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Early retirement in the Italian social security system: some critical insights

Davide Casale*

Abstract

This paper examines the age and contributory requirements needed to take retirement in Italy. The focus is on one of the novelties introduced by Decree Law No. 4/2019, namely the possibility to access early retirement through the temporary *Quota 100* scheme. This can be done provided that the worker has paid 38 years of contributions and is at least 62 years old by the end of 2021. This exception allows retirement up to 5 years before fulfilling the requirements established under current legislation. Moreover, according to Decree Law No. 4/2019, until 2026 life expectancy growth will not be considered for the purposes of automatic upwards adjustments in pension eligibility requirements. The paper argues that the new measures privilege a specific cohort of people, frustrating the improvements of the Italian pension system over the last three decades. This view is supported by the fact that this temporary relaxation of retirement criteria is not in line with the needs of the Country which emerge through social research and statistical data. Based on demographic and economic analysis, this paper argues that some imbalances question the long-term economic and social sustainability of national social security. The most serious imbalance concerns the disparity between young and older citizens, as the current apparatus favours people who have already reached - or are about to reach - retirement, disadvantaging the following generations.

Keyword: Social Security; Pension; Early Retirement; Age and Contributory Requirements; Employment; Public Sector; Demography; Sustainability; Effectiveness; Equity.

1. Taking Retirement in Italy.

Over the last thirty years, a number of reforms to the Italian pension system have gradually tightened up the age and contributory requirements to gain access to retirement.

* Associate Professor in Labour Law, University of Bologna, Italy. This article has been submitted to a double-blind peer review process.

Recently, Decree Law No. 4/2019[1] has reversed this trend, significantly relaxing the eligibility criteria for accessing certain types of retirement schemes.

The political support enjoyed by this piece of legislation stood in clear opposition to the implementation of the Monti-Fornero reform, approved through Article 24 of Decree Law No. 201/2011[2]. This previous reform represented the culmination of the progressive tightening of the eligibility criteria referred to above. Enforced nine years ago, it laid down stringent qualifying requirements to access retirement.

The express intents of the Monti-Fornero reform might be worth mentioning: "*ensuring compliance with the commitments made to international institutions and the European Union as regards budgetary constraints, and financial and economic stability*". According to Article 24, the reform also set out "*to strengthen the long-term stability of the pension system in terms of incidence of pension expenditure on GDP, in line with the following principles and criteria:*

- intra-generational and intergenerational equity and convergence, eliminating privileges and providing exemptions only to vulnerable groups;

- flexibility when accessing retirement benefits, also through incentives promoting working life extension;

- adjustment of qualifying requirements to changes to life expectancy; simplification, harmonisation and affordability of different public pension funds".

Implementing the foregoing principles, the 2011 Monti-Fornero reform determined stricter eligibility criteria in order to benefit from the two main retirement schemes provided by Italian law: the "old-age" pension (*pensione di vecchiaia* in Italian) and the "early old-age" pension (*pensione anticipata* in Italian, previously termed *pensione di anzianità,* "seniority pension"). Furthermore, access to both retirement schemes[3] was made conditional upon a set of increasingly stringent eligibility criteria to be implemented over time, which are in part associated to life-expectancy statistics (this rule was introduced in 2009-2010 and further strengthened by the Monti-Fornero reform).

It should be noted that also the amount of the pension itself is conditional upon average life-expectancy variations. According to the contribution-based system (*regime contributivo* in Italian), once the worker meets the eligibility requirements, the amount due in the first year of retirement is arrived at by multiplying the total amount of paid contributions by a "transformation rate" laid down in a specific official index. This rate depends on the worker's age at the time of entering retirement. This system of calculation applies to contributions paid after 1995. Under the 2011 Monti-Fornero reform[4], different rates apply up to the age of 70, so people are encouraged to stay at work even after reaching the age of 67 years, which is the minimum age at which one can claim old-age pension. Importantly, the index is regularly updated according to changes to life expectancy[5]. So, with paid contributions and age being equal, pensions will be lower for new generations, as life expectancy in Italy is on the rise.

[1] Decree Law No. 4/2019 became permanent legislation through Act No. 26/2019.
[2] Decree Law No. 201/2011 was converted to permanent legislation by means of Act No. 214/2011.
[3] Life-expectancy adjustments also apply to early old-age pensions due to a disability, as confirmed by Italy's Supreme Court (*Corte di Cassazione*), case No. 31001/2019.
[4] In application of par. 4, Article 24 of Decree Law No. 201/2011, these indexes are amended every 3 years, usually introducing 1 or 2% reductions to the new pensions due. Lastly, see the Decree issued by the Ministry of Labour on 15 May 2018.
[5] See par. 6 and 11, Article 1 of Act No. 335/1995 and par. 7, Article 24 of Decree Law No. 201/2011.

To sum up, to qualify to access old-age pension in 2020, one needs to be 67 years old and to have paid contributions for 20 years[6]. As for the early old-age pension, it can be claimed once a man has 42 years and 10 months of contributions or a woman has 41 years and 10 months of contributions[7]. Exceptions are in place for workers meeting special requirements, e.g. "early workers" (*lavoratori precoci* in Italian, i.e. those who had paid at least 1 year of contributions for work performed before the age of 19), those performing physically-demanding work and those operating in specific roles in the sport sector or in the entertainment industry (e.g. ballet)[8]. Moreover, a more flexible rule applies to people who started work in 1996 or later[9].

It should also be noted that certain percentage-based penalties previously in place were first waived and then set aside by law-makers in 2017. They were equal to 1% or 2% of the pension due, depending on the years needed to reach the 62-year threshold. These penalties were introduced by the 2011 Monti-Fornero reform and concerned pensions paid to people younger than 62 fulfilling the requirements referred to above (i.e. at least 42 years and 10 months of contributions).

In addition to the above, because of the new provisions of Decree Law No. 4/2019, easier eligibility criteria are now in place in order to claim the early old-age pension.

1.2. The 2019 Reform of the Pension System in Italy.

The amendments made in 2019 by Italian law-makers did not impact the overall structure of the pension system, as they have a transitory nature. In legal terms, this means that they cannot be likened to a reform strictly speaking. However, these measures bear relevance, especially in the period stretching from 2019 to 2021. When compared to the initiatives put in place in the last three decades, the provisions laid down in 2019 are innovative, as far as law-making policy is concerned.

Decree Law No. 4/2019 introduced a favourable early retirement scheme, which will be in place until 2021, called *Quota 100*[10]. It is named after the 100-year threshold arrived at by

[6] Par. 7, Article 24 of Decree Law 201/2011. For those who started to work in 1996, 5 years of contributions are sufficient, so long as the 67-year-old age requirement is met; however, if younger than 71, the contributions set aside should allow for the pension to be at least 1.5 times the monthly amount of the social allowance *assegno sociale*, in Italian, paid to old people on very low incomes; for 2020, the amount has been set at €457.99, to be paid every year for thirteenth months.

[7] Par. 10, Article 24 of Decree Law No. 201/2011.

[8] For specific groups of workers in the entertainment sector (i.e. ballet), the law sets the retirement age at 47. On this issue, see also *Corte di Cassazione*, employment division, Case No. 12108/2018, which stated that the difference in retirement age between men and women is a discrimination under EU law.

[9] People who started work in 1996 can retire, so long as they are 64 years old and have paid contributions for at least 20 years; but this is conditional upon the fact that the amount of pension one would be entitled to is equal to at least 2.8 times the monthly amount of the monthly amount of the social allowance *assegno sociale* (in Italian; as regards its amount, see in footnote no. 6). *See* par. 11, Article 24 of Decree Law No. 201/2011.

