EUROPEAN YOUTH POLICY AND YOUNG PEOPLE : SO FAR, SO CLOSE?

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ABSTRACT: To date, scholars in the area of sociology of law and philosophy of law have have not delved very deeply into the role of the European Union's and the Council of Europe's policies and programmes concerning youth. However, they are worth reflecting critically within the current European frameworks. This paper aims to analyse the main youth policies and programmes at this level of governance within each of both institutions in a diachronic perspective. For the sake of thoroughness, the initiatives undertaken by the Partnership between the European Commission and the CoE in the field of youth will also be briefly touched upon. This contribution seeks to explore how the notion of "young people" has been constructed in these arenas, and to deepen a number of core concepts – namely, 'autonomy', 'empowerment' and 'activation' – as well as the scopes of the youth policies and programmes. It also analyses the role assigned to non-formal education and/or learning within these scopes. The hypothesis underlying this contribution is that there is a certain institutional ambiguity at the European level that concerns both the goals of youth policies and the role that young people play in setting the institutional agenda. In general, a neoliberal shift seems to coexist with a fundamental rights-oriented approach, particularly within the European Union. The paper suggests adopting the concept of 'agency', as elaborated by Amartya K. Sen's capability approach, in order to revise the scopes of the EU's and CoE's youth policy and programmes, as well as to shed new light on the key concepts of 'autonomy', 'empowerment' and 'activation'.

KEYWORDS: Youth, Youth Policy, Youth Programmes, Institutional Ambiguity, Agency.

"The liberation of the oppressed is a liberation of women and men, not things. Accordingly, while no one liberates himself by his own efforts alone, neither is he liberated by others".
Paulo Freire, *Pedagogy of the Oppressed*

1. Policy, Programmes and Youth[1]

Even a brief literature review shows that scholars in the area of sociology of law and philosophy of law in Italy have not dealt in detail with the European Union's ('EU') and Council of Europe's ('CoE') policies and programmes concerning "youth". Specific studies in this disciplinary area focus more on, just to provide some examples, either the body of supranational law and policy related to "children" (0-18-years-old) and its implementation, on children's rights[2], or on specific sub-groups of young people who are perceived as more vulnerable, such as those belonging to minorities[3],

[2] C. BARALDI, V. IERVESE (Eds.), *Participation, Facilitation, and Mediation. Children and Young People in their Social Contexts*, Routledge, London-New York, 2012; M.C. BELLONI, R. BOSISIO, M. OLAGNERO (Eds), *Becoming Children. Well-being, Participation, Citizenship*, Accademia, Torino, 2016; R. BOSISIO, *I diritti dei bambini: stato dell'arte e nuove sfide*, in *Percorso tematico. Supplemento della rivista Rassegna bibliografica infanzia e adolescenza*, 3-4, 2019, pp. 5-15; TH. CASADEI, L. RE (a cura di), Forum "*Convenzione internazionale dei diritti dell'infanzia e dell'adolescenza* (1989): riflessioni e prospettive", available at: <https://www.juragentium.org/forum/infanzia/index.html> (last accessed on May 20, 2020); I. FANLO CORTÉS, *I diritti politici del minore. Alcune considerazioni sull'idea del bambino cittadino*, in "Materiali per una storia della cultura giuridica", 29, 1, 1999, pp. 169-188; P. RONFANI, R. BOSISIO, R. CAMMARATA, *Giusto e ingiusto: I sentimenti e le competenze morali degli adolescenti*, in "Minorigiustizia", 2, 2010, pp. 211-227.

[3] L. BONZANO, V. VERDOLINI, *Sbarcare nel labirinto. Ragazzi stranieri in Italia nelle emergenze quotidiane (2011-2015)*, in M. BACCHI E N. ROVERI, *L'età del transito e del conflitto. Bambini e adolescenti tra guerre e dopoguerra 1939-2015*, Il Mulino, Bologna, 2016, pp. 415-469; R. BOSISIO, E. COLOMBO, L. LEONINI, P. REBUGHINI, *Stranieri & italiani. Una ricerca tra adolescenti figli di immigrati nelle scuole superiori*, Donzelli, Roma, 2005; R. DAMENO, *Gli/le adolescenti transgender: una riflessione socio-giuridica*, in "Sociologia del Diritto", 1, 2017, pp. 35-54; G. DI CHIARA, A. SCIURBA, *Esperienze di tutela dei minori soli richiedenti asilo e percorsi di formazione del giurista: la Clinica legale per i diritti umani di Palermo*, in "Minori giustizia: rivista interdisciplinare di studi giuridici, psicologici,

youth involved in the juvenile justice system[4], young people with disabilities[5], girls and young women victims of different kinds of violence[6].

However, it is worth reflecting critically on the policy and programmes concerning young people at those levels of governance in the current European context. In fact, many countries feature a scenario characterised by high rates of unemployed young people[7] or youth belonging to the contested 'NEET'[8] category, as

pedagogici e sociali sulla relazione fra minorenni e giustizia", 3, 2017, pp. 177-183; I. FANLO CORTÉS, R. MARRA, P. CHIARI, *Le condizioni di vita dei giovani ecuadoriani a Genova: situazioni problematiche e prospettive di intervento*, in S. PADOVANO (a cura di), *Delitti denunciati e criminalità sommersa. Secondo rapporto sulla sicurezza urbana in Liguria*, Brigati, Genova, 2008, pp. 67-103.

[4] I. FANLO CORTÉS, *"Monelli banditi". Linee evolutive (e involutive) del modello rieducativo nella giustizia minorile italiana*, in "Materiali per una storia della cultura giuridica", 36, 1, 2006, pp. 163-176; C. SCIVOLETTO, *Sistema penale e minori*, Carocci, Roma, 2012.

[5] G. VIGGIANI, *Non ho (mai) l'età? Riflessioni sulla sessualità delle persone con disabilità intellettive*, in "Notizie di Politeia. Rivista di etica e scelte pubbliche", 35, 134, 2019, pp. 129-142; M. VERGA, *La Buona Scuola e le Scuole Speciali. Oltre la retorica dell'inclusione*, in "Sociologia del Diritto", 1, 2018, pp. 85-100.

[6] L. BELLUCCI, *Migrazione, discriminazioni e diritto: l'escissione questa sconosciuta*, in "Diritto & Questioni Pubbliche", 15, 2, 2015, pp. 113-140; L. BELLUCCI, *Le mutilazioni genitali femminili come reato di genere? Un'analisi delle norme europee alla luce del concetto di violenza*, in "Stato, Chiese e pluralismo confessionale", 26, 2018, pp. 1-19; L. MANCINI, *Prevenire, contrastare e punire le pratiche di mutilazione genitale femminile. Un'analisi sociologica della legge n. 7\2006*, in "Materiali per una storia della cultura giuridica", 2, 2017, pp. 399-420; E. RIGO, *Re-Gendering the Border: Chronicles of Women's Resistance and Unexpected Alliances from the Mediterranean Border*, in "ACME: An International Journal for Critical Geographies", 18, 1, 2017, pp. 173-86.

[7] Updated data on the Italian specific situation can be found in the newly released volume V. CUZZOCREA, B.G. BELLO, Y. KAZEPOV (Eds.), *Italian Youth in an International Context*, Routledge, London and New York, 2020. I also recall the introduction of the Special Issue "Making Space for Youth in Contemporary Italy" edited by Cuzzocrea and myself in 2018 for the Journal of Modern Italian Studies. These two sources are among the few English-language publications that are entirely devoted to "Italian young people"; *cfr*. S. BENASSO, V. CUZZOCREA, *Generation Z in Italy: Living in a Soap Bubble*, in C. SCHOLZ, A. RENNIG (Eds.), *Generations Z in Europe: Inputs, Insights and Implications,* Emerald Publishing Limited, Bingley, West Yorkshire, 2019, pp. 149-168.

[8] 'NEET' is the acronym for 'Not in Education, Employment or Training' and it usually refers to youn people aged 15-29. See L. BELL, I. THURLBY-CAMPBELL, *Agency, Structure and the NEET Policy Problem: The Experiences of Young People*, Bloomsbury Academic, Bloomsbury, 2017; V. SERGI, R. CEFALO, Y. KAZEPOV, *Young People's Disadvantages on the Labour Market in Italy: Reframing the NEET Category*, in "Journal of Modern Italian Studies", 23, 2018, pp. 41-60; F.E. CAROLEO, A. ROCCA,

well as by high degrees of youth mobility, not to mention the structural and intergenerational barriers that young people from "disadvantaged backgrounds" have to deal with.

According to the Special Eurobarometer survey carried out in 2019[9], some respondents disagree that "enough is being done to promote diversity in workplace" with regard to younger people (until the age of 30) in their countries. Answers differ a lot depending on the national context: Italy appears as the country with the lowest rates of respondents who answered "definitely, yes" to this question (4%; followed by Poland, 6%; Portugal, 6%; Greece 9%; the highest rates of agreement concern Germany, 20%; Sweden, 29%; The Netherlands, 25%)[10]. If compared with the Special Eurobarometer of 2012, these data show a wider awareness of the challenges faced by people under 30 years. Despite youth unemployment being on the rise, in 2012 people under the age of 30 were perceived as the least discriminated group across Europe[11]. Respondents mainly disagreed on whether such type of discrimination was widespread in their country. Italy belongs to the countries with the highest rates of respondents believing that discrimination was widespread (25%), together with Latvia (25%) Hungary (27%), and France (30%). The lowest rates showed in Ireland (5%), Austria, Germany and Portugal (10%). In general, in 2019 respondents across the EU would feel totally comfortable with having young people elected in the highest political

P. MAZZOCCHI, C. QUINTANO, *Being NEET in Europe Before and After the Economic Crisis: An Analysis of the Micro and Macro Determinants.* Social Indicators Researsch, 3, 2020; V. CUZZOCREA, *Projecting the Category of the NEET into the Future*, in *European Youth Partnership Series 'Perspectives on Youth', Thematic Issue: "2020 What Do YOU See"*, Council of Europe, Strasbourg, 2014, pp. 69-82.

[9] European Commission, *Special Eurobarometer n. 493 "Discrimination in the European Union"*, 2019, available at: <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/search/discrimination/surveyKy/2251> (last accessed on May 20, 2020).

[10] Ivi, T. 72.

[11] European Commission, *Special Eurobarometer n. 393 "Discrimination in the EU in 2012"*, 2012, p. 46, available at: <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/search/discrimination/surveyKy/1043> (last accessed on May 20, 2020).

position[12], which confirms the data of the previous Special Eurobarometers (2012 and 2015)[13].

This paper aims to fill, at least in part, the gap existing in the Italian socio-legal literature by delving into the EU's rare existing age-related binding law provisions and into a twofold set of documents at the European level: the EU policies and programmes (Youth Strategies, youth policies concerning employment, and youth programmes) and the CoE's youth policies and programmes. It then provides readers with a brief overview on the initiatives of the Partnership between the EU and the CoE in the youth field ('Youth Partnership').

