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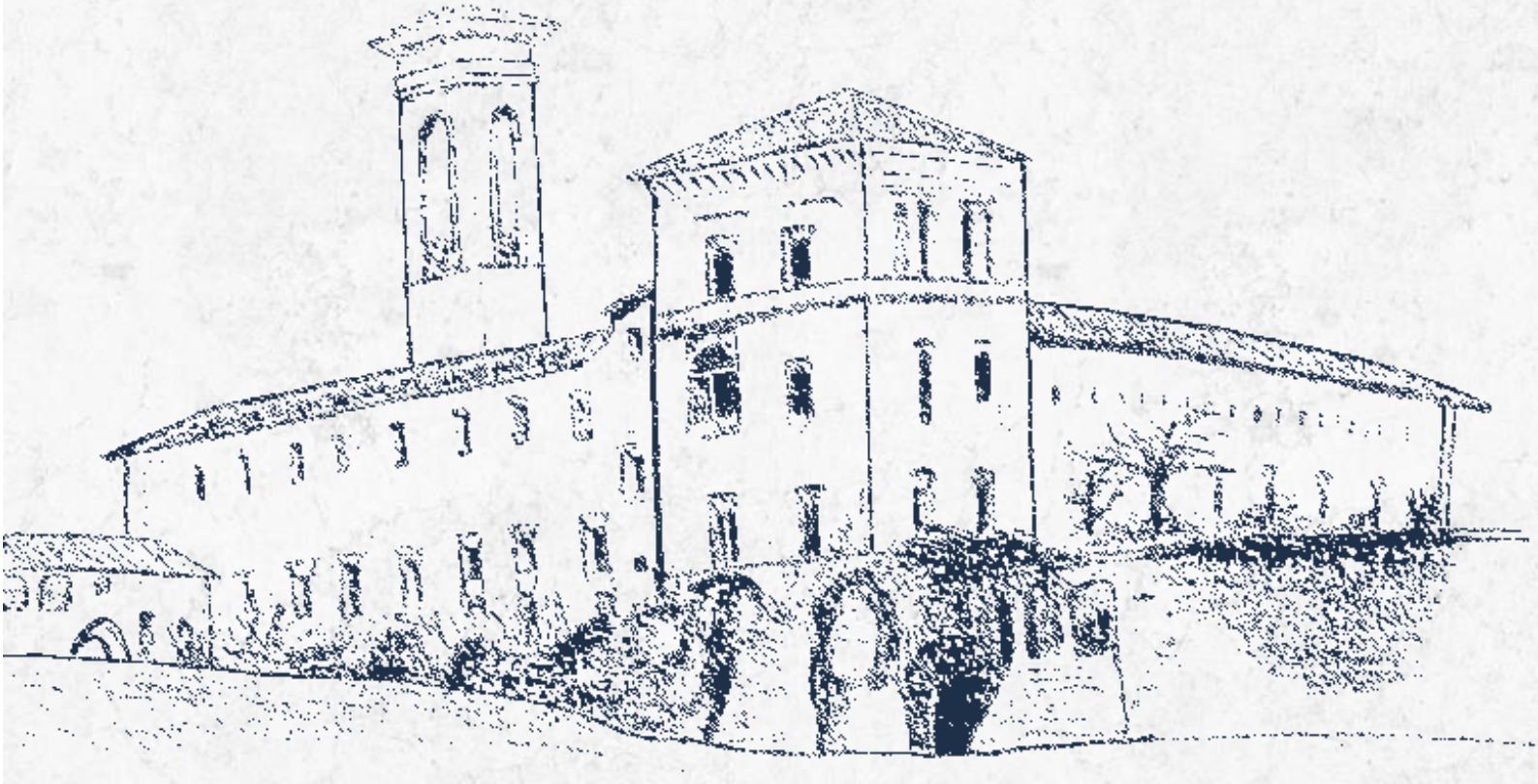

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Index

Special Section: Labour as a Driver of Sustainable Development

Labour Issues

Labour as a Driver of Sustainable Development: Presentation of a Nationally Significant Research Project

Valeria Filì *

1. The *LIVEABLE* Project

The PRIN project *LIVEABLE – Labour as a Driver of Sustainable Development* stems from the collaboration of four research units affiliated with four Italian universities: the University of Udine, the University of Modena and Reggio Emilia, the University of Bari Aldo Moro, and the University of Macerata.
This initiative is part of the PRIN programme (*Progetti di Rilevante Interesse Nazionale* – Projects of Significant National Interest), funded by the Italian Ministry of University and Research following a competitive selection process. The Ministry supports fundamental research conducted by universities through the PRIN programme, financing projects which, due to their complexity and scope, necessitate the collaboration of multiple research units distributed across the national territory. The programme is guided by several core principles, including the high scientific calibre of the participants, and the sustainability, originality, and feasibility of the proposed research.
The present project, broad in scope and spanning a three-year period, is primarily grounded in labour law but is distinctly interdisciplinary in nature. It

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The project involves the following research units: University of Udine (Italy), with Prof. Valeria Filì as Head of the Research Team; University of Modena and Reggio Emilia (Italy), led by Prof. Michele Tiraboschi; University of Bari (Italy), under the direction of Prof. M.T. Paola Caputi Iambrenghi; and University of Macerata (Italy), headed by Prof. Filippo Olivelli. This paper forms part of the activities undertaken by the local research unit of the University of Udine (CUP G23C22000560001) within the framework of the project.

engages scholars—both permanent faculty members at the participating universities and researchers specifically recruited for the project—working across various disciplines, including labour law, administrative law, commercial law, private law, international and EU law, political economy, Germanic philology, and demo-ethno-anthropological studies. This section of the journal features contributions from some of the researchers involved in the project.

2. The Core Content of the Project

The COVID-19 pandemic has starkly highlighted Italy's delay in implementing the Sustainable Development Goals (SDGs) outlined in the United Nations 2030 Agenda. Sustainability is a necessary condition for meeting the needs of the present generation while preserving the ability of future generations to meet their own.

The pandemic revealed that the suspension of non-essential economic activities can have beneficial effects on the ecosystem. However, the shutdown of such sectors also exposed the limitations of policies that prioritise environmental goals while overlooking economic and social dimensions. In this respect, the pandemic underscored the intrinsic interdependence between labour and the broader pillars of sustainability.

A close reading of the 2030 Agenda reveals that labour, in its various forms, is embedded across all the Goals, thereby confirming that the right to decent work is not only compatible with environmental protection but also essential for fostering sustainable, smart, and inclusive economic growth. As Guy Ryder, former Director-General of the International Labour Organization, noted in the presentation of the report *Decent Work and the 2030 Agenda for Sustainable Development*: "Decent work is not just a goal – it is a driver of sustainable development."

This project arises from the recognition of the central role of labour—not only in relation to Goal 8, which explicitly addresses decent work and economic growth—but also in connection with the broader framework of the Agenda. Decent work acts as a catalyst for sustainable and inclusive economic development. Accordingly, the role of enterprises and public administrations must be reinterpreted through the lens of sustainability, enabling them to become fully proactive agents of change.

Furthermore, the project advocates a shift from an individualistic conception of rights—often rooted in self-interest—towards a renewed collective dimension that links stakeholders to each other, to the environment, and to the communities in which they operate.

To this end, and in view of the urgent need for action, the project set out to critically assess existing labour and social legislation, identifying both its strengths and, more importantly, its shortcomings.
The SDGs served as an analytical framework through which to interpret economic and social phenomena and to formulate concrete policy proposals. In particular, the project examined the strategies adopted by the Italian legal system and the European Union to address demographic change and the increasing prevalence of chronic diseases, in the context of other phenomena that shape the sustainability of work.

3. General Presentation of this Special Section Dedicated to the *LIVEABLE* Project

The contributions presented in this section aim to explore, from a range of perspectives, the evolving role of labour in shaping inclusive, resilient, and sustainable societies. Grounded in the framework of the United Nations 2030 Agenda, the essays examine how legal systems can respond to the challenges posed by demographic change, technological innovation, ecological transition, and the increasing fragmentation of work.
The selected papers offer a multidisciplinary analysis of key dimensions of sustainable labour, addressing issues such as pension reform, chronic illness in the workplace, vocational training, income support, and the integration of artificial intelligence into public sector employment. They also provide a critical evaluation of the effectiveness of legal enforcement mechanisms and sector-specific policies, including the introduction of social conditionality within the Common Agricultural Policy.
Collectively, these contributions reflect a shared commitment to rethinking labour law and social protection through the lens of sustainability—placing the dignity, adaptability, and inclusion of workers at the heart of legal and policy innovation.

4. Seven Different Insights into Key Dimensions of Sustainable Labour

The contributions collected in this section reflect both the thematic richness and analytical depth of the LIVEABLE project, offering diverse insights into key dimensions of sustainable labour.
Sergio Nisticò, Filippo Olivelli, and Simone Caldaroni examine the long-term sustainability of pension systems in their paper *Demographic and Workforce Projections in Italy and Sweden*. Through a comparative analysis of Notional Defined Contribution (NDC) reforms, the authors highlight the trade-offs between financial solvency and social adequacy, underscoring the need for

structural adjustments in labour market participation and welfare design in response to demographic pressures.

Emanuele Dagnino, in *Ageing, Chronic Diseases and Employment*, explores the intersection of health and employment, focusing on legal frameworks that support the retention and reintegration of workers with chronic conditions. His comparative analysis of the Italian and French models demonstrates the importance of early recognition and activation mechanisms, and advocates a more systematic and preventive approach to sustainable work.

Federica Stamerra addresses the evolving concept of vocational training in *The Right to Professional and Vocational Training Between Individual and Collective Agreements*. Her paper interrogates whether training can be recognised as a subjective right within the Italian legal system, and argues for a shift towards a model of employability that supports workers through discontinuous careers and transitions, particularly in the context of digital and ecological transformations.

Nicola Deleonardis, in *Social Sustainability in the CAP 2023–2027*, investigates the introduction of social conditionality within the EU's Common Agricultural Policy. His analysis critically assesses both the symbolic and practical dimensions of this mechanism, drawing attention to its limitations within the Italian context, and calling for a stronger integration of collective bargaining provisions to secure decent work in the agricultural sector.

Massimino Crisci, in *The "Replacement Risk" of Artificial Intelligence in Civil Service Employment*, reflects on the impact of artificial intelligence on public sector employment. Moving beyond narratives of technological displacement, the paper proposes a model of "augmented work" that enhances job quality and efficiency through human–algorithm collaboration, while urging the reorganisation of work processes and investment in upskilling.

Claudia Carchio, in *Income Support at the Intersection of Job Security and Labour Transitions*, examines the dual function of income support mechanisms as both passive and active tools. Her analysis underscores the importance of integrating welfare and labour market policies to support mobility and employability, while also cautioning against the distortive effects of exceptional income-support measures introduced in recent years.

Finally, Gianluca Picco, in *Labour Law Inspection and Enforcement System in Italy*, critically evaluates recent reforms concerning labour inspections and sanctions. The paper denounces the resurgence of criminal penalties as a populist reaction to workplace accidents, and calls for a reconfiguration of enforcement strategies based on preventive and administrative tools, restoring criminal law to its proper function as an *extrema ratio*.

Taken together, these contributions offer a comprehensive and nuanced reflection on the role of labour in advancing sustainable development. They

reaffirm the centrality of decent work—not merely as an objective, but as a vital driver of social cohesion, economic resilience, and human dignity.

Demographic and Workforce Projections in Italy and Sweden: Social Security Challenges and Prospects

Sergio Nisticò, Filippo Olivelli,
Simone Caldaroni *

Abstract. This paper examines the challenges facing European social security systems, focusing on Italy and Sweden's differing approaches to pension reform amid ageing populations. It analyses how demographic shifts—such as declining fertility and increased longevity—are impacting the balance between contributors and beneficiaries in pay-as-you-go (PAYG) schemes. The study contrasts Sweden's rapid, intergenerationally fair transition from non-financial defined benefit (NDB) to non-financial defined contribution (NDC) pensions with Italy's slower, rights-based approach. It also discusses key design features for NDC sustainability, the role of solidarity, and the shifting relationship between public and private actors in welfare provision.

Keywords: *Pension reform; PAYG systems; NDC pensions; ageing populations; social security sustainability.*

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Introduction

Population ageing represents one of the most pressing challenges to the long-term financial and social sustainability of pension systems across Europe. As life expectancy continues to rise and fertility rates remain below replacement levels, demographic trends are fundamentally altering the balance between contributors and beneficiaries in pay-as-you-go (PAYG) pension schemes. Unlike fully funded systems—where assets are accumulated to meet future liabilities—PAYG schemes rely entirely on current workers' contributions to finance the pensions of current retirees. This model is underpinned by an implicit intergenerational contract, enforced by the state.

The ongoing demographic shift, which cannot be offset by increased employment rates alone, threatens the capacity of future governments to sustain contribution rates while providing adequate pensions for a growing number of retirees. This issue is particularly acute for PAYG systems that deliver earnings-related benefits, as is typical of defined-benefit (DB) arrangements. In non-financial defined-benefit (NDB) schemes, the demographic burden might, in theory, be addressed by continuously raising contribution rates—a strategy that is clearly unsustainable in the long term.

In the mid-1990s, Italy and Sweden adopted an alternative approach by implementing non-financial defined contribution (NDC) systems. These reforms retained the PAYG financing structure but introduced a personal account logic for calculating pension entitlements—an approach previously associated only with fully funded schemes. In NDC systems, pension benefits are closely tied to each individual's lifetime contributions, augmented by a notional interest rate linked to system sustainability, and adjusted for life expectancy at retirement. This structure ensures financial solvency under virtually any demographic or economic scenario.

However, such solvency entails a potential downside: pensions based on the personal account logic may fail to guarantee socially adequate benefits. This, in turn, threatens the long-term legitimacy of the intergenerational contract on which PAYG systems rest.

This paper offers a comparative analysis of Italy and Sweden—two countries facing similar demographic pressures but pursuing different institutional paths in implementing NDC reforms. These cases provide valuable insights into the trade-offs inherent in transitioning from NDB to NDC schemes. The comparison sheds light on how varying policy designs influence pension systems' capacity to adapt to demographic and labour market transformations.

The paper is structured as follows. Section 1 outlines the demographic and economic context affecting pension sustainability in both countries, focusing on population trends, dependency ratios, labour force projections, and changes

in career duration. Section 2 analyses the transition from NDB to NDC systems in Italy and Sweden, examining how each country balanced the protection of acquired rights, actuarial fairness, and the pace of reform. Section 3 explores how NDC schemes, by design, address fiscal challenges associated with population ageing, while raising concerns around fairness and social legitimacy. Section 4 considers broader issues related to solidarity principles and alternative reform models, including possible shifts towards more Beveridgean or multi-pillar systems. Section 5 examines the evolving bottom-up role of private actors in supplementing welfare provision, while Section 6 looks at top-down state initiatives that leverage private mechanisms to overcome public system constraints. The paper concludes by reflecting on the long-term prospects of PAYG-based pensions in the context of demographic ageing, and the extent to which private provision may need to expand to ensure old-age income security.

1. Demographic and Labour Market Developments

1.1 Demographic Dynamics

While the total population of the European Union is projected to decline by 4% between 2022 and 2070, national demographic trajectories vary considerably across Member States[1]. Sweden is expected to experience substantial population growth, rising from 10.5 million in 2022 to 12.9 million in 2070—an increase of 23%. In contrast, Italy's population is projected to fall from 59 million to 53.3 million over the same period, a decline of 10%. This divergence highlights Sweden's demographic expansion, which contrasts with the broader EU trend, while Italy exemplifies that trend in a more accentuated form.

Despite Sweden's projected growth, population ageing is anticipated to accelerate, in line with broader EU patterns. In particular, the population aged 65 and over is expected to grow more rapidly than the working-age population (20–64), leading to a significant increase in the old-age dependency ratio (OADR)—defined as the number of individuals aged 65 and over per 100 people of working age. Sweden's OADR is projected to rise from 36.0% in 2022 to 50.4% in 2070 (Figure 1).

[1] All demographic data in this section are retrieved from the EUROPEAN COMMISSION *Ageing Report 2024*, 2024.

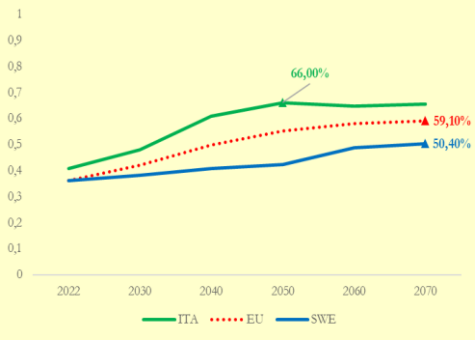

Figure 1. OADR projections 2022-

Italy, however, is set to experience a more pronounced demographic shift. The OADR is forecast to rise sharply from 40.8% in 2022 to 65.5% by 2070, peaking around 2050. This implies a considerably greater demographic burden on the working-age population relative to Sweden.

These changes in population size and age structure are primarily driven by projected trends in fertility, mortality, and migration. In Sweden, the total fertility rate is expected to increase modestly from 1.68 live births per woman in 2022 to 1.76 in 2070. Italy is projected to follow a similar path, rising from 1.24 to 1.45 over the same period. However, in both countries—as across the EU—fertility is expected to remain well below the replacement threshold of 2.1 live births per woman.

Life expectancy is also projected to rise significantly. Among males, life expectancy at birth is expected to increase by 5.5 years in Sweden (from 81.5 to 87.0) and by 6.0 years in Italy (from 81.1 to 87.1) by 2070. For females, the increases are projected at 5.3 years in Sweden (from 85.4 to 90.7) and 5.5 years in Italy (from 85.5 to 91.0). At age 65, Swedish men are projected to live an additional 4.2 years (from 19.7 to 23.9), and women an additional 4.4 years (from 22.5 to 26.9). In Italy, these gains are similar: 4.5 years for men (from 19.5 to 24.0) and 4.5 years for women (from 22.7 to 27.2). These improvements reflect continued advancements in healthcare, living standards, and public health measures.

Regarding migration, Sweden's net migration is expected to stabilise at pre-2022 levels, averaging approximately 32,000 individuals per year—or 0.4% of the population—after a temporary surge in 2022 (0.94%), largely due to the Russian invasion of Ukraine. In contrast, Italy's net migration is projected to decline gradually from 0.6% in 2022 to 0.4% by 2070, suggesting a diminishing role for migration in supporting demographic stability.

1.2 Economic Dependency Ratio

An essential indicator for assessing the fiscal implications of population ageing—particularly in relation to pension expenditure—is the economic old-age dependency ratio (EcoOADR). This metric measures the proportion of economically inactive individuals aged 65 and over relative to the number of employed persons aged 20 to 64. The EcoOADR is projected to rise significantly across all EU Member States in the coming decades, underscoring the increasing demographic pressure on labour markets.
As shown in Figure 2, Sweden is expected to see a relatively moderate increase in the EcoOADR. The projected rise of 13 percentage points by 2070 is the smallest among EU countries, compared to the average increase of 24 percentage points across the Union. By 2070, Sweden's EcoOADR is forecast to reach 52.9%—the lowest level in the EU.

Figure 2. EcoOADR projections 2022-2070 – Source: Ageing Report 2024

Italy, by contrast, faces a much steeper increase. The EcoOADR is projected to rise from 60% in 2022 to 79.9% in 2070, significantly exceeding both the Swedish and EU averages. This sharp rise reflects Italy's more pronounced demographic ageing and signals a heavier burden on the working population. The ratio is expected to peak at 86% by 2050, followed by only a modest decline, raising serious concerns about the long-term economic sustainability of the Italian welfare state.
Both countries have introduced pension reforms linking the statutory retirement age to life expectancy, which helps to alleviate some of the fiscal pressure associated with ageing populations. However, Italy's projected labour force contraction—coupled with a markedly higher EcoOADR—suggests a more acute challenge. This underscores the need for further policy measures to enhance labour market participation and ensure the adequacy and sustainability

of pension provision.

1.3 Boosting the Labour Force

Both Italy and Sweden have introduced automatic adjustments linking statutory retirement ages to increases in life expectancy, aiming to enhance the long-term resilience of their pension systems amid ongoing longevity gains. This policy directly impacts labour market dynamics, particularly by encouraging higher participation among older cohorts.

In Italy, the labour force aged 20–74 is projected to decline by 7.3% between 2022 and 2070, largely due to a 17.1% reduction in the working-age population. Despite this demographic contraction, the overall labour force participation rate for individuals aged 20–74 is expected to increase by 7.1 percentage points, from 60.3% in 2022 to 67.4% in 2070. As illustrated in Figure 3, this rise is almost entirely driven by increased participation among older workers, primarily reflecting higher retirement ages and the gradual establishment of the Non-Financial Defined Contribution (NDC) pension system.

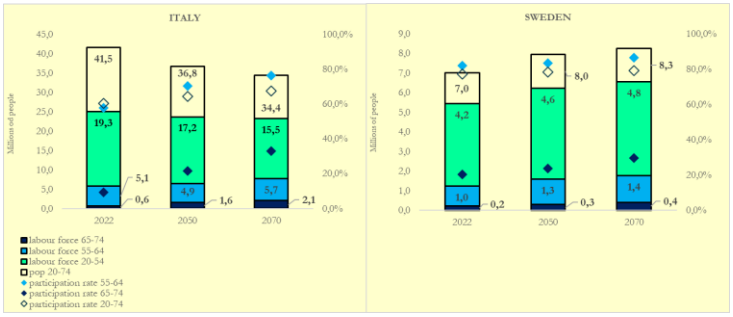

Figure 3. Labour force projections 2022-2070 – Authors' elaboration on data from Ageing Report 2024

Specifically, participation among those aged 55–64 is projected to rise from 57.9% to 76.3%, while for those aged 65–74 it is expected to more than triple, from 9.4% to 33.0%.

In contrast, Sweden's labour force aged 20–74 is anticipated to expand by 20.6%, mainly owing to a 17.7% increase in the working-age population. Continued reforms to pension ages are expected to further bolster labour supply among older workers, with positive effects on overall labour market participation. For the 55–64 age group, participation is projected to rise from 82.2% in 2022 to 86.5% in 2070. Meanwhile, participation among those aged 65–74 is expected to increase from 20.3% to 29.7%, representing a 9.4 percentage point gain over the period.

1.4 Career Duration

The automatic link between statutory retirement age and life expectancy is expected to gradually increase both the average effective retirement age and the average effective labour-market exit age in Italy and Sweden. The average effective retirement age refers to the age at which individuals begin receiving pension benefits—whether through old age, early retirement, or disability schemes. By contrast, the average effective labour-market exit age is typically slightly higher, as it accounts for retirees who continue to work or actively seek employment.

From the perspective of assessing the implications of demographic shifts on working lives, the average effective labour-market exit age provides a more relevant indicator, as it captures how long individuals are likely to remain economically active. The contributory period—the total span during which individuals accrue pension rights—serves as a proxy for career length, although it includes periods of unemployment during which pension entitlements continue to accrue under the NDC system. As retirement ages rise, this period is projected to lengthen, implying that individuals will need to work and contribute over a greater proportion of their lifetimes.

In Italy, the average effective labour-market exit age is projected to increase by 4.6 years, from 64.2 in 2022 to 68.8 in 2070. Over the same period, the average contributory period is expected to rise from 35.5 to 37.7 years.

In Sweden, the average labour-market exit age is projected to increase by 2.9 years, from 65.0 in 2022 to 67.9 in 2070. On average, Swedish workers are expected to leave the labour market approximately one year after commencing pension receipt. The contributory period is also expected to extend from 40.0 years in 2022 to 42.4 years in 2070 (see Figure 4).

This trend aligns with overall labour force growth in Sweden, driven by demographic expansion and increased participation among older workers.

In contrast, Italy faces a shrinking labour force, with participation gains primarily concentrated in older age groups, largely due to the gradual implementation of the NDC system.

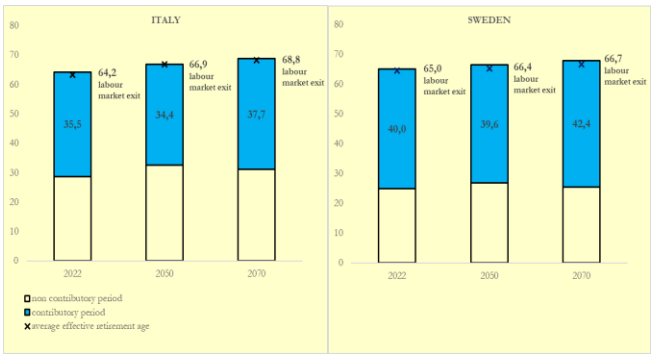

Figure 4. Career duration projections 2022-2070

Both countries will experience increases in average effective labour-market exit ages and contributory periods, requiring individuals to remain in employment for longer. However, Italy's projected increase is more pronounced, reflecting its greater demographic pressures.

Notably, Figure 4 reveals a substantial disparity in contributory periods between the two countries—a difference of approximately five years that is expected to persist until 2070. Indeed, the more pronounced rise in labour-market exit age in Italy will not suffice to achieve the necessary extension of contributory periods to enhance pension adequacy and thereby support the social sustainability of the projected increases in old-age dependency ratios (OADR) and economic old-age dependency ratios (EcoOADR). These trends underscore the urgent need for significant improvements in employment rates to ensure economic sustainability amid ageing populations.

2. Pension System Transition in Italy and Sweden

2.1 Transition Phase

The primary challenge when replacing a Non-Financial Defined Benefit (NDB) scheme with a Non-Financial Defined Contribution (NDC) pension system based on the logic of Personal Accounts (PA) lies in accommodating two key principles[2] in the reform legislation, as outlined by Palmer:

- The Acquired Rights Principle, according to which a fair transition must safeguard the pension credits accumulated by workers under the rules in place at the time of their employment. In other words, as individuals enter into an implicit agreement with the State based on the prevailing pension regulations,

[2] See E. PALMER, *Conversion to NDC* - Issues and Models, In: Holzmann R. and E. Palmer *(eds.) Pension Reform Issues and Prospects for Non-Financial Defined Contribution (NDC) Schemes,* The World Bank Press, 2006.

their previously earned rights ought to be honoured.
- The Contributory Principle, which underpins NDC systems, according to which pension benefits are determined based on the contributions paid by the employee (and/or employer), including a specific interest rate, uniform for all individuals within the system at the time when interest is credited on Personal Accounts.

It is evident that these two principles, as identified by Palmer, conflict with one another. In economic terms, there is a trade-off between preserving acquired rights and applying the contributory principle equitably to all insured members of the pension system. We add a third, equally relevant principle to the transition process that further complicates this trade-off: the speed of the transition. A slow transition implies a prolonged period during which pensions are calculated by means of ad hoc, often individualised rules, potentially eroding workers' and retirees' trust in a juridical system that is applied fairly to all individuals.

Overall, the issue of transition is closely linked to the broader question of intergenerational fairness—specifically, the extent to which the new calculation rules, which are generally less generous than the previous ones, apply only to younger generations while ensuring that more generous rules remain in place for those already active under the former system. This is a complex issue where the perspectives of legal experts and economists may diverge significantly.

In Sweden, the acquired rights principle was largely rejected by parliament, as it was viewed as imposing an undue fiscal burden on future generations. Given the projected steady increase in longevity, maintaining pension entitlements under the old Defined Benefit (DB) scheme would have resulted in an unsustainable disproportionate number of pensioners benefiting from the previous system. Swedish policymakers therefore opted for a relatively rapid transition.

Consequently, Sweden adopted a gradual 14-year transition to the NDC system. The process began in 2001, three years after the reform law was enacted, when the first 'mixed' pension was awarded to those born in 1938. By 2015, only 14 years later, new benefits were calculated entirely under the new system's rules.

The transition was structured as follows: the first cohort affected by the reform included individuals born in 1938, who received one-fifth of their pension from the NDC scheme and four-fifths from the old system. Each subsequent cohort increased their participation in the new system by 1/20, so that individuals born in 1954 or later had their pensions fully calculated under the NDC framework. Around 2040, all pension benefits are expected to be entirely determined by the reformed system, marking the completion of Sweden's

pension transition[3]. In Italy, by contrast, the imperative to protect acquired rights prevailed, resulting in a considerably slower transition than in Sweden. The 1995 Dini reform, which introduced the contributory method, based eligibility not on age but on contribution seniority as the key criterion to preserve acquired rights. The reform applied the new rules only to individuals with zero seniority—i.e., those entering the labour market after 1995—thus adopting a considerably less stringent approach than that taken by the Swedish Parliament. As Gronchi and Nisticò observe: "The lesser severity of the Italian transition is shown first of all by the fact that it exempted 40 per cent of existing workers from the new contributions-based formula, compared with 7 per cent in Sweden"[4] The authors further provide a comparative approach to illustrate the outcomes of the Swedish age-based method versus the Italian contribution seniority-based method. Their findings are summarised in Table 1[5], based on the assumption that work commences at age 24 in both countries.

It is well known that the Italian gradual transition was later accelerated by the 2011 Fornero reform, which established that all contributions paid after 2011 accrue pension rights according to the NDC calculation method, regardless of the worker's prior contribution history.

Despite this acceleration, as a result of the gradual transition, it will only be in the second half of the 2030s that all new Italian pensions will be computed entirely according to the NDC formula, with the old DB system remaining partially in place until approximately 2065.

[3] See A. SUNDÉN in *The Swedish Experience with Pension Reform*, in *Oxford Review of Economic Policy*, 22, 2006, pp. 133-148.

[4] See S. GRONCHI, S. NISTICÒ, *Implementing the NDC theoretical model: a comparison of Italy and Sweden*, in *Pension Reform: Issues and Prospects for Non-Financial Defined Contribution (NDC) Pension Schemes*, World Bank, 2006, pp. 493-515.

[5] Reproduced from GRONCHI, S. NISTICÒ, *Implementing the NDC theoretical model: a comparison of Italy and Sweden*, in *Pension Reform: Issues and Prospects for Non-Financial Defined Contribution (NDC) Pension Schemes*, World Bank, 2006, pp. 493-515.

Age at reform (1)	Percentage of earnings based pension preserved: in Sweden (2)	in Italy (3)	Age at reform (4)	Percentage of earnings based pension preserved: in Sweden (5)	in Italy (6)
24	0	2.5	43	0	100
25	0	5.0	44	0	100
26	0	7.5	45	5	100
27	0	10.0	46	10	100
28	0	12.5	47	15	100
29	0	15.0	48	20	100
30	0	17.5	49	25	100
31	0	20.0	50	30	100
32	0	22.5	51	35	100
33	0	25.0	52	40	100
34	0	27.5	53	45	100
35	0	30.0	54	50	100
36	0	32.5	55	55	100
37	0	35.0	56	60	100
38	0	37.5	57	65	100
39	0	40.0	58	70	100
40	0	42.5	59	75	100
41	0	45.0	60	80	100
42	0	100.0	over 60	100	100

Table 1. Protection of Prereform Entitlements in Sweden and Italy

The key takeaway from this section is that Sweden prioritised intergenerational fairness, deliberately rejecting the acquired rights principle in order to avoid imposing an excessive financial burden on future generations. This enabled a relatively brief transition period, with full implementation expected by 2040. Conversely, Italy prioritised the protection of acquired rights, leading to a much slower transition, with the old DB formula continuing to affect pension calculations until at least 2070. A consequence of Italy's approach is the perception among younger generations of intergenerational unfairness in favour of older cohorts—an inevitable repercussion of the path chosen.

3. Sustainable by Design: How NDC Systems Address the Ageing Population

In light of the demographic projections discussed above, both Italy and Sweden provide valuable insights into how pension design can enhance sustainability amid population ageing. Although these systems differ in several institutional details, they share key structural features that render them particularly effective in managing the fiscal and social pressures associated with an ageing population.

A central strength of NDC systems lies in their embedded mechanisms linking both the retirement age and annuity divisors to changes in life expectancy. This design ensures financial sustainability by automatically adjusting future pension benefits in response to demographic trends. However, while actuarially sound, this feature can be perceived as socially and politically challenging, as it effectively entails a gradual extension of the working life necessary to secure an adequate pension.

To maintain public support, it is essential to communicate clearly that rising life expectancy is not merely a demographic statistic but also reflects improvements in the physical and cognitive capacities of older individuals. In other words, if people live longer and healthier lives, it is reasonable—and indeed necessary—for them to remain active in the labour market for a longer period. Yet this assumption cannot stand alone. It must be supported by parallel labour market policies aimed at promoting age-friendly work environments, reducing age discrimination, and facilitating continuous skills development. Without such complementary measures, the actuarial fairness of NDC systems may fail to translate into perceived fairness or social legitimacy.

Another strength of NDC systems lies in their capacity to foster an intergenerational agreement within pay-as-you-go (PAYG) financing. By making the link between contributions and future benefits transparent, these schemes help reframe pension contributions as compulsory retirement savings rather than as a payroll tax. This shift in perception may enhance both compliance and legitimacy, particularly among younger cohorts, whose confidence in public pension systems has often been undermined by narratives surrounding population ageing.

A further critical dimension of NDC systems is their integration with poverty-prevention mechanisms financed through general taxation. Given that NDC pensions are strictly contribution-based and earnings-related, they do not inherently ensure income adequacy for individuals with incomplete or fragmented work histories. To address this limitation, both Italy and Sweden complement their NDC pillars with redistributive components.

In Sweden, where the contribution rate to the public pension system is relatively low (17.21%), the non-contributory component plays a central role. The Guarantee Pension provides a minimum income floor for all retirees with limited pension entitlements, serving as a key instrument in preventing old-age poverty. In contrast, the Italian system—characterised by a much higher contribution rate (33%)—relies more heavily on the contributory pillar, thereby assigning a comparatively smaller role to its assistance-based instruments. Means-tested benefits, such as the Assegno Sociale, offer a safety net, but their impact remains more limited in scope.

As labour market fragmentation deepens and the incidence of non-standard or discontinuous employment increases, the effectiveness of these poverty-prevention measures will become ever more critical. Ensuring that individuals who are unable to accumulate sufficient pension credits are not left without adequate support in old age will be a central challenge for the long-term legitimacy and inclusiveness of NDC-based systems.

As noted earlier, Italy has opted for a high mandatory contribution rate of 33%, which ensures stronger earnings replacement capacity within the public

system but leaves limited room for private savings. Sweden, by contrast, finances its income pension with a lower contribution rate of 17.21%, thereby offering individuals greater flexibility to supplement their retirement income through private or occupational pension schemes. Nevertheless, empirical evidence suggests that Swedes tend to save a substantial share of their income for old age—around 30% in total—whether through mandatory, occupational, or voluntary channels. This outcome reflects a well-developed multi-pillar system and a strong savings culture, mitigating the risks associated with a lighter first pillar.

Finally, it is worth noting that while the Swedish NDC scheme incorporates mechanisms such as automatic balancing and inheritance redistribution (i.e., reallocation of the notional capital of deceased individuals), the Italian version has not adopted comparable tools. The Italian system utilises a five-year moving average of GDP to determine the notional rate of return—an approach that lacks responsiveness during economic or demographic shocks and does not cover administrative costs. Consequently, further refinements may be necessary to ensure full financial neutrality and long-term resilience.

4. Principle of Solidarity and Different Reform Models

Demographic dynamics, labour market trends, and the old-age dependency ratio (OADR), as summarised in Section 1, alongside the necessity to increase pension expenditure due to benefit adjustments in line with rising living costs, exert mounting pressure on social security systems. Consequently, these factors threaten intergenerational solidarity, a principle enshrined in Articles 2, 3, and 38 of the Italian Constitution.

Specifically, the ratio of pension expenditure to gross domestic product (GDP) in Italy, according to data from the INPS 2024 report, exceeds 15%, ranking second only to Greece and surpassing the EU27 average by more than three percentage points. Meanwhile, the proportion of pension expenditure relative to overall public expenditure is just under 30%[6]. These figures, as previously noted, risk destabilising the Italian social security system, which is founded upon the principle of solidarity. This principle is not only embedded in Italy's fundamental Charter but also articulated in Chapter IV of the Charter of Fundamental Rights of the European Union, notably in Article 34, which specifically addresses social security[7].

[6] INPS, *XXIII Report*, published in September 2024 on the Institute's website, www.inps.it, p. 285 et seq.

[7] Although this article mainly deals with the protection of the transnational worker in the context of his freedom of movement within the EU.

The principle of solidarity mandates the proportional redistribution of wealth among community members organised within the State, thereby guaranteeing substantive equality among citizens and freeing individuals from need. However, the Constitution delineates the operational limits of solidarity depending on its application within assistance or social security: the former enjoys broader scope, whereas the latter is subject to subjective and categorical limitations favouring workers alone. It is now firmly established that protection against need constitutes a right for all citizens, which the State must guarantee in a spirit of solidarity.

In this context, a potential resolution to the looming crisis in social security may lie in rethinking the current welfare model, shifting from a Bismarckian to a Beveridgean approach to pension provision. Such a shift could reconcile economic and financial sustainability with respect for acquired rights and the expectations of future generations[8].

The financial challenges confronting European welfare systems—driven by employment and demographic trends and, in Italy's case, further constrained by constitutional requirements such as Article 81 mandating a balanced budget—necessitate the preservation of long-term economic stability. This stability underpins the intergenerational solidarity that forms the foundation of these systems. As outlined in Section 3, Italian and Swedish pension reforms of the early 1990s pursued a transition from Defined-Benefit (DB) to Defined-Contribution (DC) pension schemes while retaining the PAYG financing model based on intergenerational solidarity. The resulting Notional Defined Contribution (NDC) system creates incentives for workers that, potentially, will lead to a gradual increase in retirement age and higher employment rates among older cohorts—adjustments essential for the system's self-correction in response to adverse demographic trends. The NDC scheme introduces a degree of meritocracy, ensuring that pensions are paid in proportion to contributions made throughout one's working life[9].

With regard to Italy specifically, an additional factor arises from the fifth paragraph of Article 38 of the Constitution, which, within Italy's pluralistic social security system, may call for greater scope to accommodate private welfare provision. An expansive interpretation of this provision, which aligns with the view that the entire social security framework outlined in Article 38 is 'open,' suggests a possible avenue to address the long-term sustainability crisis facing the Italian social security system.

Such an approach, consistent with the principle of horizontal subsidiarity,

[8] See M. PERSIANI, *Diritto della sicurezza sociale (voce)*, in *Enc. dir.*, Annali IV, Milan, 2011, p. 447.

[9] See M. CINELLI, *L'«effettività» delle tutele sociali tra utopia e prassi*, in *RDSS*, 2016, p. 21. Also Italian Constitutional court. 30 April 2015, n. 70.

would enhance the role of private actors—whether profit-driven or not—who have historically operated within this sector as part of the voluntary or Third Sector.

In response, various reform proposals have been advanced for the national social security system. One potential solution involves guaranteeing a universal, basic public benefit of minimal amount for all, accompanied by a substantial expansion of complementary pension schemes, which would be made mandatory and competitively managed by public or private entities.

From a comparative perspective, inspiration might be drawn from the British model of mandatory complementary (occupational) pensions, which nonetheless permits opting out. This system automatically enrols employees aged over 22 who earn above a certain annual threshold (currently around £10,000) into a private pension scheme. Upon enrolment by the employer, the employee is notified and given one month to exercise the right to opt out, thereby declaring their intention not to participate and receiving a refund of their contributions[10].

If implemented in Italy, such a system would need to be supplemented by a minimal public benefit for all workers while progressively reducing the contributory burden on the first pillar. Within this broadly meritocratic framework, workers would see a significant portion of their contributions recognised and valued through the involvement of private actors[11].

Nonetheless, it must be acknowledged that such a system would primarily benefit individuals with higher incomes and may disadvantage poorer segments of the population or those with fragmented contribution histories. Furthermore, the compatibility of opting-out provisions with the principle of solidarity warrants careful evaluation.

The British experience reveals that many young or low-income individuals, in need of immediate liquidity, choose to opt out to access funds quickly, yet this decision proves detrimental in the long term as it results in insufficient financial resources to sustain their pension in later life.

Ultimately, the national pension system would comprise a minimal, mandatory, contribution-based public benefit equal for all workers—or, in a more universalist interpretation, all citizens—funded through general taxation. This would be complemented by a second-tier mandatory contributory measure provided by private entities.

For such a model to be sustainable, it must maintain a balance whereby state

[10] *Ex multis* D. BLAKE, *Pension finance*, Wiley, Hoboken, New Jersey, 2006; E. FORNERO, P. SESTITO (a cura di), *Pension Systems: Beyond Mandatory Retirement*, Edward Elgar, Cheltenham, 2005.

[11] On the promotion of merit in the social security field see R. PESSI, *Returning to Welfare*, in WP C.S.D.L.E. "Massimo D'Antona".IT, n. 311/2016.

funding, predominantly sourced from general taxation, remains compatible with the budgetary equilibrium mandated by the Constitution[12].
There have also been proposals advocating for full pension funding via general taxation, which would necessitate a significant increase in personal income tax (IRPEF) rates and potentially abolish contributions altogether. In this scenario, pension pluralism would be preserved by allowing workers to supplement their benefits through voluntary contributions to the public system or participation in private investment schemes[13].

5. The Bottom-Up Public–Private Relationship in the Social Security System

Beyond the differing approaches outlined in the reform proposals discussed in Section 4, a common thread emerges: all rely—albeit in different forms—on mutualistic, self-financed, and privately managed mechanisms of protection, often referred to as "second welfare". These initiatives are not always tied to the corporate dimension and, in certain respects, represent a reversal of the long-standing tradition of worker-led private solidarity that has historically accompanied the evolution of Italy's economic and social protection systems[14].
The underlying rationale of these proposals is that the increasing need for public resources, particularly for welfare assistance, necessitates a more structured and coordinated involvement of private actors. These actors are expected either to enhance the level of pension benefits or to provide services and protections that the public system can no longer guarantee[15].
The Italian legislator has acknowledged this need. Through the budget laws for the 2016–2018 period, existing tax regulations were reinforced. On the one hand, provisions were confirmed allowing employers to unilaterally activate specific welfare instruments. On the other hand, a more structured framework was introduced, developed through collective bargaining.
In particular, it was established that the value of goods or services provided by employers in accordance with company-level collective agreements—covering areas such as education, training, recreation, social and healthcare assistance, and religious activities—does not count as part of an employee's taxable income[16]. Subsequently, this exemption was extended to expenses for the

[12] See for comparison, the Cazzola – Treu, legislative decree n. 3035 of 11 December 2009.
[13] See the considerations of M. AVOGARO, *Diritti sociali di prestazione e vincoli economici: il difficile bilanciamento e le prospettive del sistema*, in AA. VV., *Il sistema previdenziale italiano*, Turin, 2017, 178.
[14] See G. CIOCCA, *L'evoluzione della previdenza e dell'assistenza*, *RIMP*, 1998, p. 449.
[15] See V. FILÌ, *Finanziamento del sistema di Welfare, sostenibilità e riforme in cantiere*, in G. Canavesi, E. Ales (a cura di), *La vecchiaia nella tutela pensionistica*, Turin, Giappichelli, 2019, p. 22.
[16] See law n. 208 of 2015, art. 1, co. 182-191.

purchase of public transport passes (local, regional, and interregional) for employees and their family members, provided specific conditions are met[17].
Additional measures were introduced to promote collective bargaining autonomy, notably in relation to tax relief on performance-related bonuses. Employees are now permitted to convert such bonuses into welfare services. Performance bonuses, awarded based on measurable and verifiable improvements in productivity, profitability, quality, efficiency, or innovation—as defined by collective agreements—are subject to a substitute tax (replacing personal income tax and regional and municipal surcharges) at a rate of 10%, up to a maximum gross annual amount of €3,000[18].
Alternatively, employees who opt to convert their bonuses into welfare benefits—such as contributions to supplementary pension schemes, Pan-European Personal Pension Products (PEPPs, as defined by Regulation (EU) 2019/1238), or healthcare schemes—receive an additional fiscal advantage: the converted amounts, "within specified limits, are excluded from taxable income and are not subject to the substitute tax"[19].
As for identifying protection needs, a review of collective agreements, the statutes of bilateral bodies, and the rules governing supplementary healthcare funds reveals that beyond pensions, workers' principal concerns relate to health and ageing. Instruments developed through collective bargaining or private arrangements in many cases provide a complex and complementary set of protections that operate on a subsidiary basis to the public system. These may include enhanced pension benefits or supplementary protections and services—ranging from financial reimbursements to direct medical care in cases of illness or injury[20].
Second-level welfare systems also serve to supplement statutory and contractual provisions in support of parenthood, for example by extending parental leave entitlements or introducing additional leave allowances for family care—thereby promoting better work–life balance.
However, alongside these benefits targeting constitutionally protected needs, current legislation also permits access to other welfare services that are eligible for the same tax incentives but respond more to "self-regarding" or discretionary preferences than to the socially relevant needs recognised under Article 38 of the Constitution.
Given the constitutional significance of some of the needs addressed by these private welfare arrangements, even in the absence of direct legislative

[17] See art. 1, co. 28, letter. *b*), of the law. n. 205 of 2017.
[18] See paragraph 182 of art. 1 of law n. 208 of 2015.
[19] See paragraphs 184 and 184 *bis* of law n. 208 of 2015.
[20] Lastly M. TIRABOSCHI (edited by), *Welfare for people*, *Settimo rapporto su il welfare occupazionale e aziendale in Italia*, Adapt University press, 2024.

intervention, it would be reasonable to consider introducing a more proportionate and differentiated system of tax incentives. This would allow for a graduated approach based on the nature and social relevance of the benefits provided.

At present, workers may receive tax-advantaged benefits that do not necessarily correspond to primary needs. These include, for example, grocery vouchers, school fee reimbursements, meal services, transport subsidies, nursery partnerships, scholarships, agreements with summer camps and holiday centres, travel discounts, and even benefits related to shopping, wellness, and leisure activities. While such services undoubtedly enhance workers' quality of life and may intersect with socially relevant goals (e.g. education), from the perspective of long-term pension system sustainability—and in light of the autonomy granted to private welfare providers under Article 38(5) of the Constitution—it would be appropriate to calibrate tax incentives according to the benefit's social priority.

Specifically, higher levels of tax exemption could be applied to benefits addressing socially recognised needs—such as healthcare and old-age protection—while more modest exemptions could apply to discretionary or non-essential benefits. Such an approach would reconcile the principle of solidarity with the principle of freedom: workers and private actors would remain free to develop and select welfare tools according to individual preferences, while the public legal framework would retain the capacity to guide and prioritise, through fiscal policy, those measures that alleviate pressure on the first pillar of the pension system.

6. The Top-Down Relationship Between the State and Private Individuals in Social Security and Welfare Provision

While second-level welfare reflects a bottom-up, subsidiary form of private mutualistic integration complementing the mandatory public system, it is equally true that, in some instances, the State itself engages private actors in a top-down manner to mitigate the rigidities of the public pension framework. This reverse dynamic has manifested particularly through the introduction of two mechanisms designed to facilitate early retirement: the Voluntary and Company-Based Early Retirement Schemes (Anticipo Pensionistico – APE) and the Early Temporary Supplementary Annuity (Rendita Integrativa Temporanea Anticipata – RITA). Notably, both instruments are funded through private resources external to the INPS budget[21].

[21] In addition to these measures, we can also include the *"isopensione"* introduced by art. 4, paragraph 1 of law n. 92 of 2012. This allows the employer to pay an allowance equivalent to

The first of these, the now-defunct APE Volontario (Voluntary Early Retirement Scheme), also known as the Financial Advance Guaranteed by Pension, involved a loan proportional to and guaranteed by the applicant's future old-age pension. Disbursed by a financial institution in monthly instalments over the course of a year, the benefit was accessible to individuals meeting specific eligibility criteria[22].

The loan was granted by institutional financial providers and insured against the risk of premature death by insurance companies selected from among those adhering to framework agreements signed by the Minister of Economy and Finance, the Minister of Labour and Social Policies, the Italian Banking Association (ABI), and the National Association of Insurance Companies (ANIA).

The second instrument, RITA, which remains active, provides for the phased disbursement of the pension capital accrued by a fund member in the form of a temporary annuity, bridging the period between early exit from the labour market and eligibility for statutory old-age pension benefits. This benefit can be requested under strict conditions, including termination of employment and satisfaction of minimum thresholds related to both contribution history and duration of participation in a supplementary pension scheme.