[10] For an in-depth analysis of this Statue, see Canavesi G., *Il futuro non c'è. Il presente guarda al passato. Le misure di pensionamento anticipato nel decreto legge 28 gennaio 2019, n. 4*, in *Massimario di Giurisprudenza del Lavoro*, 2019, 495 ff.; Sandulli P., *Nuovi modelli di protezione sociale fra istanze risalenti e pretese recenti: profili di criticità e problemi di finanziamento*, in *Massimario di Giurisprudenza del Lavoro*, 2019, 621 ff.; Casillo R., *Coerenza ed equità nella manutenzione del sistema pensionistico dopo la legge 22 dicembre 2011, n. 2014*, in *Massimario di Giurisprudenza del Lavoro*, 2019, 745 ff.

summing up age plus contribution years, because in order to be eligible for this pension, workers must be at least 62 and have paid at least 38 years of contributions.

The scope of the reform is broad, as it involves "all workers registered with compulsory social security schemes" managed by the National Institute of Social Security (INPS)[11]. The number of potential recipients is significant, because the amendments implemented in 2019 made it possible to access early retirement schemes with 38 years of contributions, i.e. some 5 years earlier than previous legislation on early old-age pension. This marks a significant difference with the legislation in place until 2019. A 5-year reduction also applies to the age requirement, if this new scheme is compared with old-age pensions, which - as said above - can be obtained (after having paid 20 years of contributions) only once an individual is 67 and not 62, as is now the case with *Quota 100*.

Widening the base of those qualifying for retirement benefits under Decree Law No. 4/2019 called for considerable budgetary coverage. This additional spending was €2 billion in 2019[12] and is rapidly growing in 2020: it will peak in 2021 (€9 billion per year), though it will gradually decrease from 2028 onwards (some €2 billion/year)[13]. The reduction projected over time is due to the fact that this new law is transitory: only those aged 62 who will have paid 38 years of contributions by 2021 will access the *Quota 100* scheme. However, this piece of legislation will have serious financial consequences: official statistics report that the weight of early retirement schemes on old-age pensions in 2019 increased by 56% as compared to 2018[14].

Limiting the costs associated to the *Quota 100* retirement scheme would be difficult even if new legislation will to be introduced. One reason is that these costs stem from the provision of pension benefits which cannot be terminated once granted. Furthermore, those who meet the requirements by 2021 but decide to stay at work can take retirement at a later stage, even though the eligibility requirements have in the meantime been amended[15].

As pointed out in the annual report released by INPS in July 2019[16], the retirement applications submitted in accordance with the *Quota 100* scheme in 2019 mostly concerned people aged 63 or 64, that is 4 or 3 years before the age of 67 required to be eligible for the old-age pension. On average, these new pension recipients are granted €1,900 per month, which is higher than the sum paid to new pensioners on average. These beneficiaries[17] are

[11] Par. 1, Article 14 of Decree Law No. 4/2019. The separate social security schemes concerning small entrepreneurs and workers other than salaried ones are also included. Instead, pension funds set up for self-employed professionals are not included, since they are governed by autonomous regulations which are different for each profession.

[12] Istat, *La protezione sociale in Italia e in Europa*, statistical summary, Rome, April 2020, 3.

[13] *See* par. 2, Article 28 of Decree Law No. 4/2019.

[14] Inps, *Monitoraggio dei flussi di pensionamento (fpld, cdcm, artigiani, commercianti, parasubordinati, assegni sociali). Pensioni decorrenti negli anni 2018 e 2019. Rilevazione al 02/01/2020*, Rome, 2020, 2. The latest data show that in the first three months of 2020 the number of early-age pensions provided is further increasing: Inps, *Monitoraggio dei flussi di pensionamento (fpld, cdcm, artigiani, commercianti, parasubordinati, assegni sociali) pensioni decorrenti nel 2019 e nel primo trimestre del 2020. Rilevazione al 02/04/2020*, Rome, 2020, 24.

[15] Usually, the changes contained in new provisions apply only to those who have not yet met the criteria for entering retirement. This holds true also when the law regulating qualifying requirements is a temporary one, as is the case of *Quota 100* (it is in place for three years): in order to eliminate any uncertainty in this respect, this new discipline specifies that "the right acquired by 31 December 2021 can also be claimed past that date" (par. 1, Article 14 of Decree Law No. 4/2019).

[16] Inps, *XVIII Rapporto annuale*, Rome, 2019, 211-214.

[17] Mazzaferro C., *Rapporto Inps, il welfare visto in gialloverde*, 12.07.2019, available at www.lavoce.info.

mostly males[18], who already enjoyed favourable conditions in their decades of employment during good macroeconomic periods (in 1980s and 1990s).

Further, the pensions due to them are calculated on a pro-rata basis (*regime misto* in Italian) which includes career years until 1995, considered very favourably in accordance to older laws. For this cohort of beneficiaries, almost half of retirement income is "pay-based", i.e. it is calculated according to the average remuneration received in the last years of career. This system of calculation, termed pay-based (*regime retributivo* in Italian), is more generous than the already mentioned contribution-based system (*regime contributivo* in Italian), which is the other system in place. The latter is based on the contributions paid during the whole career, thus including the first years of employment, when the worker usually has lower incomes and therefore pays lower contributions. This system of calculation has been in force since 1996, but exclusively for the following periods of contributions, so that it will be the only one used to calculate new generations' pensions.

1.3. Statistical Life Expectancy and its Legal Relevance.

The age and contributions requirements needed to qualify for the *Quota 100* retirement scheme "do not consider the adjustments resulting from life expectancy"[19] laid down in 2009-2011 legislation[20]. Consequently, these requirements will not be amended according to the life-expectancy variations determined by the National Institute of Statistics (ISTAT). This applies to individuals reaching the pension age between 2019 and 2021.

As mentioned earlier, ten years ago measures were introduced in national legislation to link pension provision to demographic changes. To this purpose, the law takes into account the variations of life expectancy of the Italian population at age 65: following the periodical publication of official statistics, an implementing decree must be issued on a three-year basis (beginning from 2020, on a two-year basis, under the Monti-Fornero reform).

Italian law has been among the first to incorporate this legal and statistical mechanism. Comparative research often regards it as a best practice to ensure the stability of social protection systems[21]. This legal correlation between pension eligibility requirements and demographic trends is not a mere technical provision, but also a rule arisen by a political disposition. Supporting this claim is the fact that the law clearly specifies that no adjustment applies if a decrease in life expectancy is reported (though steps will be taken to subsequently

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[18] The number of early retirement benefits granted to men rose from 66,982 in 2018 to 90,523 in 2019. Those paid to women passed from 27,970 in 2018 to 35,584 in 2019. See Inps, *Monitoraggio dei flussi di pensionamento (fpld, cdcm, artigiani, commercianti, parasubordinati, assegni sociali). Pensioni decorrenti negli anni 2018 e 2019. Rilevazione al 02/01/2020*, 2020, 17. This is not a surprise, as 77% of early retirement benefits are paid to males (this percentage decreases to 36% if the old-age pension is considered). See Inps, *Pensioni vigenti all'1.1.2019 e liquidate nel 2018 erogate dall'Inps*, Rome, 2019, 4.

[19] Par. 1, Article 14 of Decree Law No. 4/2019.