As overall aim, the study wishes to investigate the current "distance" and "closeness" between European youth policies and programmes, on the one side, and young people, on the other side, *inter alia*, by looking at how the policies and programmes respond to these latter ones' needs (especially those from disadvantaged backgrounds) as well as at young people's role in setting the institutional agenda. For this purpose, firstly the study critically reflects on the intertwined concepts of 'autonomy', 'activation', and 'empowerment' as they emerge from both institutions' main youth policies and programmes. It also analyses how the notion of "young people" has been outlined in the arenas of the examined documents (paragraph 3). Lastly, throughout the article, the position played by non-formal education and/or learning in the EU's and CoE's documents and initiatives will be sketched. With regard to 'non-formal learning' and 'non-formal education', I will use the terminology of the examined documents, while on both notions I recall the description provided in the second paragraph of this article[14].

The hypothesis driving this paper is that there is a sort of *institutional ambiguity* in the EU youth policies and programmes and, though to a much lesser extent, in the CoE too. This institutional ambiguity refers to the interference between different

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[12] European Commission, *Special Eurobarometer n. 493*, T.45-46.

[13] European Commission, *Special Eurobarometer n. 393*, cit, p.47; European Commission, *Special Eurobarometer n. 437 "Discrimination in the EU in 2015"*, 2015, p. 28, avaliable at <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/search/discrimination/surveyKy/2077> (last accessed on May 20, 2020).

[14] I am very grateful to Sofia Laine for her feedbacks on the structure of this article.

institutional agendas, values, settings, goals that co-exist in youth-related documents, both in the documents themselves and in their interaction with the national contexts in which they shall be implemented. Both insititutions' policies do not bind Member States, but still can socially orient them in undertaking initiatives related to young people[15]. Furthermore, the repertoires integrated by both institutions' youth policies and programmes change over time: therefore, they need to be regularly re-contextualised and may entail different meanings for the different social actors involved in their production and implementation. The problem is that "if there is ambiguity, there is room for political manipulation"[16].

In the EU – which is historically characterised for being foremostly based on common economic interests among Member States since its inception in 1957 and has gradually improved its human-rights commitment over time (see the Fundamental Charter of Fundamental Rights of 2000)[17] – an increased neoliberal turn in youth policies and programmes is complemented by a human rights-based approach in order to combine the socio-economic goals of the former with the basic values of the latter. Within this institution, the difficulty to balance these two aspects results also from the neoliberal and market-oriented shift occurred in its broader policy strategies concerning integration and employment[18]. In the CoE, due to its origin as an organisation traditionally dealing with the promotion of human rights, the rule of law and democracy (the three basic values of the CoE), the neoliberal shift is not so explicit

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[15] V. FERRARI, *Funzioni del diritto, Editori Laterza, Roma-Bari, 1987*, pp. 117-152; E.G HEIDBREDER, *Administrative Capacities in the EU. The Problem - Solving Capacity of the Modern State Governance Challenges and Administrative Capacities*. Hertie Governance Report, Oxford University Press, Oxford, 2014.

[16] S. BORRAS, C.M. RADAELLI, *The Politics of Governance Architecture: Creation, Change and Effects of the EU Lisbon Strategy*, in S. BORRAS, C.M. RADAELLI (Eds.), *The Politics of the Lisbon Agenda: Governance Architectures and Domestic Usages of Europe*, Routledge, London and New York, 2012, p. 12.

[17] Fundamental Charter of Fundamental Rights of the European Union (2000/C 364/01), which became legally binding with entry into force of the so-called Treaty of Lisbon on December 1, 2009.

[18] J. HOLFORD, V. A. MOHORČIČ ŠPOLAR, *Neoliberal and Inclusive Themes in European Lifelong Learning Policy*, in S. RIDDELL, J. MARKOWITSCH, E. WEEDON (Eds), *Lifelong learning in Europe: Equity and Efficiency in the Balance*, Policy Press, Bristol, 2012, pp. 39-62; M. PARREIRA DO AMARAL, S. KOVACHEVA (Eds.), *Lifelong Learning Policies for Young Adults in Europe: Navigating between Knowledge and Economy*; Policy Press, Bristol, UK, 2020.

as in the EU. Still, a trend that places responsibility on young people in taking action for their life can be traced.

This contribution suggests that the policies and programmes in both institutions are conceived in a way that does not always manage to respond to the very needs of "all" young people, *de facto* leaving some of them behind. It also argues that the concepts of 'autonomy', 'empowerment', and 'activation' need to be revised critically.

To be clear, it is not my aim to criticise the notions of 'autonomy', 'activation', and 'empowerment' *per se*, nor the good intentions underpinning the European institutions' policies and programmes which foster them in order to help young people cope with a globalised and ever-changing world. In my experience as a youth trainer, I could witness the transformative impact that many European initiatives have on many young people's lives, by providing them with opportunities that many countries would not be able or willing to offer. Still, while I do believe that European policies and programmes were and can still be terrific instruments to stimulate Member States (both within the EU and the CoE) to improve young people's social conditions in today's European societies and support youth in gaining 'autonomy', in being 'active' citizens and in 'empowering' them, at the same time my hypothesis is that the neoliberal shift in some European policies and programmes can – intentionally or unintentionally – betray the will to truly support young people, to embrace their very needs and to take into account their concrete and specific situations. I also suggest that the three aforesaid concepts ('autonomy', 'activation' and 'empowerment') may loose their critical stance and become "empty boxes" or rhetorical devices without (or with low) significance if they do not respond to the very needs of "all" young people, or if they are interpreted in neoliberal terms.

For this reason, in a constructive spirit, I suggest linking these notions and the scopes of youth policy and programmes to the notion of 'agency' as conceived by Amartya K. Sen (*infra*, paragraph 7)[19].

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[19] H.-U. OTTO (Ed.), *Facing Trajectories from Schol to Work: Towards a Capability-Friendly Youth Policy in Europe*, Springer, Dordrecht, 2015. This edited volume suggests adopting Sen's capability approach to improve social condition of young people in vulnerable situations in their transition from school to the labour market. It is based on the EU Collaborative Project "Making Capabilities Work" (WorkAble), funded by the EU within the Seventh Framework Programme.

The article relies on three main sources: policy documents and institutional as well as NGOs (acronym for 'non governmental organisations') websites; literature and reports on the youth policy and programmes; and, lastly, my personal engagement in the youth field[20].

As far as the structure of paragraphs 4.1, 4.2, 4.3, and 5 is concerned, when analysing the documents, I will first focus on autonomy, activation and empowerment where present, and then on non-formal education and/or learning. For the sake of clarity, I will refer to 'paragraph' when I recall previous or following parts of the present article, while I will use the abbreviated form 'par.' when quoting excerpts from documents.

2. Key Concepts in a Nutshell

It is worth briefly defining the recurrent concepts, namely 'autonomy', 'activation', 'empowerment' and 'non-formal education and/or learning', from the very beginning.

In the youth field, 'autonomy' has been defined as "the capability of an actor to take decisions regarding its own way to and carry out activities to achieve the goals"[21]. It is intended as a "relational concept"[22]. Marti Taru considers "freedom, sovereignty, self-determination and self- government, as well as ability, self-reliance, self-sufficiency, self-direction" [23] as synonyms for 'autonomy'. The Glossary on

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[20] I have been involved in youth training activities within the Pool of Trainers of the Department of Youth of the CoE <https://trainers-youthapplications.coe.int/>; with the Salto Resource Centres <https://www.salto-youth.net/rc/>; and at local level. In the period 2011-2017, I was part of the Pool of European Youth Researchers (PEYR) of the Youth Partnership, < https://pjp-eu.coe.int/en/web/youth-partnership/peyr> (all websites last accessed on May 20, 2020).

[21] M. TARU, *Autonomy, Dependency, Key Actors and Youth Organisations in Interwar Estonia*, in L. SIURALA, F. COUSSÉE, L. SUURPÄÄ (Eds.), *The History of Youth Work in Europe, Vol. 5 - Autonomy Through Dependency – Histories of Co-operation, Conflict and Innovation in Youth Work*, Council of Europe, Strasbourg, 2016, p. 64.

[22] Ivi, cit.

[23] Ivi, cit.

Youth written by the experts of the Youth Partnership describes 'autonomy' in the following way:

> [i]n Western ethics and political philosophy, the state or condition of self-governance, or *leading one's life according to reasons, values, or desires that are authentically one's own.* Although autonomy is an ancient notion (the term is derived from the ancient Greek words autos, meaning "self," and nomos, meaning "rule"), the most-influential conceptions of autonomy are modern, having arisen in the 18th and 19th centuries in the philosophies of, respectively, Immanuel Kant and John Stuart Mill [my emphasis][24].

Other scholarly literature in the same area of study, notably the long-lasting work on youth by Vincenzo Cicchelli[25], is more explicit to conceive the concept of 'autonomy' as 'agency'. As the analysis of the documents in the following paragraphs of the present article will show, the notion of 'autonomy' might be intended sometimes as merely youth "economic independence" and/or young people taking their own responsibility, while on other occasions as the ability of youth to contribute to society, to take decisions, and to make their voices be heard. In this latter sense 'autonomy' approximates more to 'agency'. However, depending on the discipline (psycology[26],

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[24] See <https://pjp-eu.coe.int/en/web/youth-partnership/glossary (last accessed on May 20, 2020).

[25] V. CICCHELLI, *L'autonomie des jeunes questions politiques et sociologiques sur les mondes etudiants*, La Documentation française, collection Panorama des savoirs, Paris, 2013 and V. CICCHELLI, *La construction de l'autonomie. Parents et jeunes adultes face aux études*, PUF, Paris, 2001; *cfr.* C.S. HART, B. BABIC, M. BIGGERI (Eds.), *Agency and Participation in Childhood and Youth: International Applications*, Bloomsbury, London and New York, 2014.

[26] A. BANDURA, *Social Cognitive Theory: An Agentic Perspective*, in "Annual Review of Psychology", 52, 1, 2001, pp. 1-26; A. DONZELLI, A. FASULO, *Agency e linguaggio: etnoteorie della soggettività e della responsabilità nell'azione sociale*, Meltemi Editore, Roma, 2007; G.R. MUSOLF, *Structure and Agency in Everyday Life: An Introduction to Social Psychology*, Rowman & Littlefield Publisher, Lanham, 2003.

sociology[27], philosohy of law[28], anthropology[29], economy[30], etc.) and even within the same area of study, agency has been defined in very different ways. Each

[27] Among others, M.S. ARCHER, *Culture and Agency: The Place of Culture in Social Theory*, Cambridge University Press, Cambridge, 1988, discussing with A. GIDDENS, *Central Problems in Social Theory: Actions, Structure and Contradiction in Social Analysis*, University of California Press, Berkeley, [1979]1992; P. BOURDIEU, *Questions de sociologie*, Éditions de Minuit, Paris, 1980; B. LATOUR, *On Actor-Network Theory: A Few Clarifications*, in "Soziale Welt", 47, 4, 1996, pp. 369-381 and B. LATOUR, *Reassembling the Social: An Introduction to Actor-Network-Theory*, Oxford University Press, Oxford, 2005. For a comprehensive overview on the debate concerning "critical agency", see P. REBUGHINI, *Critical Agency and the Future of Critique*, in "Current Sociology", 66, 1, 2018, pp. 3-19.

