

Defining a company welfare system through the joint action of EWCs and Trade Unions in the metal and finance sectors: The key role of workers' participation rights VS/2018/0037

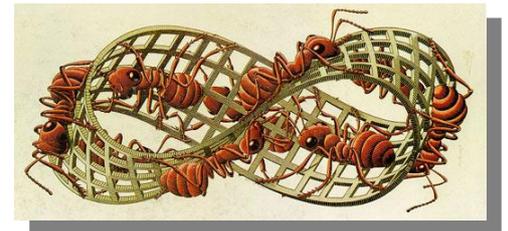
The key role of workers' participation in the building of a Company Welfare System



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With UE Contribution



A retrospective



The economic crisis has pushed European governments to adopt policies to contain the costs of public welfare, with a process of cuts and recalibrations. However, the social needs of the population have increased, driven by profound cultural, demographic and economic changes.

"Gap" always wider between the needs of citizens and public sector response.

The pressure on public welfare systems caused by the transformation of social demand is a characteristic of this historical period, so European countries are searching for solutions through complex and contrasted reform processes.

Chronic diseases and sustainability of public health and welfare systems: The European network for the promotion of health in the workplace has estimated that in Europe almost 25% of the working age population suffers from chronic diseases. The projections for 2020 and 2060 of the labor market participation rate in Europe of

Over 55 (more exposed to risk) show an increase of 10 and 16.7 percentage points: the risk of social exclusion generated by labor trends is therefore very high.



Public welfare systems compared



Bismark Model: health care spending (and not only the pension) is financed by contributions from workers and businesses. This results in an increase in the so-called old-age dependency ratio with an ever smaller number of active contributors, compared to those who are eligible for the related benefits. According to the forecasts of the European Commission, in particular, the old-age dependency ratio is expected to double over the coming decades, from 26% in 2010 to 52% in 2060.

Model charged to the general public.

A similar discussion can however be carried out also with reference to countries with different systems of welfare financing, especially those like Italy, with a very low regular employment rate, which, following demographic changes and the aging of the population, today record significant pressures on public (social security and health) expenditure in reason of the inactivity of the historical principle of the cd pay-as-you-go, ie the pay-as-you-go financing method.

Chronic diseases, labor market, work organization



"Invisible epidemic": in a sort of vicious circle, the same in employment, unemployment and job insecurity are direct or indirect source of chronic diseases. The economic and financial crisis has exacerbated exclusion.

Fordist organization model.

It is a still undisputed practical postulate: rigid, standardized work organization linked to the icon of physical presence at work as a guarantee of job suitability and productivity.



Welfare is not just the absence of chronic diseases



“European Magna Charta”: welfare is one of the fundamental rights of the Union. The Community institutional architecture is based on the 89/391 EEC Framework Directive, which imposes responsibility for employers in the organization of work aimed at "adapting work to man". The Commission in the 2004 White Paper COM (2004) of 12.5.2004 states that the Services of General Interest, based on the principle of solidarity, guarantee the person / citizen to benefit from their fundamental rights within a high level of social protection .

The "right to sequela".

Adequate welfare levels complement the "social pact", not only between citizens and the state, but also between citizens and workers, between state and enterprises, between citizens and businesses. Social and territorial cohesion can be implemented only by "following" the person / citizen in his movements on the territory of the Union. And integrated welfare must "follow" both when it works and when it ceases to work.



Welfare is a combination of services and benefits



Provided by the State: it is the "status" of a citizen (or refugee and non-EU citizen) to found these rights. Globalization, migratory flows, an aging population, an increase in marital separations and therefore single-parent families are just some of the phenomena that have affected European countries in recent decades. They have led to the emergence of new and diversified social needs, once unknown, and to which the systems of protection of the community must give answers (today "minimal" assistance and care only)

Provided by companies: in order to improve their private and work life. It ranges from support to family income, to study, to parenting, to health protection, to proposals for leisure time. The company scope allows to identify the needs of workers in a context of reconciliation of work and private life. Furthermore, the company climate can be improved in the company. The results also concern the company (reduction of absenteeism, level of engagement).