[20] Article 22 ter of Decree Law No. 78/2009; Article 12 of Decree Law No. 78/2010; art. 24 of Decree Law No. 101/2011 (Monti-Fornero reform). On this piece of legislation, see Casillo R., *L'attesa di vita nei requisiti di accesso alla pensione: una prospettiva giuridica*, in *Rivista di Diritto della Sicurezza Sociale*, 2016, 118 ff., and Casillo R., *La pensione di vecchiaia: un diritto in trasformazione*, Edizioni scientifiche italiane, Napoli, 2016, *passim*.

[21] However, the automatic nature of this legal adjustment is often frowned on by soon-to-be-retired workers. So, until 2015, few EU Member States had adopted this system, namely 4 out of 28 (see Social Protection Committee, *Annual report 2016. Review of the social protection performance monitor and developments in social protection policies*, Publications Office of the European Union, Luxembourg, 2016, 25).

offset this decrease). Moreover, this provision does not apply to all workers: for instance, those who no longer have the ability to perform specific tasks upon reaching a certain age are exempted.

This provision linking pension eligibility requirements to life expectancy is based on the assumption that a degree of political uncertainty often exists when the parliament and the government work on adjusting pension requirements to demographic ageing. While it is easy to gain political and electoral consensus by granting State-funded earlier pensions, it is politically more difficult to adopt measures that adjust eligibility requirements upwards in order to reflect longer life expectancy and ultimately to preserve the long-term financial sustainability of the pension system. This provision should thus be praised, as these pension requirements increases have been conceived to be gradual, regular, and objective. They are founded on demographic data and not the result of political whims.

Most importantly, adjustments are automatic so there is no need to make legal amendments on a regular basis. As a result, the government willing to set aside this mechanism must assume explicit accountability for this political decision. These periodical adjustments of eligibility requirements take place through decrees signed by the relevant public officer, not by the minister, so no discretion exists as regards the amount and periodicity of these decrees. In the event of a failure to sign these directorial decrees, the law establishes the officer's monetary liability for the loss caused to the public budget[22].

Criticisms can be levelled at the 2019 legislative decision to exclude the *Quota 100* retirement scheme from the scope of application of that 2009-2011 legislation, especially in consideration of the demographic and statistical findings examined in the second part of this paper.

Equally questionable is the new amendment made to the 2011 Monti-Fornero reform concerning the ordinary early retirement scheme, which can be accessed upon fulfilment of contributions requirements only, therefore without applying any age requirement[23]. Until 2026 this pension can be claimed after paying 42 years (41 years for women) and 10 months of contributions[24]: according to Decree Law No. 4/2019, the 5-month increase in life expectancy reported by the National Institute of Statistics (ISTAT)[25] was neglected, as will the consequences of statistical life expectancy growth for the next 6 years.

[22] Par 12 bis, Article 12 of Decree Law No. 78/2010 and following amendments.

[23] Article 15 of Decree Law No. 4/2019 amending par. 10, Article 24 of Decree Law No. 201/2011.

[24] Gender inequality is further perpetuated through the "Opzione Donna" early retirement scheme (Article 16 of Decree Law No. 4/2019). According to this arrangement, female employees can take early retirement if they are 58 (59 if self-employed) and paid 35 years of contributions. The pension is thus calculated with the contribution-based system. Under this scheme, the first pension payment will be received 12 months (for employees) and 18 months (for the self-employed) after obtaining entitlement. One might wonder how this provision relates with the arguments put forward by the ECJ ten years ago according to which discrimination takes place when women are allowed to take retirement earlier, with this option leading them to perform most household work while receiving lower pensions than their male counterparts. *See* Case C-46/2007 of the ECJ of 13 November 2008, on retirement in the Italian public sector, available in *Massimario di Giurisprudenza del Lavoro*, 2009, 71, with a comment by Vallebona A., *Età pensionabile e differenze*, and in *Rivista di Diritto della Sicurezza Sociale*, 2009, 97, with a note by Sandulli P., *Età pensionabile e parità uomo donna per i pubblici dipendenti: la Corte di giustizia fra omissioni e ridenominazioni.*

[25] The 5-month increase had been implemented by means of Directorial Decree of 5 December 2017 and entered into force on January 1st, 2019. Putting this increase on hold through Decree Law No. 4/2019 had significant consequences in budgetary terms.

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On the contrary, a favourable view can be expressed about the exceptions laid down in Article 18 of Decree Law No. 4/2019 for pension advance payments (*Anticipo pensionistico sociale* in Italian), i.e. money granted by social security to most in need people aged 63 and older. The same can be said about other socially vulnerable groups of people, whose pension requirements are as well exempted from increments of life expectancy recorded until 2026 (e.g. those suffering from a disability or looking after family members with a disability, those working at night or in comparable situations)[26].

For the sake of completeness, it should be said that the eligibility requirements for the old-age pension - i.e. 67 years of age and at least 20 years of contributions - are still adapted to changes to life expectancy[27].

1.4. The Costly Acceleration of Generational Change in the Labour Market.

With a view of widening the base of potential recipients, Decree Law No. 4/2019 provides more opportunities to make use of and aggregate the contributory periods accrued under different social security regimes[28].

This provision also establishes that the joint unemployment funds laid down in Legislative Decree No. 148/2015 can be used to pay special allowances supporting the income of "workers who meet the requirements for the *Quota 100* retirement scheme by 31 December 2021". This is possible if collective agreements concluded at company- or local-level are in place determining "the number of employees to be hired replacing those accessing these special allowances, thus safeguarding employment" [29].

This aspect brings to the fore one of the objectives of the 2019 pension reform, i.e. the promotion of youth employment, to be realised by freeing up job positions of workers opting for early retirement.

In this case, income support is provided to those meeting the age and contributory requirements to access the *Quota 100* retirement scheme by the end of 2021: in this case of early retirements financed by joint unemployment funds, trade unions have a say in relation to the number of workers to be hired replacing those who left.

Leaving aside the case where joint unemployment funds are used, employers are not under the obligation to take on new staff to fill in the positions left vacant by early retirees benefitting from the *Quota 100* scheme. In order to make sure that workers do not continue working after early retirement, the law specifies that *Quota 100* scheme cannot be combined with any earned work income[30]. Regrettably, this prohibition encourages undeclared work

[26] *See* par. 199, Article 1 of Act No. 232/2016, as amended.
[27] The same holds true for people who started work in 1996 or later, so they can retire, as they are 64 years old and have paid contributions for at least 20 years, provided that they have paid a significant amount of contributions, as specified above in footnote no. 9.
[28] Article 20 of Decree Law No. 4/2019.
[29] Article 22 of Decree Law No. 4/2019.
[30] Par. 3, Article 14 of Decree Law No. 4/2019 specifies that *Quota 100* retirement benefits are not compatible with income resulting from salaried or self-employment earned income, apart from annual earnings generated from occasional work not exceeding €5,000 per year before taxes. This provision applies from the date the pension is paid until the eligibility requirements for the ordinary old-age pension are met.

and can be easily circumvented in small-sized companies (e.g. owners of family-run businesses may continue working *de facto* even after taking early retirement).

Moreover, the most important aspect to consider is that the number of staff hired will be far lower than those taking retirement (especially following the economic effects of the corona-virus crisis). There is no evidence in the relevant literature[31] that, if applied to the private sector, this strategy will result in a zero-sum game, i.e. that new jobs can automatically be made available by virtue of early retirement. Many authors[32] believe that the easy turn-over effect is a far-fetched assumption, as older workers in a company are not always replaceable by younger ones. Moreover, new jobs will be mainly offered by companies operating in growing sectors (e.g. hi-tech and internet-related industries) that differ from those where the average age of workers is higher and the need of downsizing is stronger. Another point that is worth stressing is that early retirement rules may give employers the opportunity to automatize production processes, reducing their overall need for workforce easier and faster.