[28] C. BEITZ, *Rawls's Law of Peoples*, in "Ethics", 110, 2000, pp. 669-696 and C. BEITZ, *The Idea of Human Rights*, Oxford University Press, Oxford, 2009; O. GIOLO, *La vulnerabilità neoliberale:* agency*, vittime e tipi di giustizia*, in O. GIOLO, B. PASTORE (a cura di), *Vulnerabilità: analisi multidisciplinare di un concetto*, Carocci, Roma, 2018, pp. 253-273; R. DWORKIN, *Taking Rights Seriously*, Duckworth, London, 1977; J. GRIFFIN, *Human Rights and the Autonomy of International Law*, in S. BESSON, J. TASIOULAS (Eds.), *The Philosophy of International Law*, Oxford University Press, Oxford, 2010, pp. 339--355; H. LINDEMANN NELSON, *Damaged Identities, Narrative Repair*, Cornell University Press, Ithaca, 2001; M. NUSSBAUM, *Constitutions and Capabilities: Perception against Lofty Formalism*, in "Journal of Human Development and Capabilities", 10, 3, 2009, pp. 341-357 and M. NUSSBAUM, *Creating Capabilities*, Belknap Press of Harvard University Press, Cambridge, MA, 2011; J. RAWLS, *The Law of Peoples*, Harvard University Press, Cambridge, MA, 1999; C. TAYLOR, *What is Human Agency?*, in C. TAYLOR (Ed.), *Philosophical Papers I: Human Agency and Language*, Cambridge University Press, Cambridge, 1985, pp. 15-44; A. TUCCI, *Immagini del diritto. Tra fattualità istituzionalistica e* agency, Giappichelli, Torino, 2013 and A. TUCCI, *Il posto geograficamente più vicino.* Agency *e pratiche politiche nello spazio urbano*, in L. BAZZICALUPO, V. GIORDANO, F. MANCUSO, G. PRETEROSSI (a cura di), *Trasformazioni della democrazia*, Mimesis, Milano-Udine, 2016, pp. 245-257; J. WALDRON, *Accountability: Fundamental to Democracy*, New York University Public Law and Legal Theory Working Papers, 462, 2014, pp. 1-31; J. WALDRON, *One Another's Equals: The Basis of Human Equality*, Harvard University Press, Cambridge, MA, 2017.

[29] A. APPADURAI, *The Capacity to Aspire: Culture and the Terms of Recognition*, in V. RAO, M. WALTON (Eds.), *Culture and Public Action: A Cross-Disciplinary Dialogue on Development Policy*, Stanford University Press, Palo Alto, 2004, pp. 59- 84; A. APPADURAI, *Il futuro come fatto culturale. Saggi sulla condizione globale*, Raffaello Cortina, Milano, 2014. According to Appadurai aspirations fall within the sphere of the subjects' agency, to be connected to their possibilities for action. His theories have been applied in the research field on youth in Italy as well: see V. CUZZOCREA, G. MANDICH, *Students' Narratives of the Future: Imagined Mobilities as Forms of Youth Agency?*, in "Journal of Youth Studies", 2015, pp. 1-16.

[30] A.K. SEN, *Capability and Well-Being*, in D.M. HAUSMAN (Ed.), *An Anthology*, Cambridge University Press, Cambridge, 1994; A.K. SEN, *Development as Freedom*, Oxford University Press,

conceptualisation of agency entails relevant insights, for example, those concerning its political, moral, and critical dimension, as well as on the agency-structure relationship[31].

In the last two decades, agency has been increasingly interpreted in neoliberal terms by policies and programmes in various areas and at different levels of governance. Therefore, it is useful to contextualise youth policies in a broader scenario: in fact, policies and programmes in different fields are often driven by similar (or even by the same) principles, that are just adapted (and not always necessarily so) to the specificity of the target groups addressed. With peculiar reference to women's rights, Faranak Miraftab points to "community-based activism as an informal arena of politics and citizenship construction […] in which women and disadvantaged groups are most active and effective"[32]. In relation to this, she maintains that both institutions and some scholars have marginalised "collective actions that resist neoliberal policies"[33]: in doing so, "[j]ust as liberal views assigned the citizenship-granting agency to the state, this perspective assigns to the neoliberal state the agency to grant status as civil society, and defines the spaces where citizenship can be practiced"[34]. *Mutatis mutandis*, the same can be asserted in relation to the space where young people's can practice their active citizenship.

From a different perspective, Orsetta Giolo underlines another pitfall of the contemporary understanding of agency in neoliberal terms. This scholar contends that vulnerable people are often depicted as "victims" who do hold a limited leeway to exert their agency. She outlines that the construction of "vunerable victims" in neoliberal terms leads to a situation in which:

Oxford, 1999 and A.K. SEN, *Elements of a Theory of Human Rights*, in "Philosophy & Public Affairs", 32, 4, 2004, pp. 315-356.

[31] In sociology, the agency-structure relation has been deepened in an intersectional perspective, *inter alia*, by Enzo Colombo and Paola Rebughini: see E. COLOMBO, P. REBUGHINI, *Intersectionality and Beyond*, in "Rassegna Italiana di Sociologia", 3, 2016, pp. 439-460.

[32] F. MIRAFTAB, *Invited and Invented Spaces of Participation: Neoliberal Citizenship and Feminists' Expanded Notion of Politics*, in "Wagadu", 1, 2004, p. 1.

[33] Ivi, p. 4.

[34] *Ibidem*.

they seem to be the only ones who are capable of exerting some form of *agency*, but in a radically different way from what concerns the typical dynamics of subjectivity politics in democratic contexts: victims do not aim at reconfiguring the public space or at challenging the legal and political structures that create discrimination and exclusion. They just tend to make a claim for compensation. As a consequence, victims end up coinciding with the figure of the vulnerable subject, more precisely, with the version of the vulnerable-neoliberal subject that aims at obtaining some form of protection and care[35] (my translation).

By quoting Daniele Giglioli, Giolo outlines that:

[t]he prosopopoeia of the victim strengthens the powerful ones and weakens those who are subordinated. It empties the agency [...]. It discourages transformation. It privatises the story. […] It prevents us from grasping the real lack in politics and in common action, which is a defect in practice (my translation)[36].

In this scholar's view, the agency of subjects considered as "vulnerable victims" leads to the loss of their political subjectivity and to a situation in which they cannot claim any effective transformation in the wider society.

There is at least a third way in which agency can be interpreted in neoliberal terms, which places more and more responsibility on individualised subjects in a "liquid" and globalised world[37] who have to creatively engage and self-help in coping with such structural and societal "diseases" as unemployment, fragile welfare systems and other "social problems that States no longer can or care to treats at it roots"[38].

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[35] O. GIOLO, *La vulnerabilità neoliberale*, cit., pp. 262-263.

[36] D. GIGLIOLI, *Critica della vittima*, Nottetempo, Roma, 2014, p. 107, cit. in O. GIOLO, *La vulnerabilità neoliberale*, cit., footnote n. 34; *cfr*. B.G. BELLO, *Intersezionalità. Teorie e pratiche tra diritto e società*, Franco Angeli, Milano, 2020, in which I elaborate more on these sources in an intersectional perspective.

[37] Z. BAUMAN, *Liquid Modern Challenges to Education*, Lecture given at the Coimbra Group Annual Conference, Padova, May 26, 2011, Padova University Press, Padova, 2011; D. CHANDLER, J. REID, *The Neoliberal Subject: Resilience, Adaptation and Vulnerability*, Rowman & Littlefield Publishers, Lanham, MD, 2016.

[38] L. WACQUANT, *Punishing the Poor*, Duke University Press, Durham and London, 2009, p. xxii, in which the scholars deals with penalisation as a "technique for the 'social problems" in the neoliberal realm.

The consequent privatisation of public problems brings the risk to leave subjects alone to face these challenges and to increase their sense of loneliness and incapability if they do not manage to find their way out.

Coming to the second concept, 'activation', in the youth field, it is not only intertwined with both 'autonomy' and 'empowerment', but with 'participation' ('active participation') and 'citizenship' ('active citizenship') as well. As far as the field of education is concerned, activation translates into "the trends of lifelong learning which implies *individualised responsibility* for the own learning biography but also the potential freedom to organise according to own's needs [my emphasis]"[39]. The literature review elicits that the meaning of activation depends on the national context and, more specifically, on structural factors as welfare systems. This concept assumes a peculiar connotation within the 2009 EU Youth Strategy (*infra*, paragraph 4.1.) in which:

there is more than a causal analogy between the concepts and discourse of participation and activation [...]. Both refer to the actual individual and the need to remove institutional restrictions from *individual agency*. The fact that activation implies not only limiting social rights and imposing sanctions on school leavers, job seekers and welfare recipients in case of ascribed passiveness, but goes along also with increasing the mechanism of state control suggests that it interprets the idea of the *autonomous individual* not in terms of democracy and participation but of flexibility and self-responsibility – of the concept of "*homo economicus*" making rational choices[40].

Another relevant point concerning activation is to equip young people with skills to enter and stay in the labour market, i.e. to be *active* in the labour market, while on the other hand many European policies also deal with young people' *active* participation and citizenship (see paragraph 4.1, paragraph 4.3. and paragraph 5).

The third notion under scrutiny in this paper is 'empowerment', which since the 1995 Beijing Declaration and Platform for Action has become a global keyword. Even though these documents refer only to women and girls, 'empowerment' has been

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[39] V. MUNIGLIA, M. CUCONATO, P. LONCLE, A. WALTHER, *The Analysis of Youth Participation in Contemporary Literature: A European Perspective*, in P. LONCLE, M. CUCONATO (Eds.), *Youth Participation in Europe: Beyond Discourses, Practices and Realities*, The Policy Press, Bristol, 2012, p. 10.

[40] A. WALTHER, *Participation or Non Participation? Getting Beyond Dichotomies by Applying an Ideology-Critical, a Comparative and Biographical Perspective*, in P. LONCLE, M. CUCONATO (Eds.), *Youth Participation in Europe*, cit., p. 228.

intensively addressed and mainstreamed in many other policies at different levels of governance. Thus, par. 12 of this Declaration states that the governemts commit to:

[t]he empowerment and advancement of women, including the right to freedom of thought, conscience, religion and belief, thus contributing to the moral, ethical, spiritual and intellectual needs of women and men, individually or in community with others and thereby guaranteeing them the possibility of realizing their full potential in society and shaping their lives in accordance with their own aspirations.

This article is then translated into action in several paragraphs of the related Platform for Action.

The Glossary of the Youth Partnership gives a detailed description of it:

[e]mpowerment is *helping people to help themselves*. This concept is used in many contexts: management ("The process of sharing information, training and allowing employees to manage their jobs in order to obtain optimum results"), community development ("Action-oriented management training aimed at community members and their leaders, poverty reduction, gender strategy, facilitation, income generation, capacity development, community participation, social animation") and mobilisation ("Leading people to learn to lead themselves"). Empowerment involves a process to change power relations. "On the one hand it aims to enable excluded people *to take initiatives*, make decisions and acquire more power over their lives. At the same time it forces social, economic and political systems to relinquish some of that power and to enable excluded people and groups to enter into negotiation over decision-making processes, thereby playing a full role in society [my emphasis][41].

Within national youth policies, empowerment was a key-concept even before as the experiences in the United Kingdom show[42].

Miraftab takes a critical stance toward the neoliberal rhetoric of empowerment. More precisely, she argues that empowerment is one of the "building blocks of neoliberal governance".