To calculate the RITA annuity, the member may elect to use either the entire amount accrued at the time of the request or only a portion thereof, leaving the remainder invested to support future supplementary pension income. The selected share of the capital is then converted into periodic annuity payments for the duration of the time remaining before statutory retirement eligibility is reached.

The imperative of maintaining a stable, long-term financial balance in Italy's national pension system has grown increasingly acute in recent years. This urgency arises not only from demographic and labour market pressures but also from the dual role of the public institution responsible for pension disbursement, which is also tasked—thanks to state funding—with providing various assistance measures aimed at alleviating poverty among citizens or workers not meeting the requirements for contributory pensions[23].

Over recent decades, several welfare support schemes have been introduced,

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the employee's future pension to a worker who is eligible to retire within four years and agrees to leave the job, provided there is a union agreement in place due to staff redundancy. At the same time, the employer assumes responsibility for continuing the required social security contributions.

[22] This instrument was provided for on an experimental basis from 1 May 2017 to 31 December 2019, see art. 1, co. 166 et seq., law n. 232 of 11 December 2016 and art. 1, co. 162, law n. 205 of 27 December 2017.

[23] See the social allowance pursuant *ex* art. 3, paragraphs 6-7, law n. 335 of 1995.

the most recent of which is the Inclusion Allowance (*Assegno di Inclusione*, or ADI), which replaces the abolished Citizenship Income (*Reddito di Cittadinanza*). The ADI is designed to combat poverty and social exclusion, combining income support with programmes for social inclusion, vocational training, and active labour market participation[24].

Importantly, access to the ADI requires active engagement by the beneficiary. The allowance is conditional upon both a means test and the applicant's participation in a personalised plan for social and labour market inclusion (Art. 1, para. 2). The benefit is granted for a maximum of eighteen months, renewable once for a further twelve, and is awarded to only one recipient per household. Eligible households must include members who fall under specific categories such as minors, persons with disabilities, individuals aged 60 or above, or those in a vulnerable condition and enrolled in local health and social care programmes.

Following the submission of an application, the relevant social services conduct an assessment of the household's needs. Members deemed "employable" are referred to public employment centres or authorised private agencies and are required to sign a personalised service agreement within 60 days. The recipient of the ADI, once engaged with support services, is obliged to accept suitable employment offers, under penalty of losing the benefit—though it is worth noting that the law does not explicitly codify this sanction[25].

7. Conclusions

The structural pressures already undermining the long-term financial sustainability of Italy's national social security system highlight the urgent need to reconsider the timing and trajectory of labour market participation. Ensuring sufficient financial resources to sustain adequate pension benefits within a public, pay-as-you-go (PAYG) framework will increasingly require either extending working lives or placing greater reliance on privately funded pension schemes.

[24] See legislative decree 4 May 2023, n. 48.

[25] Specifically, the obligation would take effect if the individual is offered a permanent job anywhere in the country, without geographic limitations. However, such a provision appears disproportionate to the personal circumstances and living needs of the unemployed person. The obligation would also apply in cases where a full-time job or a part-time job of no less than 60% of full-time hours is offered, or a fixed-term contract, including through temporary employment agencies, provided the workplace is no more than 80 kilometres from the person's residence or can be reached within 120 minutes by public transport. In addition, the job offer must include compensation not lower than the minimum wages set by the applicable collective labour agreements.

Italy and Sweden, through the pension reforms enacted in the 1990s, opted for the first solution—preserving a PAYG structure while introducing a Notional Defined Contribution (NDC) design. This model, however, relies heavily on mandatory savings, in the form of substantial contribution rates borne by workers. The NDC framework offers a viable response to demographic ageing, but only insofar as policymakers are prepared to address a dual imperative: enabling individuals to work longer and ensuring adequate support for those unable to accrue sufficient entitlements. Meeting this challenge will necessitate not only sound pension system architecture but also complementary welfare and labour market policies that support increasingly fragmented and varied career paths.

An alternative approach remains available, exemplified by the United Kingdom's Beveridgean model, where the public system assumes responsibility only for securing a basic, adequate level of retirement income. In such a system, the objective is not to replace pre-retirement earnings, but to guarantee subsistence and protect individuals from poverty. From this perspective, the principle of solidarity would become increasingly focused on minimum protections, rather than on maintaining individuals' standard of living in retirement.

Whether the strategy adopted by Italy and Sweden in the 1990s—built around preserving intergenerational equity through contributory logic—will withstand the demographic pressures expected to intensify across Europe, and particularly in Italy, remains to be seen. Should this model prove insufficient, the principle of subsidiarity may require a growing role for private provision to compensate for the shortcomings of the public system.

In such a scenario, those with sufficient means and stable employment histories may be able to secure retirement adequacy through supplementary private pensions. However, the less fortunate—or those considered less 'deserving' under a strictly contributory logic—would be left to rely solely on minimal, subsistence-level benefits provided by the State. This outcome would represent a fundamental shift in the function of public pensions: from a tool of income replacement and social insurance to one of basic poverty alleviation.

Ageing, Chronic Diseases, and Employment: Comparative Insights from Two Distinct Regulatory Models

Emanuele Dagnino *

Abstract. The paper aims to analyse the strategies and regulatory measures adopted in two different legal systems, the Italian and the French, to respond to the challenge of keeping a workforce increasingly affected by long-term or chronic pathological conditions at work. By analysing how different legal systems address the same social and economic problems, the comparative method, applied in its traditional functionalistic approach, allow to identify the different elements of the regulation, their connections and their functions in the context of the national legal systems, contributing to the overall understanding of the legal solutions adopted in each country. The comparison between a legal system that has adopted a systematic approach to the phenomenon and a legal system, such as the Italian one, which has put in place a few specific but disconnected measures, made it possible to better identify shortcomings and possible policy action to improve the regulation in the Italian context.

Keywords: ageing workforce; sustainable work; chronic diseases; return to work; inclusion.

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1. Introduction: Ageing and Chronic Diseases in the World of Work

Ageing of the workforce, return to work, sustainable work, and chronic diseases: these are concepts that have long entered the policy debate at both national and supranational levels[1]. The challenges posed to national systems, and specifically to the world of work, by an ageing population increasingly affected by health conditions are of particular importance. These challenges concern, on the one hand, the resilience and sustainability of social security and welfare systems, and on the other, labour market dynamics and economic productivity.

While chronic diseases do not affect only older persons, their incidence in the overall population increases with advancing age cohorts. Within an ageing population and in the context of longer working lives, the proportion of persons with chronic diseases in the labour force is set to increase further, thereby exacerbating pressure on social security systems in terms of healthcare expenditure, sickness benefits, and pensions. At the same time, the imperative to retain older workers in employment not only transforms the dynamics of labour market inclusion but may also impact labour productivity at both micro and macro levels, depending on the capacity of companies and the broader economic system to manage individual workers' needs.

In this respect, as noted by early scholarly reflections on the subject[2], beyond – or rather in addition to – adequate social security benefits, labour regulation and industrial relations should play a pivotal role in ensuring the sustainability of work throughout the various stages of workers' health.

Although the demographic transformation briefly summarised is affecting many advanced economies[3] - with particularly pronounced peaks in certain countries (e.g. Italy and Japan)[4] – national legal systems are endeavouring to address the evolving needs of workers and labour markets by adopting different regulatory models. The legal solutions proposed vary considerably, both in terms of the intensity of protections afforded and in the capacity to

[1] See, for example, EUROFOUND, *Sustainable Work and the Ageing Workforce*, Publications Office of the European Union, Luxembourg, 2012; OECD, *Sickness, disability and work: Breaking del barriers. A synthesis of findings across OECD Countries*, OECD Publishing, 2010, and, recently, EUROFOUND, *Keeping older workers in the labour force*, Publications Office of the European Union, Luxembourg, 2025.

[2] M. TIRABOSCHI, *The New Frontiers of Welfare Systems: The Employability, Employment and Protection of People with Chronic Diseases*, in E-Journal of International and Comparative Labour Studies, 2015, Vol. 4, No. 2, pp. 135-173.

[3] M. AKGÜÇ (eds.), *Continuing at work Long-term illness, return to work schemes and the role of industrial relations*, European Trade Union Institute (ETUI), 2021.

[4] See A. M. BATTISTI, *Italia e Giappone sul podio mondiale dell'invecchiamento*, in *Massimario di giurisprudenza del lavoro*, 2024, 1, pp. 2-17.

adopt a systematic approach towards maintaining employment and promoting the return to work of individuals with long-term illnesses or chronic diseases.
In this context, as will be explained further below, the Italian legal system, while recognising the need for legislative intervention, is considered to devote only episodic attention to the issue; consequently, the system as a whole is unable to guarantee rights and measures that ensure sustainable employment for workers with chronic diseases[5].
Against this backdrop, this article aims to identify the shortcomings of the Italian legal framework through a comparative methodology. Avoiding any pretensions of importing ('transplanting') regulatory solutions from other legal systems[6], the comparative method is employed as a cognitive tool to deepen understanding of the features of the Italian legal system. By analysing how different legal systems address similar social and economic challenges, the comparative method – applied in its traditional functionalist approach[7] – allows for the identification of the distinct regulatory elements, their interconnections, and their functions within the national legal context, thereby contributing to a comprehensive understanding of the solutions adopted in each country.
To this end, the selection of the legal system to be compared with the Italian one is of paramount importance. Given the need to reconsider, from a comparative perspective, the shortcomings relating to the systematic approach to maintaining employment and facilitating return to work for ill workers identified in the national academic debate[8], the choice fell on a legal system that in recent years has sought to consolidate a systematic response to the issue.
Among the various countries that have undertaken reforms in labour law to improve the employment prospects of an ageing workforce and, more specifically, of workers with health conditions, France stands out for the progressive affirmation of policy initiatives and the involvement of multiple stakeholders.

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[5] M. TIRABOSCHI, *Health and Work: The Italian Perspective on a Relationship in Need of a Review*, in E-Journal of International and Comparative Labour Studies, 2023, 2, pp. 27-46.
[6] O. KAHN-FREUND, *On uses and misuses of comparative law*, in *Modern Law Review*, 1974, 1, pp. 1-27.
[7] T. TREU, *Comparazione e circolazione dei modelli nel diritto del lavoro italiano*, in R. SACCO (eds.), *L'apporto della comparazione alla scienza giuridica*, Giuffré, 1980, pp. 130-131
[8] Recent analyses are provided by 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 *Diritto della sicurezza sul lavoro*, 2024, 2, pp. 162-201; E. DAGNINO, *La tutela del lavoratore malato cronico tra diritto vivente e (mancate) risposte di sistema*, in *Diritto delle relazioni industriali*, 2023, 2, pp. 336-356; A. LEVI, *Sostenibilità del lavoro e tutela della salute in senso dinamico: la prospettiva privilegiata delle malattie croniche*, in *Diritto delle relazioni industriali*, 2023, 2, pp. 277-297;

The article is organised as follows. Beginning with the traditional understanding of the relationship between sickness and employment in labour law – which forms a common foundation in both countries – the next section will explain how the increase in workers with health conditions has led to a new understanding of sickness in labour law, and consequently, to new concepts and notions aimed at identifying situations warranting regulatory intervention to safeguard both workers' interests and those of society as a whole (§2).
The subsequent section will describe and analyse the legislative measures undertaken by the two countries, outlining the features of the regulatory models adopted in terms of concepts, rights, measures, and actors involved (§3).
Finally, the concluding section will focus on the insights provided by the comparison of the two legal systems, assessing the limitations of the Italian approach and speculating on possible *de jure condendo* proposals (§4).

2. A New Understanding of Sickness in the Employment Relationship

Recent scholarly research highlights that the relationship between health and work has been pivotal in the development of labour law since the inception of early social legislation. Within this context, labour regulation concerning this relationship has historically been founded upon two main pillars of protection[9].
The first pillar concerns protection against the hazards and risks inherent in work activities, aiming to prevent work-related accidents and occupational diseases. This body of regulation falls under occupational health and safety (OHS) legislation and has developed progressively over the decades to keep pace with transformations in the world of work and the emergence of new occupational risks – such as the more recent risks associated with hyperconnectivity and the 'always-on' culture – also benefiting from legislation at the European Union level[10].
The second pillar relates to workers' health conditions that preclude the performance of work. When an illness causes permanent incapacity to work, the employment relationship typically terminates, and the worker is transferred

[9] M. TIRABOSCHI, *Health and Work*, supra note 5, pp. 30-32.
[10] Especially since 1989 (Directive 89/391/EEC of 12 June 1989, the "Framework Directive"; for a general overview see M. BIAGI, *From Conflict to Participation in Safety: Industrial Relations and the Working Environment in Europe 1992*, in *International Journal of Comparative Labour Law and Industrial Relations*, 1990, 2, 67-79 and the other contributions in the same issue of the journal) the EU has made significant efforts to ensure healthy and safe working conditions across Member States through a number of measures (directives, regular strategic frameworks, guidelines and standards).

to the social security system, unless the incapacity is partial and allows for an adjustment (or, in some cases, a change) in job position or work duties.
More commonly, illness results in temporary incapacity to work, with the worker able to resume duties after a period of care and rest (sick leave). This scenario constitutes the principal factual circumstance concerning workers' health that labour law has traditionally recognised as warranting specific safeguards. The law is therefore tasked with balancing the worker's interest in preserving their job and income during absence due to illness with the employer's interest in organisational efficiency. Apart from regulations – mainly within social security – and case law on occupational diseases concerning compensation and damages, the preservation of the employment relationship and income support for a limited period has constituted not only the core but arguably the sole protection in cases of sickness for a long time[11].
This framework applies to both Italy and France, albeit with partly differentiated legal measures and solutions. In Italy, the legal provision ensuring a suspension of the obligation to provide work, alongside preservation of employment and income, dates back to 1942[12]. Conversely, the French legal system developed a similar solution through a more complex trajectory. French case law played a pivotal role in the emergence and consolidation of the right to suspension of work with job preservation over a prolonged period (1934–2001)[13].
Additionally, in both countries, industrial relations have been instrumental in providing complementary income alongside social security allowances (*caisse d'assurance maladie*; *Istituto Nazionale della Previdenza Sociale*)[14]. In France, cross-

[11] A first study adopting a comparative perspective already identified this common pattern in different European countries in the 1970s. See G. AMORTH, *La malattia nel rapporto di lavoro*, CEDAM, 1974.
[12] Art. 2110 of the Italian Civil Code. The legal measure was not completely new to the Italian legal system, since it was already adopted for clerk workers in 1924 (Royal Law Decree 13 novembre 1924, No. 1825). See G. DELLA ROCCA, *La malattia del lavoratore subordinato tra vecchie e nuove tutele*, Giappichelli, 2024, p. 47.
[13] See J. PELLISSIER, A. LYON-CAEN, A. JEAMMAUD, E. DOCKÉS, *Les grands arrets du droit du travail*, IVedition, Dalloz, 2008, p. 353 ff., which collects the four main decisions in this respect: Cass. Civ. 3 decembre 1934, *Hotel Terminus c. Dame Spagnoli*; Cass. Soc. 21 avril 1988, *Mosnier c. Institut de formation d'éducateurs spécialisés de Grenoble*; Cass. Soc. 22 mars 1989, *Sté Provens Télècommunications c. Delriu*; Cass. Soc. 13 mars 2001, *Mme Herbaut c. société Addressonord.*
[14] For France, see art. L. 321-1 and L. 323-1 ff, French Social Security Code. See M. BORGETTO, R. LAFORE, *Droit de la sécurité sociale*, Dalloz, 2023, pp. 588 ff. Italy has a more fragmented legislative framework: while the majority of workers are covered by the sickness allowance provided by the National Social Security Institute (INPS), pursuant to Article 74 of Law No. 833/1978, certain categories of workers continue to receive coverage directly from their employers. (see G. DELLA ROCCA, *La malattia del lavoratore subordinato*, supra note 12, pp. 88-95).

industry agreements (*accords nationaux interprofessionnels*) introduced[15] and subsequently revised[16] the complementary allowance; moreover, collective agreements at sectoral or company level can enhance this complementary income[17]. In Italy, collective agreements commonly provide complementary income for workers covered by social security allowances and regulate remuneration paid directly by employers to exempt workers.

Without delving into detailed differences – such as the determination of the maximum period of suspension before dismissal becomes legitimate[18] – it is pertinent to note that until recent years, the notion of illness relevant to the legal systems was largely defined in terms of this kind of protection. This implies that illnesses and diseases were traditionally pertinent to labour law only insofar as they caused temporary incapacity to work.

Although the notion was not interpreted rigidly – encompassing also absences justified by the need to prevent further health deterioration and to recover through rest and medication – this understanding of the relationship between sickness and work fundamentally shaped the legal response to workers' diseases[19]. Essentially, the prevailing equation was: sickness = legitimate and protected absence from work.

Within this framework, the nature of the illness – whether acute or chronic – made no difference to the type of protection afforded by the legal systems; the illness was relevant insofar as it satisfied the condition of temporary incapacity to justify sick leave. However, the nature of the disease did influence the intensity of protection. Since 1945, the French legal system has recognised the concept of *affection de longue durée* (ALD) – with its scope gradually expanded – to govern social security benefits provided by the *assurance maladie* and, regarding employment protection, to extend and provide more favourable

[15] *Accord national interprofessionnel du 10 décembre 1977*, *Loi n°78-49 du 19 janvier 1978 relative a la mensualisation et a la procedure conventionnelle*. See J. FROSSARD, *Les indemnités complémentaires, en cas de maladie, à la charge de l'employeur*, in *Droit social*, 1991, 7/8, pp. 568-569.

[16] See art. L. 1226-1, French Labour Code, which was introduced according to the *Accord national interprofessionnel du 11 janvier 2008 sur la modernisation du marché du travail*. See P.-Y. VERKINDT, *Maladie et inaptitude médicale*, in *Repertoire de droit du travail*, Dalloz, §§ 47-48.

[17] M. BORGETTO, R. LAFORE, *Droit de la sécurité sociale*, supra note 14, p. 591.

[18] In brief, in Italy, the matter is generally regulated by collective agreements pursuant to Article 2110 of the Italian Civil Code, whereas in France, it has been shaped primarily through case law, which has established that dismissal due to prolonged or recurrent illness is permissible only where the employee's absence causes a disruption to the normal functioning of the undertaking that cannot be remedied by a temporary replacement (see P.-Y. VERKINDT, *Repertoire de droit du travail*, Dalloz, 2018, § 102 ff.)

[19] M. TIRABOSCHI, *Health and Work*, supra note 5.

calculation of periods covered by daily allowances[20]. In Italy, extended suspension rights based on the nature of the disease have been ensured by law with respect to specific long-term illnesses (e.g. tuberculosis) since the 1950s[21] and have traditionally been reinforced through collective agreements[22]. A similar approach has recently been reintroduced in new legislation, which provides for a significant extension of the suspension period for certain workers with oncological and chronic illnesses, once they have exhausted their paid and unpaid sick leave as stipulated by collective agreements[23].

While these more favourable provisions have progressively broadened their scope to include a wider range of health conditions in both Italy[24] and France[25], until recently, specific attention to chronic and long-term illnesses remained closely linked to sick leave. Consequently, the impact of chronic disease was considered solely in terms of its incapacitating effects (temporary inability to work) and, therefore, when incompatible with work performance.

As pointed out by medical science and as also acknowledged by labour law reflection [26], chronic diseases are characterised by fluctuating health states, with periods of exacerbation and remission affecting the actual capacity to work: at times, workers require sick leave, while at others they can perform their duties. As medical research continues to improve workers' wellness through the different stages of illness, labour law is increasingly compelled to confront a new understanding of sickness in the workplace – that is, *working while ill*. Traditionally, employment protections were indifferent to the presence of a pathological condition where it did not result in absence from work; however, the necessity to reconcile illness and work has demanded a rethinking of protections to accommodate their coexistence in the workplace.

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[20] L. 323-1 e L. 324-1, French Social Security Code. While the allowance is normally limited to 12 months within a three-year period, in cases of ALD, the entitlement is extended to cover up to three consecutive years of absence.

[21] Art. 10, Law No. 86/1953. Subsequent developments in relevant legislation are carefully analysed by R. DEL PUNTA, *La sospensione del rapporto di lavoro. Malattia, infortunio, maternità, servizio militare,* Giuffré, 1992, pp. 353-357

[22] According to A. PANDOLFO, *La malattia nel rapporto di lavoro*, Franco Angeli, 1991, p. 266, one of the earliest collective agreements to provide for an extended period of job retention was signed in 1948.

[23] Art. 1, Law No. 106/2025.

[24] S. CANEVE, *Lavoratori con patologie croniche e conservazione del posto di lavoro: le soluzioni presenti nella contrattazione collettiva*, in *Diritto delle relazioni industriali*, 2023, 2, pp. 515-522; F. ALIFANO, *Discriminazione per disabilità, comporto e contrattazione collettiva. Primi appunti ad un anno dalla pronuncia della Cassazione*, Working Paper ADAPT n. 7/2024.

[25] See P. DUGOS ET AL., *Revue de dépenses relative aux affections de longue durée - Pour un dispositif plus efficient et équitable*, Rapport IGF- Igas, June 2024, Annexe I, pp. 16 ff.

[26] S. VARVA, *Malattie croniche e lavoro tra normativa e prassi*, in *Rivista Italiana di Diritto del Lavoro*, 2018, 1, pp. 131-132.

2.1. Reconciling Work and Chronic Disease beyond Disability

The inclusion of persons with health conditions in the labour market and workplaces is not, of course, a wholly new area of intervention for labour law in either country. As in many other legal systems, Italy and France have progressively developed, also thanks to international and supranational policy initiatives[27], a composite body of legislation aimed at promoting the inclusion of, and protecting against discrimination persons with disabilities.

The prohibition of direct and indirect discrimination, the duty to provide reasonable accommodation – i.e., "necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure that persons with disabilities enjoy or exercise, on an equal basis with others, all human rights and fundamental freedoms"[28] – and specific policies (e.g., quotas and other affirmative actions) designed to improve the employment prospects of persons with disabilities, play a pivotal role in addressing the low labour market participation rates and disparities in working conditions experienced by these workers[29].

Workers with chronic diseases face similar challenges: they risk losing their employment due to their health conditions, encounter substantial difficulties in accessing the labour market, and, while employed, are more likely to experience discrimination[30].

Although the evolution of the concept of disability within the case law of the European Court of Justice[31] and national legal systems[32] permits, under certain

[27] Among the most relevant instruments, it is worth mentioning the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), adopted in 2006, and the Employment Equality Directive 2000/78/EC. See D. FERRI, A. BRODERICK (eds.), *Research Handbook on EU Disability Law*, Edward Elgar, 2020 and F. HENDRICKX, *Disability and reintegration in work: interplay between EU non-discrimination law and labour law*, in F. HENDRICKX (ed.) *Reasonable Accommodation in the Modern Workplace. Potential and Limits of the Integrative Logics of Labour Law*, Bulletin of Comparative Labour Relations, 2016, pp. 61-72.

[28] Art. 2 of the UNCRPD. See, also, art. 5, Directive 2000/78/EEC and connected recitals.

[29] S. ANANIAN, G. DELLAFERRERA, *A study on the employment and wage outcomes of people with disabilities*, ILO Working Paper 124, 2024.

[30] See the report issued by Defenseur de droit in 2023, *Concilier maladies chroniques et travail: un enjeu d'égalité*. 16e baromètre sur les discriminations dans l'emploi: concilier maladies chroniques et travail: un enjeu d'égalité, décembre 2023.

[31] See S. FAVALLI, D. FERRI, *Defining Disability in the EU Non-Discrimination Legislation: Judicial Activism and Legislative Restraints*, in *European Public Law*, 2016, 3, pp. 541-568, EAD, *Tracing the Boundaries between Disability and Sickness in the European Union: Squaring the Circle?*, in *European Journal of Health Law*, pp. 5-35 and D. FERRI, *Daouidi v Bootes Plus SL and the Concept of 'Disability' in EU Anti-Discrimination Law*, in *European Labour Law Journal*, pp. 69-84.

conditions, the application of disability legislation to workers with chronic diseases, the needs of these workers, the national labour markets, and welfare systems cannot be fully and adequately met by this legal framework alone. Indeed, specific provisions and regulations addressing workers with health conditions beyond disability legislation – such as those established in the French and Italian legal systems – were initially motivated by the narrower and more rigid definitions of disability prevailing at the time but continue to be relevant in addressing persistent protection gaps.

Firstly, even within the broadened interpretation provided by EU-level case law, disability and sickness remain distinct concepts. A chronic disease may fall under the definition of disability if it "entails a limitation which results in particular from physical, mental or psychological impairments which, in interaction with various barriers, may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers, and the limitation is long-term" [33]. Otherwise, the illness "is not covered by the concept of 'discrimination' within the meaning of Directive 2000/78," as "[i]llness as such cannot be regarded as a ground in addition to those in relation to which Directive 2000/78 prohibits discrimination"[34]. Although this distinction is blurred – and even questioned by some authors[35] – only certain health conditions qualify for disability protections, while other situations fall outside this legislative framework.

Moreover, while chronic diseases may, in a significant number of cases, lead over time to progressive deterioration that qualifies as disability, even then the protection afforded is limited and, to some extent, belated. Earlier stages of the disease typically fall outside the scope of protection, meaning that rights and measures under disability legislation only come into effect when workers' needs have become more severe and more difficult to address in the workplace and labour market.

Finally, beyond the stigma still associated with disability status (and the consequent reluctance of workers to disclose impairments)[36], anti-discrimination legislation tends to adopt a remedial approach focused on

[32] After many years of debate, the Italian legal system has finally adopted the biopsychosocial model of disability, beyond the scope of Directive 2000/78/EC, through Legislative Decree No. 62/2024.

[33] § 41, ECJ, HK Denmark, Joined Cases C 335/11 and C 337/11, 11 April 2013.

[34] § 42, *ibidem*.

[35] See D. FERRI, *Daouidi v Bootes Plus SL and the Concept of 'Disability'*, supra note 31, and F. HENDRICKX, *Disability and reintegration in work*, supra note 27.

[36] See J. OLSEN, *Employers: influencing disabled people's employment through responses to reasonable adjustments*, in *Disability & Society*,

addressing individual grievances[37], and is less effective in fostering preventive and systematic responses – despite significant progress in establishing employers' obligations to provide reasonable accommodations[38].
The effective management of the modern nexus between health and work, therefore, requires continuous attention to the evolution of workers' health conditions and the sustainability of their work activities. This ongoing monitoring enables early identification of support needs or the necessity to modify employment trajectories, facilitating proactive interventions aimed at adapting work conditions. Such interventions may take place within the same workplace or involve transitional pathways to alternative occupations within the company or across other firms and sectors.

3. A Common Socio-Economic Issue, two Different Regulatory Models

Having outlined the rationale and concrete reasons for analysing the regulatory measures concerning job retention, return to work, and employment prospects of workers with chronic diseases beyond those provided for under disability legislation, it is now necessary to examine the features of the two regulatory models. To this end, the national regulations will be examined within a common analytical framework to better identify the distinctive characteristics of the two legal systems. Specifically, in order to understand how these legal systems have responded to the evolving understanding of sickness in employment – that is, not merely the dichotomy between work and absence, but the concept of working according to an individual's current health status – particular emphasis will be placed on: (1) the legal notions defining the scope of the legislation; (2) the specific measures and rights introduced; and (3) the actors involved in implementing the rights and measures supporting return to work and employment continuity for workers.

3.1. The Italian Legal System: A Lone-standing Provision

The first attempt by the Italian legislature to promote the reconciliation of sickness and work, in the terms outlined above, dates back to 2003. As with

[37] It is primarily from this perspective that, in Italy, persons with chronic diseases have pursued legal action against dismissal due to absence from work, seeking recognition as persons with disabilities and, consequently, as indirectly discriminated against by the application of the same suspension period as other workers, despite their increased likelihood of requiring sick leave. See E. DAGNINO, *Malattie croniche e disciplina antidiscriminatoria: gli orientamenti della magistratura sulla durata del periodo di comporto*, in *Diritto delle relazioni industriali*, 2023, 2, pp. 448-452

[38] See J. DORMIDO ABRIL ET AL., *Reasonable Accommodation and Disability: a Comparative Analysis*, in *Diritto della sicurezza sul lavoro*, 2024, 1, 18-52.

other legal interventions in this field – such as the aforementioned extension of the protected suspension period for workers affected by tuberculosis, and specific legislation for workers with HIV[39] and drug addiction[40] – the promotion of sustainable employment for persons with long-term illnesses requiring medical treatment and care initially focused on particular illnesses that had gained social recognition at that time. Specifically, Legislative Decree No. 276/2003 introduced the right to part-time work for employees affected by oncological diseases, aiming to facilitate the reconciliation of continued employment with the need to undergo major rounds of care and treatment[41]. More than ten years later, the scope of this provision was broadened to include workers with chronic diseases[42], thereby acknowledging the necessity to extend this new approach to sickness to other long-term health conditions affecting workers' prospects of employment continuity.

The legislative intent was certainly commendable and indicated a growing awareness within both the legislative and collective bargaining arenas of the needs of these workers. However, approximately ten years on (and twenty years for workers with oncological diseases), these expectations have largely remained unfulfilled.

On one hand, the right to part-time work has been exercised to a very limited extent by workers with chronic diseases.

This failure can be attributed to several concurrent causes closely linked to the legislative design of the measure. Firstly, a very restrictive definition of chronic disease governs the recognition of the right, requiring evidence of progressive deterioration in the worker's health – an approach that is poorly aligned with

[39] Law No. 135/1990, which is mainly aimed at establishing specific antidiscrimination rights for workers with HIV while ensuring the health and safety of the other workers. See B. CARUSO, *Le nuove frontiere del diritto del lavoro: AIDS e rapporto di lavoro*, in *Rivista Italiana di Diritto del Lavoro*, 1998, 1, pp. 105-146.

[40] Decree of the President of the Republic No. 309/1990, Articles 124 and 125 of which were respectively aimed at extending the suspension of work performance to facilitate rehabilitation, and at ensuring periodic examinations for drug abuse among workers engaged in hazardous activities. See A. TOPO, *La tutela del lavoratore tossicodipendente*, in *Rivista Italiana di Diritto del Lavoro*, 1993, 1, pp. 247-281.

[41] Art. 46, § 1, let. t), Legislative Decree No. 276/2003. See M. TIRABOSCHI, P. TIRABOSCHI, *Per un diritto del lavoro al servizio della persona: le tutele per i lavoratori affetti da patologie oncologiche e tumore al seno*, in *Diritto delle relazioni industriali*, 2006, 2, pp. 524-531.

[42] See Art. 8, § 3, Legislative Decree No. 81/2015. See S. BRUZZONE, F. ROMANO, *Patologie oncologiche, patologie cronico-degenerative e diritto al part-time*, in M. TIRABOSCHI (ed.), *Le nuove regole del lavoro dopo il Jobs Act. Commento sistematico dei decreti legislativi nn. 22, 23, 80, 81,148, 149, 150 e 151 del 2015 e delle norme di rilievo lavoristico della legge 28 dicembre 2015, n. 208 (Legge di stabilità per il 2016*), Giuffré, 2016, pp. 617-619.

illnesses characterised by fluctuating periods of improvement and decline, as previously noted[43].

Additionally, the procedural framework is somewhat bureaucratic: entitlement to the right depends on the evaluation of the worker's condition by a medical commission established within the local health authority. No dialogue or consultation between employer and employee is encouraged in this process; the employee submits the request and, if approved, the employer is obliged to convert the contract to part-time. Furthermore, since the health evaluation is entirely the remit of an external authority, the company's occupational physician – who plays a crucial role in OHS prevention – is excluded, as are workers' representatives, who are typically key interlocutors for the employer in matters relating to work organisation.

Most significantly, the absence of any economic support to offset the reduction in income resulting from the transition from full-time to part-time work severely limits uptake of this measure. This is especially problematic given that care and medication costs for such illnesses are often substantial[44].

With regard to hopes for a gradual enhancement of protection levels, it must be noted that no further legislative interventions have occurred in this area, apart from temporary provisions related to the management of the COVID-19 crisis, aimed at protecting "fragile workers" from contagion risks[45] and the recent law mentioned above (*supra* § 2) that is mainly aimed at tackling the risk of job loss due to the expiration of the maximum limit of suspension[46].

Conversely, some recent measures introduced in support of caregivers, pursuant to the implementation of Directive 2019/1158/EU[47], have resulted in the paradoxical situation whereby carers of persons with chronic diseases receive broader and more flexible working rights than the workers themselves. While workers with chronic diseases only had the right to part-time work, carers are entitled to a lighter, but wider, right to prioritised access to flexible

[43] S. VARVA, *Malattie croniche e lavoro*, supra note 26, pp. 131-132.

[44] M. TIRABOSCHI, *Health and Work*, supra note 5, p. 38.

[45] See A. CARACCIOLO, *Patologie croniche e lavoratori fragili*, in M. BROLLO, M. DEL CONTE, M. MARTONE, C. SPINELLI, M. TIRABOSCHI (eds.) *Lavoro agile e smart working nella società post-pandemica. Profili giuslavoristici e di relazioni industriali*, ADAPT University Press, 2022, pp. 127-145

[46] In addition to the unpaid period of suspension discussed above, article 2 of the Law No. 106/2025 provides for 10 extra-hours of paid leave for workers who need to undergo specific medical examinations or treatment.

[47] Art. 9, Directive (EU) 2019/1158 providing for the right to request flexible working. See L. WADDINGTON, M. BELL, *The right to request flexible working arrangements under the Work-life Balance Directive – A comparative perspective*, in *European Labour Law Journal*, 2021, 4, pp. 508-528.

working arrangements[48]. Even the newly introduced Law No. 106/2025, while recognising a similar right to be given priority in accessing so-called 'agile working' (a specific form of remote work), stipulates that this right applies only once the worker has exhausted all periods of paid and unpaid sick leave. As a result, it is intended to operate in very limited circumstances, serving as a last resort before lawful dismissal by the employer[49].

Within the sphere of collective bargaining, although there has been increased attention to the conditions of workers with chronic diseases, interventions remain fragmented and often limited to specific illnesses. Most measures introduced by social partners have extended the traditional protection of (paid or unpaid) work suspension with job preservation, with only a few cases addressing specific rights related to flexible working arrangements such as remote work and flexible hours[50].

In this respect, the issue of coexistence between work and pathological conditions has remained substantially marginal.

Aside from the specific provision guaranteeing the right to part-time work and, lately, the one related to the priority to access "agile working" for workers with serious chronic conditions, few other provisions in the Italian legal system can be invoked to manage the impact of chronic diseases in the workplace – and then only under certain conditions and with significant limitations.

The most notable of these provisions lie within OHS regulations. While more visible in scholarly debate than in practice or case law, progressive interpretations of principles and provisions have proposed that persons with chronic diseases deserve specific consideration in risk assessment processes, for the identification as recipients of periodic individual health surveillance[51], and for task allocation "according to their capacity and their conditions with reference to their health and safety"[52]. Although these interpretative proposals are noteworthy, they partly conflict with other established legal provisions and interpretations – particularly regarding individual health surveillance[53] – and

[48] Art. 18, § 3-bis, Law no. 81/2017; art. 33, § 6-bis, Law No. 104/1992. See E. DAGNINO, *Sull'attuazione della Direttiva UE 2019/1158: il nodo del "lavoro flessibile",* in *Il Lavoro nella giurisprudenza*, 2023, 2, 140-150.

[49] Art. 1, § 4, Law No. 106/2025.

[50] F. ALIFANO, *Orario di lavoro e trasformazioni demografiche nella contrattazione di secondo livello*, (forthcoming).

[51] See C. CARCHIO, *Rischi e tutele nel reinserimento lavorativo*, supra note 8, pp. 185-188.

[52] Art. 18, § 1, let. c), Legislative Decree No. 81/2008.

[53] For instance, it should be noted that both the courts and the Ministry of Labour take the view that individual health surveillance by the occupational physician applies only when explicitly required by law in relation to exposure to specific risks, even in cases of prolonged absence (e.g. 60 days) due to illness.

generally focus on exposure to specific workplace risks rather than promoting return to work or supporting employment prospects.
In this regard, the principal protection within this legislative framework is found in Article 42 of Legislative Decree No. 81/2008, which, in cases of a supervening inability to perform the assigned task, obliges employers to assign alternative tasks consistent with the worker's health conditions. When the inability is only partial, the occupational physician establishes limits and measures to ensure that the worker is not exposed to the risk of deterioration of the health conditions, provided that the performance, as adapted, can be considered useful to the employers' business.
However, this protection is contingent upon the severity of the health condition, which often aligns with the concept of disability[54], thereby triggering the duty of reasonable accommodation[55], and, in case of partial inability, is mainly devoted to ensuring the worker against risks and possible damages and not to promote long-term employment prospects.
Finally, beyond OHS, another provision available to workers as a last resort is Article 2103 of the Italian Civil Code (reformed in 2015), which allows workers and employers to agree on modifications to job positions and remuneration on a derogatory basis to address specific worker interests[56]. Among these interests are improvements in quality of life, job preservation, and reskilling. However, this provision imposes no obligation on either party to accept the other's proposals.

3.2. The French Legal System: Protecting Workers according to their Health Conditions within the Framework of *Désinsertion Professionnelle*

Although the notion of chronic disease has only been introduced into French legislation in recent years, and the concept of long-term illnesses has traditionally been addressed within the realm of social security (see *supra*), the French legal system has developed a comprehensive framework of protections aimed at reconciling work and illness under the broader concept of workers' health.
Indeed, the notion of chronic disease has been adopted to identify one category of workers warranting specific attention in the context of information and consultation with workers' representatives *(Comité Social et Économique)*

[54] See C. CARCHIO, *Rischi e tutele nel reinserimento lavorativo*, note 8, p. 189 and, in even broader terms, M. PERUZZI, *La protezione dei lavoratori disabili nel contratto di lavoro*, in *Variazioni su temi di diritto del lavoro*, 2020, 4, p. 948.
[55] Art. 3, § 3-bis, Legislative Decree No. 216/2003.
[56] Art. 2103, § 6, Italian Civil Code.

concerning measures to encourage employment retention and return to work[57]. However, the broader concept of workers' health has proved more apt to address the various stages of workers' health conditions and sickness, including chronic illnesses.

It was under this concept that France introduced its first regulation offering protection to workers with specific illnesses beyond mere job preservation. Even prior to relevant EU legislation[58], and continuing to this day[59], French anti-discrimination law has included "health" as a distinct ground of discrimination, extending beyond the categories listed in Directive 2000/78/EC. Consequently, workers discriminated against due to their health conditions do not need to be recognised as persons with disabilities to benefit from anti-discrimination protections. Nonetheless, the notion of disability remains significant in relation to the right to receive, and the employer's duty to provide, reasonable accommodations.

Concomitantly, following initial legal interventions in the 1970s and 1980s concerning redeployment for persons with disabilities and certified incapacity, the French legal system has increasingly emphasised the social and economic imperatives of *maintien dans l'emploi* (job retention) and *maintien en emploi* (continued employment in an alternative role) for elderly workers and those suffering from illness[60].

These policies were further consolidated in the new millennium, linked to reforms aimed at *sécurisation des parcours professionnels* (securing career paths)[61], and culminated in the legal articulation of *désinsertion professionnelle* (labour market exclusion)[62]. If the objective of the law is to guarantee workers in the employment transitions that will characterise their career paths, illnesses, especially long-term illnesses and chronic diseases, represent a major risk factor for occupational continuity, which must be adequately addressed and

[57] L. 2312-8, French Labour Code.

[58] This was introduced in art. L. 122-45 of the French Labour Code by the *Loi n° 90-602 du 12 juillet 1990 relative à la protection des personnes contre les discriminations en raison de leur état de santé ou de leur handicap*. See J.-P. LABORDE, *Quelques observations à propos de la loi du 12 juillet 1990 relative à la protection des personnes contre les discriminations en raison de leur état de santé ou de leur hándicap,* in *Droit Social*, 1991, 7-8, pp. 615-618.

[59] L. 1132-1, French Labour Code. On the evolution of antidiscrimination legislation in France, see M. SWEENEY, *Les critères discriminatoires. Vision du travalliste*, in *Droit Social*, 2020, 4, pp. 293-297.

[60] P. ABALLEA, M.-A. DU MESNIL DU BUISSON, *La prevention de la desinsertion professinnelle des salaries malades ou handicapes*. Rapport Tome I, pp. 19-23 and Annex 1.

[61] See the articles collected in *Semaine sociale Lamy*, *Supplément*, 7 avril 2008, No. 1348, numéro spécial sur *La sécurisation des parcours professionnels*.

[62] G. LECOMTE- MÉNAHÈS, *La prevention de la désinsertion professionnelle: l'articulation de la prévention des risques professionnels et de la protection sociale*, in *Droit Social*, 2019, 11, p. 914.

prevented[63]. While this concept pertains to various events affecting employment relations and career trajectories, French legislation has chosen to frame it specifically in relation to workers' health conditions, situating it within the context of OHS law[64].

The legal intervention introducing this notion was enacted in 2011 as part of the reform of the occupational medicine system[65]. Specifically, the duties of the occupational health and prevention service (*service de santé et prévention au travail*)[66] were expanded to include the prevention and reduction of employment loss due to health conditions, as well as supporting workers to remain in employment[67]. Although the original wording connected this duty primarily to health conditions arising from workplace hazards, current legislation explicitly defines the service's role as not only preventing workplace-related health damage but also contributing to the realisation of "public health" by maintaining workers' health throughout their working lives at a level compatible with continued employment[68].

This provision was further strengthened in the 2021 reform, which consolidated the goal of *prévention de la désinsertion professionnelle*[69], based on a new cross-industry agreement (Accord National Interprofessionnel, ANI) concerning health, safety, and working conditions[70]. The reform detailed how the occupational health and prevention service must discharge its duties, and systematised various provisions promoting occupational continuity for workers with health conditions[71].

Regarding the role of the occupational health and prevention service, the 2021 reform established the creation within the service of a multidisciplinary unit (*cellule pluridisciplinaire de prévention de la désinsertion professionnelle*) specifically

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[63] G. LECOMTE- MÉNAHÈS, *ibidem*, pp. 915-917.

[64] F. HÉAS, *La désinsertion professionnelle*, in *Droit Social*, 2021, 11, p. 909

[65] *LOI n° 2011-867 du 20 juillet 2011 relative à l'organisation de la médecine du travail.*

[66] Companies employing fewer than 500 workers are required to join an intercompany occupational health and prevention service, while those employing more than 500 workers may alternatively establish their own in-house health and prevention service (see Article D. 4622-9 of the French Labour Code)..

[67] L. 4622-2, French Labour Code as modified by *LOI n° 2011-867 du 20 juillet 2011*. See S. FANTONI-QUINTON, *Le maintien en employ au couer des missions des services de santé au travail*, in *Revue de droit du travail*, 2016, 7-8, pp. 472-476.

[68] L. 4622-2, French Labour Code.

[69] *LOI n° 2021-1018 du 2 août 2021 pour renforcer la prévention en santé au travail*. Translation mine. For an overall analysis of the reform, see the contributions collected in *Droit Social*, 2021, 11.

[70] *Accord national interprofessionnel du 9 décembre 2020 relatif à la prévention renforcée et à une offre renouvelée en matière de santé au travail et conditions de travail.*

[71] M. HERMON, *Les dispositifs pour lutter contre la désinsertion professionnelle*, in *Travail et sécurité*, juin 2023, pp. 44-46.

charged with this task[72]. According to Article L. 4622-8-1 of the Labour Code, this team[73], collaborating with various stakeholders involved in implementing related measures, is responsible for raising awareness; identifying individual cases; proposing integrated measures provided by the Labour Code and Social Security Code to address workers' needs; and sharing information with other relevant social security bodies.

French legislation promotes both the retention of the existing job position and the transition to more suitable employment. Job retention protections include adaptations of the job, workplace, and working time arrangements, which may be recommended by the company occupational physician – part of the occupational health and prevention service – and are implemented following consultation with the worker and employer[74]. Although employers are not strictly obliged to adopt these recommendations, they must justify any refusal in writing, as an unmotivated failure to implement them constitutes a breach of their OHS obligations[75].

Furthermore, the Social Security Code allows workers to maintain daily sickness allowances for periods and extents determined by decree when reduced working time is beneficial to their health or necessary for professional retraining (known as *temps partiel* or *mi-temps thérapeutiques*)[76].

Supporting professional transitions aligned with workers' health conditions, the Social Security Code[77] also permits workers on sick leave to request specific training to facilitate reskilling. Approval requires the treating physician's positive opinion and authorisation by the social security occupational physician, who assesses the compatibility between the training and the anticipated sick leave duration.

Two notable measures, funded by social security bodies (*caisses*), are targeted at workers at risk of job loss due to health: *essai encadré* and *convention de rééducation*

[72] L. 4622-8-1, French Labour Code. See L. LEROUGE, *La malattia progressiva cronica sul lavoro nel diritto sociale francese*, in *Diritto delle relazioni industriali,* 2023, 2, pp. 302-304.

[73] According to Article L. 4622-8, the occupational health and prevention service is composed of occupational physicians, medical assistants, interns specialising in occupational medicine, occupational risk prevention specialists, and nurses. It may be supplemented by medical auxiliaries with occupational health expertise, occupational health and prevention service assistants, and other professionals recruited upon the recommendation of occupational physicians.

[74] L. 4624-3, French Labour Code.

[75] L. 4624-6, French Labour Code.

[76] L. 323-3, French Social Security Code. This measure has a long-standing tradition in French legislation, having been established as early as 1947. See M. RIVOLIER, *La clarification du régime du temps partiel thérapeutique*, in *Revue de droit du travail*, 2024, 9, p. 516; F. FAVENNEC-HERY, *Le travail à temps partiel*, Litec, 1997, pp. 130-131.

[77] L. 323-3-1, French Social Security Code.

professionnelle en entreprise[78]. The former is a brief, supervised trial period (up to 14 days, renewable to 28) to assess job compatibility within the current employer's company or elsewhere, requiring positive evaluations from all involved professionals, including the company occupational physician[79]. The latter is a longer-term in-company retraining agreement (up to 18 months) among worker, employer, and social security body, which may take place at the employer's or another company's premises[80]. Initially reserved for disabled workers, it has since been extended to those declared unable or at risk of being unable to perform their previous role[81].

Since 2022, derogatory rules have facilitated access for sick workers to the *projet de transition professionnelle*, allowing temporary suspension of work to undertake reskilling programmes[82]. The usual two-year minimum employment requirement has been waived for workers who have been absent due to sickness for over six months within a 24-month period[83], paralleling provisions for disabled workers or those dismissed for incapacity.

Beyond these specific adaptations and retraining measures, the French legal system has developed a comprehensive system of individual health surveillance (*suivi individuel*) aimed at early identification of risks to employment continuity due to health issues[84]. This includes standard medical examinations for all workers and additional visits in the event of prolonged absence.

Mandatory periodic medical examinations for all workers are scheduled according to working conditions, age, and health status[85]. Notably, legislation establishes a compulsory mid-career examination[86], typically conducted at age 45 (or earlier if determined by sector-level collective agreements), which explicitly evaluates "the risks of professional exclusion, taking into account the worker's evolving capacities resulting from their career, age, and health"[87].

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[78] Ibidem.

[79] *Décret n° 2022-373 du 16 mars 2022 relatif à l'essai encadré, au rendez-vous de liaison et au projet de transition professionnelle*. See D. 323-6 to D. 323-6-7, French Social Security Code.

[80] *Décret n° 2022-372 du 16 mars 2022 relatif à la surveillance post-exposition, aux visites de préreprise et de reprise des travailleurs ainsi qu'à la convention de rééducation professionnelle en entreprise*. See L. 1226-1-4, L.5213-3-1, R. 5213-15 and R.5213-17, French Labour Code.

[81] M. HERMON, *Les dispositifs pour lutter contre la désinsertion professionnelle* supra note 69, p. 45.

[82] L. 6323-17-1 and ff., French Labour Code.

[83] L. 6323-17-2, French Labour Code. See M. HERMON, *Les dispositifs pour lutter contre la désinsertion professionnelle* supra note 69.

[84] See L. LEROUGE, *La malattia progressive cronica* supra note 70, pp. 306-309.

[85] L. 4624-1, French Labour Code.

[86] L. 4624-2-2-, French Labour Code.