Being the number of workers retiring larger than the number of new hirings made as an effect of those retirements, the net effect of *Quota 100* will be to impose significant additional costs to the State's coffers. Each new pension cost is equivalent to many unemployment benefits (which are usually of a lower monthly amount and last no more than 2 years). The reason for this is also that pensions through *Quota 100* scheme for that older generation are granted on a pro-rata basis (*regime misto* in Italian), i.e. they are covered only to a limited extent by paid social security contributions.

To sum up, the idea that early retirement favours youth employment is ill-founded. This strategy increases public expenditure and drains resources otherwise available to support the community with programmes having better social purposes (also for young people)[33].

1.5. The Effects of Early Retirement in the Public Sector.

In the private sector, reaching retirement age does not automatically bring the employment relationship to an end; but the employer can freely terminate the worker's employment without providing a reason, as long as notice is given[34]. Things are different in

[31] An overview of economic findings can be found at Del Boca A., Mundo A., *L'inganno generazionale. Il falso mito del conflitto per il lavoro*, Bocconi, Milano, 2017, *passim*. *See* also Boldrin M., Dolado J. J., Jimeno J. F., Peracchi F., *The future of pension system in Europe: A reappraisal*, in *Economic Policy*, 1999, 29, 289 ff. Conversely, analysing the Monti-Fornero pension reform, Boeri T., Garibaldi P., Moen E., *A clash of generations? Increase in Retirement Age and Labor Demand for Youth*, WorkInps Papers, July 2016, show that when retirement age is increased significantly, quickly and unexpectedly, a decrease can take place as far as young people's recruitment is concerned; but it is only a transitory one. On the legal tools already used to pursue acceleration of generational change in the Italian labour market, see v. Passalacqua P., *L'età pensionabile nella prospettiva del ricambio generazionale*, in *Variazioni su Temi di Diritto del Lavoro*, 2017, 150 ff.

[32] Criticisms have been levelled by a number of early commentators, e.g. Battista L., Bernucci A., *D.L. n. 4 del 2019: misure e sostenibilità intergenerazionale*, in *Il Lavoro nella Giurisprudenza*, 2019, 659 ff.

[33] For a criticism of very early retirements financed by public welfare, *see* Avio A., *I prepensionamenti: un istituto di tutela del reddito?*, in Ballestrero M.V. (ed.), *La stabilità come valore e come problema*, Giappichelli, Torino, 2007, 202 ff.

[34] For certain aspects, e.g. starting date and notice, see Ordinance No. 521/2019 of *Corte di Cassazione*. As for the relevance of 67-year-old age limit laid, see Ruling No. 17589/2015 handed down by the Joint divisions of *Corte di Cassazione*, available on *Giurisprudenza Italiana,* 2016, 416, which also contains a comment by Canavesi G., *Le sezioni unite cancellano (di fatto) la prosecuzione del lavoro fino a settant'anni*.

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the public sector, where reaching the prescribed mandatory retirement age automatically brings the relationship to an end[35].

Instead, as regards early retirement, workers' consent is needed also in the public sector; otherwise, they are allowed to continue working until reaching the mandatory retirement age. This also applies to the individual option through the *Quota 100* scheme, which can also be implemented in the public sector, although with some differences[36]:

a) the first pension check will be paid after 6 months, that is 3 months later than in the private sector;

b) the application must be submitted to one's own department with a 6 months' notice (in the education sector, one should wait for the beginning of the new academic or school year in August);

c) public employees who access the *Quota 100* retirement scheme are granted severance pay (*trattamento di fine rapporto*, or TFR in Italian) only at a later stage, i.e. once the pre-existing requirements to access retirement are met. The aim is to prevent an excessive financial burden on the government's current budgetary resources[37];

The fact that the *Quota 100* retirement scheme can also be accessed by public employees means that the Italian law-maker intended to make way for new generations. Unlike the private sector, the generational turnover can successfully be implemented in the public sector, because the number of jobs available is set in advance year by year by management according to annual budget laws. Decree Law No. 4/2019 has given the public sector much more leeway as regards recruitment: this has avoided leaving public bodies understaffed, as average age of public employees is significantly high in Italy. Other recent laws[38], especially following the corona-virus emergency[39], admitted massive new recruitment in favor of the public healthcare sector.

The possibility of hiring more staff has been hailed within public entities for two reasons. Firstly, taking on younger, IT-literate personnel will help public-sector management to pursue organisational modernisation. A second reason is that this measure facilitates career advancements, also at managerial level.

Unless a knock-on effect takes place - i.e. all those in lower levels than the retired employee are promoted to a higher position - some resources are likely to be saved in terms of remuneration, since the generational turnover will decrease public employees' average pay: this is a positive aspect considering the budgetary constraints affecting the Italian Republic. However, public employees who are about to retire in these years display a particularly high replacement ratio - that is, the ratio of the first pension to the last wage. This is especially the case for older workers, whose pension is to be calculated on a pro-rata basis (*regime misto* in

[35] Save for some cases (e.g. the judiciary, doctors, university professors), the mandatory retirement age limit in the public sector is set at 65 years.

[36] *See* par. 6 and ff., Article 14 and 23 of Decree Law No. 4/2019. Military and prison staff, the police force, tax police, and fire brigades enjoy more favourable conditions, so they can retire earlier.

[37] According to Article 23 of Decree Law No. 4/2019, public employees who need to access their severance pay can do so by asking for a loan subsidised by the government. To this end, applications should be submitted to banks and financial institutions which have concluded a framework agreement having this purpose.

[38] *See* par. 1, Articles 33, 33 bis and 47 of Decree Law No. 34/2019 and Article 3 of Act No. 65/2019, containing provisions to promote the generational turnover in the public sector, especially through new public selections. This move constitutes an exception to ordinary rules, which require employers to conduct internal careers' management first and then to turn to external recruitment.

[39] Decree Law No. 18/2020, Article 2; Decree Law No. 34/2020, Article 19 ff.

Italian), which includes working years before 1996 considered under the pay-based system (*regime retributivo* in Italian). As this system results in more generous retirement benefits, public employees meeting the *Quota 100* requirements will receive a pension which is worth almost as much as their last wage (usually at least ¾ of it)[40].

Because of this high replacement ratio, promotions and recruitments carried out to replace *Quota 100* retiring workers are likely to represent an additional net cost for the public budget. In other words, the costs incurred by the Government to grant a higher number of pensions for former public employees are much higher than the savings deriving from having fewer people in public employment, so an additional burden is placed on the State coffers[41]. If anything, public expenditure can almost double if all jobs freed up by those taking retirement are filled - as allowed for by law in 2019[42] and probably in 2020 - and concurrently internal promotions are awarded to fill in all related vacancies.

Public employees in non-executive positions show a tendency to take retirement as soon as they fulfil the relevant requirements. Thus, one may reasonably assume that many workers will access *Quota 100* retirement scheme. Data show that one third of retirement applications concern public-sector staff, who on average are paid pensions which are 10% higher than those granted to private-sector workers[43]. So, the idea that encouraging people to retire reduces public spending is ill-grounded, especially in the public sector. The reverse is true, particularly when considering also the resources used to hire new workers. Consequently, Decree Law No. 4/2019 shows some shortcomings also if applied to the public sector, especially in times of economic hardship.