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[41] See <https://pjp-eu.coe.int/en/web/youth-partnership/glossary (last accessed on May 20, 2020), which quotes from L. SIURALA, *European Framework of Youth Policy. What is Necessary and What has Already Been Done?*, in "Diskurs Kindheits- und Jugendforschung", 2, 4, 2007, pp. 377-390; P. SOTO HARDIMAN, F. LAPEYRE, *Youth and Exclusion in Disadvantaged Urban Areas*, Council of Europe, Strasbourg, 2004.

[42] I thank Howard Williamson for the insights on this point.

In the same way as 'community participation' and 'social capital', it:

undergo[es] a double movement: [it] has been de-politicised in an interpretation by the development industry and by governments that has stripped away its implications for dominance (e.g., capitalism, patriarchy and racism), while at the same time its use by such organisations of neoliberal governance to rationalise their actions is extremely political. That sleight of hand allows a symbolic inclusion (based on symbolic capital) and a material exclusion to be used simultaneously[43].

In her view, empowerment has been depoliticised, and thus it leaves unquestioned the ongoing power relations. The risk embedded in this use of empowerment is that "lacking anti-hegemonic work, the more participation there is, the more the power structure of local communities is masked, and the more disempowering the process can be"[44]. In this respect, she recalls Santos who describes *disempowering forms of inclusion* and "taming of popular participation, by constraining it within the boundaries of an individualistic conception of civil society dominated by business organisations"[45].

The neoliberal shift to individualisation "depoliticises the notion of empowerment, often reducing it to individual economic gain and access to resources, and leaving the status quo unchallenged"[46].

As seen sofar, the intertwined notions of 'autonomy', 'activation' and 'empowerment' seem to imply a certain degree of individual initiative and responsibility, as well as self-help. If conceived in their abstract and theoretical meaning, though, they bring the risk not to take into account the real, contextualised and concrete possibilities that subjects have in their daily life. For this reason, I suggest to rely on Sen's notion of agency – within this scholar's "capability approach" – and propose to integrate it throughout youth policies as crosscutting concept for the three above mentioned notions. In fact, the advantage of Sen's view on agency lies in its departure from both the abstractness of some liberal theories on agency which disregard the context in which

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[43] F. MIRAFTAB, *Making Neoliberal Governance: The Disempowering Work of Empowerment*, in "International Planning Studies", 9, 4, 2005, p. 239; *cfr*. F. MIRAFTAB, *Flirting with the Enemy: Challenges Faced by NGOs in Development and Empowerment*, in "Habitat International", 21, 4, 1997, pp. 361-375.

[44] F. MIRAFTAB, *Making Neoliberal Governance*, cit., p. 242.

[45] B. de SOUSA SANTOS, *Governance: Between Myth and Reality*, Paper presented at the 2004 Law & Society Association Annual Meeting, Chicago, May 27-30, 2004, p. 1, cit. in *ibidem*.

[46] F. MIRAFTAB, *Making Neoliberal Governance*, cit., p. 242.

individuals act, and the neoliberal understanding of agency that has increased in recent times. Sen's understanding of agency refers, essentially, to "a person's ability to pursue and realise goals she values and has reason to value"[47], which needs to be contextualised within the real sphere of action that people hold in their life (*infra*, paragraph 7). At a closer look, the description of 'autonomy' and 'empowerment' provided in the aforesaid Glossary of the Youth Partnership resonates with some aspects of Sen's view, but doesn't extend to the full implications that his approach may have in the youth field. Additionally, the Glossary results from the work of experts who do not necessarily reflect the institutional views, despite it being a very valuable source for gaining insights on key concepts used in youth policies and programmes[48].

Lastly, non-formal education can be defined by contrast with 'formal education' and 'informal education'. These terms may be found interchangeably with 'non-formal learning', 'formal learning' and 'informal learning' in some EU and CoE documents, although there has been a wide debate on whether distinguishing these terms or not[49]. One may infer that the EU tends to use the former ones at least in the latest documents, while the CoE leans to the latter ones, to stress that the "learner" is at the centre[50], but both terms are used within these institutions.

The Glossary of the Youth Partnership provides two – though similar – definitions, in which also these expressions appear to be used interchangeably or as hendiadys. 'Non-formal education' refers to:

any educational action that takes place outside of the formal education system. Non-formal education is an integral part of a lifelong learning concept that ensures that young people and adults acquire and maintain the skills, abilities and dispositions needed to adapt to a continuously changing environment. It can be acquired on the personal initiative of each individual through different learning

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[47] S. ALKIRE, S. DENEULIN, *The Human Development and the Capability Approach*, in S. DENEULIN, L. SHAHANI (Eds.), *An Introduction to the Human Development and Capability Approach. Freedom and Agency*, Earthscan, London, 2009, p. 22.

[48] I contributed to some entries of the Glossary in 2016 as member of the Pool of European Youth Researchers (PEYR).

[49] I thank Hanjo Schild for the insights on such debates.

[50] I thank Howard Williamson for pointing this aspect to my attention.

activities taking place outside the formal educational system. An important part of non-formal education is carried out by non-governmental organisations involved in community and youth work[51].

The Glossary defines 'non-formal learning' as:

a purposive, but voluntary, learning that takes place in a diverse range of environments and situations for which teaching/training and learning is not necessarily their sole or main activity. These environments and situations may be intermittent or transitory, and the activities or courses that take place may be staffed by professional learning facilitators (such as youth trainers) or by volunteers (such as youth leaders). The activities and courses are planned, but are seldom structured by conventional rhythms or curriculum subjects. Non-formal learning and education, understood as learning outside institutional contexts (out-of-school) is the key activity, but also the key competence, of youth work. Non-formal learning/education in youth work is often structured, based on learning objectives, learning time and specific learning support and it is intentional. It typically does not lead to certification, but in an increasing number of cases, certificates are delivered, leading to a better recognition of the individual learning outcome. Non-formal education and learning in the youth field is more than a sub-category of education and training since it is contributing to the preparation of young people for the knowledge-based and the civil society[52].

Within the CoE, non-formal education is thoroughly defined as involving:

planned, structured programmes and processes of personal and social education for young people designed to improve a range of skills and competences, outside the formal educational curriculum. Non-formal education is what happens in places such as youth organisations, sports clubs and drama and community groups where young people meet, for example, to undertake projects together, play games, discuss, go camping, or make music and drama. Non-formal education achievements are usually difficult to certify, even if their social recognition is increasing. Non-formal education should also be: voluntary, accessible to everyone (ideally), an organised process with

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[51] See < https://pjp-eu.coe.int/en/web/youth-partnership/glossary> (last accessed on May 15, 2020). The same text recalls some Recommendations of the CoE on this topic that also seem to use the terms (education and learning) indeed intergeanbly. See Parliamentary Assembly, *Recommendation 2014 Young Europeans: An Urgent Educational Challenge* [(2013)1 Final version], April 24, 2013; Parliamentary Assembly, *Recommendation on Non-Formal Education* (1437 (2000)), January 24, 2000.

[52] See <https://pjp-eu.coe.int/en/web/youth-partnership/glossary> (last accessed on May 15, 2020). In this case, references are to the definitions provided by Lynne Chisholm in J. BOWYER, T. GEUDENS (Eds.), *Bridges for Recognition Cheat Sheet: Proceedings of the SALTO Bridges for Recognition: Promoting Recognition of Youth Work across Europe*, SALTO-YOUTH Inclusion Resource Centre, Brussels, 2005, p. 49; Partnership between the European Commission and the Council of Europe in the Field of Youth, *Pathways 2.0 Towards Recognition of Non-Formal Learning/Education And of Youth WorkiIn Europe*, Strasbourg and Brussels, 2011.

educational objectives, participatory, learner-centred, about learning life skills and preparing for active citizenship, based on involving both individual and group learning with a collective approach, holistic and process-oriented, based on experience and action, organised on the basis of the needs of the participants"[53].

It also states that formal, non-formal and informal education are "complementary and mutually reinforcing elements of a lifelong learning process"[54].

As an example, within the EU the White Paper on Youth (2001) ('WPY', *infra*, paragraph 4.1.) essentially states that "non-formal learning is not provided by an education or training institution and typically does not lead to certification. It is, however, both structured and intentional". By contrast, formal learning "is typically provided by an education or training institution and leads to certification. It is structured (in terms of learning objectives, learning time or learning support) and is intentional from the learner's perspective"; informal learning "is not provided by education and training institutions, does not lead to certification and is not structured. It is the result of daily activities related to work, family or leisure. It may be intentional but in most cases it is not (i.e. incidental/random)"[55].

Lastly, the well-known Working Paper "Pathways 2.0 Towards Recognition of Non-Formal Learning/Education and of Youth Work in Europe" of 2011 declares using "both terms, non-formal learning and education […] when reflecting on the pedagogical dimension of youth work activities, their methods, tools and approaches and the environment in which they take place; thus it tries to respect diverse traditions, definitions and understandings existing in European countries"[56].

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[53] See <https://www.coe.int/en/web/european-youth-foundation/definitions> (last accessed on May 15, 2020).

[54] *Ibidem.*

[55] All quotations refer to WPY, p. 34, footnote n. 29.

[56] Partnership between the European Commission and the Council of Europe in the field of youth, elaborated jointly with the Salto Training and Cooperation Resource Centre, the European Youth Forum and the Directorates responsible for Youth in the European Commission and the Council of Europe, Working Paper *"Pathways 2.0 Towards Recognition of Non-Formal Learning/Education and of Youth Work in Europe"*, Strasbourg and Brussels, January 2011, p. 2, footnote n. 2.

Given the overlapping between the two terms in many youth-related documents, I will use them as they emerge from the analysed texts, while I will refer to 'non-formal education and/or learning' when I write about them.

3. What Does 'Young People' Mean? No Simple Question, No Simple Answer

A preliminary question is what is meant for 'young people'. Age is one of the most difficult grounds to define. While the notion of 'child' emerges from different pieces of legislation that seem to converge on the overall definition including subjects

aged 0-18 [57], the concept of 'youth' seems to be a fuzzier one [58], enough to be considered as "a legal category without definition" [59].

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[57] At the United Nations level, the Convention on the Rights of the Child (CRC) applies such a wide definition of a child: see Convention on the Rights of the Child (CRC) adopted on November 20, 1989, and entered into force on September 2, 1990. In the States that ratified the CRC, the notion of child at the national level is defined accordingly, even though there are some nuances concerning issues as criminal liability, political participation, labour law, and family law rights. At the EU level, despite its title, the text of the EU Directive on the protection of young people at work of 1994 (*infra*, in this paragraph) refers to child labour and to "any person under 18 years of age" (art. 2(1)). Furthermore, an 'unaccompanied minor' is defined as "a third-country national or stateless person below the age of 18 years" (art. 2(k)) and as "a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States" (art. 2(l)), Directive 2011/95/EU of the European Parliament and of the Council of December 13, 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (recast).