Welfare as a constitutional right of the Union



The Treaty on European Union (TEU) and the Treaty on the Functioning of the Union

European Union (TFEU) have the same legal value, occupy the highest level in the hierarchy of sources of EU law and constitute the primary law of the Union. The TEU consists of 55 articles: the Contracting States establish the European Union, to which they attribute competences to achieve their common objectives. The TFEU organizes, in 358 articles, the functioning of the Union and determines the sectors, the delimitation and the modalities of exercise of its competences. The Charter of Fundamental Rights of the EU has binding force in the legal system of the Union and has the same legal value as the Treaties (Article 6 TEU).

Welfare as a constitutional right of the Union



Respect for human dignity, freedom, democracy and equality of the rule of law and respect for human rights, including rights of persons belonging to minorities, are founding values (Article 2 TEU).

The Union's goal is to promote peace, its values and the well-being of its peoples. To this end, the Union is called to create for its citizens an area of freedom, security and justice without internal borders; to establish an internal market; to promote the sustainable development of Europe; to fight social exclusion and discrimination; to promote economic cohesion, social and territorial and solidarity between the Member States ... (Article 3 TEU).



Welfare and the principle of subsidiarity



The division of competences between the European Union and the Member States is regulated from the principles of attribution, subsidiarity and proportionality, as well as loyal cooperation (Articles 4 and 5 TEU).

According to the principle of attribution, the Union can act only within the competences conferred on it by the Member States in the Treaties; any jurisdiction not expressly attributed belongs to the Member States.

According to the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union intervenes only if and to the extent that the objectives of the proposed action can not be sufficiently achieved by the Member States, but can be better achieved at the level of Union.

Based on the principle of proportionality, the content and form of the action Union do not exceed what is necessary to achieve the objectives of the Treaties.



Welfare between concurrent and supporting competence



The competences of the Union are classified into three categories: exclusive, competitors and support, coordination and completion (Articles 2-6 TFEU).

The Union has exclusive competence in matters of customs union; definition of the internal market competition rules; monetary policy; conservation of the biological resources of the sea; common commercial policy, as well as for the conclusion of international agreements on subjects.

It has shared competence with that of the Member States on: internal market; social policy; economic, social and territorial cohesion; environment; consumer protection; transport; trans-European networks; power; area of freedom, security and justice; common safety issues in the field of public health.

Finally, it has the skills of mere support, coordination and completion of state action on health protection and improvement human; industry; culture; tourism; education, vocational training, etc.

Welfare as an ultranational individual right



Anyone with the citizenship of a Member State enjoys the status of an EU citizen (Article 9 TEU).

The Union respects the principle of equality of citizens, who receive equal attention from its institutions (Article 9 TEU).

The Treaties prohibit any discrimination based on nationality (Article 18 TFEU). By virtue of this, citizens of the Member States are entitled to the application of the same legislative provisions as are laid down for the citizens of the State in which they are located. The prohibition of discrimination concerns both the "direct" one, which occurs when the nationality is the condition for the application of a differentiated legal treatment, as the "indirect" or disguised one that, based on other distinctive criteria, such as residence, in fact creates a disadvantage for citizens of other Member States.

The national treatment rule is one of the provisions fundamental laws of the European Union and is equipped with direct effectiveness; it can, therefore, be asserted by the citizens Community before the national court seised.



Welfare: problems of effectiveness



The retreat of public welfare in the economic crisis of the state: the corporate welfare or "second welfare" is born

The lack of sufficient public funds is accompanied by the growth of the needs of an increasingly old and not self-sufficient population.

To this it is added that the so-called "classic" welfare system is out of the ordinary opinion obsolete and no longer able to satisfy new and wider needs than in the past. Consequently, the State has directed its action towards forms of support of private welfare promoting its dissemination in various ways such as for example providing a series of tax reliefs and exemptions that make it attractive to both the eyes of entrepreneurs and workers.

