6.

³⁹ Law-decree no. 48/2023 was converted into Law no. 85/2023.

⁴⁰ Under Art. 1, par. 2 Law decree no. 48/2023 the inclusion allowance is “a social and labour inclusion measure, conditional on means testing and adherence to a personalised pathway of activation and social and labour inclusion”.

⁴¹ A. Morrone, *I reati in materia di assegno di inclusione e supporto per la formazione e il lavoro*, *Lavoro e diritto*, 2024, 383.

⁴² M. Esposito, C. Di Carluccio, *Attivazione, inclusione e condizionalità nel PNRR*, *Lavoro e diritto*, 2023, 281, *sub note* 4; G. Bronzini, *La controriforma del Reddito di cittadinanza alla luce delle Raccomandazioni e delle fonti sovranazionali dell’Unione Europea*, *Prisma Economia Lavoro Società*, 2023, 1-2, 21; A. Sartori, *Misure di inclusione sociale e lavorativa dopo il reddito di cittadinanza. Back to the future or to the past?*, *Rivista del diritto della sicurezza sociale*, 2023, 744.

⁴³ For further details see H. Caroli Casavola, *Il congedo del Reddito di cittadinanza e il passaggio al Welfare condizionale*, *Giornale di diritto amministrativo*, 2023, 610.

⁴⁴ E. Gragnoli, *Il lavoro e la rendita, il reddito di inclusione e il dovere di attivazione*, *Argomenti di diritto del lavoro*, 2023, 915.

resulting in a flood of e-mail communications between municipalities and regional employment structures.

What is particularly notable is the division between social assistance and active labour market measures. For adults (18-59 years old) experiencing material deprivation, the legislator has introduced the Support for Training and Work (Supporto per la Formazione e il Lavoro, henceforth SFL). This benefit is targeted at members of families who have declared themselves to be “employable” or who do not have vulnerable members that would otherwise qualify for the ADI.

Specifically, the measure aims to encourage the participation of “employable” poor individuals in training projects, qualification, retraining, vocational guidance, and support for work and active employment policies. The monthly amount of the benefit is €350, granted by the Italian social security agency if the applicant participates in activation courses for up to 12 months, with no possibility of renewal.

In summary, the legislator distinguishes between families that are not in a position to work, who are eligible for the more robust ADI measure, families whose members are potentially able to work, who are eligible for job activation measures, and families receiving the SFL.

6. Minimum Income Guaranteed and Discrimination Against Immigrants: An Attack on the Principle of Equality

Since the early 2000s, all coalition governments, both centre-left and centre-right, have drafted a social assistance model with various barriers for non-EU citizens in terms of access to different measures, including the RDC or ADI⁴⁵. In particular, the subjective requirements for applying for the RDC were clearly part of a broader political strategy based on chauvinism and financial savings enacted by the government that introduced the measure, which was never amended.

Potential claimants who were neither Italian nor EU citizens had to hold an “EU green card” or have been granted international protection (political asylum or subsidiary protection) and had to have been residents in Italy for at least ten years, with the last two consecutive, before applying for the benefit. Furthermore, as the benefit could not be claimed by families possessing specific assets or whose income exceeded a certain

⁴⁵ S. Bologna, *Lavoro e sicurezza sociale dei migranti economici: l'eguaglianza imperfetta*, in G. De Marzo, F. Parisi (a cura di), *Diritto e immigrazione. Un quadro aggiornato delle questioni più attuali e rilevanti. Il foro italiano. Gli speciali 3/2021*, La Tribuna, Piacenza, 2021, 292; W. Chiaromonte, *Lavoro e diritti sociali degli stranieri*, Giappichelli, Torino, 231.

threshold, immigrants from certain countries were required to present a statement issued by their home country's government, translated into Italian and ratified by the Italian consular authority, certifying that they did not own assets or income in their country of origin⁴⁶.

Apart from political considerations, this measure starkly contradicted international, European, and constitutional law, as it represented a clear violation of the principles of equality and non-discrimination based on nationality. From a multi-level perspective, the provision first violated Article 10 of ILO Convention No. 143/1975 on migrant workers⁴⁷, ratified by Italy, which unconditionally sets the principle of equal opportunities and treatment between regular immigrants and national workers concerning employment conditions and social security benefits⁴⁸. Moreover, in the regional context, according to the jurisprudence of the European Court of Human Rights (ECHR), based on property rights, if a member state of the Council of Europe introduces a particular welfare measure, it cannot apply discriminatory treatment based on nationality⁴⁹.

Finally, the Italian legislator also violated EU anti-discrimination law, as outlined in Article 12 of Directive 2011/98⁵⁰ and the related jurisprudence of the European Court of Justice (ECJ). Regular immigrants are fully equal to national and EU citizens when it comes to receiving family and social assistance benefits unless the state explicitly waives this general rule in very limited circumstances⁵¹. The ECJ has also condemned Italy for its

⁴⁶ In particular, the mandatory certificate was addressed to citizens of the following countries: Bhutan; Republic of Korea; Republic of Fiji; Japan; Hong Kong; Iceland; Kosovo; Kirghizistan; Kuwait; Malaysia; New Zealand; Qatar; Ruanda; S. Marino; Saint Lucia; Singapore; Switzerland; Taiwan and Kingdom of Tonga.

⁴⁷ See ILO, *Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers*.

⁴⁸ A. Garilli, *La sicurezza sociale degli immigrati: alla ricerca della solidarietà perduta*, *Rivista del Diritto della Sicurezza Sociale*, 2020, 252.

⁴⁹ See ECHR 16.9.1996, no. 17371/90, *Gaygusuz vs Austria*, ECHR 30.9.2003, no. 40892/98, *Kova Poirrez vs France*, ECHR 29.10.2009, no. 29137/06, *Amer vs France*. All judgments are available at www.echr.coe.int. Decisions were based on Art. 14 of the ECHR and Protocol no. 1 of the ECHR on property rights.

⁵⁰ P. Bozzao, *Reddito di cittadinanza e laboriosità*, *Giornale di diritto del lavoro e di relazioni industriali*, 2020, 14.

⁵¹ See art. 12.2 of dir. 2011/98: Member States may decide that family benefits shall not apply to third-country nationals who have been authorised to work in the territory of a Member State for a period not exceeding six months. No other derogations to the right to equal treatment regarding social assistance are contained in this provision. Even in connection with these exceptions (i.e., the holding of a permit of 5 months), the ECJ ruled that these waivers must be read strictly and can be relied on only if the authorities of the Member State concerned responsible for the implementation of that directive have

legislation on benefits for households with at least three children, which it deemed discriminatory under Directive 2011/98, as entitlement was only granted to third-country nationals with a long-term EU residence permit⁵². Moreover, the provision set out in the directive reflects the general principle of equal treatment outlined in Article 20 of the EU Charter of Fundamental Rights, which establishes that comparable situations should not be treated differently, and that different situations should not be treated the same way unless such differential treatment is objectively justifiable and proportionate⁵³. In this regard, the ECJ ruled that Article 20 of the Nice Charter also applies to third-country nationals in situations falling within the scope of Union law⁵⁴.

Concerning Italian anti-poverty measures, the ECJ recently declared the rules on the RDC related to the ten-year residency requirement, the final two of which must be consecutive, to be contrary to European Union law⁵⁵. In the Court's view, this mechanism represents indirect discrimination in light of Article 11.1.d of Directive 2003/109/EC, concerning the status of third-country nationals who are long-term residents. In practice, this measure places all nationals at an advantage and creates a form of discrimination prohibited by the same directive, according to which long-term residents are entitled to equal treatment with nationals in terms of social security, social assistance, and social protection as defined by national law. The Court also considered the RDC to be a social assistance measure because it enables individuals to meet basic needs such as food, accommodation, and healthcare⁵⁶.

stated clearly that they intended to rely on them: see Case C-449/16, *Del Rosario Martínez Silva*, ECLI:EU:C:2017:485, pars. 29 and 30 and Case C-302/19, *INPS v WS*, ECLI:EU:C:2020:957, par. 26.

⁵² See ECJ, 21st June 2017, *Kerly Del Rosario Martínez Silva v Istituto nazionale della previdenza sociale (INPS), Comune di Genova*, cit.

⁵³ H. Verscheuren, *Equal treatment as an instrument of integration. The CJEU's case law on social rights for third-country nationals under the EU migration directives*, *European Journal of Social Security*, 2023, 245.

⁵⁴ Opinion 1/17 CETA ECLI:EU:C:2019:341, pars. 169 to 177 and Case C-930/19 X v Belgian State, ECLI:EU:C:2021:657, par. 54.

⁵⁵ ECJ, 29th July 2024, *CU-ND*, C-112/22 and C-223/22. Subsequently, some Italian courts, which had suspended proceedings pending the ECJ ruling, have accepted the appeals on the basis of the reasons set out by the ECJ recognizing the illegality of the requirement of ten years' residence. Therefore, they have ordered the Italian Social Security Institute (INPS) the payment of sums that had been returned by beneficiaries to whom the measure had been withdrawn for the lack of residence criterion, as well as the sentence to pay the remaining measure at the withdrawal. See Tribunal of Turin, 6th November 2024, and Tribunal of Milan, 19th September 2024, both in *www.asgi.it*.

⁵⁶ ECJ, 24 April 2012, *Kamberaj*, C-571/10, pars. 86-92.

In recent years, the Italian Constitutional Court has declared several social assistance laws unconstitutional, particularly those that recognised benefits only for immigrants legally residing in Italy for at least five or ten years. These decisions have been based not only on ECHR and ECJ jurisprudence but also on the constitutional principles of material equality and reasonableness⁵⁷. According to the Court, in situations of extreme material deprivation, the criterion of nationality does not provide an objective justification for discrimination against third-country nationals, as the legal fight against social exclusion – a matter concerning an individual's basic needs – should not differentiate between individuals based on nationality⁵⁸.

However, the Constitutional Court has since changed its stance, adopting more restrained positions, as demonstrated in a judgment on the social pension, a social security benefit for elderly individuals (over 67 years old) with no income who have resided in Italy for at least ten years, or for immigrants with a long-term residence permit. The Court fully legitimised residential restrictions for non-EU citizens, stating that states should only grant access to social benefits in compliance with the principle of national solidarity if the beneficiaries can prove they are sufficiently integrated into the host society. This integration could be demonstrated by contributing to the financing of these benefits for a certain period or by proving a sufficient level of integration⁵⁹.

In relation to the RDC, the Constitutional Court deemed it reasonable to grant the benefit only to non-EU citizens with a long-term residence permit⁶⁰. It argued that the goal of the measure – to combat poverty – takes precedence over the goal of employability. Therefore, since the job

⁵⁷ V. Ferrante, *È incostituzionale l'esclusione dei cittadini extra-UE dai benefici sociali: si apre la via all'eguaglianza sostanziale?*, *Rivista del diritto della sicurezza sociale*, 2018, 749.

⁵⁸ See, i.e., Constitutional Court decisions 2nd July 2024, no. 147; 23rd April 2023, no. 77; 11th January 2022, no. 54; 25th July 2018, no. 166; 30th May 2018, no. 107; 30th May 2018, no. 106, all available at www.giurcost.org.

⁵⁹ See Constitutional Court 15th March 2019, no. 50, *Rivista giuridica del lavoro*, 2019, II, 675, with obs. by Carla Spinelli, *La sentenza n. 50/2019: cronaca di un inaspettato arresto nella giurisprudenza della Corte costituzionale in materia di prestazioni sociali degli stranieri*. It should be noted, however, that in the field of social assistance (and also in areas other than income support benefits), judges of first instance and Court of appeals are unanimous in considering long-term residence in the Italian/regional/municipal territory as indirect discrimination against immigrants: in recent times, see, i.e., Tribunal of Padua, 2nd January 2025; Tribunal of Milan, 29th June 2023, both in www.asgi.it.

⁶⁰ See Constitutional Court 25th January 2022, no. 19, *Rivista del diritto della sicurezza sociale*, 2022, 75, with obs. by A. Garilli, S. Bologna, *Migranti e lotta alla povertà. La Corte costituzionale nega il reddito di cittadinanza ai titolari del permesso di soggiorno per ricerca di un'occupazione*.

activation programme is not short-term (and the RDC lasts at least 18 months), the decision to exclude legally resident foreigners without established roots in the country could not be considered unreasonable. The impression is that, beneath the principle of reasonableness, the Court sought to legitimise a politically structured measure designed to contain public expenditure.

The legislator has attempted to reduce the discriminatory impact of the ADI, which replaced the RDC as a national measure against poverty from January 2024. Non-EU citizens with a long-term residence permit can now apply, but the residence requirement has been halved, reduced to five years, with a requirement to have lived in Italy for at least two uninterrupted years. Furthermore, individuals with international protection status are also entitled to receive the benefit. These changes were introduced not in response to the Constitutional Court's jurisprudence but to comply with the European Court of Justice's judgment on the RDC and to end the infringement proceedings initiated by the European Commission against Italy in relation to the same RDC⁶¹. Nevertheless, the ADI remains structured as a discriminatory measure. Indeed, according to Article 12 of Directive 2011/98, Member States may limit equal treatment in the area of social security, but not for "third-country workers who are in employment or who have been employed for a minimum period of six months, third-country nationals admitted for the purpose of study, or third-country nationals allowed to work on the basis of a visa".⁶²

7. Concluding Remarks: The 'Obstacle Race' Against Poverty

Without a doubt, the recent introduction of domestic measures against poverty has filled a significant gap compared to other EU Member States. As noted earlier, Italy, along with Greece, was the only country without structural measures against material deprivation. From the perspective of fundamental social rights and political sustainability, all the measures – REI, RDC, and ADI – are highly critical and even problematic. As we have seen, the severe conditionality mechanisms affecting families cannot encourage the most disadvantaged groups to apply for benefits. Indeed,

⁶¹ See proceedings of infringement 2022/4024 of 15th February 2023, available at https://ec.europa.eu/commission/presscorner/detail/en/inf_23_525.

⁶² Categories excluded from the scope of directive 2011/98 are: third-countries family members of Union citizens, posted workers, seasonal workers and au pairs, refugees and beneficiaries of subsidiary protection or international protection, long-term residents and self-employed persons (art. 3.2).

the ADI, currently in force, is a categorical benefit, as it is directed only at families with certain vulnerabilities that the legislator considers deserving of enhanced protection. This measure does not appear to align with the recent Recommendation of the Council of the European Union⁶³, which, though non-legally binding, advocates for general measures that guarantee a life of dignity, even if conditioned by beneficiary activation⁶⁴.

Furthermore, the administrative centres for employment services lack the necessary human and financial resources to effectively implement a reintegration strategy into the labour market. There is, therefore, a risk that the ADI, like its predecessor, the RDC, will fail to break the ‘poverty trap’ in which working poor, NEETs (Not in Education, Employment or Training), and the unemployed remain trapped. Lastly, the benefit cannot, in practice, be accessed by a large portion of regular immigrants due to the long-term residence permit requirement, in violation of the principles of equal treatment and non-discrimination enshrined in EU law and in the Italian Constitution.

What is also concerning is that economic benefits have not been integrated into a multidimensional strategy against material deprivation, which is not merely a matter of employment and minimum income⁶⁵. Especially in the Southern part of the country – the most disadvantaged area – an effective strategy against social exclusion cannot ignore issues such as school dropout, undeclared work, and the improvement of essential services, which are often left in the hands of private entities (e.g., healthcare). In other words, the granting of subsidies is not the only strategy. It could, however, be effectively accompanied by Keynesian economic policies aimed at stimulating both the right to work and economic consumption, as well as boosting internal demand from families, businesses, and consumers. Unfortunately, the ADI reiterates the centrality of the subsidy and caters to the emotional demands of a

⁶³ See Council of the European Union, Recommendation of 30 January 2023 on adequate minimum income ensuring active inclusion, 2023/C 41/01, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32023H0203%2801%29>.

⁶⁴ A. Sartori, *op. cit.*, 770-771; C. Saraceno, *Dal Reddito di Cittadinanza all’Assegno di inclusione e al Supporto per la formazione e il lavoro*, *Prisma Economia Società Lavoro*, 2023, 1-2, 41.

⁶⁵ C. Saraceno, *Politiche per le famiglie e per i minori come strumento di contrasto alla povertà*, in VV.AA., *Reddito di cittadinanza e oltre. Per contrastare la povertà combinare più politiche*, www.welforum.it, who suggests more efficacious measures for the employment of women and more integrated benefits for children; S. Caffio, *Povertà, reddito e occupazione*, Adapt University Press, Bergamo, 2023, 250, who highlights that education is the pillar to ensure a work of quality.

significant portion of public opinion⁶⁶ (where the poor are seen as lazy and migrants as free riders), thus reinforcing a state-driven approach that seeks to reduce poverty primarily through financial transfers.

There are, of course, significant issues of financial and political sustainability⁶⁷ in such an ambitious plan, which is the result of both internal and external pressures – including European economic governance and a strict neoliberal approach to welfare by domestic politicians. These factors severely limit the emancipatory potential of the Constitution and the fundamental principles of EU law regarding social rights. Several proposals have been put forward by scholars to address poverty from an integrated perspective, which contrasts with the conditionality mechanisms stemming from the neoliberal approach. These include the reduction of working hours to redistribute work⁶⁸, the introduction of a European unemployment benefit scheme, the creation of a European fund against social exclusion⁶⁹, a minimum income that is not contingent on conditionality (since poor people are not ‘sinners’ to be socially controlled)⁷⁰, and a legally fixed minimum wage, as is the case in other EU countries. The challenge is ambitious, and the Great Social Transformation – to paraphrase Polanyi⁷¹ – now rests in the hands of politics, to avoid the persistence of *a status quo* where equality and solidarity have been eroded, risking conflict between the poor.

⁶⁶ E. Gragnoli, *op. cit.*, 924.

⁶⁷ T. Treu, *Sustainable social security. Past and future challenges in social security*, *Rivista del diritto della sicurezza sociale*, 2018, 622.

⁶⁸ P. Alleva, *Usiamo il reddito di cittadinanza per ridurre orario e disoccupazione*, *Il manifesto*, 21st March 2019; G. Bronzini, *Il reddito di base e la metamorfosi del lavoro. Il dibattito internazionale ed europeo*, *Rivista del diritto della sicurezza sociale*, 2018, 701-709.

⁶⁹ M. Faioli, *Introduction. The EUBS without States?*, *Economia e Lavoro*, 2017, 1, 7-10; M. Faioli, S. Bologna, *Sull'adeguatezza dell'indennità euro-unitaria di disoccupazione (EUBS)*, *Rivista del diritto della sicurezza sociale*, 2017, 29-51.

⁷⁰ A. Somma, *Contro il reddito di cittadinanza*, in A. Somma (a cura di), *Lavoro alla spina, welfare à la carte. Lavoro e Stato sociale ai tempi della gig economy*, Meltemi, Milano, 2019, 246-250.

⁷¹ K. Polanyi, *La grande trasformazione*, Einaudi, Torino, 1974.

Beyond the Pink Label: Italy's Certification of Gender Equality for Organisational Change through Management Commitment and Employee Engagement

Maria Cristina Degoli *

Abstract: Gender equality is a global goal, especially in Italy, where cultural traditions often clash with modern values. Despite legal protections for women, achieving true equity requires significant effort. This paper introduces Italy's Certification of Gender Equality (Certificazione della parità di genere), aimed at reducing the gender gap and promoting growth in companies. The study reviews the certification process and its business benefits, then analyses data on certified Italian companies to assess its impact on gender equality and the role of collective bargaining in enhancing women's workforce participation. The paper concludes by evaluating whether the certification can foster a more equitable working environment in Italy.

Keywords: *Gender equality; gender gap; women's workforce participation.*

1. Introduction

The opening line of the Gender Equality Strategy 2020-2025 states, "The promotion of equality between women and men is a fundamental task for

* Researcher at the University of Milan (Italy). Email address: mariacristina.degoli@unimi.it. This paper was conducted as part of the MUSA – Multilayered Urban Sustainability Action – project, funded by the European Union under NextGenerationEU, within the framework of the National Recovery and Resilience Plan (NRRP), Mission 4, Component 2, Investment Line 1.5: Strengthening of research structures and the creation of R&D "innovation ecosystems", and the establishment of "territorial leaders in R&D". This paper also constitutes an expanded version of the one presented at the XXIV ISLSSL World Congress "The Quest for Labour Rights and Social Justice", which took place from 17 to 20 September 2024 in Rome.

the European Union in all its activities, as required by the Treaties”¹. This implies that every Member State must contribute to the implementation of gender equality in business, politics, and society, as it represents a core value of the EU, a fundamental right, and a key principle of the European Pillar of Social Rights. From a financial perspective, research has shown that a more inclusive environment creates the ideal conditions for an innovative, competitive, and thriving European economy².

At the national level, Italy has drawn inspiration from the European policy strategy to develop its own Gender Equality Strategy 2021-2026³. This long-term strategic framework establishes core values, outlines policy directions, and sets the ultimate goal of achieving gender equality. The strategy is the result of an extensive and participatory process involving public administrations, social partners, and key civil society organisations. It identifies five priority areas—Employment, Income, Skills, Time, and Power—each supported by measurable objectives and targets to be achieved by 2026.

To meet these targets, the Italian government adopted the National Recovery and Resilience Plan (*PNRR – Piano Nazionale di Ripresa e Resilienza*) in 2021, marking the beginning of a new era in legislative gender equality strategy. Among the seven missions outlined in the Next Generation EU framework, Mission 5, “Cohesion and Inclusion,” aims to strengthen anti-discrimination tools and promote work-life balance actions, alongside a new approach to address the gender gap through transparency and accountability in corporate human resources policies⁴.