[58] For a comprehensive overview of the national understanding of "young people" in terms of age, see B. PEROVIC, Analytical Paper "*Defining Youth in Contemporary National Legal and Policy Frameworks Across Europe*", Partnership between the European Commission and the Council of Europe in the field of youth, Brussels and Strasbourg, 2016, p. 3. In some South European Countries (e.g., Greece, Cyprus, Italy), the phase of transition appears prolonged if compared with other European areas, due to the difficulties in obtaining or maintaining long-term employment contracts, and in reaching financial and housing autonomy (ivi, p. 4). According to Perovic, "it may be expected that more and more European countries would keep up with this trend, moving the upper age limit further towards 35 or even 40 years for some policy areas (employment, housing, social protection, etc.). For instance, in Italy some initiatives targeting youth as a category from 15 to 35 are becoming more and more frequent", *ibidem*; *cfr*. p. 7. See also H. WILLIAMSON, *Supporting Young People in Europe. Looking to the Future*, Council of Europe Publishing, Strasbourg, 2017, pp. 48-49. For the purpose of the Special Issue "Making Space for Youth in Contemporary Italy" of the Journal of Modern Italian Studies, Valentina Cuzzocrea and I adopted a broad notion of 'young people' in the Italian context by including "anyone under the age of 40, close to the average age (38 years old) when young people in Italy reach autonomy (Fondazione Bruno Visentini 2017)": see B.G. BELLO, V. CUZZOCREA, *Introducing the Need to Study Young People in Contemporary Italy*, in "Journal of Modern Italian Studies", 23, 2018, p. 4.

[59] M. MAHIDI, *The Young and the Rightless? The Protection of Youth Rights in Europe*, European Youth Forum, Bruxelles, 2010, p. 27. This essay offers an overview of different understandings of "young people" deriving from the parameters of biological age or social age, i.e, age a social construction.

Turning 18 is exactly the age when highly protecting and secure children's provisions stop, and many responsibilities and choices related to adult life start: it is not always a birthday to celebrate for many young people. In both the EU's and CoE's policies and programmes, there are different and fragmentary definitions of the notion of 'young people'.

Mostly, 'youth' is often understood as transitional time in life, which needs to be supported in order for young people to develop, to start experimenting with new duties and rights, to learn and enter the labour market. Among other definitions, it has been defined as "the passage from dependent childhood to independent adulthood"[60].

A wealth of research explores "youth transition" to adult life in various countries and contexts[61]. Though, it is difficult to univocally infer "how long" youth transition is supposed to last from this body of literature. In fact:

[t]here is wide consensus among European youth researchers that existing youth definitions and concepts are becoming more and more blurred as a result of the de-standardisation of life trajectories. Not only does youth tend to start earlier and end later, but the transitions […] are increasingly fragmented which is particularly visible through increasing discrepancies between different policy areas[62].

Within the EU, policies on employment (*infra*, paragraph 4.2.) target "young people under the age of 25 years"[63], while the previous EU Youth Strategy "Investing

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[60] EUROSTAT, *Youth in Europe. A Statistical Portrait*, Publications Office of the European Union, Luxembourg, 2009, p. 17. See also M. MAHIDI, *The Young and the Rightless?*, cit., p. 27.

[61] *Ex multis*, A. BIGGART, A. FURLONG, F. CARTMEL, *Modern Youth Transitions: Choice Biographies and Transitional Linearity*, in R. BENDIT, M. HAHN-BLEIBTREU (Eds.), *Youth Transitions. Processses of Social Inclusion and Patterns of Vulnerability in a Globalised World*, Opladen & Barbara Budrich Publishers, 2009, pp. 55-72; H.-U. OTTO (Ed.), *Facing Trajectories from Schol to Work*, cit.; F. PASTORE, *The Youth Experience Gap. Explaining National Differences in the School-to-Work Transition*, Springer, Cham, 2015; F. PASTORE, *Why So Slow? The School-to-Work Transition in Italy*, in "Studies in Higher Education", 44, 2019, pp. 1358-1371.

[62] Council of Europe International Review Team, 2008, p. 17, cit. in B. PEROVIC, Analytical Paper, cit., pp. 2-3-

[63] Council Recommendation of April 22, 2013, on establishing a Youth Guarantee (OJ C 120, April 26, 2013, p. 1-6).

and Empowering 2010-2018" (*infra*, paragraph 4.1.), Eurostat reports and Eurobarometer surveys refer to young people as those aged under 30.

Concerning youth programmes, the previous 'Youth' and 'Youth in Action' Programmes (*infra*, paragraph. 4.3.) based on non-formal learning activities and fostering youth mobility have progressively expanded the age ranges: the former one was mainly aimed at young people aged "15-25" widening the age range for specific projects; the second one targeted young people aged "15-28", still with some broader exceptions including subjects aged 13-30 for peculiar initiatives. Youth programmes are now part of the Erasmus+ Programme: the related Guide (*infra*, paragraph 4.3) establishes different age frames depending on the activities: e.g., young people "aged between 13 and 30" can part-take in youth exchanges[64]. Another EU initiative, the so-called "Youth Solidarity Corps" promoting the voluntary service, is aimed at young people aged "18 and 30"[65].

As far as the binding EU anti-discrimination law is concerned, the EU Directives 2000/78/EC bans discrimination on grounds of age but does not provide any definition of this category. As Sandra Fredman underlines, the US legislation covers "people aged 40 or over"[66] as a protected ground from discrimination, while the EU antidiscrimination law[67] does not provide any age limitation, nor any definition

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[64] EUROPEAN COMMISSION, Erasmus+ Programme Guide, 2020, p. 80.

[65] Proposal for a Regulation of the European Parliament and of the Council of June 11, 2018, on establishing the European Solidarity Corps Programme and Repealing [European Solidarity Corps Regulation] and Regulation (EU) No 375/2014 (COM(2018) 440 final); Regulation (EU) 2018/1475 of the European Parliament and of the Council of October 2, 2018, on laying down the Legal Framework of the European Solidarity Corps and amending Regulation (EU) No 1288/2013, Regulation (EU) No 1293/2013 and Decision No 1313/2013/EU (PE/47/2018/REV/1) (OJ L 250, October 4, 2018, pp. 1-20); *cfr.* Regulation (EU) of the European Parliament and of the Council of April 3, 2014, on establishing the European Voluntary Humanitarian Aid Corps ('EU Aid Volunteers initiative') (no 375/2014) (OJ L 122, April 24, 2014, pp. 1-17).

[66] S. FREDMAN, *Discrimination Law*, Oxford University Press, Oxford, [2002]2011, p. 101.

[67] Directive 2000/78/CE Council Directive 2000/78/EC of November 27, 2000, on establishing a General Framework for Equal Treatment in Employment and Occupation (OJ L 303, December 2, 2000, pp. 16-22); see C. O'CINNEIDE, *Age Discrimination and European Law*, Office for Official Publications of the European Communities, Luxembourg, 2005.

of this characteristic of people's identity. Such a provision opens space for the EU legal protection from discrimination, also including young people.

Not even the earlier 1994 Directive on the protection of young people at work[68] provides any guidance with regard to the notion of 'youth', as discussed in the present article. Despite its title, the subjective scope of the Directive encompasses "any person under 18 years of age having an employment contract or an employment relationship defined by the law" (art. 2[1]).

Within the CoE[69], there is no legally agreed definition of young people's age. The Member States of the CoE apply very diverse age ranges in the framework of their national youth policies and programmes. However, based on practice (notably the educational and training activities organised by the Council of Europe's youth sector), one might say that the most common age range for young people is usually 18-30. Just to provide an example, the "All Different – All Equal" Campaign for Diversity, Human Rights, and Participation, which ran between mid-2006 and early 2008, targeted a very wide spectrum of young people "aged 12-30"[70].

Given the discrepancies in defining "young people" at the national level, it is arguable that the definitions at the European level, although blurring, were often broadly conceived to open up protection and opportunities for a wider range of subjects.

4. Youth Rights in the European Union: Reconciling Different "Souls"?

As far as the EU level is concerned, I will look into three sets of documents: the WPY and two Youth Strategies; policies concerning directly youth employment; and

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[68] Council Directive 94/33/EC of June 22, 1994, on the Protection of Young People at Work (OJ L 216, August 20, 1994, pp. 12-20).

[69] All useful references about the Council of Europe's youth policy (i.e., definition, instruments, tools, adopted texts, etc.) can be found on its youth policy website: see <https://www.coe.int/en/web/youth/youth-policy> (last accessed on May 15, 2020).

[70] Joint Council on Youth, Joint Council on Youth, 2009. *All Different – All Equal. The European Youth Campaign for Diversity, Human Rights and Participation 2006 – 2007. Report of the Joint Council on Youth* (DJS/CMJ(2009)1 final), October 7, 2009, p. 4.

programmes based on non-formal education and/or learning. Documents adopted by different bodies within this institution will be analysed, given the complex decision-making process of the EU[71].

4.1. The Youth Strategies

Since the Treaty of Maastricht[72], the EU acquired a range of competencies in the youth policy[73], while it had been providing programmes long before. A key role in this area has been played by the Commission Department currently titled "Education, Youth, Sport and Culture" of the Directorate-General for Education and Culture that is responsible for EU policy on education, culture, youth, languages and sport. Therefore, its activities cover also the programmes analysed in paragraph 4.3.

Ever since the White Paper on Youth (WPY)[74] in 2001, which can be considered the starting point in the EU commitment in the youth policy, the complex issue of young people's individual *autonomy* has been raised. This document was articulated in four key areas (participation, information, voluntary activities, and better knowledge of youth) and stated:

[f]or young people, *autonomy* is an essential demand. It depends on the resources at their disposal, primarily material resources. The question of income is therefore crucial. Young people are affected not only by policies on employment, social protection and labour market integration but also by housing and transport policies. These are all important in enabling young people to become *autonomous* sooner, and they should be developed in a way that takes into account their point of view

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[71] A. FAVELL, V. GUIRAUDON (Eds.), *Sociology of the European Union*, Palgrave, Basingstoke, 2011.

[72] Treaty on European Union, adopted in Maastricht on February 7, 1992, and entered into force on November 1, 1992.

[73] M. MAHIDI, *The Young and the Rightless?*, cit., p. 35.

[74] European Commission White Paper of November 21, 2001 – *A New Impetus for European Youth* [COM(2001) 681final – Not published in the Official Journal], whose main aim was to foster "a new framework for cooperation among the various actors in the youth field in order to better involve young people in decisions that concern them", see https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:c11055&from=EN (last accessed on May 20, 2020). I am indebted to both Hanjo Schild and Howard Williamson for helping me understand the historical context in which the WPY was conceived.

and their interests and makes good use of experience specific to youth policies. As young people want to become *active* in society and feel that policies related to the various aspects of their standard of living impinge directly on them, they object to youth policies being limited to specific areas [my emphasis][75].

A wide public consultation exercise, open to "young people, members of youth organisations, administrators and policy-makers"[76], had been launched the European Commission to draft this document. According to the results based on the opinions of young people, many variables play a role in allowing their *autonomy* to develop. Among others, there are "[t]he environment, immigration, the media, legal systems, health, drug consumption, sexuality, sport, personal safety etc. all refer in one way or another to aspects which affect young people's lives and have an influence on their involvement in the public domain, in education or in finding a job"[77].