However, filling up the jobs freed up by early retirees is a way of reducing the average age in public administration, making it more dynamic[44], and also of distributing job opportunities in this sector more fairly to different age groups, in consideration that turnover limitations among public employees have been in place for almost 15 years. Yet this political choice comes with a significant financial cost.

2.1. Adequacy and Sustainability of the Italian Pension System.

After having provided an outline of the 2019 provisions incorporated into the existing legal framework of age and contributions requirements for retirement, it might be useful to offer an overview of some data concerning Italy's demographic and economic context. Information will be given about the long-term sustainability and effectiveness of the Country's pension system.

[40] According to the estimates in Gronchi S., Bevilacqua M., *La pensione viaggia sui numeri, non sulla slitta di Babbo Natale*, 28.06.19, in *www.lavoce.info,* the pension could be equal to 72% of the last wage.
[41] The argument that it is expensive to use early retirement to deal with overstaffing in the public sector has long been made in labour law research, e.g. Bozzao P., *Pensionabilità del dipendente pubblico anziano e disciplina del licenziamento,* in Zoppoli L. (ed.), *Ideologia e tecnica nella riforma del lavoro pubblico*, Editoriale scientifica, Napoli, 2009, 446.
[42] *See* par. 1, Article 3 of Act No. 65/2019.
[43] Inps, n. (16), 212.
[44] On law-makers' wide discretion when putting forward measures ensuring the good functioning of the public sector by means of a generational turnover, see Ruling No. 133 of the Constitutional Court of 10 June 2016, published in *Giur. Cost.*, 2016, 1589, and the comment by Scagliarini S., *La relazione tecnico-finanziaria delle leggi nella giurisprudenza costituzionale*.

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If a system-wide perspective is taken, a number of concepts should be considered when discussing the effectiveness of welfare protection, which can be grouped under the "sustainability and adequacy"[45] heading. While hinting at a sort of polarity between opposing elements, this wording epitomises the debate about social security. In other words, if legal rules are not updated to keep up with the changing socio-economic context, the adequacy of social security schemes, which are modelled upon past social needs, risks putting the system's financial sustainability at risk. In turn, sustainability is an essential element to ensure that the system pursues its social objectives in the long term.

The Italian social security system has been affected by this problem for decades[46]. In the 30 years following the 1992 Amato reform of pensions rules[47], demographic issues have been dealt with successfully. Especially the 1995 Dini reform[48] has been crucial in limiting the growth of the macro-economic costs of pensions. However, pension-related public spending continued to increase, accounting for 14.8% and 16.8% of GDP in 2001 and 2011, respectively. This trend was slowed down by the 2011 Monti-Fornero reform: e.g. public expenditure on pensions reported a 1.6% increase in 2014, with its incidence on GDP rising to 17.1% from 16.9% in 2013[49]. This state of affairs was also the result of GDP being on a downward trend after the 2009 economic crisis.

Eventually, the public spending on pensions stopped increasing in 2017 and decreased in 2018 to 16.5%[50]. This important improvement is now threatened by the new *Quota 100* early retirement scheme (and, besides, by the economic shock caused by the corona-virus emergency, which will reduce GDP and consequently tax revenues and social security contributions paid at least for a few years).

Thanks to the 1995 Dini reform, the pay-based system for pension calculation (*regime retributivo* in Italian) is being gradually set aside. This system is unfair and unbalanced, due to the individual gain it generates because of the difference between the pension granted and the lower amounts of contributions paid while in employment. However, it has already been pointed out that the contribution-based system (*regime contributivo* in Italian) has been used in Italy only since 1996 and targeted mainly young workers, since that reform fully exempted workers with 18 years of contributions paid before 1996[51]. The budgetary effects of the implementation of the contribution-based system will be fully unfold around 2045[52], that is

[45] *See* for example, Ludovico G., *Sostenibilità e adeguatezza della tutela pensionistica: gli effetti della crisi economica sul sistema contributivo*, in *Argomenti di Diritto del Lavoro*, 2013, 910 ff. More recently, Filì V., *Finanziamento del sistema di Welfare, sostenibilità e riforme in cantiere*, in Canavesi G., Ales E. (eds.), *La vecchiaia nella tutela pensionistica*, Giappichelli, Torino, 2019, 15 ff.
[46] As regards older statistical data on the rapid increase of Italian public expenditure on pensions, see Squarcio C., *L'evoluzione della spesa pensionistica nel periodo 1975-1997*, Rome, 1999, *www.istat.it/it/files/2018/07/2001_3-1.pdf*. Among the first authors dealing with this issue in Italy, see Cazzola G., *Lavoro e welfare: giovani versus anziani. Conflitto tra generazioni o lotta di classe del XXI secolo?*, Rubbettino, Catanzaro, 2004.
[47] Act No. 421/1992; Legislative Decree No. 503/1992.
[48] Act No. 335/1995.
[49] These data are taken from Istat, *Trattamenti pensionistici e beneficiari. Anno 2014*, Rome, 2015, in *www.istat.it/it/archivio/175630*. The full data analysis can be accessed at the main web page *www.istat.it/it/assistenza-e-previdenza*.
[50] Istat, *Condizioni di vita dei pensionati: anni 2017-2018*, Rome, 2020.
[51] Beginning from 2012, the less generous contribution-based system of calculation was extended to anyone, on a pro rata basis. But this move further favoured those who had paid 40 years of contributions under the previous pay-based system, because this threshold does not apply under the contribution-based regime.
[52] Ragioneria generale dello Stato, *Le tendenze di medio-lungo periodo del sistema pensionistico e socio-sanitario*, Rome, 2019, 52.

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when this system will be completely up and running. Apart from social assistance benefits that are financed with taxes, most of the budget deficit that INPS will experience in the next 25 years will be due to retirement benefits which were calculated fully or mainly through the previous pay-based system.

Following the reforms implemented since 1992 and the recent reductions made to official rates of transformation from contributions paid to the individual amount of the pension due at the time of retirement, the average amount of new pensions has been reducing significantly[53]. Furthermore, this decrease will be greater in the next decades and this forecast is even more evident if one looks at effective average amount of new pensions rather than theoretical one, i.e. considering the growing discontinuity of employment and, therefore, that of paid contributions during working life[54]. This state of affairs is likely to worsen in the future also because the long-awaited[55], much-feared technological development is now a reality[56], and might bring about unemployment, unstable employment contracts and poor-quality jobs, as a result of automation[57].

Today's annual pensions are low on average. As there are many pensioners collecting different retirement benefits, it is sensible to look at data concerning individual entitlement: these data indicate that recipients are paid an average of €1,527 per month[58] (though a small number of pensions pays much higher sums[59]). More than how much is granted to recipients, what is significant is the total number of beneficiaries and their average age. Some 23.3% of pensioners - one-fourth of the total - are less than 65[60], and the number of people receiving early-retirement pensions is the same as the number of those receiving old-age pensions[61].

[53] *Ibid.*, 182.

[54] In the Italian literature there has been much discussion about the effects of unstable employment on social security, especially following the entry into force of Legislative Decree No. 276/2003. See Cinelli M., *Nuovi lavori e tutele: quali spazi per la previdenza sociale?*, in *Rivista Italiana di Diritto del Lavoro,* 2005, I, 225; Persiani M., *La tutela previdenziale nella riforma del mercato del lavoro*, in *Previdenza e Assistenza Pubblica e Privata*, 2004, 995; Renga S., *La tutela sociale dei lavori*, Giappichelli, Torino, 2006, and Bozzao P., *La tutela previdenziale del lavoro discontinuo: problemi e prospettive del sistema di protezione sociale*, Giappichelli, Torino, 2005.