It is in this context that in recent years there has been an enormous development of private welfare initiatives that have played an integrative role but sometimes also a substitute for the public one



“welfare mix”



Today, talking about welfare means discussing social innovation, a new dimension of interactions between public and private resources, perspectives that are able to boost positive dynamics and initiatives for the wellbeing of society as a whole (there is no more only an "inside" and an "outside" the company).

It is in this panorama that an idea of a "second welfare" has developed in the public debate, also called "welfare mix" characterized by the entry of new actors into the welfare arena. In this new perspective, private citizens, foundations, voluntary associations, trade unions, employers' associations, insurance companies, cooperatives and companies are all committed to guaranteeing the work-health-life balance.



Unilateral, contracted and bilateral welfare



The creation of a corporate welfare plan can take place unilaterally or bilaterally.

In **unilateral welfare**, the initiatives adopted for employee well-being are considered a paternalistic concession by the employer. The initiatives are put in place by the entrepreneur *motu proprio*, in the exercise of his freedom of economic initiative and organization of the enterprise, without the participation of the trade unions. The entrepreneur can proceed to its elimination for its unquestionable choice. It is therefore evident that this welfare does not ensure a high level of stability associated with medium to long-term benefits.

Contractual welfare operates at a national level both at a company level and at a sector level.

Firstly, it can introduce welfare benefits in sectoral or territorial category bargaining.

It can also be a matter of collective bargaining, always on a national basis.

It can, again, materialize in interventions delegated by the State to the bilateral joint bodies constituted by the trade unions of the workers and employers of a specific professional category.

Bilateral welfare, if developed, allows a new configuration of industrial relations: the social partners have a decisive role in determining performance, as private individuals define, organize and deliver them, playing a role not merely of bargaining bargaining, but also of social mediation in the interest of the family community and even of the wider territorial community of reference

Welfare glocal as proximity welfare



With the creation of the Union, we proceeded towards "deterritorialization" with the elimination of borders, the creation of a common market, the adoption of a single currency, the legitimisation of common institutions with partial removal from the individual States of their sovereignty. These measures have eroded national public action over time, instead tending towards international and transnational policies.

However, one aspect of territorialization has never been questioned: namely that of decentralization, subsidiarity, and territorial differentiation that is affecting Europe from the beginning of the new century.

Such a dialectic between territorialization and deterritorialization requires effective coordination between the local, national and European levels, as is also apparent from the Committee of the Regions' White Paper on Multilevel Governance of 2009, where it is said that: "A coordinated action of Union, Member States, and regional and local authorities based on partnership and aimed at defining and implementing EU policies "(postulates multi-level governance)

Welfare glocal as the objective of the Project



The basic objective of the project is the identification of a "virtuous circle" of synergy between European, national, corporate and EWC trade unions in order to negotiate with the European multinational companies a homogeneously guaranteed welfare for the workers of the national factories that go to integrate national welfare.

In particular, we intend to analyze the best practices arising from the synergistic collaboration between EWCs and company unions. In this meeting the workers' representatives have two tools at their disposal: the rights of information and consultation held by the EWCs (which, however, do not have the power of collective bargaining, lacking the "erga omnes") and the traditional negotiating prerogatives, exercisable, however, in the "local" area to define collective agreements in the field of corporate welfare.

The homogenisation of private services through the unification of the negotiation processes in the EWC also improves the effectiveness of lobbying action with the public, allowing an economic estimate of the social impact of the welfare mix and therefore also of the correct tax incentives to to recognize the multinational company



Welfare glocal: constitutional foundations



TITLE X - SOCIAL POLICY

Article 152 TFEU

The Union recognizes and promotes the role of the social partners at its level, taking into account the diversity of national systems. It facilitates the dialogue between these parties, respecting their autonomy. The tripartite social summit for growth and employment contributes to social dialogue.