[87] Ibidem, § I, No. 2. Own translation. It is also required to assess the suitability of the job position in relation to the worker's current state of health (point 1).

Medical check-ups linked to workers' absence include the mandatory pre-return visit (*visite de reprise*)[88] for absences exceeding 60 days due to non-work-related illnesses, and the optional pre-return visit (*visite de préreprise*)[89] for absences over 30 days, which may be requested by the treating physician, social security body, company occupational physician, or the worker. These visits aim to anticipate necessary job adaptations, working time adjustments, or reskilling. While attendance at the *visite de préreprise* is voluntary, employers must inform workers of the option, and workers may choose to withhold communication of the company occupational physician's recommendations to their employer.
Additional medical check-ups and meetings serve the same anticipatory function. Workers may request extra visits if they foresee work incapacity risks, and employers and occupational physicians[90] may also propose them. When absences exceed 30 days, employers and workers can organise a *rendez-vous de liaison* meeting with the occupational health and prevention service[91]; if initiated by the employer, attendance is voluntary. The purpose of this meeting is to inform workers of legislative measures addressing the risk of *désinsertion professionnelle*.
Finally, the French legal system has progressively extended protection against *désinsertion professionnelle* to independent contractors (*travailleurs indépendants*), encompassing both social security and labour law dimensions. In social security, Assurance Maladie has introduced a specific measure – *prévention de la désinsertion professionnelle des travailleurs indépendants* (PDP TI) – to support job adaptation or transition for self-employed and independent workers[92]. In labour law, the 2021 reform allows independent contractors to affiliate with an occupational health and prevention service and entitles them to specific measures, including health surveillance and *désinsertion professionnelle* prevention[93].

4. Conclusions: Possible Ways Forward to Reform the Protection of Persons with (Chronic) Diseases in Italy

Compared to the Italian legal system, French legislation aimed at promoting job retention and improving the labour market prospects of workers with long-term health conditions is not only more comprehensive in terms of the

[88] L. 4624-2-3, French Labour Code
[89] L. 4624-2-4, R. 4624-29 and R. 4624-30, French Labour Code.
[90] R. 4624-34, French Labour Code.
[91] L. 1226-1-3 and R. 4624-33-1, French Labour Code.
[92] This was initially established by the social security entity in December 2020 for a limited period and has since been extended and confirmed in subsequent years.
[93] L. 4621-3, French Labour Code.

measures, actors involved, and beneficiaries, but also reflects a more advanced understanding of policy intervention in this field.

By legally framing the loss of employment by a worker with a chronic illness as a risk that the legal system must actively address, French legislation has progressively emphasised the preventive nature of actions in this domain. As previously noted, the provisions currently available in the Italian legal framework apply only when the worker's health condition has already affected their capacity to work and further deterioration is anticipated. Consequently, its primary aim is to mitigate the already significant risk of job loss among workers with chronic illnesses. In contrast, while still addressing such circumstances, French policy initiatives – promoted by both legislators and social partners – are increasingly geared towards anticipating the system's response. The overarching principle of *early recognition–early activation* underpins the actions of stakeholders and the legal measures enacted.

Identifying, at an early stage, health conditions likely to affect a worker's employment prospects is critical to enhancing both the effectiveness and the scope of the adopted measures. To this end, early recognition is facilitated by an integrated system of occupational health surveillance. This individual health monitoring not only aims to detect emerging risks of *désinsertion professionnelle*, but is also supported by the key role of the occupational physician and the occupational health and prevention service, complemented by potential initiatives taken by the worker or employer. Early activation, on the other hand, follows from the prompt identification of risk, and is further encouraged through early implementation (e.g., retraining programmes and *essai encadré*) or advance planning (e.g., job adaptation during the *visite de pré-reprise*) prior to the conclusion of sick leave.

Both early recognition and early activation represent important areas for potential reform within the Italian legal system – extending beyond the specific provision that grants the right to convert full-time contracts into part-time ones. In Italy, health surveillance is predominantly linked to exposure to specific occupational hazards and is interpreted restrictively, even in the context of prolonged illness (e.g., absences exceeding 60 days). Under such conditions, identifying in advance the risk of job loss or labour market exclusion due to chronic illness is highly unlikely.

Furthermore, the early activation of protective measures is hindered not only by the absence of an adequate surveillance mechanism but also by the design of the few existing provisions potentially applicable to workers with chronic diseases. These typically require the worker to be classified as disabled, or at minimum (as outlined in §3.1), to be partially or entirely incapable of performing their assigned tasks.

Shifting from the timing of interventions to the scope of the available measures, another critical issue emerges. Aside from a few illness-specific anti-discrimination provisions and tentative initiatives directed at cancer patients and survivors[94], Italian legal protections are predominantly structured around imposing specific obligations on employers.

By activating protective measures at an earlier stage – when risk is still prospective – French legislation is able to diversify policy responses and thereby combine employment protection with active transitions. This includes support for workers to move to roles more suitable for their health needs in other companies, through training or reskilling programmes. Such an approach significantly enhances the chances of reshaping individual career paths to prevent labour market exclusion –especially in cases where adaptation within the original company is limited by size or operational constraints.

The feasibility and success of both employment transitions and adaptations within existing roles (e.g., conversion to part-time, job reallocation, or modifications in work performance) depend on two key factors: (1) the capacity to identify the most appropriate measure for the worker's health condition, and (2) the economic sustainability of that measure for both employer and employee.

In both respects, French legislation offers valuable insights for addressing Italian shortcomings. Regarding the former, although the company occupational physician plays a central role (supported by other qualified professionals)[95], French law ensures consultation with additional actors when relevant – such as the occupational physician of the social security institution – and places significant emphasis on the perspectives of both the employee and the employer in determining the appropriate course of action. In contrast, the Italian system lacks coordination between the committee responsible for evaluating part-time work requests and the occupational physician[96], and the employer's role is typically limited to fulfilling obligations rather than engaging in dialogue with the worker.

As for economic sustainability, it is worth noting the close integration between labour law and social security provisions in the French context. For example, certain job retention and transition measures (e.g., *essai encadré*, *mi-temps thérapeutique*) are designed to be compatible with the receipt of daily sickness benefits (*indemnité journalière*). Revising the social protection framework to

[94] Art. 4, § 2, Law No. 193/2023.

[95] According to Article L. 4622-8 of the French Labour Code, the occupational physician may delegate certain tasks to other members of the multidisciplinary team.

[96] Unlike part-time entitlement, the degree of incapacity required for the measures introduced by Law No. 106/2025 is assessed by a general practitioner or specialist doctor. Although in another form, the complete irrelevance of the occupational physician is also confirmed here.

enhance the employment prospects of individuals at risk of exclusion thus emerges as a key policy priority.

Finally, although some scholars have critiqued the French system for its strong focus on the individual, it also facilitates collective involvement through the role of workers' representatives. By requiring employers to consult the *Comité économique et social* (CES) on measures promoting job retention for vulnerable workers, the law grants employee representatives a formal voice – at least at the company level. While policy actions are rightly not confined to individual firms and are also pursued at cross-industry and sectoral levels, the implementation of inclusive practices and structural adaptations inevitably occurs at the level of the individual workplace or plant. Therefore, this is where constructive dialogue is most effective.

This is yet another area where Italian legislation could improve: empowering workers' representatives to participate in decisions concerning employer-led initiatives could not only better address the needs of the workforce but also reinforce collective bargaining efforts and foster more mature industrial relations in this domain.

Additionally, the extension of protective measures to independent contractors and self-employed workers in France offers a valuable model for Italy. Chronic health conditions can significantly affect these workers' career paths, and many may lack the resources to navigate the necessary adjustments. Given Italy's longstanding tradition of extending certain labour and social protections to *parasubordinati* (quasi-subordinate workers), including in cases of illness[97], the system should be well-positioned to respond to the evolving needs of this segment of the workforce in terms of adaptation of the job and transition in the labour market.

In conclusion: early recognition and early intervention; comprehensive individual health surveillance; protection within existing roles and promotion of transitions; closer integration between labour and social security law; coordinated action involving multiple stakeholders; individual and collective strategies; inclusion of self-employed and quasi-subordinate workers; and multi-level industrial relations. These are the key principles that have emerged from the comparative analysis, each of which should be central to any Italian reform programme aimed at addressing the pressing challenges outlined at the outset of this article.

[97] Lately, art. 1, § 2, Law No. 106/2025 also intervened to extend the period of (possible) suspension of the contractual relationship for self-employed persons who have long-term continous relationship with a company, if they suffer from serious health conditions (including chronic diseases).

The Right to Professional and Vocational Training: Between Individual and Collective Agreements

Federica Stamerra *

Abstract. Since the beginning of this century, the European Union's approach – aimed at increasing labour market flexibility in terms of employment – was intended to be accompanied by a strengthening of social security policies. This approach has gradually led to a growing recognition of the role of vocational training in enhancing workers' employability. However, training is not necessarily positioned clearly between the right to education and, more broadly, the right to work and the duty to maintain professional competence. In Italy, unless expressly provided for by statute or collective bargaining, this duty still lacks a fully binding legal character and effective justiciability. This paper aims to examine the role of training within both individual and collective labour agreements, exploring the extent to which it may constitute a genuine subjective right.

Keywords: *Right to Vocational Training; Transitional Labour Markets; Collective Bargaining; Employment Contract.*

1. Training and Law: Introduction

In Italian legal scholarship, attempts to classify vocational training within the broader category of perfect subjective rights have given rise to a range of theoretical positions. While these theories differ in their reasoning and conclusions, they share a common tendency to link vocational training to the right to work. The identification of the constitutional foundation of the right

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to training in Articles 4 and 35 of the Italian Constitution has made it possible to define its significance for the full development of the individual through work[1].

Vocational training is thus understood as both an instrument of active labour policy and a service of public interest, the promotion of which is entrusted to the implementation of the programmatic (rather than mandatory) provisions of Article 35 of the Constitution – provisions that are "unsuitable to establish a subjective right in favour of the worker during the course of the employment relationship"[2]. As a result, "legal scholarship […] has generally overlooked the relevance of the constitutional recognition that the right to vocational training could also hold within the framework of the employment relationship".

The distinction between training provided within the employment relationship and that delivered within the wider labour market is only one of several analytical perspectives through which the issue may be examined. In particular, with regard to the relationship between training and active labour market policies, the recognition of a right to training has only been made possible by "rejecting interpretations of Article 4 of the Constitution that deny any binding force to the constitutional norm, and by emphasising the tasks entrusted by law to the decentralised public employment services"[3]. This perspective affirms the existence of a duty of action on the part of the public administration and its corresponding liability in cases of non-compliance with the obligations associated with fulfilling that right. Among these obligations, vocational

[1] In this sense, it is an effective summary that "lifelong training enables the young to enter the labour market, the employed to remain in it, enhancing their professionalism and competitiveness, and the unemployed to re-enter it" (D. GAROFALO, *Formazione e lavoro tra diritto e contratto. L'occupabilità*, Cacucci, 2004, p. 324). Professional training is therefore linked to the concept of "employability," which evokes the constitutional aim of maximum employment. On the vagueness of the Anglo-Saxon term, v. M. BARBERA, *Dopo Amsterdam. I nuovi confini del diritto sociale comunitario*, Promodis, 2000, p. 147. On this point, reference is made to the consideration that "professionalism is a good deserving the interest of both parties to the employment contract: the worker and the employer" (M. BROLLO, *Tecnologie digitali e nuove professionalità*, in *DRI*, 2019, 2, p. 476). See also C. LAZZARI, *La tutela della dignità professionale del lavoratore*, in *DLRI*, 2017, 156, p. 668 ss.

[2] C. ALESSI, *Professionalità e contratto di lavoro*, Giuffrè, 2004, p. 8. In particular, the author highlights that the limited development of training is also attributable to its widespread perception as a public interest service or a tool of active labour market policy, rather than as a functionally integral component of the employment relationship – at least until the enactment of Law No. 53/2000. This legislation, by introducing the right to training leave, marked a turning point by recognising the existence of a "right to training" even beyond contracts explicitly aimed at training purposes.

[3] M. RUSCIANO, *Il lavoro come diritto: servizi per l'impiego e decentramento amministrativo*, in *RGL*, 1999, 3 (suppl.), p. 37. See also D. GAROFALO, *Lo* status *di disoccupazione tra legislazione statale e provvedimenti regionali*, in *DRI*, 2006, 3, p. 645.

training undoubtedly plays a central role[4]: although it may not directly serve a "right to job placement"[5], it is nonetheless essential for facilitating access to the labour market[6], based on the implicit assumption that "in order to provide employment, training must first be provided"[7].

From this standpoint, the right to training – as an essential expression of the social right to work – takes on the character of a social right, aimed at ensuring the inclusion of the worker[8]. However, despite recognition of the need for proactive state intervention[9], this has not been matched by effective measures to guarantee the provision of adequate training opportunities. As has been noted, "the public system operating in the labour market has completely abdicated its role in favour of the private sector: it has done so specifically […]

[4] In the proposed reconstruction, the connection – or at least the area of overlap – between education and vocational training is evident. Even the legislator has pursued this alignment by introducing initiatives such as school-work alternation programmes and the ITS Academy, thereby seeking to bring the world of education closer to that of work (in the previous system, see D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 310). On this point, see S. CIUCCIOVINO, *La formazione continua nel settore metalmeccanico: dal diritto soggettivo alla formazione al sistema dell'apprendimento permanente*, in T. TREU (ed. by), *Commentario al contratto collettivo dei metalmeccanici*, Giappichelli, 2022, p. 83 ss.

[5] M. RUSCIANO, *Il lavoro come diritto: servizi per l'impiego e decentramento amministrativo*, cit., p. 37.

[6] In this regard, it is evident that if a causal link could be established between the non-fulfilment of obligations derived from the essential levels of service provision and the failure to secure employment, "the right to work would no longer have as its (intangible) counterpart the State-legislator; rather, it could be asserted more concretely against the State-administrator" (M. RUSCIANO, *Il lavoro come diritto: servizi per l'impiego e decentramento amministrativo*, cit., p. 40).

[7] E. GHERA, *Intervento*, in AA. VV., *Formazione e mercato del lavoro in Italia e in Europa*, Atti del XV Congresso Nazionale di Diritto del lavoro – S. Margherita di Pula (CA) 1-3 giugno 2006, Giuffrè, 2007, p. 319.

[8] In this sense, the worker's socio-labour inclusion would be facilitated by an approach aimed at enhancing their "social capital", as framed within what has been referred to in the literature as the "capabilities approach". This refers to "the set of relational resources available to an individual, combined with their ability to utilise them effectively", and thus constitutes "a synthesis of the material and immaterial aspects of the relationship between the individual and their context" (A. GARILLI, *Le trasformazioni del diritto del lavoro tra ragioni dell'economia e dignità della persona*, in *W.P. C.S.D.L.E. "Massimo D'Antona" .IT*, 2020, 412, p. 5). For an analysis of the theory, see B. CARUSO, *Occupabilità, formazione e "capability" nei modelli giuridici di regolazione dei mercati del lavoro*, in AA. VV., *Formazione e mercato del lavoro in Italia e in Europa*, cit., p. 89 ss.; R. DEL PUNTA, *Labour Law and the Capability Approach*, in *IJCLLIR*, 2016, 32, p. 383 ss. (also by the same author, see lastly *Valori del diritto del lavoro e economia di mercato*, in *W.P. C.S.D.L.E. "Massimo D'Antona" .IT*, 2019, 395); M. C. NUSSBAUM, *Creare capacità. Liberarsi dalla dittatura del Pil*, Il Mulino, 2014, p. 177 ss.; A. SEN, *L'idea di giustizia*, Mondadori, 2009, p. 240 ss.

[9] "Obliged to provide the citizen not with the job, but, indeed, with every instrumental activity – such as training, information, and guidance – necessary for the fruitful search for a job" (M. RUSCIANO, *Il lavoro come diritto: servizi per l'impiego e decentramento amministrativo*, cit., p. 40).

with regard to vocational training as well"[10]. Consequently, "it is therefore unsurprising that we are witnessing an intensification of that phenomenon […] whereby employability is increasingly oriented toward satisfying the needs of the labour market rather than the needs of the individual"[11].

An example of this market-oriented approach can be observed in the vocational retraining mechanisms activated during transitional phases following employment crises. One need only consider the scenarios during periods of wage supplementation (*Cassa Integrazione*) or collective redundancies, which offer a comprehensive picture of the prevailing approach to in-employment training. In such cases, remedial action is taken only after the employment situation has deteriorated, and with the sole objective of mitigating the effects of the crisis.

By contrast, far less attention is paid to the maintenance of professional skills – both as an organisational tool and a preventive measure. In the specific context of training under the employment contract, it becomes necessary to distinguish between general and specific training[12], continuing and lifelong training[13], and between training provided as part of the ordinary course of employment and that provided in response to crisis situations[14]. Most importantly, it must be

[10] D. GAROFALO, *Il ruolo degli attori della formazione professionale*, in AA. VV., *Formazione e mercato del lavoro in Italia e in Europa*, cit., p. 270. Three decades have passed since the initial reflections were proposed, yet legal and policy choices have not shifted direction. This is evidenced by the persistent territorial fragmentation of training provision, which has hindered the realisation of a coherent lifelong learning framework. A concrete step towards the re-centralisation of competences – consistent with the approach adopted since the establishment of the now-defunct ANPAL under Legislative Decree No. 150/2015 – can be observed in the management of the *Fondo Nuove Competenze*, introduced by Decree-Law No. 34/2020 (converted into Law No. 77/2020), and implemented through Ministerial Decrees of 9 October 2020 and 22 January 2021.

[11] Cfr. D. GAROFALO, *Il ruolo degli attori della formazione professionale*, cit., p. 270.

[12] In other words, it is necessary to distinguish between "concrete know-how" (a static notion) and "potential professional capability" (the ability to perform a task), thereby delineating a form of professionalism that is "specific – possessed by the worker and applied in the performance of their duties" – and another that is "generic, by virtue of which the worker is able to acquire new skills through participation in vocational retraining programmes" (D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., pp. 346-347).

[13] The latter can be considered to pertain to a sphere that goes beyond the individual's professional capacity - although it encompasses it - as a broader element of personal fulfilment; whereas the former, "even if not specifically linked to the contingent needs of the individual company arising from technological or organisational innovations, nevertheless responds to needs defined according to the sector in which the company operates and the role performed by the worker" (S. D'AGOSTINO, S. VACCARO, *Nuove tutele per i lavoratori: il diritto soggettivo alla formazione. Francia e Italia a confronto*, in *PS*, 2020, 2, p. 154).

[14] The shift in paradigm regarding the role of training within the employment relationship is evident when considering the growing attention to transitional labour market theory (see L.

clarified whether the obligation to provide or to undertake training lies with the employer or with the employee[15].

All these facets of the concept of training influence not only the existence of a training obligation but also the consequences that arise from a hypothetical failure to fulfil it. This includes the applicability of compensatory remedies in cases of non-performance, whether by the employer or by the employee. The analysis presented in this paper is grounded in the Italian legal framework and the most widely recognised doctrinal positions. It offers a reflection that ranges from the implications at the level of individual employment contracts to the

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CASANO, *Contributo all'analisi giuridica dei mercati transizionali del lavoro*, ADAPT University Press, 2020; S. CIUCCIOVINO, D. GAROFALO, A. SARTORI, M. TIRABOSCHI, A. TROJSI, L. ZOPPOLI (ed. by), *Flexicurity e mercati transizionali del lavoro*, ADAPT University Press, 2021), which highlights a "plastic" (M. BROLLO, *Tecnologie digitali e nuove professionalità*, cit., p. 478) conception of professionalism, to be understood as the valorisation of the ability to adapt to rapid changes in the labour market. The traditional view that considered training as merely a preliminary element to the establishment of the employment relationship - aimed at building a theoretical and practical skill set, to be included in the CV and thereby increase hiring chances - and relegated training during employment to periods of company crisis or substantial changes in the employment relationship, is thus progressively giving way to an approach that regards training as a "physiological" element, even for those already employed.

[15] With regard to this issue, in the case of a change of duties, there is no doubt that the obligation to provide training lies with the employer, in accordance with the literal wording of the law. Indeed, the law excludes the nullity of the reassignment act due to non-compliance with the training obligation, making clear reference to the employer's position. In other cases, since at the time of hiring the employee declares to possess the professional qualifications necessary to perform the assigned tasks, it is evident that any inadequacy or substandard performance constitutes a contractual breach. However, when training becomes necessary due to professional obsolescence, it is preferable to adopt the interpretation according to which the obligation to provide such training still rests with the employer. Furthermore, training may be considered a form of reasonable accommodation in cases of supervening physical or psychological unfitness for the performance of duties. Ultimately, it has been argued that, where the employer fails to fulfil the training obligation—even in cases where the ius variandi is lawfully exercised—the employee may resign with just cause. On this point, it can be reasonably concluded that, "although the assignment to specific duties cannot be deemed null and void solely due to the employer's failure to provide the required training, it is nonetheless arguable that the employee may, on the one hand, legitimately refuse to perform the assigned tasks without incurring disciplinary liability; and, on the other hand, cannot be held liable for any damage caused to the organisation, to third parties, or to themselves, as a result of the lack of training and the consequent failure to maintain the necessary professional standards of diligence. Moreover, it cannot be excluded that the employee may bring legal action against the employer in order to obtain a judicial assessment of the employer's failure to fulfil its duty to provide the required training" (D. GAROFALO, voce *Formazione nel contratto di lavoro*, in R. DEL PUNTA, R. ROMEI, F. SCARPELLI (dir. by), *Contratto di lavoro*, in *Enc. dir.*, Tematici, VI, Giuffrè, 2023, p. 675). Nonetheless, all of the above scenarios share a common critical aspect: the employee, when faced with a violated right, is left with a mere palliative remedy—in the worst-case scenario, the bitter option of 'choosing to become unemployed'.

provisions of collective bargaining agreements, particularly those emerging from recent rounds of negotiations, in which a true and binding training obligation has been identified and shaped through contractual means.

2. The Training Obligation in the Individual Employment Relationship

A preliminary issue in defining the role of training within the employment contract concerns whether it may be considered one of the contract's elements – potentially elevating it to part of the "synallagma"[16] and thereby configuring it as an enforceable right. It has been argued that training could be incorporated into the overall purpose of the employment contract[17].
Nonetheless, efforts to link training to contractual obligations have led to the development of various theories, based on the search for normative connections aimed at establishing the existence of a right to training on the part of the worker. These different interpretations intersect with multiple legal provisions, at times referring to Article 35 of the Italian Constitution – which is often regarded as conferring only a legitimate expectation, rather than a true

[16] This consideration does not apply to training-oriented employment contracts, in which the mixed nature of the relationship is well established. In such contracts, the specific nature of the *synallagma* lies in the employer's counter-performance, which consists of a combination of training and remuneration. This dual function justifies a proportional reduction in the amount of the latter. On this point, see in greater detail D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 342 ss., and the further bibliography cited therein; cf. V. FILÌ, *Il contratto di formazione e lavoro*, in C. CESTER (ed. by), *Il rapporto di lavoro subordinato: costituzione e svolgimento*, in F. CARINCI (dir. by), *Diritto del lavoro. Commentario*, UTET, 2007, p. 1914 ss.; D. GAROFALO, voce *Contratto di inserimento*, in *DDPComm.*, Torino, UTET, 2009; G. LOY, voce *Apprendistato*, in *DDPComm*., UTET, 1987; ID., *Formazione e rapporto di lavoro*, Milano, Giuffrè, 1988; ID., voce *Contratto di formazione e lavoro*, in *DDPComm.*, UTET, 1989; I. PICCININI, *Il contratto di formazione e lavoro: appunti in tema di qualificazione giuridica e di forma scritta*, in *DL*, 1991, II, p. 10 ss. For an early formulation of the idea of training as functionally impacting the contract's purpose, see M. RUDAN, *Il contratto di tirocinio*, Giuffrè, 1966.

[17] In this regard, see also L. GALANTINO, *Diritto del lavoro*, Giappichelli, 1998, p. 101; F. GUARRIELLO, *Trasformazioni organizzative e contratto di lavoro*, Jovene, 2000, p. 55 e 204 ss., M. NAPOLI, *Disciplina del mercato del lavoro ed esigenze formative*, in *RGL*, 1997, I p. 269 ss.; U. ROMAGNOLI, *Il diritto del secolo. E poi?*, in *DML*, 1999, p. 238 ss. On the same point, v. B. CARUSO, *Occupabilità, formazione e "capability" nei modelli giuridici di regolazione dei mercati del lavoro*, in AA. VV., *Formazione e mercato del lavoro in Italia e in Europa*, cit., p. 178 ss.; D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 349 ss. In other words, that "the employee's training has expanded the scope of obligations incumbent not only upon the employer—placing itself, with equal standing, alongside the traditional duties of remuneration and safety—but also upon the employee, becoming the object of a specific obligation and thereby entering into the very causa of the employment contract" (D. GAROFALO, voce *Formazione nel contratto di lavoro*, cit., 670).

subjective right[18], in respect of public active policies supporting employability – and at other times invoking the Civil Code provisions governing the employer's authority to vary duties, as well as the fulfilment of contractual obligations.

Among the provisions cited in support of the existence of a subjective right to training – closely tied to the regulation of the employment relationship – are Article 2103 of the Civil Code (in conjunction with Articles 2094 of the Civil Code and Article 35 of the Constitution); Article 2104, which outlines the worker's duty of diligence; and Article 2087, which imposes safety obligations on the employer. Other interpretations rely on general principles of civil law, such as fairness, good faith, creditor cooperation, and the proper performance of obligations[19].

One major line of reasoning, linked to the regulation of the *ius variandi*[20], is based on the thesis that "the worker's right to training, once the institutional mechanisms enabling its actual exercise have been established by law or collective bargaining, is connected to the dynamic safeguarding of professional assets"[21]. This approach finds support in judicial interpretations that have expanded the concept of professionalism. However, it has also been noted

[18] This view assumes that while the Constitution's recognition of the right to professional advancement may imply the importance of professional development within the employment relationship, it does not entail incorporating it into the *synallagma*. On this point, see D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 342; for an early reconstruction of this connection, see M. NAPOLI, *Commento alla l. 21 dicembre 1978, n. 845*, in *Nuove leggi civ. comm.*, Cedam, 1979, p. 50 ss.; this theory has recently been revisited by C. VALENTI, *La tutela della professionalità nel mercato del lavoro che cambia*, in *LD*, 2021, 1, pp. 149-150.

[19] For a critical reading of this position, seeD. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 353 ss. It is emphasised that the performance of obligations "according to fairness and good faith" under Articles 1217 and 1375 of the Civil Code does not so much create new duties but rather clarifies the ways in which existing obligations must be interpreted.

[20] On this subject, see, among others, M. BROLLO, *Inquadramento e* ius variandi, in G. SANTORO PASSARELLI (ed. by), *Trattato di diritto del lavoro*, Utet, 2017, p. 768 ss.

[21] D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 344; in the same sense, see M. Napoli, *Disciplina del mercato del lavoro ed esigenze formative*, cit., p. 270 and cf. G. GIUGNI, *Mansioni e qualifica nel rapporto di lavoro*, Jovene, 1963, p. 190; U. ROMAGNOLI, *Commento all'art. 13*, in AA. VV., *Statuto dei diritti dei lavoratori (art. 1-13)*, in A. SCIALOJA, G. BRANCA, (ed. by), *Commentario del Codice civile*, Zanichelli, 1979, pp. 230-231. This theory is grounded in a dynamic conception of professional development, which has been adopted by case law concerning damages for injury to professional skills. On this, see M. BROLLO, *Il danno alla professionalità del lavoratore*, in AA. VV., *Scritti in memoria di Massimo D'Antona*, Giuffrè, 2004, I, I, p. 363 ss.; U. CARABELLI, *Intervento*, in Aa. Vv., *Formazione e mercato del lavoro in Italia e in Europa*, cit., p. 312 ss.; D. GAROFALO, *Lo ius variandi tra categorie e livelli*, in *MGL*, 2022, n. 1; and in case law, see Cass. civ., 10 January 2018, n. 330; Cass. civ., 1° July 2014, n. 14944; Cass. civ., 4 March 2011, n. 5237; Cass. civ., 3 March 2011, n. 5138; Cass. civ., 26 May 2004, n. 10157; Cass. civ., 8 November 2003, n. 16792.

that, prior to its amendment by Article 3 of Legislative Decree No. 81 of 15 June 2015, Article 2103[22] did not explicitly recognise either a right to training for the worker or a corresponding obligation for the employer[23]. In its current form, although the provision refers to such an obligation, it does not establish any sanctions for non-compliance[24]. This lack of enforceability complicates the determination of consequences in cases – such as this – where a training obligation is explicitly set out in law or collective bargaining agreements[25]. It must therefore be concluded that the burden of alleging non-performance, proving damage, and demonstrating causation lies with the injured party. The burden then shifts to the party against whom non-fulfilment is claimed (typically the employer), who must demonstrate that they have discharged their obligations effectively.

Another source of the training obligation has been traced to Article 2087 of the Civil Code, which requires the employer to adopt "all the measures which, according to the particular nature of the work, experience, and technique, are necessary to protect the physical integrity and moral personality of the

[22] The same applies in case law regarding damages to professional skills. On this point, see D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 345; for a reasoned overview of subsequent rulings, see M. BROLLO, *Inquadramento e* ius variandi. *Modifica delle mansioni e trasferimento del lavoratore*, in G. SANTORO PASSARELLI (ed. by), *Diritto e processo del lavoro e della previdenza sociale*, UTET, 2020, p. 1014 ss. he reform of the relevant provision has made explicit what had already become consolidated in case law, so much so that today it is possible to state that «*the "training obligation" established in 2015 […] demands the employer to provide the necessary knowledge to workers who are assigned new tasks that differ from those previously performed*» (C. VALENTI, *Il diritto soggettivo alla formazione continua dei lavoratori: un'analisi delle buone pratiche nel panorama internazionale*, in *LLI*, 1, 2021, p. C.64).

[23] Cf. D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 348. It is noted that even under the previous legal framework, the training obligation could be considered implicit in the exercise of the *ius variandi*, since the assignment to new duties—entailing a change in the standard for performance required from the worker at the employer's initiative (and to meet the employer's needs)—would nonetheless have necessitated a corresponding adjustment in terms of *creditor cooperation*. Cf. C. ALESSI, *Professionalità e contratto di lavoro*, cit., p. 181; C. PISANI, voce *Mansioni del lavoratore*, in *Enc. Giur.*, XIX, Treccani, 1993, p. 9.

[24] On this subject, see C. ALESSI, *Professionalità, contratto di lavoro e contrattazione collettiva, oggi*, in *PS*, 2018, II, 1, p. 26 ss.; M. BROLLO, *Quali tutele per la professionalità in trasformazione?*, in *ADL*, 2017, p. 495 ss., especially p. 503; M. FALSONE, *La professionalità e la modifica delle mansioni: rischi e opportunità dopo il Jobs Act*, in *PS*, 2018, II, 1, p. 36 ss.

[25] On this matter, see D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 347, who distinguishes between damage to generic professional skills (where, for example, the harm involves "social life, psycho-physical integrity, image, and the moral personality of the worker – that is, all cases of damage affecting the dignity, status, and prestige acquired by the worker within the company and undermined by de-skilling") and damage to specific professional skills (in cases of "a reduction in professional competence through downgrading or the failure to enhance theoretical knowledge, practical skills, experience, and abilities"), identifying Articles 2087 and 2103 of the Civil Code as the respective legal references.

workers". From this perspective, the subjective right to training is framed as a necessary expression of the right to work, which in turn is fundamental to the development of the individual's personality[26]. Indeed, the development of the person forms the foundation of the theory that, when interpreted in light of the principles of fairness and good faith, Article 2087 imposes a duty on the employer to safeguard the worker's professionalism – particularly as it evolves in response to organisational changes. Accordingly, training should be provided "both at the initial stage of the relationship, when the worker receives the necessary instructions for effective integration into the employer's organisation, and during events that may affect the functionality of the relationship, such as changes in duties or organisational modifications impacting the worker's role"[27]. In this sense, the protection of the worker's professionalism gives rise to a form of creditor cooperation on the part of the employer, aimed at ensuring the proper fulfilment of contractual duties[28].
With respect to the worker's obligation to adapt their skills, Article 2104 of the Civil Code has been invoked. By imposing a duty of diligence on the worker, proportionate to the nature of the work, the provision appears to impose a

[26] See also D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 351, and further references therein. The earliest doctrinal interpretations in this area linked the training obligation to the protection of workers' health in the workplace, specifically in compliance with Legislative Decree no. 626/1994. This interpretation is persuasive in relation to specific obligations regarding workplace safety but appears less convincing when extended to a general level. The scope of application has thus been broadened, considering longstanding case law on mobbing (on which, see D. GAROFALO, *Mobbing e tutela del lavoratore tra fondamento normativo e tecnica risarcitoria*, in *LG*, 6, 2004, p. 529). The connection becomes clearer when one considers that "within the 'general' right of personality, one can well place the worker's right to training during the employment relationship, conceived, on the one hand, as a personal right to self-determination with regard to cultural and educational development; on the other hand, if and insofar as it is aimed at improving one's professional position, as a right instrumental to career advancement recognised by the contract." Therefore, "on the employer's side, the training obligation could be traced back to the duty of protection under Article 2087 of the Civil Code, regarding the worker's personality" (D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p 353).
[27] C. ALESSI, *Professionalità e contratto di lavoro*, cit., p. 180. Indeed, especially following the abandonment of the concept of task equivalence in the exercise of the *ius variandi*, the duty to train a worker assigned to new tasks is not only implied by the necessity to enable them to perform their duties but can also be inferred from the wording of the new Article 2103 of the Civil Code. Even before the reform, however, it was widely accepted that equivalence could be achieved through adequate training (or retraining, if provided retrospectively) for the worker. See in this regard M. BROLLO, *La mobilità interna del lavoratore*, cit., p. 156.
[28] See also, in this sense, C. PISANI, voce *Mansioni del lavoratore*, cit., p. 9; and C. ALESSI, *Professionalità e contratto di lavoro*, cit., pp. 180-181.

duty to undergo training[29]. However, it has rightly been observed that this provision "certainly cannot, on its own, oblige the worker to undertake training activities"[30]. By contrast, a genuine obligation to cooperate in enhancing one's employability arises within those instruments designed to manage workforce redundancies[31]. These mechanisms typically include training initiatives that benefit affected workers and operate by making training a *condition* for accessing or retaining certain protections, rather than a genuine obligation. This reflects the now-established model of conditionality[32]. in labour policy and employment support, wherein the receipt of certain benefits is contingent upon participation in training schemes.

The above considerations – particularly in light of recent legislative developments – support the conclusion that "it is now possible to identify a training obligation incumbent upon the employer, which varies in terms of beneficiaries, objectives, and placement within the course of the employment relationship, but which, in all cases, finds its legal foundation in the contractual synallagma"[33]. This interpretation, however, does not apply where the training need is identified solely by the employee in their own interest, as in such cases there is no corresponding employer obligation. In these situations, the employer has no stake in the training and is thus only required to adopt a

[29] See also U. CARABELLI, *Intervento*, cit., p. 312, particularly regarding Luisa Galantino's theory on the existence of a professional updating obligation on the part of the worker (in some ways comparable to the continuing professional education requirements set by some regulated professions).

[30] U. CARABELLI, *Intervento*, cit., p. 314.

[31] This refers to procedures such as CIGS for company reorganisation (Art. 21 et seq., Legislative Decree No. 148/2015), the *Fondo Nuove Competenze* (Art. 88, Decree-Law No. 34/2020, converted with amendments into Law No. 77/2020), the Fund for professional upskilling (or, more generally, the use of interprofessional training funds under Law No. 388/2000), the GOL program (*D.M. Lavoro ed Economia*, 5 November 2021), the *contratto di ricollocazione* (Art. 24-bis, Legislative Decree No. 148/2015), and the agreements for occupational transition (Art. 22-ter, Legislative Decree No. 148/2015, as amended by Art. 1, para. 229, Law No. 234/2021). Each of these measures provides for the active participation of workers in training activities aimed at professional reskilling, with the goal of increasing employability in view of a successful placement within the same company or with a new employer.

[32] This is, in fact, the exact terminology adopted by the legislator in Articles 22-ter and 25-ter of Legislative Decree No. 148/2015, introduced respectively by Article 1, paragraphs 200 and 202 of Law No. 234/2021. These provisions foresee the imposition of real sanctions - ranging from the reduction of one month of wage supplementation to the complete loss of the benefit - on workers who, due to their own exclusive responsibility, fail to participate either in actions aimed at re-employment and self-employment (in the first case) or in initiatives for the maintenance or development of professional skills in view of the conclusion of a work suspension or reduction procedure (in the second case).

[33] D. GAROFALO, voce *Formazione nel contratto di lavoro*, cit., p. 671.

neutral, non-obstructive stance, refraining from impeding the employee's access to training opportunities. Conversely, a right to training that entails a positive obligation on the employer arises when the training serves an entrepreneurial interest – such as ensuring the worker's skills remain aligned with organisational needs for the continuation of the employment relationship. This constitutes the "maintenance" of professionalism, a shared responsibility of both parties[34]. Such obligations may also be contractually defined through individual agreement, thereby elevating training to an ancillary element of the employment contract. These are often accompanied by additional agreements—such as stability clauses—that reflect the employer's concern to avoid disproportionate costs in relation to the benefits derived from training. In such cases, the obligation to preserve the employee's professional skills, as articulated in Article 2103 of the Civil Code, is extended to the ordinary course of the employment relationship. Naturally, the same applies where such obligations are introduced through collective bargaining.

Beyond the contractual dimension, it is not unprecedented for obligations constitutionally imposed on the wider community to be transferred to individual employers. For instance, reference to Articles 4 and 38 of the Constitution has historically been used to justify, on constitutional grounds, the system of mandatory placement for persons with disabilities—a system whose ineffectiveness led to the legislature's radical shift under Law No. 68/1999[35], marking a transition from imposition to incentivisation[36].

Nevertheless, the fact that training is not a component of the contractual synallagma does not mean it is excluded from the employment relationship altogether. Indeed, it may be incorporated into the contract by mutual agreement between the parties, through the exercise of individual autonomy, thereby elevating it to an incidental element of the contract. In this way, the obligation to safeguard professionalism—enshrined in Article 2103—would become operative. In the absence of individual agreement, it falls to collective

[34] C. ALESSI, *Professionalità e contratto di lavoro*, cit., p. 161. On the employer's duty to ensure the adaptation of the worker's professional skills, see also C. ALESSI, *op. ult. cit.*, p. 183: "the identification of professional skills as the object of the employment contract necessarily implies, as a contractual effect, the obligation to shape those skills in accordance with the (legitimate) demands of the employer".

[35] D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 380.

[36] This shift becomes all the more evident when considering that "a situation has developed [...] that is diametrically opposed to the one hypothesized by Napoli, who conceived training as a right enforceable against the company and usable within public structures: instead, we are now witnessing a right enforceable against the public system and usable within the company" (D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 381), thereby effectively assigning the company a function of public interest.

bargaining to intervene in its institutional role[37], serving as the mechanism through which "the training obligation [...] is linked with training as a social right"[38].

3. The Training Obligation in Collective Bargaining

Professional training, bolstered by the redefinition of the role of the social partners following the "flight from the public system"[39], has acquired particular significance both in the concertation phase – aimed at fostering a culture of employment and stability – and in the managerial phase, which is embodied in collective bargaining[40]. As early as the collective agreements of the 2000s, the focus of protection had already shifted from the static notion of employee professionalism to its continuous development, oriented towards the worker's growth, adaptability or stabilisation, prevention of technical obsolescence, or, in cases of restructuring and reorganisation, the promotion of employability[41]. The notion of training began to emerge as a "primary good or interest of the worker"[42], distinct from company-based training, which is inevitably "subordinated to its [the company's] interest". This new vision sought to protect a form of professionalism capable of supporting not only the worker's current role but also their transitions between jobs[43], facilitating the search for

[37] As well as "as an institution governing the labour market" (M. TIRABOSCHI, *Mercati, regole, valori*, relazione alle Giornate di studio AIDLaSS, Udine 13 – 14 giugno 2019, in AA. VV., *Persona e lavoro tra tutele e mercato*, Atti delle giornate di studio di diritto del lavoro Udine 13-14 giugno 2019, Giuffrè, 2020, p. 112). Along similar lines, see A. LO FARO, voce *Contratto collettivo (lavoro privato)*, in *Enc. dir.*, Ann., VI, Giuffrè, 2013, p. 196 ss., spec. p. 197, although the concept recalls above all the reflections of Giugni and Santi Romano, whose works should be consulted for completeness (for all, see G. GIUGNI, *Introduzione allo studio dell'autonomia collettiva*, Giuffrè, 1960 and S. ROMANO, *L'ordinamento giuridico*, reprint, Sansoni, 1946).

[38] E. GHERA, *Intervento*, cit., p. 318.

[39] D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 325.

[40] Indeed, if the employer becomes a key social actor within the training system, entrusted with the task of providing training during the employment relationship (see D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., pp. 381-382), then the limits and modalities of this obligation become the subject of negotiation between the social partners. This can represent either a positive incentive for the enhancement of professional skills or, conversely, a risk stemming from the concerted nature of the agreements reached through collective bargaining.

[41] D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., pp. 332-333.

[42] E. GHERA, *Intervento*, cit., p. 316.

[43] Regarding the theory of transitional labour markets, see L. CASANO, *Contributo all'analisi giuridica dei mercati transizionali del lavoro*, Adapt University Press, 2020; cf. S. CIUCCIOVINO, D. GAROFALO, A. SARTORI, M. TIRABOSCHI, A. TROJSI, L. ZOPPOLI, *Flexicurity e mercati transizionali del lavoro. Una nuova stagione per il diritto del mercato del lavoro?*, Adapt University Press, 2021; D. GAROFALO, *Lavoro, impresa e trasformazioni organizzative*, in AA. VV., *Frammentazione organizzativa e lavoro: rapporti individuali e collettivi. Atti delle giornate di studio di diritto del lavoro*

new employment. Within this framework, the employer is expected to safeguard not only the company's interests through training but also those of the individual worker, inseparably bound by the employment contract. Training – often described as the main component[44] of active labour policies – thus enters the domain of collective bargaining, which, although not traditionally concerned with regulating training[45], has increasingly taken on the protection of the worker's position in the labour market.

Nevertheless, it is essential to examine the consequences of this "elevation". A more ambitious role for collective bargaining in shaping the framework for professional training may come at the cost of sacrificing other rights, in the kind of negotiated "exchange" that typifies the dynamics of collective agreement drafting and renewal.

The formal recognition of a true subjective right to training did not materialise until 2016, with the signing of the National Collective Agreement for the Metalworking Industry. This agreement recognised, for the first time, the existence of such a right for all employees with an open-ended contract. The significance of this recognition lies not only in the acknowledgment of training as an enforceable right[46], but also in its reconfiguration as a continuous learning opportunity – tailored to the evolving demands[47], of the labour market and essential for updating and enhancing workers' skills and knowledge[48].

AIDLaSS. Cassino, 18-19 maggio 2017, Giuffrè, 2018, p. 17 ss.; G. SCHMID, *Transitional Labour Markets: A New European Employment Strategy*, WBZ Discussion Paper.

[44] M. NAPOLI, *Le funzioni del sistema dei servizi per l'impiego: il nucleo forte della mediazione tra domanda e offerta di lavoro*, in M. NAPOLI, A. OCCHINO, M. CORTI, *I servizi per l'impiego. Art. 2098 c.c.*, in F. D. BUSNELLI (dir. by), *Il Codice civile. Commentario*, Giuffrè, 2010, p. 56. The growing attention collective bargaining has devoted to training has led to a fragmentation of protection. On this point, and for a reconstruction of relevant case studies, see G. MACHÌ, *Per una storia della contrattazione collettiva in Italia / XXX – La formazione professionale nella contrattazione collettiva*, in *Boll. ADAPT*, 8 March 2021.

[45] A general analysis of the most widely applied national collective labour agreements (on which see the *XXIII Rapporto mercato del lavoro e contrattazione collettiva 2021* by CNEL and, therein, the contribution by P. A. VARESI, esp. p. 66 ss.), shows that the provisions concerning active labour market policies are mostly limited to the regulation of flexible contract clauses or the allocation of training hours. It is extremely rare to find provisions for preventive measures aimed at potential employment transitions.

[46] The possibility of enforcing the right to training in court derives both from the specification of claims that can be asserted by the worker and from the directly prescriptive content of the clauses in the collective agreement. This does not apply, of course, to mere statements of intent and programmatic stimuli (among which, generally, are the intentions to establish observatories and committees to monitor professional needs and manage training programs). On this point, see G. MACHÌ, *Diritto alla formazione e formazione continua*, in *Boll. ADAPT*, 2021, n. speciale 1, 25 February 2021.

[47] Cf. D. GAROFALO, *Rivoluzione digitale e occupazione: politiche attive e passive*, in *LG*, 2019, p. 329 ss., spec. p. 338. The consideration that worker training must respond to the concrete needs of

The renewal of the same national agreement on 5 February 2021 marked a further step forward, contributing to the dismantling of the rigid job classification system[49]. This process had already begun with the introduction of the "roles" system in 2016[50], shifting the emphasis towards workers' professionalism. The aim was to move beyond the traditional system of classification based on static job descriptions and predefined tasks[51], replacing it with a more dynamic, competence-based model.

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the market is clearly a natural consequence in a functioning system "that wants to create employment and not unemployment" (ibid.). Indeed, as emerges from the text of the collective agreement, even in its revised 2021 version (for which see the contributions in *Boll. ADAPT*, 2021, special issue 1, February 25, 2021), which follows the signing of the *Patto della Fabbrica* in 2018, vocational training and continuous education respond to the demands triggered by the digital and ecological transition. Given the dual function of these training activities, it is also necessary to reflect on the distribution of related costs, which should be shared between the public and private sectors, as long as retraining (either preventive or in the event of a critical situation) serves the private interest of the company or the public interest of combating unemployment. Cf. M. WEISS, *Tecnologia, ambiente e demografia: il diritto del lavoro alla prova della nuova grande trasformazione. Digitalizzazione: sfide e prospettive per il diritto del lavoro*, translated by E. DAGNINO, in *DRI*, 2016, 3, pp. 654-655; but for a reconstruction of possible solutions to the issue, see D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 407 ss.

[48] The criterion underlying this development comes from the consideration that workers need to possess additional skills and abilities beyond those strictly related to the duties defined in the contract, such as knowledge of a foreign language or specific software. Cf. C. VALENTI, *La tutela della professionalità nel mercato del lavoro che cambia*, cit., p. 147.

[49] On this, see A. MARESCA, *Il nuovo sistema di classificazione: valori ispiratori e tecniche applicative*, in T. TREU (ed. by), *Commentario al contratto collettivo dei metalmeccanici*, Giappichelli, 2022, p. 37 ss.; P. MASCIOCCHI, *CCNL Metalmeccanici*, Maggioli, 2021, p. 166 ss.; A. PRETEROTI, S. CAIROLI, *Il nuovo inquadramento professionale nell'industria metalmeccanica 4.0*, in G. ZILIO GRANDI (ed. by), *Commentario al CCNL Metalmeccanici 5 febbraio 2021*, Giappichelli, 2021, p. 141 ss.

[50] On this point, see V. BAVARO, *Il contratto collettivo nazionale dei metalmeccanici 2016: una prospettiva sulle relazioni industriali italiane*, in *DLRI*, 2017, 4, p. 729 ss.; L. IMBERTI, S. MOIA, *Ccnl metalmeccanici 2016 e contrattazione aziendale: un tentativo di tipizzazione*, in *DLRI*, 2020, 3, p. 471 ss.; A. MARESCA, *Il* rinnov(ament)o *del contratto collettivo dei meccanici: c'è ancora un futuro per il contratto collettivo nazionale di categoria*, in *DLRI*, 2017, 3, p. 709 ss.; M. TIRABOSCHI, F. SEGHEZZI, I. ARMAROLI, *Il patto della fabbrica, note sul rinnovo dei metalmeccanici*, in *GL*, 2016, 49, p. 12 ss. However, it is still relevant to consider that, "despite the efforts of organisational literature that has built almost philosophical worlds around competences, the transition from the imperfect objectivity of tasks and qualifications to the subjective dimension of competences has so far proven impossible to achieve" (R. DEL PUNTA, *Un diritto per il lavoro 4.0.*, in A. CIPRIANI, A. GRAMOLATI, G. MARI, *Il lavoro 4.0. La quarta rivoluzione industriale e le trasformazioni delle attività lavorative*, Firenze University Press, 2018, p. 233).

