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

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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

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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.

before the employment relationship is formed. This pre-employment imbalance is 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

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.

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 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.

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.

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 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

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.

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 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,

¹⁰ *Ivi*, p. 103.

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.

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.

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

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.

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 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.

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.

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.

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

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

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

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.

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, 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.

²³ Article 6 of the Protocol.

²⁴ Article 3 of the Pact.

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-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

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

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.

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 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

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.

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

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 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.

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.

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.

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

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.

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 projects are aimed not only at retraining already employed workers (paragraph 249, letter b) but also at

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; Ismeri 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.

“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,

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.

which outlines an ideal process that active labour market policies should follow in regard to young people. It is 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.

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.

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

6. Concluding Remarks

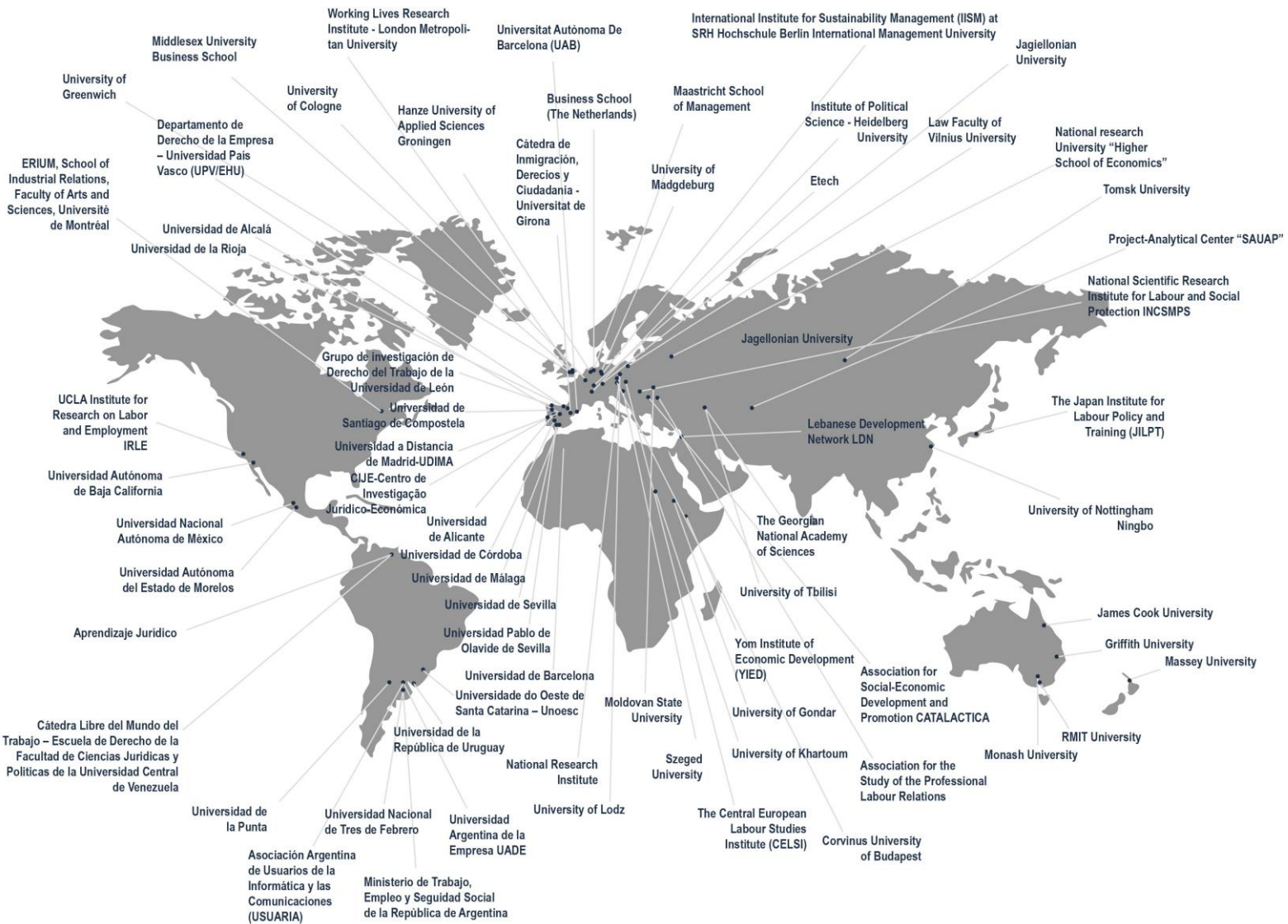
In conclusion, these tools should be welcomed as they not only foster the development and economic growth of the country but also strengthen union power by extending union consensus. They allow trade unions to participate in the governance of the labour market and to proactively verify the contractual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

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