¹ COM(2020)152 final, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions «A Union of Equality: Gender Equality Strategy 2020-2025»*, Brussels, 5 March 2020, p. 1.

² By 2050, improving gender equality would lead to an increase in the EU’s GDP per capital by 6.1% to 9.6%, which amounts to €1.95 to 3.15 trillion: <https://eige.europa.eu/gender-mainstreaming/policy-areas/economic-and-financial-affairs/economic-benefits-gender-equality>. See COM(2020)152 final, *cit.*

³ The document outlines five key areas for action: gender equality as a shared responsibility in shaping the future; work as a new, inclusive paradigm for women; science as the driving force behind a new Renaissance; solidarity as a means of investing in the empowerment of all; and communication, through both language and imagery, as a catalyst for change. See: <https://www.pariopportunita.gov.it/it/politiche-e-attivita/parita-di-genere-ed-empowerment-femminile/strategia-nazionale-per-la-parita-di-genere-2021-2026/>

⁴ L. Zappalà, *La parità di genere al tempo del PNRR: tra trasparenza, certificazione e misure premiali*, in *Lavoro Diritti Europa*, 2022, 3, 2-14 ss.; D. Gottardi, *Recovery Plan e lavoro femminile*, in *Diritti Lavori Mercati*, 2021, 2, 261-269 ss.; M. Peruzzi, *Differenziali di genere e trasparenza retributiva, tra reporting aziendale e certificazione di parità*, in *Giornale di diritto del lavoro e relazioni industriali*, 169, 2021, 1, 143-147.

This paper introduces a new tool – the Certification of Gender Equality (*Certificazione della parità di genere*) – designed to reduce gaps in key areas of women’s professional growth and wage transparency, by supporting and incentivising companies at a national level. The ultimate goal is to establish a fairer labour market by narrowing the gender gap and fostering growth opportunities within participating companies. This certification represents a cultural shift, encouraging companies to adopt best practices to better support their work environment. As such, it necessitates the implementation of actions to strengthen equal pay for equal work, gender management policies, and a comprehensive work-life balance ethos.

The study on the Gender Equality Certification will proceed in two interconnected stages. First, the paper addresses the legislative framework and existing literature on the topic, providing a thorough description of the gender equality tool and highlighting its business benefits. Second, the paper examines quantitative data on the number of companies that have obtained the Gender Equality Certification to date. This phase of the research will allow the author to map the tool’s dissemination within the Italian business landscape and assess its impact on promoting gender equality in the workforce.

In conclusion, the paper evaluates whether this innovative tool can contribute to fostering a fairer world of work. If so, the Gender Equality Certification can be seen as a result of various forms and degrees of social dialogue. By promoting gender equality at the company level, the certification directly contributes to transforming the labour market into a more inclusive one.

2. The Certification of Gender Equality: Definition and Mechanism

The National Recovery and Resilience Plan (*PNRR – Piano Nazionale di Ripresa e Resilienza*), under its Mission No. 5, titled “Inclusion and Cohesion”, includes the adoption and implementation of a national system to certify gender equality in both public and private companies. The aim is to encourage the implementation of internal policies to close the gender gap across all areas, such as employment, pay, and management⁵.

⁵ See National Recovery and Resilience Plan (*PNRR – Piano Nazionale di Ripresa e Resilienza*), #Nextgenerationitalia, Mission 5, 201-223, <https://www.governo.it/sites/governo.it/files/PNRR.pdf>.

Prior to the introduction of the Certification of Gender Equality⁶ into the Code of Equal Opportunities (*Codice delle Pari Opportunità*)⁷, the Italian legislator had already established equal treatment legislation to combat structural gender inequalities based on traditional gender roles in the labour market. One such previous attempt was the ‘pink label’⁸ (*bollino rosa*), designed to promote corporate social responsibility. Unfortunately, it did not yield the expected results. As stated by the European Commission in its Gender Equality Strategy 2020-2025, it is time “to give a new impetus to gender equality”⁹.

In response to this call, the new Article 46-bis of the Code of Equal Opportunities establishes that the Certification of Gender Equality would be implemented from 1st January 2022. This tool aims to demonstrate the policies and concrete actions adopted by employers to reduce gender gaps in career opportunities, promote equal pay, ensure equal jobs, and manage gender differences, including maternity protection. The Certification of Gender Equality is a flexible instrument, offering the opportunity to assess its impact and evaluate the outcomes and consequences of its implementation over time.

The process of obtaining the Certification of Gender Equality is voluntary for both the private and public sectors; any business organisation, regardless of size and legal status, may request it. Once a company obtains the Certification, it remains valid for three years but is subject to annual

⁶ For more information about the Certification of Gender Equality, see F. Guarriello, *Mercato e valori nel contrasto al gender pay gap: trasparenza, informazione, certificazione*, in *Rivista giuridica del lavoro e della sicurezza sociale*, 2024, 3, 397-416; S. Borelli, *La certificazione di parità e la standardizzazione delle fonti del diritto del lavoro*, in *Diritto e Società*, 2024, 1-2, 349-360; Casano L., *Certificazione della parità di genere e trasparenza: riflessioni a margine della prima attuazione del sistema*, in *Equal Rivista di Diritto Antidiscriminatorio*, 2024, 2, 161-177; R. Torelli, *Il sistema di certificazione della parità di genere: tra cultura della parità e privatizzazione delle regole*, in S. Renga (edited by) *Lungo la strada della conciliazione, spunti per il dibattito*, 2023, Giappichelli, Torino, 131-159; A. Casadei, *Certificare la parità di genere stimola l’empowerment femminile e porta benefici fiscali alle aziende*, in *Amministrazione e finanza*, 2023, 1, 25-28; P. Cerullo, *La certificazione della parità di genere: volano per i diritti e per il business. Come ottenerla e conservarla*, in *Lavoro Diritti Europa*, 2023, 1, 2-9; M. Lambrou, *Certificazione della parità di genere*, in *Diritto e pratica del lavoro*, 2022, 2, 94-98; M. Scofferi, A. Consiglio, *Parità di genere: i nuovi strumenti contro il gender pay gap*, in *Guida al Lavoro*, 2022, 27, 3-7.

⁷ See article 4, Law no. 162/2021 which modified Legislative decree no. 198/2006, also known as Code of Equal Opportunities (*Codice delle pari opportunità*), by adding article 46-bis entitled «Certification of Gender Equality».

⁸ See Law no. 215/1998.

⁹ See COM(2020)152 final, *cit.*, p. 2.

review by certification bodies registered with ACCREDIA¹⁰. The minimum requirements for certification were established by the Ministry Decree of 29th April 2022, which superseded the Reference Practice (PdR) UNI/PdR 125:2022¹¹ of 16th March, outlining the guidelines for the gender management system. The PdR sets out the Key Performance Indicators (KPIs) used by certification bodies¹² to evaluate the minimum criteria required for accreditation. The PdR focuses on three indices: (i) equal career opportunities and equal pay; (ii) parenting and work-life balance policies; and (iii) management policies for business processes. In other words, the PdR is based on a threefold perspective, assessing a company's maturity in gender equality policies through six indicators: 1. Culture and Strategy; 2. Governance; 3. Human Resources Processes; 4. Career Opportunities and Women's Inclusion in the Company; 5. Equal Pay for Work of Equal Value; 6. Parenting Policies and Work-Life Balance Policies. Each indicator is assigned a weighted score, depending on company size, to track progress over time. A series of KPIs has been identified for each assessment area to monitor the company's progress annually, with the final audit occurring at the end of the second year. A minimum score of 60% in all areas is required to obtain the Certification. Companies may address any low-scoring areas before the final evaluation. From the legislator's perspective, the Certification of Gender Equality represents the culmination of a systemic journey towards a true cultural change within corporate organisations, and by extension, in society, to achieve permanent gender equality. Companies that achieve certification are rewarded with several benefits¹³. Firstly, they are awarded points to access European funding¹⁴ and

¹⁰ The Certification bodies operate on UNI/PdR 125:2022 and they are accredited on the requirements of Regulation (EC) No. 765/2008.

¹¹ For clarity, it should be noted that the Reference Practice (PdR) UNI/PdR 125:2022 is not a national law. Rather, it is a document published by UNI – *Ente Italiano di Normazione* (Italian Standardization Body) – that outlines the standards, technical requirements, and functional elements for the Certification of Gender Equality. The Reference Practice is adopted solely at the national level and is a deliverable of European standardisation, as stipulated by EU Regulation No. 125/2012. In other words, these documents introduce technical specifications that are developed under the supervision of UNI. The Reference Practices remain valid for five years after publication, which represents the maximum period during which they can be transformed into a normative document.

¹² In Italy, the Certification bodies are the only ones recognised by ACCREDIA – <https://www.accredia.it/> – the Italian Institution which is in charge of identifying the new certification bodies for UNI/PdR 125:2022.

¹³ Pursuant to Law No. 234 of 30 December 2021, the legislator allocated significant financial resources to enhance women's participation in the labour market, including the

participate in public tenders¹⁵. Secondly, companies receive a 30% reduction in the bank guarantee required to attend public tenders¹⁶. Finally, private sector employers may be exempt from paying 1% of their national insurance contributions (i.e., social contributions), up to a maximum of €50,000 per year¹⁷.

Embarking on the journey to obtain the Certification of Gender Equality means that a company must promote organisational transparency. Companies seeking certification must adopt a comprehensive gender equality policy alongside their management system. To achieve this, companies must appoint a Steering Committee¹⁸ (*Comitato Guida*) responsible for creating a strategic plan and implementing the necessary

development of procedures enabling public and private enterprises to obtain gender equality certification (see Article 1, Paragraph 138, Law No. 234/2021).

¹⁴ According to Article 5, Paragraph 3, Law No. 162/2021, private companies holding gender equality certification as of 31 December of the year preceding the reference period are awarded a preferential score when their project proposals are evaluated by authorities responsible for administering national and regional European funds. This preferential score is granted with the aim of providing state aid to co-finance eligible investments. In compliance with European Union law and the principles of equal treatment, non-discrimination, transparency, and proportionality, contracting authorities must specify in procurement notices, calls for proposals, or invitations for the acquisition of services, supplies, works, and infrastructure projects the preferential criteria applied in bid evaluations, contingent on a company's possession of gender equality certification as of the reference date. In other words, the Certification of Gender Equality grants additional points to project proposals seeking co-financing for previous investments.

¹⁵ See Article 95, Paragraph 13, Legislative Decree No. 50/2016. In accordance with European Union law and the principles of equal treatment, non-discrimination, transparency, and proportionality, contracting authorities are required to specify in procurement notices, calls for proposals, or invitations the preferential scoring awarded to bids for goods, works, or services that have a lower impact on health and the environment. This includes products sourced from short supply chains or zero-kilometre sources, as well as the implementation of policies promoting gender equality, evidenced by the possession of gender equality certification. Furthermore, with the introduction of the new Public Contracts Code (Legislative Decree No. 36/2023) and in compliance with the provisions of Decree-Law No. 51/2023 on Urgent Measures Concerning the Administration of Public Entities, contracting authorities are now obligated to award a higher score in their procurement notices to companies holding gender equality certification.

¹⁶ See article 95, paragraph 7, Legislative Decree no. 50/2016.

¹⁷ Concerning the social contribution exemption described above, the legislator made it permanent following the inter-ministerial decree 20.10.2022 published on the 28.11.2022. See *Circolare* INPS no. 137, 27.12.2022.

¹⁸ See *Prassi di riferimento* (Reference Practice) UNI/PdR 125:2022, Guidelines on the management system for gender equality, which provides the adoption of specific KPIs (Key Performance Indicator) relating to gender equality policies in organizations, paragraph 3, «*Termini e Condizioni*», 3.6, p. 12.

actions. A formal document¹⁹ will be drafted and published on the company's website.

Additionally, the company is responsible for informing staff about the new corporate culture, focusing on better implementing gender equality, and providing training to employees on their commitment to eliminating gender stereotypes and promoting diversity and inclusion. The company must also review its management and organisational models to ensure they meet the qualitative and quantitative requirements of the Certification. Furthermore, companies are required to appoint a contact person who workers can approach – even anonymously – to report and address gender discrimination issues. This person is also involved in evaluating the implementation of new diversity and inclusion policies to assess their impact on the company's environment. Finally, the Steering Committee is responsible for ongoing evaluations of the company to assess progress and the possibility of obtaining the Certification of Gender Equality.

Regarding the scope of the certification system, guidelines state that the Certification of Gender Equality should apply to the company as a whole, considering all its sites, subsidiaries, and secondary offices to assess the corporate organisational process. However, the guidelines also allow for the possibility of granting a holdings' certificate for companies with more than one legal entity. This option requires a centralised company structure that oversees and monitors gender equality compliance across the entire group.

3. Key Performance Indicators

The guiding principle behind the Reference Practice and, by extension, the entire system of gender equality certification, is the belief that “to achieve a real paradigm shift on gender equality, it is necessary that its principles, along with respect for any diversity, be integrated into the corporate objectives”²⁰. Therefore, the starting point for the evaluation is not merely the current state of the company but also its historical context, which significantly impacts the granting of the business certification. In

¹⁹ The Steering Committee prepares a strategic plan that outlines clear, measurable, achievable, and realistic objectives aligned with the gender equality policy. These objectives are assigned to individual managers for implementation. Furthermore, the document details the strategies adopted by the company to achieve the desired outcomes, along with the allocated budget.

²⁰ F. Lamberti, *I Key Performance Indicators della certificazione della parità di genere. Una lettura critica*, in *federalismi.it*, 19 aprile 2023, p. 216.

other words, in addition to the Key Performance Indicators (KPIs) that a company must implement prior to evaluation, past actions—such as violations of parental rights or opposition to parental leave requests—will certainly complicate a company’s chances of successfully achieving the Certification of Gender Equality.

Literature on the subject asserts that the structure of values outlined in the Reference Practice UNI/PdR 125:2022 highlights “critical aspects of corporate behaviour towards women’s work”²¹. In the Italian business environment, particular attention should be given to the well-known gender pay gap²², as well as the biases inherent in the traditionally patriarchal culture that still persists in the country. Despite the legislative framework designed to protect both maternity and paternity leave, companies tend to associate their duties and business costs with women when it comes to parenthood. As a result, being a mother often becomes a disadvantage in the recruitment process. Statistical data on discrimination reveal that companies attribute a greater responsibility for family care to mothers than to fathers. Businesses are more likely to hire or promote men over women due to this perceived lack of responsibility. Consequently, this behavioural model is subconsciously replicated in family life, where women are more focused on family care rather than their careers, leaving men to succeed professionally.

The Reference Practice highlights that hiring processes are not neutral. Indeed, a selection committee composed solely of men is likely to fail to assess a woman’s work performance or skills fairly. Conversely, a committee comprising both men and women will be more accurate and efficient in selecting candidates purely on merit²³.

²¹ See UNI/PdR 125:2022, p. 10. F. Lamberti, *op. cit.*

²² See UNI/PdR 125:2022, paragraph 0.3. «*Obiettivi e strumenti*». The Ministerial Working Group asserts that the economic salary differences between men and women cannot be fully explained by physical characteristics or individual choices made by women. The gender pay gap results from a corporate culture that fails to value gender equality and does not penalise negative practices. As highlighted in existing literature, Eurostat statistics position Italy among the countries with a gender pay gap of 5%, compared to the European average of 13%. However, more detailed analyses reveal a larger gap, amounting to 11% in hourly wages, with an even more significant disparity in annual earnings. This broader gap is attributed to various factors, including job classification levels, horizontal and vertical segregation, the number of hours worked, overtime, and other wage supplements linked to working hours, all of which disproportionately disadvantage women. F. Guarriello, *op. cit.*

²³ Organisational positive action plans also contribute to this goal. For instance, in public employment, to promote the inclusion of women in sectors and professional levels where they are underrepresented, positive action plans support gender rebalancing in activities and hierarchical positions where a gap of at least two-thirds is observed. This is

With this premise in mind, the Reference Practice UNI/PdR 125:2022 establishes its company evaluation criteria through specific Key Performance Indicators (KPIs) linked to the six areas that characterise an inclusive business organisation respecting gender equality. To evaluate the effectiveness of actions taken towards acquiring the Certification of Gender Equality, the criteria must be “accessible, appropriate, and comparable, able to drive change and represent the continuous improvement undertaken by the organisation”²⁴.

As outlined above²⁵, the six areas are: Culture and Strategy; Governance; Human Resource Processes; Career Opportunities, along with women’s inclusion in the company; Equal Pay for Equal Work²⁶; and Parenting Policies and Work-Life Balance Policies. For each Evaluation Area, specific KPIs have been established to measure the organisation’s maturity level through annual monitoring and biannual verification. This process provides evidence of improvements resulting from various implemented interventions or activated remediation plans.

The Culture and Strategy area contains seven KPIs²⁷. This section evaluates the alignment of the organisation’s principles and objectives

achieved through a legal preference granted to female candidates, provided they have equivalent qualifications and professional preparation to their male counterparts. If a male candidate is selected, a specific and adequate justification is required. F. Guarriello, *op. cit.*

²⁴ See UNI/PdR 125:2022, paragraph 5. «Indicatori di performance (KPI) per le organizzazioni», p. 16.

²⁵ See § 2.

²⁶ Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 strengthens the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms. D. Izzi, *Alla ricerca dell’effettiva parità di retribuzione tra uomini e donne: la direttiva Ue 2023/970 come punto di svolta?*, in *Rivista giuridica del lavoro e della previdenza sociale*, 2024, 2, I, p. 301-320; M.L. Vallauri, *Direttiva (Ue) 2023/970: una nuova strategia per la parità retributiva*, in *Lavori Diritti Europa*, 2023, 2, p. 2-6.

²⁷ The KPIs are as follows: 1. Formalisation and implementation of a strategic plan to promote and support the development of an inclusive work environment, ensuring that company values align with an inclusive culture (20 points). 2. Establishment of internal procedures that enable employees to express their opinions and provide suggestions for organisational changes, including the option to do so anonymously, while fostering open dialogue and constructive feedback (10 points). 3. Implementation of internal communication and awareness initiatives that promote behaviours and language supporting an inclusive and gender-diverse work environment (20 points). 4. Implementation of policies that ensure equal gender representation among speakers at round tables, events, conferences, and other gatherings, including scientific ones (10 points). 5. Implementation of training initiatives over the past two years at all organisational levels, including top management, focusing on the value of gender

concerning inclusion, gender equality, and attention to gender diversity. Its overall vision, mission, and values define the work environment. The impact of these policies is worth 15% of the final score.

The Governance area contains five KPIs²⁸. This domain assesses the maturity of the organisation's governance model in establishing effective organisational controls, ensuring minority gender representation in management and control bodies, and implementing processes to identify and address any instances of non-inclusion. The impact of these policies is worth 15% of the final score.

The Human Resource Process area, with its six KPIs²⁹, focuses on assessing the maturity of key HR processes across various stages of an employee's lifecycle within the organisation, ensuring they are grounded in

diversity, the impact of stereotypes, and addressing unconscious biases (10 points). 6. Implementation of initiatives in the past year to analyse employees' perceptions of equal opportunities within the organisation (20 points). 7. Over the past two years, implementation of initiatives aimed at promoting equal opportunities beyond the organisation, including communication efforts and engagement with various stakeholders on issues of inclusion, gender equality, and integration (10 points). See UNI/PdR 125:2022, paragraph 5.2. «*Area cultura e strategia*», p. 18 ss.

²⁸ The KPIs are as follows: 1. Establishment within the organisation's governance structure of a dedicated body (such as a committee, unit, function, or organisational role) responsible for managing and monitoring matters related to inclusion, gender equality, and integration (25 points); 2. Implementation of processes to identify, investigate, and address any form of non-inclusiveness within the organisation (25 points); 3. Allocation of a dedicated organisational budget to support activities promoting inclusion, gender equality, and integration (15 points); 4. Establishment of gender equality objectives that are assigned to top management and other leaders, with their performance being evaluated against these goals (15 points); 5. Inclusion of members of the underrepresented gender in the organisation's administrative and control bodies (20 points). See UNI/PdR 125:2022, paragraph 5.3. «*Area Governance*», p. 20 ss.

²⁹ The KPIs are as follows: 1. Establishment of human resource management and development processes that promote inclusion, gender equality, and integration, including practices such as equitable recruitment, inclusive contract terms, unbiased onboarding, and fair performance evaluations (25 points); 2. Implementation of mechanisms to analyse turnover rates with a focus on gender (15 points); 3. Implementation of policies that ensure equitable and inclusive participation in training and development programmes, including leadership courses, with representation from all genders (15 points); 4. Establishment of internal mobility and succession policies for managerial positions that align with the principles of an inclusive organisation and uphold gender equality (20 points); 5. Implementation of mechanisms to ensure workplace protection and maintain equal pay levels following maternity leave (15 points); 6. Presence of designated company representatives and established practices to safeguard the work environment, specifically addressing incidents of harassment or bullying (10 points). See UNI/PdR 125:2022, paragraph 5.4. «*Area processi HR*», p. 22.

the principles of inclusion and respect for diversity. The impact of these policies is worth 10% of the final score.

The Career Opportunities, along with Women's Inclusion in the Company area, evaluates the maturity of organisations regarding gender-neutral access to internal career development and growth opportunities, including mechanisms to accelerate such advancement. This area consists of seven KPIs³⁰, and the impact of these policies is worth 20% of the final score.

The Equal Pay for Equal Work area specifies three KPIs³¹, which collectively account for 20% of the total score. This section examines the organisation's maturity in addressing the pay gap within a comprehensive total rewards framework, including both monetary compensation and non-monetary benefits such as welfare and well-being systems.

