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ABSTRACT

“Il personale dipendente nelle società a partecipazione pubblica: una parabola normativa tra ibridismi e stratificazioni”

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This thesis entitled "Employee Personnel in Publicly Owned Companies" stands at the boundary not only of polychromatic disciplines, but also of conflicting and often divergent interests suspended between the different models of a layered legislation of managing publicly owned companies. This legal framework - eternally situated between a particular approach designed to protect the workers of such companies and a general system necessarily to be built - has seen several attempts to rationalize the entire discipline over the years, first with the d.l. 112/2008 and then with its highest expression of novelty given by the introduction of the Consolidated Law on Participated Companies (Legislative Decree 175/2016 and ss.mm.ii.).

The interesting developments in the case combine the poles of an issue that has traditionally attracted the attention of doctrine mainly with reference to the diversity profiles of public corporations, with regard to their legal nature understood from an essentially corporate-commercial point of view. In this context, for a long time, the labor law applied to the employees of publicly-owned companies appeared to be functional more for the companies - bent on the evolution of management that public services were absorbing as a result of a process of efficiency and liberalization of their management - than for the protection of the diverse workers who make up and constitute the heterogeneous world of investee companies. A legal context in which precisely the corporate processes have had a significant impact on the regulation of labor relations of the employees of the companies with public participation and in which the changes introduced over the years have left in the shade the protections of workers, overshadowed by the continuous changes referred to the corporate profiles oriented essentially to the primary protection of the efficiency of the administrative machine. The thesis "The Employee Personnel of Publicly Owned Companies" is structured around three axes: the first referring to the analysis of the general profiles suitable for carving out the contours of the employee of publicly owned companies, the second relates to the movement of the employee in the delicate phase of the circulation of the personnel of these companies and, the third is related to the main role that collective bargaining takes on in the circulatory events for the life of the employee of the investee companies themselves.

The work fits precisely into these shadowy areas of uncertain and undelineated boundaries where at the outcome of the narrative dealing with the profiles related to recruitment, personnel selection, promotions, and the margins of flexibility available to the employer with respect to such workers (Chapter 1) and the one that analyzes the circulatory events of the personnel of the investee companies, investigating both the substantive aspects and the

protections for workers in cases of identification of surpluses or, for example, in the hypotheses of contracting out or concession (Chapter 2), followed by the innovative events related to the role of collective bargaining within investee companies, especially and in particular with regard to the circulatory vicissitudes of the personnel of these employees (Chapter 3). This profile of innovative hues, which has moreover been scarcely investigated by the doctrine that has dealt with the subject, raises numerous questions and provokes numerous points for reflection, mainly with a view to the recognition of a crucial space that undoubtedly must be attributed to the union in the sphere of circulatory events, in view of the evident difficulty of uniform and homogeneous management of personnel within individual companies, in view of the different collective bargaining agreements applied and because of the different composite backgrounds and experiences of the employees (from the Public Administrations in their different articulations, or from former public companies to different public companies), creating as many different protections as there are different contractual classifications of the workers. Through the labor lawyer's key, it is interesting to analyze, in development and methodological analysis, how, collective bargaining fits within the circulatory events, eternally poised between recruitment of new employees and acquisition of personnel through mobility processes. In this context, precisely the numerous questions raised - on the one hand ascribable to the applicability of classical institutions of public employment and on the other hand by the possible declinations of *ius privatorum* schemes - open up important and fruitful insights through the lens of collective bargaining as well and above all. In this context, the lack of unambiguous definitions and narratives together with the difficult classification of reference models, due to the continuous interventions of the Legislature, require a careful effort of accommodation particularly in the institutions of hiring, promotion and mobility. Although the Consolidated Law on Participations has attempted to give uniformity of discipline, especially from a union perspective, in circulator affairs, it is faced with the objective inexistence of a unified category. In this context, the union's role appears complex: on the one hand, it participates *ab initio* in the process of the procedures referring to the circulation of personnel and, on the other hand, it finds itself in the arduous condition, in numerous cases, of negotiating less favorable treatments, in view of reasons pertaining to public finance, for the sole purpose of preserving and preserving the employment relationship of the personnel of the investee companies subject to circulation procedures.