[55] Labour law scholars have been discussing this issue for at least 40 years. See Carinci F., *Rivoluzione tecnologica e diritto del lavoro: il rapporto individuale*, presented at the Aidlass conference, Naples 12-14 April 1985, in *Giornale di Diritto del Lavoro e delle Relazioni Industriali*, 1986, 211 ff. and further references therein.

[56] *See* De Stefano V., *The rise of the "just-in-time workforce": On-demand work, crowdwork and labour protection in the "gig-economy"*, Conditions of Work and Employment Series No. 71, ILO, Geneve, 2016.

[57] *See* the impressive predictions made in McKinsey Global Institute, *A future that works: automation, employment, and productivity*, January 2017, *www.mckinsey.com/mgi*. See also Acemoglu D., Restrepo P., *Robots and jobs: Evidence from US labor markets*, NBER WP n. 23285/2017, in *www.nber.org/papers/w23285*, and Aaronson D., Phelan B.J., *The Evolution of Technological Substitution in Low-Wage Labor Markets*, Brookings, 2020, in *www.brookings.edu/wp-content/uploads/2020/01/Phelan-Aaronson_Full-Report-Tables.pdf.* As pointed out by Brynjolfsson E., McAfee A., *The Second Machine Age*, W.W. Norton & Company, New York, London, 2014, the most relevant aspect is the automation of intellectual work.

[58] *See* Inps, n. (16), 261, Table 4.1, showing significant gender inequality between male pensioners (€1,787 per month) and female pensioners (€1,290).

[59] There is wide income inequality among pensioners: the fifth with the highest retirement income accounts for 42% of total expenditure. One in four pensioners receives a gross pension income of over €2,000: Istat, *Condizioni di vita dei pensionati: anni 2017-2018*, Rome, 2020, 1.

[60] According to Istat, 23.3% of pensioners are younger than 65. Half of them (51.9%) are aged between 65 and 79 and the remaining 24.9% are at least 80 years old. See Istat, *Trattamenti pensionistici e beneficiari. Anno 2014*, Rome, 2015, in *www.istat.it/it/archivio/175630*.

[61] Inps, *XV Rapporto annuale*, Rome, 2016, 225 reports that as of the end of 2015, early retirement pensions were 5,817,427, old-age pensions were 5.644.958, those granted to survivors were 4.422.861 and early old-age pensions due to a disability were 1.298.829, respectively accounting for 27.6%, 26.9%, 21.0% and 6.2% of the total (81.7%). The remaining pensions (18.3%) were benefits paid to people with a severe disability financed by

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Considering current life expectancy, these early pensions will be paid for more than 20 years on average.

The roots of this problem lie mainly in 1960s-1970s reforms, in particular Brodolini's 1969 reform, which allowed the concurrent implementation of very early pensions and the generous pay-based system of calculation of these benefits[62]. The 1969 reform assumed that retirement benefits had to be the continuation of one's remuneration, irrespective of the contributions paid. That assumption was (and still is) erroneous and dangerous. Clearly, the pension cannot ensure the same standard of living experienced when the highest earned income was received[63]. Moreover, in order to obtain an adequate pension check, contributions must be paid for a very long period of time.

The erroneous assumptions of 1960s-1970s reforms are even more evident if one considers legislation introducing retirement benefits some 100 years ago. Notably, eligibility requirements were not much different from the current ones, while life expectancy was far lower than today. Thus, enjoying retirement was not certain at all, as people usually could claim the pension at an age equal or even higher than the one they were expected to live on average[64]. At that time, fulfilling the pension criteria coincided with physical deterioration owing to low occupational health and safety standards. One century ago, pensions were introduced in the legal system in order to help people who could not keep on working because of age. The original intent did not include letting people enjoy decades of economic health and wellbeing without any work duty. We need to understand whether this additional intent is compatible with today's state of the system.

Importantly, early retirement benefits are different from most social security entitlements, because they are a right established neither in Article 38[65] nor elsewhere in the Italian Constitution. Paying higher social security contributions for a long period of time should result in higher pensions, but not necessarily in early retirement benefits.

The length of one's work career is different from old age or inability to work[66]. A proper need for protection arises only when psychological and physical unfitness is reported or is individually presumable, depending on one's health status or on the challenging nature of a

taxes. More recently, Inps, *Pensioni vigenti all'1.1.2019 e liquidate nel 2018 erogate dall'Inps*, Rome, 2019, 17, shows that today 26.8% of old-age pensions are paid to people under 70 years old.

62 Critical remarks about these points in Act No. 153/1969 can be found in Persiani M., *Cinquant'anni di un libro*, introductory essay in Persiani M., *Il sistema giuridico della previdenza sociale*, Cedam, Padova, 1960-2010 (anastatic reprint), 40 ff.. The imbalance of the Italian pension system are attributed to 1969 legislation also by Pessi R., *La tutela previdenziale ed assistenziale nella costituzione*, in *Rivista di Diritto della Sicurezza Sociale*, 2019, 41. Conversely, Cinelli M., *Dinamiche demografiche e prospettive del* welfare *in Italia: le problematiche*, in *Rivista Italiana di Diritto del Lavoro*, 2019, I, 306, takes a milder position when evaluating pension laws in place in the 1950-to-1970 period, arguing that they should be assessed from an historical point of view.

63 This view is widely shared among scholars. See, e.g., Persiani M., *Crisi economica e crisi del welfare state*, in *Giornale di Diritto del Lavoro e delle Relazioni Industriali*, 2013, 661, arguing that one's standard of living is a private matter that social security cannot be required to ensure, especially when other social needs arise.

64 Similar considerations are provided in Avio A., *Vecchiaia e lavoro. Tra solidarietà e corrispettività*, Ediesse, Rome, 2008, 8 ff.

65 Article 38 of the Italian Constitution establishes the fundamental legal principles in the field of social security. It consists of five paragraphs: "*Every citizen unable to work and without the necessary means to live has the right to maintenance and social assistance. Workers have the right to be provided for and insured with means appropriate to their living needs in case of work accident, illness, disability and old age, involuntary unemployment. The disabled people have the right to education and vocational training. The aims provided for in this article are pursued by bodies and institutions set up or financed by the State. Private care initiatives are free*".

66 *See* Casillo R., *La "pensione quota 100"*, in *Il Lavoro nella Giurisprudenza*, 2019, 440.

job's tasks. Moreover, legislation should encourage collective bargaining to promote active ageing measures[67] (i.e. entering retirement gradually) and career paths envisaging tasks compatible with ageing in their final stage.

2.2. The Demographic Challenge and the Macroeconomic Scenario.

It is well known that, since the 1980s, demography has posed important challenges to social security in many developed countries. This is especially true for Italy. According to reliable estimations, the number of people older than 80 years, which was two million in 2000, will almost double in 2020 and triple in 2040, coming to 8 million in 2060[68]. An inverted pyramid is being created, with a narrow base and a broad apex, which gives the very idea of instability.

The dependency ratio, i.e. the ratio of pensioners and people in working age, is dangerously high[69], being 35:100 today in Italy. If no measures are taken, the number of retired people will rise to more than 50 in 20 years and to more than 60 in 40 years. In this scenario, the system is likely to collapse. The contributions and tax required to citizens cannot rise, since they are barely bearable today, especially if the aim is to promote employment and self-entrepreneurship. Italians struggle more than others to become economically independent[70], since they begin an autonomous working life at an older age on average. Meanwhile, the lengthening of the average life span implies a longer third age, i.e. a lengthening of the more problematic life span in terms of health.