Finally, the Parenting Policies and Work-Life Balance Policies area contains a total of five KPIs³². This area assesses the maturity of

³⁰ The KPIs are as follows: 1. Percentage of women within the organisation relative to the total workforce. Please note that this KPI applies only to companies with a workforce of a maximum of 49 employees (25 points); 2. Percentage of women in the organisation relative to the total workforce, compared to industry benchmarks. Please note that this KPI applies only to companies with a workforce ranging between 50–250 employees or more (25 points); 3. Percentage of women in the organisation with managerial qualifications, including those in family businesses who hold managerial roles representing ownership. Please note that this KPI applies only to companies with a workforce of a maximum of 49 employees (25 points); 4. Percentage of women in the organisation with managerial qualifications, excluding women who are part of the ownership in family businesses. Please note that this KPI applies only to companies with a workforce ranging between 50–250 employees or more (25 points); 5. Percentage of women in the organisation who are responsible for one or more organisational units, compared to the total reference population (20 points); 6. Percentage of women in the direct reporting line to the top executives of the organisation (20 points); 7. Percentage of women in the organisation who are responsible for managing an expenditure or investment budget (10 points). See UNI/PdR 125:2022, paragraph 5.5. *«Area opportunità di crescita ed inclusione delle donne in azienda»*, p. 23 ss.

³¹ The KPIs are: 1. Percentage of salary disparity between genders for the same classification level and with equivalent skills (40 points); 2. Percentage of promotions awarded to women on an annual basis (30 points); 3. Percentage of women receiving variable remuneration, ensuring fairness by transparently communicating the procedures and criteria used in determining variable pay to both male and female employees (30 points). See UNI/PdR 125:2022, paragraph 5.6. *«Area equità remunerativa per genere»*, p. 25 ss.

³² The KPIs are as follows: 1. Availability of services to support employees returning from maternity or paternity leave, such as back-to-work procedures, coaching, temporary and reversible part-time options, remote work arrangements, tailored welfare plans, and on-site childcare facilities (20 points); 2. Presence of policies beyond the collective bargaining agreement (CCNL) dedicated to protecting maternity and paternity, as well as

organisations in implementing policies that support parenthood in various forms and adopt procedures that facilitate and support employees with preschool-aged children. The impact of these policies is worth 20% of the final score.

The KPIs themselves are divided into two categories: qualitative and quantitative. The qualitative KPIs are measured in terms of presence or absence—essentially, the evaluation committee checks whether the KPIs are in place. The quantitative KPIs, on the other hand, are measured using a percentage in relation to a company value or a national average reference value based on ISTAT³³ indices or the type of economic activity. Each KPI is assigned a score, which is weighted according to the reference area (e.g., Culture and Strategy; Governance; Human Resource Processes, etc.).

Additionally, the KPIs are tailored to the size of the business. The Reference Practice UNI/PdR 125:2022 identifies four clusters³⁴. The target safeguards related to diversity are defined based on the company's classification within one of the four clusters, ensuring alignment with the organisation's size and specific needs. Simplifications are provided for organisations in bands 1 (micro-organisations) and 2 (small organisations), while all indicators are applied to organisations in bands 3 (medium organisations) and 4 (large organisations).

In conclusion, a minimum overall score of 60% is required to obtain certification. For companies with multiple sites across the national

services designed to support the balance between personal and professional life. This includes extended paternity leave, back-to-work procedures, coaching, reversible part-time options, remote work arrangements, customised welfare plans, on-site childcare facilities, and voluntary engagement programmes during maternity leave (35 points); 3. Presence of policies that sustain benefits and initiatives enhancing the experience of parenthood as an opportunity for skill development that benefits both the individual and the organisation. These policies should also safeguard the employee-company relationship before, during, and after maternity or paternity leave (25 points); 4. Ratio of actual male beneficiaries to the total number of eligible employees for compulsory paternity leave within the first twelve years of the child's life (20 points); 5. Ratio of the average number of days of compulsory paternity leave taken to the total number of days legally provided (10 points). See UNI/PdR 125:2022, paragraph 5.7. «*Area tutela della genitorialità e conciliazione vita-lavoro*», p. 27 ss.

³³ The acronym ISTAT stands for National Institute of Statistics (*Istituto Nazionale di Statistica*).

³⁴ The clusters represent differing business sizes based on the number of employees. Group 1, micro-organisations/business, 1-9 employees; Group 2, small-organisations/business, 10-49 employees; Group 3, medium-organisations/business, 50-249 employees; Group 4, large-organisations/business, more than 250 employees. See UNI/PdR 125:2022, paragraph 5.1. «*Generalità*», p. 16 ss.

territory, the evaluation is “flexible” and considers the specific characteristics of the gender equality management system designed and implemented by the organisation. If the KPIs are controlled by the Holding, they will be evaluated at the corporate level. However, if the KPIs are specific to each local entity, they must be verified individually for each entity. Furthermore, it is essential to ensure that the KPIs across all six areas have been implemented by all legal entities listed in the UNI/PdR 125:2022 certificate. For multi-site companies composed of different legal entities, each entity must individually achieve a minimum score of 60% for the Holding to receive certification.

4. Does the Certification System Work? An Overview of the Mid-term Results

The Certification of Gender Equality aims to be pivotal in embedding gender equality as a strategic component within companies, striving for a sustainable and lasting change over time. Moving beyond theoretical discussions, does the Certification of Gender Equality genuinely produce tangible results?

To address this question, the paper presents quantitative data collected by ACCREDIA³⁵ – the Italian Accreditation Body – alongside insights from its representatives and Ms. Sonia Alvisi³⁶, *Consigliera di Parità* (Counsellor for Gender Equity) of the Emilia Romagna Region, Italy. Given their central roles in the implementation and oversight of the Gender Equality Certification system, the data analysis incorporates both the perspectives of ACCREDIA representatives and the Counsellor of Gender Equity.

To provide a clearer understanding of the Certification’s impact on the Italian business sector, let us first examine some key figures. Since the introduction of the Certification of Gender Equality, the number of certified sites³⁷ has reached 12,005³⁸; 11,461 at the national level and 544

³⁵ I would like to personally thank Mr Alessandro Nisi – *Relazioni esterne e studi statistici* –, Sara Vitali – *Referente Sistema gestione e Funzionamento Tecnico, Dipartimento Certificazione e Ispezione* – and Ing. Irene Uccello – *Funzionario tecnico ispettrice, Dipartimento Certificazione e Ispezione* – for their very interesting insights into the Certification of Gender Equality.

³⁶ I would like to personally thank Mrs Sonia Alvisi and Mr Francesco Raimondo for their time and kind cooperation in answering questions on the Certification of Gender Equality’ results and process.

³⁷ According to ACCREDIA, when speaking of certified companies, we must refer to them as «*siti certificati*» (i.e. certified sites).

³⁸ Database ACCREDIA,

https://services.accredia.it/ppsearch/accredia_stats_reserved_2.jsp?ID_LINK=1755&area=310, April 2024.

abroad. At the national level, the highest concentration of certified sites is located in the northern regions of Italy, with a total of 6,132 certified sites³⁹:

³⁹ The Italian Central regions follow with no. 2.396 certified sites, 2.144 in the South and a total of 789 certified sites in the Islands.

Table 1. Number of certified sites per region at national level, and abroad⁴⁰

Regione	UNI/PdR 125
Abruzzo	233
Basilicata	114
Calabria	171
Campania	891
Emilia-Romagna	1255
Friuli-Venezia Giulia	246
Lazio	1401
Liguria	267
Lombardia	2322
Marche	272
Molise	47
Piemonte	733
Provincia autonoma di Bolzano/Bozen	71
Provincia autonoma di Trento	126
Puglia	688
Sardegna	232
Sicilia	557
Toscana	602
Umbria	121
Valle d'Aosta/Vall?e d'Aoste	15
Veneto	1097
Totale ITALIA	11461
<i>ESTERO</i>	<i>544</i>
TOTALE	12005

⁴⁰ Table elaborated by ACCREDIA in April 2024; disaggregated data are available in ACCREDIA's database through this link: www.accredia.it/banche-dati.

Table 2. The first ten Certification schemes ranked by number of certified sites⁴¹

Schema di certificazione	Numero siti certificati
UNI EN ISO 9001	129.157
UNI EN ISO 14001	39.244
UNI ISO 45001	35.261
UNI/PdR 125	12.005
UNI CEI ISO/IEC 27001	5.720
UNI ISO 37001	5.486
UNI CEI EN ISO 13485	4.433
UNI CEI EN ISO 50001	4.207
FSSC 22000	3.446
UNI EN ISO 22000	3.356

Running through the numbers, a comparison of the situation in April 2024 with that of April 2023⁴² reveals the significant impact of the Certification of Gender Equality on the business sector. April 2024 shows a 31-fold increase in the number of certified sites compared to the previous twelve months. However, this increase is somewhat artificial, as the Certification of Gender Equality for companies was only recently introduced. It will take a few more years to gather more accurate data and identify a reliable pattern.

Furthermore, currently, data on certified sites can only be analysed in aggregate form. This means it is not possible to distinguish the number of certified sites based on specific criteria such as company size, KPIs, or business sector. This limitation raises several research questions regarding company trends, such as which KPIs are most commonly implemented to achieve certification and which companies or sectors are leading in adopting these practices. According to ACCREDIA representatives, this information will eventually be collected and processed by SOGEI through a web portal, which is still under development. The portal, intended for the Department of Equal Opportunity under the Presidency of the Council of Ministers (*Dipartimento Pari Opportunità, Presidenza del Consiglio dei Ministri*), will allow accredited bodies to directly update the system with all

⁴¹ Table elaborated by ACCREDIA in April 2024; disaggregated data are available in ACCREDIA's database through this link: www.accredia.it/banche-dati.

⁴² Setting ACCREDIA criteria's database to April 2023, it shows a total number of 1.367 of certificated sites.

relevant information regarding the Certification of Gender Equality in real-time.

Additionally, according to ACCREDIA representatives, when examining companies' applications for the Certification of Gender Equality, areas four and five—namely, opportunities for women's career advancement and inclusion within the company, and gender pay equity—are the least frequently implemented. This suggests that these are the most challenging policy areas to address. As mentioned earlier, companies must achieve a minimum overall score of 60% to obtain certification. Consequently, opting to avoid the most difficult policies could be a strategy for achieving the Certification of Gender Equality, along with the associated economic benefits, without engaging in substantial change regarding gender equality. This outcome does not represent a win-win situation for either companies or society. However, as ACCREDIA representatives have correctly pointed out, while a definitive answer is not yet available, it will soon be forthcoming. The Certification of Gender Equality is valid for three years, after which companies must undergo an audit by the monitoring group to renew their certification. The renewal reflects the company's current status, providing a basis for evaluating progress since the previous certification period. Therefore, a lack of improvement in areas such as opportunities for women's career advancement, inclusion within the company, or gender pay equity would indicate that these companies were focused solely on economic rewards.

Regarding the economic incentives provided to companies to encourage the Certification of Gender Equality, ACCREDIA representatives and the Counsellor for Gender Equality of Emilia Romagna Region provided two distinct types of feedback. On the one hand, ACCREDIA representatives highlighted the importance of these incentives, noting that companies often value not only economic benefits but also the recognition of their efforts. On the other hand, the Counsellor for Gender Equality expressed doubts about whether companies are genuinely interested in pursuing the certification process. Her comments on the matter are informed by her role as an expert in gender equality within the monitoring group. She observed that, when interviewed about the analysis of incidents or the risk of gender equality rights violations, as well as the countermeasures adopted, employers often overlook the possibility of unspoken complaints, thus presenting a situation that appears to require no further action.

Although the Reference Practice UNI/PdR 125:2022⁴³ provides a detailed list of actions to prevent all forms of physical, verbal, and digital abuse, including harassment, the Counsellor noted that this risk is not included in the risk assessment document (*Documento di Valutazione dei Rischi – DVR*)⁴⁴. This observation supports her interpretation of employers' behaviour.

Finally, when discussing the role of gender equality in negotiating gender promotion, the Counsellor of Gender Equality recalled what Ms. Fiorani – Head of Women and Gender Policies Coordination at CISL Emilia-Romagna – presented in February 2024 at the Conference on the Biennial Reports and Gender Certification. Ms. Fiorani pointed out that “KPIs have been identified without trade union consultation; furthermore, there is no role designated for company representatives in the certification procedure or in drafting the strategic plan”.

Their involvement, therefore, is limited to post-implementation oversight and control. In effect, instead of playing an explicit and recognised role, collective bargaining is sidelined in negotiations aimed at promoting the active participation of women within companies. In conclusion, given that the changes required by the Gender Equality Certification System necessitate an internal approach to be effective and sustainable, this absence of involvement could have significant (negative) consequences for the practical implementation of gender equality policies within companies.

⁴³ See UNI/PdR 125:2022, paragraph 6.3.2.6. «Attività di prevenzione di ogni forma di abuso fisico, verbale, digitale (molestia) sui luoghi di lavoro» (Activities aimed at preventing all forms of physical, verbal, and digital abuse (including harassment) in the workplace). The Reference Practice foresees that «the company must: a) Identify the risk of any form of physical, verbal, or digital abuse (including harassment) in the context of Health and Safety at Work; b) Develop a plan for the prevention and management of workplace harassment; c) Provide regular, targeted training at all levels on zero tolerance for any form of violence against employees, including all forms of sexual harassment; d) Establish a methodology for anonymous reporting of such incidents to protect employees who come forward; e) Plan and implement employee surveys to investigate whether they have personally experienced any behaviours, either internally or while working externally, that caused discomfort or disturbance, such as sexist attitudes or lack of respect; f) Evaluate work environments from this perspective as well; g) conduct a risk assessment and analysis of reported adverse events; h) Maintain constant vigilance over the language used, promoting awareness of communication that is both respectful and neutral», p. 32.

⁴⁴ The «Documento di Valutazione dei Rischi – DVR» is required for the employer to assess all risks faced by employees working within the company. See Legislative Decree no. 81/2008.

5. Conclusions

The Certification of Gender Equality has the potential to serve as a transformative tool in reshaping corporate behaviour and, by extension, society as a whole, addressing gender equality issues in a permanent and meaningful manner. Implementing a neutral hiring process, along with policies that support work-life balance and family care in its broader sense, is not only essential for business but also for overall societal well-being. In our view, gender equality should not be perceived merely as an issue requiring isolated investments and actions, but as an opportunity for meaningful cultural change. Therefore, its architecture, along with the concepts and rules guiding its mission, is well-designed⁴⁵. However, rules alone are insufficient. Without genuine commitment to promoting cultural change and moving beyond past practices, this opportunity will ultimately be missed.

Although the data analysed thus far are partial, combined with insights gathered from interviews with ACCREDIA representatives and the Counsellor of Gender Equality, it appears that the Certification of Gender Equality tool is moving in the right direction. The increasing number of companies engaged in the certification process indicates that more employers are embracing the transformation into safer, more inclusive working environments.

Is this solely the result of economic incentives? Perhaps, but it is a risk worth taking in order to drive positive change. We would concur with ACCREDIA representatives in asserting that companies view economic incentives more as a recognition of their commitment to addressing gender discrimination, rather than as financial rewards. However, the transparency regime for certification, mandated by law, should be enhanced to enable more effective monitoring of compliance with the required minimum standards. After all, public funds are being used to incentivise companies to obtain the Certification. As noted in the literature, “the risk of pink-washing or gender-washing looms large in a privatised and self-referential system”⁴⁶.

Moreover, as previously mentioned, the assessment of KPIs is conducted through a checklist of qualitative indicators addressing the presence or absence of a specific criterion, alongside a percentage value for

⁴⁵ The introduction and success of the certification process have been recognized as an Italian best practice in the latest *Report on Gender Equality in the EU*, prepared by the European Institute for Gender Equality; European Commission, *Report on Gender Equality in the EU*, 2024, Brussels, 14 May 2024.

⁴⁶ Guarriello F., *op. cit.*, p. 412.

quantitative indicators. Concerns and uncertainties arise regarding the verification of qualitative requirements, which is based solely on ticking a box to indicate a positive or negative response to specific criteria. This approach fails to provide any measurement of the actual extent to which the policy is implemented within the company.

While awaiting more comprehensive data, we can suggest several improvements to enhance the efficiency of the certification system.

In our view, the primary gap lies in the insufficient involvement of collective bargaining in negotiations aimed at promoting active female participation within companies. As highlighted by CISL representative Ms. Fiorani during her presentation at the “Biennial Report Conference and Gender Certification: Data on Gender Equality in Emilia-Romagna”⁴⁷ in 2024, the exclusion of trade unions from the process of identifying KPIs and shaping the overall certification system has been a significant oversight. Trade union representatives at the company level are invaluable assets for employers, offering realistic insights into which policies should be implemented and helping to assess workplace risks. Furthermore, their cooperation would enhance social dialogue as a vehicle for advancing gender equality within companies and contribute to transforming the labour market into a more inclusive environment.

In conclusion, the Certification of Gender Equality, on its own, is insufficient to achieve sustainable and lasting change without the active involvement of all relevant parties. Given the economic investments allocated for this purpose, we hope that collective bargaining will play a more prominent role in the certification process in the future. We believe that robust social dialogue is key to improving the Italian business landscape and advancing gender equality in the workforce.

⁴⁷ Convegno Rapporti biennali e certificazione di genere: i dati sulla parità in ER, 23 febbraio 2024.

Remote Work and Gender Equality: Perspectives from the EU

Marianna Russo *

Abstract: Remote work is seen as a means to balance professional and personal life, as well as to increase employment accessibility for mothers and caregivers. In this context, remote work may operationalise not only Article 31 of the EU Charter of Fundamental Rights, which pertains to fair and just working conditions, but also Article 23, which addresses gender equality. However, statistical data indicate that it is predominantly women who work from home, a trend that could potentially widen the gender gap between male and female workers in office environments. This may reinforce gender stereotypes and confine women to domestic roles. In light of these considerations, this paper aims to explore whether and how remote work could serve as an effective tool in bridging the gender divide within the EU labour market.

Keywords: *Gender equality; EU labour market; digitalisation; remote work; EU social dialogue.*

1. Introductory Remarks on Gender Equality in the EU Labour Market

Women constitute one of the most vulnerable categories of workers, as evidenced by statistical data. The current global labour force participation rate for women is just under 47%, while for men it stands at 72%¹. The 25-percentage point difference – which exceeds 50% in some regions – highlights the gender divide in the workforce.

From an economic standpoint, reducing the gender gap in labour force participation could significantly boost global Gross Domestic Product (GDP). From a broader perspective, this imbalance may foster social

* Researcher and Assistant Professor at the University of Campania Luigi Vanvitelli (Italy). Email address: marianna.russo@unicampania.it. This contribution is an extended version of the paper presented at the XXIV World Congress on “The Quest for Labour Rights and Social Justice,” held in Rome from 17th to 20th September 2024.

¹ <https://webapps.ilo.org/infostories/en-GB/Stories/Employment/barriers-women#bridging-gap>.

inequality, with serious consequences at both the collective and individual levels, such as gender pension gaps, an increased risk of old-age poverty for women, unequal wealth distribution, and low female representation in decision-making roles. Legally, the gender divide in the workforce may both cause and result from gender discrimination and the non-compliance with fair and decent working conditions, exemplified by the gender pay gap, high rates of women in non-standard jobs, underrepresentation of women in top professional roles, challenges in work-life balance, unpaid care work, and violence and harassment at work.

Furthermore, the Covid-19 pandemic exacerbated these issues. The socioeconomic effects of the health emergency disproportionately affected women, as reflected in higher unemployment levels, greater exposure to the virus due to the overrepresentation of women in roles requiring physical contact², and a surge in requests for assistance related to domestic violence³.

Overall, gender equality remains comparatively better in the European Union than in other parts of the world, with 14 of the top 20 countries globally for gender equality being EU Member States⁴. As noted, “the European Union is considered one of the world’s most advanced political systems regarding the promotion of gender equality, with its policies often regarded as exceptional”⁵. Nevertheless, the gender gap in the labour market within EU countries is not substantially different from the global situation, as reported by the European Commission⁶. Despite progress over the years, women remain underrepresented in the European labour market. In 2021, 67.7% of women were employed, compared to 78.5% of men.

This gender inequality in the labour market is a critical issue that requires serious attention, particularly as women are not a demographic minority. Statistical data show that, as of January 1st, 2020, there were 219 million

² For example, in hospitals, nursing homes, supermarkets, and home care.

³ S. BUZMANIUK, *Gender equality in Europe: a still imperfect model in the world*, in *European Issues*, 2023, p. 1; EIGE, *Evidence to Action: Gender equality and gender mainstreaming in the COVID-19 recovery*, Publications Office of the European Union, 2023, p. 11.

⁴ As reported by the European Commission’s Communication “*A Union of Equality: Gender Equality Strategy 2020-2025*”, 5.03.2020, in <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0152>.

⁵ S. JACQUOT, *European Union Gender Equality Policies Since 1957*, in *Encyclopédie d’histoire numérique de l’Europe*, 2020, <https://ehne.fr/en/encyclopedia/themes/gender-and-europe/gender-citizenship-in-europe/european-union-gender-equality-policies-1957>. See also S. BUZMANIUK, *Gender equality in Europe: a still imperfect model in the world*, in *European Issues*, 2023, p. 2.

⁶ See https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/women-labour-market-work-life-balance/womens-situation-labour-market_en.

men⁷ and 229 million women in the European Union, meaning there were 4.7% more women than men – a figure that is expected to increase⁸.