Consequently, in order to accomplish young people's individual autonomy, what followed was the need to mainstream "youth" in many other policies, such as education and lifelong learning, employment, social integration, health, mobility, fundamental rights, and non-discrimination[78]. This means that young people's autonomy should be taken into account by other policy areas and, in this respect, the understanding of 'autonomy' can be interpreted as encompassing the notion of 'agency' and 'activation' more than 'autonomy' in a merely economic sense. One example is provided by young people's view that "sexuality is an important aspect of their well-being and personal autonomy. They perceive a need for more information on sexuality, particularly sexual education, contraception, sexual diseases etc."[79]. 'Empowerment' also appears in the

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[75] WPY, cit., p. 13. The WPY remarks the point of economic independence and social protection measures: "[a]utonomy requires income, social protection and housing. Young people consider the lack of financial resources as the most important obstacle to social integration, well-being and *autonomy*], and advocate a comprehensive reform of the public welfare and social security systems, to ensure that all young people, irrespective of their status in society and on the labour market (including those who are not in school or are unemployed), receive adequate coverage on equal terms [my emphasis]", WPY, cit., p. 47.

[76] WPY, cit, pp. 11-12; *cfr*. H. BRADLEY, J.J.B.M. VAN HOOF, J. VAN HOOF (Eds.), *Young People in Europe: Labour Markets and Citizenship*, The Policy Press, Bristol, 2005, p. 29.

[77] WPY, cit. p. 46.

[78] Ivi, p. 21.

[79] Ivi, p. 48.

same document[80], though to a lesser extent and more related to education as an empowering path. The document points to the fact that the skills acquired by young people should not be evaluated only for the needs of the market, but should improve "socialisation, integration and *empowerment* [my emphasis]"[81].

The four areas of the WPY referred to "all" young people, but in fact – in the same way as with "the neutral standard" of the early human rights documents, which took as a parameter "the white, privileged, middle-class men"[82] – three main areas of the WPY (participation, information, voluntary activities) seemed to better satisfy the needs and interests of young people who already had a certain degree of engagement. In this sense, the overall perception among many observers (among whom myself) was that the WPY's unwanted effect was *de facto* to foster the autonomy of those young people already equipped with a given amount of human, social, and economic capital[83] and to empower these very specific groups.

However, there has been an increasing commitment to develop participation of young people from disadvantaged backgrounds in the coming years, also raised by a better knowledge of diverse youth realities.

As regards non-formal learning, the WPY frequently deals with it. Just to provide some examples, this document aims at "expanding and recognising areas of

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[80] Ivi, p. 33 and p. 36.

[81] Ivi, p. 36.

[82] N. BOBBIO, *L'età dei diritti*, Einaudi, Torino, 1990; R. CAMMARATA, L. MANCINI, P. TINCANI (a cura di), *Diritti e culture. Un'antologia critica*, Giappichelli, Torino, 2014; L. FERRAJOLI, *Manifesto per l'uguaglianza*, Laterza, Roma-Bari, 2018; A. FURIA, *"Human discourses": diritti, bisogni, sviluppo, sicurezza*, in G. GOZZI, A. FURIA (a cura di), *Diritti umani e cooperazione internazionale allo sviluppo. Ideologie, illusioni e resistenze*, Il Mulino, Bologna, 2010, pp. 47-62; V. MAHER (a cura di), *Antropologia e diritti umani nel mondo contemporaneo*, Rosenberg & Sellier, Torino, 2011; T. MAZZARESE, *Minimalismo dei diritti: pragmatismo antiretorico o liberalismo individualista?*, in "Jura Gentium. Rivista di filosofia del diritto internazionale e della politica globale", 2007, see <https://www.juragentium.org/forum/ignatief/it/mazzares.htm> (last accessed on May 15, 2020).

[83] On the concepts of social capital, P. BOURDIEU, *The Forms of Capital*, in J.G. RICHARDSON (Ed.), *Handbook of Theory and Research for the Sociology of Education*, Greenwood, New York, 1986, pp. 241-258; J. FIELD, *Social Capital*, Routledge, London, 2008; R.D. PUTNAM, *Bowling Alone: The Collapse and Revival of American Community*, Simon & Schuster, New York, 2001.

experimentation" beyond formal learning as to include "the non-formal aspects of education and training"[84], and to create links between them.

It further explains that "[t]he division between formal and non-formal education is perceived as counter-productive. So, while school remains an excellent forum for learning and for participatory practices, it still has the disadvantage, in young people's opinion, of not taking them into account as *active* citizens [my emphasis]"[85].

However, one of the constant problems concerning non-formal education lies in its recognition and validation. This has raised issues about finding adequate ways to certificate it (e.g., via the development of quality standards and self-assessment tools), while avoiding to loose its "open character and turn into a formal structure by imitating the formal education system"[86]. This document insists on the importance of finding ways to recognise "skills acquired through formal and non-formal learning methods. The role of non-formal learning and the need for a better understanding and recognition of non-formally acquired skills through youth work should be emphasised"[87].

Youth policy was then articulated on three pillars: 1) active citizenship of young people via the Open Method of Coordination (OMC)[88] organised around four priorities, namely participation, information, volunteering, and better knowledge of young people. However, evidences show that "the OMC is dominated by the Member States, although some participation of youth councils and NGO's was identified"[89]. At the same time, the OMC process has, to a certain degree, "strengthened youth-political topics in general"[90].

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[84] WPY, p. 13.

[85] Ivi, p. 25.

[86] Ivi, p. 35.

[87] Ivi, pp. 33-34.

[88] On the webpage of the European Commission the Open Method of Coordination (OMC) is described as "a light but structured way EU Member States use to cooperate at European level in the field of culture. The OMC creates a common understanding of problems and helps to build consensus on solutions and their practical implementation", see <https://ec.europa.eu/culture/policy/strategic-framework/european-coop_en> (last accessed on May 15, 2020).

[89] N. RAHJA, A. SELL, *Evaluation Study of Open Method of Coordination in the Youth Field. Evaluation Study of the Information Access, Actors Roles and Openness in the Process Implementation*, European Youth Forum, Brussels, 2006, p. 41.

[90] Ivi, p. 42.

In the years following the WPY, the EU ambition was to reinforce a structured dialogue[91] with youth (since the end of the first decade of 2000s) – in which the European Youth Forum was highly involved[92]; to pursue social and occupational integration through the implementation of the European Youth Pact (2005, under the Lisbon Strategy), which in its turn has three priorities, i.e., employment/social inclusion, education/training, reconciliation of work and private life; to anhance youth mainstreaming in other relevant policies[93].

The narrative of 'autonomy' and 'empowerment' is present in various EU documents, such as the European Parliament Declaration on Youth Empowerment of 2008[94] or the Communication from the Commission with the telling title 'An EU Strategy for Youth – Investing and Empowering. A Renewed Open Method of Coordination to Address Youth Challenges and Opportunities' of 2009[95], which paved the way to the EU

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[91] On the webpage of the European Commission the structured dialogue is presented as "mutual communication between young people and decision-makers in order to implement the priorities of European youth policy cooperation and to make young people's voice heard in the European policy-shaping process. It is a consultative process, implemented by the European Commission, that aims to increase cooperation with civil society and get firsthand input from young people. It is made up of one main event, the EU Youth Conference organised by the EU country currently holding the EU presidency", see < https://ec.europa.eu/youth/policy/implementation/dialogue_en > (last accessed on May 15, 2020). For a critical reflection on the effectiveness of the structured dialogue, see B. CAMMAERTS, M. BRUTER, S. BANAJI, S. HARRISON, N. ANSTEAD, W. BYRT, *Youth Participation in Democratic Life: Stories of Hope and Disillusion*, Palgrave MacMillan, London, 2016, pp. 91-98.

[92] < https://www.youthforum.org/> (last accessed on May 15, 2020).

[93] Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of November 16, 2007, on a Transversal Approach to Youth Policy with a View to Enabling Young People o Fulfil their Potential and Participate Actively in Society (2007/C 282/12).

[94] The European Parliament, *Written Declaration on Devoting More Attention to Youth Empowerment in EU Policies* (0033/2008), April 21, 2008.

[95] Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, *An EU Strategy for Youth – Investing and Empowering. A Renewed Open Method of Coordination to Address Youth Challenges and Opportunities* (SEC(2009) 545), April 27, 2009. This document was prepared also on the basis of L. BARRINGTON-LEACH, M. CANOY, A. HUBERT, F. LERAIS (Bureau of European Policy Advisers (BEPA)), *Investing in Youth: An Empowerment Strategy*, 2007.

Youth Strategies for the period 2010-2018[96]. This method has been agreed by the EU ministers setting out a framework for cooperation in the field of youth articulated around some core topics.

After recalling the WPY and other documents, the EU aforesaid European Parliament's Declaration of 2008 recommends to the Commission to "incorporate the impact on youth and the results of the structured dialogue with youth organisations, when preparing legislative proposals". In particular, it recommends the incorporation in such policy fields as education and lifelong learning, employment, social integration, health, *youth autonomy*, mobility, fundamental rights, and non-discrimination. It also calls on the Member States to focus on youth "when implementing the Lisbon national reform programmes and to take youth into account in the relevant policy fields"[97]. Within this meaning, empowerment can be intended as "giving voice" to young people's needs.

In its turn, the Commission's Communication of 2009 proposes a new, stronger OMC that "reinforces links with policy areas covered by the European Youth Pact in the Lisbon Strategy for Jobs and Growth" (see below in paragraph 4.2.). The Commission's document suggests improving a cross-sectoral approach to youth-related issues combined with "short-term responses in a long-term effort to *empower* young people [my emphasis]"[98], with a view to supporting youth to "develop their skills, fulfil their potential, work, *actively* participate in society, and engage more in the building of the EU project [my emphasis]"[99]. Among the structural barriers confronting the 'autonomy' of young people, there are challenges in education, employment, social inclusion, and health that intertwine with finance, housing, or transport. 'Autonomy' is defined in this document as "a situation where [young people] have the resources and opportunities to manage their own lives, fully participate in society and decide independently"[100]. The Commission admits that the policies implemented until that moment have proved to be inefficient and that structured dialogue should strive to involve "unorganised youth,

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[96] Council Resolution of November 27, 2009, on a Renewed Framework for European Cooperation in the Youth Field (2010-2018) (2009/C 311/01).

[97] The European Parliament, *Written Declaration on Devoting More Attention to Youth Empowerment in EU Policies*, cit., par. 2.

[98] Communication from the Commission (SEC(2009) 545), cit., p. 2.

[99] *Ibidem*

[100] Ivi, p. 3.

particularly those with fewer opportunities"[101]. The new Youth Strategy announced by the Commission is grounded on a "dual approach": "Investing in youth", namely to mobilise resources in order to "develop policy areas that affect young people in their daily life and improve their well-being"[102]; "Empowering youth" that implies the promotion of their potential in the enhancement of society and "their contribution to the EU values and goals"[103].

This approach has translated into two goals (providing more and equal opportunities for young people's education, as well as for the labour market; encouraging young people to be *active* citizens and to participate in societies) and has been articulated into eight "fields of action": education; employment; creativity and entrepreneurship; health and sport; participation; social inclusion; volunteering; youth and the world. Just to provide some hints on these fields of action, non-formal education should be better integrated into the area of education, which is an aspect to bear in mind for the considerations that I will develop in paragraph 4.3.