If the active population is compared with the total population in non-active age (and not with the number of those in retirement age only), Italy's situation relative to other countries improves, but only apparently, since having few births is not reassuring. To make things worse, birth rates in Italy have been falling for 20 years[71] and are among the lowest in the world. Compared to the EU average, the Italian situation is quickly worsening, leading many

[67] Basenghi F., *Età e perdita dell'impiego: il quadro italiano*, in *Diritto delle Relazioni Industriali*, 2005, 1014 ff.; Ferrante V., *Invecchiamento attivo e prolungamento della vita lavorativa*, in Aa.Vv., *Studi in onore di Tiziano Treu*, Jovene, Napoli, 2011, vol. III, 1188 ff.; Corti M., *Active ageing e autonomia collettiva. "Non è un paese per vecchi", ma dovrà diventarlo presto*, in *Lavoro e Diritto*, 2013, 384 ff.

[68] Ragioneria generale dello Stato, n. (52), 390.

[69] *See* also Treu T., *Protezione sociale ed equilibrio intergenerazionale*, in *WP CSDLE Massimo D'Antona.IT-374/2018*, 4.

[70] Istat, *Tendenze demografiche e percorsi di vita*, chapter 3 of *Rapporto annuale 2019. La situazione del Paese*, Rome, 2019, 143. See also Eurostat, *How many years are people expected to work?*, press note, May 2020, in *https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20191122-1*: in 2018, the expected duration of working life of people in the EU (i.e. the number of years that 15-year-olds are expected to work in their life) was 36.2 years, ranging from 31.8 years in Italy, 32.4 in Croatia and 32.9 in Greece to 39.9 years in Denmark, 40.5 in the Netherlands and 41.9 in Sweden.

[71] As pointed out by Istat, *Natalità e fecondità della popolazione residente. Anno 2015*, Rome, November 2016, since 2010 there has been a decrease in fertility rates, as women have 1.35 children on average (1.46 in 2010). More specifically, Italian women have 1.27 children (1.34 in 2010) while foreign women living in Italy have 1.94 children (2.43 in 2010). In the Italian labour law literature, the most alarming view on the demographic problem is the one of Vallebona A., *Pensioni di vecchiaia: crescita della vita e decrescita del tasso di natalità*, in *Massimario di Giurisprudenza del Lavoro*, 2019, 935 ff., who proposes the introduction of substantial social benefits to increase birth rates. The importance of immigrants' social integration is underlined by Cinelli M., n. (62), 299. The importance of female inclusion in the labour market is stressed by Filì V., *La sostenibilità del sistema pensionistico italiano tra equilibri ed equilibrismi*, in *Massimario di Giurisprudenza del Lavoro*, 2018, 29 ff., both in terms of sustainability and equality of the welfare system.

to talk of a "demographic recession"[72]. In ten years (2009-2019) the centenaries have increased from 11 thousand to over 14 thousand, and those aged 105 years and over have more than doubled, from 472 to 1,112: an increase of 136%[73]. This social phenomenon gives rise to new healthcare and social needs. Law-makers are long aware of it, but they are almost unable to set aside resources, for money is being used to pay current pensions. Yet investments should be allocated to healthcare and long-term care[74] in order to deal with these demographic issues.

Likewise, macro-economic data are disheartening. The 2009 financial crisis affected tax revenues and social security contributions and, consequently, welfare state resources. The economic stagnation is being exacerbated by the economic effects of the corona-virus emergency. This picture is made even more depressing by difficulties resulting from the necessity to increase public debt in 2020, because of the three-month lockdown. Italian public debt was already a serious economic and legal (constitutional) issue[75]; now it is turning into a genuine medium-term risk. The problem is the country's budgetary and economic stability, as the pressures of financial markets to meet debt service might be suddenly unbearable.

As pointed out by the INPS annual report, "payments to beneficiaries are always ensured", regardless of any issue concerning the overall public budget. This is because the law makes sure these payments are made, as they are "individual rights unrelated to any budgetary constraint". Nevertheless, this principle is true only in theory and, as someone said, "in theory there is no difference between theory and practice; in practice there is"[76]. The annual budget deficits suffered by INPS[77] are covered by national budgetary laws, which anticipate substantial amounts of money to make up for social security management deficiencies in many pension schemes[78]. The Country's ability to ensure financial stability and refinance its own debt is therefore the condition of any social security right[79].

[72] Istat, n. (70), esp. 121 ff.
[73] Istat, *I centenari in Italia*, statistical summary, Rome, 2019.
[74] Much has been said at the institutional level about the allocation of funding for long-term care. See European Commission, *Long-term care in ageing societies*, SWD (2013) 41 final, 3 and ff. The quantitative scope of this measure has been discussed in Ragioneria generale dello Stato, n. (52), 111.
[75] On the budgetary and economic commitments resulting from Constitutional Law No. 1/2012, which introduced mandatory budget balance, in accordance also with Act No. 243/2012, see Morrone A., *Pareggio di bilancio e Stato costituzionale*, in *Lavoro e Diritto*, 2013, 366 ff., Raffiotta E., *Il governo multilivello dell'economia*, Bononia, Bologna, 2013, 169 ff., Golino C., *Il principio del pareggio di bilancio. Evoluzione e prospettive*, Cedam, Padova, 2013, 138 ff., and Belletti M., *Corte costituzionale e spesa pubblica: Le dinamiche del coordinamento finanziario ai tempi dell'equilibrio di bilancio*, Giappichelli, Torino, 2016, *passim*.
[76] This quote is attributed to the athlete Yogi Berra, by Taleb N., *The Black Swan: The Impact of the Highly Improbable*, Random House, New York, 2010, II ed., 136.
[77] The financial situation is very different among social security schemes for workers' different categories, but most of them are generating debts annually. The only scheme which does not generate monetary deficit is that one of workers in quasi-salaried employment (some €7 billion), as it has been in place only for 20 years: this means that the number of people in employment (i.e. paying contributions) is far higher than those who took retirement.
[78] Inps, n. (16), 2019, 224, Table No. 4.20; for more information also about monetary trends, see also the previous annual reports, e.g. Inps, *XV Rapporto annuale*, Rome, 2016, 143.
[79] As recently argued, "fulfilling the interests of those who are ensured pensions is conditional upon the availability of financial resources": Persiani M., *L'evoluzione del sistema pensionistico*, in Canavesi G. (ed.), *Previdenza sociale, vincoli di bilancio, andamenti demografici: un diritto in cambiamento?*, EUM, Macerata, 2019, 29.

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2.3. Italy's Social Security Generational Imbalance.

Italy's generational imbalance should be given special attention.

Expenditure on pensions, as a percentage of GDP, is one of the highest in the EU, second only to Greece[80]. Old age and survivor's pensions account for 58.3% of total spending in social protection, which is high also in comparison with other countries. Family-related policies, unemployment and social inclusion are allocated 6%, 5.9% and 0.9% of total public resources for social protection, respectively[81]. The overall picture seems to have produced a "distortion"[82] favouring the most protected cohorts[83].

As said above, the pay-based system of pension calculation is more balanced, but less favourable to the pensioner, than contribution-based system introduced in 1996 under the Dini reform. The shift from one system to the other featured a very long transitional stage, whose budgetary effects will end around 2045: those who had paid 18 years of contributions before 1996 had their pension fully calculated with the pay-based system. In other words, the reform did not concern those aged around 40 or more at the time. This political choice had significant consequences in relation to replacement rates - i.e. the ratio of the first pension to the last wage - which were higher for previous generations, though they paid the same (or even less) share of contributions.