2. An Overview of the EU Legal Framework on the Matter

In Europe, persistent challenges remain in achieving gender equality, despite significant progress in recent decades. Lower female participation in the labour market continues to be a consequence of social and cultural factors, prejudices, and stereotypes. This represents a fundamental challenge that must be addressed to ensure equality between men and women in all areas, including employment, work, and pay. Nevertheless, gender equality is a fundamental right and one of the core values of the European Union, as evidenced by the numerous legal provisions in this area. It is enshrined in Article 2⁹ and Article 3(3)¹⁰ of the Consolidated Version of the Treaty on European Union, in Article 8¹¹ of the Treaty on the Functioning of the European Union, and in Articles 21¹² and 23¹³ of the Charter of Fundamental Rights.

Over time, the European Union has adopted several directives aimed at promoting equality between women and men in the workplace, covering all the most significant aspects of the employment relationship. For example, Directive 2006/54/EC on equal opportunities and the equal treatment of women and men in employment and occupation mandates the prohibition of both direct and indirect sex discrimination. Other key directives include Directive 79/7/EEC and Directive 2010/41/EU,

⁷ See <https://www.istat.it/demografiadelleuropa/bloc-1b.html?lang=it#:~:text=Quasi%20il%205%20%25%20in%20pi%C3%B9,in%20pi%C3%B9%20rispetto%20agli%20uomini>.

⁸ https://www.europarl.europa.eu/EPRS/graphs/2021-Demography_IT.pdf.

⁹ “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”.

¹⁰ “It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men”.

¹¹ “In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women”.

¹² “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited”.

¹³ “Equality between women and men must be ensured in all areas, including employment, work and pay”: art. 23 (1) CFR.

which address equal treatment for men and women in matters of social security and self-employed activities, and Directive 92/85/EEC, which seeks to improve the safety and health at work of pregnant workers, workers who have recently given birth, or those who are breastfeeding. Additionally, the Work-life Balance Directive¹⁴ aims to support working parents and carers in reconciling work and family responsibilities through family-related leave and flexible working arrangements, thereby increasing women's participation in employment.

More recently, the Pay Transparency Directive¹⁵ was adopted to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through enforcement mechanisms, in line with Article 157 of the Treaty on the Functioning of the European Union¹⁶.

Although not strictly related to employment, two other landmark achievements in the pursuit of gender equality have been made. In November 2022, the Directive on gender balance in corporate boards was adopted as an effective tool for enhancing female representation in decision-making within the largest listed companies in EU member states. Furthermore, in March 2022, a proposal for a directive on combating violence against women and domestic violence was presented by the European Commission.

The latest directives in this field stem from the European Commission's Gender Equality Strategy 2020-2025. This strategy adopts a dual approach, combining gender mainstreaming with specific measures for the advancement of women, aiming to ensure better policymaking and more efficient resource use. Additionally, the European Commission seeks to frame gender equality policies from an intersectional perspective. Intersectionality¹⁷ is a cross-cutting principle that considers multiple factors of discrimination affecting individuals, including gender, age, race, sexual orientation, disability, and more. Women are a heterogeneous group and may face intersectional discrimination based on various personal characteristics.

The goal is to create a Union in which women and men, in all their diversity, are free to pursue their chosen life paths, have equal

¹⁴ Directive 2019/1158/EU.

¹⁵ Directive 2023/970/EU.

¹⁶ "Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied": art. 157(1).

¹⁷ The term was coined by K. CRENSHAW, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, in *University of Chicago Legal Forum*, 1989, no. 1, p. 139.

opportunities to succeed, and can equally participate in and lead European society¹⁸.

Despite this comprehensive regulatory framework, gender inequalities persist. Gender gaps remain in employment, entrepreneurship, and public life, even though women surpass men in terms of educational attainment¹⁹.

3. Gender Equality Tested by Digitalisation

Amid the ongoing digital transition – one of the most significant societal transformations – it is crucial to assess whether and how digitalisation can help bridge the gender divide in the workplace.

According to the United Nations Development Programme (UNDP), the UN's lead agency on international development, “digitalisation is not gender-neutral”²⁰ because “deep-rooted gender stereotypes prevent women and girls from harnessing the myriad opportunities offered by digital technologies for personal and professional advancement.”

In general, digitalisation appears to place more strain on women than on men, as revealed by research conducted by the European Institute for Gender Equality in 2018²¹. This study found that in countries where young people (aged 16-24) report lower levels of confidence in their digital skills²², the confidence gap between women and men is significant, with a disparity of as much as 25 percentage points in Finland.

This digital divide has a profound impact on educational and career choices: across the European Union, “more than twice as many young men as women have learned to programme” and become ICT specialists²³. Science, technology, engineering, and mathematics (STEM) fields are among the most gender-segregated areas of the education system, as reflected by the low percentage of women graduating in these subjects in the EU over the past decades.

¹⁸ See https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en.

¹⁹ OECD, *The Pursuit of Gender Equality. An Uphill Battle*, OECD Publishing, Paris, 2017.

²⁰ UNPD, *Gender Equality in Digitalization. Key issues for programming*, in www.unpd.org, 2021, p. 4.

²¹ EIGE, *Gender equality and digitalisation in Europe*, in <https://eige.europa.eu/publications-resources/publications/gender-equality-and-digitalisation-european-union>, 2018.

²² E.g., Latvia, Austria and Finland.

²³ See <https://www.oecd.org/en/topics/gender-equality-and-digital-transformation.html>.

This gender division is mirrored in the labour market, where women are underrepresented in technological sectors, and ICT jobs remain predominantly male-dominated²⁴.

4. Remote Work as a Double-Edged Sword for Women

Digitalisation not only creates new job opportunities by promoting emerging sectors but also paves the way for new forms of work organisation and methods of work performance²⁵. From this perspective, remote work is one of the most relevant and widespread examples of digital technologies applied to employment relationships.

Remote work encompasses a broad and rapidly evolving range of circumstances and practices. At its core, it involves performing work outside company premises. In practice, remote workers complete their duties outside a traditional office environment, typically using technological tools.

Although remote work is now widespread, it remains controversial because, while it offers numerous advantages, it also presents significant drawbacks. On the one hand, it can be an effective means of balancing professional and personal life by reducing commuting time and the associated stress. It also serves as a tool for promoting inclusion in the labour market, as remote work increases the accessibility of employment for mothers, caregivers, and individuals with disabilities. On the other hand, it raises several concerns regarding labour rights, psychosocial risks, social protections, and the potential for widespread technological unemployment²⁶.

From a gender perspective, it is important to highlight that statistical data show that it is predominantly women who work from home. This could exacerbate the gender gap between male and female workers in office environments, reinforcing gender stereotypes and confining women “to the home,” where they may struggle to balance remote work with

²⁴ EIGE, *Gender equality and digitalisation in Europe*, in <https://eige.europa.eu/publications-resources/publications/gender-equality-and-digitalisation-european-union>, 2018.

²⁵ M. RUSSO, *Is the smart working the new frontier for Italian workers' well-being?*, in S. BELLOMO, F. FERRARO (edited by), *Modern Forms of Work. A European Comparative Study*, Sapienza University Press, 2020, p. 241.

²⁶ OECD, *Automation and independent work in a digital economy*, in www.oecd.org, 2016; A. MCAFEE, E. BRYNJOLFSSON, *The Second Machine Age: Work, Progress, and Prosperity in a time of brilliant technologies*, New York, 2016; E. LACKOVA, M. RUSSO, *Regulating (Un)Employment Effects of Automation. Challenges For Employee-Oriented Technological Transition*, in *Hungarian Labour Law E-Journal*, 2022, no. 2, p. 25.

domestic responsibilities, such as childcare²⁷. As noted, “women workers also bear the brunt of unpaid care work and domestic responsibilities”²⁸. Another aspect to consider is the growing number of incidents of domestic violence among remote workers engaged in home-based work. International statistical data reveal an increase in such cases during the two years severely affected by the pandemic. Restrictions on freedom of movement and the resulting necessity for remote work carried out from one’s private home led to a significant rise in incidents of domestic violence²⁹. Domestic violence refers to violence occurring within the family unit, irrespective of the existence of biological or legal ties. Victims are primarily women³⁰, as this form of violence stems from gender inequality and coercive control models targeted at them. It is a serious violation of the right to life and personal integrity³¹. For many female workers who are victims of violence, the workplace represents a safe refuge for at least part of the day. If the boundary between workplace and home is erased through remote work, even this limited escape is lost. Therefore, remote work can become a double-edged sword for women.

5. The Key Role of the EU Social Dialogue in Improving Remote Work from a Gender Equality Perspective

Although European provisions exist to protect women’s rights and promote gender equality within the European Union, translating these normative provisions into tangible societal changes requires concerted efforts across various sectors, including social dialogue. Indeed, communication and negotiation among governments, employers, workers, and other stakeholders play a pivotal role in shaping attitudes, policies, and practices capable of responding to the need for gender-sensitive

²⁷ K. ARABADJIEVA, P. FRANKLIN, *Home-based telework, gender and the public-private divide*, in N. COUNTOURIS, V. DE STEFANO, A. PIASNA, S. RAINONE (edited by), *The future of remote work*, ETUI, Brussels, 2023, p. 61.

²⁸ See <https://www.ilo.org/resource/news/eliminating-vulnerability-female-workers-exploitation-palm-oil-and>.

²⁹ R. HARVEY, *The ignored pandemic. The dual crises of gender-based violence and Covid-19*, in www.oxfam.org, 2021.

³⁰ It is appropriate to clarify that potential victims of domestic violence can also be men, elderly people, minors, LGBTIQ (lesbian, gay, bisexual, transgender, non-binary, intersex and queer) people.

³¹ A. DI STASI, *Il diritto alla vita e all'integrità della persona con particolare riferimento alla violenza domestica (artt. 2 e 3 CEDU)*, in A. DI STASI (edited by), *CEDU e ordinamento italiano. La giurisprudenza della Corte europea e l'impatto nell'ordinamento interno (2016-2020)*, Wolters Kluwer Cedam, Milano, 2020, p. 1-31.

solutions. From this perspective, the EU social partners could play a key role in improving the working conditions of remote workers to promote gender equality. The term “European social partners” specifically refers to the organisations at the EU level engaged in European social dialogue, as provided under Articles 154 and 155 of the Treaty on the Functioning of the European Union (TFEU). These include representatives of management (employer organisations) and labour (trade unions).

Social dialogue between workers’ and employers’ representatives is a central component of the European social market economy³², and the TFEU states that its promotion is one of the common objectives of the European Union and its Member States³³. As provided for by Article 155 TFEU, agreements concluded at Union level are intended to co-design, together with the European Commission and national governments, balanced measures to create an enabling environment for enterprises and better living and working conditions.

When remote work was still a niche topic, the first outcome of social dialogue on the matter was the Framework Agreement on Telework, signed on 16 July 2002. During a consultation with social partners on modernising and improving employment relations, the European Commission invited them to begin negotiations on telework. The items on the agenda included identifying flexible working arrangements, making businesses productive and competitive, and achieving the necessary balance between flexibility and security. This framework agreement was the tangible outcome of their collective bargaining. It is important to highlight that the EU social partners were forward-thinking, as digitalisation applied to work was still in its early stages at the time. According to the impact assessment conducted in 2008 by the European Commission, the Framework Agreement on Telework “may be considered a success”³⁴ because the instruments chosen, and the level of protection and guidance they provided, were deemed adequate in the majority of EU Member States.

According to the EU social partners, remote work could be a win-win strategy as it increases productivity and work-life balance simultaneously.

³² EUROPEAN COMMISSION, *The role of social partners in the design and implementation of policies and reforms*, Brussels, 2016, p. 1.

³³ Art. 151 TFEU.

³⁴ See the Report on the implementation of the European social partners’ Framework Agreement on Telework {COM (2008) 412 final}.

For this reason, they paid significant attention to its regulation³⁵, especially regarding the most critical aspects, such as health and safety³⁶, data protection and privacy³⁷, and collective rights³⁸. However, the Framework Agreement on Telework does not make direct references to gender equality. At that time, the situation of remote workers had not yet been analysed from a gendered perspective, and the number of workers involved in remote work was negligible.

This changed during the COVID-19 pandemic, as working remotely was specifically considered an effective measure to limit the spread of the Coronavirus in the workplace. European statistics from 2019 show that only 5.4% of employed people were working remotely³⁹, whereas, during the health emergency, nearly 70% of full-time workers across Europe were working from home. Although there was a slight decline in 2022⁴⁰, this upward trend in teleworking is set to continue as technological developments increase the number of jobs that can be performed remotely, and both employee and employer preferences lean more towards remote working.

Following the telework boom during the health emergency, several studies focusing on the phenomenon have shown that working remotely “has a disproportionate negative impact on women in terms of work–life conflict, stress, and health outcomes”⁴¹. Consequently, it may widen the gap between men and women, with serious implications for working conditions – such as fewer opportunities for professional training, career progression, and social benefits⁴² – and, above all, occupational safety and

³⁵ For a more detailed comment of the Framework Agreement on telework, see M. RUSSO, *Twenty years of EU Agreements on Remote Work from 2002 to 2022. What next?, in Freedom, Security and Justice. European Legal Studies*, 2023, no. 3, p. 217 ff.

³⁶ Art. 8 of the Framework Agreement.

³⁷ Artt. 5 and 6 of the Framework Agreement.

³⁸ Art. 11 of the Framework Agreement.

³⁹ EUROPEAN COMMISSION, *Telework in the EU before and after the COVID-19: where we were, where we head to*, 2020, https://joint-research-centre.ec.europa.eu/system/files/2021-06/jrc120945_policy_brief_-_covid_and_telework_final.pdf.

⁴⁰ Because “remote work is often seen as anathema by some who associate it with laziness, low productivity and the degradation of the social fabric of firms and of their creative and collaborative potential”: N. COUNTOURIS, V. DE STEFANO, *Out of sight, out of mind? Remote work and contractual distancing*, in N. COUNTOURIS, V. DE STEFANO, A. PIASNA, S. RAINONE (edited by), *The future of remote work*, ETUI, Brussels, 2023, p. 147.

⁴¹ EU-OSHA, *Exploring the gender dimension of telework: implications for occupational safety and health*, EU-OSHA publications 2024, p. 1.

⁴² On the point, see V. FILÌ, *Le difficili libertà delle donne tra gender wage gap, soffitti di cristallo e bassa fecondità*, in *Lavoro Diritti Europa*, 2021, no. 2; V. FILÌ, *Brevi riflessioni su differenziale di*

health, particularly psychosocial risks. The latest available occupational safety and health (OSH) data for teleworkers reveal that “gender inequalities are marked with regard to exposure to OSH psychosocial risks, incidence of work-related health problems, and availability of OSH initiatives in the workplace to prevent or address stress and mental health issues. In all these aspects, women are at a disadvantage compared to men”⁴³. Indeed, teleworkers are at greater risk of developing health problems arising from “hyperconnectivity.” This term refers to the continuous availability of workers via multiple types of work-related communication systems, such as email, instant messaging, and mobile phone calls. One of the effects of hyperconnectivity is an increased intensity of work, which could lead to overwork and the risk of burnout, a state of emotional, physical, and mental exhaustion caused by excessive and prolonged stress. It occurs when one feels overwhelmed, emotionally drained, and unable to meet constant demands.

Digitalisation and its impact on the labour market and the world of work have remained on the EU social partners’ agenda in recent years. In June 2020, a Framework Agreement on Digitalisation was signed to implement their multiannual work programme for 2019-2021. This agreement was the result of negotiations aimed at promoting tools and measures⁴⁴, where necessary, at national, sectoral, and/or enterprise levels, in accordance with Article 155 TFEU⁴⁵. According to the Framework Agreement on Digitalisation, the overall goal is to achieve a consensual transition not only through the successful integration of digital technologies in the workplace but also by capitalising on opportunities and preventing and minimising risks for both employees and employers. The aim is thus to ensure the best possible outcome for everyone.

Another step forward in the digital transition was the Joint Work Programme 2022-2024, signed by the European social partners on 28 June 2022. While the aims of the Joint Work Programme are numerous⁴⁶, reviewing and updating the 2002 Framework Agreement on Telework is the first priority. Although there is no mention of gender equality in this

genere e discriminazioni indirette nel sistema italiano di sicurezza sociale, in *Equal. Rivista di Diritto Antidiscriminatorio*, 2024, no. 1, p. 45.

⁴³ EU-OSHA, *Exploring the gender dimension of telework*, *cit.*, p. 11-12.

⁴⁴

See

<https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9729&furtherNews=yes>.

⁴⁵ “Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements” (par. 1).

⁴⁶ The other issues included in the programme are the green transition, youth employment, work-related privacy, and surveillance, improving skill matching in Europe, and capacity building.

document, there are several references to the need to improve work-life balance, which affects women disproportionately.

6. Critical Issues and Prospects Towards “EU...Quality”

These recent agreements on the matter are encouraging signs of a new era of social dialogue within the European Union. As attested by the International Labour Organization (ILO), in recent years, “EU-level social dialogue has been rich, involving social partners in individual sectors making statements on the impact of digitalisation on the economy”⁴⁷. Even though the diversity of national systems of social dialogue⁴⁸ and the decline in membership density of unions and employers’ associations in many Member States⁴⁹ are critical issues that EU social partners have been facing, “there is no doubt that such social dialogue at EU level will feed into and stimulate the social partners to conclude more specific agreements”⁵⁰.

Nevertheless, the European social partners could have done more – and can still do more – to strengthen the benefits of remote work for women and use digitalisation to close the gender gap.

The first issue they should address is implementing various forms of hybrid work, which can be an effective flexible working arrangement. Indeed, the EU social partners seem to focus exclusively on telework, which refers to the way employees carry out their duties from home. This form of telework is also known as home working. However, working from home for an extended period can lead to serious risks of isolation and reduced career progression opportunities. Therefore, hybrid work, which involves working partly within company premises and partly

⁴⁷ Y. GHELLAB, D. VAUGHAN-WHITEHEAD, *Enhancing social partners’ and social dialogue’s roles and capacity in the new world of work: Overview*, in D. VAUGHAN-WHITEHEAD, Y. GHELLAB, R. M. DE BUSTILLO LORENTE (edited by), *The New World of Work. Challenges and Opportunities for Social Partners and Labour Institutions*, ILO publications, 2021, p. 9.

⁴⁸ The differences involve not only the institutional frameworks but also differing levels of operational capacity of social partner organisations in different countries, *a fortiori* after Eastern enlargements: Poland, Hungary, Slovenia, the Czech Republic, Slovakia, Latvia, Estonia, Lithuania, Cyprus, and Malta joined the EU in 2004. In 2007 Bulgaria and Romania were added. The last entry was Croatia in 2013.

⁴⁹ Even though there are substantial differences in union density figures across EU Member States, since the early 1980s, trade union density rates have been declining, largely due to the growing number of employees who choose not to join a trade union and the expansion of non-standard forms of employment: <https://www.eurofound.europa.eu/en/european-industrial-relations-dictionary/trade-union-density>.

⁵⁰ Y. GHELLAB, D. VAUGHAN-WHITEHEAD, *cit.*, p. 9.

outside, could combine the advantages of remote work with the reduction of its disadvantages.

For instance, the Italian form of hybrid work, referred to as agile work⁵¹ or more commonly, smart work, if used correctly, could have an encouraging gender impact, as indicated by Article 18 of Law No. 81/2017. Indeed, paragraph 3-bis of Article 18 gives working parents with children under twelve years of age priority access to agile work. Moreover, paragraph 3-ter establishes that if an employer refuses or hinders the use of agile work, they cannot obtain gender equality certification⁵².

Secondly, three years have passed since the European Parliament resolution on the necessity of recognising the so-called right to disconnect⁵³, yet the directive remains a proposal. The right to disconnect⁵⁴ refers to the right to refrain from using technological work tools and from engaging in work-related electronic communications outside of service hours, without facing disciplinary consequences⁵⁵. In other words, employees cannot be disadvantaged for keeping their mobile phones or computers switched off, nor for not answering phone calls or responding to emails and messages during holidays or rest periods. Therefore, this right has a transversal scope, concerning fundamental issues such as rest time, health and safety, and work-life balance, all of

⁵¹ Art. 18 and following law 22 May 2017, no 81. see, *ex multis*, M. BROLLO, *Il lavoro agile nell'era digitale tra lavoro privato e pubblico*, in *Il Lavoro nelle pubbliche Amministrazioni*, 2017, no. 1, p. 119; G. SANTORO PASSARELLI, *Il lavoro autonomo non imprenditoriale, il lavoro agile e il telelavoro*, in *Rivista italiana di diritto del lavoro*, 2017, no. 3, p. 369; M. MARTONE, *Il lavoro agile nella l. 22 maggio 2017, n. 81: un inquadramento*, in G. ZILIO GRANDI, M. BIASI (edited by), *Commentario breve allo Statuto del lavoro autonomo e del lavoro agile*, Wolters Kluwer Cedam, Milano, 2018, p. 461; C. SPINELLI, *Tecnologie digitali e lavoro agile*, Cacucci, Bari, 2018; M. TUFO, *Il lavoro digitale a distanza*, Editoriale Scientifica, Napoli, 2021; M. RUSSO, *Il datore di lavoro agile. Il potere direttivo nello smart working*, Edizioni Scientifiche Italiane, Napoli, 2023.

⁵² Provided for by art. 46-bis of legislative decree 11 Aprile 2006, no. 198

⁵³ EU Resolution 21.01.2021 (2019/2181). On the topic, see A. FENOGLIO, *Una veste digitale per il diritto al riposo: il diritto alla disconnessione*, in *Lavoro Diritti Europa*, 2021, no. 4, p. 12; E. FIATA, *L'iniziativa europea sul diritto alla disconnessione*, in *Lavoro Diritti Europa*, 2021, no. 4.