[51] "Thus framed, the principle of 'same work, same pay' has generated, from the 1970s to today, a flattening of professional skills around the minimum wages established by collective bargaining" (D. MOSCA, P. TOMASSETTI, *La valorizzazione economica della professionalità nella contrattazione aziendale*, in *DRI*, 2016, 3, p. 793).

This growing focus on professionalism – even at the expense of the existing job classification system – highlights the rising importance of the individual worker in an increasingly fluid labour market[52], where training plays a pivotal role. It is not only a "new generation" right linked to the broader right to work but also an essential component in the development of a dynamic professionalism, capable of enhancing employability.

Against the backdrop of a rapidly evolving labour market, the emergence of a clear legal categorisation – the subjective right to training – offers stability in the protection of professionalism. This protection is no longer limited to the mere enrichment of existing skills but is extended to their adaptation in response to shifting market demands.

It is no coincidence that the collective agreement[53] was chosen as the instrument through which this recognition was granted. It is a clear sign that industrial relations have embraced the idea that "the personal, economic, and professional security of workers is built on effective support in accessing employment and transitioning from old to new work, much better than on the rigidity of production structures"[54]. This also reflects the evolving significance of the collective agreement itself, which is now capable of capturing the dynamic reality of a labour market where, for the worker, "it is better to have routes than roots"[55].

However, collective bargaining has not yet fully adapted to the increasingly prevalent trend towards flexible career paths. Despite the growing use of atypical employment contracts, there is a noticeable absence of a comprehensive framework capable of reconciling the temporal nature of these

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[52] In this sense, M. TIRABOSCHI, F. SEGHEZZI, I. ARMAROLI, *Il patto della fabbrica*, cit., p. 18; cfr. L. CASANO, *Quadri nazionali delle qualifiche: la situazione italiana alla luce degli sviluppi europei*, in *DRI*, 2015, 3, p. 907; C. LINCARU, S. PIRCIOG, A. GRIGORESCU, *Mapping Transitional Labour Markets Models in Europe*, in *PS*, 2020, 3, p. 86; G. Schmid, *Sharing Risks of Labour Market Transitions: Towards a System of Employment Insurance*, in *British Journal of Industrial Relations*, 2015, p. 70 ss.

[53] Particularly the metalworking sector (CCNL per l'Industria Metalmeccanica, signed on February 5, 2021, by Federmeccanica, Assistal, FIM-CISL, FIOM-CGIL, UILM-UIL, sez. IV, art. 7) has repeatedly shown leadership in terms of innovations. Also, see the CCNL for workers in small and medium metalworking industries, jewelry, and installation of plants, signed on July 3, 2017 by Unionmeccanica-Confapi, FIOM-CGIL, FIM-CISL, UILM-UIL (art. 61); the for workers in the electrical sector, signed on October 9, 2019, by Elettricità Futura, Utilitalia, Enel Spa, GSE Spa, SOGIN Spa Terna Spa, Energia Libera, e FILCTEM-CGIL, FLAEI-CISL, UILTEC-UIL (art. 36, esp. par. 5); the CCNL for the Food Industry, signed on July 31, 2020, by ANCIT et al., FAI-CISL, FLAI-CGIL, UILA-UIL (art. 3); the CCNL for workers in the chemical industry, signed on July 31, 2020, by Federchimica, Farmindustria, Associazione Cerai d'Italia, FILCTEM- CGIL, FEMCA-CISL, UILTEC-UIL (art. 63).

[54] P. ICHINO, *Il nuovo articolo 18: la formazione come diritto soggettivo*, in *www.pietroichino.it*, p. 1 of the digital manuscript.

[55] R. REICH «*better to have routes, instead of roots*», cited by P. ICHINO, *op. loc. ult. cit.*

contracts with the need to support the inevitable phases of transition – particularly in the case of fixed-term contracts. In such instances, the notion of "training-risk" is embedded in the very nature of the contractual arrangement: any investment made by the employer in the training of a worker is likely to follow the worker throughout their career and thus represents an economically inefficient cost for the employer.

At the same time, the establishment of a training obligation specifically for workers engaged on flexible contracts could function as a form of "counterbalance" to the use of these arrangements, which are undoubtedly less burdensome for employers and legally more advantageous. This would contribute to the framework already advanced in legal scholarship[56] for the "socialisation" of the "employability risk"—that is, a sustainable distribution of the costs associated with an increasingly uncertain labour market. In such a market, workers face longer and more frequent periods of inactivity, the financial burden of which ultimately falls upon the public purse as a result of legal and policy decisions that favour business flexibility and streamlined organisational models.

4. EU Perspectives and Implementation in Italian Law

Among the obligations introduced by Directive (EU) 2019/1152 – concerning transparent and predictable working conditions in the European Union – the provisions on mandatory training set out in Article 13, anticipated by Recital 37, are particularly noteworthy. On closer analysis, the Directive does not establish a new or distinct training obligation beyond those already provided for under national legislation or collective agreements. Rather, it regulates the modes of implementation of existing obligations. Specifically, it introduces a requirement that training necessary for the performance of the job must be treated as working time, be provided at no cost to the employee (i.e., paid), and, where feasible, take place during normal working hours.

This provision was transposed into the Italian legal system through Article 11 of Legislative Decree No. 104/2022. The decree categorises training into three distinct types – each corresponding to a subsection of the provision – based on

[56] See D. Garofalo, *Formazione e lavoro tra diritto e contratto*, cit., p. 402 ss., particularly with reference to the "risk of employability," meaning employability as a "new social risk," which should be understood potentially as a real event protected to replace unemployment in the contributory-redistributive logic that has always characterised the relationship between passive and active policies.

the predominant interest being served[57]. The first category encompasses training mandated by law or required under the applicable collective agreement, that is, training directly related to the execution of work duties. The second category concerns training aimed at the "maintenance" or "adaptation" of the worker's competencies. The third relates to occupational health and safety training.

A distinctive feature of this regulatory framework is that the informational obligation arises only when the worker has a right to receive training provided by the employer, where such training is required[58]. As a result, in instances where the existence of a training obligation is uncertain, the employee's right to receive relevant information is also ambiguous. This creates a problematic grey area in the implementation of the directive.

With regard to the first category, the reference to the exercise of the *ius variandi* is apparent, as the duty to inform applies to any task the employee may be assigned. In other words, regardless of the specific task the worker is performing at the time of hiring – or may be assigned subsequently – any associated training is to be regarded as working time, even if it takes place outside regular working hours.

The second category raises definitional concerns. Textually, the provision refers only to training "in the interest of the employer". However, the maintenance or renewal of professional qualifications ("obtaining, maintaining, or renewing a professional qualification"), even when not required by legislation or collective agreements, still produces a benefit for the employer by ensuring the effective use of the employee's services. This excludes training activities that are pursued solely in the employee's personal interest and unrelated to their assigned tasks. A more precise legislative formulation would have been desirable to clearly distinguish between these scenarios.

The third category concerns training obligations already provided for under Legislative Decree No. 81/2008 on workplace health and safety[59]. Once again, it is difficult to clearly delineate the boundary between training serving the employer's interest and training aimed at protecting the physical and psychological well-being of the worker – an interest that, although framed as individual, also indirectly benefits the employer by reducing risks and ensuring compliance.

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[57] The goal underlying the entire legislative intervention is, according to some, to rebalance the informational disparity that exists between the employer and the employee. In a similar sense, see G. PROIA, *Trasparenza, prevedibilità e poteri dell'impresa*, in *Labor*, 2022, n. 6, p. 641 ss.

[58] See Art. 4, par. 2, lett. h, of Directive (EU) 2019/1152, as well as Art. 1, par. 1, lett. i, of Legislative Decree No. 152/1997, as amended by Art. 4, par. 1, lett. a, of Legislative Decree No. 104/2022.

[59] See Art. 37, Legislative Decree No. 81/2008.

In practical terms, it is worth noting that the relatively low administrative fine[60] for non-compliance allows employers to weigh the cost of non-fulfilment. This may incentivise strategic "efficient default" behaviours, whereby employers choose to pay the penalty rather than comply with the requirement to provide full and accurate information to workers.
Moreover, it is legitimate to question whether the mere provision of comprehensive information satisfies the full scope of workers' rights. In this context, the formal fulfilment of an informational duty may not equate to the substantive realisation of the right to training – particularly if the training is not effectively accessible or relevant to the worker's role and development.

5. Comparative Insights

Among the various European models offering valuable insights, the French system stands out as the most innovative in its approach to professional training. The relationship between active labour market policies and the right to training has been regulated through the introduction of the *Compte personnel de formation* (CPF) under Law No. 288/2014. This system was further expanded into a tripartite model of "professional accounts" – the *Compte personnel d'activité*, the *Compte professionnel de prévention*, and the *Compte engagement citoyen* – by Law No. 1088/2016. These reforms significantly broadened the pool of beneficiaries eligible for publicly funded vocational training and introduced the portability of accrued training entitlements which had not yet been converted into training hours. This development culminated in Law No. 771/2018, whose title[61] ("Freedom to Choose One's Professional Future") encapsulates its central aim.
Upon closer examination, the French system represents a *right-duty* structure, activated under specific conditions[62]. Central to this is the *devoir d'assurer*

[60] Art. 19, par. 2 of Legislative Decree No. 276/2003, in application of Art. 4, par. 1 of Legislative Decree No. 152/1997, as amended by Art. 4, par. 1, lett. e, of Legislative Decree No. 104/2022, provides for an administrative penalty ranging from €250.00 to €1,500.00 for each worker for whom the employer is non-compliant.
[61] See L. CASANO, *Quadri nazionali delle qualifiche: la situazione italiana alla luce degli sviluppi europei*, in *DRI*, 2015, 3, p. 990 ss.; S. D'AGOSTINO, S. VACCARO, *Nuove tutele per i lavoratori: il diritto soggettivo alla formazione. Francia e Italia a confronto*, cit., p. 127 ss.; C. VALENTI, *The individual right to continuous training of workers: an analysis of best practices in the international framework*, in *LLI*, 2021, 1, p. 72 ss.
[62] The configuration is entirely comparable to what has been argued by Italian scholars, both regarding the obligation of "*repêchage*" (*reclassement*, in French jurisprudence) in the case of dismissal for economic reasons, and – in a broader sense – the duty of professional retraining following the exercise of *jus variandi* (regarding this, see M. BROLLO, *La mobilità interna del lavoratore. Mutamento di mansioni e trasferimento. Art. 2103 c.c.*, in P. SCHLESINGER (dir. by), *Il Codice*

l'adaptation des salariés à l'évolution de leur employ – a "duty of adaptation" – which stems from the interplay between Article L.6321-1 (formerly 230-2) of the *Code du travail* (the French counterpart to Article 2087 of the Italian Civil Code) and the overarching duty of good faith in contract execution[63].

In this sense, the French model does not focus solely on the employer's obligation to create conditions for professional development. Rather, it adopts a model of *shared responsibility* between employer and employee, wherein the employee also bears a duty to maintain and develop their professional competencies[64]. It may thus be argued that what began as "a right intended to support individuals in developing their own professional growth projects" – as initially presented to the social partners – has, over time, shifted towards "an excessive individualisation of responsibility, primarily aimed at making forced mobility more acceptable"[65]. This reflects a broader trend in French labour policy, which places increasing emphasis on the worker's ability to manage their professional identity as a form of occupational vocation[66].

The regulatory framework introduced by Law No. 771/2018 reinforces this orientation. By defining the elements constituting a subjective right to training, it affirms the universal vocation[67] of the right – extending it to all individuals from the legal working age onwards. In practice, this detaches the French CPF from the confines of the individual employment relationship and instead links it to the person of the worker, thereby transforming it into a portable component of their professional portfolio. This is underscored by the operational characteristics of the CPF: the worker is free to determine how to use the allocated training funds, enrol independently in courses without intermediary approval, and act without employer objection (who otherwise risks breaching their *obligation d'employabilité*), regardless of any change in employment status (including unemployment or a change of employer).

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civile. Commentario, Giuffrè, 1997, p. 673 ss.). What stands out, on the other hand, is the configuration of an obligation d'employabilité (employability obligation) on the part of the employer, which materialises in the duty to offer "an orientation interview to all workers every two years during which information is provided on both professional development advice, training rights accumulated, and possibilities for validation and certification of skills" (L. CASANO, *Contributo all'analisi giuridica dei mercati transizionali del lavoro*, cit., p. 117).

[63] See C. ALESSI, *Professionalità e contratto di lavoro*, cit., p. 129 ss. e p. 143.

[64] See S. D'AGOSTINO, S. VACCARO, *Nuove tutele per i lavoratori: il diritto soggettivo alla formazione. Francia e Italia a confronto*, in *PS*, 2020, n. 2, p. 150.

[65] L. CASANO, *Contributo all'analisi giuridica dei mercati transizionali del lavoro*, cit., p. 117.

[66] But the reference might also lead to the reflection of Y. SUWA, *Innovazione tecnologica, diritto del lavoro e protezione sociale: dal «lavoro» alla «carriera» come forma di proprietà*, in *DRI*, 1996, 2, p. 69 ss.

[67] S. D'AGOSTINO, S. VACCARO, *Nuove tutele per i lavoratori: il diritto soggettivo alla formazione. Francia e Italia a confronto*, cit., p. 139.

With regard to the interaction between the training system and the labour market – particularly in relation to the transferability of skills – the establishment of the *Répertoire National des Certifications Professionnelles* (RNCP) by Law No. 73/2002 marked a significant step forward. It aimed to consolidate and simplify the previous framework of sector-based qualification registries managed by bipartite bodies since 1971. France has since become a pioneer in skill certification for the recognition of professional qualifications. These are categorised according to whether prior authorisation is required for their exercise and listed in the *Répertoire spécifique des certifications et des habilitations*. The entire system is coordinated through a public–private governance structure under the *Commission nationale de la certification professionnelle*, comprising representatives from public institutions and social partners. It also recognises skills acquired through informal learning and professional experience.

Finally, in terms of enforceability, the French model contrasts sharply with the Italian approach. The more the right to training is transferred into the individual sphere of the worker – granting them autonomy over its exercise – the less feasible it becomes to conceptualise non-compliance on the part of the employer. From this perspective, and in continuity with the notion of the worker's duty to maintain their skills, French law envisions a "right-duty" of the employee to participate in employer-mandated training within the framework of the *plan de formation de l'entreprise*[68]. This reinforces the contractual dimension of training obligations in France, where the *devoir d'adaptation* is

[68] C. ALESSI, *Professionalità e contratto di lavoro*, cit., p. 161, and further references therein also to the Spanish legal system. However, in the Spanish legal system, professional training underwent a significant revision under Law No. 3/2022. Against the backdrop of a renewed need to manage occupational transitions considering technological innovations (especially those related to digitisation), training has taken on a central role in Spanish labour policies, despite the numerous overlaps – like what occurs in Italy with the ITS educational system – with the right to education. The structure of the "right to training" in Spain is fully in line with the considerations made regarding the Italian legal system, starting with the combination of training and the development of professionalism in line with the freedom to choose one's occupation and personal realization (Articles 9, 10, 27, 35, and 40 of the Spanish Constitution). Therefore, the introduction – with Article 4, paragraph 2, letter b), R.D.L. No. 2/2015 – of the right to "*la promoción y formación professional*" is not surprising, which is then fully expressed in the rights outlined in Article 23 of the same Royal Legislative Decree (for this point, see O. REQUENA MONTES, *Los derechos individuales de formación en el art. 23 del Estatuto de los Trabajadores*, Tirant lo Blanch, Valencia, 2019, p. 46 et seq.). The configuration of this provision is structured based on the identification of instrumental rights (leave, facilities for remote work access, the right to choose work shifts or adjust working hours to facilitate participation in training courses) and substantive rights (notably, the right to training in case of changes in the tasks to be performed). The provision also acts as a transposition of Directive 2019/1152/EU, as it establishes the inclusion of training time within working hours and places the associated costs on the employer.

formulated in a considerably more robust and explicit manner than in Article 2103 of the Italian Civil Code.

6. Concluding Remarks

The attempt to confer upon continuous training the legal status of a subjective right suggests that such a development is not only feasible but increasingly necessary. This is especially true in light of the evolving structure of the labour market, in which ecological and digital transitions are gradually giving rise to new professional roles. These roles, in turn, reflect a redefinition of work itself – not based solely on specific technical competencies, but also on so-called soft skills.

The construction of professional identity thus becomes a personal and individualised process, the protection and promotion of which must be "conceived and cultivated primarily outside the enterprise, anchoring it to the individual rather than exclusively to the employment contract"[69]. In this transformed labour market[70] – where the emphasis has shifted from securing employment to ensuring employability[71] – the recognition and development of the professional skills accumulated throughout one's career[72] enables what has been described as "the indispensable cultural shift needed to definitively transcend the outdated notion of a job position", a concept still embedded in traditional classification and grading systems[73].

It is precisely during periods of occupational transition that training, as a mechanism of professional protection, assumes a central role. In such instances, it becomes a vital instrument for making individuals not merely employed, but *employable*[74]. From this perspective, "training that updates or

[69] M. TIRABOSCHI, *Mercati, regole, valori*, cit., p. 88.

[70] Or, in other terms, "in" the new labour markets: see M. TIRABOSCHI, *Mercati, regole, valori*, cit., p. 177 ss.

[71] The concept is closely tied to the theory of transitional labour markets: it has been argued that "it is time to take a step forward, that is, to move from a perspective of job stability (where workers expect to retain their position indefinitely) to a perspective of employability (where workers, at one or more points in their lives, will seek work elsewhere, supported by the company's investments in training and human resource development activities)" (M. BIAGI, *L'impatto della* european employment strategy *sul ruolo del diritto del lavoro e delle relazioni industriali*, in *RIDL*, 2000, I, pp. 433-434).

[72] See M. BROLLO, *Tecnologie digitali e nuove professionalità*, cit., p. 478.

[73] M. TIRABOSCHI, *Mercati, regole, valori*, cit., p. 88.

[74] Cf. D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 411; M. TIRABOSCHI, *Mercati, regole, valori*, cit., p. 89.

adapts professional skills to evolving market needs may function as both a security incubator for the worker and a productivity driver for the employer"[75].
Nevertheless, despite the evident advantages of continuous training for businesses, employers frequently view the associated costs with scepticism – particularly given the fluid and "open" nature of the labour market, which increases the risk that such investments may not yield returns[76]. In this context, "there is a growing need for a labour market right that accounts for the discontinuities of working life and protects individuals not simply as holders of a specific type of contract, but as citizens of working age"[77].
Only by focusing on the individual – regardless of their contractual or employment status – can a right to training emerge that transcends the limitations imposed by the existence of an employment relationship. This would allow training to function as "a tool for combating social exclusion and promoting equal opportunities within the labour market"[78].
In this formulation, training would become a right designed to "facilitate an informed choice of activity or function contributing to the material or spiritual advancement of society"[79], reaffirming the full freedom of the individual. Such freedom is inseparable from human dignity[80], for "to deny the right to freedom is to deny the person as a human being, and to treat them as a thing"[81].

[75] M. BROLLO, *Tecnologie digitali e nuove professionalità*, cit., p. 478.
[76] On the one hand, seen as "a luxury" (M. BIAGI, *Recessione e mercato del lavoro: la formazione alla flessibilità*, in *DRI*, 1993, p. 261), and on the other hand, as "a period of recreation" (L. TRONTI, *Capitale umano e nuova economia. Riorganizzazione dei sistemi formativi e sviluppo dei mercati delle conoscenze*, in *DLM*, 2003, I, p. 79), training cannot yet be considered an essential part of the employment relationship, especially in a perspective of maintaining and developing the skills necessary to stay in the labour market, at least until retirement age. See M. BROLLO, *Tecnologie digitali e nuove professionalità*, cit., pp. 475-476. Yet, employability can be considered a true social risk, requiring participation from both parties in the employment contract as well as the state (on this, see D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 381 ss.).
[77] C. VALENTI, *La tutela della professionalità nel mercato del lavoro che cambia*, cit., p. 148.
[78] M. ROCCELLA, *Formazione, occupabilità, occupazione nell'Europa comunitaria*, in *DLRI*, 2007, 113, 1, p. 194.
[79] D. GAROFALO, *Formazione e lavoro tra diritto e contratto*, cit., p. 86.
[80] "The concept of professionalism has a dimension related to the dignity of the person working, realised in the employment relationship" (M. BROLLO, *Tecnologie digitali e nuove professionalità*, cit., p. 477).
[81] F. PERGOLESI, *Il diritto del lavoro come diritto personale*, in *Riv. int. sci. soc. e disc. aus.*, 1927, II, 6, p. 88.

Social Sustainability in the CAP 2023–2027

Nicola Deleonardis *

Abstract. This research examines agricultural labour through the lens of the sustainable development model set out in the UN 2030 Agenda. In this context, the Common Agricultural Policy (CAP) 2023–2027 introduced a new element: *social conditionality*, which aims to establish a fairer balance among environmental, economic, and social values. Although the measure carries significant symbolic weight, it also presents several critical issues, particularly in relation to its transposition by the Italian legislator.

Keywords: *Agriculture; Social Conditionality; Social sustainability*.

1. Social Sustainability and Agriculture in the UN 2030 Agenda

Any research aimed at analysing the relationship between agricultural labour and sustainability must begin with the identification of the fundamental pillars underpinning the framework of the sustainable development model, in order to assess its solidity and stability in terms of values and, subsequently, its translation into positive law[1].

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[1] See V. Speziale, *Il "diritto dei valori", la tirannia dei valori economici e il lavoro nella Costituzione e nelle fonti europee*, in *Costituzionalismo.it*, 2019, n. 3, 98, especially 104, where the author highlights how, in the process of "positivisation", the value acquires the typical effects of "juridicity", understood in its prescriptive character as "what ought to be", along with all the entailing legal consequences.

This methodological approach is supported by a substantial body of scientific literature that has already engaged in examining labour law institutions through the lens of sustainable development[2].

With reference to the cornerstone of the sustainable development model – the UN 2030 Agenda – one scholar[3] captures its essence by invoking the metaphor of a 'North Star for the first experiences of high-seas navigation', guiding various stakeholders in the hope that its reference values will be transformed into the *primary* normative foundation for future centuries[4].

Through its 17 Goals, the UN 2030 Agenda affirms not only that, on a scientific level, the need to move beyond an analytical approach based on compartmentalised disciplines has become increasingly recognised, but also that, on a broader level, sustainable development – as the integration of social, economic, and environmental objectives[5] - is unattainable unless the various interlinked and complementary challenges of our time are effectively addressed and resolved.

By way of example, the goal of eradicating poverty (Goal 1) is closely interconnected with that of reducing inequalities (Goal 10), both of which are inextricably linked to the promotion of sustained economic growth and decent work (Goal 8).

At the normative level, Article 11 of the Treaty on the Functioning of the European Union (TFEU) promotes a commitment to *sustainable behaviour*, requiring the European Union to integrate the principle of sustainable development into the formulation and implementation of its policies and activities.

The Union has recognised the urgency of aligning economic policy with environmental and social imperatives, particularly since the adoption of the

[2] One can think, for instance, of the AIDLASS Congress held in Taranto in 2021. See Aa. Vv., *Il diritto del lavoro per una ripresa sostenibile. XX congresso nazionale AIDLaSS, Taranto, 28-30 ottobre 2021*, La Tribuna, 2022. In particular, refer to the paper by M. Marazza, *Il diritto del lavoro per la sostenibilità del valore sociale dell'impresa*, 191, and the presentation by A. Riccardi, *Quale sostenibilità per Taranto*, 451. See also A. Lassandari, *Il lavoro nella crisi ambientale,* in *Lavoro & Diritto*, 2022, n. 1, 7; V. Cagnin, *Diritto del lavoro e sviluppo sostenibile*, Cedam, 2018; A. M. Battisti, *Lavoro sostenibile imperativo per il futuro*, Giappichelli, 2018. Moreover, this is the perspective adopted in the PRIN *Liveable – Labour as a driver of sustainable development* project. See https://prinliveable.uniud.it/.

[3] D. Garofalo, *Diritto del lavoro e sostenibilità*, in *Diritto Lavoro Mercati*, 2021, n. 1, here 37.

[4] E. K. Rakhyun K. Bosselmann, *Operationalizing Sustainable Development: Ecological Integrity as a Grundnorm of International Law*, in *Review of European, Comparative & International Environmental Law*, 2015, vol. 24, n. 2,194.

[5] B. Caruso, R. Del Punta, T. Treu, *Manifesto per un diritto del lavoro sostenibile*, 2020, 15, where the authors note that the close relationship between labour law and the economy must necessarily "take into account" the environmental impacts of our production system.

Green Deal[6] - although, more recently, some Member States have attempted to challenge or suspend its implementation.
Further reflections[7] arise when considering the sustainability of agriculture, where the compass is not only Goal 8 of the UN 2030 Agenda but also Goal 2, which aims to end hunger, achieve food security, improve nutrition, and promote sustainable agriculture. Clearly, the emphasis here is primarily on the latter objective: the promotion of sustainable agriculture. Scholars[8] have observed that this goal encompasses the protection of rural heritage (including landscape and soil fertility) as well as the promotion of quality employment in the agricultural sector.
The link between the agricultural system and decent work becomes particularly evident when considering that increasing agricultural productivity (Target 2.3) and implementing resilient agricultural practices (Target 2.4) also entail the elimination of practices that distort global agricultural markets (Target 2.b) – notably including the exploitation of labour through forms of *modern slavery* (Target 8.7).

2. Social Conditionality in the CAP 2023–2027

Turning to the normative translation of the "sustainable behaviour" outlined in the UN 2030 Agenda in relation to agriculture, it is important to note that Article 39 of the TFEU already lays the groundwork for a sustainable policy framework.
According to this provision, European agricultural policy must increase productivity by fostering technical progress and ensuring the rational development of agricultural production, alongside the more efficient use of production factors – "in particular labour" (point a). It must also guarantee a fair standard of living for the agricultural population, particularly through improvements in individual income for those employed in the sector (point b). These objectives have been taken up and further developed in the Common Agricultural Policy (CAP), reaffirming a long-standing economic principle: that progress and the achievement of economic goals do not automatically ensure improvements in the social conditions of low-wage workers[9]. Progress must be

[6] See https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_it.
[7] See https://tg24.sky.it/economia/approfondimenti/green-deal-ue-cosa-e?card=5.
[8] D. Garofalo, *Diritto del lavoro e sostenibilità,* cit., 57.
[9] E. S. Phelps, *Rewarding Work: How to Restore Participation and Self-Support to Free Enterprise,* Harvard University Press, 2006, 40. More recently, in Italy, about the relationship between economic growth and the reduction of inequalities, see also L. Corazza *Verso un nuovo diritto*

accompanied by a "better use" of labour, ensuring a fair standard of living in all cases.

Article 39 TFEU thus serves as the legal foundation for EU agricultural policies, particularly as shaped by the Farm to Fork Strategy[10], a key component of the European Green Deal, which has emphasised the core pillars of sustainable agriculture.

The Farm to Fork Strategy embodies the polysemic nature of sustainability, wherein environmental, social, and economic objectives converge towards establishing a food system that equitably distributes the wealth – both natural and economic – generated by the agricultural sector. This includes fair distribution among agricultural workers and the safeguarding of the rural environment[11].

In this context, the CAP 2023–2027 operates through Regulation (EU) 2021/2115, along with its accompanying Regulation (EU) 2021/2116 on sanctions. These regulations introduce a new layer to the pre-existing environmental, food, and agronomic conditionalities (Article 12) by adding a "social conditionality" mechanism[12]. This seeks to remove labour conditions from pure market dynamics, positioning the cost of labour as an "independent variable"[13].

Article 14(1) of Regulation 2021/2115 obliges Member States – unlike previous frameworks[14] - to include, within their national CAP strategic plans,

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internazionale del lavoro, in *Giornale di diritto del lavoro e delle relazioni industriali*, 2019, vol. 163, n. 3, 487, especially 491.

[10] As outlined in the Strategy: "the COVID-19 pandemic has also made us aware of the importance of critical staff, such as agri-food workers. This is why it will be particularly important to mitigate the socio-economic consequences impacting the food chain and ensure that the key principles enshrined in the European Pillar of Social Rights are respected, especially when it comes to precarious, seasonal and undeclared workers. The considerations of workers' social protection, working and housing conditions as well as protection of health and safety will play a major role in building fair, strong and sustainable food systems".

[11] I. Canfora, V. Leccese, *La condizionalità sociale nella nuova PAC (nel quadro dello sviluppo sostenibile dell'agricoltura),* in *WP CSDLE "Massimo D'Antona".IT – 460/2022*, 1.

[12] Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 Reference may be made to N. Deleonardis, *Lavoro in agricoltura e sostenibilità alla luce dei recenti indirizzi della Politica Agricola Comune 2023-2027,* in *Il diritto dell'agricoltura*, 2023, n. 3, 315; N. Deleonardis, *Salute e sicurezza dei lavoratori agricoli e posizione di garanzia del datore di lavoro nel meccanismo di condizionalità sociale*, in *Il diritto della sicurezza sul lavoro,* 2024, n. 1, 97.

[13] I. Canfora-S. Leccese, *La condizionalità sociale,* cit., 10.

[14] The CAP reform regulation No. 2017/2393 only provided Member States with the opportunity to exclude farmers not registered in national tax or social security registers from

administrative penalties for farmers and other CAP beneficiaries who breach labour and employment standards or fail to comply with employer obligations outlined in Annex IV, which is attached to the regulation.

Paragraph 2 further mandates that Member States consult social partners in designing their strategic plans, while fully respecting their autonomy and their right to negotiate and conclude collective agreements. This appears to refer to the potential use of *erga omnes* collective bargaining to implement labour protections—an approach not currently guaranteed under Italian law[15].

The administrative sanctioning system does not affect the rights and responsibilities of social partners where they are responsible for implementing the relevant legal acts listed in Annex IV, in accordance with national legal frameworks and collective bargaining provisions (Paragraph 3).

Focusing specifically on social conditionality, Annex IV is divided into two thematic areas: "employment" and "health and safety". These refer to the Directive on transparent and predictable working conditions (Directive 2019/1152/EU) and two key health and safety directives: Directive 89/391/EEC and Directive 2009/104/EC.

The symbolic value of the social conditionality mechanism is widely acknowledged[16]. However, as has already been observed, the exclusion of collective bargaining from the legal acts listed in Annex IV significantly weakens the protective scope for agricultural workers – especially when compared to the amended proposal adopted by the European Parliament[17]. The absence of an explicit reference to trade union instruments effectively

eligibility for direct payments (see recital No. 28). On this point, as well as in relation to other attempts by the European Commission, see I. Canfora, *La filiera agroalimentare tra politiche europee e disciplina dei rapporti contrattuali: i riflessi sul lavoro in agricoltura*, in *Giornale di diritto del lavoro e delle relazioni industriali*, 2018, vol. 158, n. 2, 261.

[15] I. Canfora, V. Leccese, *La condizionalità sociale*, cit., 17-19.

[16] *Ibidem*; F. De Michiel, *Prevenzione e contrasto dello sfruttamento lavorativo e del caporalato in agricoltura*, in *Lavoro Diritti Europa* 2023, n. 3, 16.

[17] On 23 October 2020, the European Parliament approved amendments to the proposal for a Regulation of the European Parliament and of the Council laying down rules on support for the strategic plans that Member States must draw up under the Common Agricultural Policy (CAP), funded by the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD), and repealing Regulation (EU) No. 1305/2013 and Regulation (EU) No. 1307/2013 of the European Parliament and of the Council; by way of example, Amendment Proposal No. 732 of Article 11-bis, now Article 14 of the final text, establishes the "Principle and scope of social conditionality" whereby the Parliament stated that "Member States shall include in their CAP strategic plan a system of conditionality, under which an administrative sanction is applied to beneficiaries receiving direct payments […] if they fail to comply with the applicable labour and employment conditions and/or the employer's obligations under all relevant collective agreements and social and labour legislation at the national, European Union and international levels".

sidelines provisions found in collective agreements, limiting sanctionable conduct to employer violations of mandatory legal norms transposing EU acts (as detailed below)[18].

More specifically, in the area of employment conditions, Annex IV reflects the principle that "knowledge is power"[19], referencing Directive 2019/1152/EU[20]. From a sustainability perspective—understood as an integrated model of social, economic, and environmental goals—the inclusion of provisions relating to labour transparency should be seen not only as a step towards improving agricultural workers' conditions but also as a means to increase employers' awareness of labour costs. This transparency can help reduce buyer power, which remains deeply entrenched in agri-food supply chains, and thereby contribute to fair competition across the EU and ensure the proper functioning of agri-food markets[21]. Two aspects of the provisions listed in Annex IV warrant specific attention.

Article 4 of Directive 2019/1152 imposes an obligation on employers to "inform workers of the essential aspects of the employment relationship" (paragraph 1), which are itemised in paragraph 2. These constitute the minimum requirements for ensuring that the terms of employment are properly defined and protected[22]. However, in Annex IV of Regulation 2021/2115, the obligation is framed less as the duty to disclose contractual terms and more as an expectation that "employment in the agricultural sector

[18] See also A. Marcianò, *Agricoltura e dinamiche sindacali nel diritto del lavoro della transizione ecologica*, in *Diritto delle relazioni industriali*, 2022, n. 3, 713, here 714; I. Canfora, V. Leccese, *La condizionalità sociale,* cit.

[19] A. Zilli, *La trasparenza nel lavoro subordinato. Principi e tecniche di tutela*, Pacini giuridica, 2022, 112.

[20] See Articles 3-6, 8, 10, and 13, related to employment conditions. For an analysis of Directive No. 2019/1152 and its transposition into Italian law by Legislative Decree No. 104 of June 22, 2002, see, D. Garofalo, M. Tiraboschi, V. Filì, A. Trojsi (a cura di), *Trasparenza e attività di cura nei contratti di lavoro. Commentario ai decreti legislativi n. 104 e n. 105 del 2022*, Adapt University Press, 2022; G. Proia, Trasparenza, prevedibilità e poteri dell'impresa, in *Labor*, 2022, 6, 641 ss.; A. Tursi*, Decreto trasparenza: prime riflessioni,* in *Diritto delle relazioni industriali*., 2023, 1, 1.

[21] On the need for "transparent" agri-food supply chains, see also I. Canfora, *La filiera agroalimentare*, cit. In the same vein, see also the "Three-Year Plan to Combat Labour Exploitation and Illegal Hiring 2020-22" p. 16, which lists among the "main challenges to improve the functioning of the supply chain […] the prevention of unfair market practices; the fight against value leakage along the supply chain; transparency in the agricultural labour market and simplification of administrative procedures; the promotion of mechanisms such as joint responsibility, traceability, and product certification; and forms of producer aggregation, including cooperatives".

[22] See L. Mannarelli, G. Piglialarmi, C. E. Schiavone, in D. Garofalo, M. Tiraboschi, V. Filì, A. Trojsi (a cura di), *Trasparenza,* cit., 154; G. Proia, *Trasparenza*, cit., 643-644.

shall be subject to a labour contract". It is clear that this does not negate the employer's obligation to communicate the essential elements – such duties are implicit in the formalisation of the contract itself[23]. This wording reflects the view that the unsustainable nature of agricultural labour stems primarily from the widespread absence of formal employment contracts. The need, therefore, is to reinforce transparency requirements surrounding legally valid (often fixed-term) employment relationships – particularly relevant in the Italian context[24]. Accordingly, Annex IV addresses both the transparency of contract terms and the transparency of the employment relationship itself, emphasising the formal (written) contract as a baseline requirement.

The inclusion of Article 13 of Directive 2019/1152 in Annex IV raises further points of analysis. This article obliges Member States to reduce CAP funding where employers fail to provide mandatory training[25]. This reflects an attempt to align labour regulation with the evolving demands of multifunctional agriculture[26], as well as to meet the sector's economic and productive challenges—rising costs, evolving distribution models, and technological innovation. In this way, the provision reinforces the objectives of Article 39 TFEU: promoting business competitiveness in a sustainable way, which necessarily includes a "better use" of labour through adequate training and the rational adoption of technology[27].

As noted earlier, Annex IV also references health and safety measures, specifically Directive 89/391/EEC on the general framework for worker protection and Directive 2009/104/EC on minimum safety requirements for the use of work equipment. These are especially relevant in a sector that is subject to natural cycles and climatic conditions, which not only affect the performance of labour obligations but also pose risks to worker health[28].

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[23] This must be provided in written mode. See Article 3 of Directive No. 2019/1152, as referenced in Annex IV of the Regulation 2021/2115.

[24] See C. Faleri, *Il lavoro agricolo. Modelli e strumenti di regolazione*, Giappichelli, 2020, 35.

[25] For an analysis of Article 13, as transposed into the Italian legal system by Article 11 of Legislative Decree No. 104 of 2022, see F. Stamerra, *La formazione obbligatoria ai sensi dell'art. 11 del d.lgs. n. 104/2022*, in D. Garofalo, M. Tiraboschi, V. Filì, A. Trojsi (a cura di), *Trasparenza,* cit., 341.

[26] According to C. Faleri, *Il lavoro agricolo*, cited, p. 2, to be considered multifunctional, "the sole production of primary goods is not recognised as the only function of agriculture"; rather, "to be regarded as a strategic sector to be modernised and made competitive, it must address the new challenges arising from climate change, food security, biodiversity, and the protection of natural resources". See also A. Frascarelli, L'evoluzione della Pac e le imprese agricole: sessant'anni di adattamento, in *Agriregionieuropa*, 2017, n. 50, 1.

[27] C. Faleri, *L'innovazione tecnologica nel settore agricolo tra vecchie criticità e nuove opportunità*, in Labor, 2019, n. 2, here 147.

[28] See N. Deleonardis, *Salute e sicurezza dei lavoratori agricoli*, cit., especially § 2.

Although similar health and safety measures were proposed in earlier iterations of the CAP, they were not enshrined in binding legislation[29]. In contrast, Article 14 of the current regulation incorporates these aspects, thereby acknowledging the link between agricultural work and exposure to unsafe or unhealthy conditions.

Nonetheless, the scope remains limited. The directives cited address working conditions but do not refer to decent housing, an urgent issue for seasonal agricultural workers[30]. This omission is significant, as many seasonal workers live in precarious and degrading conditions. An explicit reference to housing would have aligned more closely with recent EU policy trends, which recognise the strong correlation between indecent working conditions and substandard accommodation[31].

3. The Sanctioning System in Regulation 2021/2116

Under Article 14 of Regulation No. 2021/2115, the administrative sanction must be "effective and proportionate". while complying with the relevant provisions set out in Title IV, Chapter V of Regulation No. 2021/2116/EU (paragraph 3), "in the version that is applicable, and as implemented by the Member States" (paragraph 4). A key aspect for analysis concerns the deterrent effect of such sanctions. Article 14 provides for the imposition of a proportional and effective fine, as specified in Title IV, Chapter V of Regulation No. 2021/2116, which governs the financing, management, and monitoring of the Common Agricultural Policy (see Articles 87–89)[32].

According to Article 89 of Regulation No. 2021/2016, for the specific calculation of sanctions, Member States must apply, mutatis mutandis, the provisions of Article 85, paragraphs 2, 5, and 6, which regulate sanctions in cases of violations of the conditionality under Article 12, paragraph 1, of Regulation No. 2021/2115. Article 85 explicitly provides for a reduction of 3% of the total payments if non-compliance does not have serious consequences

[29] J. Hunt, *Making the CAP Fit: responding to the Exploitation of Migrant Agricultural Workers in the EU*, in *International Journal of Comparative Labour Law and Industrial Relations*, 2014, vol. 30, n. 2, 146 ss.

[30] See the study of M. Giovannetti, S. Miscioscia, A. Somai, *Le condizioni abitative dei migranti che lavorano nel settore agro-alimentare. Prima indagine nazionale*, 2022, www.integrazionemigranti.gov.it.

[31] See the EU Strategic Framework on Health and Safety at Work 2021-2027, which notes that "mobile and cross-border workers, including seasonal workers from the EU and third countries, may be more exposed to unhealthy or unsafe living and working conditions, such as inadequate or overcrowded accommodation or a lack of information about their rights".

[32] See Regulation 2021/2116/UE of the European Parliament and of the Council of of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013.

for achieving the norm's objective (paragraph 2), which may be increased if such consequences are deemed serious or constitute a direct risk to public or animal health (paragraph 5). Conversely, if non-compliance persists or recurs within three consecutive calendar years, the reduction increases to 10% of the funding. Further repetitions of the same non-compliance, without valid justification, are regarded as cases of "intentional non-compliance" resulting in a reduction of up to 15% of the total payments (paragraph 6). Member States may exempt sanctions if the amount is less than €100, while sanctions are excluded where violations are due to force majeure or result from a public authority order[33].

In conclusion, the European legislator entrusts Member States with the adjustment of regulatory obligations while establishing minimum and maximum sanction limits. The deterrent capacity of this provision will be further examined in the following section, where the Union's framework will be compared with the version enacted by the national legislator. It is important to note that this sanctioning tool is already familiar to the Italian legal system, having been reflected notably in the National Recovery and Resilience Plan (PNRR). Within the objectives of Mission 2 (Green Revolution and Ecological Transition), Component 1 (Sustainable Agriculture and Circular Economy), and in line with the Farm to Fork strategy, the Plan aims to achieve a sustainable agri-food chain, addressing both environmental and social dimensions. To support the modernisation of agricultural production structures, Ministerial Decree No. 22 of December 2021 provides for the revocation of economic aid – granted as capital contributions or loans[34] - if the "obligations established by labour legislation, social security and assistance law, or national collective labour agreements are not respected for employees" (Article 15, paragraph 3, letter a)[35].

Undoubtedly, the Italian and European measures are not perfectly equivalent: the PNRR targets national modernisation, specifically within the agricultural sector under Mission 2; the CAP pursues similar objectives but within a broader context, balancing economic interests with the general aims outlined in Article 39 TFEU. This nuance is significant. In a competitive agricultural market such as Europe's—where enterprises are increasingly "far from the model of small and/or family-run businesses" [36] – it would have been bold to introduce a sanctioning system with a strong impact on the sector, particularly

[33] See Article 88, paragraph 2, letter a) e b), Regulation no. 2021/2116.
[34] Analytically described in Annex A of Ministerial Decree of December 12, 2022.
[35] About this point, see also A. Marcianò; *Agricoltura e dinamiche sindacali*, cit.; I. Canfora, V. Leccese, *La condizionalità sociale*, cit.
[36] I. Canfora, *La filiera agroalimentare tra politiche europee*, cit.

regarding minimum sanctions when non-compliance does not result in "serious consequences" for workers.
While it is essential, from the perspective of sustainable development, to elevate social objectives beyond their previous subordination to economic and environmental aims, a difference remains compared with the agricultural development programme outlined in the PNRR. This difference concerns not only the deterrent effect of the two measures but also the scope of applicable legal sources, with the 2021 Ministerial Decree extending to labour relations governed by national collective bargaining.

4. The Transposition of the Regulation into the Italian Legal System

At first glance, the Italian Strategic Plan for the implementation of the CAP appears to align with the Commission's guidelines and Regulations Nos. 2021/2115 and 2021/2116. It emphasises that the sanctioning system for social conditionality will be implemented "in accordance with the provisions of Article 88 of Regulation (EU) 2021/2116 and will take into account the principles established in Article 85 of the same regulation". The system will be based on violations of labour law and workplace safety directives, adjusting the reduction of payments "based on the severity of the violated regulations, considering the specific articles of the individual directives involved; the duration or repetition of the infraction; the intentionality of the violation; and the principle of compliance"[37]. Social conditionality was introduced in Italy from 1 January 2023[38] and subsequently operationalised through Chapter II, Articles 2 and 3, of Legislative Decree No. 42 of 2023, as amended by Articles 3 and 4 of Legislative Decree No. 188 of 2023, which outlines the sanctions[39].

[37] See the CAP Strategic Plan (PSP) 2023-2027 for Italy, December 2022. In particular, the position of the legislator is derived from the 2021 Report on the CAP Strategic Plan of November 16, 2022, p. 3600. You can view it at https://www.reterurale.it/PAC_2023_27/PianoStrategicoNazionale.
[38] See the Ministerial Decree of November 11, 2022. It is noted that the payment system was regulated by Ministerial Decree No. 660087 of December 23, 2022, National Provisions for the Application of Regulation (EU) 2021/2115 of the European Parliament and of the Council of December 2, 2021, concerning direct payments, later amended by Ministerial Decree No. 185145 of March 30, 2023.
[39] About Legislative Decree No. 42 of 2023, N. Deleonardis, *Salute e sicurezza*, cit.; N. Deleonardis, *Lavoro in agricoltura*, cit.; M. D'Onghia, C. Faleri, *Regole e tecniche di tutela del lavoro agricolo tra vecchi «vizi» e nuove «virtù»*, in *Rivista giuridica del lavoro,* I, 2024, n. 2., 194-195; F. De Michiel; *Prevenzione e contrasto,* cit.; C. Valenti, *Riflessioni in tema di sostenibilità sociale nel diritto del lavoro tra tecniche di tutela e prove di regulatory compliance*, in *Diritti Lavori Mercati*, 2024, n. 3, 469. From a comparative perspective, see C. Valenti, *La régulation du travail agricole par la conditionnalité sociale en France et en Italie*, in *Revue de droit comparé du travail et de la sécurité sociale*, 2025, n. 1, 152.

The corrective decree, Legislative Decree No. 188 of 2023, introduced significant amendments. Initially, Article 2, paragraph 2, excluded the number of workers involved from the parameters for calculating penalties; however, this provision was repealed by the corrective decree[40], which introduced a new paragraph 1-bis. This new paragraph stipulates the suspension of economic aid if the beneficiary's enterprise has been subjected to preventive seizure as part of a procedure concerning offences under Article 603-bis of the Penal Code, until such precautionary measure is revoked—unless the judge orders judicial control or appoints a judicial administrator to ensure the continuity of the business. Paragraph 1-bis should be read in conjunction with Article 603-ter of the Penal Code, which mandates exclusion from benefits, funding, contributions, or subsidies from the State, other public bodies, or the European Union for two years within the sector of activity where the exploitation occurred. It should also be read alongside Article 3 of Law No. 199 of 2016, which extends judicial control and administration specifically in cases of labour exploitation.

This provision appears inconsistent with Article 603-ter of the Penal Code, which does not provide exceptions to the exclusion from credit benefits. Thus, the legislator's priority seems to lie more in safeguarding business continuity than in reinforcing the deterrent effect of the rule, given that a company may continue to receive CAP funds as long as it is under judicial oversight or temporarily divested of its powers.

Regarding social conditionality's sanctioning system, the reduction of economic benefits, after the amendments introduced by the corrective decree, is set at 3%, 5%, or 10% of payment amounts, increasing to 20% in cases of repeated conduct and 30% where intentionality is proven. Initially, the national legislator applied regulatory percentages for funding reductions, except for the minimum reduction of 1% provided under Article 3, paragraph 2, of Legislative Decree No. 42 of 2023, which is lower than the minimum penalty of 3% prescribed in Article 85, paragraph 2, of Regulation No. 2021/2116. The new amendment, however, enhances deterrence, although a further ministerial decree appears necessary for coordination[41]. The reduction is at least 10% if

[40] Contrary to what was advocated by EFFAT, which called for a gradual increase in the reduction depending on the number of workers involved. See EFFAT, *Position on sanctions to be applied in the context of CAP Social Conditionality*, November 22, 2022. Available at effatt.org.

[41] Pursuant to Article 2 of Ministerial Decree No. 337220 of 28 June 2023, the percentage reduction of CAP funding is determined by a calculation based on the cumulative score of infringements identified and listed in the Annex, with each violation assigned a specific value according to its severity. Where the total score falls between 1 and 3, the funding reduction is set at 1%; if between 4 and 18, the reduction rises to 3%; and if between 19 and 111, it increases to 5%. As previously noted, following the amendments introduced by corrective

more than eight workers are implicated, thus reinforcing the causal link between mass recruitment and labour exploitation, consistent with European Union directives.