Things are good also for current new pensioners. As said, their pension is calculated mainly through the pay-based system, according to the pro-rata criterion which distinguishes working years before 1996. Thus, they will be paid a generous pension too. This is true also for those qualifying for *Quota 100* early retirement scheme, introduced as a temporary (2019-2021) 5 year-reduction of ordinary requirements, as previously explained. Conversely, as provided by current law, new generations of workers will receive pensions fully calculated with the less favourable contribution-based system and they will reach that target only at an older age.

The generational imbalance marking Italian social security is also the result of other factors. One example of this is the budget for survivor's pensions[84] (*pensione di reversibilità* in

[80] Eurostat data on 2016: *https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Expenditure_on_pensions,_2016_(%25_of_GDP).png*.

[81] Although comparison should be handled with caution due to differences arising from item classification (e.g. in the Italian system some benefits are only partially paid with contributions; moreover, Italian statistics include personal income tax on pensions), existing disparities are significant. See *https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Archive:Social_protection_statistics_-_main_indicators*, in particular *https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Expenditure_on_social_protection_benefits_by_function,_2015_SPS17.png*. These data will be updated for 2019 as regards funding for social inclusion and unemployment, which is being increased by the guaranteed minimum income (*reddito di cittadinanza* in Italian) provided by Decree Law No. 4/2019. However, the overall statistical picture will not be disrupted. Moreover, during 2020 a huge amount of public resources is being allocated to support the economy and employment, because of the pandemic: this is important news, but it is an exceptional and transitory situation.

[82] Pessi R., n. (62), 41.

[83] *See* also Lisciandro M., Mistura P., *L'Italia che spende tutto in pensioni*, 7.05.2019, available at *www.lavoce.info*.

[84] In 2018, more than four million survivor's pensions were paid by Italian social security: *see* *http://dati.istat.it/Index.aspx?QueryId=21945*. The average amount of these pensions is low (9050.29 euro per year). Nonetheless, the cost of this kind of pensions is significant in Italy in absolute terms, and far higher than in other countries. This allowance accounts for 9% of social security spending. More than 1 out of 6 pensioners receive a survivor's pension. See Table 4.8 of Inps, *XV Rapporto annuale*, Rome, 2016, 211. Together with Spain, Italy is the country allocating the largest resources to survivor's pensions. In some countries, this allowance is not provided or is not as economically significant as in Italy. See *https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Archive:Social_protection_statistics_-_main_indicators* and the webpages therein.

Italian) which is far higher than money allocated for example to students without financial means.

Thus, it should come as no surprise the results of a recent analysis on the redistributive effects of social protection enjoyed by the different age groups of the Italian population. Considering the net effects after taxes and contributions, the redistributive effects ensured by social benefits have been recorded as positive among many age groups; while young people find themselves in a different situation. The current welfare system "increases the risk of poverty for younger people". After social transfers and overall taxation, the poverty risk rises from 19.7% to 25.3% for the 15-to-25-year-old age-group and from 17.9% to 20.2% for 25-to-34 year olds[85]. In other words, the Italian social protection system deprives poor young people of their already limited resources.

Even without considering the welfare system, findings lead to the conclusion that the post-war baby boomers' cohorts referred to above are far better off than their parents, children and even nephews - both in terms of net wealth and available income. In this respect, a striking aspect arises when looking at the statistics from the Bank of Italy on wealth distribution among Italian families from 1987 to 2008. In that period, the average wealth index among families headed by a person up to the age of 34 decreased from 82.5 to 61.7. Conversely, this index increased from 65.5 to 100.2 in families whose head was 64 and older[86]. These disheartening data refer to the period before the 2009 crisis: one may suspect that afterwards, during this difficult decade, young people's wealth index decreased even more rapidly.

This divide does not concern past and future generations, but individuals from different age groups living in the same historical period: the current one. While the disparity between past generations was attributable to historical events, other reasons have contributed to creating a divide between current generations. Among them are the changes to the labour market and the employment legislation which penalised on average young people[87], along with collective agreements, which usually reward seniority more than in other countries[88]. Of course, many other factors are in place - e.g. Italy's difficulties in the global economy - which however cannot be dealt with in this paper. As far as we can see from a social security and labour law point of view, early pension legislation also plays a part. The introduction in 2019

[85] *See* Istat, *La redistribuzione del reddito in Italia*, Rome, 2017, available at *www.istat.it/it/archivio/201597*, where it is specified that young people living on their own, couples (with or without children) and one-parent families are those least protected by the welfare system.

[86] *See* D'Alessio G., *Ricchezza e disuguaglianza in Italia*, Questioni di Economia e Finanza (Occasional papers) n. 115, Banca d'Italia, Rome, 2012, 13-14 and 24 per Table No. A4.

[87] *See* Rosolia A., Torrini R., *Il gap generazionale. Un'analisi di coorte dei livelli e della dispersione dei salari e delle condizioni iniziali nel mercato del lavoro in Italia, 1974-2014*, Questioni di Economia e Finanza (Occasional papers) n. 366, Banca d'Italia, Rome, 2016, which examines entry wages, career patterns and inequality developments of successive cohorts who entered the Italian labour market between 1974 and 2014. The authors found that entry wages started to decline around the mid-1990s; the drop continued at least until the onset of the global financial crisis, seemingly slowing down thereafter. This pattern cannot be explained by changes in observable job characteristics. Falling entry wages have not been accompanied by faster subsequent career paths. Rather, subsequent career paths increasingly featured rising earnings dispersion due to both increased workers heterogeneity and greater temporary earnings instability. They related such developments to the changes in labour market institutions that took place between the early 1990s and the mid-2000s.

[88] *See* Mastrobuoni G., Taddei F., *The Political Economy of Retirement with Seniority Premium*, 2013, *https://sites.google.com/view/filippotaddei/research*. They show that the seniority premium in the labour market can be tightly related to retirement rules and retirement behaviour: economies with larger seniority premia are associated with early retirement decisions, lower average retirement age, and larger implicit social security taxes.

of the *Quota 100* retirement scheme is a clear confirmation that the current apparatus does not favour equity and balance[89].

This is due to a number of factors, among which is the age composition of the electorate, which results from the same demographic process originating the problem. Today's older workers wanting to retire compare their situation with that of past generations, which was way better. To give an example, some special pension schemes introduced in 1973 - namely retirement benefits granted to workers who paid contributions for few years and left work when they were 40/50 years old - were repealed in 1992 but still cost the public budget some €7 billion every year, that is the same amount needed to fund the *Quota 100* scheme. Regrettably, the political debate fails to convey the message that today's older workers should also compare their situation with that of their sons. According to existing legislation, in the next decades average pension amounts will be dropping and due to longer life expectancy adjustments - about 1 month for every year on average[90] - the minimum age to access the old-age pension will reach 70 and older.

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[89] A similar view was expressed by the OECD, *Economic Surveys: Italy*, April 2019, 20: "*the planned reduction in the pension will not necessarily be actuarially fair with the result that the new scheme may increase pension spending permanently. The new early retirement scheme measure will lower growth in the long run by reducing the number of older people in work. If not actuarially fair it will worsen intergenerational inequality and add to already high pension spending*".

[90] This is only an average forecast: the last directorial decree, signed on the 5th of November 2019, has not implemented any increase, because official statistics on life expectancy certified no variations during 2017-2018 (more precisely, the variation was too slight: 0,025 months). Instead, the previous one implemented a 5-month increase (but, as said, it has been put on hold by Decree Law No. 4/2019).

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