⁵⁴ J. E. RAY, *Naissance et avis de décès du droit à la déconnexion, le droit à la vie privée du XXIème siècle*, in *Droit social*, 2002, no. 11, p. 939; J. E. RAY, *Grande accélération et droit à la déconnexion*, in *Droit social*, 2016, no. 11, p. 912.

⁵⁵ On the right to disconnect, see, *ex multis*, E. DAGNINO, *Il diritto alla disconnessione nella legge n. 81/2017 e nell'esperienza comparata*, in *Diritto delle relazioni industriali*, 2017, no. 4, p. 1024; R. ZUCARO, *Il diritto alla disconnessione tra interesse collettivo e individuale. Possibili profili di tutela*, in *Labor & law. issues*, 2019, vol. 5, no. 2, p. 215; M. RUSSO, *Esiste il diritto alla disconnessione? Qualche spunto di riflessione alla ricerca di un equilibrio tra tecnologia, lavoro e vita privata*, in *Diritto delle relazioni industriali*, 2020, no. 3, p. 682.

which particularly benefit women, who traditionally spend more time than men fulfilling caregiving responsibilities.

Indeed, the right to disconnect may be one of the most effective ways to put into practice not only Article 31 of the EU Charter of Fundamental Rights, concerning fair and just working conditions, but also Article 23 regarding equality between men and women, as highlighted in the resolution text⁵⁶.

The involvement of social partners is crucial to implementing this issue, particularly by identifying the most effective measures to exercise disconnection. To make it effective, it is essential to establish detailed arrangements to ensure disconnection in a fair and transparent manner.

The topic is complex and multifaceted, as identifying the most effective policies and tools to remove social, cultural, and legal obstacles to gender equality and ensure the active participation of women in the European labour market is not an easy task. However, in light of the EU regulatory framework, the collective agreements signed by the European social partners, the existing literature, and the current state of play, as demonstrated by the available data, the time may be ripe to capitalise on the many opportunities offered by digitalisation to enhance equality in Europe.

⁵⁶ On the point, see A. ADINOLFI, *Evoluzione tecnologica e tutela dei diritti fondamentali: qualche considerazione sulle attuali strategie normative dell'Unione*, in *Quaderni AISDUE*, 2023, no. 15, p. 331.

The Contested Realm of Reorganisation Crises: A Rhetorical Arena Approach to Understanding Communication in the Context of Workforce Restructuring

Francesco Nespoli *

Abstract: This paper explores organisational crises resulting from company restructuring and reorganisation, highlighting them as a crucial area for crisis communication research. It addresses the limited academic focus on restructuring crises compared to other types, such as industrial accidents or environmental scandals, and argues for their significant reputational implications. Building on Frandsen and Johansen's (2016) multivocal framework, the study investigates how actors like trade unions, media, administrative bodies, and companies interact to shape narratives and influence outcomes during restructuring. Trade unions, in particular, play a crucial role in challenging corporate narratives and shaping public opinion, potentially turning organisational changes into reputational crises with financial and operational consequences.

The paper concludes by urging further research into contextual factors—such as income, education, industrial relations culture, and company reputation—that affect trade unions' power in the rhetorical arena, aiming to develop a comprehensive framework for analysing and managing reorganisation crises.

Keywords: *crisis communication; restructuring; reorganisation; rhetorical arena theory; trade unions*

Introduction

Over the past decade, the Western world has confronted three significant crises: the global financial crisis of 2007–2008, the sovereign debt crisis of 2011–2012, and the Covid-19 pandemic. The current geopolitical climate, sparked by the conflict on the border between Eastern Europe and Russia, and the recent upsurge of conflicts in the Middle East, adds

* Research Fellow at LUMSA University (Italy). Email address: f.nespoli1@lumsa.it.

another layer of complexity, with implications that remain difficult to fully grasp.

These crises have contributed to a decline in competitiveness for numerous companies, leading many of the largest firms to initiate reorganisation plans to improve performance¹. Common strategies include downsizing, plant closures, business terminations, and relocations, often resulting in large-scale layoffs aimed at reducing labour costs.

Moreover, restructuring strategies are frequently employed not only in response to economic and financial crises but also due to technological advancements and legal pressures that compel organisations to adopt rapid, cost-cutting measures. A notable example is the tech sector, which has witnessed a wave of massive layoffs over the past two years².

To describe these conditions, terms coined a few years ago, such as “polycrisis”, “metacrisis”, and “permacrisis”, have re-emerged to reflect the pervasive nature of crises in the modern business environment. In this context, the practice of managing these uncertainties through temporary or permanent layoffs remains widespread as firms continue to navigate market uncertainties, even as the economy recovers³. While primarily rooted in analyses of natural disasters rather than human-enacted economic downturns, Naomi Klein’s *The Shock Doctrine* (2007) remains relevant in highlighting how crises can be strategically exploited to advance neoliberal restructuring. According to Klein, both private and public powerful entities leverage chaotic situations to implement economic policies and strategies that might otherwise face significant resistance.

Regardless of intent, companies must contend with potential reputational damage stemming from media coverage⁴, particularly in the context of restructuring. Large-scale reassessments of organisational structures and

¹ See R. McDevitt, C. Giapponi & D. M. Houston, D. M., *Organisational downsizing during an economic crisis: Survivors’ and victims’ perspectives* in *Organisation Management Journal*, 10(3), 2013, 227-239; L. Federman, L. Grimm, K. Morley, M. Schneiderei & E. Scott, *Jumping the line: Priming restructuring transactions during the Covid-19 crisis*, in *Butterworths Journal of International Banking and Financial Law (Jones Day)*, February 2021.

² See U. Kumar & G. Gupta, *Study on layoff of employees in big tech organisations* in *IJFMR*, 5(2), March-April (2023). See also V. Palladino, 2023, January 20, *Google parent Alphabet to cut 12,000 jobs, the biggest layoffs in company history*. Time.com; K. Conger, M. Isaac & S. Frenkel, (2025, January 14) *Meta to cut 5% of its workers in new round of layoffs*. TheNewYorkTimes.com.

³ Wharton Staff, 2016, April 12. *How layoffs hurt companies*. Retrieved from <https://knowledge.wharton.upenn.edu/article/how-layoffs-cost-companies/>

⁴ D. P. Millar & R. L. Heath (eds.), *Responding to Crisis: A Rhetorical Approach to Crisis Communication*, Routledge, 2003.

staffing plans—especially within major corporations—frequently attract significant media scrutiny, turning what might be perceived as routine corporate decisions into reputational crises.

In any case, companies must manage potential reputational damage from media coverage, which is particularly true in the context of restructuring. Indeed, large-scale reassessments of organisational charts and staffing plans, especially within major corporations, can attract significant media attention⁵, leading to a reputational crisis⁶.

Paradoxically, these crises can escalate the costs associated with reorganisation in various ways⁷. The ability of trade unions to influence these decisions and engage stakeholders, including the media, becomes critical. In this context, industrial relations have become a battleground for ideological debate, particularly as unions seek to expose how reported crises are often used as a pretext to pursue efficiency gains⁸.

Although some scholars have reconceptualised corporate restructuring by highlighting the pivotal role of public affairs activities in addressing both market and non-market pressures⁹, this literature rarely explores the role of trade unions and their public relations efforts in managing the reputation of restructuring organisations.

⁵ C. T. Christen, “The restructuring and reengineering of AT&T: Analysis of a public relations crisis using organisational theory”, *Public Relations Review*, 31(2), 2005, p. 239-251; T. Brimeyer, G. W. Muschert & S. Lippmann, “Longitudinal modeling of frame changing and media salience: Coverage of worker displacement, 1980–2007”, *International Journal of Communication*, 6, 2012, p. 2094–2116; L. Caruso, C. Cepernich & F. Roncarolo, “Le rappresentazioni mediatiche della crisi tra bisogni informativi e strategie politico-comunicative”, *Rassegna Italiana di Sociologia*, 1, 2012, p. 137-168; P. Orrù, “Il discorso sulla crisi economica nella stampa italiana (2007-2017)”, *Rhesis. International Journal of Linguistics, Philology and Literature*, 9(1), 2018, p. 44-68.

⁶ N. A. Dentchev & A. Heene, “Managing the reputation of restructuring corporations: Send the right signal to the right stakeholder”, *Journal of Public Affairs: An International Journal*, 4(1), 2004, p. 56-72.

⁷ D. Flanagan & K. O’Shaughnessy, “The effect of layoffs on firm reputation”, *Journal of Management*, 31, 2005, p. 445-463; Y. Hatakeyama, “What Kind of Crisis Communication Messages Benefit Corporate Reputation on High and Minimal Responsibility Case?”, in *Advances in Advertising Research XIV: Harder, Better, Faster, Stronger: Advertising and Communication between Immediacy and Sustainability*, Wiesbaden, Springer Fachmedien Wiesbaden, 2024, p. 243-253.

⁸ F. Nespoli, *Fondata sul lavoro, la comunicazione politica e sindacale del lavoro che cambia*, Bergamo, ADAPT University Press, 2018; C. R. Martin, *Framed!: Labor and the Corporate Media*, Cornell University Press, 2004.

⁹ Dentchev, N. A., & Heene, A. (2004). Managing; Ahlstrand, R., & Rydell, A. (2017). Corporate social responsibility in connection with business closures and downsizing: A literature review. *Contemporary Management Research*, 13(1), 53-78.

Drawing on the concept of the Rhetorical Arena—conceived by Frandsen and Johansen—this paper aims to fill this gap by illustrating the various actors who may participate in this arena and their respective roles in corporate crises triggered by workforce reorganisation¹⁰. Particular attention is paid to trade unions and the influence they wield over other actors, primarily by exerting reputational pressure on multiple stakeholders.

Moreover, by recognising the deliberate and strategic nature of such crises, this study seeks to address the disproportionate attention given to other forms of corporate crises, rather than those with occupational consequences. In doing so, it contributes to a more comprehensive understanding of crisis typologies in organisational and public communication contexts.

1. The Place of Reorganisational Crises in Crisis Communication Theories: A Rationale

Several conditions justify examining a reorganisation plan within the realm of crisis communication, with the media and trade unions playing pivotal roles in shaping and interpreting these dynamics. After establishing the link between restructuring and reputation, I argue here that a primary reason why reorganisation plans and restructuring (as defined in this paper) can be analysed through a crisis communication lens is their deliberate nature. While not every deliberate restructuring decision culminates in a reputational crisis, it often carries a reputational threat. Specifically, the intent behind such actions can incite reputational challenges, particularly if stakeholders view them as unjust or irresponsible.

1.1 Crises of Competitiveness and the Reorganisational Response: Why “a Crisis”?

The management literature has addressed crises of competitiveness and the resulting corporate distress¹¹. These corporate crises can be driven not only by economic and financial difficulties but also by technological,

¹⁰ See F. Frandsen & W. Johansen, *Organisational Crisis Communication: A Multivocal Approach*, Sage, 2016; F. Frandsen & W. Johansen, “Rhetorical arena theory: Revisited and expanded”, in *The Handbook of Crisis Communication*, 2022, p. 169-181.

¹¹ L. Schweizer & A. Nienhaus, “Corporate distress and turnaround: Integrating the literature and directing future research”, *Business Research*, 10, 2017, p. 3–47.

political, and legal challenges—all of which can significantly affect a firm's performance and survival, often leading to restructuring.

In this paper, I focus on organisational restructuring that impacts the internal structure of the firm¹². I use the term “reorganisation” broadly to refer to any organisational change that affects employees—such as downsizing, plant closures, and offshoring—often involving layoffs or the relocation of workers¹³. This interpretation aligns closely with Cascio (2021) in the *Oxford Research Encyclopedia of Business and Management*, which notes that “common forms of corporate restructuring include downsizing, which may involve natural attrition, buyouts, involuntary layoffs, or early retirement offers to adjust workforce competencies to fit the overall strategy”¹⁴.

It is important to note that the strategies mentioned above represent only a subset of possible options, and other paths—such as wage freezes, wage retrenchment, or short-time working schemes—can be pursued. In considering these alternatives, the European literature particularly emphasises the notion of “responsible restructuring”, which highlights the importance of “a fair process of restructuring, as well as measures to ameliorate the negative effects of job losses and to help displaced workers back into the labour market”¹⁵.

¹² Management literature differentiates between financial restructuring, which typically involves changes to a company's financial structure (See H. Singh, “Challenges in researching corporate restructuring”, *Journal of Management Studies*, 30, 1993, p. 147-172; K. Tang, “Restructuring: Mergers and acquisition”, in *Leadership and Change Management*, 2019, p. 85-98) and organisational restructuring, which impacts the company's internal organisation (E. H. Bowman, H. Singh, M. Useem & R. Bhadury, “When does restructuring improve economic performance?”, *California Management Review*, 41(2), 1999, p. 33-54).

¹³ Alternative terms for these procedures include “workforce restructuring”, “workforce reorganisation”, “organisational restructuring”, and “redundancy plans”.

¹⁴ In scientific literature, the term “downsizing” is frequently used to describe organisational changes driven by competitiveness challenges that result in layoffs. This typically occurs when companies seek to reduce costs due to a decline in demand for their products or services, a shift in business strategy, or an economic downturn. Other terms used interchangeably with “downsizing” include “rightsizing,” “smart sizing,” “workforce reduction,” or “reduction in force” (RIF), while the US Office of personnel management uses the term “workforce restructuring” (OPM). From the HR management perspective, these terms generally refer to the temporary or permanent termination of employment for reasons unrelated to an individual's job performance (A. Batra, “Downsizing, rightsizing or smart-sizing: A potion for organisational performance”, *Delhi Business Review*, 20(2), 2019, p. 57-66).

¹⁵ See S. Johnstone, “Human resource management in recession: Restructuring and alternatives to downsizing in times of crisis”, *Human Resource Management Journal*, 34(1), 2024, p. 138-157. When evaluating these alternatives, Johnstone utilizes a model

Of course, one could argue that reorganisation or restructuring is more appropriately examined within the domain of change management rather than crisis management. Indeed, academic discourse has normalised downsizing and layoffs as standard business practices, even under favourable economic conditions¹⁶. However, this perspective underscores that restructuring may be a deliberate choice, not necessarily linked to manifest corporate distress. In these instances, the concept of responsible restructuring highlights that some restructuring initiatives seek to enhance competitiveness by reducing labour costs, rather than pursuing alternatives like production innovation or employee training. Consequently, such a cost-cutting approach may be seen as an irresponsible shortcut to competitiveness.

Ultimately, the concept of “responsibility” underscores the central role of human resource management and employee relations within corporate social responsibility (CSR), influencing environmental management, employee support, organisational climate, and overall employee well-being¹⁷. As noted by Ahlstrand and Rydell (2017), substantial research has indeed examined the role of CSR activities in corporate restructuring¹⁸.

proposed by Teague and Roche (“Recessionary bundles: HR practices in the Irish economic crisis”, *Human Resource Management Journal*, 24(2), 2014, p. 176-192., p. 180) that differentiates between pure restructuring, employment stabilisation, and responsible restructuring. In pure restructuring, “firms focus on achieving rapid payroll savings, predominantly through downsizing.” Employment stabilization, on the other hand, involves “a commitment by firms to avoid compulsory redundancies, opting instead for alternative cost-saving measures such as wage reductions, shorter working hours, voluntary redundancies, and terminating contracts with agency workers”. Notably, the concept of responsible restructuring has been further refined into a comprehensive framework by McLachlan (C. J. McLachlan, “Developing a framework for responsible downsizing through best fit: The importance of regulatory, procedural, communication, and employment responsibilities”, *International Journal of Human Resource Management*, 33, 2021, p. 1-29).

¹⁶ Wharton Staff, *How layoffs*

¹⁷ L. Preuss, A. Haunschild & D. Matten, “The rise of CSR: Implications for HRM and employee representation”, *The International Journal of Human Resource Management*, 20(4), 2009, p. 953-973..

¹⁸ See Z. Karake-Shalhoub, “An examination of the impact of organisational downsizing and discrimination activities on corporate social responsibility as measured by a company’s reputation index”, *Management Decision*, 36(3), 1998, p. 206-216; Z. Karake-Shalhoub, *Organisational Downsizing, Discrimination, and Corporate Social Responsibility*, Bloomsbury Publishing USA, 1999; P. Heugens & H. Schenk, “Rethinking corporate restructuring”, *Journal of Public Affairs*, 4, 2004, p. 87-101; L. Zu, *Corporate Social Responsibility, Corporate Restructuring and Firm’s Performance*, Springer, 2008; C. Janssen, S. Sen & C. Bhattacharya, “Corporate crises in the age of corporate social responsibility”, *Business Horizons*, 58, 2015, p. 183-192.

Because CSR is a key component of corporate reputation, organisational restructuring can therefore pose a significant reputational risk.

I will not delve deeply into the corporate reputation literature, nor will I address the issue of confusion among the concepts of corporate identity, image, and reputation¹⁹, as these topics are beyond the scope of this paper. For the purposes of this discussion, it is sufficient to refer to the traditional definition by Fombrun and Van Riel, which describes corporate reputation as “a collective representation of [a company’s] past actions and results that describes the firm’s ability to deliver valued outcomes to multiple stakeholders”²⁰. It is important to clarify, however, that even when adopting this definition, corporate reputation extends beyond immediate or future economic outcomes²¹. Indeed, it should also be understood as a strategic resource encompassing stakeholders’ interpretations and expectations regarding a company’s social responsibility²². This interpretation can ultimately influence economic performance, prompting companies to reconsider their plans and, in some cases, increasing the costs associated with reorganisation.

This distinction extends beyond the notion that companies implementing layoffs are, by definition, facing challenges. It also pertains to how a company communicates its commitment to social responsibility, particularly regarding the conditions of its employees. Consequently, ethical considerations take on a central role when restructuring plans are subjected to public scrutiny²³.

1.1.2 So, What is “a Crisis”?

These observations form the basis for understanding why it is appropriate to discuss “crises” in the context of a company undertaking collective layoffs and other forms of reorganisation, even when a genuine competitiveness crisis is absent. The question is not new, but it merits

¹⁹ M. L. Barnett, J. M. Jermier & B. A. Lafferty, “Corporate reputation: The definitional landscape”, *Corporate Reputation Review*, 9(1), 2006, p. 26–38.

²⁰ C. Fombrun & C. van Riel, “The reputational landscape”, *Corporate Reputation Review*, 1(1-2), 1997, p. 10.

²¹ C. J. Fombrun, “Corporate reputations as economic assets”, in M. A. Hitt, R. E. Freeman & J. S. Harrison (Eds.), *The Blackwell Handbook of Strategic Management*, Wiley Online Library, 2005, p. 289–312.

²² L. P. K. Adeosun & R. A. Ganiyu, “Corporate reputation as a strategic asset”, *Interdisciplinary Journal of Business and Social Science*, 4(2), 2013, p. 220–228.

²³ V. Potocan & Z. Nedelko, “The behavior of organisations in economic crises: Integration, interpretation, and research development”, *Journal of Business Ethics*, 174, 2021, p. 805–823.

further consideration, as the study of reorganisation crises offers a lens through which we can reflect on the evolution of crisis communication research. As Michael Kent pointed out in 2010:

An organisation laying off thousands of employees is often described as a ‘crisis’, and yet, from the standpoint of the organisation, laying off thousands of employees will allow the organisation to ‘better compete’. Thus, from the organisation’s standpoint, how is a layoff a crisis? Since employee layoffs often happen when an organisation shifts its manufacturing overseas or moves its production to less costly locations, layoffs constitute hundreds or thousands of individual ‘stakeholder crises’, or a union crisis, but not an organisational crisis²⁴.

As implied by Kent, the study of reorganisation crises serves as a means of exploring the very nature of crises. Due to the characteristics of the context we live in, the concept of crisis itself is evolving within crisis communication theories. Some contemporary perspectives suggest that crises are no longer seen merely as unpredictable events, but as inherent aspects of ordinary business life. This shift in understanding redefines how we interpret not just individual events, but entire eras characterised by continuous crisis. Building on Ulrich Beck’s theory of the “risk society”, crisis communication theorists Finn Frandsen and Winni Johansen place the possibility of describing our society as a “crisis society” at the centre of their reflections in elaborating a multivocal approach to crisis communication. More broadly, in the social sciences, terms coined a few years ago, such as “polycrisis”, “metacrisis”, and “permacrisis”, are also reappearing collectively to illustrate the evolving nature of contemporary crises²⁵. As noted by the Italian manager Maurizio Castro, the most relevant term for the discourse I am articulating here is Stephen S. Cohen’s concept of “permacrisis”, which was highlighted as Collins Dictionary’s Word of the Year for 2022²⁶. It describes a state of

²⁴ M. L. Kent, “What is a public relations ‘crisis’? Refocusing crisis”, in W. T. Coombs & S. J. Holladay (eds.), *The Handbook of Crisis Communication*, Wiley-Blackwell, 2010, p. 708.

²⁵ Edgar Morin and Anne-Brigitte Kern’s term “polycrisis” (*Terre-Patrie*, Paris, Éd. du Seuil, 1993) is inherently political, highlighting the interconnectedness of global crises and demonstrating how issues are interlinked and mutually reinforcing. By contrast, the term “metacrisis”—credited to Nicholas Hedlund and Sean Esbjörn-Hargens—functions as a meta-theoretical concept, addressing the interdisciplinary challenges of responding to these intertwined crises and underscoring the complexity and systemic nature of our approaches (Weisser, *Problem shifting: An expression of the metacrisis*. 2023).

²⁶ M. Castro, “Il governo della post-merger integration nei nuovi scenari competitivi”, *TeMa*, (2), 2024, CUAO Business School.

perpetual crisis in which instability and challenges are continuous rather than isolated²⁷.