In the area of employment, after recognizing that young people often have to face high rates of unemployment, poorly paid jobs, or low-quality and temporary jobs, the Commission suggests to the Member States to work "across the four components of

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[101] *Ibidem*. The Glossary of the Youth Partnership defines 'non-organised youth' or 'unorganised' youth as those who "do not engage in youth work activities". These terms are used maily in some youth policies and in youth work research. In both areas, 'unorganised youth' "is often associated with the concept of 'marginalised group'. This is because in youth work practice many initiatives are created to organise the unorganised young people, increasing the participation of young people in youth work. This practice contributes in marginalising these young people by labelling them "irregular", separating them from their social context and reinforcing social dividing lines. Extensive research projects had been conducted on analysing the youth development within an organised youth participation settings (such as youth clubs, sports clubs, youth centres, youth organisations, etc), however less attention has been invested in non-organised youth. Compared to organised settings, non-organised youth movements/groups involve less adult supervision, might have an irregular participation agenda, less crystallised goals and objectives or rules for behaviour. Even if developed, conducted and evaluated in non-standard settings, the non-organised youth groups develop and conduct activities that are both challenging and attractive to young people", see <https://pjp-eu.coe.int/en/web/youth-partnership/glossary> (last accessed on May 15, 2020); *cfr.* G., VERSCHELDEN, F., COUSSÉE, T., VAN DE WALLE, H. WILLIAMSON (Eds.), *The History of Youth Work in Europe: Relevance for Youth Policy Today*, Council of Europe Publishing, Strasbourg, 2009.

[102] Ivi, p. 4.

[103] *Ibidem*.

flexicurity[104] in order to facilitate transitions from school to work or inactivity or unemployment to work. Once in work, young people should be enabled to make upward transitions"[105]. One of the aims in the area of participation should be to particularly reach out "unorganised or disadvantaged youth"[106]. In the field of 'social inclusion', particular attention is dedicated to the possible causes of exclusion, such as "unemployment, disability, societal and individuals' attitudes towards migration, discrimination, physical and/or mental health, addictive behaviour, abuse, family violence and criminal record"[107]. With regard to this, the Commission stresses the need to address "youth at risk of poverty and social exclusion"[108] and calls for a cross-sectoral approach, under which all relevant sectors (education, employment, and social services) work together to foster the social inclusion of 'all' young people.

In the same way as the WPY, this document also stresses the relevance of complementing formal education with non-formal education, the latter of which "should be supported to contribute to Lifelong Learning in Europe, by developing its quality, recognising its outcomes and integrating it better with formal education"[109], also in order to address gender stereotypes. For the purpose of the recognition of non-formal education, the Commission should also revise "the self-assessment function of Europass [curriculum], in particular for skills developed in non-formal settings and provide certificates such as Youthpass"[110].

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[104] "Flexicurity is an integrated strategy for enhancing, at the same time, flexibility and security in the labour market. It attempts to reconcile employers' need for a flexible workforce with workers' need for security – confidence that they will not face long periods of unemployment", see < https://ec.europa.eu/social/main.jsp?catId=102> (last accessed on May 15, 2020).

[105] Communication from the Commission (SEC(2009) 545), cit., p. 6.

[106] Ivi, p. 8.

[107] Ivi, p. 9.

[108] *Ibidem*.

[109] Ivi, p. 5.

[110] *Ibidem*. The Youth Pass is a European certificate belonging to the European Commission's strategy to foster the recognition of non-formal learning. It was addressed to participants in projects funded through the then Youth in Action and Erasmus Plus programmes based on non-formal and informal learning. This document allowed participants to self-reflect on and depict their learning experiences, process and achievements. Promising attempts like the Youthpass, aimed at recognising skills and knowledge acquired by non-formal learning initiatives, had very little impact at the national level. I argue that such bodies as

In its turn, the document of the Council, which has adopted the Youth Strategy, states that:

[i]t is of vital importance to enable all young women and men to make the best of their potential. This entails not only investing in youth, by putting in place greater resources to develop policy areas that affect young people in their daily lives and improve their well-being, but also *empowering* youth by promoting their *autonomy* and the potential of young people to contribute to a sustainable development of society and to European values and goals. It also calls for greater cooperation between youth policies and relevant policy areas, in particular education, employment, social inclusion, culture and health [my emphasis][111].

In this Youth Strategy, youth work[112] (and the related non-formal learning it adopts) is considered an important mean for social inclusion: "[y]outh work can help deal with unemployment, school failure, and social exclusion, as well as provide leisure time. It can also increase skills and support the transition from youth to adulthood"[113].

In 2011 the aforesaid Working Paper "Pathways 2.0"[114] suggests distinguishing four dimensions of recognition of non formal education and/or learning – "formal, social, political and personal"[115] – when re-defining a further strategy for a better recognition of this kind of education and/or learning as well as youth work.

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the National Youth Agencies (see footnote n. 198) could have probably lobbied more with their governments to promote these instruments. See, more in depth on this tool, the two following Workin Papers: Youth Unit of the Directorate "Youth, Civil Society, Communication" in the Directorate General "Education and Culture" of the European Commission and the Youth Department of the Directorate "Youth and Sport" in the Directorate General "Education, Culture and Heritage, Youth and Sport" of the Council of Europe, *Working paper "Pathways towards Validation and Recognition of Education, Training & Learning in the Youth Field"*, Strasbourg and Brussels, February 2004 and Partnership between the European Commission and the Council of Europe in the field of youth, elaborated jointly with the Salto Training and Cooperation Resource Centre, the European Youth Forum and the Directorates responsible for Youth in the European Commission and the Council of Europe, Working Paper *"Pathways 2.0*, cit.

[111] Recital 5 of the Council Resolution of November 27, 2009 (2009/C 311/01), cit.

[112] For a thorough definition of 'youth work', see: < https://pjp-eu.coe.int/en/web/youth-partnership/glossary> (last accessed on May 15, 2020).

[113] Par. 5 (Section "Further Agrees that") of Council Resolution of November 27, 2009, cit. This aspect is particularly stresse by H.-U. OTTO (Ed.), *Facing Trajectories from Schol to Work*, cit.

[114] See footnotes n. 52 and n. 110.

[115] Partnership between the European Commission and the Council of Europe in the field of youth, elaborated jointly with the Salto Training and Cooperation Resource Centre, the European Youth Forum

During the sixth cycle of the Structured Dialogue titled "Youth in Europe: What's Next?" (July 2017 to December 2018) – aimed at increasing young people's involvement in preparing the next European Youth Strategy – eleven areas of concern[116] emerged as a result of the contribution of decision-makers, young people, and researchers.

The Communication from the Commission "Engaging, Connecting and Empowering Young People: A New EU Youth Strategy"[117] of 2018 suggested a new Youth Strategy for the period 2019-2027. After admitting that "for the first time since the Second World War, there is a real risk that today's young generation will end up less well-off than their parents"[118].

According to the Commission, the new Strategy seeks to "enable young people to be *architects of their own lives*, build their *resilience* and equip them with life skills to cope in a changing world [my emphasis]"[119], which means fostering their autonomy; to "encourage young people to become *active* citizens, *agents* of solidarity and positive change for communities across Europe, inspired by EU values and a *European identity* [my emphasis]"[120]; to prevent youth social exclusion; to improve the impact of policy decisions on young people[121].

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and the Directorates responsible for Youth in the European Commission and the Council of Europe, Working Paper *"Pathways 2.0*, cit., p. 14.

[116] The eleven areas are: Connecting EU with Youth; Equality of All Genders; Inclusive Societies; Information & Constructive Dialogue; Mental Health & Well-Being; Moving Rural Youth Forward; Quality Employment for All; Quality Learning; Space and Participation for All; Sustainable Green Europe; Youth Organisations & European Programmes, see <https://ec.europa.eu/youth/policy/youth-strategy/youthgoals_en> (last accessed on May 15, 2020).

[117] Communication from the Commission to the European Parliament, The European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, *Engaging, Connecting and Empowering Young People: A New EU Youth Strategy* (COM(2018) 269 final), May 22, 2018.

[118] Ivi, p. 1.

[119] Ivi, p. 3.

[120] Ivi, p. 3.

[121] *Ibidem*.

In its opening pages, the document stresses the need to "[i]mplement a youth work agenda to increase recognition of non-formal learning"[122].

As the title of this document suggests, the new Strategy is articulated in three fields of action: to "engage" meaning "to foster youth participation in democratic life"[123]; to "connect", i.e., to bring young people together "across the EU and beyond to foster voluntary engagement, learning mobility, solidarity and intercultural understanding"[124]; to "empower" intended as "supporting youth empowerment through quality, innovation and recognition of youth work"[125]. As far as the first area is concerned, the Commission declares that "now is the time to listen to young people and empower them to turn their dreams into reality"[126]. This statement seems a recognition that their voices have not been effectively listened to until that moment, despite the previous institutional commitment to do so.

To meet this purpose, the Commission's document of 2018 suggests renewing the Structured Dialogue (i.e., the consultative process for youth under the previous 2010-2018 Youth Strategy) in order to reach more effectively young people who are not involved in youth organisations active in the EU matters at the local level, as well as to "better target disadvantaged groups"[127].

This is an important step forward since it aims to go beyond those young people who are already informed and equipped with social and economic capital. As far as the field of "empowerment" is concerned, it is more related to the recognition of youth work, which has great potential, among others, to "benfit[…] young people in their transition to adulthood, providing a safe environment for them to gain self-confidence, and learn in a

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[122] Ivi, p. 2.

[123] Ivi, p. 3

[124] *Ibidem*.

[125] *Ibidem*.

[126] Ivi, p. 4.

[127] *Ibidem*. See O. BÁRTA, D. MOXON, *Vlth Cycle of Structured Dialogue. Consultation Methodology*, Bulgarian Presidency of the Council of EU, Sophia; O. BÁRTA, D. MOXON, *Mapping of Participants Backgrounds*, Austrian Presidency of the Council of EU, Vienna, 2018; S. ROE, *Youth in Europe. What Next? Structured Dialogue Vlth Cycle – Consultation Phase*. Full Report, National Youth Council of Ireland (NYCI), 2018.

non-formal way"[128] as well as to reach "all young people, in particular those with fewer opportunities", "the most vulnerable ones and address their individual needs"[129].

The Commission proposes a twofold approach: "to strengthen the youth perspective across policy areas at EU level", which includes ensuring that "the concerns of young people are heard in EU policy making"[130], accountability, participation, and cross-sectoral initiatives; to boost the Youth Strategy goals by encouraging the Member States "to concentrate on targeted actions translating EU priorities into the national context, to be identified in National Action Plans"[131].

The empowerment of young women and men is viewed in this document as the way in which "youth policy can contribute to meeting successfully the vision of a continent where young people are able to seize opportunities, which *relate to European values*, as set out in the Commission Communication on 'Strengthening *European Identity* through education and culture' [my emphasis][132]": its aim beig to strengthen the EU identity and the sense of belonging to the EU. *Mutatis mutandis*, this brings to mind the statement frequently attributed to Massimo d'Azeglio, about the then recent unification of Italy in 1861: "[f]atta l'Italia, facciamo gli italiani" ("We have made Italy; now we need to make Italians")[133], meaning that despite the fact that Italy had been geographically and politically united, its citizen's sense of belonging was still in the making due to the variety of their different traditions and dialects. So, once the European Union had been created and while it has increasingly gained powers (within the limits of the competences assigned by the Treaty of Lisbon), Europeans still need to be made[134].

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[128] Ivi, p. 6.

[129] Ivi, p. 7.

[130] Ivi, p. 8.

[131] Ivi, p. 9.

