

Lunedì 02/09/2024 • 06:00

LAVORO ENGLISH VERSION

The new frontier of welfare: corporate participation

Speaking about **corporate welfare** today means moving beyond the traditional schemes that have established themselves in recent years. Here we are talking about the first work-life balance experiments which were introduced and implemented initially through the funding provided for by art. 9 of Italian Law no. 53/2000 and later through provisions introduced in the Italian Budget Law for 2016.

di [Paola Salazar](#) - **Avvocato in Milano**

di [Luca Failla](#) - **Avvocato - Managing Partner studio boutique Failla & Partners**

These were reinforced in recent years with the specific measures and tax facilities within Art. 51 of the TUIR – Unified Tax Law - towards fringe benefits.

All of these interventions have favored the consolidation of the various forms of voluntary welfare - and hence in doing so has created the conditions for the adoption of new models of negotiated welfare. It has had a positive influence in recent years on the Italian system of industrial relations, especially at company and territorial levels, where we see the data provided by Italian trade union agreements on performance bonuses (which is periodically released by the Ministry of Labor) shines a positive light.

This is an extraordinary opportunity that Italian trade unions have been able to seize in recent years - also in terms of promoting the modernization of their role. This evolution has seen their aim transforming from the "protection of the workplace" into the "protection of work" within the company. This shift sees the Italian trade unions staying true to their principles but at the same time it introduces an awareness that their contribution is creating the conditions for a new organization of work which is capable of combining well-being and profit, together with an attention to people and productivity.

When we look back at the evolution of the Italian workplace regulatory system almost a decade ago - the prospect for the development of welfare systems was still concentrated almost exclusively on supplementary health care, supplementary pension funds and fringe benefits. Today the dynamics and flexibility of the labor market have favored, in a much more significant way, the experimentation of new forms of welfare that combines traditional tools together with tools focused on individual well-being, time management and mechanisms of the virtuous balance between company goals and the real personal needs of their employees.

The main objective which has been pursued through these new welfare tools is that of well-being in the broad sense. The focus on the employee at the center today constitutes a fundamental requirement for organizational policies which look to seriously integrate ESG objectives. Here, the framework of welfare policies becomes a concrete focus point - which really looks at the people within the organization, their potential, and their value. This is because today - it is the people who choose which company they will work for - hence employers must be able to not only attract them but they must be able to retain them too.

Perhaps this is the greatest hope for the development of collective bargaining - at the first level and the second level - as something virtuous as more recent experiments are revealing. We only need to look at the renewal of the industrial sector agreements and also the Luxottica and Lamborghini agreements as examples. Here we can notice the new attention towards productivity and also towards people's time management. The new transformation of today acknowledges that the time that people spend at work must be "valuable" not only for organizations but also for the individuals themselves.

The evolution of welfare tools that we have witnessed in recent years has gone far beyond what used to be considered the most important areas of welfare planning (health and safety; supplementary pensions; family services; time management and conciliation policies). The new way forward sees the valorization of the position that each individual employee occupies within the organization and the social function of the work that they undertake. We see this only as the beginning of a deeper evolution of welfare systems in the Italian workplace.

In fact, if we look at the system of values (individual and organizational) that each employee manifests daily with respect to their work - even the traditional obligations of diligence and loyalty (required by the employees as per Articles 2104 and 2105 of the Italian Civil Code) - we can today see a new system of values emerging as the result of recent upheavals in the traditional

workplace (see the Censis Eudaimon 2024 Report).

Businesses must embrace and harness the individual values of employees and align them with those of the company's objectives - since it is in the company and in the work that individual employees can really express their personality. As the Italian Constitution reminds us in Art. 2 and Art. 4 - this is the legal and regulatory framework in which the individual employee is inserted and acts (works).

In this context, there is a proposal for a new law called the "Participation in Work" Bill which has been introduced by the Italian trade union CISL. This new proposal draws inspiration from the Italian constitutional system - where work is not only a tool for obtaining the means of subsistence but also, rather, a means through which to achieve the growth of individuals as people and as members of a community (Art. 3 of the Italian Constitution).

In this light, 'work' is viewed as a tool for personal and social advancement - because it is work that enables economic development and, at the macro level, the social progress of a country. It is in this spirit, that the new proposed Bill from CISL aims to implement Art. 46 of the Italian Constitution, which provides for "*the right of workers to collaborate, in the ways and within the limits established by law, in the management of companies*" and "*for the purpose of the economic and social advancement of work and in harmony with the needs of production*". Hence, here we are looking at a new foundation not only for giving substance to the objective of (true) centrality of an employee in the workplace - but also true ESG objectives.

We are witnessing an important historical and economic moment which is fostering a rethinking of the entire system of values on which work is based - in which remuneration is no longer the sole and only parameter for measuring the value that individuals attribute to what they do. The new era will see a necessity to identify new tools for motivation and engagement.

Tools that, alongside of traditional welfare measures, have become increasingly extensive, challenging and sophisticated (see the Benefits and Trends Italia report by AON) - and can help to create the conditions for taking a further step in terms of the evolution of welfare models within business organisations.

Looking deeper into the newly proposed CISL Bill - there are three fundamental guidelines that can be identified.

The first (contained in Articles 3 and 4) is the provision for the participation of Workers' Representatives in the supervisory boards of companies that adopt a dualistic governance system - and for companies that do not adopt the dualistic system the provision for the participation of Workers' Representatives in the Boards of directors. This system has already been in place for many years in Germany - hence it is proof that the real sharing of strategic and governance objectives is possible.

The second (contained within Art. 6) is a provision inspired by the existing incentives regarding a tax exemption on performance bonuses. Here we would see a provision for preferential taxation - with a substitute tax for personal income tax as well as regional and municipal surtaxes equal to 5% up to a total amount (with a limit of 10,000 euros gross) - when employees receive a distribution of a share of business profits (equalling not less than 10% of the total profits). This would be possible if paid by the companies in line with company collective agreements or territorial collective agreements (as per Art. 51 of Italian Legislative Decree No. 81/2015).

The third, (contained within Articles 10 and 11), is the provision for recognizing company bonuses potentially to employees who have contributed - collectively or individually - to the improvement and innovation of products, services and organizational processes within the framework of the joint committees provided for by collective bargaining at company level. Here there would be a requirement for the committees to be composed of an equal number of company and worker representatives - with their aim being the definition of the improvement and innovation of plans for products, production processes, and services as well as the organisation of work.

This last provision recalls a similar initiatives contained within the 2016 Italian Budget Law (Article 1, paragraph 18g of Law no. 208/2015 and article 4 of Ministerial Decree 25 March 2016) which also saw the joint involvement of employees when defining the parameters for performance bonuses.

This is really an ambitious project for the concrete revolution within the workforce - potentially a real historic moment for the Italian labor market .

However, one should remember that the absence of a law regulating in detail the principles of worker collaboration (as per Art. 46 of the Italian Constitution) - does not prevent employers from trying to experiment with new forms of active participation of workers and their representatives. Here they may be capable of overcoming the traditional logic of conflict, moving instead to that of strategic partner - precisely in compliance with shared objectives and values. This is a necessary step for a modern vision of a business and the competitive challenges that the future holds for them.

© Copyright - Tutti i diritti riservati - Giuffrè Francis Lefebvre S.p.A.