Clearly, Kent is not suggesting that public relations professionals should ignore the implications of crises like layoffs on employees or fail to consider how to minimise the stakeholder consequences. Rather, he highlights that crises should be reframed from being seen merely as “major occurrences with potentially negative outcomes” to understanding them as events that significantly shape organisational actions, external relations, and have long-term implications for organisational climate and profitability²⁸.

Kent’s perspective offers both elements for problematisation and a potential solution to the question he poses. He suggests that when we refer to a crisis in the context of restructuring, multiple crises may be involved—such as stakeholder crises, union crises, or organisational crises. He further argues that a company may not perceive restructuring as a crisis but rather as a solution. From this viewpoint, the primary impact falls on certain stakeholders or unions, whose worker-protection function is threatened (particularly if one adopts a simplistic view that their role is solely to prevent layoffs²⁹). However, Kent’s analysis does not explicitly account for the potential emergence of reputational crises linked to restructuring, particularly those arising from allegations that the restructuring plan is irresponsible or unfair³⁰.

The element that helps clarify why a reputational crisis might emerge, thus enabling one to discuss crises in the context of restructuring from the perspective of crisis communication, is Kent’s reference to the “standpoint”. This implies that a reorganisation crisis is always a specific framing adopted by an actor. The possibility that a reorganisation might evolve into a reputational crisis depends on how the restructuring is framed and perceived.

This aspect is also reflected in Fombrun and Van Riel’s definition of corporate reputation, which states that it “gauges a firm’s relative standing both internally with employees and externally with its stakeholders, in

²⁷ G. Brown, M. El-Erian, M. Spence & R. Lidow, *Permacrisis: A Plan to Fix a Fractured World*, Simon and Schuster, 2023.

²⁸ Kent, *op. cit.*, p. 709.

²⁹ Cf. G. Brown, M. El-Erian, M. Spence & R. Lidow, *Permacrisis: A Plan to Fix a Fractured World*, Simon and Schuster, 2023.

³⁰ This complexity is compounded by the possibility that trade unions might strike or initiate legal action, thereby escalating the restructuring process into an organisational crisis. I will explore this topic in more detail later.

both its competitive and institutional environments”³¹. In the context of a reorganisation, both inside and outside the company, few may justify the organisation’s actions as a response to an external competitiveness crisis. Competitiveness is often perceived as the company’s natural goal—achieved, in this case, through the exploitation of workers and the reduction of labour costs. From this perspective, the employment effects of such decisions are the crisis itself.

1.1.3 The Relevance of a Multivocal Approach

To build upon this intuition, it is appropriate to adopt a multivocal approach. Specifically, restructuring can be examined from the perspective of crisis communication because, from the standpoint of certain voices, it constitutes a form of crisis.

I will adopt the approach of Frandsen and Johansen, who introduced the rhetorical arena theory in their seminal work *Retorik og Krisekommunikation* (Rhetoric and Crisis Communication), published in 2000, with a “revisited and expanded” version in 2022. They argue that crisis situations involve a high degree of communicative complexity due to the diverse participants or stakeholders involved. Unlike the straightforward, linear communication typically seen between an organisation and its stakeholders, the crisis arena includes numerous voices, each representing unique stakes and agendas. The theory reflects the socially constructed nature of crises, where some voices may support, while others critique, the organisation’s response.

As a result, multiple communication processes occur either simultaneously or sequentially among various senders and receivers, further increasing communicative complexity³². This framework underscores the significant role of multiple actors—including the media, trade unions, trade associations, and administrative entities—in shaping the discourse and framing specific crises³³.

1.2 Re-organisational Crises as Deliberate Crises

Once this has been clarified, we can position reputational crises linked to reorganisation plans within Coombs and Holladay’s taxonomy of crisis

³¹ Fombrun & Van Riel’s, *op. cit.*, p. 10.

³² F. Frandsen & W. Johansen, *Rhetorical arena*, p. 170.

³³ F. Frandsen & W. Johansen, *Rhetorical arena*, p., p. 171

types³⁴. This framework allows us to identify and contextualise the specific nature of such crises, highlighting their peculiarities within the broader theories developed in the field of crisis communication.

These theories typically deal with crises characterised by unpredictable events that threaten stakeholder expectations and can seriously affect an organisation's performance, leading to negative outcomes³⁵. Common examples include sexual harassment incidents, industrial and workplace accidents, natural disasters, and emissions scandals. Therefore, it is important to emphasise that reputational crises arising from reorganisation communication occupy a distinct position within the classification of crises in crisis communication theories. Indeed, unpredictability and the impact on consumer utility, which are the general focus of crisis communication, do not fully apply to this kind of crisis³⁶.

Regarding the first characteristic—unpredictability—I have already noted that layoffs are typically the result of planned managerial decisions, which grants the firm some control over both the timing and communication of such actions³⁷. Unlike crises caused by accidents or natural disasters, reorganisation is ultimately seen as a management decision by certain actors within the rhetorical arena, thereby intensifying perceptions of culpability and moral responsibility.

We can therefore place the crisis associated with reorganisation within the intentional cluster. The intentional cluster involves strong attributions of responsibility, where the organisation is held primarily or entirely accountable. This is similar to cases of human-error accidents (e.g., industrial accidents caused by human error) or organisational misdeeds.

Thus, even in cases of downsizing and layoffs not necessarily tied to overt corporate distress, the company may nonetheless face what Coombs and

³⁴ W. T. Coombs & S. J. Holladay, "Helping crisis managers protect reputational assets: Initial tests of the situational crisis communication theory", *Management Communication Quarterly*, 16, 2002, p. 165–186; W. T. Coombs & S. J. Holladay, "Reasoned Action in Crisis Communication: An Attribution Theory—Based Approach to Crisis Management," in D. P. Millar & R. L. Heath (eds.), *Responding to Crisis: A Rhetorical Approach to Crisis Communication*, 1st ed., New York, Routledge, 2004.

³⁵ W. T. Coombs, "Conceptualizing crisis communication," in *Handbook of Risk and Crisis Communication*, Routledge, 2020 (original work published 2008), pp. 99–118.

³⁶ As for the second characteristic of crises (consumer utility), we should note that redundancy announcements do not directly affect consumer utility in the same way as unpredictable crises. I will return to this point later.

³⁷ V. Landsman & S. Stremersch, "The commercial consequences of collective layoffs: Close the plant, lose the brand?", *Journal of Marketing*, 84(3), 2020, pp. 122–141.

Holladay term³⁸ a “paracrisis”: “a publicly visible crisis threat that charges an organisation with irresponsible or unethical behaviour.”

Therefore, I propose that reorganisation can always be viewed, to some extent, as an “intentional” crisis, depending on the perspectives of the actors participating in its communication.

This categorisation is crucial because it implies that intermediaries, including trade unions and the media, are more likely to attribute responsibility directly to the company, seeing the crisis as intentional and avoidable.

In conclusion, it is the presence of an actor attributing culpability to the company that transforms what was merely a financial or organisational practice into a reputational crisis. Ultimately, this is what we mean when we refer to a “crisis” in the context of a company engaging in layoffs and other collective measures as part of reorganisation processes.

2. The Place of Trade Unions Within the Reorganisation Rhetorical Arena: A Conceptual and Theoretical Framework

The relatively limited academic attention given to restructuring crises—compared to more dramatic events such as industrial accidents or emissions scandals—highlights the need for further investigation into how these situations are framed by trade unions through their public relations efforts.

Indeed, I have already defined what workforce reorganisation is and why it can be analysed from the perspective of crisis communication. However, it is still necessary to clarify why, in the context of a company implementing reorganisation processes, trade unions are crucial in enacting a reputational crisis, rather than merely an organisational one.

In the following section, I draw on the concept of the Rhetorical Arena, which is conceptualised as a two-layered model by Frandsen and Johansen³⁹. The macro-component encompasses all actors and voices communicating in the arena from the onset of a crisis until its resolution, while the micro-component represents each individual communication process (i.e., every instance a sender conveys a message). In this paper, I focus exclusively on the first layer: the macro-component. In doing so, I aim to illustrate the various actors who may participate in the rhetorical

³⁸ W. T. Coombs & J. S. Holladay, “The paracrisis: The challenges created by publicly managing crisis prevention,” *Public Relations Review*, 38(3), 2012, p. 402.

³⁹ See F. Frandsen & W. Johansen, *op. cit.*, 2022.

arena and their respective roles in organisational crises, with particular emphasis on trade unions and the influence they can exert on other actors.

2.1 The Concept of Framing in a Rhetorical Arena

To achieve this, another conceptual premise is necessary: clarifying what a “frame” is. I have already specified what I mean by “framing,” a term widely employed across various social science disciplines. This is particularly evident when framing theory is adopted for media representation analysis, given the argument that the way news is reported can influence how audiences interpret it. This perspective differs from other approaches—such as agenda-setting and priming theory—by emphasising how discourse is represented, rather than simply which topics are selected. Thus, the central question shifts from “Which topics are we led to believe in?” to “How are we encouraged to interpret a given issue?” and “How should we think about a certain topic?”⁴⁰

I have also previously explained how this concept can be applied to industrial relations communication⁴¹ by adopting a framing analysis from a rhetorical perspective⁴². For the purposes of this discussion, it suffices to recall that, from this viewpoint, framing functions similarly to the rhetorical concept of “topics.” Simply put, a frame can be regarded as a set of argumentative premises; hence, the framing process parallels the classical rhetorical notion of *inventio*—the systematic search for commonplaces, premises, core values, and their hierarchies⁴³. In Kuypers’ words, “framing is the process whereby communicators act to construct a

⁴⁰ See D. McQuail, *McQuail’s mass communication theory*. Sage, 2005.

⁴¹ F. Nespole, “Framing the crisis in industrial relations. Contrasting the ‘Fiat case’ and FCA-UAW agreement”, *E-Journal of International and Comparative Labour Studies*, 7(3), 2018b, pp. 109–142; F. Nespole, “When labour goes populist. How Italian populist leaders frame the labour market and industrial relations on social media”, *E-Journal of International and Comparative Labour Studies*, 8(2), 2019, pp. 4–46.

⁴² J. A. Kuypers, “Framing analysis from a rhetorical perspective,” in P. D’Angelo & J. A. Kuypers (eds.), *Doing News Framing Analysis*, Routledge, 2010, pp. 286–311. This approach is also employed by Valentini et al. in analysing trade union framing for lobbying (C. Valentini, Ø. Ihlen, I. Somerville, K. Raknes & S. Davidson, “Trade unions and lobbying: Fighting private interests while defending the public interest?”, *International Journal of Communication*, 14, 2020, pp. 4913–4931).

⁴³ Ch. Perelman & L. Olbrechts-Tyteca, *Traité de l’argumentation. La nouvelle rhétorique*, Paris, PUF, 1958; (Italian translation by C. Schick, M. Mayer & E. Barassi, *Trattato dell’argomentazione. La nuova retorica*, Torino, Einaudi, 1966, 1989, 2001), p. 90.

particular point of view that encourages the facts of a given situation to be viewed in a particular manner, with some facts made more noticeable than others”⁴⁴.

2.2 Corporate Crises, Mediatiation, and Intermediaries

2.2.1 The Media

The mediatiation of corporate crises has attracted significant scholarly attention across various countries⁴⁵. An and Gower’s study, in particular, highlights how news media employ specific frames when portraying crises, observing that, in cases where a crisis is deemed preventable—such as many restructuring scenarios—the media are more likely to use an attribution of responsibility frame, a conflict frame (which highlights disagreements among the actors involved in the crisis), and a morality frame (emphasising the moral perspective on the crisis)⁴⁶. Overall, the attribution of responsibility frame is the most frequently used in crisis news, enabling the media to hold the company accountable in the public eye.

While the broader study of corporate crises in media discourse is well documented, the specific focus on restructuring crises has resulted in

⁴⁴ Kuypers, *op. cit.*, p. 300.

⁴⁵ Often, these crises are examined within the broader context of economic crises and their media representation. See M. Hollister, “Speaking of downsizing: The use of the term ‘downsizing’ in American news media, 1975–2007,” paper presented at the annual meeting of the American Sociological Association, San Francisco, CA, August 2009; E. K. Olsson, “Defining crisis news events,” *Nordicom Review*, 31(1), 2010, pp. 87–101; F. Squazzoni & M. Castellani, “Media e crisi economica: *Instrumentum diaboli* o guardiani del faro?”, *Rassegna Italiana di Sociologia*, 4, 2011, pp. 547–570; A. Cawley, “Sharing the pain or shouldering the burden? News-media framing of the public sector and the private sector in Ireland during the economic crisis, 2008–2010,” *Journalism Studies*, 13(4), 2011, pp. 600–615; L. Caruso, C. Cepernich & F. Roncarolo, “Le rappresentazioni mediatiche della crisi tra bisogni informativi e strategie politico-comunicative,” *Rassegna Italiana di Sociologia*, 1, 2012, pp. 137–168; A. Damstra & R. Vliegthart, “(Un)covering the economic crisis? Over-time and inter-media differences in salience and framing,” *Journalism Studies*, 19(7), 2016, pp. 983–1003; P. Orrù, “Il discorso sulla crisi economica nella stampa italiana (2007-2017),” *Rbesis. International Journal of Linguistics, Philology and Literature*, 9(1), 2018, pp. 44–68; D. Vogler & F. Meissner, “The mediated construction of crises—Combining automated and qualitative content analysis to investigate the use of crisis labels in headlines of Swiss news media between 1998 and 2020,” *Journal of International Crisis and Risk Communication Research*, 7(1), 2024, pp. 83–112.

⁴⁶ S. K. An & K. K. Gower, “How do the news media frame crises? A content analysis of crisis news coverage,” *Public Relations Review*, 35(2), 2009, pp. 107–112.

fewer—although highly relevant—publications in certain national contexts, such as Canada⁴⁷, the United States⁴⁸, Australia⁴⁹, Finland⁵⁰, Belgium⁵¹, Italy⁵² and Nigeria⁵³. According to these studies, a dynamic of frame shifting occurs over time, revealing the underlying ideologies in (de)legitimising statements and discursive strategies.

Frandsen and Johansen (2016) also discuss the role of the media and “crisis journalism” as collective voices that shape the narrative around corporate crises. Although they do not focus specifically on restructuring or redundancy crises, their analysis of the media’s role shares commonalities with that of trade associations (i.e., employers’ organisations). As both are intermediaries in crisis communication, Frandsen emphasises the complexity added by the media and trade associations in mediating between the organisation in crisis and its stakeholders. This mediation increases the number of communicative interventions and interpretations, complicating the crisis communication process.

⁴⁷ K. Lamertz & J. A. Baum, “The legitimacy of organisational downsizing in Canada: An analysis of explanatory media accounts,” *Canadian Journal of Administrative Sciences*, 15(1), 1998, p. 93.

⁴⁸ See C. R. Martin & H. Oshagan, “Disciplining the workforce: The news media frame a General Motors plant closing”, *Communication Research*, 24(6), 1997, pp. 669–697; T.; Brimeyer, et al., *op. cit.*

⁴⁹ See V. Fielding, “Measuring news media frame building during an Australian industrial dispute,” *Australian Journalism Review*, 44(1), 2022, pp. 61–82.

⁵⁰ See E. Vaara & J. Tienari, “Justification, legitimization, and naturalization of mergers and acquisitions: A critical discourse analysis of media texts,” *Organisation*, 9(2), 2002, pp. 275–304; E. Vaara, J. Tienari & J. Laurila, “Pulp and paper fiction: On the discursive legitimation of global industrial restructuring,” *Organisation Studies*, 27(6), 2006, pp. 789–813; See P. Ahonen, “‘The world has changed’: Discursive struggles over an industrial shutdown in the media, a case from the Finnish pulp and paper industry,” *Competition & Change*, 13(3), 2009, pp. 289–304.

⁵¹ See J. Luyckx & M. Janssens, “Ideology and (de)legitimation: The Belgian public debate on corporate restructuring during the Great Recession,” *Organisation*, 27(1), 2020, pp. 110–139.

⁵² See S. Romenti & C. Valentini, “Alitalia’s crisis in the media – a situational analysis,” *Corporate Communications: An International Journal*, 15(4), 2010, pp. 380–396.; Nespoli, *Fondata sul lavoro*.

⁵³ V. C. Gever, M. O. Ukonu & E. K. Oyeoku, “The media and opposing voices: News frames and slants of Nigeria’s restructuring agitations,” *African Journalism Studies*, 39(4), 2018, pp. 131–151.

2.2.2 Trade Associations

Frandsen highlights that trade associations can face difficulties when communicating publicly about a crisis. Specifically, they must consider no fewer than three reputational levels: a corporate level, an industry level, and a trade association level⁵⁴. Consequently, employer organisations may sometimes remain silent or avoid public commentary when local or national companies are required to restructure or make redundancies. An exception arises when foreign ownership threatens to relocate plants. In such situations, a united front comprising politicians, trade unions, local authorities, and employer associations is typically formed to defend the interests of the supply chain companies⁵⁵. This aligns with Frandsen's observations, such as in the example from *Børsen* on 17 November 2015, where the media highlighted the role of employer organisations in defending local industries, as was the case with Tesla Denmark and the Danish Electric Vehicle Alliance.

Despite these insights, Frandsen and Johansen give limited attention to the interaction between the media and trade associations, particularly in cases where these associations might exploit crises for strategic purposes. Moreover, these dynamics shift significantly when considering trade unions instead of trade associations.

2.2.3 Trade Unions' Public Relations as a Reputational Threat

In this section, I examine trade unions' public relations in the context of workforce reorganisation, focusing on key activities such as media relations, lobbying, advocacy, and litigation PR.

As I will discuss later, research on trade union public relations has traditionally centred on how unions are portrayed in the media and how such portrayals shape their reputation. Many of these studies reflect concerns from earlier periods, when public opinion in Western countries

⁵⁴ F. Frandsen & W. Johansen, *Organisational crisis*, p.197.

⁵⁵ F. Nespoli, "When labour goes populist. How Italian populist leaders frame the labour market and industrial relations on social media," *E-Journal of International and Comparative Labour Studies*, 8(2), 2019, pp. 4–46, ISSN 2280-4056; S. González Begega & H. D. Köhler, "Workforces and local communities against corporate restructuring: A comparative case study of resistance to plant closures in Northern Spain," *Social Movement Studies*, 21(3), 2021, pp. 355–371.

appeared strongly opposed to unions⁵⁶. Indeed, as is well known, union membership has experienced significant declines across various nations and industries in recent decades, prompting some to characterise the current situation as a persistent crisis for trade unions.

I am not arguing that there is no literature suggesting that trade unions must be proactive in communicating and cultivating relationships with the media. On the contrary, many scholars—such as Paul Manning⁵⁷—have emphasised the importance of enhancing union communication. Moreover, these concepts have been further elaborated in the digital media environment, where attention has increasingly shifted to the role of social media, compared to traditional (legacy) media outlets⁵⁸.

In this paper, however, I wish to highlight the reverse dynamic: how unions can use strategic communication to shape—or even undermine—the reputations of other stakeholders, particularly companies involved in restructuring, and thereby protect their own reputations. Specifically, by framing and attributing responsibility for negative social outcomes, unions can tarnish a company's public image while enhancing their own credibility and influence in restructuring negotiations.

Indeed, if we consider the relationship between trade unions and the media, it becomes even clearer why attention to communication and public relations—beyond mere internal communication—is crucial during a reorganisation involving industrial relations. From this perspective, we should not confine our focus to the fact that organisational restructuring often leads to labour disputes and litigation. In practice, trade union

⁵⁶ N. Dufty, "Influences on public opinion of unions and industrial relations," *Journal of Industrial Relations*, 23(4), 1981, pp. 417–429; C. R. Martin, *op. cit.*, 2019; C. R. Martin, *op. cit.*, 2004.

⁵⁷ P. Manning, *Spinning for labour: Trade unions and the new media environment*, 1998, Routledge.

⁵⁸ Among the most significant contributions are the studies by Panagiotopoulos and Barnett (P. Panagiotopoulos & J. Barnett, "Social media in union communications: An international study with UNI global union affiliates," *British Journal of Industrial Relations*, 53(3), 2015, pp. 508–532), whose conclusions have been corroborated by more recent work (M. Ford & A. Sinpeng, "Digital activism as a pathway to trade union revitalization," *International Journal of Labour Research*, 11(1–2), 2022, pp. 47–58) showing that digital activism can serve as a pathway to union revitalization. Englert, Woodcock, and Cant ("Digital workerism: Technology, platforms, and the circulation of workers' struggles," *tripleC: Communication, Capitalism & Critique. Open Access Journal for a Global Sustainable Information Society*, 18(1), 2020, pp. 132–145) examine "digital workerism" by focusing on technology, platforms, and the circulation of workers' struggles, while Carneiro and Costa (B. Carneiro & H. A. Costa, "Digital unionism as a renewal strategy? Social media use by trade union confederations," *Journal of Industrial Relations*, 64(1), 2022, pp. 26–51) discuss "digital unionism" as a form of renewal.

activity rarely consists solely of internal communication or strikes when contesting a reorganisation plan. More frequently, unions adopt broader communication strategies aimed not only at union members or the company's workforce but also at the wider public⁵⁹.

I therefore concentrate on public opinion as a broader audience that encompasses various target groups. Trade unions' efforts to spark solidarity are closely tied to the idea of the public interest—not merely from a class-based perspective, but also through specific labour disputes in particular companies. This approach is evident in studies examining the influence of public opinion on labour-management relations, which distinguish between “participants” (those directly affected by the dispute, such as users of disrupted services, laid-off employees, and suppliers) and “outsiders” (those who are not impacted and may form judgments on moral or political grounds rather than economic ones)⁶⁰.