Concerns arise regarding a provision (Article 3, paragraph 5) that allows for a reduction of the sanction – ranging from 25% up to 100%, depending on the initial reduction – if the employer rectifies the violation within a timeframe prescribed by the competent authorities following notification. While Article 87, paragraph 1, of Regulation No. 2021/2116 requires Member States to use applicable enforcement systems to ensure compliance with obligations outlined in Annex IV of Regulation No. 2021/2115, doubts emerge about the consistency of the Italian transposition with the European conditionality mechanism. The Italian provision diverges from Regulation No. 2021/2116, which permits non-application of sanctions only in cases of force majeure or orders from public authorities (Article 88, paragraph 2, letter b), omitting provisions on sanction reductions.

Further reflection is warranted. Unlike doctrinal proposals advocating legislative support for regularisation before violations are detected[42], or exceptional measures introduced during the Covid-19 pandemic encouraging spontaneous disclosure of undeclared work[43], this provision expedites compliance following an established violation. The legislator seems to have modelled this on the mandatory warning system under Article 13 of Legislative Decree No. 124 of 23 April 2004[44], introducing a partial or total "discount" on sanctions if the beneficiary complies within the prescribed period[45]. The resemblance between these systems lies in the intent to promote the emergence and transparency of irregular labour, encouraging voluntary compliance rather than a purely punitive approach.

Decree No. 188/2023, the minimum reduction percentage has been raised to 3%, subsequently increasing to 5% and 10%, while in cases of persistent or intentional non-compliance, reductions are set at 20% and 30%, respectively. Consequently, an additional decree appears necessary to harmonise the deduction mechanism.

[42] V. Pinto, *Rapporti lavorativi e legalità in agricoltura. Analisi e proposte, in Giornale di diritto del lavoro e delle relazioni industriali*, 2019, n.1, 31.

[43] The reference is to Article 103 of Decree-Law No. 34 of May 29, 2020, designed by the legislator primarily "to meet the unmet demand for labor in two sectors characterised by high rates of irregularity (agriculture and domestic work)". V. D. Garofalo, Lo sfruttamento del lavoro tra prevenzione e repressione nella prospettiva dello sviluppo sostenibile, in Argomenti di diritto del lavoro, 2020, n. 6, here 1332.

[44] For an analysis see L. Nogler, C. Zoli (a cura di), *Commentario sulla razionalizzazione delle funzioni ispettive,* in *Nuove leggi civili commentate*, 2005, n. 4, 972.

[45] V. Ferrante, *Economia "informale" e politiche del lavoro: un nuovo inizio*?, in *WP CSDLE "Massimo D'Antona".IT – 337/2017*, 5 and 28.

However, a crucial distinction is that the mandatory warning system does not involve financial benefits, unlike the CAP framework. Both mechanisms aim to advance decent working conditions through formalised labour relations, but the provision here risks undermining the measure's sanctioning power by effectively rewarding private employers with European funding. Furthermore, under the mandatory warning system, sanctions may be reduced to the minimum legal amount or to a quarter of the established sanction (Article 13, paragraph 3, Legislative Decree No. 124/2004), whereas under social conditionality, the reduction can reach 100%.

The question remains whether the Italian measure will effectively encourage the formalisation of irregular work, given that sanctions may be fully waived if violations are remedied promptly, potentially weakening the mechanism introduced by the European legislator. When considering measures to combat irregular employment, the reduction of CAP structural funds could bolster the deterrent effect. It is important to note that such reductions would be in addition to fines under Legislative Decrees Nos. 104 of 2022 and 81 of 2008, as well as penalties applicable to irregular work (the so-called "maxi fine" under Article 3, paragraph 3 et seq., of Decree-Law No. 12 of 22 February 2002) or labour exploitation (regulated by Law No. 199 of 2016).

Ultimately, CAP beneficiaries may conduct a cost-benefit analysis, opting to violate the legal provisions in Annex IV of Regulation 2021/2115 and subsequently comply once detected, thereby potentially benefiting from a reduction – up to 100% - in sanctions.

5. Concluding Remarks

In conclusion, it is pertinent to consider whether the social conditionality mechanism aligns with a model of sustainable development. Sustainability may be understood as a growth paradigm that permeates all aspects of human existence, fundamentally characterised by the pursuit of balance between environmental, social, and economic objectives[46]. The conditional granting of CAP funds thus represents an instrument aimed at achieving the objectives set forth in Article 39 of the TFEU. However, at a more practical level, while the mechanism holds significant symbolic value, it requires further development, not only regarding the deterrent efficacy of sanctions but also concerning the

[46] The mere balancing of economic and environmental needs cannot be regarded as truly sustainable. For example, the Lombard agricultural company StraBerry, which was honoured with the "Oscar Green" award by Coldiretti for its commitment to environmental sustainability, was nevertheless found guilty of labour exploitation under Article 603-bis of the Italian Penal Code. See S. Battistelli, *Cittadinanze e sfruttamento nel caso di un'azienda agricola "innovativa",* in Lavoro & diritto, 2021, n. 2, 321.

applicable reference sources, including collective bargaining agreements. On this latter point, it has been noted that the European Parliament's amended proposal initially incorporated provisions derived from contractual sources but later removed such references to avoid undermining competition among European agricultural enterprises, given the varying protective regimes across Member States[47]. Yet, this approach would be familiar within the Italian legal system; for instance, Article 36 of Law No. 300 of 20 May 1970 (the Workers' Statute) mandates that public benefits, including contracts and concessions, include clauses obliging beneficiaries to apply conditions no less favourable than those stipulated in relevant collective labour agreements[48], with provisions for revocation of benefits and potential exclusion from public contracts in cases of serious or repeated violations. Similarly, eligibility for financial and credit benefits from the state is contingent upon possession of the Single Certification of Compliance and adherence to collective agreements signed by representative trade unions (Article 1, paragraph 1175, Law No. 296 of 27 December 2006). Extending Annex IV to encompass provisions from collective bargaining would therefore broaden the scope of social conditionality clauses, fostering a more integrated and mutually reinforcing system between external regulatory sources and collective agreements. The European measure, however, offers only partial coverage relative to the protections established for agricultural workers—for example, in the context of migrant worker rights or working time regulations[49]. This legislative choice is reflected in the transposition of social conditionality into national strategic plans, such as Italy's, where the measure appears insufficiently effective, especially when supplemented by provisions that introduce potential "loopholes" for non-compliance (see Article 3, paragraph 5, Legislative Decree No. 42 of 2023). It is true that CAP funds constitute a vital source of income for agricultural operators and support the EU's agricultural and food supply;

[47] I. Canfora-V. Leccese, *La condizionalità sociale*, cit., 20. In this regard, it is worth recalling the observations of Gragnoli, who, while discussing a distinct issue concerning the so-called "social clauses" in subcontracting within a multi-tiered system, argues that "the crucial point is the realization of economic freedoms in the absence of complete harmonisation of national laws at the European level. It is no coincidence that a market aspiring to genuine competition cannot function effectively if labour is subject to excessively divergent regulations across the regions in which it operates". See E. Gragnoli, Il contratto nazionale nel lavoro privato italiano, Giappichelli, 2021, 268.

[48] I. Alvino, *Clausole sociali, appalti e disgregazione della contrattazione collettiva nel 50° anniversario dello Statuto dei lavoratori,* in *Lavoro Diritti Europa*, 2020, n. 2; E. Gragnoli, *Il contratto nazionale nel lavoro privato italiano*, cit., 238.

[49] In this sense, see also F. De Michiel, *op. cit.*, 16.

thus, wholly denying access to funds for violators[50] might have risked increasing production costs and, consequently, food prices, disproportionately affecting economically vulnerable populations and generating unintended consequences. Nonetheless, a more robust sanctioning regime—most critically, one without discretionary reductions—would better address the distortions that undermine the agricultural sector. Ultimately, the prevailing approach reflects the intent of both European and national legislators to preserve established economic and production systems, prioritising fair competition within the European market and the effective functioning of agri-food and agro-industrial sectors, with the guarantee of decent work remaining a secondary consideration.

[50] C. Inversi, *Un lavoro di qualità per filiere agricole sostenibili: strumenti contrattuali e di autoregolazione*, in O. Bonardi, L. Calafà, S. Elsen, R. Salomone (a cura di), *Lavoro sfruttato e caporalato: una road map per la prevenzione*, Il Mulino, 2023, here 212-213.

The *Replacement Risk* of Artificial Intelligence in Civil Service Employment: A Reflection on Concrete Risks and Opportunities for Well-being

Massimino Crisci *

Abstract. *The impact of Artificial Intelligence (AI) on employment in public administration calls for a careful assessment of the actual risk of large-scale replacement of civil servants by machines. However, the immediate negative effect may not lie primarily in job losses, but rather in the emergence of "techno-stress" resulting from perceived competition with AI systems. The crucial challenge, therefore, is to harness the potential of AI to develop a model of "augmented work", in which algorithms perform repetitive tasks, thereby enabling employees to focus on more complex, strategic activities that carry greater responsibility. Achieving this vision will require a profound reorganisation of work structures and recruitment processes, moving beyond traditional hierarchical control towards a culture founded on trust, results-based accountability, and agile working practices.*

Keywords: *Artificial Intelligence; civil service employment; replacement risk; techno-stress; augmented work; work process reorganisation.*

1. Introduction: Research Objectives

The term *Artificial Intelligence* (AI) has long evoked an ambivalent response. On one hand, it conjures the image of boundless processing power – precise, instantaneous, impartial, and thus, ostensibly, "just". On the other hand, it provokes anxiety and unease – sensations frequently amplified by popular

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media[1] - around the prospect of machines[2] rendering human labour redundant[3].
This latter concern, following an initial wave of enthusiasm about AI's potential, has become particularly pronounced in the domain of employment. There is growing apprehension that many existing occupations may soon become obsolete[4]. In other words, it may no longer be productive to assign certain tasks to humans when machines could perform them more efficiently and effectively.
Public administration is by no means immune to this tension. The introduction of AI into governmental operations has sparked a discourse around the possibility of algorithms supplanting the current civil service workforce. Yet one must ask: is this fear justified? Or is it merely the result of a limited or distorted understanding of the actual implications AI may have – based on current technological capabilities – for the activities carried out by public officials?
This study does not purport to offer definitive conclusions – indeed, it fully acknowledges the risk that its findings may become outdated before they are even published[5]. Nonetheless, it aims to provide a reasoned reflection on the likely impact of AI on public sector employment. Specifically, it seeks to evaluate the plausibility of the so-called "replacement risk" and to consider the countervailing possibility of an improvement in job quality for public employees, in line with the concept of *augmented work*.

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[1] The clear reference is to the production of science-fiction films based on the idea of the prevalence of the 'intelligent machine' over man. One thinks of the entire 'Terminator' saga, where the machine, having become sentient and, above all, socially structured, carries out a systematic extermination of the human race; or of the much more philosophical '2001 A Space Odyssey', where the computer HAL 9000 eliminates astronauts in order not to be deactivated, manifesting a survival instinct that, if considered 'normal' in man, becomes an anomaly in the machine. Or the Matrix saga, in which machines have created a social system that exploits humans as 'food' for its biochemical components. Also of interest are 'The Two-Hundred-Year-Old Man' and 'A.I.', which address, albeit in a romantic key, the theme of the human subjectivity of the machine.
[2] The concept of 'machine' is used in a deliberately generic way, in order to refer to all manifestations of artificial intelligence, from simple computing programmes to anthropomorphic systems capable of moving in the surrounding space.
[3] Stephen Hawking has even expressed his fear that the advent of AI could spell the end of humanity. S HAWKING, *AI could spell end of the human race*, http://www.youtube.com/watch?v=fFLVyWBDTfo; for A. SANTOSUOSSO, these are 'trascendent fears', in Intelligenza artificiale e diritto, perchè le tecnologie di IA sono una grande opportunità per il diritto, Milan, 2020, 14.
[4] J. KAPLAN, *Intelligenza artificiale – Guida al prossimo future*, Rome, 2018, 123.
[5] W. WALLACH, G. MARCHANT, *Toward the Agile and Comprehensive International Governance of AI and Robotics*, in *Proceedings of the IEEE*, vol. 107, no. 3, 2018, cited by A. SANTOSUOSSO, *op. cit.*, XIII.

To proceed, it is necessary to draw a fundamental distinction—based on potential impact—between what properly constitutes Artificial Intelligence and what, although often described as such, should not be classified under this label in the context of civil service functions. Only once this conceptual distinction has been established can we meaningfully assess whether there exists a present threat of civil servant displacement, or whether AI—though likely to significantly transform the structure of public administration—may instead usher in a new era of occupational well-being within the sector.
Will the drive for technological efficiency ultimately overwhelm the human worker, revealing our inadequacies in comparison to machines? Or will a synergistic model emerge in which artificial and human intelligences complement one another, each realising their unique potential?

2. What is Artificial Intelligence?

It is important at the outset to recognise that the label *Artificial Intelligence* is frequently applied to phenomena that, strictly speaking, do not fall within its proper scope. Misattributions of this kind are common and contribute to public and institutional confusion about what AI truly entails.
Historically, the term *Artificial Intelligence* did not emerge from a mature scientific trajectory that defined its parameters and then formulated a corresponding term. Rather, it was the coining of the phrase itself that catalysed the development of a new field at the frontier of computational science.
The term was first introduced at the Dartmouth Conference in 1956, where John McCarthy, Marvin Minsky, Claude Shannon, and Nathaniel Rochester[6] proposed the organisation of a research project to explore the possibility of building machines capable of replicating human intelligence – beginning with natural language processing. While the conference itself did not produce immediate scientific breakthroughs, it played a decisive role in establishing AI as a distinct interdisciplinary field, situated between computer science and mathematics[7], and more recently extending into philosophy and statistics.
It is worth noting, however, that even before this formal inception, discussions

[6] J. MC CARTHY, M. MINSK, C. SHANNON, N. ROCHESTER, *A Proposal for the Dartmouth Summer Research Project on Artificial Intelligence*, 1955: "*...that every aspect of learning or any other feature of intelligence can in principle be so precisely described that a machine can be made to simulate it. An attempt will be made to find how to make machines use language, form abstractions and concepts, solve kinds of problems now reserved for humans, and improve themselves. We think that a significant advance can be made in one or more of these problems if a carefully selected group of scientists work on it together for a summer*"; J. KAPLAN, *op. cit.*, 24; A. SANTOSUOSSO, *op. cit.*, 4-5.
[7] S.P. NORVIG, *Artificial intelligence. A modern approach*, in F. AMIGONI (ed.), Prentice Hall, 2010, 24.

around machines capable of self-learning—through symbolic language and the modification of their own instructions—can be traced back as early as 1936[8]. These early systems were not yet referred to as *intelligent*, but they laid the conceptual groundwork for what would later be recognised as AI.

This somewhat unconventional origin has led to a lack of consensus on a universally accepted definition of Artificial Intelligence. The nature and scope of AI tend to shift depending on the disciplinary lens through which it is examined. In response to this ambiguity, a somewhat ironic attempt was made to define AI by querying AI itself[9]. Unsurprisingly, the effort did not yield a definitive result.

As a consequence, multiple definitions of Artificial Intelligence[10] now coexist: mathematical, philosophical, and – only recently – legal. A significant milestone in this regard is the adoption of Regulation (EU) 2024/1689, which introduces a general legal definition applicable across the European Union[11]. According to Article 3 of the AI Act: 'AI system' means a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit

[8] Elvesier Report, *Artificial Intelligence: How knowledge is created, transferred, and used. Trends in China, Europe, and the United States,* in https://p.widencdn.net/jj2lej/ACAD-RL-AS-RE- ai-report-WEB.

[9] Elvesier Report, *Artificial Intelligence: How knowledge is created, transferred, and used. Trends in China, Europe, and the United States,* in https://p.widencdn.net/jj2lej/ACAD-RL-AS-RE- ai-report-WEB.

[10] Particularly interesting is the definition offered by S. BRINGJORD, N.S. GOVINDARAJULU, *Artificial-Intelligence*, httpss://plato.stanford.edu/archives/fall2018/entries/artificial-intelligence, 2018, according to which artificial intelligence is the field dedicated to the construction of artificial animals or artificial people capable of overcoming natural cognitive limits, translation by A. SANTOSUOSSO, *op. cit.*, 7. It must be emphasised how the field of investigation also changes the contours of individual definitions, causing potentially irrelevant, or even irrelevant, profiles to emerge for other fields.

[11] For the sake of completeness, it should be noted that such a definition, unlike the 'technical' ones, may not coincide with that of other legal systems, even supranational ones, so that no unambiguous legal definition of Artificial Intelligence can be deduced. On this point, B. CARAVITA DI TORITTO, *Principi costituzionali e intelligenza artificiale*, in U. RUFFOLO (ed.), *Intelligenza artificiale, il diritto, i diritti, l'etica*, Milano, 2020, 454; P. KHANNA, *Connectography. Le mappe del futuro ordine mondiale (Maps of the Future World Order)*, Rome, 2016, highlighted how the advent of artificial intelligence has overtaken the geographical concept of sovereignty, replacing it with a technological type of sovereignty, i.e. no longer based on the political borders of individual states, but on the territorial capacity of technological tools to cover them. In this perspective, therefore, the *reductio* of regulation in the domestic and national sphere is a failure, as it must necessarily embrace a direct Community-type sphere of application, so as to reach a sufficient size to allow the European Community to compete with the other *players*, in particular China and the USA. For this reason, the only effective response is that of the European legislator. On the other hand, it has also been emphasised how the jumbled world of legislation actually makes it extremely difficult to introduce legal rules into algorithm *design*, cf. U. PAGALLO, *Etica e diritto dell'Intelligenza Artificiale nella governance del digitale: il Middle-out Approach*, in *Intelligenza artificiale, il diritto, i diritti, l'etica*, edited by U. RUFFOLO, Milan, 2020, 38.

adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments'[12].

Despite this regulatory effort, the definitional fragmentation remains, making it difficult to clearly delineate the boundaries of AI. This often results in the inclusion of technologies under the AI umbrella that do not, in fact, exhibit characteristics of Artificial Intelligence, although they may be technologically adjacent.

This distinction is particularly relevant when considering the so-called *replacement risk* associated with AI implementation in the workplace. Technologies such as blockchain, smart contracts, or even digitisation more broadly, do not present a direct threat to workers. These are tools operated and controlled by humans, and their function is entirely dependent on human input and oversight[13].

The real dividing line, then, lies in whether a system possesses the capacity to fully substitute human labour in the performance of specific tasks. In the

[12] In this sense, we cannot fail to point out how the definition proposed at EU level is not erroneous, but responds to the clear aim of regulating all computational phenomena, even those that *stricto sensu* would not come under artificial intelligence. By operating with a rigid definitional orthodoxy, the real risk would be that of leaving gaps in the discipline, perhaps precisely for those activities that, although more elementary, may have a particularly significant impact on private citizens.

[13] They are more correctly defined as tools using the *Internet of Things*, which exploit the network in a totally innovative way not only to transmit data but also to store data and process transactions, making the centralisation of data in a single *server* superfluous - and indeed dangerous. The idea behind the *blockchain* technology is, precisely, that of a *chain (chain) of* blocks (*blocks*), made up of all the transactions that connect the various *servers* (nodes) of the parties involved. It is a model in which, through *peer to peer*, a set of subjects (the nodes) share information by forming a virtual, public and, above all, decentralised *database*. The blockchain, therefore, constitutes a *decentralised ledger*, widely owned by each individual node, in which the transactions and/or operations that the algorithm transforms into a unique and unmodifiable code are recorded. Each transaction constitutes a block in the chain. The peculiarity is that in the blocks, one does not transfer a 'copy' of the original *ledger*, but one finds the original itself, which, therefore, is spread among the individual nodes, thus ruling out the centralisation of information in a single *server*. One of the fields of application of this technology is precisely that of *smart contracts*, which are '*computer protocols that facilitate, verify, or enforce the negotiation or execution of a contract, or avoid the need for a* contractual *clause*'. Through *smart contracts*, the level of 'contract self-enforceability' is reached in that, once an agreement has been reached and computed within the *blockchain*, the underlying algorithm is able to enforce contractual clauses without the need for external intervention, such as that of a judge. Although the smart contract has an extremely broad and *appealing* prospect of use, it is not actually smart. In fact, the logic on which the *smart contract* is based is that of the basic deterministic algorithm, structured according to the *if-this-then-that* chain: i.e., "*if a presupposition (*this) *occurs, then a result (*that) *follows*". No self-learning or 'improvement' techniques are envisaged for such tools.

context of this analysis, the key concern is whether an AI system can replace a civil servant in the execution of functions essential to administrative governance and public service delivery.

3. Artificial Intelligence and Administrative Action

The public sector is one of the domains in which the potential use of Artificial Intelligence (AI) has been most strongly felt. This is largely due to the overarching objective of serving the public interest, which makes the promise of *impartiality* – seemingly guaranteed by algorithmic processes – particularly appealing.
The main directions in which AI is currently being integrated into public administration can be summarised as follows:

(i) enhancing internal efficiency within public bodies;
(ii) streamlining and improving decision-making processes; and
(iii) strengthening the interaction between citizens and public institutions, including the expansion of participatory mechanisms[14].

These developments pose particularly intricate challenges, not least because the very purpose of administrative law is to uphold citizens' choices by safeguarding the collective interests of the broader community[15].
It is within this specific purpose that one finds the resilience of public sector work against the actual risk of human workers being replaced by increasingly sophisticated algorithms.
From the outset, scholars and experts dealing with the deployment of AI in the public sphere have consistently stressed the centrality of the human role, advocating for a form of *digital humanism* in which machines remain subordinate to human control[16]. The emerging possibility of automating the exercise of public authority – and thus of dehumanising administrative action – has, in turn, thrown into sharper relief the *personalist* structure of administrative procedures as established by current legal frameworks[17].

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[14] P. MIELE, *Intelligenza artificiale e pubblica amministrazione*, in *Quaderni della rivista della Corte dei conti*, *Intelligenza artificiale - Impiego e implicazioni sotto il profilo tecnologico, etico e giuridico*, 2/2024, 145.
[15] P. MIELE, *op. cit.*, 147.
[16] L. FLORIDI, *Etica dell'intelligenza artificiale. Sviluppi, opportunità, sfide*, Milan, 2022, 98.
[17] I.M. MARINO, *Prime considerazioni su diritto e democrazia, cit.*, 168, highlights that the law on the procedure "*it is based on the personalist principle: from the rights of the participants, to the communication of the reasons preventing the acceptance of the request, from the agreements supplementing or replacing the provision, to the person responsible for the procedure*".

Within this structure lies what may be described as an immanent principle: the principle of human oversight, sometimes referred to as the *humanity reserve*[18]. This principle is intimately connected to the issue of legal and formal attribution of the outcomes – and consequences – of administrative activity.

This principle reflects the essential requirement that decision-making power, when exercised by a public authority, must remain fundamentally in human hands. While it may be *delegated* to an AI system under certain conditions, the human operator must always retain the authority to override or *re-decide* the outcome originally produced by the algorithm[19].

In this sense, the principle aligns with the *human-in-the-loop* (HITL) approach[20], which prescribes human involvement throughout the training, fine-tuning, and testing of AI systems. This model fosters true synergy between human and machine, while ensuring that human actors retain a primary and non-transferable role—in other words, they do not fall "out of the loop"[21].

The European legislator has moved in this direction for some time[22]. Even prior to the adoption of the AI Act, the first relevant rule to acknowledge the

18 G. GALLONE, *Riserva di umanità e funzioni amministrative*, Padua, 2023; G. GALLONE, *Digitalizzazione, amministrazione e persona: per una "riserva di umanità" tra spunti codicistici di teoria giuridica dell'automazione*, in *PA Persona e Amministrazione*, 329 ff.; F. FRACCHIA, M. OCCHIENA, *Le norme interne: potere, organizzazioni e ordinamenti. Spunti per definire un modello teorico-conceptettuale generale applicabile anche alle reti, ai social e all'intelligenza artificiale*, Naples, 2020, 137; A.G. OROFINO, R.G. OROFINO, *L'automazione amministrativa: imputazione e responsabilità*, in *Giorn. dir. amm.*, 2005, 1300 ff.; S. CIVITARESE MATTEUCCI, *"Umano troppo umano". Automated administrative decisions and the principle of legality*, in *Dir. Pubbl.*, vol. XXIV, 22 ff.; V. BRIGANTE, *Evolving pathways of administrative decisions. Cognitive activity and data, measures and algorithms in the changing administration*, Naples, 2019, 129; D.U. GALETTA, J.G. CORVALÁN, *Artificial Intelligence for a Public Administration 4.0? Potentialities, risks and challenges of the ongoing technological revolution*, in www.federalismi.it, 6 February 2019, 2 ff.; A. CASSATELLA, *La discrezionalità amministrativa nell'età digitale*, in Aa.Vv., *Diritto amministrativo: scritti per Franco Gaetano Scoca*, vol. I, Naples, 2021, 675.

19 L. FLORIDI, *op. cit.*, 98.

20 For a general discussion of the *HITL* approach see P. BENANTI, *Human in the loop. Decisioni umane e intelligenze artificiali*, Milan, 2022.

21 B. MARCHETTI, *La garanzia dello* human in the loop *alla prova della decisione amministrativa algoritmica*, in *BioLaw*, 16 June 2021, at www.teseo.unitn.it/biolaw/article/view/1675; D.U. GALETTA, *Digitalizzazione e diritto ad una buona amministrazione (il procedimento amministrativo, fra diritto UE e tecnologie ICT)*, in, *Il diritto dell'amministrazione pubblica digitale*, edited by R. CAVALLO PERIN and D.U. GALETTA, Turin, 2020, 85 ff.; L. PARONA, *Poteri tecnico-discrezionali e machine learning: verso nuovi paradigmi dell'azione amministrativa*, in *Intelligenza artificiale e diritto: una rivoluzione*, edited by A. PAJNO, F. DONATI, A. PERRUCCI, Bologna, Vol. II, 146; K. BRENNAN-MARQUES, K LEVY, D. SUSSER, *Strange Loops: Apparent versus Actual Human Involvement in Automated Decision Making*, in *Berkeley technology law journal*, 2019, no. 34, 745; A. RUBEL, C. CASTRO, A. PHAM, *Algorithms in Autonomy*, Cambridge, 2021.

22 Of particular interest is the supranational dimension of the legislative provision. On this point, careful doctrine, B. CARAVITA DI TORITTO, *Principi costituzionali e intelligenza artificiale, cit.*, 454, has pointed out how the advent of artificial intelligence has overtaken the geographical concept of sovereignty, replacing it with a technological type of sovereignty, i.e. no longer based on the

centrality of human oversight in automated decision-making processes appeared in Article 22 of Regulation (EU) 2016/679 (General Data Protection Regulation – GDPR) [23].

Building on this foundation, the Italian legislator introduced – thus far[24] – the only explicit legal provision regulating the exercise of public functions through automation: Article 30 of Legislative Decree No. 36/2023. While the provision is limited in scope to public procurement, it marks the first formal recognition of principles "governing the use of automated procedures" [25].

Specifically, paragraph 3 of Article 30 stipulates that decisions made using automation must adhere to the principles of:

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political borders of individual states, but on the territorial capacity of technological instruments to cover them. In such a perspective, therefore, the *reductio* of regulation in the domestic and national sphere is a failure, as it must necessarily embrace a direct application sphere of a community type, so as to reach a sufficient size to allow the European Community to compete with other players, in particular China and the USA.

[23] Art. 22 Reg. N. 2016/679/EU: "*1. The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.*

2. Paragraph 1 shall not apply if the decision:

a) is necessary for entering into, or performance of, a contract between the data subject and a data controller;

b) is authorised by Union or Member State law to which the controller is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests; or

c) is based on the data subject's explicit consent.

3. In the cases referred to in points (a) and (c) of paragraph 2, the data controller shall implement suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, at least the right to obtain human intervention on the part of the controller, to express his or her point of view and to contest the decision.

4. Decisions referred to in paragraph 2 shall not be based on special categories of personal data referred to in Article 9(1), unless point (a) or (g) of Article 9(2) applies and suitable measures to safeguard the data subject's rights and freedoms and legitimate interests are in place".

[24] Awaiting the parliamentary debate on the draft bill on artificial intelligence, which aims to harmonise national legislation with the provisions of EU Regulation 2024/1689 ('AI Act'). With reference to public administration, Articles 14 and 15 of the bill stipulate that AI should only have a supporting role, without replacing the assessment and decision- making of the human operator, who must be adequately trained in the conscious and responsible use of AI. On the other hand, with regard to the world of work (including the private sector), the bill adopts a 'milder' provision (in terms of the risk of substitution), emphasising the importance of respect for human dignity, transparency and the prohibition of discrimination in the use of AI, as well as specifying the obligation to inform workers on the use of artificial intelligence systems, particularly with regard to remote control of workers, which require the activation of safeguard mechanisms provided for by the Workers' Statute.

[25] Illustrative Report to Legislative Decree 36/2023, Article 30. Therefore, it does not appear erroneous to assume that, until a specific *body of* rules is enacted that will generally regulate the exercise of the administrative function through automation tools, Article 30 of Legislative Decree 36/2023 may constitute a rule of general application, at least for the direct application of the principles set forth therein.

(i) *knowability* and *comprehensibility*[26];
(ii) *non-exclusivity*[27]; and
(iii) *algorithmic non-discrimination*[28].

These principles give concrete form to the HITL approach[29] in the context of public administration, affirming the inalienable centrality of human oversight in the exercise of public authority.
However, it must be emphasised that this centrality acquires the status of a binding principle only in the context of the public sector. The principle's normative force arises from its link to the exercise of public power – an activity aimed at advancing the common good and therefore subject to heightened legal constraints. The irreducibility of human oversight is directly tied to the public interest objective that administrative action must serve. In short, the *humanity* of public administration is essential for ensuring that the bureaucratic apparatus genuinely acts in the interest of the citizen.
Indeed, the evolution of Italian administrative law has moved progressively in this direction, systematically reducing impersonal elements of bureaucracy and pursuing the *humanisation* of administration in order to bring it closer – relationally and functionally – to the citizen[30].
By contrast, the imperative for *humanity* is less compelling within the dynamics of private enterprise. The logic of private profit, which seeks not to realise the general interest by satisfying individual needs, but rather to meet the internal

[26] The principle of knowability, codified for the first time in Art. 22 GDPR, and also present in Art. 30 Legislative Decree n. 36/2023, consists in the duty to inform the citizen "whether" the procedure to which he is subjected is automated or not. Complementary to this principle is the principle of comprehensibility, which aims to guarantee the data subject the possibility of understanding the 'algorithmic logic' that governed the assessment and adoption of the automated act.
[27] The principle of non-exclusivity, also codified in Art. 22 GDPR and Art. 30 Legislative Decree n. 36/2023, establishes that the data subject has right to request, within the automated process, human intervention that can (variously) affect the result of the algorithmic computation.
[28] The principle of non-discrimination requires the administration to implement appropriate technical and organisational measures in order to prevent discriminatory effects on the addressees of the procedure.
[29] A. SIMONCINI, *L'algoritmo incostituzionale: Intelligenza artificiale e il futuro delle libertà*, in *Intelligenza artificiale e diritto, come regolare un mondo nuovo*, edited by A. D'ALOIA, Rome, 2020, 190, highlights how the *HITL* model is corollary to the principle of non-exclusivity.
[30] G. GALLONE, *Riserva di umanità, cit.*, 108, points out how the introduction of the figure of the person in charge of proceedings is precisely demonstrative of this trend.

objectives of the enterprise itself[31], lacks the checks and balances inherent in the exercise of public power.
Even Article 22 GDPR, which applies to both public and private sectors, offers only a minimal safeguard for individuals in private settings: the *option* to request human intervention in an automated decision-making process. This is a reactive mechanism, not a structural or mandatory obligation.
In other words, within a framework governed by economic efficiency, private enterprises are far more likely to substitute human labour with AI systems whenever the latter offer faster or more profitable outcomes. It is through this interpretative lens that we should read projections—such as those forecasting that by 2055, half of today's work activities may be automated[32].

4. The Perceived Fear of Human Replacement in Civil Service Employment: Between Real Risk and a Change of Perspective

Any kind of work can, at least partially, be subject to automation. In this sense, the estimate that around half of today's workforce will be impacted by Artificial Intelligence (AI) appears broadly accurate. However, the true extent of this impact depends significantly on the interpretative approach adopted.
Firstly, it is essential to understand the neutrality of the concept of "exposure to Artificial Intelligence". This term simply denotes the degree of overlap or interaction between the tasks performed by human workers and those that AI systems are capable of executing[33].
Thus, a high level of exposure to AI does not automatically equate to a high risk of substitution. Rather, it is first necessary to assess the potential for complementarity or even enhancement of the worker's capacity[34].

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[31] Such a 'ruthless' description of the logic that drives the interest of private companies is functional in bringing out clearly the distinction between public administration and private enterprise. A distinction that, as we shall see later on, is essential for understanding the different attitudes of the 'substitution risk' in the two plexuses.
[32] McKinsey Global Institute - MGI, *A Future That Works: Automation, Employment and Productivity*, Report, January 2017, at https://www.mckinsey.com/~/media/mckinsey/featured%20insights/Digital%20Disruption/Harnessing%20automation%20for%20a%20future%20that%20works/MGI-A- future-that-works-Executive-summary.ashx.
[33] E. FELTEN, M. RAJ, SAEMANS R., *Occupational industry, and geographic exposure to artificial intelligence: a novel dataset and its potential uses*, in *Strategic Management Journal*, 2021, vol. 42, 254 – 280, cited in the CNEL study edited by E. DAGNINO, *Intelligenza artificiale e mercati del lavoro. Prima rassegna ragionata della letteratura economica e giuridica*, n. 3/2024, 10.
[34] FPA DATA INSIGHT, *L'impatto dell'intelligenza artificiale sul pubblico impiego*, maggio 2024, 15.

Accordingly, estimates of exposure to AI vary depending on the analytical framework applied—an approach that itself must be adapted to the field of investigation, whether public or private.

In fact, shifting from an occupation-based to a task-based approach reveals that, within a given job role, only a subset of specific tasks is automatable. Consequently, the actual risk of *complete* worker replacement affects approximately 9% of occupations[35].

This insight is particularly significant within the context of public administration.

Applying a task-based lens to the exercise of public powers—carried out in the interest of the community—inevitably leads to the conclusion that virtually no job in public administration can be entirely automated, that is, carried out without human input.

This conclusion is, at least in part, consistent with the findings of statistical studies analysing the employment risk in the Italian public administration.

Estimates relating to the Italian public sector show that of the approximately 3.2 million civil servants (as of 2021), 57% are highly exposed to AI (around 1.85 million), 28% are moderately impacted, and the remaining 15% are minimally or not affected at all.

Among the highly exposed employees[36], around 80% (just under 1.5 million) are likely to experience a *complementary* benefit rather than a *substitution* risk from the implementation of AI tools.

By contrast, of the remaining 20% of highly exposed individuals, only 12% (just over 218,000)—typically those in roles characterised by lower skill requirements or high repetitiveness—show a low potential for synergy with AI. The remaining 8% lie in a "grey zone", where the potential for complementarity with AI tools remains uncertain.

From the analysis of this data alone, it becomes clear that the actual risk of replacement within the public administration is significantly lower than popularly perceived. Only 12% of the 57% of civil servants highly exposed to AI are currently at potential risk of replacement[37].

This segment primarily includes workers classified under the Areas of Operators and Expert Operators, according to the new classification model

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[35] D. ARNTZ, T. GREGORY, U. ZIERAHN, *Revisiting the risk of automation*, in *Economic letters*, 2017, vol. 159, 157-160. It should be noted that the study concerns work in the USA. The same study is referred to, in line of approach, by the CNEL study edited by E. DAGNINO, *Intelligenza artificiale e mercati del lavoro, cit.*, 9.

[36] FPA DATA INSIGHT, *op. cit.*, 18.

[37] FPA DATA INSIGHT, *op. cit.*, 18.

outlined in Article 52, paragraph 1-bis of Legislative Decree No. 165/2001[38]. These include employees:

– *"who carry out support activities for production processes and service delivery systems, which do not presuppose specific knowledge and/or professional qualifications, corresponding to widely fungible roles"* (Operators); and

– *"workers involved in the production process and in service delivery systems and who carry out process phases and/or processes, within the framework of general directives and predetermined procedures, also through the management of technological instruments which presuppose specific knowledge and/or professional qualifications"* (Expert Operators)[39].

However, on closer inspection—and in light of the earlier definitions—it appears that these roles are not at significant risk of replacement by AI, but rather by other forms of automation, including those not involving intelligent systems.

For instance, more "manual" skills may be subject to *robotisation*[40], but not to replacement by algorithms capable of adapting their decisions based on complex interactions. On the contrary, the use of a machine whose output is unpredictable is fundamentally inconsistent with the aim of automating repetitive processes, which by nature rely on consistent and homogeneous outputs.

It should also be noted that, particularly in the Italian context, tasks of a manual or highly repetitive nature are often outsourced via public tenders, meaning that such roles are already in decline within public administration.

Given the above, it follows that nearly all roles within public administration fall into the category of *high exposure–high complementarity occupations*, where AI may be widely used, but only in a supportive capacity due to the essential need for human oversight and interaction.

In these roles, AI may assist with specific tasks, but the core activities—centred around the public interest—cannot be delegated to automation[41].

Therefore, any assessment of the "replacement risk" in public administration (and, more broadly, any application of AI in this context) must always be guided the «*general principle […] that, when automation processes are applied in the context of the public sector, supervision of the results by a "natural person official" must*

[38] By way of example only, reference is made to the new classification contained in the CCNL Local Functions, signed on 16 November 2022.

[39] Annex A 'Declarations', CCNL Local Functions of 16 November 2022.

[40] E. DAGNINO, *Intelligenza artificiale e mercati del lavoro, cit.*, 11.

[41] M. CAZZANIGA, F. JAUMOTTE, L. LI, G. MELINA, A.J. PANTON, C. PIZZINELLI, E. ROCKAL, M.M. TAVARES, *Gen-AI: Artificial Intelligence and the Future of Work*, IMF Staff Discussion Notes, 2024, in https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2024/01/14/Gen-AI-Artificial-Intelligence-and-the-Future-of-Work-542379, cited in the CNEL study edited by E. DAGNINO, *Intelligenza artificiale e mercati del lavoro, cit.*, 9 ff.

always be guaranteed". In this perspective, therefore, it is not "*imaginable to replace the figure of the official responsible for the procedure with an algorithm: rather, it is certainly possible to imagine that the official responsible for the procedure makes useful use of Artificial Intelligence to be able to carry out more quickly, and with greater precision, activities of the preliminary investigation phase for which he obviously remains responsible: both in terms of verifying the results of the same, and in terms of linking the findings of the preliminary investigation phase and the adoption of the final decision that flows into the final provision of the procedure*"[42].

From this perspective, it is not conceivable to replace the *responsible official* with an algorithm. Rather, it is entirely feasible—and advisable—for the official to make use of AI tools in order to carry out certain investigatory or preparatory tasks more quickly and accurately. Nonetheless, the official remains fully accountable for verifying the results and for connecting the findings with the final decision issued in the administrative procedure.

In short, the specific characteristics of public employment make it inappropriate to directly transpose the most pessimistic predictions concerning human replacement by AI that are often applied to the private sector[43]. Even the compelling arguments that AI will blur the traditional distinction between "white-collar" and "blue-collar"[44] jobs do not necessarily extend to the public sector, where this distinction continues to have relevance due to the unique impact of AI on public service roles.

Similarly, trends such as *cyclical unemployment*[45], which are likely to define the near-future of the labour market, are expected to affect the private sector more acutely than the public sector. Historically, public sector employment has been less susceptible to dismissals[46], particularly those for "objective justification" such as organisational restructuring or skills obsolescence[47].

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[42] D.U. GALETTA, J.G. CORVALÁN, *Intelligenza Artificiale per una Pubblica Amministrazione 4.0?, cit.*, 19.

[43] C.B. FREY, M.A. OSBORNE, *The future of employment: How susceptible are jobs to computerisation?*, in *Technological forecasting and social charge*, 2017, vol. 114, 254-280.

[44] S. CRISCI, *Artificial Intelligence and the Ethics of the Algorithm*, in *Foro amm.*, 2018, f. 10, 1801.

[45] *Rivoluzione digitale e occupazione: politiche attive e passive*, in *Lav. Giur.*, 2019, 4, 329 ff.; G.R. SIMONCINI, *L'incidenza della rivoluzione digitale nella formazione dei lavoratori*, in *Lav. Giur.*, 2018, 1, 39 ff.

[46] Although legislative developments have led to an increase in the number of cases of termination of employment with the public administration (see A. TAMPIERI, *Il licenziamento del dipendente pubblico*, Turin, 2021; P. ICHINO, *I nullafacenti. Perché e come reagire alla più grave ingiustizia della nostra amministrazione pubblica*, Milano, 2006; see B. CARUSO, L. ZAPPALÀ, *La riforma "continua" delle pubbliche amministrazioni: licenziare i nullafacenti o riorganizzare la governance?*, in *Lav. P.A.*, 2007, 1 ff.), the phenomena of public employee dismissal continue to have a predominantly sanctioning and disciplinary connotation. Therefore, the occurrence of terminations of employment due to obsolescence of skills, or to 'replacements' by automation systems, seems unlikely. On the other hand, it should be pointed out that the phenomenon could equally have devastating effects on the public administration, as continued expenditure to 'maintain' employees lacking essential digital skills

As a result, the real impact of AI in the public sector is more likely to manifest in the form of *techno-stress*[48], stemming not only from an inability to manage new technologies and their rapid evolution but also from perceived competition with machines.
Unlike humans, machines do not rest or work fixed hours. This may cause civil servants to feel inefficient or anxious about being outperformed—fuelled by a largely theoretical, rather than actual, risk of replacement.
The most significant danger, therefore, lies in the potential erosion of work-life balance, as employees strive to maintain their sense of usefulness—irrespective of the actual likelihood of being replaced[49].
In conclusion, the risk associated with AI in civil service employment is subtler and more closely tied to the psychological well-being of public sector workers than to the concrete threat of job loss[50].

5. Conclusions: The Opportunity of 'Augmented Work'

The risks outlined above may, paradoxically, present an opportunity to enhance the well-being of civil servants.
Assuming the general stability of employment within the public sector, corporate welfare initiatives should aim to promote upskilling and reskilling pathways, enabling employees to fully understand and exploit the functionalities of Artificial Intelligence (AI)[51]. This would support the transition towards what has aptly been described as *augmented work*—a form of human–algorithm integration in which employees are relieved of purely

could prevent the recruitment of the necessary 'new' skills. The solution to this issue, as will be seen, is through the provision of re-skilling pathways for recruited resources.

[47] One could speak of 'technological dismissal'.

[48] M. ISCERI, R. LUPPI, *L'impatto dell'intelligenza artificiale nella sostituzione dei lavoratori: riflessioni a margine di una ricerca*, in Lav. Dir. Eu., 1/2022, 3, define techno stress as "*A disorder caused by the inability to cope with or process information and new communication technologies in a healthy way. Salanova, contextualizing it in the workplace, defined it as a negative psychological state associated with the use of information and communication technologies and highlighted that this experience can be linked to feelings of anxiety, mental fatigue, and inefficiency (INAIL 2016, 2017a)*".

[49] P. MANZELLA, M. TIRABOSCHI, *The prevention system and insurance coverage in the context of the IV industrial revolution*, ADPAT University Press, 2021, 220 ff., points out that where the necessary skills to exploit AI are not implemented, the risk is an increase in labour intensity. See also A. GREEN, *Artificial intelligence and jobs: no signs of slowing labour demand (yet)*, in *OECD Employment outlook 2023: Artificial intelligence also the labour market,* Paris, 2023, 102 - 127.

[50] J. KAPLAN, *Le persone non servono*, Roma, 2016; J. KAPLAN, *Intelligenza Artificiale. Guida al futuro prossimo*, *cit.*; M. ISCERI, R. LUPPI, *op. cit.*, 3.

[51] P. ICHINO, *Le conseguenze dell'innovazione tecnologica sul diritto del lavoro*, in *Riv. It. Dir. Lav.*, 2017, 4, 525 ff.; G. SANTORO PASSARELLI, *Trasformazioni socioeconomiche e nuove frontiere del diritto del lavoro. Civiltà giuridica e trasformazioni sociali nel diritto del lavoro*, in *Dir. Rel. Ind.*, 2019, 2, 417 ff.

executive tasks and enabled to focus on the more professional, value-added aspects of their roles. In this model, increased efficiency is achieved through immediate access to strategic information, even in the context of complex and high-risk decisions[52].

The ultimate goal is to improve administrative performance by *"eliminating all the most repetitive work processes and freeing up space for creativity"* among civil servants[53]. This vision entails entrusting certain routine tasks to machines[54], thereby allowing for the more strategic redeployment of staff. In doing so, employees' contributions are no longer submerged in the vast sea of minor, routine activities but are instead enhanced and better aligned with their professional capacities.

However, such a transformation requires a fundamental reorganisation of work processes within the public administration, moving beyond the traditional hierarchical-bureaucratic logic of physical supervision and control. This legacy model represents a *"nineteenth-century mentality, in which the civil servant was monitored through the extreme fragmentation of tasks—rendered repetitive and mechanical—and a vast control apparatus. The logic of control explains the traditional preference for in-office presence, a preference that fails to acknowledge the simple truth that one can spend entire days in the office producing nothing, or conversely make a decisive contribution while working remotely"*[55].

The automation of repetitive activities and the corresponding reallocation of time and talent to more qualified tasks demand a reengineering of work processes centred around a results-based approach[56]. In this new framework, rigid adherence to working hours becomes less relevant, as employees' efforts are directed towards specific projects, rather than diluted across numerous micro-tasks.

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[52] F. BUTERA, G. DE MICHELIS, *Intelligenza artificiale e lavoro, una rivoluzione governabile*, Venezia 2024; F. BUTERA, *Disegnare l'Italia. Politiche e progetti per organizzazioni e lavori di qualità*, Milan, 2023.

[53] A. RIPEPI, *Il pubblico impiego e la dirigenza alla prova dell'Intelligenza Artificiale*, in *Amm. e Cont.*, https://www.contabilita-pubblica.eu/2024/11/12/il-pubblico-impiego-e-la-dirigenza-alla-prova-dellintelligenza-artificiale/, 12 novembre 2024.

[54] Theoretically, within the set of tasks managed by a civil servant, automated systems could manage more efficiently all the more repetitive activities, such as, for instance, the sorting of e-mails or incoming documents, internal protocol. In addition, the use of chatbots for the initial front-office management with the citizen could be ventilated. This would make it possible to have a front office that draws directly on all the necessary information in real time and that functions 24 hours a day, which provides for human intervention (during working hours) only in the event of an express request by the citizen, or in cases where the support offered by automated means was not sufficient to solve the problem submitted.

[55] A. RIPEPI, *op. cit.* On the culture of control see also G. ASTUTO, *L'amministrazione italiana. Dal centralismo napoleonico al federalismo amministrativo*, Rome, 2021, 77.

[56] A. RIPEPI, *op. cit.*, 6.

This is the context in which the tool of *agile work* in the civil service should be strengthened—not merely as an alternative to in-person work, but as a component of *augmented work*. Such an approach enables the employee to manage time autonomously, beyond the constraints of fixed hours, thereby enhancing moments of heightened creativity and insight in pursuit of organisational goals, which should also serve as the basis for performance evaluation.

Agile work is, therefore, among the most effective mechanisms for rethinking working methods in public administration (particularly in the Italian context), as true *agile work* is feasible only within *agile organisations*. These are entities capable of rapid adaptation to external change through new organisational models characterised by decentralised responsibility, the strengthening of integrative roles, the promotion of horizontal relationships and teamwork, the digitisation of services, management by objectives, and a culture oriented towards shared values, a sense of belonging, risk-taking, innovation, and accountability as opportunity[57].

Within this emerging paradigm, the key driver of workplace well-being is *trust*[58]. On the one hand, employees who, when entrusted with greater responsibility for achieving objectives, are also granted more autonomy and flexibility in managing their work–life balance, will likely feel more motivated and satisfied, leading to enhanced individual and organisational performance[59]. On the other hand, top management figures within public administration, by granting such autonomy, will be rewarded with higher levels of engagement and effectiveness.