Article 153 TFEU

The Union supports and completes the action of the Member States in the following areas:

- a) improvement, in particular, of the working environment, to protect workers' safety and health;
- b) working conditions;
- c) social security and social protection of workers;
- d) protection of workers in the event of termination of the employment contract;
- e) information and consultation of workers;
- f) representation and collective defense of the interests of workers and employers, including co-management, subject to paragraph 5;
- g) conditions of employment of third country nationals legally residing in the territory Union;
- h) integration of people excluded from the labor market, without prejudice to Article 166;
- i) equality between men and women with regard to labor market opportunities and treatment at work;



Welfare glocal: constitutional foundations



TITLE X - SOCIAL POLICY

(Paragraph 2) For this purpose, the European Parliament and the Council:

...

(b) may adopt in the areas referred to in points (a) to (i) of paragraph 1, by directives, the minimum requirements applicable progressively, taking into account the existing technical conditions and regulations in each Member State. These directives avoid imposing administrative, financial and legal constraints of a nature such as to hinder the creation and development of small and medium-sized enterprises.

(Paragraph 3) A Member State may entrust the social partners, at their joint request, with the task of implementing the directives adopted pursuant to paragraph 2 or, where appropriate, a Council decision adopted in accordance with Article 155.

In this case, it shall ensure that, at the latest on the date on which a directive or a decision is to be implemented, the social partners have established the necessary provisions by agreement, on the understanding that the Member State concerned must take the necessary measures to enable it to do so. to ensure at any time the results imposed by that directive or decision.

The Community strategy for social innovation: an excursus



At the European level, great emphasis is placed on the concept of "active citizenship" through inclusive governance processes, and therefore forms of public / private partnership. The postulate is that private individuals must be made protagonists of welfare and their initiatives must be supported by adequate fiscal policies.

Social Europe is the final point of interventions in directions:

- regulatory, providing provisions that protect workers' rights, which support equal opportunities and fight discrimination;
- distributive, with the use of the European Social Fund and the financing of illuminated initiatives;
- of coordination and homogenization of the policies of the individual States

The need for social innovation has for the first time found its official explanation in the Amsterdam Treaty of 1997, to then be confirmed at the 2000 Lisbon Council, where the ambitious "Lisbon Strategy" was launched. The declared goal was to make the European economy the most dynamic and competitive in the world in ten years, without neglecting social cohesion.

A few months later, the European Commission with the 379 Communication of 2000 inaugurated the Social Agenda 2000/2005. In this document some points emerge that characterize the European action in the field of corporate welfare. Firstly, and for the first time, we take into consideration welfare not as a mere cost, but as an investment.

Starting in February 2010, the Commission met to sum up the results achieved with the Lisbon Strategy and to prepare the ground for the launch of a new action line called Post Lisbon Coalition. One of the most important achievements of the coalition is the production of the Europe 2020 document: delivering well-being for future Europeans.



Europe 2020: smart, sustainable, inclusive growth



Ambition: revitalize the Community economy over a decade, in an intelligent, sustainable and supportive perspective.

The issues of the welfare state, of corporate welfare and therefore of active citizenship, are closely connected in Europe 2020. All the parties operating in the market are involved: collaboration and the synergistic action of public bodies, collective institutions, individual entrepreneurs and all the social partners.

"Inclusive growth means strengthening people's participation through high levels of employment, investing in skills, combating poverty and modernizing labor markets, training methods and social protection systems to help people prepare for change and manage and build them. a cohesive society. It is equally crucial that the benefits of economic growth extend to all parts of the Union, including the outermost regions, so as to strengthen territorial cohesion. The goal is to guarantee everyone access and opportunities throughout their lives. Europe must fully exploit the potential of its workforce to cope with an aging population and increasing global competition. Policies in favor of gender equality will be required to increase labor market participation in order to foster growth and social cohesion "



The Google case: unilateral transnational welfare



Is transnational welfare a value in itself? Or is the modality through which it is realized itself a qualifying element of value?