Hence, I employ the term “public relations” in a broad sense—not restricted to interactions with media practitioners or traditional outlets. Rather, I focus on the ways in which trade unions mediate their relationship with the broader public.

In mentioning media relations, I do not intend to overlook the challenges of today's high-choice media environment⁶¹, which fragments audiences. In fact, this reality is especially salient within the contemporary mediascape⁶², where the digital marketplace—shaped by personal media⁶³ and an asymmetrical logic of influence—democratises access to information production. This shift has two primary consequences: (1) it expands the range of actors who claim representational capacity by demonstrating communicative power, and (2) it fragments both the public and reference bases. Consequently, modern lobbying and advocacy activities aimed at illustrating the positive or negative impact of a proposed decision focus on presenting decision-makers with a representation of the relevant support or opposition—sometimes

⁵⁹ Dufty, *op. cit.*, 1981; Manning, *op. cit.*, 1998.

⁶⁰ S. G. Peitchinis, “The influence of public opinion on labour-management relations and dispute settlement,” *Relations Industrielles / Industrial Relations*, 32(2), 1977, pp. 268–274.

⁶¹ M. Prior, “Conditions for political accountability in a high-choice media environment,” in K. Kenski & K. H. Jamieson (eds.), *The Oxford Handbook of Political Communication*, Oxford University Press, 2014, pp. 897–910.

⁶² A. Appadurai, “Disjuncture and difference in the global cultural economy,” *Theory, Culture & Society*, 7(2–3), 1990, pp. 295–310.

⁶³ M. Lüders, “Conceptualizing personal media,” *New Media & Society*, 10(5), 2008, pp. 683–702.

targeting public opinion at large⁶⁴. By leveraging public communication, actors demonstrate their capacity to reach—and potentially influence—the same audience segments as their opponents, shaping behaviours related to voting, affiliation, or consumption. These developments in the current media environment further highlight the value of a multivocal approach for interpreting these dynamics, particularly at the micro level.

I also acknowledge the challenges trade unions face due to the disintermediation of legacy media and the networked individualism described by Rainie and Wellman⁶⁵, which can hinder their capacity to cultivate broad solidarity. These issues, widely recognised in the literature, warrant ongoing study⁶⁶. However, while past research has focused primarily on how media coverage impacts unions' reputations and the need for unions to employ communication tools, these insights set the stage for a vital complementary perspective: understanding how unions themselves can construct and disseminate public narratives that challenge corporate actors, particularly in the context of the frequent crises and restructurings that characterise today's economic landscape.

Given this context, and acknowledging from the previous paragraph that a reorganisation plan can escalate into a reputational crisis when an actor explicitly blames the company, it becomes clearer why trade unions often function as “crisis activators”—not least through their communication strategies.

2.2.4 Trade Unions and Framing

In this section, I examine trade unions' public relations in the context of workforce reorganisation, focusing on key activities such as media relations, lobbying, advocacy, and litigation PR.

Frandsen explicitly compares trade associations and trade unions by defining both as meta-organisations with a high degree of formal representation, emphasising their roles as intermediaries in crisis

⁶⁴ A. Rasmussen, L. Mäder & S. Reher, “With a little help from the people? The role of public opinion in advocacy success,” *Comparative Political Studies*, 51, 2018, pp. 139–164.

⁶⁵ L. Rainie & B. Wellman, B, *Networked: The new social operating system*, 2012, MIT Press.

⁶⁶ Indeed, I have addressed them by examining trade unions' use of TikTok in Italy, Spain and Latin America (F. Nespoli, “Entre identidades profesionales y movilización: Activismo digital en TikTok por los derechos laborales de las mujeres en España y América Latina,” in *Los derechos de las mujeres en la sociedad digital*, Dykinson, 2024, pp. 586–607).

communication⁶⁷. However, trade unions do not receive specific, in-depth treatment within the theory, and their role in crisis communication remains understudied. As Valentini et al. note, “comparatively, little is known about how trade unions, as a specific type of organisation, use framing strategies to achieve their organisational goals”⁶⁸.

Although the literature on crisis communication management concerning the role of trade unions is limited, it is now evident that trade unions play a significant role in this context, particularly in how they manage and mitigate the impacts of crises on their members and the broader community. In the context of crises, trade unions often seek media coverage to intensify pressure on companies or governments, employing strategic tools—such as responsibility-attribution frames—to bolster their negotiating power⁶⁹.

We can posit that the starting conditions may fall into two categories. In one scenario, companies may rely on objective conditions that justify declaring a loss of competitiveness. In this case, by announcing restructuring and reorganisation measures, the company is also implicitly acknowledging an organisational crisis, as significant structural changes become necessary. Trade unions might acknowledge the existence of genuine business distress but can advocate for alternative solutions—such as diversification, innovation, or employee development—positioning these as more sustainable and ethically responsible responses. By doing so, they can challenge the narrative of an unavoidable response to an inevitable business downturn by framing the restructuring itself as the root cause of the crisis—a social and occupational one. Thus, they shift the focus from the company’s need to enhance competitiveness to the broader social consequences, emphasising the harm inflicted on

⁶⁷ According to Frandsen, “a trade association can be described as a meta-organisation with a high degree of formal representation (membership) that has been elected by member organisations and that is on their side. Similarly, a trade union can be defined as an organisation (of individuals) with a high degree of formal representation (membership) that has been elected by the employees” (F. Frandsen & W. Johansen, *Organisational crisis*, p. 194). Though, in another work, Frandsen and Johansen further differentiate Trade associations and trade unions as “The former are interested in the interests of their member organisations [...] while the latter are interested in the interests of the stakeholders (i.e., employees[...])” (F. Frandsen & W. Johansen, “Voices in conflict? The crisis communication of meta-organisations”. *Management Communication Quarterly*, 32, p. 96).

⁶⁸ Valentini et al., *op. cit.*, p. 4913

⁶⁹ A. Krašenkienė, L. Kazokienė & D. Susnienė, “Relationships of the trade unions with the media: The Lithuanian case,” *Administrative Sciences*, 4, 2014, pp. 1–14.

employees and communities. This, in turn, increases pressure on the company to explore alternative strategies.

This approach is particularly effective when a company is financially unstable, as strikes in such cases can paradoxically provide momentary financial relief by reducing immediate labour costs or, at the very least, failing to significantly disrupt operations—thereby diminishing the strike’s impact from an organisational standpoint.

The second scenario corresponds to the situation that Kent seems to refer to, where a company, despite being financially stable overall, undertakes restructuring or reorganisation in order to further improve (or even maximise) its market competitiveness. In such cases, it is even easier for trade unions to highlight the deliberate nature of the restructuring and frame it as an avoidable decision rather than a necessity. In this way, they can turn what the company does not initially perceive as an organisational crisis into one triggered by reputational threats and external pressures.

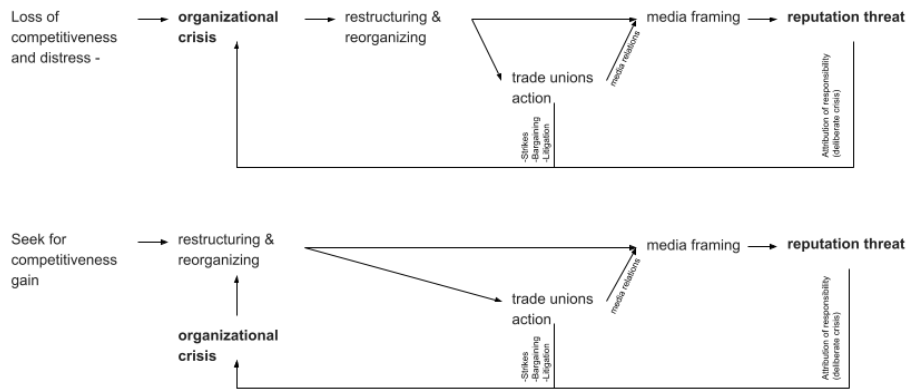
In summary, as illustrated in Figure 1, whether the restructuring stems from a genuine loss of competitiveness or from a thriving company’s pursuit of competitiveness maximisation, trade unions can attribute responsibility to the company. By placing the company’s reputation at risk, they can pressure decision-makers to reconsider layoffs or plant closures—particularly if leaders fear that these actions could have long-term negative impacts on key financial performance indicators due to shifts in consumer and stakeholder support⁷⁰. And by making these

⁷⁰ Cases like these frequently appear in newspaper coverage. For instance, in 2019, Whirlpool reversed its decision to shut down a production site in Naples, Italy, after just two weeks of worker protests. Initially, Whirlpool had argued that producing high-end washing machines in Naples was no longer profitable, leading to union demonstrations and government dissatisfaction, particularly since the Italian government had invested significant incentives to support local operations. Ultimately, the pressure exerted by unions and the potential withdrawal of these incentives compelled Whirlpool to continue production and avoid layoffs (Piscioneri, F., 2019, October 30. *Whirlpool drops plan to shut plant in southern Italy*. Reuters.com).

A similar scenario arose in 2022–2023 with Wärtsilä, a Finnish multinational planning to close its Trieste (Italy) facility in San Dorligo della Valle, affecting 451 employees. The announcement sparked political debate during an election period, prompted legal action in the Trieste Labour Court, and led to substantial public scrutiny. Italian trade unions have announced a significant protest on 3 September in response to Wärtsilä’s decision to terminate all production activities at its Trieste plant. IndustriAll Europe (the European trade union federation representing workers in the metal, chemical, energy, mining, and textile industries) has called on the company to engage in constructive dialogue to establish a viable industrial and employment plan. In response, Wärtsilä replaced its CEO and President for Italy and opted not to appeal the court’s ruling,

concerns public, trade unions initiate a crisis narrative that forces the company to address reputational risks, compelling them to respond not just to the internal changes but also to the external perception of their actions. The consequent uncertainties surrounding the outcome of a restructuring plan can subsequently transform a reputational crisis into an organisational one, as restructuring operations may be halted or revised. This can increase the costs of restructuring in various ways. For instance, heightened severance benefits, a reduction in the scale of layoffs, or alterations to the terms of redundancies—often direct outcomes of rhetorical battles⁷¹—can substantially contribute to these expenses⁷².

Figure 1. Trade Unions as Reputational Crisis Activators: A Model



At this point in my reflection, further clarification is required. Indeed, it may seem contradictory that a trade union, whose primary objective is to protect workers, would seek to hinder the functioning of a company or the economy as a whole. This narrative is often employed by anti-union media and corporations when attempting to discredit unions and

thereby halting the closure plan (Casadei, C., 2022, October 8). *Wärtsilä cambia strategia sulla chiusura di Trieste e apre al dialogo*, ilsole24ore.com).

⁷¹ F. Nespoli, “Il ruolo strategico della comunicazione pubblica e sindacale, tra legge e contrattazione collettiva. Spunti dal caso Wartsila,” *Sviluppo e Organizzazione*, 308, 2022, pp. 44–47, Este, Milano.

⁷² D. Flanagan & K. O’Shaughnessy, “The effect of layoffs on firm reputation,” *Journal of Management*, 31, 2005, pp. 445–463; Y. Hatakeyama, “What Kind of Crisis Communication Messages Benefit Corporate Reputation on High and Minimal Responsibility Case?,” in *Advances in Advertising Research XIV: Harder, Better, Faster, Stronger: Advertising and Communication between Immediacy and Sustainability*, Wiesbaden, Springer Fachmedien Wiesbaden, 2024, pp. 243–253.

organised labour, by framing it as a trade-off between protests and the company's survival⁷³. However, this may resemble a strawman argument. The actual goal of the union is not to threaten the existence of a company, but rather to influence management's behaviour, pressuring it to be fair and responsible, in accordance with the union's (and, when possible, the public's) expectations. The reputational threat posed by the union is not immediate but is a projection of potential future harm resulting from unethical practices. It is not a form of self-sabotage, but rather a strategic move to condition future actions.

This distinction is necessary, yet ultimately trivial, as it is directly linked to the fundamental objectives of strikes and other union actions, which are not self-destructive. In general, strikes represent not only resistance to oppression but also a strategy of self-emancipation—a declaration of power that underscores workers' central role in wealth production⁷⁴. Unions seek, or should seek, to assert that workers are valuable economic assets, that they deserve fair and equitable treatment, and that labour cost savings have ethical limits⁷⁵. Communication strategies and reputational threats align with these broader goals⁷⁶.

2.2.4.1 The Effect of Layoff Announcements on Business Performance and the Role of Trade Union Advocacy

Advocacy lies at the core of both activism and public relations, both within and beyond organisational structures⁷⁷. This definition is particularly relevant to trade unions. As noted earlier, when applied to trade unions in the context of corporate reorganisation, this principle implies that unions play a pivotal role in drawing public attention to the negative consequences of restructuring. They highlight issues such as job losses, unfair practices, and the erosion of workers' rights.

⁷³ Nespoli, F. *op. cit.* 2018b.

⁷⁴ A. Bogg & C. Estlund, "The right to strike and contestatory citizenship," in *Philosophical Foundations of Labour Law*, 2018.

⁷⁵ G. Lakoff & E. Wehling, *The Little Blue Book: The Essential Guide to Thinking and Talking Democratic*, Free Press, 2012, pp. 83–85.

⁷⁶ Of course, this view is separate from the historical debate about the legitimacy of political strikes versus plant and company-specific strikes (cf. European Parliament, *Towards an EU-wide right to politically strike: A constitutional perspective (PE 757.656)*. Policy Department for Citizens' Rights and Constitutional Affairs, Directorate-General for Internal Policies, 2023).

⁷⁷ A. Jelen, K. Demetrious & K. Fitch, "Towards new directions in public relations activism and advocacy research," *Public Relations Inquiry*, 13(2), 2024, pp. 129–135.

However, further clarification is necessary regarding the mechanisms through which such pressure prompts companies to reconsider or postpone their plans. The central point here is that influencing public opinion can erode consumer attitudes and shareholder confidence, potentially compromising key financial performance indicators.

One point supporting this assertion is the well-documented link between layoff announcements and financial effects. While this connection is well established in the literature, it is not always discussed specifically in relation to trade union activities, but rather in relation to companies' public relations strategies. The literature suggests that the announcement of layoffs by companies, especially when framed as a necessary response to financial distress, can have long-term detrimental effects⁷⁸. The repercussions extend beyond the immediate impact on employees, influencing other stakeholders such as customers⁷⁹. Indeed, uncertainty about product quality can arise from layoff announcements, affecting consumer trust and raising concerns among shareholders about the firm's sustainability, often leading to declines in stock prices⁸⁰.

I emphasise the potentiality, rather than certainty, of these detrimental effects because the literature on the impact of layoff announcements also highlights that such announcements, particularly those related to revenue refocusing, can result in a positive market reaction and improved financial

⁷⁸ Already in 1994 research by De Meuse, Vanderheiden, and Bergmann, challenged conventional wisdom by revealing that, contrary to expectations, financial performance of Fortune 100 companies often worsens rather than improves following announced layoffs. This study tracked companies over a five-year period, including two years before the layoff announcement, the year of the announcement, and two years afterward. The findings suggest that the anticipated benefits of reducing organisational size and cutting costs may not materialize, potentially leading to deteriorated financial performance. Using a slightly different set of companies, always put together by Fortune (Fortune's America's Most Admired Companies) also Flanagan & Shaughnessy (*op. cit.*) concluded that layoffs have a negative impact on a firm's reputation.

⁷⁹ S. Stähler, A. Himme, A. Edeling & M. Backhaus, "How firm communication affects the impact of layoff announcements on brand strength over time," *International Journal of Research in Marketing*, 40(3), 2023, pp. 700–723. This study is particularly important as it underscores the importance of communication activities finding that advertising and social media communications, which may amplify the negative impact of layoffs on brand strength, while effective public relations and communication of CSR initiatives can help mitigate these negative effects.

⁸⁰ See S. J. Sucher & S. Gupta, "Layoffs that don't break your company: Better approaches to workforce transition," *Harvard Business Review*, 96(3), 2018, pp. 122–129; V. Landsman & S. Stremersch, "The commercial consequences of collective layoffs: Close the plant, lose the brand?", *Journal of Marketing*, 84(3), 2020, pp. 122–141.

performance⁸¹. Therefore, the announcement of a layoff decision could lead to either an increase or a decrease in firm value, depending on whether it is driven by adverse market conditions or efforts to improve efficiency⁸². However, I wish to focus on the role trade unions can play in both cases, as unions can influence how these announcements are framed in either scenario.

This is particularly relevant when considering that shifts in consumer attitudes towards a company can also be driven by ethical considerations, potentially leading to behavioural responses such as consumer outrage⁸³. This phenomenon is particularly likely to result in declining sales when viable alternatives exist within the same industry or sector.

In this context, it becomes evident why trade unions can influence the layoff process by negotiating and advocating for workers, thereby shaping public perceptions, as previously noted. Their involvement affects not only the immediate well-being of employees but also the broader reputation of the company. Moreover, such actions can compel the organisation to engage in public relations and media outreach. While companies are often required to disclose information before restructuring—at least to the financial press⁸⁴—they do not always

⁸¹ See P. Chen, V. Mehrotra, R. Sivakumar & W. Yu, “Layoffs, shareholders’ wealth, and corporate performance,” *Journal of Empirical Finance*, 8, 2001, pp. 171–199; P. Chalos & C. Chen, “Employee downsizing strategies: Market reaction and post-announcement financial performance,” *Journal of Business Finance & Accounting*, 29, 2002, pp. 847–870; C. Mace, “The market loves a layoff,” *Labor: Personnel Economics eJournal*, 2020; K. Eshghi & V. Astvansh, “Stock investors’ reaction to layoff announcements: A meta-analysis,” *Human Resource Management Journal*, 2023.

⁸² See O. Palmon, H. Sun & A. Tang, “Layoff announcements: Stock market impact and financial performance,” *Financial Management*, 26, 1997, pp. 54–68. Also various news reports indicates that financial results following downsizing announcements can fluctuate significantly. For instance, on November 28, ArcelorMittal South Africa (ACLJ.J) experienced a nearly 14% drop in share value after announcing plans to close its long steel operations due to weak demand and persistent infrastructure problems, potentially affecting 3,500 workers (Banya, N., 2023, November 28. *ArcelorMittal South Africa shares tumble on plan to close long steel ops*. Reuters.com). In contrast, Unilever’s shares rose by 4% on the day it unveiled plans to cut thousands of jobs worldwide and spin off its ice cream division—which includes Ben & Jerry’s and Magnum—part of a three-year strategy aimed at spurring growth and improving shareholder returns (Hart, R., 2024, March 19. *Unilever shares up 4% as it plans to cut 7,500 jobs*. Forbes.com).

⁸³ J. Lindenmeier, C. Schleer & D. Priel, “Consumer outrage: Emotional reactions to unethical corporate behavior,” *Journal of Business Research*, 65(9), 2012, pp. 1364–1373.

⁸⁴ See D. Tourish, N. Paulsen, E. Hobman & P. Bordia, “The downsides of downsizing: Communication processes and information needs in the aftermath of a workforce reduction strategy,” *Management Communication Quarterly*, 17(4), 2004, pp. 485–516; P. Alles, *Value Creation through Corporate Restructuring: The Influence of Media Coverage*, doctoral

communicate with the general public, and their representatives typically do not give interviews when announcing a restructuring plan⁸⁵. However, the strategy of remaining silent—advocated by some professionals and scholars⁸⁶—is difficult to uphold when trade unions actively communicate during restructuring. At the same time, it remains challenging to adopt a “confession” approach rather than a “no comment” stance, given that confession typically applies to unintentional crises⁸⁷. Consequently, the company’s communication in such cases is primarily aimed at countering the union’s framing of the organisation as irresponsible.

2.2.4.2 Trade Unions as Political Actors: Visibility and Image

There are additional perspectives that clarify why trade unions might find it logical to threaten a company’s reputation. Indeed, the responsibility-attribution frame not only affects the company’s public image but also empowers trade unions by legitimising their criticisms and amplifying calls for alternative approaches to competitiveness challenges. This approach challenges the narrative of job cuts as an inevitable necessity and positions unions as proactive, solution-oriented actors—advocating for the long-

dissertation, University of St. Gallen, School of Management, Economics, Law, Social Sciences, and International Affairs, 2020. This is particularly true in cases of cross-border restructuring, as demonstrated in the analysis by Tunheim, de Bruijn, and Walsh (K. Tunheim, M. de Bruijn & J. Walsh, “Reorganisation and restructuring: Selling or closing a business — protecting reputation across national boundaries,” in P. Anthonissen (ed.), *Crisis Communication: Practical Public Relations Strategies for Reputation Management and Company Survival*, Kogan Page, 2008, pp. 97–108). Media relations, moreover, play a crucial role, especially in sensitive sectors like financial services, where strategic communication with the media ensures accurate information dissemination and maintains public trust (Y. Slabbert & R. Barker, “An integrated crisis communication framework for strategic crisis communication with the media: A case study on a financial services provider,” *Communicatio*, 37, 2011, pp. 443–465).

⁸⁵ J. Kaufmann, I. Kesner & T. Hazen, “The myth of full disclosure: A look at organisational communications during crises,” *Business Horizons*, 37, 1994, pp. 29–39.

⁸⁶ P. D. Le, H. X. Teo, A. Pang, Y. Li & C.-Q. Goh, “When is silence golden? The use of strategic silence in crisis communication,” *Corporate Communications: An International Journal*, 24(1), 2019, pp. 162–178; MCB Business Strategy Publications, “Enhancing crisis management through strategic silence: How to achieve desired outcomes,” *Strategic Direction*, 35(4), 2019, pp. 28–30.