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[57] A. RIPEPI, *op. cit.*, 6.

[58] The 'Principle of Trust' was first codified in Article 2 of Legislative Decree 36/2023. According to this provision, "*The attribution and exercise of power in the public procurement sector is based on the principle of mutual trust in the legitimate, transparent and correct action of the administration, its officials and economic operators*". E. QUADRI, *Il principio della fiducia alla luce del nuovo Codice dei contratti pubblici e delle prime applicazioni della giurisprudenza*, in *Riv. Trim. Scienza amm.*, 2024, Vol. 4, 3, clarifies how the principle of trust is closely linked to the professionalisation of administrations and its officials, given that "*only a professionally competent and qualified administration can regain the discretion that allows it to act in a truly efficient and effective manner. This also applies, for example, to digitalization, given that only highly competent officials will be able to carry out essentially digitalized public tender procedures, using the specific platforms designated for this purpose*". For T. GRECO (2021). *La legge della fiducia. Alle radici del diritto*, 2021, Bari, trust is at the basis of law, since "*the law requires us to trust one another, and it does so when it establishes our mutual rights and duties within any relationship it governs. Of course, it also tells us (and cannot fail to tell us) that when trust is broken, remedies will be ready to support us. But first and foremost, it tells us to trust and requires us to behave accordingly, one that can adequately meet the expectations of those with whom we establish our relationships*".

[59] Such an approach must, at least for the Italian experience, overcome the preconception of the inefficiency and unreliability of civil servants. Preconceptions that make it difficult, especially for management, to abandon the hierarchical-bureaucratic model based on employee control.

Nonetheless, this shift in approach necessarily requires a prior, detailed analysis of existing work processes, staffing levels, the professional classifications of current employees, and their actual skills and aptitudes—which do not always align with the roles they have been assigned[60].

According to data provided by the Italian Chamber of Deputies, only one in ten workers currently possesses AI-related skills[61].

This highlights the centrality of training in the reorganisation of public sector work—making it evident that continuous learning[62] is not merely a right of the employee, but a structural necessity across their entire career[63].

Moreover, effective implementation of *augmented work* requires algorithms to be used with both competence and critical awareness. In the absence of such expertise, there is a high risk of *automation bias* or the *anchoring effect*[64].

This risk is particularly concerning in the context of public decision-making, where a civil servant—due to convenience or implicit trust in algorithmic outputs—may be inclined to *rationalise* the machine-generated result rather than apply the necessary critical scrutiny.

Consequently, training should not be limited to technical or technological aspects but must also encompass ethical considerations[65]. Civil servants must be educated in the principles and application of *algoretics* (the ethics of algorithmic decision-making), in order to prevent the opacity of AI from becoming—consciously or otherwise—a source of discrimination.

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[60] A. RIPEPI, *op. cit.*, 7.

[61] Commission XI Public and Private Employment of the Chamber of Deputies, *Indagine conoscitiva sul rapporto tra Intelligenza Artificiale e mondo del lavoro*, 2023, 9-10.

[62] In terms of a real worker's right, see D. GAROFALO, *Rivoluzione digitale, cit.*, 334.

[63] On the subject of training, it has been pointed out that a distinction should be made between occupations that concern the development and maintenance of artificial intelligence systems (in which new jobs and new work figures should be included), and occupations in which, as a consequence of the complementary effects of AI, workers find themselves having to use or interact with artificial intelligence systems. See CNEL study by E. DAGNINO, *Intelligenza artificiale e mercati del lavoro, cit.*, 9 quoting J. LASSÉBIE, *Skill meeds and policies in the age of artificial intelligence*, in *OECD Employment outlook 2023: Artificial Intelligence and the Labour market*, Paris, 151-181.

[64] The *automation bias*, also called *anchoring effect*, is the psychological mechanism, or cognitive error, whereby the official tends to supinely rely on the algorithmic decision believing it to be intrinsically and presumptively right. L. FLORIDI, *"Agere sine Intelligere". L'intelligenza artificiale come nuova forma di agire e i sui problemi etici*, in L. FLORIDI, F. CABITZA, *Intelligenza artificiale. L'uso delle nuove macchine*, Florence, 113 ff., emphasises that this will increase administrative *agere*, to the detriment of the *intelligere* activity of officials, arriving at *artificial agere*, instead of *artificial intelligere*, cf. L. PARONA, *op. cit.*, 146.

[65] S. CRISCI, *op. cit.*, 1787 ff.

At the European level, the importance of transforming the risk of replacement into an opportunity for improved work–life balance and individual growth has also been recognised.
In its Resolution 2011/C 372/01 on a Renewed European Agenda for Adult Learning, the Council of the European Union identified skills development—particularly through lifelong learning—as the key to smart, sustainable, inclusive, and secure growth. The ultimate objective of training, as outlined in the resolution, is to foster a cultural transformation in how workers' competencies are planned and developed, so they are better equipped for the evolving demands of the labour market.
This includes the promotion of digital literacy and innovation, according to the principle of *safe innovation*[66].
More recently, the Council Recommendation of 22 May 2018 (2018/C 189/01) on lifelong learning identified eight key competences to be cultivated throughout life:

1. Literacy;
2. Multilingualism;
3. Numerical, scientific, and engineering skills;
4. Digital and technology-based competences;
5. Interpersonal skills and adaptability;
6. Active citizenship;
7. Entrepreneurship;
8. Cultural awareness and expression.

Training in the public sector must evolve in line with these principles.
Indeed, these considerations assume even greater importance in public administration, where—as discussed—the centrality of human judgment is crucial to preserving the discretionary value inherent in public decision-making. This value cannot and should not be abdicated to machines, which lack contextual awareness and, most importantly, the uniquely human capacity for empathy.
Furthermore, the discussion raises another crucial issue: the potential impact of AI competence on recruitment procedures in the public sector. It is conceivable that, in the near future, knowledge of AI tools will become a formal requirement for entry into public employment.
If so, careful thought must be given to the nature and placement of this requirement: should it be an *eligibility criterion* for participation or a *specific area of assessment* within competitive examinations?

[66] Let us recall M. CRISCI, *Lo sviluppo della I.A. da parte della pubblica amministrazione: dall'eccesso di precauzione al principio di "innovazione sicura"*, in www.ambientediritto.it, fasc. 1/2025, 1 ff.

There is a risk that AI competence may be reduced to a mere formal certification, which in practice does not adequately reflect an individual's real ability to use algorithmic tools effectively.

If AI literacy is made a requirement for participation, it would need to be evidenced at the application stage through certified qualifications. However, experience with public competitions indicates that certificates alone are poor proxies for practical ability. This is especially true in a field such as AI, where technological developments quickly render prior knowledge obsolete.

Moreover, the imposition of such a requirement could unjustly exclude many candidates who have acquired AI proficiency through hands-on experience. Given the diversity of AI systems, it also seems impractical to standardise such a requirement without creating an excessively restrictive selection framework[67].

A more appropriate solution may be the inclusion of *practical tests* on the use of algorithms, tailored to the specific tools employed by the recruiting administration. Performance in these tests could be scored and used as part of the overall assessment.

In the author's view, this approach offers the most balanced solution—ensuring both broad access to public competitions and the ability to evaluate candidates' practical aptitude for integrating AI into administrative workflows.

[67] On this point, reference is made to the copious and long-standing Italian administrative case law that limits the discretion of the administration in identifying and including participation requirements, establishing that such requirements cannot be illogical in terms of, for example, superfluity, uselessness and excessive burden (Consiglio di Stato, Sez. V, 24 September 2003, n. 5457). Of particular interest is the decision of the T.A.R. Sicilia, Palermo, 13 December 1985, n. 2052, which affirms the invalidity of requirements that are greater and more stringent than those required for employees already in service and performing the same duties.

Income Support at the Nexus of Job Security and Labour Market Transitions

Claudia Carchio *

Abstract. This paper explores the intersection of labour market dynamics and income support instruments. While unemployment benefits are traditionally understood as mechanisms for mitigating the economic risks associated with partial or total job loss, this analysis considers their potential proactive function. Specifically, it investigates whether – and in what ways – such measures might contribute to promoting employment opportunities by supporting and accelerating transitions within the labour market.

Keywords: *Social safety nets; Income support; Employment protection; Conditionality; Occupational transitions.*

1. Rethinking Social Welfare: Can Income Support Drive Employment?

The central question underpinning this analysis – namely, whether social welfare benefits can serve not merely as compensatory mechanisms but as instruments actively contributing to employment creation – may initially appear deceptively straightforward. This perception is particularly prevalent given the traditional characterisation of income-support mechanisms within labour law as protective devices. Historically, such instruments, whether triggered by the temporary suspension or permanent termination of employment, have been conceived primarily as safeguards intended to mitigate the socio-economic consequences of exclusion from the labour market.

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Anchored in Article 38, paragraph 2, of the Italian Constitution, income-support measures are designed to secure the material subsistence of individuals confronted with involuntary unemployment, thereby guaranteeing a standard of living sufficient to meet essential needs. These measures encompass both full unemployment benefits[1] – provided upon the cessation of an employment relationship – and partial income-support schemes, such as those deployed in response to reductions in working hours resulting from enterprise crises or organisational restructuring[2].

From this normative and functional standpoint, it might seem axiomatic that income-support benefits are not inherently conducive to the expansion of employment. Their principal function appears to reside in the *ex post* compensation for income lost as a consequence of labour market contraction, rather than in the *ex ante* promotion of new employment opportunities.

In this respect, social welfare benefits are frequently framed as quintessential passive labour market policies – interventions that collectivise the risk of unemployment and operate reactively, addressing only the consequences of job loss without engaging its structural antecedents. By contrast, active labour market policies (ALMPs) are explicitly designed to foster labour market participation, promote reintegration, and increase employment rates through targeted interventions, including vocational training, job placement services, and hiring incentives.

This binary conceptualisation – between passive and active measures – remains deeply entrenched within both legal scholarship and policy discourse. Whereas active measures are directed towards the proactive generation of employment, income-support schemes are perceived as fulfilling a distinct, reactive role: namely, the provision of temporary economic relief to workers undergoing occupational displacement, without directly contributing to job creation.

However, such a dichotomous framework appears increasingly inadequate when confronted with the operational realities of modern welfare systems. Despite their formal classification as passive instruments, income-support measures are, in practice, deeply intertwined with employment dynamics in at least two critical respects. First, mechanisms such as wage guarantee

[1] For the legal framework on unemployment benefits, see Legislative Decree No. 22/2015. See also M. Miscione, *Le indennità di disoccupazione. NASpI, Disoccupazione agricola, Dis-Coll, Idis, Iscro*, Giappichelli, Turin, 2025.

[2] The regulation concerning wage supplementation schemes is set out in Legislative Decree No. 148/2015. See C. Carchio, *Le prestazioni integrative del reddito. Funzione sociale e sostenibilità finanziaria*, Adapt Labour Studies e-book series No. 97, Bergamo, 2023.

funds and supplementary allowances provided through bilateral solidarity funds not only offer financial support but also serve to stabilise existing employment relationships during periods of economic turbulence. Second, the regulatory frameworks governing unemployment benefits increasingly incorporate conditionality requirements, obliging recipients to engage with ALMPs – such as job search assistance, training schemes, or work placements – as a prerequisite for continued eligibility.

Against this backdrop, the question of whether social welfare benefits can contribute to employment creation demands a more nuanced, integrated, and systemic response. When examined holistically, these measures cannot be adequately characterised solely as compensatory tools for labour market exclusion. Rather, they constitute dynamic components within a broader employment policy architecture – interacting with and, in some instances, complementing active measures – by facilitating employment retention, enabling transitions, and supporting reintegration pathways.

A thorough examination of the relevant legal frameworks, institutional designs, and the functional interdependence between passive and active policy instruments is therefore essential to fully apprehend the strategic role that income-support measures may play within the governance of contemporary labour markets.

2. Balancing Welfare and Work: The Right to Work and Subsistence between Safeguards and Responsibility

The perspective outlined above cannot be meaningfully isolated from a broader theoretical framework that reflects the progressive extension of worker protections beyond the confines of the individual employment relationship to encompass the labour market in its entirety. This evolution entails the gradual incorporation – alongside the traditional safeguards *of* unemployment, understood as protections triggered by the loss of employment – of a system of protection against unemployment[3], aimed at its prevention and mitigation through structured public intervention in the design and implementation of employment policies.

[3] See D. Garofalo, *Le politiche del lavoro nel Jobs Act, in F. Carinci (ed.), Jobs Act: un primo bilancio. Atti del XI Seminario di Bertinoro-Bologna del 22–23 ottobre 2015*, Adapt Labour Studies, E-Book series No 54, 2016, p. 122.

This conceptual shift, theorised by the more incisive strands of legal scholarship in the final decades of the twentieth century[4], is grounded in the premise that the right to work, enshrined in Article 4, paragraph 1, of the Italian Constitution, cannot be reduced to a mere negative liberty – that is, the absence of coercion or constraint in the choice of one's occupation[5]. Nor can it be interpreted solely through its dimension as a social right, as the legitimate expectation that public authorities will adopt measures to preserve employment levels. Historically, this expectation has materialised in defensive interventions, including legislation governing individual dismissals and wage supplementation schemes, particularly of the extraordinary type.

Rather, the right to work must be understood as encompassing both dimensions: the guarantee of job stability, on the one hand, and the recognition of a positive freedom, on the other – namely, the right to be supported in accessing employment and, by extension, to exercise one's freedom to develop professional capabilities[6].

In this light, the right to work emerges as a constitutional guarantee not only for those in employment but also for those excluded from it, requiring public policies to facilitate access to suitable work opportunities. Such policies include vocational training, personalised career counselling, and public employment services. Accordingly, the right to work transcends its conventional interpretation as the right to hold employment and assumes a broader function as a safeguard of personhood, ensuring meaningful participation in the economic and social life of the polity[7].

Over time, this conceptual framework has undergone significant transformation, particularly under the influence of European integration processes[8], culminating in the emergence of an active welfare state

[4] See, *inter alia*, M. Cinelli, *La tutela del lavoratore contro la disoccupazione*, Franco Angeli, Milano, 1982; M. Napoli, *Il lavoro e le regole. C'è un futuro per il diritto del lavoro?*, in *Jus* 1998, pp. 51-68; M. D'Antona, *Il diritto al lavoro nella Costituzione e nell'ordinamento comunitario*, in *Riv. Giur. Lav.* 1999, No. 3 suppl., pp. 15 ff.; M. Rusciano, *Il lavoro come diritto: servizi per l'impiego e decentramento amministrativo*, *ibid.*, pp. 25 ff.

[5] On the constitutional interpretation, see Corte cost. (Constitutional Court), 9 June 1965, No. 45, which affirms that «*the right to work is a fundamental freedom of the human person, expressed in the choice and exercise of work activity*».

[6] See also F. Liso, *Il diritto al lavoro*, in *Giorn. Dir. Law. Rel. Ind.* 2009, No. 1, p. 147.

[7] See M. D'Antona, *Il diritto al lavoro nella Costituzione e nell'ordinamento comunitario*, cit., p. 23.

[8] On the enhancement of active labour policies in Europe, see R. Rogowski, T. Wilthagen (eds.), *Reflexive Labour Law: studies in industrial relations and employment regulation*, Kluwer Law and Taxation Publishers, Deventer–Boston, 1994; T. Wilthagen, *Flexicurity: A New Paradigm for Labour Market Policy Reform?,* Social Science Research Center Discussion Paper No FS I 98-202, 1998; G. Di Domenico, *Le politiche di workfare in Europa. Esperienze*

paradigm – or "welfare-to-work" model[9]. Within this model, the unemployed are no longer conceived as passive recipients of public support but rather as co-responsible agents whose entitlement to income-support measures is conditional upon their active participation in the pursuit of employment.

At the normative core of this shift lies the principle of conditionality[10], which operates as a regulatory bridge between passive and active labour market policies. Conditionality requires that beneficiaries of unemployment benefits engage in prescribed activation measures and enter into a cooperative and reciprocal relationship with the state as the guarantor of social protection[11].

Accordingly, the enjoyment of social rights is no longer predicated solely on passive eligibility criteria; it now entails an obligation of active engagement. This is operationalised through a set of conditional mechanisms that impose behavioural requirements on benefit recipients, enforced through sanctions in cases of non-compliance. These mechanisms, intrinsic to the design of social rights given their dependence on finite public resources[12], influence not only the exercise of such rights but also their very entitlement. Access becomes contingent upon both meeting formal eligibility conditions and demonstrably fulfilling activation obligations, with failure to comply potentially resulting in the suspension or withdrawal of benefits.

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di integrazione tra servizi al lavoro e sistemi di welfare, ISFOL, Roma, 2005; M. Marocco, *La "doppia anima" delle politiche attive del lavoro e la Riforma Fornero*, WP C.S.D.L.E. "Massimo D'Antona".IT, 192/2013.

[9] On the concept of welfare to work, see T. Boeri, R. Layard, S. Nickell, *Welfare to work and the fight against long-term unemployment*, Research Report (Great Britain Department for Education and Employment) No. 206, 2000; A. Marsala (ed.), *Il welfare to work: modelli di intervento europeo*, Italia Lavoro Edizioni, Roma, 2006; N. Paci, *La tutela dei disoccupati e le politiche di workfare*, in *Riv. Giur. Lav.* 2006, No. 4, pp. 819 ff.; R. Lodigiani, *Welfare attivo. Nuove politiche occupazionali in Europa*, Erickson, Trento, 2008; A. Alaimo, *Servizi per l'impiego e disoccupazione nel "welfare attivo" e nei "mercati del lavoro transizionali". Note sulla riforma dei servizi all'occupazione e delle politiche attive nella l. 28 giugno 2012, n. 92*, in *Riv. Dir. Sic. Soc.* 2012, No. 3, pp. 555 ff.

[10] See also C. Garbuio, *Politiche del lavoro e condizionalità*, Giappichelli, Torino, 2021.

[11] On the notion of mutual obligations, see A. Alaimo, *Politiche attive del lavoro, patto di servizio e "strategia delle obbligazioni reciproche"*, in *Dir. Lav. Rel. Ind.* 2013, No. 139, p. 507.

[12] See E. Ales, *Diritti sociali e discrezionalità del legislatore nell'ordinamento multilivello: una prospettazione giuslavoristica*, in *Dir. Lav. Rel. Ind.* 2015, No. 147, p. 457; G. Loy, *Una Repubblica fondata sul lavoro*, in *Dir. Lav. Rel. Ind.* 2009, No. 122, pp. 197 ff.; C. Pinelli, *Lavoro e progresso nella Costituzione*, ibid., p. 401.

The normative foundations of this regulatory architecture are located in Article 4 of the Constitution, which juxtaposes the right to work (paragraph 1) with the duty to work (paragraph 2)[13]. They are further reinforced by Article 38, paragraph 2, which places upon the state a positive obligation to protect individuals deprived of work for the period strictly necessary to secure new employment, thereby enabling the full realisation of the principle of equality – both formal and substantive – enshrined in Article 3.

Article 38 must thus be interpreted as establishing a dual mandate: first, to guarantee financial subsistence through income-replacement measures; and second, to promote functional reintegration into the labour market. This reintegration is to be effected in accordance with the principles laid out in Articles 4 and 35[14] of the Constitution, which frame labour not only as a source of individual income but also as a central pillar of democratic citizenship and human dignity.

In this context, a form of occupational protection emerges alongside economic safeguards – a protection articulated through institutional mechanisms aimed at job matching, vocational reintegration, and the creation of enabling conditions for the effective exercise of the right to work. This system presupposes not merely the provision of state support but also the active involvement of recipients, who are expected to participate in training, reskilling, and activation programmes. Such participation is framed as part of a broader constitutional duty to contribute to the collective effort to overcome unemployment and underemployment[15].

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[13] In contrast, some scholars argue that conditionality conflicts with the constitutional provision, specifically Article 4 of the Constitution and the freedom it affords in choosing one's profession. See M. Cinelli, *La previdenza che cambia: appunti su «relatività» e variazioni fisiognomiche dei diritti sociali*, in *Rivista del Diritto della Sicurezza Sociale*, No. 1, 2020, p. 14; id., *Gli ammortizzatori sociali nel disegno di riforma del mercato del lavoro*, *Rivista del Diritto della Sicurezza Sociale*, 2012, p. 237 ff.; F. Liso, *Brevi appunti sugli ammortizzatori sociali*, in *Scritti in onore di Edoardo Ghera*, Vol. I, Cacucci, Bari, 2008, p. 597 ff.; A. Vallebona, *La riforma del lavoro 2012*, Giappichelli, Torino, 2012, p. 110 ff.

[14] See S. Renga, *La tutela del reddito: chiave di volta per un mercato del lavoro sostenibile*, paper delivered at XX Congresso Nazionale AIDLASS, *Il diritto del lavoro per una ripresa sostenibile*, Taranto, 28–30 October 2021, pp. 28-29.

[15] On integrated social rights systems, see E. Ales, *Diritto del lavoro, diritto della previdenza sociale, diritti di cittadinanza sociale: per di un "sistema integrato di microsistemi"*, in *Arg. Dir. Lav.* 2001, No. 3, pp. 981 ff.; C. Alessi, *L'art. 4 della Costituzione e il diritto al lavoro*, in *Jus* 2006, pp. 127 ff.; A. Topo, *Obbligo di lavorare e libertà di lavoro: quando lavorare è un dovere "sociale"*, in M. Brollo, C. Cester, L. Menghini (eds.), *Legalità e rapporti di lavoro: Incentivi e sanzioni*, EUT,

It is within this dialectical relationship – between the protection of existing employment and the proactive realisation of potential employment – that the contemporary system of social security for involuntary unemployment acquires its full normative and functional significance. It serves not only as an immediate guarantee of "adequate means of subsistence" but also as a forward-looking commitment to ensure that access to employment is secured as swiftly as possible. In doing so, it enables not merely material survival but the broader conditions for active citizenship and substantive equality – objectives that can be achieved only through the fulfilment of the right to work, as constitutionally enshrined in Article 4[16].

3. Activation through Conditionality: Reinserting the Unemployed into the Labour Market

The transition from the constitutional foundations of social protection to its concrete regulation through ordinary legislation reveals that the nexus between income-support measures and active labour market policies is not a recent innovation within the Italian legal system[17]. This connection was explicitly codified as early as Law No. 223 of 1991, which introduced the mobility allowance[18]. It was subsequently reaffirmed in the reorganisation of public employment services under Legislative Decree No. 181 of 2000[19], and further consolidated through the "mini-reform" of unemployment benefits in 2003[20]. Within this legislative framework, both

Trieste, 2016, pp. 171 ff.; S. Stacca, *Il dovere di lavorare per il progresso materiale o spirituale della società*, in *Riv. trim. dir. pubbl.* 2021, pp. 29 ff.

[16] See M. Miscione, *Gli ammortizzatori sociali per l'occupabilità, in Disciplina dei licenziamenti e mercato del lavoro*, Atti delle Giornate di studio AIDLaSS, Venezia 25–26 maggio 2007, Giuffrè, Milano, p. 701.

[17] The earliest conditionality forms are found in "cantieri di lavoro" and "cantieri scuola", where benefit eligibility required attendance – see post-war regulation (Decreto-legge del Capo provvisorio dello Stato No. 1264/1947; Law No 264/1969) and F. Longobucco, *La perdita del diritto nel sistema delle pene private*, in *Politica del Diritto* 2019, No. 3, p. 399 ff.

[18] See Art. 9, Law No. 223/1991; Art. 8, para. 4, Law No. 196/1997.

[19] See, among others, F. Dini, *Dichiarazione di responsabilità e accertamento dello stato di disoccupazione*, in *Lav. Giur.*, 2003, No. 4, pp. 343 ff.; N. Paci, *Protection of the Unemployed and Workfare Policies*, in *Riv. Giur. Lav.*, 2003, No. 4, pp. 819 ff.; S. Spattini, *a nuova condizionalità all'accesso ai trattamenti di sostegno al reddito: potenzialità e criticità nella prospettiva della riforma degli ammortizzatori sociali*, in *Dir. Rel. Ind.*, 2010, No. 2, pp. 377 ff.; N. Forlani, *Le prospettive delle politiche di workfare in Italia*, ibid., pp. 364 ff.

[20] Art. 13, Legislarive Decree No. 276/2003; art. 3, para. 137, Law No. 350/2003; art. 1-quinquies, Decree-Law No. 249/2004; art. 1, para. 7, Decree-Law No. 68/2006 conv. in

full and partial unemployment benefits were expressly made conditional – under penalty of forfeiture – upon recipients' participation in training programmes and labour reintegration initiatives[21].

The most significant normative shift in the evolution of conditionality – from a "soft" to a "strong" model – occurred with the 2012 labour market reform (commonly referred to as the Fornero Reform)[22], and, most decisively, with the reform initiated by Delegated Law No. 183 of 2014, implemented through a series of legislative decrees collectively known as the Jobs Act[23]. A central objective of this legislative effort was to reinforce the link between the receipt of social transfers and the beneficiary's active engagement in the labour market. This linkage was no longer confined to periods of complete unemployment but was extended to circumstances involving the temporary suspension or reduction of working hours within ongoing employment relationships[24].

In particular, Legislative Decree No. 150 of 2015 introduced a fundamental reorientation: from a model of conditionality that passively

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Law no. 127/2006; art. 13, para. 2, Decree-Law No. 35/2005; see also D. Garofalo, *La riforma degli ammortizzatori sociali tra continuità e discontinuità*, in *Prev. Assist. Pubb. Priv.*, 2005, No. 1, pp. 35 ff.

[21] This aspect was also emphasized by the (unimplemented) delegation for social safety net reform ex art. 1, para. 29, lett. h, Law No. 247/2007; see generally V. Filì, *Le deleghe per il riordino della normativa in materia di servizi per l'impiego e incentivi all'occupazione*, in F. Carinci & M. Miscione (eds), *Il Collegato lavoro 2008*, Ipsoa, Milano, 2008, pp. 19 ff.

[22] On this point see, among others, N. Paci, *La condizionalità*, in M. Cinelli, G. Ferraro & O. Mazzotta (eds), *Il nuovo mercato del lavoro*, Giappichelli, Torino, 2013, pp. 429 ff.; V. Filì, *Politiche attive e servizi per l'impiego 2012*, in *Lav. Giur.*, 2012, No. 10, pp. 990 ff.; P. Pascucci, *Servizi per l'impiego, politiche attive, stato di disoccupazione e condizionalità nella l. n. 92 del 2012*, in *Riv. Dir. Sic. Soc.*, 2012, No. 3, pp. 453 ff.; V. Pasquarella, *Gli interventi di raccordo tra politiche attive e passive*, and A. Olivieri, *Condizionalità ed effettività nella l. n. 92/2012*, both in P. Chieco (ed), *Flessibilità e tutele nel lavoro*, Cacucci, Bari, 2012, pp. 639 ff. and 647 ff. respectively.

[23] On conditionality under the Jobs Act see among many V. Filì, *L'inclusione da diritto a obbligo*, in M. Brollo, C. Cester & L. Menghini (eds), *Legalità e rapporti di lavoro. Incentivi e sanzioni*, cit., pp. 117 ff.; A. Olivieri, *Le tutele dei lavoratori dal rapporto al mercato del lavoro. Dalla postmodernità giuridica verso la modernità economica?*, Giappichelli, Torino, 2016, pp. 153 ff.; idem, *La condizionalità nel d.lgs. n. 150/2015: luci e ombre*, and V. Filì, *Il patto di servizio personalizzato*, both in E. Ghera & D. Garofalo (eds), *Organizzazione e disciplina del mercato del lavoro nel Jobs Act 2*, cit., pp. 185 ff. and 176 ff. respectively; M. Tiraboschi, *Jobs Act e ricollocazione dei lavoratori*, in *Dir. Rel. Ind.*, 2016, No. 1, pp. 119 ff.; L. Valente, *La riforma dei servizi per il mercato del lavoro*, Cedam, 2016, pp. 106 ff.

[24] See A. Occhino, *Il sostegno al reddito dei lavoratori in costanza di rapporto tra intervento pubblico e bilateralità*, in *Dir. Lav. Merc.*, 2016, No. 3, p. 505; M. Miscione, *La Cassa integrazione dopo il Jobs Act*, in F. Carinci (ed), *Jobs Act: un primo bilancio*, Proceedings of the XI Seminario di Bertinoro-Bologna, 22-23 October 2015, p. 934.

linked benefits to the persistence of unemployment, eligibility for wage supplementation (*Cassa Integrazione Guadagni*), or mobility status, to a system in which access to both monetary and service-based entitlements is contingent upon demonstrable, active job-seeking behaviour. In this context, inactivity is not only discouraged but sanctioned – potentially to the point of the withdrawal of social security entitlements[25].

Notably, conditionality in this reformed framework affects not only access to benefits but also the legal recognition of unemployment status itself[26]. The legislature now stipulates that such status be predicated not merely on the involuntary nature of job loss, but also on the individual's immediate availability for work and their participation in active labour market measures, as agreed with public employment services[27]. In doing so, the legislator integrates the constitutional notion of involuntary unemployment – as articulated in Article 38, paragraph 2 of the Italian Constitution – with the principle of *laboriousness*:[28] that is, an individual's willingness to engage in work as a precondition for entitlement to public support. This principle embodies a heightened form of personal responsibility, whereby individuals are expected to contribute actively to their own reintegration into the workforce.

Thus, *laboriousness* operates as a form of counter-performance embedded in the reciprocity underlying social protection schemes. It redefines the very nature of the protected risk: the system does not compensate for job loss *per se*, but for involuntary unemployment – understood as a condition not attributable to the worker and coupled with a demonstrated effort to regain employment[29].

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[25] Art. 7, Legislative Decree No. 22/2015..

[26] See L. Corazza, *Il principio di condizionalità (al tempo della crisi)*, in *Dir. Lav. Rel. Ind.*, 2013, No. 139, pp. 490 ff.; M. Ricci, *I servizi per l'impiego dopo le modifiche legislative tra luci e ombre*, in *Arg. Dir. Lav.*, 2017, pp. 340 ff.

[27] Art. 19, para. 1, Legislative Decree No. 150/2015, which includes among the unemployed those without employment who declare electronically to the Sistema Informativo Unitario delle Politiche del Lavoro (SIUPOL) their immediate availability to undertake work and participate in agreed active labour market measures.

[28] On the concept of laboriousness ("laboriosità") see P. Sandulli, *Intervento*, in *Interessi e tecniche nella disciplina del lavoro flessibile. Atti delle Giornate di studio AIDLaSS, Pesaro-Urbino, 24-25 maggio 2002*, Giuffrè, Milano, 2003, p. 562; P. Bozzao, *Dal «lavoro» alla «laboriosità». Nuovi ambiti della protezione sociale e discontinuità occupazionale*, in *Riv. Dir. Sic. Soc.*, 2003, No. 2, p. 535.

[29] See F. Liso, *La recente giurisprudenza della Corte costituzionale in materia di stato di disoccupazione*, in *Dir. Rel. Ind.*, 2008, No. 2, p. 336, who notes that, although in a different historical and regulatory context, conditionality – which has always existed in unemployment benefits, albeit in attenuated form – tends to shift from being an element

Involuntariness and *laboriousness*, taken together, serve as filtering criteria for determining eligible recipients, ensuring that unemployment protection does not devolve into passive assistance. They aim to preserve the integrity of the system against opportunistic behaviour and moral hazard, which would be antithetical to the constitutional imperative to work enshrined in Article 4, paragraph 2[30].

A further dimension of conditionality arises from the obligation not only to engage in activities designed to enhance employability but also to accept suitable job offers[31], with refusal potentially triggering loss of entitlement[32]. It is precisely in the legal construction of *suitability* – and in delineating the boundaries of acceptable refusal – that one observes a key

strictly inherent to the logic of the insurance system to becoming a tool of policies aimed at giving concrete effect to the right to work enshrined in the Constitution.

[30] See P. Bozzao, *Reddito di cittadinanza e laboriosità*, in *Dir. Lav. Rel. Ind.*, 2020, No. 1, p. 9, who highlights the connection with Article 4, paragraph 2 of the Italian Constitution, which establishes a duty to contribute to the material or spiritual progress of society, and Article 2 of the Italian Constitution read in its bidirectional connotation, where the community takes responsibility for liberating the individual from actual need, and the latter responds by fulfilling the duty of being socially useful, active and responsible. Also see M. Cinelli, *La previdenza che cambia: appunti su «relatività» e variazioni fisiognomiche dei diritti sociali*, cit., pp. 12-13, who attributes to laboriousness the merit of combating unacceptable parasitism or abuse in employment services but critically observes that in the area of income protection it ends up as a factor of exclusion, while the natural balance of rights and duties is already realized in the insurance model, which acts as a self-sufficient mechanism for selecting the deserving, since it conditions benefit entitlement on minimum employment and contribution requirements, adjusts benefit duration and amount according to wages, and caps the maximum indemnity period.

[31] See Art. 25, Legislative Decree No. 150/2015, which established the criteria for determining the suitability of job offers, later specified by the parameters set forth in Ministerial Decree of 10 April 2018, No. 42. This decree is particularly noteworthy for combining qualitative aspects – such as the "consistency with the experiences and skills acquired" by the individual (Art. 4, which differentiates this parameter based on the duration of the unemployment period) –with quantitative aspects. These include, first, the length of unemployment and, based on that, the distance between the individual's residence and the workplace, as well as the travel time using public transportation, which increases proportionally with the length of inactivity (Art. 6); and second, the difference between the proposed wage and the unemployment benefit received (Art. 7). Furthermore, for a job offer to be deemed suitable, it must concern specific types of employment relationships (Art. 5), and it may be legitimately refused under a set of clearly defined circumstances (Art. 8).

[32] See C. Garbuio, *L'offerta congrua di lavoro nel prisma del principio di condizionalità: tra parametri oggettivi e necessarie implicazioni soggettive*, in *Riv. Dir. Sic. Soc.*, 2019, No. 3, pp. 575 ff.; E. Villa, *Attivazione e condizionalità al tempo della crisi: contraddizioni di un modello (almeno formalmente) improntato alla flexicurity*, in *Arg. Dir. Lav.*, 2018, No. 2, pp. 477 ff.

point of tension and convergence between the freedom to work and the duty to work.

Accordingly, the intensity of activation demanded – through vocational training, reskilling programmes, and the acceptance of suitable employment – serves as a benchmark for evaluating whether conditionality mechanisms strike an appropriate equilibrium. This involves assessing whether such mechanisms operate as legitimate instruments of mutual responsibility, or whether they impose disproportionate burdens on recipients, thereby shifting from protection to punishment.

In evaluating this framework, another critical factor must be considered: namely, the effectiveness of employment services available to benefit recipients. Indeed, it is inherent in the social insurance model underlying unemployment benefits that access to such provisions – and consequently, the allocation of public financial resources – should be reserved for individuals who have not contributed to their condition of need and who demonstrate a willingness to reactivate themselves in pursuit of a free and dignified existence through paid employment.

Nevertheless, the obligation for individuals to engage in activation pathways in order to maintain access to passive labour market benefits must be understood in connection with the State's broader responsibility to ensure their effective reintegration into the labour market. Put differently, the requirement for beneficiaries to engage actively in the job search cannot be meaningfully imposed in the absence of employment services capable of offering real and appropriate job opportunities[33]. Only under such conditions can conditionality genuinely function as a safeguard for the right to work[34].

Otherwise, what is presented as an activation requirement risks degenerating into a mere obligation to work – its actual aim no longer the cooperative engagement of the insured within a solidaristic framework of social protection, but rather the artificial compression of periods of inactivity, as a means of reducing welfare expenditure. This would result in a restriction of access to benefits through an expansion of obligations[35].

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[33] See similarly D. Garofalo, *Le politiche del lavoro nel Jobs Act*, cit., p. 118; more generally, on the need for efficient employment services, see among many others M. Cinelli, *Il welfare tra risparmio e razionalizzazione. Gli interventi di riforma 2011–2012 su pensioni e ammortizzatori sociali*, in G. Ferraro, O. Mazzotta (eds.), *Il nuovo mercato del lavoro. Dalla riforma Fornero alla legge di stabilità 2013*, Giappichelli, Torino, p. 425.

[34] See also V. Filì, *L'inclusione da diritto a obbligo*, cit., p. 119.

[35] See S. Renga, *La tutela del reddito: chiave di volta per un mercato del lavoro sostenibile*, cit., p. 28; E. Gragnoli, *Gli strumenti di tutela del reddito di fronte alla crisi finanziaria*, paper presented at

Should this objective prevail, it would not only compromise the dialectic between the right and the duty to work but also generate long-term inefficiencies in the allocation of public resources. Active labour market policies focused solely on immediate job placement – without adequate consideration of the individual's professional background, realistic employment prospects, and sustainable integration into the labour market – could produce suboptimal outcomes. In such cases, short-term savings may ultimately lead to renewed demands for social protection, due to persistent employment instability.

4. Employment Suspension in Business Crises: Pathways to Reskilling and Re-employment through Transitional Labour Strategies

The conditionality associated with income-support measures in the context of employment suspension presents notable specificities. Here, the primary objective of linking wage supplementation to active labour market policies is not merely to provide economic security but also to promote the professional stability of individuals at risk of unemployment. This is pursued through their integration into employment services, aimed at maintaining and enhancing their skills – either with a view to resuming their original positions, should the suspension prove temporary, or to facilitating reallocation to new employers.

Simultaneously, the intention to reintegrate surplus workers also serves to expose instances of "genuine" unemployment, by making visible employment relationships that, while formally suspended, lack any realistic prospect of resumption. Conversely, it enables the reactivation of regular employment for those who can be effectively reintegrated, thereby preserving the temporary nature of wage support and preventing its transformation into a *de facto* unemployment benefit[36].

The objectives outlined in Legislative Decree No. 148/2015 were only partially achieved in its original formulation. A significant step forward was taken with the reform introduced by Law No. 234/2021, which – as rightly observed – marked a decisive acceleration towards the long-anticipated but never fully realised integration of passive measures (social

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the XVII Congresso nazionale AIDLaSS, *Il diritto del lavoro al tempo della crisi*, Pisa, 7–9 June 2012, in *Giorn. Dir. Law. Rel. Ind.*, 2012, No. 136, p. 573 ff.

[36] Cf. Art. 1, para. 2, lett. *a*, Law No. 183/2014, which includes, among the guiding principles of the labour market reform, the separation between protections during employment and those after termination of the employment relationship.

welfare) with active labour market policies (primarily vocational training, though not exclusively)[37].

This legislative development signalled a shift from a unidimensional approach – where wage supplementation served solely to preserve existing jobs – towards a bidimensional logic. In this revised framework, wage supplements are also conceived as proactive instruments supporting the reallocation of workers deemed surplus following the suspension or reduction of economic activity[38].

Consequently, these income-support instruments now serve both compensatory and complementary functions: ensuring income continuity during periods of suspension, while simultaneously facilitating re-employment. As with unemployment benefits, public intervention guarantees both economic protection and the right to work. However, the duty to work plays a less prominent role here, as the protected event is not unemployment per se, but underemployment or insufficient income.

Accordingly, activation obligations primarily take the form of requirements to engage in professional retraining, aimed at mitigating the risk of unemployment and at preserving and enhancing individual competences.

Assessing the implementation of the right to work during corporate crises and restructuring thus entails identifying which individuals are subject to activation obligations, the sanctions applicable in cases of non-compliance, and the criteria used to define training activities. These elements must be examined with reference to local labour market needs and with consideration for the involvement of key stakeholders, particularly the social partners.

In this regard, Article 25-ter of Legislative Decree No. 148/2015, introduced by the 2022 Budget Law[39], is a key reference. This provision replaced the previous regulatory framework, which was simultaneously repealed. While the earlier framework did foresee conditionality obligations for recipients of income-support measures (such as ordinary and extraordinary wage supplementation and solidarity funds), implementation was deferred to Legislative Decree No. 150/2015[40],

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[37] See also D. Garofalo, *Gli strumenti di gestione della crisi di impresa. Un quadro d'insieme*, Working Paper ADAPT, 2022, No. 8, p. 6.

[38] On this point, see also C. Carchio, *Le prestazioni integrative del reddito. Funzione sociale e sostenibilità finanziaria*, cit., p. 238 ff.

[39] Art. 1, para. 202, Law No. 234/2021, which introduced Art. 25-ter into Legislative Decree No. 148/2015.

[40] Art. 8, Legislative Decree No. 148/2015, which referred to Art. 22, Legislative Decree No. 150/2015, and was later repealed by Art. 1, para. 203, Law No. 234/2021; on the

effectively assimilating these recipients to those receiving unemployment benefits.

By contrast, Article 25-ter – further specified through ministerial decrees governing both the structure of training activities and the sanctions for non-compliance[41] - introduced more detailed provisions aimed at integrating recipients of income-support measures into active labour market policies.

Among the most significant innovations is the limitation of the training obligation to recipients of *extraordinary* wage supplementation – specifically, those who may be classified as surplus following a corporate crisis, restructuring process, or solidarity agreement. This approach enhances the internal coherence of the system, excluding recipients of ordinary benefits from re-employment programmes, given their more concrete prospects of returning to work in the short term due to temporary or cyclical market conditions.

As regards the content of training and retraining initiatives – whether mandated by legislation or agreed through collective bargaining[42] - these programmes must be carefully tailored to the specific needs of the affected workers and to the broader realities of the business environment and labour market.

Accordingly, the training must correspond to the concrete requirements identified in connection with the extraordinary wage supplementation plan. The focus should be on developing or enhancing competences essential for reintegration into the current place of employment or, alternatively, for improving employability in light of potential mobility or reallocation to new positions[43].

At the conclusion of such training pathways, workers are awarded certifications, validations, or transparency attestations verifying the

original provisions see, among others, V. Filì, *Servizi per il lavoro e misure di workfare nel d.lgs. n. 150/2015*, in *Dir. Merc. Lav.*, 2015, No. 3, p. 511 ff.; R. Fabozzi, *Misure di sostegno al reddito e obblighi di attivazione dei beneficiari*, in *Riv. Dir. Sic. Soc.*, 2016, No. 4, p. 723 ff.; L. Valente, *I diritti dei disoccupati. Le politiche del lavoro e il welfare dal Jobs Act al reddito di cittadinanza*, Cedam, Padova, 2019.

[41] See respectively Ministerial Decree 2 August 2022 (GU No. 227, 28 September 2022) and Ministerial Decree 2 August 2022 (GU No. 253, 28 October 2022); cf. L. Barbieri, L. Mariani, *Intervento straordinario di integrazione salariale e nuovi obblighi formativi*, in *Dir. Prat. Lav.*, 2022, No. 46, p. 2820 ff.

[42] Art. 2, Mnisterial Decree 2 August 2022 (GU No. 227, 28 September 2022).

[43] Art. 3, paras. 1–3, Ministerial Decree 2 August 2022 (GU No. 227, 28 September 2022).

competences acquired, in accordance with prevailing minimum certification standards[44].

A noteworthy development, effective from 2025[45], is the extension of access to training under the GOL programme (*Garanzia di Occupabilità dei Lavoratori*) to all recipients of extraordinary wage supplementation. Previously, this opportunity had been restricted to workers covered by occupational transition agreements pursuant to Article 24-bis of Legislative Decree No. 148/2015. While this broadening of eligibility is certainly welcome, it comes relatively late, given that the GOL programme has been operational since 2021[46]. The prior exclusion of these workers appears to have stemmed more from budgetary constraints than from any regulatory rationale[47].

This legislative development significantly expands the range of continuing vocational training opportunities available to affected workers. In addition to initiatives financed through interprofessional training funds[48], workers may now benefit from substantial public funding allocated to the GOL programme.

Moreover, Law No. 234/2021 introduced a further important amendment to Legislative Decree No. 148/2015 by extending the grounds for corporate reorganisation to include transition processes[49]. Within this framework, substantial employment recovery may be pursued through retraining and skill enhancement measures implemented as part of broader strategies to address inefficiencies in the managerial or production structure, or to manage transitional phases of corporate life[50].

As a result, the regulatory definition of the grounds for extraordinary wage supplementation now recognises training and retraining measures – whether for internal redeployment or external re-employment – as

[44] See Legislative Decree No. 13/2013 and Interministerial Decree 5 January 2021.

[45] Art. 4, para. 4, Decree-Law No. 208/2024, converted into Law No. 20/2025, which amended Art. 25-ter, para. 2, Legislative Decree No. 148/2015.

[46] See Ministerial Decree 5 November 2021 adopting the National Programme for the Guarantee of Employability of Workers (GOL).

[47] This conclusion is confirmed by Art. 5, Ministerial Decree 2 August 2022 (GU No. 227, 28 September 2022), which established a financial invariance clause for training projects during periods of wage supplementation, limiting funding to interprofessional training funds and regional or autonomous provincial resources.

[48] See Art. 25-ter, para. 1, Legislative Decree No. 148/2015.

[49] Art. 21, para. 1, lett. *a*, Legislative Decree No. 148/2015, as amended by Art. 1, para. 199, lett. *a*, Law No. 234/2021; see also Ministerial Decree No. 94033/2016, as amended by Ministerial Decree No. 33/2022.

[50] Art. 21, para. 2, Legislative Decree No. 148/2015, as amended by Art. 1, para. 199, lett. c, Law No. 234/2021.

fundamental tools for managing structural redundancies in a non-disruptive manner.

Within the broader system of passive labour market policies and measures to enhance employability, another significant regulatory development concerns the compatibility between wage supplementation and remunerated employment undertaken during the benefit period. Although such compatibility does not constitute conditionality *stricto sensu*, as it does not involve mandatory activation, it nonetheless incentivises occupational reintegration into other sectors, thereby discouraging inactivity.

In this regard, a form of voluntary or "self-imposed" conditionality emerges, whereby the suspended or underemployed worker independently seeks re-employment outside of institutional activation pathways.

On this point, Article 8 of Legislative Decree No. 148/2015, as amended by Article 6 of Law No. 203/2024[51], now stipulates that engagement in self-employment or subordinate employment during wage supplementation results in the suspension of benefit entitlement solely for the days worked[52].

Furthermore, in line with settled case law[53], such concurrent employment does not entail the loss of the entire benefit for the relevant period; rather, it triggers a proportional reduction in the allowance based on the income earned[54].

This regulatory arrangement serves a dual purpose: it discourages undeclared employment and reduces the financial burden on the welfare system, while also promoting the reactivation of beneficiaries. Re-entering the labour market during the suspension period enables workers to preserve their professional skills and enhance their chances of securing long-term employment, thereby mitigating the adverse consequences of partial unemployment.

Within the bidimensional architecture of the current wage supplementation system – addressing both income protection and re-

[51] On the subject, see C. Carchio, *Integrazioni salariali e attività lavorativa concomitante: le novità del Collegato Lavoro 2024*, in *Lav. Giur.*, 2025, No. 3, p. 219 ff.

[52] This constitutes, in technical terms, a suspension; see Court of Cassation, Labour Section, 1 June 2005, No. 11679, in *Riv. It. Dir. Lav.*, 2006, II, p. 391 ff., with note by E. Tarquini, *Cassa integrazione guadagni straordinaria e attività incompatibili: l'attività lavorativa svolta dal socio di società di persone*.

[53] See among others Cass. 12 December 2023, No. 34750, in *DeJure*; Cass. 9 February 2021, Nos. 3116 and 3122, in *Giust. Civ. Mass.*, 2021 and *DeJure* respectively; Cass. 28 May 2003, No. 8490, in *Giust. Civ. Mass.*, 2003, No. 5; Cass. 14 June 1995, No. 6712, in *Lav. Giur.*, 1996, p. 329 ff.; Cass. 14 April 1993, No. 4419, in *Giust. civ.*, 1993, I, p. 2992 ff.; Cass. 8 November 1990, No. 10755, in *Giust. Civ. Mass.*, 1990, No. 11.

[54] Cf. INPS Circular No. 3, 15 January 2025, § 1.1.

employment – numerous complementary provisions now support not only the temporary management of suspended employment but also the transition to new job opportunities. These provisions offer more effective tools for addressing surplus labour.

Among them, particular importance is accorded to the possibility of extending extraordinary wage supplementation by up to 12 additional months where the corporate reorganisation plan includes worker reallocation or retraining (Article 22-bis, Legislative Decree No. 148/2015). Similar extensions are available to support restructuring processes in particularly critical economic circumstances (Article 44, paragraph 11-ter).