Google's private welfare is characterized by the creation of a kind of transnational citizenship of private welfare, which overcomes and compensates for the shortcomings of national systems. The Googler, wherever it is and for any company / organization of the Google works group, enjoys a transnational private welfare, applicable beyond the geographical boundaries and labor law, harmonized basically at the global level with impacts on the law and collective agreement, for also contributive and fiscal reliefs.

This is a staff management strategy, with objectives of direction and control of performances, rather than an instrument to strengthen the social and solidarity network.

This is why, on the contrary, the "way" of the realization of welfare (participatory and perhaps bilateral) becomes a qualifying element of an inclusive community perspective (as desired by "Europe 2020")



For a transnational negotiating welfare



We need targeted economic incentives to support businesses, ad hoc supplementary measures to protect and promote and, above all, active retention and reintegration policies that work alongside state health care.

The current formal legal protection and collective bargaining, focused on reserve shares and on the suspension and retention of the workplace for times necessary for the treatment, are no longer enough: they are in the functional state of the prototype of the permanent and indefinite subordinate worker (basically male and hired by a large company), whereas the evolution of the labor market has witnessed a massive proliferation of temporary, atypical or precarious employment relationships that do not allow the full use of adequate welfare protections: neither for curative and welfare purposes, nor for the purpose of preventive medicine and well-being.

Economic / regulatory dumping, made possible by differences in treatment between member countries, must be fought in this transnational context, through a far-sighted tripartite negotiation action at the level of European multinationals: in an increasingly inclusive logic, which also includes terminated workers and their families.

Towards a transnational work-health-life balance



The Community institutional architecture is based on the European Framework Directive 89/391 EEC which places precise responsibilities of the company in the organization of the work: it is necessary to "adapt the work to the man" to protect the "health of the workers in all the connected aspects with the job".

It is a conceptual and operative reference framework calibrated on the specificity of each individual person and also of every single working environment: it exceeds the abstract and standardized models of work performance assessment according to the needs (productive and organizational) of the Fordist factory.

A paradigm shift must take into account the needs of the wider territorial community of reference: it is a strategic plan of action to bring to full maturation and completion complex processes of reform of welfare systems and industrial relations now launched in Europe in a purely emergency key .

It postulates a re-orientation of public subsidies that instead of being addressed in passive policies that lead to inactivity, they must incentivize participatory corporate logics and collective bargaining actions for retraining, combating unemployment and reintegration into employment (eg Danish flex-jobs or the Dutch system).



A homogeneous but "on a human scale" protection



The system of industrial relations would be decisive if it transposed through collective bargaining and bilateral systems of welfare management, at the level of European multinationals, the profound changes in work (the result of changes not only technological but also demographic and organizational). These changes affect the concepts of "presence at work", "work performance", "exact contractual fulfillment".

In the development of new generation protections it is, in other words, to interpret the great transformation of the ways of working that affects the concept of worker and of his work skills, of suitability -not abstract, but relative to the possible task-.

It is a matter of "following" the worker not only in the community territorial space, but also in the various evolutionary or even involutive phases of the careers (= in the function).

To do this, the measurement techniques (and remuneration) of the value of the work must be changed.

Collective bargaining must assess the possibility of inserting "insurance content" into the contractual exchange, against "internal" counterparts on the side of flexibility and productivity of work and / or "external" counterparts linked, in an ideal tripartite contract, to the social meaning of inclusion for the state.

The content of the work performance must be redesigned, in short, according to parameters that are no longer just "objective", but also "subjective".



Participatory glocal welfare: a Moebius band



The ordinary surfaces, that is the surfaces that in everyday life we are accustomed to observe, always have two sides, so it is always possible to travel ideally one without ever reaching the other, if not crossing a line of demarcation consisting of a corner (called "edge ") For these surfaces it is possible to establish a " superior "or" inferior "side, or" internal "or" external ".

In the case of the Möbius strip, however, this principle is missing: there is only one side and only one edge. After walking around, you are on the opposite side. Only after having traveled two can we find ourselves on the initial side. So you could move from one surface to the "behind" without crossing the ribbon and without skipping the edge but simply walking for a long time. "