⁸⁷ Cf. L. McDonald, B. Sparks & A. Glendon, “Stakeholder reactions to company crisis communication and causes,” *Public Relations Review*, 36, 2010, pp. 263–271.

term well-being of both the company and its employees, rather than merely engaging in defensive tactics⁸⁸.

This effect becomes even more pronounced when trade unions succeed in drawing the attention of administrative entities and compelling them to take action, as I will elaborate later. Frandsen's application of Rhetorical Arena Theory (RAT), particularly its focus on the news media as a stage for crisis exploitation, offers a useful framework for understanding the role of trade unions as political actors. Similar to politicians and political parties engaging in "frame contests" during crises to shape public opinion and garner political support, trade unions can be seen as participating in analogous rhetorical battles.

As Boin et al. note, crisis exploitation involves the "purposeful utilisation of crisis-type rhetoric to significantly alter levels of political support for public office-holders and public policies"⁸⁹. In a similar vein, trade unions can exploit crises by employing rhetorical strategies to amplify their cause through strategic media relations⁹⁰.

Moreover, by drawing media attention, trade unions can increase the visibility of their actions and arguments, which can lead to the politicisation of the ongoing disputes. This increased public scrutiny can, in turn, pressure public institutions to intervene, as they become more aware of and responsive to public opinion. In this way, trade unions can elevate their status, legitimising themselves as institutional actors with significant influence in the crisis. Conversely, when political elements are already intertwined with restructuring crises, trade unions can garner substantial support and media attention. This aligns with Frandsen's perspective that crises are not merely threats but also political opportunities. For trade unions, a crisis serves as a platform to showcase their relevance, mobilise their members, and influence policy or corporate decisions.

This is particularly relevant because, as mentioned earlier, the literature has primarily framed trade unions' relationships with the media as

⁸⁸ L. Campagna & L. Pero, "Innovating the management of corporate crises with new forms of participation of trade union representatives and workers," *Studi Organizzativi*, 2022.

⁸⁹ A. Boin, P. Hart, E. Stern & B. Sundelius, *The Politics of Crisis Management: Public Leadership Under Pressure*, 2nd ed., Cambridge University Press, 2017, (quoted in F. Frandsen & W. Johansen, *Organisational crisis*, p.189).

⁹⁰ This relationship is evident in my previous research (ADAPT, *IX Rapporto ADAPT sulla contrattazione collettiva in Italia 2022*, ADAPT University Press, 2022.), which analyzed online news published between 2011 and 2021 using the keywords "crisi" and "azienda". The findings revealed that in 64% of the 338 cases of corporate crises, the news reports mentioned at least one agreement signed between the company and trade unions.

problematic, reflecting a period when it was widely perceived that “the tide of public opinion is running strongly against the unions”⁹¹. This sentiment is echoed in Paul Manning’s *Spinning for Labour*, which opens with an introduction titled “Trade Unions and Their Enemies: Front Line Troops”, exploring how unions could respond by becoming more sophisticated in their use of media and marketing techniques⁹².

Traditionally, this issue has been linked to public perceptions of strikes, a topic extensively explored in the literature. Public opinion often turns against strikers when their actions disrupt daily life, particularly in public service sectors. The media plays a pivotal role in shaping public perceptions of strikes, frequently framing the discourse in ways that can either support or undermine the strikers’ cause⁹³.

However, it is important to note that trade union actions aimed at countering restructuring plans cannot simply be equated with strikes in general. In cases of companies experiencing financial distress, striking can paradoxically align with the company’s interests. For instance, during a strike, companies may save on wages and benefits that would otherwise be paid to striking workers, providing temporary financial relief. However, the dynamics surrounding the role of strikes within reorganisation processes are complex and difficult to generalise, as outcomes are highly context-dependent. Strikes in these scenarios may not provoke consistent results, and their effectiveness is contingent upon the specific circumstances of the restructuring. Effective communication—moving beyond the traditional framing of “unions under pressure” and the singular focus on strikes—can serve as a powerful tool for trade unions to reinforce their relevance, shape restructuring outcomes, and redefine their role in the public eye.

2.2.5 Institutional Actors and Trade Unions: Lobbying and Stakeholder Engagement

Institutional recognition also facilitates stakeholder engagement and lobbying activities. In addition to trade unions and the media,

⁹¹ G. Walsh, “Trade unions and the media,” *International Labour Review*, 127, 1988, p. 205.

⁹² P. Manning, *op. cit.*

⁹³ See J. Nolan, “Strikes and the public: A consensus?,” *New Zealand Journal of Industrial Relations*, 5, 1970; C. De Boer, “The polls: Union and strikes,” *The Public Opinion Quarterly*, 41(1), 1977, pp. 120–129; C. Christen, P. Kannaovakun & A. Gunther, “Hostile media perceptions: Partisan assessments of press and public during the 1997 United Parcel Service strike,” *Political Communication*, 19, 2002, pp. 423–436; P. Moy, K. McCoy, M. Spratt & M. McCluskey, “Media effects on public opinion about a newspaper strike,” *Journalism & Mass Communication Quarterly*, 80, 2003, pp. 391–409.

administrative entities play a critical role in corporate crisis management. The importance and nature of these actors vary depending on the national legal and political framework. For instance, in Italy, the government and various institutions have developed a structured approach to addressing organisational difficulties, often referred to as “company crises.” In corporate restructuring disputes, regional and local administrations, the Ministry of Economic Development, and labour tribunals play pivotal roles in managing and mitigating the impact on workers. Regional and local administrations, in particular, often act as intermediaries between companies and employees, facilitating negotiations and ensuring compliance with local regulations. However, there is no institutionalised procedure for trade unions to invoke the Ministry of Economic Development at the national level or regional entities at the local level. In such cases, trade unions rely on public communication efforts to pressure these administrative actors into taking action by leveraging public opinion. The underlying dynamics are similar to those that compel companies to respond: reputation is at stake. While companies fear losing customers or investors, political parties linked to administrative entities—or the entities themselves—may fear losing the support of citizens and voters if they fail to act in defence of the economy, workers, and local communities threatened by restructuring plans.

If the literature on trade unions has not focused on the role of trade union framing within reorganisation processes, the same is true for lobbying activities, which have largely been examined in general political terms rather than in relation to reorganisation⁹⁴. This emphasis is understandable, as lobbying is typically defined as the practice of exerting pressure on government bodies and administrative entities to influence legislative or policy changes⁹⁵. However, lobbying can also play a crucial role in ensuring that workers’ interests are prioritised in crisis management

⁹⁴ For instance, Feltrin (“Il fenomeno sindacale nell’Italia contemporanea: Declino ‘politico’ e ascesa ‘di mercato’,” *Quaderni di Rassegna Sindacale, Lavori*, 2015) adopted a model from Schmitter and Streeck (*The Organisation of Business Interest: Studying the Associative Action of Business in Advanced Industrial Societies*, WZB Discussion Paper IIM/LMP/81/13, Colonia, 1981.), which identifies lobbying among a range of actions and situates industrial relations within that domain. In the analysis of trade union framing carried out by Valentini et al. (*op. cit.*), lobbying is also related to broader economic and societal concerns.

⁹⁵ J. Potters & F. Winden, “Lobbying and asymmetric information,” *Public Choice*, 74, 1992, pp. 269–292.

processes, such as by influencing regulations related to reorganisation procedures and collective dismissals⁹⁶.

2.2.6 Litigation PR

As noted, labour disputes and litigation are among the most prominent trade union activities observed in Europe across national contexts⁹⁷. Courts can be invoked by trade unions to protect workers' rights, challenge unfair practices, or influence the outcomes of restructuring disputes. At the intersection of legal strategy and public communication lies Litigation Public Relations (Litigation PR)—a sophisticated field that has become increasingly critical in today's interconnected media environment. Litigation PR involves the strategic management of

⁹⁶ For Instance, in the Wärtsilä case in Italy, significant legal and political actions followed a tribunal ruling in favour of trade unions nearly a year prior. On September 2, 2022, the Friuli Venezia Giulia Regional Administration filed a motion with the Labour Court in Trieste, questioning the constitutionality of the company's relocation procedure. The motion challenged the adequacy of provisions in the 2022 Budget Law, particularly the light penalties imposed on companies engaging in relocation. The law required companies to merely notify unions, regional administrations, and the Ministry of Labour at least 90 days in advance. This legal challenge extended beyond the Wärtsilä case, raising broader implications for future relocation processes under Italian law. In response to union demands, political actors sought to amend the law retroactively. On September 23, 2022, the "Decreto Aiuti-ter" (Decree-Law No. 144/2022) was published in the *Gazzetta Ufficiale*, introducing significant changes to anti-relocation provisions. The amendments extended the time for social dialogue from 30 to 90 days and applied these changes retroactively to ongoing procedures, such as the one involving Wärtsilä. Additionally, the decree increased financial penalties for companies initiating collective dismissals without union agreements, raising the required contribution from 50% to 500% of the standard amount. In cases of permanent cessation or significant reductions in production (exceeding 40% of the workforce), companies were mandated to repay public subsidies received over the previous 10 years. On the same day, the Labour Court of Trieste issued a ruling (Decree No. 362/2022), condemning Wärtsilä for failing to meet the information obligations outlined in the national collective bargaining agreement (CCNL) and company agreements. The court also ordered Wärtsilä to pay €150,000 in damages to the unions FIM, FIOM, and UILM for reputational harm.

⁹⁷ V. Pulignano & P. Stewart, "The management of change: Local union responses to company-level restructuring in France and Ireland – a study between and within countries," *Transfer: European Review of Labour and Research*, 18(4), 2012, pp. 411–427; M. Dupuis, "How do local unions strategize against multinational corporations' restructuring threats? Some insights from France," *Economic and Industrial Democracy*, 41(1), 2020, pp. 55–72; M. Gillan & R. Lambert, "Industrial restructuring, trade union strategy, and social transformation in Australia and Asia," in M. Gillan & B. Pokrant (eds.), *Trade, Labour and Transformation of Community in Asia*, Palgrave Macmillan, London, 2009.

communication and media relations by parties involved in legal disputes to shape public perception and mitigate reputational damage.

The importance of Litigation PR grew significantly throughout the late 20th and early 21st centuries⁹⁸, with two contrasting perspectives: one assigns Litigation PR the primary task of defending the client's reputation, regardless of the outcome of the case⁹⁹, while the other argues for a more distinct role for dispute communication, which would primarily aim to influence the court's decision by exerting media pressure on it¹⁰⁰. These perspectives underscore the necessity of coordination between legal and communication professionals to effectively navigate litigation, including those arising in corporate restructuring¹⁰¹. Trade unions may engage in Litigation PR, using media coverage to sway public sentiment and, by extension, judicial decisions in labour disputes.

Litigation PR, also referred to as litigation communication, primarily originates from common law jurisdictions. In these systems, legal principles are developed through judicial decisions, where judges apply statutes, precedents, and practical reasoning to the cases before them¹⁰². However, in the field of corporate restructuring, Fiat's efforts at the Pomigliano d'Arco plant in Italy underscored the critical importance of PR strategies also in civil law countries¹⁰³.

⁹⁸ D. C. Gibson, "Litigation public relations: Fundamental assumptions," *Public Relations Quarterly*, 43(1), 1998.

⁹⁹ K. R. Fitzpatrick, "Public relations and the law: A survey of practitioners". *Public Relations Review*, 22(1), 1996, 1-8.

¹⁰⁰ J. Haggerty, *In the court of public opinion: Winning your case with public relations*. J, Wiley, 2003

¹⁰¹ Cf. D. Silver, "Litigation and the court of public opinion," in *Managing Corporate Communications in the Age of Restructuring, Crisis, and Litigation*, J. Ross Publishing, 2013, pp. 15–27. Historically, landmark cases such as the CBS-General Westmoreland defamation case in the early 1980s demonstrated the power of media strategies in shaping public discourse and influencing legal proceedings. In this case, General Westmoreland's legal team employed extensive PR efforts to combat CBS's portrayal, illustrating the profound impact of media management on the judicial process (see. D. C. Gibson, *op. cit.*).

¹⁰² However, various forms of the common law system exist, requiring consideration of both the "legal" and media framework conditions. For instance, from this comparative perspective, Schmitt-Geiger questions whether Litigation PR as practiced in the U.S. can be effectively transferred to the German context (A. Schmitt-Geiger, "Deutschland und die USA: Ist US-amerikanische Litigation-PR auf Deutschland übertragbar?", in *Litigation-PR*, 2012, pp. 57–73.)

¹⁰³ It is noteworthy to highlight that the restructuring of the Fiat Pomigliano plant and the subsequent media exposure did not foresee planned layoffs, but rather a plant shutdown in the case that a company agreement assuring plant operation was not signed (F. Nespoli, "Litigation PR e Media Reputation: Una nuova frontiera per le relazioni

2.3 Summing Up the Reorganisation Rhetorical Arena

Figure 2 illustrates the macro-components of the rhetorical arena in organisational restructuring crises, encompassing all potential actors and their interactions. The arrows represent a simplified depiction of the communicative processes employed by trade unions, the media, and other stakeholders.

While this diagram provides a foundational overview, it does not capture every possible communicative action. For instance, administrative entities may communicate directly with the company, and media messages can have broader implications beyond the immediate actors involved. For example, messages disseminated by the media can influence a bank's willingness to finance a restructuring plan, a potential buyer's interest, or the feasibility of an industrial renewal project. Similarly, such messages can impact the company's competitors, shaping their strategic responses or market positioning. However, while these dynamics may form part of the rhetorical arena of reorganisation, they are not central to trade union activity within it.

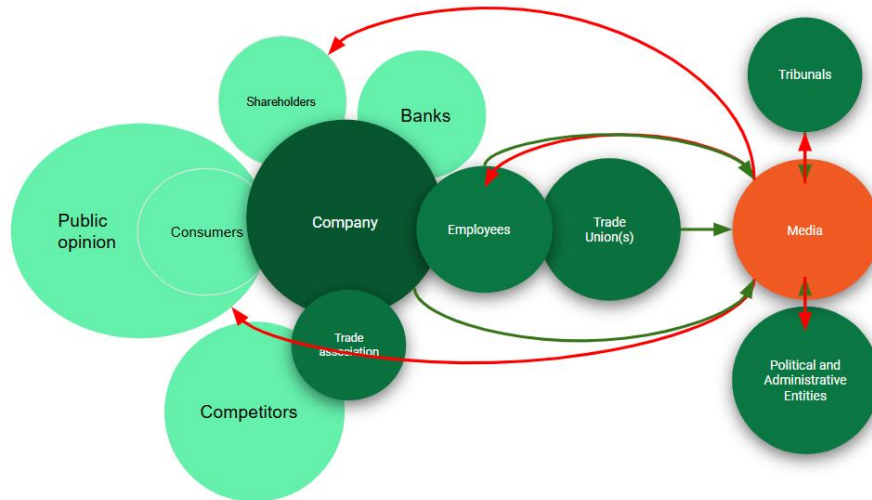
This paper specifically focuses on external communication strategies and public relations. The green arrows indicate media relations actions originating from the company, trade unions, tribunals, and political entities. These actions are typically executed through press releases and interviews. It is worth noting that employees, particularly during crises such as plant closures, may bypass union intermediation by giving direct interviews, further diversifying the communication landscape.

The red arrows represent media messages and their potential ripple effects on various actors, including public opinion, the company's customers, competitors, investors (shareholders), tribunals, and political entities. These media narratives often shape the broader discourse and influence decision-making processes at multiple levels.

By emphasising these communication flows, the figure highlights the dynamic interplay between media relations and stakeholder engagement during organisational crises.

industriali," *Bollettino ADAPT*, 24 April 2013, available at: www.bollettinoadapt.it; F. Nespoli, *op. cit.*, 2018a).

Figure 2. Rhetoric Arena in Organisational Restructuring Crises: The Macro Component - Patterns of interaction



As explained, within this arena, trade unions can adopt various strategies to garner media attention and shape the narrative surrounding crises, often leveraging their reputational stakes to influence reorganisation outcomes. These strategies are not mutually exclusive and may be employed in combination to maximise impact. Key approaches include:

- Framing: Trade unions aim to frame the crisis in terms that resonate with the public and the media. Unions actively participate in the rhetorical arena by using the media to shape the crisis narrative in a way that aligns with public sentiment and challenges the company's version of events. Their success depends on their ability to make their version of events the dominant narrative within the arena. The use of media is a strategic choice within the rhetorical arena, where unions attempt to shift the narrative in their favour.

- Visibility and institutional recognition: Trade unions seek to position themselves as significant institutional actors by enhancing their public presence. This involves ensuring that their voices are heard and their perspectives are recognised as essential in the broader discourse surrounding crises.

- Stakeholder engagement: Use of media to influence other stakeholders: By gaining media coverage, unions can push public institutions to intervene, leveraging public opinion as a tool to compel political action.

- Litigation PR: In cases where legal disputes arise, unions may engage in public relations efforts to shape the tribunal's perspective. This involves

influencing public opinion or media coverage to indirectly impact judicial decisions.

- Lobbying: Through lobbying, unions aim to influence legislation or policy changes that can directly affect crisis management processes, ensuring that workers' interests are prioritised.

- Advocacy: Successful media campaigns by unions can amplify the reputational risks for companies, impacting customer satisfaction, shareholder confidence, and overall market performance. This can lead companies to reconsider their restructuring plans to mitigate public backlash.

Conclusions

This article has sought to position organisational restructuring as a fertile ground for the study of crisis communication, emphasising the pivotal role of trade unions and public affairs in shaping the narrative surrounding such events. By using the term “reorganisation” broadly, this paper has analysed organisational changes affecting employees—such as downsizing, plant closures, offshoring, and layoffs—and how these processes inherently carry reputational risks. Indeed, large-scale reassessments of staffing plans and organisational structures, particularly within major corporations, often attract significant media attention, transforming otherwise routine corporate decisions into reputational crises.

Drawing on the multivocal approach proposed by Frandsen and Johansen (2016), this paper has illustrated how organisational restructuring can be interpreted as a crisis depending on the perspective of the actors involved. The emergence of a reputational crisis in the context of restructuring largely depends on how the reorganisation is framed and perceived. Theoretically, this can occur regardless of the company's initial conditions or the justification it communicates for the restructuring.

Once this is clarified, the intentional nature of restructuring decisions situates the crises arising from them within Coombs' “intentional cluster” of crises, where responsibility is strongly attributed to the organisation. This categorisation helps in understanding why reputational crises can emerge during restructuring and reorganisation, particularly when trade unions and the media frame these actions as deliberate and avoidable.

Trade unions indeed play a crucial role in this rhetorical arena, shaping public opinion, attributing responsibility to companies, and emphasising the social costs of these actions. From this perspective, competitiveness is

pursued at the expense of workers and communities, thus transforming the impact on employees into the crisis itself.

In practice, trade unions can employ a range of strategies, including lobbying, media relations, and litigation PR, to influence restructuring outcomes. By leveraging public opinion, unions can push administrative entities and political actors to take action. While companies may fear losing customers or investors, governments and administrative entities fear losing voter support if they fail to defend local economies and workers.

These actions can pressure companies to reconsider restructuring plans, as reputational risks become intertwined with financial and operational risks. The economic implications of these rhetorical battles are significant. Heightened severance benefits, reduced layoffs, or altered redundancy terms often result directly from these disputes. At the same time, layoffs themselves can have long-term detrimental effects on corporate performance, with impacts on consumer trust, stock prices, and shareholder confidence.

Trade unions not only counter corporate narratives but also propose alternatives—such as diversification, innovation, or employee development—positioning themselves as solution-oriented actors advocating for the long-term well-being of both the company and its employees. In this sense, reorganisation crises can also present an opportunity for trade unions to reinforce their relevance and demonstrate their constructive role.

These dynamics underline the interconnectedness of reputational, financial, and organisational risks in restructuring crises. Ultimately, this reflection aligns with emerging perspectives indicating that the concept of crisis itself is evolving. Contemporary approaches to crisis communication suggest that crises are no longer viewed as isolated, unpredictable events but rather as inherent and recurring aspects of modern business life.

In conclusion, organisational restructuring represents a distinctive type of crisis that can only be fully understood through a multivocal framework. It is the interplay among various actors—trade unions, media, administrative entities, and companies—that defines the narrative, assigns responsibility, and shapes outcomes. However, this remains largely theoretical and must be complemented by further reflection. Such reflection should enable us to compare the range of possibilities described here, informed by observations of numerous real-life reorganisation cases, with the specific dynamics of individual restructuring crises. Future research should explore and systematise the sociological, economic, political, and legal contextual variables—such as income, education, and

occupation of specific target audiences; industrial relations law and culture; industry economic and financial starting conditions; and company reputation legacy. Additionally, the characteristics of the company and its sector are critical in determining the dynamics of restructuring crises. For example, how do public employees and their unions fit into the model I presented in this paper? Public-sector restructuring is often driven by political rather than purely economic motivations, making it a particularly contested space where reputational crises extend beyond labour disputes to issues of governance, public trust, and electoral consequences. Furthermore, the media environment plays a crucial role in shaping the rhetorical arena, as conservative media are often openly hostile to labour movements, making it difficult for trade unions to communicate their narratives through these channels. These and other variables influence the extent to which trade unions can exert power within the rhetorical arena, either amplifying or constraining their impact. Addressing these factors will provide a more comprehensive framework for analysing and understanding the mechanisms underlying reorganisation crises, ensuring a more nuanced understanding of how labour disputes unfold in different cultural, economic, political, and media contexts.

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.

For more information about the E-journal and to submit a paper, please send a mail to LS@adapt.it.