Other relevant instruments include the occupational transition agreement (Article 22-ter), the expansion contract (Article 41) – though no longer renewable[55] - and various support measures for labour mobility. Also noteworthy are the re-employment agreement (Article 24-bis) and employment incentives for recipients of social welfare measures[56]. Although not constituting wage supplementation *per se*, these instruments play a complementary role in supporting occupational transitions for individuals engaged in passive labour market policies.

Further support is provided by corporate-level agreements permitting employers to access the "New Skills Fund" to finance hours of non-working time dedicated to training, thereby allowing employees to acquire or upgrade competences in response to organisational, technological, or production-related changes (Article 88 of Decree-Law No. 34/2020, converted with amendments by Law No. 77/2020).

Taken together – and notwithstanding the specific characteristics of each measure – these provisions contribute to redefining the role of wage supplementation: no longer merely a mechanism for preserving existing employment, but increasingly a policy tool for fostering future employment opportunities where financial compensation alone is insufficient to address employment discontinuities[57].

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[55] This experimental measure is no longer active as it was not refinanced after Art. 26-quater, para. 4, Decree-Law No. 34/2019, converted into Law No. 58/2019, had extended it until 2023.

[56] For a comprehensive overview, see C. Garofalo, *Le politiche per l'occupazione tra aiuti di Stato e incentivi in una prospettiva multilivello*, Cacucci, Bari, 2022.

[57] *Contra* P. Bozzao, E. D'Avino, *Gli ammortizzatori sociali in costanza di rapporto di lavoro: passato e futuro alla luce della recente riforma*, in *Var. Temi Dir. Lav.*, No. 4, 2022, p. 713 ff., which argue that the aforementioned provisions undermine the original purpose of the wage supplementation and blur the distinction between wage supplementation schemes for ongoing employment relationships and those for unemployment, misusing income-support measures as instruments of economic policy aimed solely at reallocation.

The contexts in which these instruments are deployed highlight their predominant focus on recipients of extraordinary wage supplements who are involved in structural corporate crises or long-term reorganisation. Through training pathways, these measures seek to prevent extended periods of partial unemployment – a condition that entails substantial social costs and risks of professional exclusion, alongside a significant financial burden on both public and private welfare systems[58].

What has emerged, in fact, is a paradigm shift: the non-traumatic management of structural redundancies is no longer conceived merely as a last resort, to be postponed through prolonged reliance on exceptional benefits, but as a central objective of the wage supplementation system[59].

This evolution has led to a reconfiguration of income-support policies. Their functional dimension has become increasingly prominent, contributing – alongside the gradual universalisation of access[60] - to advancing the dual goals of greater social inclusion and more efficient allocation of public resources.

By combining wage supplementation with proactive employment services, these measures promote a more rational and strategic use of financial support. Passive labour market policies, thus integrated with active ones, are assuming an increasingly promotional – rather than merely compensatory[61] - role in ensuring employment continuity and quality.

5. Conclusions: How Post-2021 Special Income Measures Disrupted Labour Transitions

[58] See also E. Ales, *La garanzia dei mezzi adeguati alle esigenze di vita dei disoccupati ovvero dell'adeguatezza sistemica*, in *Var. Temi Dir. Lav.*, special issue, 2022, p. 277 ff.; P.A. Varesi, *Crisi aziendali: sostegno al reddito e formazione dei lavoratori*, in *Dir. Prat. Lav.*, 2021, No. 1, p. 35 ff.

[59] In the original structure of Legislative Decree No. 148/2015, professional retraining for external mobility was not directly provided for, but rather mediated through ministerial implementation decrees of the statutory framework. In particular, Decree No. 94033/2016 included among the objectives related to the causes of extraordinary wage supplementation the re-employment of suspended workers in other enterprises (Art. 1, para. 1, lett. f).

[60] This development is attributable to the amendments introduced by Law No. 234/2021, which added para. 3-bis and 3-ter to Art. 20, para. 7-bis to Art. 26, para. 4-bis to Art. 27, para. 2-bis to Art. 29, and para. 1-bis to Art. 40 of Legislative Decree No. 148/2015.

[61] On the anticipatory function of welfare, see M. Franzini, *La difficile conciliazione tra finanza pubblica e welfare state*, in *Riv. Dir. Sic. Soc.*, No. 4, 2019, p. 681 ff.; P. Sandulli, *Quale e quanto welfare dalla finanza pubblica? Rileggendo Maurizio Franzini 2019*, in *Riv. Dir. Sic. Soc.*, No. 1, 2022, p. 119 ff.

The central question posed at the outset of this analysis – whether social welfare benefits, in and of themselves, generate employment – was addressed from the beginning. As argued throughout, while such benefits do not directly create jobs, they can contribute significantly to enhancing the employability of individuals who are wholly or partially unemployed.

The current system of conditionality mechanisms and employment transition tools has redefined the traditional understanding of the constitutional guarantee enshrined in Article 38, paragraph 2, of the Italian Constitution, which protects those unable to work and without the means necessary to live. This reconfiguration does not merely seek to mitigate the consequences of involuntary unemployment – namely, the absence or insufficiency of income – but instead aims to address its root cause: the scarcity or inadequacy of employment opportunities.

In this regard, income-support mechanisms now operate across two interrelated dimensions. On the one hand, social security benefits perform a passive function, ensuring economic stability; on the other, reallocation and activation measures serve as instruments of active protection, aimed at promoting reintegration into the labour market[62]. Ultimately, this latter dimension reaffirms that employment security is to be guaranteed not solely through monetary transfers, but primarily through access to remunerated work, as stipulated by Article 36 of the Constitution.

The evolution of both the objectives and instruments underpinning the non-employment protection system is closely connected to structural changes in the dynamics of labour demand and supply, both of which have become increasingly fluid. In the current economic context, employment stability requires the support of mechanisms capable of facilitating labour mobility in response to shifting market conditions.

The transformation of the national production system – driven by technological innovation and the broader ecological and economic transitions – has rendered the prospect of stable, long-term employment increasingly difficult to guarantee, especially for vulnerable groups such as older workers, young people, persons with disabilities, and individuals with chronic health conditions.

The integration of income-support measures with activation obligations has served to reinforce the architecture of social security by acknowledging the intrinsic fluidity of the modern labour market – a condition further exacerbated by ongoing economic volatility. The

[62] See S. RENGA, *La tutela del reddito: chiave di volta per un mercato del lavoro sostenibile*, cit., p. 62 ss.

emergence of new productive sectors and the proliferation of non-standard forms of employment – beyond full-time, open-ended contracts – have created demand for novel skill sets. These developments have compelled the legislature to rethink the existing social protection framework to better respond to contemporary realities.

The strategy adopted – correctly – has been to integrate passive and active labour market policies within a welfare system that is universal, solidarity-based, and more inclusive. The goal is not only to support labour market entry but also to facilitate transitions between jobs.

Such mobility-oriented measures are essential not only for supporting individual workers but also for assisting firms in adapting to the modernisation of the national economy, steering it towards a model of sustainable development that is socially inclusive. Indeed, these interventions transcend the boundaries of the traditional labour market and enter the broader domain of social protection measures aimed at combating economic hardship[63].

Yet, within this otherwise virtuous cycle – aimed at harmonising passive and active policy tools – a potentially disruptive element has emerged: the increasing reliance on *special income-support measures*. These instruments are frequently renewed, refinanced, and extended, reflecting a persistent commitment to preserving employment "at all costs" [64].

It is in this context that a critical shift must be acknowledged: namely, the transformation in the function of wage supplementation provided on an exceptional basis. Prior to the reforms introduced by Law No. 234/2021 – when the income-support framework for workers in active employment did not yet extend to all employers regardless of sector or workforce size – such exceptional measures played a compensatory role. They filled protection gaps affecting workers excluded from ordinary or extraordinary wage supplementation schemes (*Cassa Integrazione Guadagni ordinaria e straordinaria*) or bilateral solidarity funds, serving both to preserve existing employment and to enable the eventual reallocation of surplus labour.

This compensatory function was significantly reduced following the 2021 reform, which extended wage supplementation coverage to all employers, including those with a single employee. As a result, exceptional measures no longer served to broaden the scope of protection but instead began to

[63] See D. GAROFALO, *Gli interventi sul mercato del lavoro nel prisma del PNRR*, cit., p. 124.

[64] On the repeated use of special wage supplementation measures introduced by Law No. 207/2024 (Budget Law for 2025), see C. Carchio, *Measures on Social Welfare Instruments and Training for the Implementation of the GOL Programme (Paragraphs 188–197)*, in D. Garofalo, A. Olivieri (eds), *Commentary on Law No. 207/2024*, forthcoming.

operate primarily as mechanisms for extending the duration of benefits beyond the standard legal limits[65], typically for selected categories of workers, determined on a discretionary basis.

This reorientation of exceptional wage supplementation – characterised by targeted eligibility and, in some cases, benefit periods extending over several years – has a dual effect. On the one hand, it improves official labour market statistics, as beneficiaries continue to be formally counted among the active labour force. On the other hand, it may inhibit actual prospects for re-employment: prolonged access to these benefits risks "crystallising" workers within specific occupational roles and sectors, without any meaningful reassessment of whether those contexts still offer viable reintegration opportunities.

When such extraordinary support measures are repeatedly extended, they risk undermining the long-term employability of the recipients. Rather than fostering adaptability and professional mobility, they may instead reinforce patterns of occupational stagnation and contribute to social exclusion.

[65] Artt. 4 and 22, Legislative Decree No. 148/2015.

Labour Law Inspection and Enforcement System in Italy

Gianluca Picco [*]

Abstract. This paper examines Decree-Law No. 19/2024 (converted, with amendments, into Law No. 56/2024), which introduced changes to two significant aspects of labour sanction law. On the one hand, the institutional structure of labour inspection has been revised, completing a reform process that began twenty years earlier with Legislative Decree No. 124/2004. On the other hand, in response to public outcry over tragic workplace accidents that received extensive media coverage, the sanctioning framework for outsourcing has been amended. This includes the reintroduction of criminal penalties, thereby reversing the decriminalisation introduced eight years earlier by Legislative Decree No. 8/2016.

Keywords: *Decree-Law No. 19/2024; Enforcement System; Labour Law Inspections; Criminal Sanctions; Administrative Sanctions.*

1. Introduction

In Italy, Decree-Law No. 19/2024 (converted, with amendments, into Law No. 56/2024) has had a significant impact on two key aspects of labour sanction law. On the one hand, the institutional structure of labour inspection has been revised, completing a reform process that began twenty years earlier with Legislative Decree No. 124/2004, which aimed to establish a more effective inspection system in response to the chronic inefficiency of labour inspections in the country. On the other hand, in the wake of public outcry over tragic workplace accidents that received extensive media coverage, the sanctioning framework for outsourcing has been modified. This includes the reintroduction of criminal penalties, thereby reversing the decriminalisation introduced eight years earlier by Legislative Decree No. 8/2016.

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2. The Italian Labour Inspection System After Two Decades of Reform: From Legislative Decree No. 124/2004 to Law Decree No. 19/2024

From a functional perspective, labour inspection represents a fundamental instrument for the (constitutional) protection of both labour and enterprise. The labour market has consistently demonstrated the necessity of institutional mechanisms to ensure compliance with legal provisions designed to safeguard workers, who are considered the weaker party in the employment relationship[1].

The objective of the inspection function is twofold: on the one hand, to ensure the effective enforcement of legal standards protecting working conditions, by combating undeclared and irregular work in all its various forms; on the other, to promote fair and balanced competition among enterprises by preventing phenomena such as so-called social dumping and unfair competition[2].

Although these objectives have historical roots—emerging alongside the spread of Taylorist production and labour organisation systems, and the rise of major trade union movements denouncing the harsh conditions of nineteenth-century industrial labour—EU Member States have, in recent decades[3], increasingly invested in enhancing the effectiveness of labour inspection systems and expanding their capacity to monitor enterprises across their national territories[4].

The current institutional framework of labour inspection in Italy is primarily the product of two major legislative interventions: Legislative Decree No. 124/2004 and Legislative Decree No. 149/2015. The latter focused mainly on organisational and institutional aspects, although a legislative reversal has recently occurred through Law Decree No.

[1] See G. GIUGNI, *Diritto sindacale*, Cacucci Editore, 2001, p. 13; P. TULLINI, *Effettività dei diritti fondamentali del lavoratore: attuazione, applicazione, tutela*, in *Giorn. dir. lav. rel. ind.*, n. 2, 2016, pp. 291-316; L. MONTUSCHI, *Rimedi e tutele nel rapporto di lavoro*, in *DRI*, n. 1, 1997, pp. 3-7; P. RAUSEI, *Effettività delle tutele ed efficacia normativa*, in *DPL*, n. 1, 2023, pp. 6-12.

[2] G. CASALE, *Efficacia del diritto del lavoro e ruolo dell'ispezione del lavoro*, in *RIDL*, 2013, I, pp. 301 ff.

[3] For the historical evolution of labour inspection in Italy, see L. GAETA, *Storia (illustrata) del diritto del lavoro italiano*, Giappichelli, 2020, pp. 37 ff.

[4] See A.R. CARUSO, *La vigilanza sul lavoro negli altri Paesi europei*, in *Working Paper ADAPT*, n. 143, 2013.

19/2024 (converted, with amendments, into Law No. 56/2024)[5].
The rationalisation introduced by Legislative Decree No. 124/2004 led to a reorganisation of inspection activities, assigning coordination and planning responsibilities within their respective jurisdictions to the then-provincial and regional offices of the Ministry of Labour[6]. By centralising the planning and coordination of inspections, the 2004 reform aimed to address the widely recognised inefficiencies of the previous system, particularly the overlapping and duplication of inspections caused by inadequate coordination among the various competent bodies. Alongside the Ministry's labour inspectors—who held general competence over labour, social security, and insurance matters—personnel from INPS, INAIL, ASL, and ARPA also conducted inspections, though with mandates narrowly focused on the institutional objectives of their respective bodies[7].
The reform thus sought to prevent enterprises from being subjected—within a short timeframe—to multiple, redundant inspections concerning labour and social legislation. It aimed to establish a more balanced relationship between inspectors and employers through enhanced coordination among inspection authorities.
Despite the substantial 2004 reform and subsequent legislative developments (notably Law No. 183/2010), the inspection system continued to exhibit relatively low levels of efficiency, with negative repercussions for businesses, workers, and the inspection authorities themselves.
To complete the comprehensive reform of inspection services initiated in 2004, Law No. 183/2014 and the subsequent Legislative Decree No.

[5] See G. PICCO, *Il diritto sanzionatorio del lavoro*, ADAPT University Press, 105, 2024, pp. 23 ff.
[6] *Amplius* G. PICCO, P. RAUSEI, *Il rafforzamento dell'attività ispettiva (artt. 7, 15 e 16, decreto-legge n. 48/2023, conv. in l. n. 85/2023)*, in E. DAGNINO, C. GAROFALO, G. PICCO, P. RAUSEI (a cura di), *Commentario al decreto-legge 4 maggio 2023, n. 48 c.d. "decreto lavoro"*, ADAPT University Press, 2023, pp. 273 ff.; see also P. RAUSEI, *Vent'anni dopo il decreto di riforma dei servizi ispettivi. Decreto legislativo 23 aprile 2004, n. 124. Razionalizzazione delle funzioni ispettive in materia di previdenza sociale e di lavoro, a norma dell'articolo 8 della l. 14 febbraio 2003, n. 30*, ADAPT University Press, 2024, pp. VI e ff.
[7] For further details on Legislative Decree No. 124/2004, see P. PENNESI, E. MASSI, P. RAUSEI, *La riforma dei servizi ispettivi*, inserto di *DPL*, n. 30, 2004; C.L. MONTICELLI, M. TIRABOSCHI (a cura di), *La riforma dei servizi ispettivi in materia di lavoro e previdenza sociale. Commentario al decreto legislativo 23 aprile 2004, n. 124*, Giuffrè, 2004; P. RAUSEI, *Ispezioni del lavoro. Procedure e strumenti di difesa*, Ipsoa, 2009; P. RAUSEI, M. TIRABOSCHI (a cura di), *L'ispezione del lavoro dieci anni dopo la riforma. Il decreto legislativo n. 124/2004 tra passato e futuro*, ADAPT University Press, 2014.

149/2015 established—at "zero cost"[8]—a single national agency for labour inspection and oversight: the National Labour Inspectorate (*Ispettorato Nazionale del Lavoro*, INL). This reform unified the labour and social security inspection functions previously fragmented among different institutions, with the stated objective of rationalising and simplifying oversight activities while avoiding duplication[9].

A strong impetus for rationalisation also came from the European Parliament, which, in its Resolution *"Effective Labour Inspections as a Strategy to Improve Working Conditions"* (2013/2112(INI)), adopted in 2014, stressed the need for efficient inspection regimes to combat undeclared work. The resolution warned that such practices could "undermine the EU's ability to achieve its employment objectives (more and better jobs)".

Unsurprisingly, among the principles guiding the reform, Article 1, paragraph 6, letter l) of Delegated Law No. 183/2014 identified the "promotion of the principle of legality and the prioritisation of policies aimed at preventing and discouraging undeclared work in all its forms, pursuant to the European Parliament Resolutions of 9 October 2008 on stepping up the fight against undeclared work (2008/2035(INI)) and of 14 January 2014 on effective labour inspections as a strategy to improve working conditions in Europe (2013/2112(INI))".

Additionally, the political imperative to strengthen inspection services was driven by supranational influence[10]. The International Labour Organization (ILO) has long prioritised these issues, with its core conventions and recommendations on labour administration and inspection—notably Conventions No. 81/1947 and No. 129/1969—

[8] The establishment of the National Labour Inspectorate (INL) without any new or additional burden on public finances, and through the use of existing human, instrumental, and financial resources under current legislation, stands in contrast with the European Parliament Resolution 2013/2112(INI) of 14 January 2014 on effective labour inspections. According to the Resolution, such inspections can only be effectively implemented by providing the competent authorities with adequate financial and human resources—particularly in times of economic and employment crisis, when the risks of evasion and circumvention are heightened.

[9] See also A. CARUSO, P. RAUSEI, C. SANTORO, *Verso un'Agenzia unica per le ispezioni?*, in *Bollettino ADAPT*, 23 giugno 2014; L. CAIAZZA, R. CAIAZZA, *Rinasce l'Ispettorato nazionale del lavoro*, in *GLav*, n. 26, 2015, pp. 58 ff.; P. RAUSEI, *La regia unica della vigilanza all'Ispettorato Nazionale del Lavoro*, in *LG*, n. 1, 2016, pp. 5 ff.; M. ESPOSITO, *Le attività ispettive e il contrasto al lavoro irregolare nel sistema del Jobs Act*, in *RGL*, n. 3, 2016, I, pp. 575 ff.; E. D'AVINO, *Emersione e tutele del lavoro irregolare: una prospettiva comparata di sicurezza sociale*, Satura Editrice, 2018, pp. 60 ff.

[10] M. ESPOSITO, *Le attività ispettive e il contrasto al lavoro irregolare nel sistema del Jobs Act*, cit., pp. 575 ff.; see also ID., *Un approccio inclusivo e resiliente: tutele crescenti per l'underclared work?*, in *DLM*, n. 2, 2014, pp. 289 ff.

serving as key normative frameworks for enhancing the enforcement of employment-related legislation and protecting workers' rights.

Also of particular relevance is ILO Recommendation No. 204/2015 on the transition from the informal to the formal economy, which stresses the necessity for Member States to implement adequate and effective inspection systems[11].

The 2015 reform thus aimed to strengthen inspection mechanisms to ensure effective oversight contributing to social cohesion and, more broadly, to the pursuit of labour justice. This objective was reflected in Legislative Decree No. 149/2015, which embodied the ambition to bring all inspection activities concerning labour and social legislation under a unified authority. The reform functionally integrated the inspection services of the Ministry of Labour, INPS, and INAIL, placing the social security inspectors under the direct authority of the newly established INL.

Following the reform, all inspection personnel from the Ministry of Labour, INPS, and INAIL were granted equivalent functions in overseeing labour and social legislation, operating as judicial police officers. This sought to ensure greater consistency in inspection practices and methods.

Compared with the measures introduced eleven years earlier, the 2015 reform represented a considerably more radical approach, as it separated the management of inspection activities from the Ministry of Labour and assigned it to a newly established agency with legal personality under public law, and organisational and accounting autonomy[12].

Nonetheless, neither of the two major reforms—Legislative Decrees No. 124/2004 and No. 149/2015—succeeded in achieving the intended coherence and uniformity in the exercise of labour and social legislation inspection functions, which remains a pressing and unresolved issue.

From its earliest years of operation, the INL encountered significant difficulties in terms of the effectiveness and efficiency of its inspection activities. These challenges were largely attributable to legislative shortcomings—most notably, the agency's establishment "at zero cost," which resulted in severely limited financial resources and knock-on effects for operational capacity.

Criticism has been directed at the 2015 decision to create a single

[11] For a detailed analysis of labour inspections in the European and international context see also P. RAUSEI, M. TIRABOSCHI, *Le fonti che regolano l'attività ispettiva e di vigilanza*, in P. RAUSEI, M. TIRABOSCHI (a cura di), *L'ispezione del lavoro dieci anni dopo la riforma. Il decreto legislativo n. 124/2004 fra passato e futuro*, cit., pp. 5 ff.

[12] See article 1, paragraph 3, Legislative Decrees No. 149/2015.

inspection agency—an institutional model unique in the European context—which continued to face persistent problems in inspection performance and effectiveness.

Indeed, a comparison of data from 2018 to 2023 (excluding 2017, the INL's first year of operation) reveals a sharp decline in inspection activity. The number of completed inspections fell by 55.69%, from 144,163 in 2018 to 80,280 in 2023. This decline occurred despite a modest increase in the number of inspectors (from 4,549 in 2018 to 4,768 in 2023). In 2018, each inspector conducted an average of 31.69 inspections, whereas by 2023 this figure had dropped to 16.83, representing a 46.87% decrease in per capita inspection activity despite the increase in staffing levels[13].

In response to the structural weaknesses exposed in the initial years of the single-agency model, Law Decree No. 19/2024 (converted, with amendments, into Law No. 56/2024)[14] reformed the organisation of the inspection system, signalling a departure from the centralised model established under Legislative Decree No. 149/2015.

Under this 2024 "counter-reform," the INL ceased to serve as the sole institutional authority for labour and social security inspections. INPS and INAIL regained their independent inspection competences, while retaining the judicial police powers conferred on them in 2015.

The redefined INL now functions as a coordinating body responsible for the planning and implementation of inspections related to labour and social legislation. It directly oversees inspections concerning employment contract regularity and workplace health and safety.

Law Decree No. 19/2024 assigns the INL genuine structural and functional coordination powers at the national level, with the aim of eliminating duplication. The agency retains authority to issue operational guidelines and directives and to define overarching inspection plans and specific investigative procedures[15]

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[13] A. INTERDONATO, *Le nuove ispezioni in materia di lavoro: il d.l. n. 19 del 2 marzo 2024*, in *LDE*, n. 3, 2024, pp. 8 ff.

[14] For a detailed analysis see P. RAUSEI, *Dal PNRR tutele per il lavoro, riassetto delle ispezioni e nuove sanzioni*, in *DPL*, n. 12, 2024, pp. 737 ff.; ID., *Una nuova riforma del sistema ispettivo con riposizionamento del quadro sanzionatorio nella prospettiva di un rafforzamento di tutele per la regolarità e la sicurezza del lavoro*, in *Bollettino ADAPT*, n. 9, 4 marzo 2024, pp. 1-3.

[15] P. RAUSEI, *Una nuova riforma del sistema ispettivo con riposizionamento del quadro sanzionatorio nella prospettiva di un rafforzamento di tutele per la regolarità e la sicurezza del lavoro*, in *Bollettino ADAPT*, n. 9, 4 marzo 2024, pp. 1-3.

3. Law Decree No. 19/2024 and the Return of Criminal Liability in the Outsourcing Sector

Nearly a decade after the commendable decriminalisation introduced into labour law by Legislative Decree No. 8/2016, the legislator, through Law Decree No. 19/2024, has once again intervened in the sanctioning framework, reintroducing criminal penalties in the context of outsourcing[16].

In response to a wave of tragic workplace accidents, the Government adopted a more stringent approach towards the widespread phenomenon of unlawful labour intermediation, reinstating several criminal offences previously decriminalised by Legislative Decree No. 8/2016. Specifically, criminal sanctions have been reintroduced for unlawful supply and use of labour, illegal contracting, and illicit posting of workers. In parallel, the criminal offence of fraudulent labour supply has been reinforced, reaffirming its status as the principal punitive mechanism in the outsourcing sector—second only to the offence of labour exploitation under Article 603-bis of the Italian Criminal Code.

In other words, the 2024 legislator considered administrative sanctions insufficiently deterrent in addressing the harmful effects of unlawful outsourcing—particularly its detrimental impact on occupational health and safety—and therefore reintroduced, for all such offences, the possibility of criminal sanctions, including arrest and fines, either as alternatives or cumulatively.

However, it must be noted that, historically, the strategy of criminalisation in this area has not achieved its intended objectives—namely, the effective enforcement of workers' rights or the fulfilment of deterrent and punitive functions. Over time, the application of criminal law in this domain has lost much of its efficacy, partly due to the proliferation of what criminal

[16] P. RAUSEI, *Dal PNRR tutele per il lavoro, riassetto delle ispezioni e nuove sanzioni*, cit., pp. 740 ff.; ID., *Appalto illecito e fraudolento*, in *Guida alle Paghe*, n. 8, 2024, pp. 459 ff.; ID., *Una nuova riforma del sistema ispettivo con riposizionamento del quadro sanzionatorio nella prospettiva di un rafforzamento di tutele per la regolarità e la sicurezza del lavoro*, in *Bollettino ADAPT*, 4 marzo 2024, n. 9; I. TAGLIABUE, *Processi di esternalizzazione, somministrazione e nuovo regime sanzionatorio: le novità introdotte dal d.l. n. 19/2024*, in *Bollettino ADAPT*, 10 aprile 2024, n. 1; ID., *Somministrazione, appalto e distacco illeciti: dall'INL indicazioni operative in merito al nuovo regime sanzionatorio*, in *Bollettino ADAPT*, 24 giugno 2024, n. 25; D. PIVA, *Ripenalizzazione dell'appalto illecito: vuoti normativi e necessità di coordinamento*, in *DPL*, n. 15, 2024, pp. 928 ff.; G. FORNARI, *Sanzioni penali per appalto illecito, somministrazione non autorizzata, somministrazione fraudolenta*, in *LDE*, n. 3, 2024, pp. 1 ff.

law scholars refer to as *bagatelle offences*—minor infractions with limited legal consequence[17].

Equally critical has been the inadequacy of enforcement and prosecution mechanisms. The classification of such offences as misdemeanours, combined with generally lenient penalties (predominantly fines), has resulted in penalties rarely being enforced due to procedural mechanisms such as limitation periods, plea bargaining, settlement agreements, conditional suspensions, probation, and periodic amnesties.

This near-complete absence of deterrent effect lies at the core of the most frequent critiques by criminal law scholars of the contraventional model[18]. A legal framework that imposes weak sanctions for prohibited conduct, combined with an inspection regime that fails to guarantee effective detection and prosecution, does not fulfil the principle of deterrence. Sanctions must be not only proportionate but also, crucially, certain and prompt.

This systemic dysfunction is particularly evident in the area of occupational health and safety, where criminal sanctions have come to be regarded by some employers as an acceptable cost—less burdensome than the investments necessary to guarantee safe working environments.

In contrast, the adoption of administrative sanctions—an approach increasingly prevalent in other civil law jurisdictions such as Germany and Spain—has been driven by the objective of reducing dependence on criminal penalties[19]. Importantly, decriminalisation does not imply a diminished recognition of the seriousness of the conduct in question[20]. On the contrary, as evidenced by Legislative Decree No. 8/2016, administrative (pecuniary) sanctions can be significantly more severe than criminal ones and, in practice, often prove more effective.

While it is true that criminal sanctions uniquely impact personal liberty and carry social stigma—consequences not associated with administrative penalties—there exist administrative sanctions with a considerably greater punitive effect than their criminal counterparts. One key advantage of

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[17] J. KRUMPELMANN, *Die bagatelldelikte*, Berlin, 1966, pp. 5 ff.

[18] See L. FERRAJOLI, *Diritto e ragione. Teoria del garantismo penale*, Editori Laterza, 1989, pp. 743 ff.; A. CADOPPI, *Il "reato penale". Teorie e strategie di riduzione della criminalizzazione*, Esi, 2022, pp. 323 ff.

[19] C.E. PALIERO, *La legge 689 del 1981: prima «codificazione» del diritto penale amministrativo in Italia*, in *Pol. Dir.*, 1983, pp. 117 ff.; F. SGUBBI, *Depenalizzazione e principi dell'illecito amministrativo*, in *Indice pen.*, 1983, pp. 253 ff.; E. DOLCINI, *Sanzione penale o sanzione amministrativa: problemi di scienza della legislazione*, in *RIDPP*, 1984, pp. 589 ff.

[20] See M. SINISCALCO, voce *Depenalizzazione*, in *Enc. Giur.*, vol. X, Treccani, 1988, p. 14; G. BUTTARELLI, G. FIDELBO, *Nuove prospettive per una decriminalizzazione organica dei reati minori e per una razionalizzazione del sistema penale*, in *Caff. Pen.*, 1996, pp. 2071 ff.

administrative fines lies in their enforceability: unlike criminal penalties, they cannot be conditionally suspended, which greatly enhances their practical application.

This consideration highlights the greater effectiveness of administrative pecuniary sanctions when compared to criminal fines, which are often undermined by low collection rates and consequent ineffectiveness—leading to substantial revenue losses for the State[21].

Accordingly, the actual impact of administrative sanctions on offenders should not be underestimated. Decriminalisation does not necessarily equate to leniency, as demonstrated by Legislative Decree No. 8/2016, which introduced a stricter sanctioning regime in labour law—subsequently weakened by the 2024 legislative reversal concerning outsourcing-related offences.

Further support for this position lies in the procedural advantages of the administrative model. A sanctioning system based on administrative enforcement allows for a more rapid response to unlawful conduct, unburdened by the complex procedural guarantees inherent in criminal proceedings. These include strict evidentiary standards (beginning with the right of silence) and the high threshold of proof required to establish criminal liability ("beyond a reasonable doubt"). In contrast, administrative enforcement permits a more prompt and effective reaction, with the imposition of immediately enforceable sanctions that tend to be executed with a higher degree of efficacy[22].

Indeed, administrative sanctions are imposed through procedures that are not subject to the full set of guarantees applicable to criminal trials[23]. On one hand, bypassing—at least partially—the procedural safeguards of criminal justice simplifies the process: the determination of the offence and the imposition of the sanction can occur without the need for a criminal trial, even though the sanction may be challenged and subjected to judicial review ex post.

Nevertheless, not all guarantees typical of criminal law are excluded. Certain fundamental principles—such as legality, non-retroactivity, and *ne bis in idem*—continue to apply even in the context of administrative

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[21] E. DOLCINI, *Sistema delle pene, primato del carcere, pena pecuniaria: ancora una volta, spunti per una riforma*, *lectio magistralis* svolta nell'ambito del Convegno "*La pena, ancora: tra attualità e tradizione*" (Milano, 10 maggio 2018). The Author points out that currently the average collection rate of monetary penalties in Italy is around 3%.

[22] See F. VIGANO', *Garanzie penalistiche e sanzioni amministrative*, in *RIDPP,* n. 4, 2020, pp. 1175 ff.

[23] A. TRAVI, *Sanzioni amministrative e pubblica amministrazione*, Cedam, 1983.

offences, despite the fact that the offence is established and the sanction imposed by an administrative authority rather than a judicial body.
This hybrid framework enables a more agile and, in many instances (as with the 2016 reforms), a more effective sanctioning system, primarily owing to the enhanced severity and enforceability of pecuniary sanctions associated with the offence.

4. Final Considerations

In light of these considerations, the 2016 decriminalisation deserves commendation, whereas the legislative reversal introduced by Law Decree No. 19/2024 warrants criticism.
The legislator has evidently subordinated the protection of workers involved in outsourcing arrangements to the imperative of responding to public outcry following a series of tragic workplace accidents, effectively instrumentalising criminal sanctions to placate widespread anxiety surrounding perceived workplace insecurity.
In other words, the creation of new offences and the increase in existing penalties appear to be the sole instruments deployed by a short-sighted legislator intent on distracting public opinion, rather than offering substantive and sustainable solutions.
Even in the 2024 reform, the legislator has chosen to project strength in an attempt to appear responsive to the victims of workplace accidents, when a more prudent and effective course of action would have been to invest in prevention and enforcement.
The fundamental issue remains unchanged: the recourse to *penal populism* to conceal an inability to tackle complex social problems at their roots, effectively delegating ever-expanding powers to the judiciary—an institution whose legitimacy is increasingly contested by both political actors and the broader public.
The illusion of "zero-cost" criminal law—as a cheaper alternative to comprehensive socio-economic policy—has fostered the belief in a sanctioning system capable of limitless expansion, seemingly able to absorb society's growing demand for justice.
Consequently, the 2024 intervention reinforces the impression that "the mountain has laboured and brought forth a mouse," since the belief that criminal sanctions alone can ensure the effectiveness of labour law provisions is a relic of the past, for which there is little genuine nostalgia.
Taking workers' rights seriously demands a fundamental shift in perspective and the adoption of effective economic and social policies aimed at strengthening the enforceability of substantive rights.

Criminal law, while often popular in the media and politically expedient, offers only the illusion of a solution, leaving largely untouched the structural causes and conditions that sustain irregular employment.

In the field of labour law—and social legislation more broadly—criminal law must once again assume its proper role as the *extrema ratio* of the legal system.

This requires a reassertion of penal guarantees and a rebalancing of the legal framework to overcome the current hypertrophy of criminal law. Such a rebalancing must be accompanied by robust preventive strategies to combat labour irregularities, relying on extra-criminal tools which have demonstrably greater capacity to address—or at least mitigate—the underlying causes.

It is therefore essential to reconsider the entire architecture of labour sanctioning law. This entails a careful identification of the sectors and protected interests for which criminal sanctions are genuinely justified—or indeed necessary—and a subsequent reconsideration of key elements such as legislative technique, the selection of appropriate sanction types, the preventive effectiveness of the measures adopted, and the coherence of the overall regulatory framework.

Unlocking the Potential of Continuing Training and Interprofessional Training Funds: An in-depth Analysis based on the Contributions of Key Stakeholders

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Abstract. *This paper aims to analyse the continuing training's system in Italy. The study is part of a multi-year research project that aims to assess the role of interprofessional training funds. Qualitative and quantitative research methodologies were employed to reconstruct the strategic role of training financed by interprofessional funds in enhancing enterprise competitiveness and worker professionality.*

Keywords: *Interprofessional training funds; Funds for Continuing Training; Continuing Training; Training needs; Demography; Gender; On-the-job training; Fondo Nuove Competenze.*

1. Introduction: The Research Context

The Italian economic and production system - like that of all advanced economies - is undergoing continuous transformation, driven by technological innovation, demographic transitions, changing market dynamics, and an increasing demand for new professional skills. Against

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this backdrop, continuing training plays a strategic role, serving as a key factor in ensuring business competitiveness and worker employability. According to the *Future of Jobs Report 2023* by the World Economic Forum[1], the labour market is expected to undergo profound changes over the next five years. One of the most striking findings is that 44% of the skills currently required in the workforce will change by 2027; this highlights the pressing need for individuals to update their skillsets - particularly in areas such as analytical thinking, creativity, and the ability to solve complex problems - which are becoming increasingly central in a constantly evolving labour market. Another significant projection concerns structural changes in employment: 23% of jobs are expected to undergo substantial transformation within the same period. This implies that many occupations will be redefined, some will disappear entirely, and new professions will emerge. In quantitative terms, the forecast points to the creation of approximately 69 million new jobs, but also the loss of around 83 million, resulting in a net decline of about 14 million positions.

These transformations will have a direct and substantial impact on education and professional development. In order to remain competitive and employable, workers will be required to invest in their own continuous growth, while businesses will be increasingly called upon to adopt policies that support continuing training, including pathways for reskilling and upskilling, to adequately prepare individuals for future challenges.

Between February and April 2024, Confindustria - i.e., the main organisation representing manufacturing and service companies in Italy - conducted the 21st edition of its Labour Survey[2], analysing the employment of its member companies for the year 2023 and the initial months of 2024. The survey aimed to explore key issues, particularly the difficulty faced by firms in sourcing 'hard-to-find' skills. It emerged that 69.8% of companies experienced difficulty in recruiting personnel, also for roles linked to the digital and green transitions, which demand highly specialised technical expertise[3]. To address these skill shortages, 59.7% of

[1] *The Future of Jobs Report 2023* - World Economic Forum (https://www.weforum.org/publications/the-future-of-jobs-report-2023/).

[2] Confindustria, *XXI Indagine sul Lavoro - febbraio-aprile 2024, dati sulle competenze difficili da reperire, premi variabili, welfare aziendale e lavoro agile* (Confindustria, 21st Labour Survey - February-April 2024, data on hard-to-find skills, variable bonuses, corporate welfare and agile working).

[3] Ibid.

companies plan to invest in training activities aimed at their current workforce, while 49% relied on external consultancy services[4].

These data confirm the central role of continuing training and the pressing need for both enterprises and workers to engage in pathways of professional development, which are essential to effectively navigate the ongoing transformations.

Despite this, Italy continues to rank among the European countries with the lowest share of workers participating in training activities. The participation rate of Italian adults (aged 25-64) in education and training stood at 35.7%, nearly 11 percentage points below the European average[5].

An ISTAT[6] survey revealed that many companies with at least ten employees reported significant difficulties in implementing training programmes for their staff. Although the data were collected in 2020, the reasons cited by companies that did not undertake training activities remain noteworthy. The motivations included the perception that existing staff were already adequately qualified and a preference for recruiting workers who were already trained. These were accompanied by organisational and financial barriers, such as high costs (8.6%) and lack of time (8.0%)[7].

Starting from this contextual evidence, the present article explores the issue of training from the perspective of one of the key actors within the Italian continuing training system; specifically, it focuses on training delivered and managed through the Interprofessional Joint Funds for Continuing Training (*Fondi Paritetici Interprofessionali per la formazione continua*).

These funds[8] are bilateral bodies established through interconfederal agreements between employers' associations and trade unions and

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[4] Ibid.

[5] ISTAT (2023), *La formazione degli adulti - Anno 2022* (https://www.istat.it/it/files/2024/04/Formazione-adulti-Anno2022.pdf).

[6] ISTAT is the national institute of statistics in Italy.

[7] ISTAT (2021), *La formazione nelle imprese in Italia. Anno 2020* (https://www.istat.it/comunicato-stampa/la-formazione-nelle-imprese-in-italia-anno-2020/).

[8] For a more detailed discussion of the role, functions, and development of the Interprofessional Funds for Continuing Training - without aiming to be exhaustive - see: Casano L., *Ripensare i Fondi Interprofessionali per la formazione continua: uno sguardo ai progetti di riforma francesi*, in Bollettino ADAPT, 2018; Nardo C., *Fondi interprofessionali per la formazione continua tra dato normativo e realtà: una prima mappatura*, in Professionalità Studi, 3-4/V, 2022, pp. 200-338; Negri S., *Una riflessione sul sistema della formazione continua in Italia: stato attuale, problemi aperti e possibili sviluppi*, in Professionalità Studi, 3-4/V, 2022, pp. 169-

authorised by the Ministry of Labour. They manage financial resources derived from the compulsory contribution for unemployment insurance[9], and allocate them to training initiatives aligned with the evolving needs of workers and enterprises.

At the time of writing, in Italy, the system of Interprofessional Joint Funds for Continuing Training (Fondi Paritetici Interprofessionali) is composed of 20 active funds, of which 17 are dedicated to employees and 3 to managerial staff, as authorised by the Ministry of Labour pursuant to Law No. 388/2000, Article 118[10]. Each fund is established by interconfederal agreements between employers' organisations and trade unions and operates according to a model of bilateral governance. This means that both sides of the labour market - employers and employees - jointly manage the financial resources, define strategic priorities, and oversee the operational mechanisms of the funds.

While this bilateral model ensures democratic governance and alignment with the evolving needs of both workers and companies, it also gives rise to certain dynamics of competition among the funds. These dynamics are particularly visible in relation to the attraction and retention of affiliated companies, the differentiation of calls for proposals, and the marketing of services and support measures. The multiplicity of funds - though grounded in the principle of freedom of association - creates a fragmented landscape that may be difficult for less structured enterprises to navigate, particularly small and micro enterprises unfamiliar with the functioning of the system.

From an operational standpoint, Interprofessional Funds are financed through a compulsory employer contribution of 0.30% of the wage bill, originally allocated to unemployment insurance. Employers opting to join a fund can redirect this contribution toward financing employee training. The resources are accumulated in dedicated accounts (such as the *Conto Formazione* - Training Account) or pooled into collective funding mechanisms (*Conto di Sistema* - System Account), depending on the fund's internal rules and the company's size and training objectives. The funds publish periodic calls for proposals, establish eligibility criteria, and assess

199; Tiraboschi M., *I fondi paritetici interprofessionali per la formazione continua in Italia: bilancio di una esperienza*, in Professionalità Studi, 3-4/V, 2022, pp. 141-168.

[9] Reference may be made to the provisions set out in Article 25 of Law No. 845/1978, which establishes that 0.30% of the compulsory employer contribution is allocated to the training of workers.

[10] According to the website of the Ministry of Labor and Social Policies (last accessed: 22 July 2025), three funds are no longer operational: Fon.In.Coop, FondAgri and Fondazienda.

and approve training plans submitted by companies, accredited providers, or associations.

Among these funds, Fondimpresa stands out as the largest and most significant in terms of both membership and financial volume, understood as its operational funding capacity. Established in 2002 by Confindustria, CGIL, CISL, and UIL[11], Fondimpresa currently counts over 200,000 affiliated companies, representing more than 5 million workers (as of 2025)[12]. According to data from ANPAL and INAPP monitoring reports, Fondimpresa alone manages approximately 65% of the total resources allocated to the Interprofessional Fund system in Italy, making it by far the main channel for publicly supported continuing training. In 2022 alone, Fondimpresa approved over 280 million euros in training plans, far exceeding the volumes managed by other funds.

The centrality of Fondimpresa within the national training system is further confirmed by its capacity to channel resources to a highly diversified business base - including large enterprises, SMEs, and micro-firms - and by its proactive role in promoting strategic themes (e.g., digital transition, sustainability, supply-chain innovation) through dedicated calls and partnership projects.

In detail, the evidence presented in this article is drawn from a research project funded by Fondimpresa and carried out between 2020 and 2024 by a partnership comprising Luiss Business School, the Giuseppe Di Vittorio Foundation, the ADAPT Foundation, and EU.R.E.S. Economic and Social Research. Fondimpresa is the fund, established in 2002 by Confindustria, CGIL, CISL, and UIL[13], to finance worker training and

[11] For a detailed analysis of the results as documented in the project -published and forthcoming- reports for the years 2019, 2020, 2021, 2022, and 2023, see https://www.Fondimpresa.it/rapporti-e-ricerche.

[12] The reference is to *imprese aderenti* (affiliated companies) as reported on the official website of the Fund consulted on 29 July 2025: https://www.Fondimpresa.it/. In more detail, affiliated companies (*imprese aderenti*) are those that have formally joined the fund by registering and paying the required contributions. This affiliation gives them the right to access the fund's resources. Beneficiary companies, in turn, (*imprese beneficiarie*) are those that not only are affiliated but have actually received funding by having one or more training plans approved and financed by the fund.

[13] CGIL, CISL, and UIL, are the three main Italian trade union confederations while Confindustria is the main association representing manufacturing and service companies in Italy. These four organisations play a pivotal role in the management and strategic direction of the fund within a system defined as 'bilateral' based on equal participation. Confindustria represents the needs of the business world, while CGIL (*Confederazione Generale Italiana del Lavoro*), CISL (*Confederazione Italiana Sindacati Lavoratori*), and UIL (*Unione Italiana del Lavoro*) ensure that the training pathways funded meet the growth and updating needs of workers.

currently it is the main interprofessional fund for worker training in Italy, with a significant impact on supporting the competitiveness of the productive system.
Given the context in which the research was developed, this article presents the results from a study that, in an innovative manner, adopted an integrated approach, combining both quantitative and qualitative analyses. The aim was to provide a detailed picture of the impact of training financed by Fondimpresa and to explore less visible aspects, such as the unexpressed training needs of companies, in order to outline potential future trajectories for training policies.

2. Methodology

The research promoted by Fondimpresa, the key findings of which are outlined in this article, stands out for a solid multi-methodological approach, combining quantitative and qualitative techniques in a systematic and integrated manner. This methodological integration enabled effective data triangulation, allowing for the comparison and synthesis of diverse forms of evidence, and thereby offering a richer, more multidimensional understanding of the phenomenon under investigation.
Unlike other studies that restrict themselves to assessing the effectiveness of training through aggregated metrics, this investigation pursued a broader agenda: to construct a detailed portrait of the impact of training funded by Fondimpresa, to shed light on less visible aspects such as latent training needs within enterprises, and to identify potential trajectories for the evolution of future training policies in a more informed and strategic manner.
The quantitative analysis took the form of a detailed reconstruction of the key dimensions of the phenomenon under observation, drawing on secondary data from institutional sources such as Fondimpresa, INPS, ISTAT, and Eurostat, covering the years 2019 to 2023. By applying descriptive statistical methods, the study was able to map the composition and evolution of training expenditure across various funding streams (*Conto Formazione*[14], *Conto di Sistema*[15], and *Contributo Aggiuntivo*[16]); profile

[14] The "*Conto Formazione*" (Training Account) of Fondimpresa is a mechanism through which affiliated companies can independently finance training plans for their employees, using resources accumulated via the 0.30% payroll levy allocated to continuing vocational training. These funds are set aside in an individual account registered to the company within Fondimpresa, thereby enabling the planning and implementation of tailored training initiatives aligned with the organisation's specific needs.

participating enterprises by examining variables such as economic sector, technological intensity, size, and legal status; analyse the characteristics of funded training in terms of content, duration, and learning methods employed; and explore the features of the target population with reference to age, gender, occupational role, and type of employment contract.
The study also made use of advanced data visualisation tools to effectively represent the territorial distribution of resources, thereby enhancing understanding of regional and sectoral dynamics. The qualitative component provided a deeper and more nuanced interpretation of the phenomenon, grounded in the collection of primary data through fieldwork. Key informants - including institutional stakeholders, regional representatives of Fondimpresa, business leaders, experts, and academics - were engaged through in-depth interviews, focus groups, and facilitated workshops. These methods enabled the direct and context-sensitive capture of experiences, perceptions, and needs. Particular attention was paid to latent training needs - those not yet explicitly articulated by enterprises but regarded as strategically important for enhancing their competitiveness and adaptive capacity. This form of analysis, firmly rooted in territorial, sectoral, and organisational specificities, enabled training to be understood not merely as a response to immediate demand, but as a strategic investment in innovation. This article reports on the findings of the qualitative strand of the research, highlighting the value generated by investments in training and offering key insights for: refining the Fund's future planning by directing resources towards areas of greatest impact; improving responsiveness to the evolving needs of enterprises through ongoing and in-depth training needs analysis; and reinforcing the

[15] Fondimpresa's *Conto di Sistema* (System Account) is a collective funding channel based on solidarity, designed to support business development and employee training, with a particular emphasis on small and medium-sized enterprises (SMEs). Unlike the *Conto Formazione*, which is managed individually by each company, the *Conto di Sistema* is funded through shared resources and centrally managed by Fondimpresa. It enables companies to come together around joint training plans - whether by sector or region - fostering transparency and equal access to training opportunities. Businesses can apply for funding through public calls issued by Fondimpresa, which set out the criteria and procedures for participation.

[16] Fondimpresa's *Contributo Aggiuntivo* (Additional Contribution) is a tool designed to help small and medium-sized companies. In fact, notices offering an additional contribution to the Training Account are designed to provide such companies with more opportunities to use their Training Account. Fondimpresa enables companies to submit training plans by supplementing the Training Account resources with those of the System Account, up to a set limit.

legitimacy of continuing training by recognising it as a driver of economic and social development.

As part of the qualitative research strand, a total of 19 in-depth interviews were conducted with national stakeholders between December 2021 and July 2024. The interviews were designed to explore perceptions, practices, and evaluations related to the Italian continuing training system, with specific focus on the role of interprofessional funds.

The interviewees - selected based on their institutional roles and recognised expertise - included representatives from national and regional public bodies (e.g., ANPAL, INAPP, regional departments for labour and training), trade unions, employers' associations, universities, and public or private training providers. For reasons of confidentiality, respondents have been anonymised and identified through alphanumeric codes (R1, R2, etc.)[17].

The interviews were based on semi-structured guides, developed in line with the research objectives and progressively updated to meet the specific objectives of each of the three annual phases of the research commissioned by the Fund. While the full guides are available on request from the authors, the main thematic sections included:

1. Structural challenges and reforms of the Italian continuing training system;
2. Mismatch between training supply and enterprise needs;
3. Training policies and governance, including the role of regional and national actors;
4. Effectiveness and limitations of the Interprofessional Funds system;
5. Assessment of the training demand articulation capacity among enterprises;
6. Role of soft skills and digital transition in reshaping training priorities;
7. Inclusiveness, accessibility, and participation obstacles;
8. Evaluation of Fondimpresa's role, strategies, and programming;
9. Future training needs linked to labour market transformations;
10. Suggestions for improving training programmes, particularly those funded by interprofessional mechanisms.

[17] For a full list of interviewees, including their professional/institutional role and interview date (anonymised), please refer to the national qualitative research reports published and/or forthcoming on the Fondimpresa website (see Part III). The full interview guides used in the fieldwork are available from the authors upon request.

The interview process adopted a flexible format to allow each stakeholder to elaborate freely, while ensuring the comparability of responses through shared core questions. Interviews were audio-recorded (where authorised), transcribed, and thematically coded to support subsequent analysis.

3. Continuing Training in Italy: Insights from Experts

As previously noted, the research incorporated opportunities for dialogue in order to construct a comprehensive picture of the continuing training system in Italy. This section presents the key findings from a series of semi-structured interviews conducted with 19 key informants specialising in continuing training. As mentioned, interviews were conducted between December 2021 and July 2024 as part of the national qualitative research component. The interviewees - selected based on recognised expertise- include representatives from national and local institutions, social partners, corporate actors, and academics. The interview outline followed a semi-structured format, designed to reflect the main objectives of the study, including: (a) the perceived value and obstacles of continuing training; (b) the role and effectiveness of interprofessional funds; and (c) the relationship between training policies and enterprise needs. While the full interview guide is available from the authors upon request, a brief description is provided in a footnote.

The interviews yielded a range of observations that can be grouped into key thematic areas, which are outlined below.

During the interviews, all respondents - echoing insights from the relevant literature and in line with national and European policy frameworks - recognised the strategic role of training in an ever-evolving labour market. This was seen as crucial not only for enhancing corporate competitiveness but also for supporting workers in terms of employability, job satisfaction, and career development. Continuing training was frequently described as a protective mechanism for workers navigating the increasingly frequent transitions that characterise modern career trajectories, as well as an opportunity for personal growth. This overall perspective confirms the widely shared belief among respondents in the strategic relevance of training in supporting individuals through career transitions and continuous professional development. As one respondent put it: *"Training always has a dual purpose: to share content, but also to offer individuals a chance for cognitive and relational reconfiguration. For me, that's what training is—it's a moment*

in which a person pauses and reflects" (R1[18], 2021). However, beyond this shared recognition, a second key theme emerged from the interviews: the persistence of structural and cultural barriers that limit both enterprise investment and worker participation in continuing training. At the same time, training was portrayed as a key tool for improving company performance. Businesses with a well-qualified workforce are better positioned to compete with more innovative firms. However, the interviewees also pointed out that while training is widely acknowledged in theory as a crucial driver of both individual and collective development, Italy still faces significant challenges in cultivating a genuine culture of continuing training. As one expert remarked: *"In our country, there is a lack of a professional qualification culture and of continuing training. Despite the rhetoric, very little has been done to actually implement this system - especially in a context where SMEs play such a dominant role"* (R6, 2022).

Accounts from the interviewees consistently highlighted a lack of attention to continuing training among all the key stakeholders. Too few enterprises invest in structured training activities[19], and the proportion of workers actively requesting access to such opportunities remains low. Furthermore, training occupies only a marginal space in the national policy agenda. As another interviewee observed: *"You can count on one hand the number of workers who raised their hand and said, 'I wasn't involved - I want to take this course'. And this is not just a question of willingness or motivation, but often about the difficulty of identifying suitable training opportunities in the first place"* (R4, 2023). This finding is corroborated by official statistical sources[20], which reveal that both enterprise investment in training and adult participation in learning activities in Italy remain well below the European average.

[18] R1 (and other R codes throughout the text) refers to the anonymised classification of interview respondents. All interviews were conducted in Italian; the translations of the excerpts are provided by the authors.

[19] Sistema Informativo Excelsior, Unioncamere, *Formazione continua e tirocini nelle imprese italiane. Formazione sul luogo di lavoro e attivazione di tirocini. Indagine 2023*, p. 10 (https://excelsior.unioncamere.net/sites/default/files/pubblicazioni/2023/Formazione_continua_e_tirocini.pdf). According to data from the report, 50.4% of enterprises engaged in training in 2022. At the time of writing, this remains the most recent report available, despite referring to data from 2022.

[20] According to Eurostat data, in 2022 the participation rate of adults aged 25 to 64 in education and training over the previous four weeks stood at 9.6% in Italy, a slight decrease from 9.9% in 2021 and below the European average, which was 11.9% in 2022 and 10.8% in 2021. Even when considering the most recent figures, the situation remains largely unchanged: in 2023, the European average rose to 12.8%, while in Italy the rate reached only 11.6%.

The interviews also revealed that, in Italy, training is still predominantly perceived through the lens of a "right-duty" logic, rather than being recognised as a shared value to be actively promoted by both workers and employers. When invited to reflect on the underlying reasons for companies' attitudes towards continuing training, the interviewees largely identified firm size as the main explanatory factor. The strong prevalence of small and medium-sized enterprises (SMEs) in Italy was seen as one of the primary obstacles to the widespread development of continuing training. According to the respondents, SMEs - particularly those with a family-run management model - tend to invest less in training than larger firms, which are more likely to have dedicated human resources departments responsible for staff upskilling and reskilling.

The limited engagement of small firms in training cannot be attributed solely to the informal employment practices often associated with this type of business, nor to the absence of a structured HR function[21]. Nevertheless, such factors were identified by interviewees as key contributors to the problem. These are compounded by a general lack of awareness regarding interprofessional joint training funds, which are designed to support continuing training[22]. Beyond these structural and cultural challenges, the interviewees also reflected on other features and shortcomings that characterise the continuing training system in Italy.

A third thematic area highlighted by the interviews concerns the complexity of the institutional and regulatory framework that governs continuing training in Italy. According to the interviewees, one factor complicating access to training activities is the lack of a unified regulatory framework in this area. In Italy, references to the training system are found in various legal sources. The first reference is contained in the Constitution, which in Article 35, paragraph 2, specifies that the Republic "protects work in all its forms and applications. It promotes the training and professional development of workers". Subsequently, a series of laws, legislative decrees, emergency decrees, and ministerial regulations have

[21] For a more in-depth exploration of the topic, readers are referred, without any claim to exhaustiveness, to: Bordogna L., R. Pedersini, *Relazioni industriali e gestione delle risorse umane nelle piccole imprese*, in Giornale di diritto del lavoro e di relazioni industriali, 90, 2, 2002, pp. 209-232; Regalia I., *La regolazione del lavoro nelle piccole imprese*, Sinappsi, XIII, 1, 2023, pp. 18-31.

[22] The interprofessional funds were established in Italy by Article 118 of Law No. 388 of 23 December 2000. These funds for continuing training are bilateral organisations set up through interconfederal agreements between employers' organisations and trade unions, with authorisation from the Ministry of Labour. As of the time of writing, there are twenty active interprofessional funds: 17 dedicated to employees and 3 to managers.

been enacted that address the issue of training. Among the most recent legislative measures, particular attention should be given to Law No. 92 of 28 June 2012 and its implementing decree, Legislative Decree No. 13/2013[23]. According to the interviewees, the absence of a comprehensive regulatory framework governing continuing training could serve as a deterrent to its uptake by businesses.

Most of the interviewees, when reflecting on the system of continuing training, also highlighted the multiplicity of actors involved in the planning, organisation, and governance of training. In Italy, there is a "multilevel and multi-actor governance"[24]. The management of training occurs at multiple levels, as various entities and institutions with different roles coexist within this system. Four main actors can be identified, and several other entities are dependent on them for the management of continuing training. In addition to the four primary actors - the European Union, the State, the regions and autonomous provinces[25], and the social partners - there are other actors, more or less directly connected and with varying degrees of autonomy. These include ANPAL[26], ANPAL Servizi[27], the Ministry of Labour and Social Policies, INAIL[28], INAPP[29], INPS[30], employment agencies, other authorised intermediaries, non-profit organisations, chambers of commerce, bilateral entities, interprofessional training funds, accredited training organisations, universities, upper

[23] These legal references include important provisions related to training. They provide definitions of continuing training, as well as formal, non-formal, and informal learning. Legislative Decree No. 13/2013, in Article 1, recognises continuing training as a fundamental right of the individual.

[24] See: L. Dordit, *L'universo della formazione continua in Italia tra complessità irriducibile e sistema integrato*, 1, 2023, pp. 93-112. A broader perspective is adopted by L. Valente, *Il diritto del mercato del lavoro. I servizi per l'impiego tra progetto europeo e storici ritardi nazionali*, Wolters Kluwer Italia s.r.l., Milano, 2023.

[25] Italy is divided into 20 regions, which are territorial subdivisions granted legislative and organisational autonomy over certain matters, including training, following the amendment of Title V of the Constitution.

[26] The National Agency for Active Labour Policies was operational during the first phase of the research, but is no longer active at the time of writing.

[27] ANPAL Servizi S.p.A. was the company that supported ANPAL in various activities, including the implementation of active labour market policies for job seekers, the strengthening of employment services for particularly disadvantaged groups, and the re-entry of the unemployed into the labour market (The company was operational during the first phase of the research, but is no longer active at the time of writing).

[28] National Institute for Insurance against Workplace Accidents.

[29] National Institute for the Analysis of Public Policies.

[30] National Institute of Social Security.

secondary schools, ITS Academies[31], IFTS[32], IeFP[33], all schools at every level, and businesses[34]. Several respondents also emphasised the need to avoid generalisations when analysing training practices, underlining how sectoral, regional, and organisational variables significantly affect access and design.

Another aspect that the interviewees focused on was the frequent risk in discussions about training of generalising reflections, thereby overlooking the exceptions and specificities that characterise different sectors, regions, and individual companies. The interviewees pointed out that the use of training varies significantly across sectors, professional profiles, and regulatory frameworks, which at times require qualifications, educational credentials, and certifications to operate within a specific sector or context. For this reason, the interviewees reflected extensively on the importance of not considering training in an abstract or holistic manner, but rather analysing it in terms of its sectoral, organisational, territorial, and professional peculiarities.

A key section of the interviews focused specifically on the interprofessional funds, with particular attention to Fondimpresa's role, strengths, and limitations within the national training ecosystem. Finally, in line with the research objectives, the interviews delved deeply into the experts' perceptions of the role of interprofessional funds within the system of continuing training. In general, all the interviewees recognised interprofessional funds as a key instrument in the Italian continuing training system, and this was equally true for Fondimpresa, the interprofessional fund on which the research focused, particularly in terms of its capacity to address and monitor the evolving dynamics and trends characterising the labour market: "*In my opinion, Fondimpresa has represented a push for continuing training. Compared to the calls that Fondimpresa creates, I think it has captured trends such as digitalisation and the energy transition. So, it has certainly embraced the new trends and is supporting companies in this regard*" (R4, 2023).

According to the experts consulted, the importance of interprofessional funds within the training process derives in part from their bilateral nature, which enables them to address the needs of both employers and

[31] Higher Technical Schools (ITS Academy). Tertiary level non-academic Vocational Education and Training (VET) pathways.

[32] Higher Technical Education and Training.

[33] Three-year Vocational Education and Training Programmes.

[34] In Italy, many companies have established in-house corporate academies to provide training for their employees. For further reference, see: A. Corbo, *Le Academy aziendali: nuova frontiera per lo sviluppo della professionalità*, in Professionalità, 4, 2019, pp. 48-52.

employees. Bilateralism was described as a key lever for scaling up effective and exemplary practices in addressing the mismatch between the supply and demand of skills through training. As one interviewee observed: *"It has often been said that the match between training provision and the demand for qualified workers from businesses has not always functioned optimally. In my experience, the blame has more frequently been directed at the training system rather than at businesses. It is often argued that the training system—particularly the publicly funded one—has failed to respond adequately to the changing demand for skills from the business sector. From my perspective, it would be more accurate to consider both sides of the issue, rather than focusing exclusively on the training system. We should also consider how the business environment engages with individuals at the outset of their training journey. Perhaps we ought to ask whether businesses themselves have been able to articulate their skills needs effectively. The prevailing assumption is that the training system must autonomously adapt to employers' demands, yet little support is offered to businesses to help them express those demands clearly. Consequently, policies and targeted interventions that assist businesses in formulating their need for qualified personnel could represent a more appropriate and timely direction for current policy. In my experience, including as a local government official, I have often found that businesses themselves do not always have a clear understanding of the competencies they require. Supporting the business sector in articulating its skills needs could therefore become a priority in vocational training policy—an area that, in my view, remains insufficiently addressed. Where well-established bilateral bodies exist, with a strong tradition and experience over time, the culture of dialogue between employers and workers' representatives often results in a bilateralism that can genuinely be regarded as a best practice model".* (R4, 2022)

Despite widespread recognition of the potential of these instruments, the interviewees identified several critical issues which, if addressed, could enable more effective utilisation of available resources. Some participants highlighted that interprofessional funds are neither widely known nor consistently used by all employers. This lack of awareness is considered one of the primary reasons for the relatively low uptake of such funds, particularly among smaller enterprises. As one interviewee remarked: *"I believe the issue is, first and foremost, cultural. We are essentially talking about awareness. (…) The tools exist, but what is lacking is a culture of knowledge regarding these tools; their usefulness cannot be separated from the knowledge of their existence"* (R2, 2021).

Enrolment in the funds - being voluntary - remains limited. As noted in earlier sections, smaller firms show significantly lower rates of participation compared to their larger counterparts. As one respondent observed: *"There is still a stark divide between the capacity of larger companies to access and utilise these instruments, including the funds, and the challenges faced by*

smaller firms. Given the structure of our productive system, this is by no means a trivial issue. And from there, a whole set of sectoral consequences follow, given the ways in which different sectors are organised. Some sectors make very good use of these opportunities, while others engage only marginally" (R7, 2021).

According to the interviewees, the reasons behind this divide are multifaceted. On one hand, there is a widespread lack of awareness about the funds; on the other, many small enterprises struggle to navigate the bureaucratic procedures required to access them, particularly those with limited administrative capacity or human resource infrastructure. Several participants emphasised that the complexity of these procedures may in itself serve as a barrier to access. Extending this reflection to possible avenues for enhancing the effectiveness of interprofessional funds, the interviews also explored the potential for developing collaborative frameworks between the funds and regional authorities, with the aim of fostering more effective and locally responsive training pathways. One participant noted: *"The challenge in engaging with the funds lies in the fact that they are structured at the national level, making it difficult to engage in meaningful dialogue across twenty different regional contexts with an entity that operates across the entire national territory. Therefore, a mechanism must be found - be it a variable geometry model or specific agreements - that allows for appropriate coordination without undermining the advantages offered by a nationally organised system"* (R8, 2021).

Finally, adopting a comparative perspective and with a view to better valuing human capital, some respondents suggested that interprofessional funds could draw inspiration from the French model, whereby funds are not only responsible for financing training initiatives but also for providing complementary services to companies. Among the services proposed were skills needs assessments - activities which, although still rarely carried out within Italian firms, are essential for the design of effective training initiatives aimed at closing existing skills gaps. These observations naturally led respondents to propose avenues for strengthening the role and effectiveness of interprofessional funds, especially in light of the challenges posed by ongoing transformations in the labour market.

4. The Training Needs of Italian Enterprises: Insights from Company Interviews

This section provides a summary of the main findings from the training needs analysis, conducted through in-depth interviews with a sample of Italian enterprises. The aim was to complement the general trends identified through quantitative data with the direct experiences of

entrepreneurs and HR managers. This approach made it possible to supplement the analysis with interpretative and contextual elements, offering a more comprehensive understanding that reflects the diversity of business contexts. In particular, the interviews involved a heterogeneous panel of 36 medium-sized and large companies, selected from a supply-chain perspective. All were affiliated with Fondimpresa and active in key sectors of the Italian economy: manufacturing, advanced services, energy and the environment, commerce, and organised distribution.

To better understand the insights gathered through the interviews, it is necessary to consider them against a background which, based on quantitative data provided by Fondimpresa, reveals a marked growth in training activities financed by the Fund. This growth is evident both in the number of company registrations (*matricole*)[35], which increased by 212% between 2011 and 2022 (driven primarily by the enrolment of small and micro enterprises), and in the volume of "approved"[36] expenditure, which exceeded €280 million in 2022 alone. Furthermore, in terms of training content - as illustrated in the figures below - the quantitative data show that the most frequent topic within the *Conto Formazione* (Training Account) was workplace health and safety, while managerial skills and production techniques were predominant within the *Conto di Sistema* (System Account).

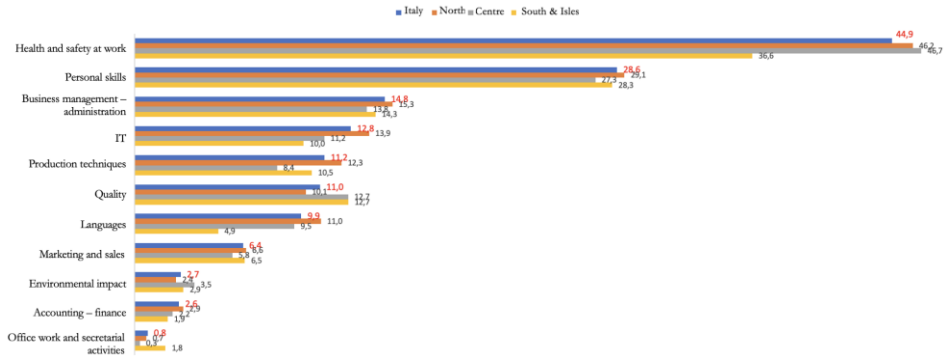
One of the key findings is that training is widely perceived by companies as a continuous process and as an essential tool for responding to market changes. As one interviewee observed, training is a "*never-ending process; one can no longer speak of training cycles with a beginning and an end, because the changes*

[35] In the context of Fondimpresa, the term *matricole* refers to the production units or operational sites of a company registered with the Italian National Social Security Institute (INPS). Each site is assigned its own INPS registration number (*matricola*), which is required in order to join the fund, access the training account, and participate in training plans. A company must register separately for each *matricola*. In cases where an INPS registration number is not applicable (e.g., in the case of agricultural enterprises), Fondimpresa assigns a specific substitute code. See, Fondimpresa. *Guida alla gestione e rendicontazione del Conto Formazione, aggiornamento 1 aprile 2022* (Fondimpresa. Guide to managing and reporting on the Training Account, updated 1 April 2022).

[36] Within the framework of Fondimpresa, the term "approved" expenditure refers to the maximum amount of funding granted for a training plan, following a positive evaluation of the proposal submitted by the affiliated company. This approval is issued after a technical assessment, which verifies the consistency of the plan with the objectives outlined in the relevant call for proposals and its compliance with current regulations.

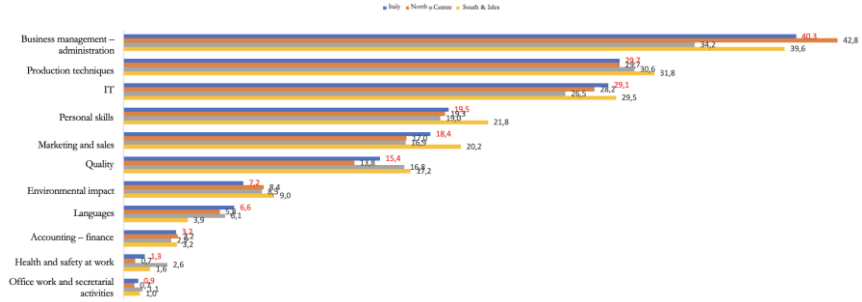
affecting business, services, and therefore management models and skills, are ongoing" (R1, 2020)[37].

Figure 1. Frequency of training topics within the "Conto Formazione" in Italy and by area, percentage values, year 2022



Source: Own elaboration from Fondimpresa's micro-data. NB *The sum of the percentages exceeds 100 because the same business unit is involved in as many different training topics as it has carried out.*

Figure 2. Frequency of Training Topics within Italy's "*Conto di Sistema* in Italy and by area, percentage values, year 2022



Source: Own elaboration from Fondimpresa's data. NB *The sum of the percentages exceeds 100 because the same business unit is involved in as many different training topics as it has carried out.*

[37] 2020 National Report - Chapter "Analysis of expressed training needs: The perspective of businesses" (Capitolo Analisi sui fabbisogni formativi espressi: Il punto di vista delle imprese).

From a methodological perspective, the interviews were conducted using a semi-structured guide and a thematic approach, in order to facilitate a clearer understanding of common trends and company-specific characteristics. The aim was to identify significant insights across the following areas:

- To explore the extent to which enterprises were aware of the strategic role of training in responding to the changes imposed by the socio-economic context, particularly in the post-pandemic phase, which has been marked by an acceleration towards digital and ecological transitions and a growing focus on sustainability;
- To investigate companies' ability to assess the quality of the training provided, in terms of both its relevance to business needs and the suitability of the learning methodologies employed;
- To examine companies' perceptions of the tools made available through publicly funded training - with particular reference to Fondimpresa - in terms of perceived opportunities, encountered challenges, and operational constraints, with a view to improving accessibility.

Following the structure of the interviews, one of the key findings to emerge is that training is widely perceived by companies as a continuous process and as an essential tool for responding to market changes. As one interviewee noted, training is a "*never-ending process; one can no longer speak of training cycles with a beginning and an end, because the changes affecting business, services, and therefore management models and skills, are ongoing*" (2020)[38].
Nowadays, training is regarded by companies in a dual light: it is seen both as a strategic asset and as a pressing need. As one interviewee put it: "*There are topics that simply must be known, as they are triggered by product or process innovations. This makes it necessary to plan training aimed at reskilling; such training does not necessarily stem from a traditional needs analysis, but is linked to mission changes that bring with them a set of skills and know-how which, in some way, must be revised*" (2020).
The renewed focus on training has undoubtedly been influenced by the growing difficulty in sourcing certain professional profiles and skill sets - a recurring concern raised by several interviewees. This dynamic has a significant impact on the training system. Companies reported a demand

[38] All quotations in this paragraph marked with (2020) refer to anonymised interviews conducted in 2020 and are included in the 2020 National Report published on the Fondimpresa website (see the chapter *Analisi sui fabbisogni formativi espressi: Il punto di vista delle imprese* - Analysis of Expressed Training Needs: The Perspective of Businesses).

for both highly specialised professionals and low- or unskilled labour, including roles typically associated with artisanal or manual work. One respondent described this trend as a polarisation between two opposing needs: "*On the one hand, there is a demand for extremely high specialisation. In these cases, companies are less focused on hard skills - which can be developed in corporate academies - and more on profiles with strong soft skills and a natural inclination for learning and research. They look for individuals capable of divergent thinking, with creativity, who can integrate into teams and identify problems, not just solve them (…) Naturally, these are people with specific formative experiences (…). On the other hand, there is also a shortage of unskilled labour - people to take on more traditionally manual roles, which may be relatively simple or require basic specialised training*" (2020).

Interviewees also emphasised that companies which invest time and resources in training their employees are better positioned to attract and retain talent. Continuing training not only enables workers to grow professionally, but also signals that the company is committed to their development. When employees feel that their skills and individual qualities are recognised and valued, job satisfaction increases, as do motivation and engagement. As a result, companies benefit from a more positive work environment and reduced turnover, since employees are more likely to stay in an organisation that acknowledges and nurtures their potential. One interviewee remarked: "*Our management places great importance on training, so we always try to pay attention to this aspect. I must say that employees are enthusiastic about taking part in courses and often they are the ones requesting to join training initiatives. Furthermore, during job interviews, one of the most frequent questions from candidates concerns corporate training - they ask whether the company invests in training and what opportunities are available. This is a question that, until a few years ago, one would not typically expect*" (2022)[39]. In a further interview, it was added that: "*Training is also a way to engage people and retain them, especially during times when personal motivation may be low. Offering opportunities for growth and training can provide meaningful support, helping people understand that all is not lost. It is a way of valuing staff and making them feel appreciated*" (2022).

During discussions with interviewees, certain sectors emerged as being particularly in need of workforce reskilling in light of ongoing transformations. As one respondent noted: "*In the energy sector, numerous technical and industrial training activities are required - for example, in geology and*

[39] All quotations marked with (2022) refer to anonymised interviews conducted in 2022 and are included in the 2022 National Report, forthcoming on the Fondimpresa website (see the chapter *Analisi sui fabbisogni formativi espressi: Il punto di vista delle imprese* - Analysis of Expressed Training Needs: The Perspective of Businesses).

process engineering - alongside behavioural and transversal skills. There are also training domains that could be described as 'future needs', linked to the ongoing transitions. These areas will be a focus for us, as they warrant particular attention given their anticipated impact on the very nature of work - on the 'way of working'. These new training areas, shaped by global developments, will bring about a 'new way of working'" (2022).

The acceleration triggered by the pandemic clearly highlighted the need to acquire new skills rapidly, with particular emphasis on digitalisation, managerial competences for an evolving world of work, and soft skills essential for managing workplace relationships. Increasing attention has been given to the development of multichannel business models and the adoption of digital customer experience strategies - trends which have further underlined the central role of training itself. As one interviewee observed: "*The pandemic gave a strong impetus to the development of multichannel service models, enabling continued interaction with clients and users remotely. Training focused not only on technical skills for using communication tools and collaboration software, but also on soft, behavioural, and relational skills, to make the most effective use of the new service delivery channels*" (2020).

With the growing implementation of digital technologies, online platforms, and cloud-based systems, companies have found themselves managing an increasing volume of sensitive information via digital tools - from internal HR management and intellectual property to financial data and customer transactions. Safeguarding this information has become a critical issue, not only to protect individual privacy but also to preserve corporate reputation and operational stability. As one interviewee remarked: "Digitalisation is transforming our sector. We need to invest in training to ensure our staff are equipped to manage new digital tools and processes" (2020). Another added: "*The demand for cybersecurity skills has surged in recent years. Our training strategies must take this trend into account if we are to maintain a competitive edge*" (2022).

In one interview, it was noted that training demand analysis is beginning to highlight the need for education on artificial intelligence, and that the company is starting to respond: "*We have just begun a phase of analysing and collecting training needs for the coming year; we had a very brief exchange with colleagues from across departments who requested more focus on artificial intelligence. How will we address this? On the one hand, we have an open course catalogue where we will introduce some first-level content to raise general awareness of AI. So, in practice, we will begin by clarifying what is meant by artificial intelligence, and especially what it can do for our business. We've already begun in this direction with training on data science and big data - without which, of course, AI cannot be fully understood as an applied tool*". The same interviewee went on to stress the importance of

understanding the impact this innovation may have on the business and on working practices in order to identify the skills needed to enhance performance across different professional families: "*Given that our group is international, complex, and organised across many different business lines, it is very important to provide guidance on what AI is - but above all, on how it could affect our business, our processes, and our way of working. We will therefore need to move from process analysis to an examination of the skills required across the various corporate sectors. The response to this need is not immediate, but it is nonetheless essential to begin with a literacy phase, and then move towards targeted training for the different professional families*" (2022).

Sustainability is also taking on an increasingly central role, both in terms of production practices and in workforce training. Companies have shown a clear sensitivity to the importance of integrating principles of social and environmental responsibility into their operations, responding to the growing expectations of consumers and institutions alike. Demand for training in sustainability is expected to grow in the coming years, with particular focus on waste management, energy efficiency, reducing ecological footprints, and adopting circular economy models. The following are additional excerpts from the interviews: "*Each year, the demand for sustainability-related skills increases, and it is estimated that by 2026 companies will require a large number of workers with green competencies. It is essential to offer solutions that address the serious challenges posed by climate change, including - among other things - waste management. These pressing issues require an appropriate response from the economic system and, therefore, from companies themselves. Public policies on sustainability must find in businesses a committed ally capable of accelerating the ecological transition of production processes*" (2021)[40]. Two other interviewees further commented: "*Sustainability is a topic we consider to be very much alive and relevant. From what we observe in the market, consumers are increasingly attentive to the sustainability credentials of companies and tend to value those with sustainability certifications. Consumers are becoming more discerning; our customers - who belong to the premium segment - increasingly ask us to explain how we meet their expectations concerning sustainability and environmental care. Our research and development department is fully engaged in finding solutions aligned with this need. In this context, the training delivered through Fondimpresa has, over the years, been essential in disseminating knowledge within the company about what we have done and how we have done it*" (2021). Another interviewee added: "*For us, sustainability*

[40] All quotations marked with (2021) refer to anonymised interviews conducted in 2021 and are included in the 2021 National Report, forthcoming on the Fondimpresa website (see the chapter *Analisi sui fabbisogni formativi espressi: Il punto di vista delle imprese* - Analysis of Expressed Training Needs: The Perspective of Businesses).

represents a competitive advantage, as our clients require us to guarantee the sustainability of our products and production processes. They expect us to comply with both national and international regulations that set specific parameters for final products and production methods. Therefore, sustainability is an area in which we plan to invest increasingly in the training of our managers, employees, and key personnel. We have already launched training courses in this area that we need to complete. In this regard, a shift in mindset is also fundamental - that is, a change in the attitudes of workers and in corporate strategies concerning mobility, as well as the selection of specialised personnel to be placed in various departments. This is a client-driven demand, and we must respond accordingly" (2021). As one interviewee observed: "*Our company is actively working to align both our processes and products with sustainability requirements. For us, sustainability goes beyond environmental issues; it also encompasses social sustainability. Over the years, we have implemented several initiatives in this area, as social responsibility is part of our philosophy - it's in our DNA. Our commitment to the local area is reflected in collaborations with schools, technical institutes such as Higher Technical Institutes (ITS), and universities. We also take part in solidarity programmes and corporate initiatives aimed at the local community and our employees. Although we have been active for some time, we are fully aware that there is still much more we can do*" (2022).

As previously mentioned, one of the key topics explored in the interviews was the evaluation of corporate training. Companies reported that they assess training on multiple levels. They gather participant feedback through satisfaction questionnaires and, where planned in advance, evaluate learning outcomes through pre- and post-training tests. Some interviewees shared the following insights: "*We collect feedback from colleagues who attend training sessions using satisfaction questionnaires, which include questions about the overall course, the trainer, materials, and the skills acquired*" (2022); "*…we use standard feedback forms that we ask participants to fill in at the end of each training session*" (2022).

In general, respondents agreed that to ensure the effectiveness of training, it is essential to begin with a thorough analysis of workers' training needs, followed by a clear definition of objectives, a design process tailored to identified gaps and resources, and continuous monitoring of the activities implemented. However, the interviews also highlighted some critical challenges in measuring the impact of acquired skills on overall company performance. While there is a widespread recognition of the importance of impact evaluation, there is also a shared difficulty in implementing effective tools, particularly when it comes to assessing organisational and strategic outcomes. The relationship between training impact evaluation and the methods used depends largely on the nature of the training topics and the intended purpose of the assessment. One interviewee illustrated

this with a specific example of direct observation as a method particularly suited to technical training: "*In technical training aimed at workers learning to operate new machinery, it is the supervisors themselves who, through direct observation, evaluate whether the new tools are being used correctly*" (2021). Another respondent emphasised that measuring the return on investment in training remains a highly complex challenge for HR professionals. Within their own organisation, efforts are being made to refine a performance evaluation system that includes behavioural aspects: "*Evaluating the effectiveness of training is one of the main challenges for those in charge of corporate training. Our investments in training programmes aim to enhance employees' skills; particularly for soft skills and technical-operational capabilities within the plant, it is often difficult to measure the economic return in relation to the business. However, skills such as stress management, communication, and collaboration can have a significant impact on overall performance. For this reason, we are working to integrate these dimensions into our performance evaluation system, which no longer focuses solely on the achievement of technical objectives but also takes into account behaviours and soft skills. It is clear that the development of technical competencies, acquired through training or other learning methods, is essential to improving overall outcomes*" (2022).

The interviews also revealed that the effectiveness of learning is closely linked to the teaching methodology employed. In contexts where business needs are continuously evolving, training methods must be carefully selected to support the achievement of desired results.

The debate between traditional classroom-based learning and virtual formats took on renewed importance during and immediately after the pandemic. Once the emergency phase had passed, it became possible to more clearly reflect on the strengths and limitations of each approach. Classroom training facilitates immediate interaction between participants and trainers, encouraging active engagement and the real-time resolution of queries. However, it also involves logistical constraints. In contrast, remote learning offers greater flexibility, reduces costs, and broadens access to educational resources. A blended approach - combining face-to-face sessions with asynchronous online activities - is increasingly viewed as the most effective solution, striking a balance between flexibility and direct interaction, while enhancing the perceived value of in-person learning. Some interviewees elaborated on this: "*Before COVID, we only had in-person training. During the pandemic, we made use of funding for fully online training for obvious reasons, but as of this year we have chosen to return to in-person formats*" (2021). Moreover, "*In the past two years, the training methodology has changed significantly; there is now much more online. We now use many more webinars. The duration of training has decreased, programmes are less time-intensive because they are more focused, and in many cases, we use a blended approach*" (2021).

One interviewee offered an interesting perspective linking the training format to the company's geographical footprint: "*Training delivered in a classroom setting - even a virtual one - is clearly more engaging than asynchronous learning, and therefore it always receives slightly higher satisfaction ratings. The opportunity to combine asynchronous content with synchronous sessions in a blended format is a winning formula for a company like ours, with a large workforce and a strong presence across the territory. It is a format appreciated by both staff and senior management. However, it is essential to carefully evaluate what to deliver asynchronously - such as preparatory materials or background content - and what to deliver in live sessions*" (2020). Another interviewee offered a reflection related to the profile of the workforce involved: "*In our case, 86% of the workforce is made up of manual workers, so delivering training online to them is not easy*" (2021).

The final theme addressed in the interviews highlighted how publicly funded training is viewed as a particularly valuable tool by companies. It broadens access to high-quality training programmes and makes a substantial contribution to the development of employee skills. According to the companies interviewed, Fondimpresa remains a key partner in this field, offering training opportunities that are closely aligned with business needs. Some interview excerpts confirm this: "*Fondimpresa is an important partner for us; in general, funded training is a crucial lever for us and for the world of business*" (2020). "*Funded training represents an important opportunity for companies to offer their employees training pathways. Training is fundamental for business development because it improves competitiveness. By joining interprofessional funds like Fondimpresa, companies can enhance their employees' skills and, in turn, strengthen the company's know-how and the specific knowledge and skills within each department - making the workforce more qualified and motivated*" (2021). "*As a company affiliated with Fondimpresa, we recognise the important role the Fund plays in supporting us as we adapt to changes in the working environment*" (2022).

Nonetheless, certain critical issues remain that can hinder the effectiveness of these instruments. The primary obstacle identified by companies is the complexity of the administrative procedures required to access funding. Preparing training plans and compiling the necessary documentation for expenditure reporting demands specialised expertise and a considerable investment of time - resources that are not always readily available, particularly within smaller enterprises. As one respondent explained: "*Among the areas for improvement is certainly a degree of rigidity in the system's procedures; excessive bureaucracy often drives companies, especially smaller ones, to rely on external consultants for reporting. However, this issue is common to all funding mechanisms*" (2021).

Another critical area relates to the training design phase. Many companies - particularly smaller ones - struggle to clearly define their training needs, often due to a lack of internal analysis tools or personnel with the appropriate expertise. This highlights a concrete need for support in identifying organisational needs and in designing effective and tailored training programmes aligned with business growth and innovation objectives.

Equally important is the issue of communication. A significant number of companies, especially those with less structured operations, are not fully informed about the opportunities available or the procedures for accessing the Funds. As a result, there is growing demand for widespread information campaigns, local outreach events, and clear digital tools tailored by sector or company size, to guide firms more effectively through the process.

Before concluding, it is worth including one final suggestion made by an interviewee: "*It would be great to have a Fondimpresa courses not only for HR staff who use the tools, but also for all company employees - to spread the culture of the Fund so that it is seen as an opportunity by everyone*" (2020).

5. The Response of the Continuing Training System: Insights from the Field Research

The findings of the field research phase confirm, on the one hand, the persistent skills gap between the profiles sought by businesses and those available in the labour market or produced by the education and training systems. On the other hand, they shed light on several features that have recently characterised the response of the continuing training system to emerging needs ([41]).

Despite the initiatives and efforts undertaken by the training system - as evidenced by the data presented above and the results of the recent survey - a significant level of skills mismatch continues to characterise the Italian labour market. This mismatch is influenced by multiple factors, including the rapid pace of ongoing transitions (digital, green, and AI-related), demographic trends, and longstanding inefficiencies and structural weaknesses that have historically affected the national production system.

[41] See R. Angotti, (ed.), *La funzione strategica della Formazione continua per lo sviluppo dei sistemi di conoscenze e competenze*, Special Issue: Economia & Lavoro, LVII, n.1, 2023. CEDEFOP, Italy - 2023 Skills forecast (https://www.cedefop.europa.eu/en/country-reports/italy-2023-skills-forecast).

Among the key challenges is the difficulty in precisely identifying training needs, which are constantly evolving and often hindered by a certain rigidity within the system. As one stakeholder interviewed noted, *"often, by the time a training proposal is made, it is somewhat delayed in relation to how needs have evolved (…) in Italy, we still lack an information base that can help identify emerging occupations and growing sectors (…) despite new opportunities, we are still unprepared to develop the skills demanded by the new green economy - we are significantly behind (…) there is a regression, a systemic inability among businesses to keep pace with these evolving training needs and the demands of the market. This is a major limitation that puts us at a disadvantage"* (R1, 2023).

As confirmed by the research, there are also significant disparities in how companies respond to training demands, depending on their size and geographical location. These differences primarily concern the ability of small and micro-enterprises to engage in medium- to long-term planning and to innovate, which in turn affects their capacity to anticipate training needs. These limitations inevitably influence the extent to which employees in such firms can access continuous vocational training[42].

As for the skills required by businesses and the responses from the training system, the field survey reveals several noteworthy points. Overall, among the experts and stakeholders interviewed, there is a widely held view that a proper alignment has yet to be achieved between the training pathways currently offered and the actual needs of the labour market. This is despite the presence of various positive and innovative experiences, particularly in relation to: corporate investments in enabling 4.0 technologies; the development of "strategic" soft skills (such as adaptability to change, logical thinking, creativity, etc.); and the experimentation with and introduction of training methodologies and pedagogical approaches aimed at enhancing worker motivation and engagement. These are, of course, factors that directly affect the effectiveness of training activities.

The findings also corroborate evidence from other studies, namely that there is a growing polarisation between two broad categories of skills which are now viewed as being on a relatively equal footing: "human" and "digital" skills. These two pillars reflect the new ways in which work is being organised. The training system must therefore evolve to strengthen

[42] From this perspective, it is worth noting that *Fondimpresa*, continuing along the path previously undertaken, also in 2022 introduced targeted measures aimed at promoting both the development of "system-wide" and "supply chain" training, as well as issuing specific calls for proposals tailored to the needs of small-sized enterprises.

both digital - and more broadly, technical - skills, as well as human skills such as critical thinking, the ability to navigate complexity, and empathy.
Overall, the interviewees believe that the system is gradually equipping itself to address the need for updated technical skills, which are, in some respects, easier to acquire and develop than cognitive skills - these being more difficult to standardise within formal training. In this regard, several stakeholders noted the rapid growth of training activities focused on cognitive abilities and socio-emotional attitudes now considered essential. These include, for example, the ability to solve complex problems, critical thinking, creative thinking - *"which is gaining greater importance compared to analytical thinking"* - curiosity, the capacity for continuing training, flexibility, agility, motivation, and self-awareness.
With regard to technical skills, one interviewee highlighted the cross-cutting nature of AI, stressing the need to *"expand the training offer on the understanding that AI is not the sole domain of computer scientists or electronic engineers (…) we should be integrating this subject into various academic programmes - and, some are already doing so (…); no one can afford to marginalise this phenomenon any longer"*. (R3, 2023).
Significantly, there is a growing emphasis on training and information provision for entrepreneurs and managers, aimed at equipping them with the tools needed to navigate rapidly evolving work organisations - both in terms of their structure and the composition of work teams. As previously noted, and particularly in relation to senior and/or coordination roles, the ability to manage an increasingly diverse and complex workforce has become crucial. In this regard, diversity and inclusion management have emerged as strategic skills: *"within a company, there can be as many as seven generations, often with different cultural backgrounds, life stages, and needs. Failing to take this into account negatively affects team performance, beyond any ethical, social, or legal considerations"* (R5, 2023). This awareness appears to be gaining ground among managers as well.
Lastly, it is worth noting that another area of growing interest and demand within corporate training concerns certifications related to environmental standards, gender equality, and social responsibility.
Greater attention in the organisation of training should also be directed towards designing learning pathways that are appropriately tailored to the target audience. This is a fundamental prerequisite for fostering active worker engagement and addressing motivational aspects. The latter was emphasised by one expert, who noted that *"the effectiveness of training within an organisation often depends on its transformative mandate: even unconsciously, workers expect training to bring about some form of positive change"*.

Furthermore, as highlighted by a sector specialist, older workers tend to be *"somewhat more resistant to training, unless they hold more senior or specialised roles,"* and for other profiles, training *"should be delivered using specific methodologies, as they often struggle to engage in traditional classroom settings"*. It was also observed that *"there is a growing need for training to be experiential, to resonate with people's lived experiences and personal interests - this applies across all generations and genders"* (R2, 2023).
With specific reference to the participation of women in continuing vocational training, the need to introduce flexibility in the scheduling and delivery of training programmes was also identified as a key priority.

6. Conclusions and Potential Areas for Intervention

The findings of the research highlight several key considerations regarding the system of active labour market policies, within which continuing vocational training represents a fundamental component. In particular, the study points to a number of potential areas for intervention in the context of training funded by joint interprofessional funds.
In general, among the experts and stakeholders interviewed, there emerged a widespread awareness of the aspects and factors that can help improve the effectiveness and efficiency of the training system. Particular emphasis was placed on the need to expand access to continuing training for both workers and non-workers, as well as the importance of designing personalised training interventions that take into account individual specificities, such as generational affiliation and existing skill levels. Similarly, it was recognised that such interventions should be adapted to the specific characteristics of the business and sectoral context (see paragraphs 3 and 4 above). From this perspective, Fondimpresa, in its role as a bridging actor between the public system and the labour market - and between companies and workers - can make a significant contribution to the creation of an ecosystem that promotes broad participation in continuing training by workers and non-workers alike. Naturally, these goals will be closely tied to the system's ability to establish a truly integrated education and training framework, to anticipate the needs of regional and sectoral production systems, and to respond appropriately - particularly in a context where the future workforce will require constant upskilling, and career paths are becoming increasingly non-linear.
Other crucial factors include the ability to expand participation, particularly among small and micro-enterprises, as well as among workers—both male and female. Equally important is the challenge of reconciling employers' operational needs with the individual aspirations of

workers. More than ever, workers are seeking not only fair wages and career progression - both horizontal and vertical - but also improvements in broader aspects of working life, including job quality, work-life balance, equality, and sustainability.

In light of the findings, several areas for action can be identified that require consideration to develop strategies, experiences, tools, and measures capable of responding effectively to the needs of the productive fabric, workers, and the workforce in general. In this regard, it is important to reiterate that these intervention spaces exist within a context characterised by immense complexity and interconnected issues. Among these are negative demographic dynamics, still low levels of education, and the growing mismatch between labour market demand and supply, influenced by cultural changes and migration patterns. There are fewer young people and graduates, alongside an increase in mobility towards countries offering better employment opportunities.

On the difficulty in sourcing certain skill sets - particularly digital, green, specialised and managerial competences, as well as a range of soft skills - and on the growing mismatch between labour supply and demand, also highlighted by both the experts and companies interviewed (see paragraph 3 and 5 above). Moreover, the growth of this mismatch is further exacerbated by widespread job insecurity, low wages[43] (the only category to have decreased over the past thirty years among OECD countries), career difficulties, and involuntary part-time work, which affects women to the extent of 15.6% (ISTAT - BES, 2023)[44]. This complex situation requires the development of both short-term and long-term intervention strategies, addressing educational and productive supply chains, generational concerns, and gender issues.

One key area for intervention concerns strengthening the ability to forecast training needs, particularly for SMEs, which are often unaware of changing trajectories, innovations, and, consequently, the demand for new professional skills. This weakness, in turn, affects their capacity to organise appropriate internal training plans in line with market demands and to recruit suitable personnel. In this regard, the research findings

[43] Italy is the country where real wages have decreased the most from 2008 to the present (-8.7% compared to an increase of approximately 5% in France and nearly 15% in Germany). See OIL, Organizzazione internazionale del lavoro (ILO), *Rapporto mondiale sui salari 2024-2025. Le tendenze dei salari e delle disuguaglianze salariali in Italia e nel mondo*, Roma: Ufficio internazionale del lavoro, (2025).

[44] ISTAT 2023, *Rapporto BES Il Benessere Equo e Sostenibile in Italia* (https://www.istat.it/produzione-editoriale/rapporto-bes-2023-il-benessere-equo-e-sostenibile-in-italia/).

suggest the usefulness of designing and implementing services to support SMEs in conducting their own needs analysis. This would help them build "competency maps", develop new awareness of strategic issues, and create training plans, including through co-design processes.

One aspect closely related to the previous point concerns supporting SMEs through tailored services and measures to help them build "networks" and integrate into innovative supply chains. This would foster forms of collaboration that enable the sharing of knowledge, technological and financial expertise, values, and organisational and business models with large companies and innovative startups. These latter entities often have greater capacity and speed in recognising new needs compared to traditional small businesses. In this regard, Fondimpresa could strengthen actions, tools, and measures that promote collaboration between SMEs and those entities driving innovation (large companies, but also small innovative startups characterised by a strong commitment to training linked to product or service development). This would facilitate mechanisms for positive cross-pollination.

Another area of intervention concerns the implementation of activities aimed at raising awareness and increasing the understanding of both businesses and workers regarding certain issues and phenomena linked to ongoing changes (technological, demographic, social value shifts, etc.) that will profoundly affect the productive system and the labour market. These changes will necessarily have an impact on the entire system of continuing vocational training. Among these are:

- Identifying effective intergenerational work models and investing in young people, making businesses and the environments in which they operate attractive in order to address the demographic challenge;
- Enhancing diversity, inclusivity, and a plurality of perspectives to manage the complexity and speed of change;
- Promoting the full recognition of training as a subjective right, delivering activities that are beneficial to both businesses and the workers involved, for whom increasingly non-linear career paths are anticipated;
- Adapting training models, methods, and tools to current trends, such as the hybridisation of learning models, the continuous use of advanced technologies, a greater focus on soft skills, wellbeing, and the balance between work and private life, sustainability, corporate social responsibility, and personalised learning, leveraging available data to tailor training programmes to the learning styles and needs of the workers involved.

- Facilitating access to the opportunities offered by interprofessional funds, especially for small and medium-sized enterprises, and reduce the bureaucratic burden on those managing and implementing training activities. For example, several challenges have been reported regarding the complexity of administrative and financial reporting procedures (see paragraph 3 and 4).

In addition to the training chosen by the employer for workers, which remains fundamental, actions could be tested that also address training needs deemed important by the workers themselves. In this context, employer and trade union representatives can play an important role through collective bargaining in supporting the individual and cultural right to training and in making both employers and workers aware of the evolving nature of work

Adapt International Network

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