[132] Ivi, pp. 1-2; *cfr*. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strengthening European Identity through Education and Culture. The European Commission's Contribution to the Leaders' Meeting in Gothenburg*, November 17, 2017 (COM(2017) 673 final), November 11, 2017.

[133] C. GIGANTE, *'Fatta l'Italia, facciamo gli Italiani'. Appunti su una massima da restituire a d'Azeglio*, in "Incontri. Rivista europea di studi italiani", 26, 2, 2011, pp. 5-15.

[134] P. LAURITZEN, I. GUIDIKOVA, *European Youth Development and Policy: The Role of NGOs and Public Authority in the Making of the European Citizen*, in R.M. Lerner, F. Jacobs, D. Wertlieb (Eds.), *Handbook of Applied Developmental Science: Promoting Positive Child, Adolescent, and Family*

In the first decade of 2000s, evidence showed that "young people in Europe were more likely to identify themselves as European citizens, while holding local and national identities simultaneously. Nevertheless, the idea of citizens of Europe still remains rather vague and abstract"[135].

The "Europeanisation process" has also been described as a "hegemonic project", consisting in shaping Europe "economically, politically, culturally", which emerged in literature since the first decade of 2000s[136]. It involves, among others, "an extensive project of reconstructing governance, and it is in this context that developments in European education policy are to be understood"[137].

The Commission acknowledges that "youth empowerment starts at the grassroots level and depends on the diverse situation of young people"[138]. As far as 'activation' is concerned, it also stresses that "youth struggling with disadvantages are generally *less active citizens* and have less trust in institutions [my emphasis]"[139].

The document also underlines the need to recognise "non-formal learning through youth work, especially beneficial to those with little formal qualifications, as a way to improve employability and entrepreneurial skills"[140].

As far as its recognition is concerned, promoting recognition implies "to underpin the value of youth work for those young people involved in it, appropriate and accepted

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Development Through Research, Policies, and Programs, Sage, London, 2002, pp. 363-382; A. ROTHEMUND, Y. OHANA, *Eggs in a Pan. Speeches, Writings, and Reflections by Peter Lauritzen*, Council of Europe Publishing, Strasbourg, 2008.

[135] N. RAHJA, A. SELL, *Evaluation Study of Open Method of Coordination*, cit, p. 40.

[136] R. DALE, S. ROBERTSON (Eds), *Globalisation and Europeanisation in Education*, Symposium Books Didcot, Oxon, 2009; *cfr*. J. HOLFORD, V. A. MOHORČIČ ŠPOLAR, *Neoliberal and Inclusive Themes*, cit., p. 43.

[137] J. HOLFORD, V. A. MOHORČIČ ŠPOLAR, *Neoliberal and Inclusive Themes, ibidem*; see, from another perspective, D. DOLEJŠIOVÁ, M.Á. GARCIA LÓPEZ (Eds.), *European Citizenship – In the Process of Construction. Challenges for Citizenship, Citizenship Education and Democratic Participation*, Council of Europe Publishing, Strasbourg, 2009.

[138] Communication from the Commission (COM(2018) 269 final), cit., p. 3.

[139] Ivi, p. 1.

[140] Ivi, pp. 6-7.

recognition tools should be developed in line with the Council Recommendation on the validation of non-formal and informal learning and the agenda on skills development"[141].

The Resolution on the European Union Youth Strategy 2019-2027 of 2018[142] reaffirms that the new Youth Strategy should strive to "[e]nable young people to be architects of their own lives, support their personal development and growth to *autonomy*, build their *resilience* and equip them with life skills to cope with a changing world [my emphasis]"[143].

As for 'empowerment', the same document declares:

Empowerment of young people means encouraging them *to take charge of their own lives*. This requires the necessary resources, tools and an environment that is willing to pay proper attention to the voice of young people. Today, young people across Europe are facing diverse challenges, such as difficulties in accessing their social rights, social exclusion and discrimination, as well as threats arising from fake news and propaganda [my emphasis][144].

To pursue this goal, for instance, to allow the true empowerment of youth, "it is necessary to work collaboratively on policies that tackle the specific situation of young people and consequently improve the lives of young people in the EU"[145].

In order to grasp the ambiguity that the term 'empowerment' may entail in this new Youth Strategy, a comparative look at the official translations of the related documents is very insightful.

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[141] Ivi, p. 7; see Council Recommendation of December 20, 2012, on the Validation of Non-Formal and Informal Learning (OJ C 398, December 22, 2012, p. 1-5); Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, *A New Skills Agenda For Europe Working Together to Strengthen Human Capital, Employability and Competitiveness* (COM(2016) 381 final), June 10, 2016.

[142] Resolution of the Council of the European Union and the Representatives of the Governments of the Member States Meeting within the Council on a Framework for European Cooperation in the Youth Field: The European Union Youth Strategy 2019-2027 (ST/14944/2018/INIT) (OJ C 456, December 18, 2018, pp. 1-22).

[143] Ivi, p. 2.

[144] Ivi, p. 5.

[145] *Ibidem*.

In Italian, indeed, it reads 'responsabilizzare', which places a stronger emphasis on young people's responsibility than on "conferring power" to them. In French, it is translated as 'autonomiser' that links 'empowerment' to youth autonomy, while in Spanish and in German it is more related to acquiring capacities (respectively, 'capacitar' and 'Befähigung'). The same translations appear on the EU website of the Youth Strategy[146].

4.2. Policies Aimed at Young People's Employability

Regarding the second kind of policies related to youth employment and employability, the Employment Youth Strategy was launched in 1997, and institutionalised through the OMC[147]. Youth policies in this area have to be contextualised in the EU broader strategy to develop Europe as the most efficient economic and competitive region in the world, which relies on a knowledge-based economy.

More precisely, the European Youth Pact (EYP) was agreed upon by the Council in March 2005 as a tool of the Lisbon Strategy[148] – and launched at the Lisbon European Council on March 23-24, 2000, as a new approach to combine competitiveness and social cohesion. It aimed at renewing the European social model by addressing three key issues: investing on people; building an active and dynamic welfare state; undertake actions against unemployment, social exclusion and poverty[149]. According to Rizvi and Lingard, the Lisbon Strategy, was based on the undepinning principles of neoliberal globalisation and knowledge economy[150].

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[146] See at: <https://ec.europa.eu/youth/policy/youth-strategy_en> (last accessed on May 15, 2020).

[147] J. EVANS, W. SHEN (Eds.), *Youth Employment and the Future of Work*, Council of Europe, Strasbourg, 2010.

[148] More information is available at: < https://www.europarl.europa.eu/summits/lis1_en.htm> (last accessed on May 15, 2020).

[149] WPY, p. 70.

[150] F. RIZVI, B. LINGARD, *Globalizing Education Policy*, Routledge, London, 2010; *cfr*. H. ERTL, *European Union Policies in Education and Training: The Lisbon Agenda as a Turning Point?*, in "Comparative Education", 42, 1, 2006, pp. 5-27; J. FIELD, *Lifelong Learning and the New Educational Order,* 2nd edition, Trentham Books, Stoke on Trent, 2006.

The EYP is explained in detail by the European Commission Communication of May 2005 [151]. This institution provided guidance to the Member States on how to implement the EYP, by stressing the areas of the Lisbon Strategy, which are relevant for it: "measures for the employment, integration and social advancement of young people"; "measures for education, training and mobility"; and "measures for reconciling family life and working life"[152]. The document stresses the relevance of "the *active* citizenship of young people [my emphasis]"[153] which is a core concept in the OMC. The EYP is therefore intended as a contribution to reach a "better understanding and greater knowledge of youth"[154] in the areas concerned, namely: employment; integration and inclusion; entrepreneurship; mobility; recognition of youth work. Lastly, it underlines the importance of "involving" and "consulting" young people and their organisations, both on the development of national reform programmes for the Lisbon Strategy, and on follow-up action[155].

The EYP and the OMC have indeed brought

a crucial focus on youth employment and helped Member States to reflect on this issue in a more systematic, open and harmonised manner. […] Nevertheless, there is no common system of mainstreaming the youth dimension into the European Employment Strategy. Consequently, ensuring proper standards of good-quality provision in this area is difficult[156].

The general EU interventions in this area have, however, increasingly shifted towards a neoliberal understanding of market and governance ever since[157]. They have

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[151] Commission Communication of May 30, 2005, on European Policies Concerning Youth: Addressing the Concerns of Young People in Europe - *Implementing the European Youth Pact and Promoting Active Citizenship* [COM(2005) 206 final - Not published in the Official Journal].

[152] Ivi, p. 3-4.

[153] Ivi, p. 2.

[154] Ivi, p. 9.

[155] Ivi, p. 11.

[156] K. NOWACZEK, *Putting Youth in the Mainstream of EU Employment Policy: Better Governance, More Employment, Enhanced Participation*, in J. EVANS, W. SHEN (Eds.), *Youth Employment and the Future of Work*, cit., p. 170.

[157] H. VAN BAAR, *Socio-Economic Mobility and Neo-Liberal Governmentality in Post-Socialist Europe: Activation and the Dehumanisation of the Roma*, in "Journal of Ethnic and Migration Studies", 38, 8, 2012, pp. 1289-1304; B. VAN BAVEL, *The Invisible Hand? How Market Economies Have Emerged*

reached a point in which even the EU anti-discrimination law – that protects employees from discrimination based on certain grounds[158] –, has been interpreted by some scholars as a tool to foster the integration into the labour market of people who had been traditionally left out, rather than a tool pursuing genuine solidarity and equal rights for the most disadvantaged, or at least as a tool trying to reconcile these two EU "souls"[159]. Consequently, also the youth policies have been impacted by this trend and are oriented in a more neoliberal sense too. They are more based, *inter alia*, on a knowledge-based youth, on human resources and competition, on education for achieving higher-skilled employments, on mobility programmes for fostering intra-European availability of a flexible labour force. However, it has been stressed that the Member States "have apparently fallen short when it comes to realizing labour market activation plus social inclusion, flexibility plus security, better pay plus flexible work organisation, or the inclusion of the younger generation"[160].

The youth unemployment problem is a complex issue, as scholars show[161], and it derives from at least three convergent causes: on the one hand, a high number of

and Declined since AD, Oxford University Press, Oxford, 2016; M.E. SALOMON, B. DE WITTE (Eds.), *Legal Trajectories of Neoliberalism: Critical Inquiries on Law in Europe*, EUI Working Papers, 43, 2019. Beyond the EU scenario, see S. KAMAT, *The Privatization of Public Interest: Theorizing NGO Discourse in a Neoliberal Era*, in "Review of International Political Economy", 11, 1, 2004, pp. 155-176; S. MOYN, *A Powerless Companion: Human Rights in the Age of Neoliberalism*, in "Law and Contemporary Problems", 77, 2015, pp. 147-169; F. MIRAFTAB, *Making Neoliberal Governance*, cit.; F. MIRAFTAB, *Flirting with the Enemy*, cit.; F. MIRAFTAB, *Public-Private Partnerships: The Trojan Horse of Neoliberal Development?*, in "Journal of Planning Education and Research", 24, 1, 2004, pp. 89-101; F. MIRAFTAB, *Invited and Invented Spaces of Participation*, cit.

[158] Young people are protected on the basis of age by the aforesaid Directive 2000/78/CE, but they are also protected on the basis of gender (including sex reassignment), racial or ethnic origin, religion or belief, sexual orientation, and disability according to this and other Directives.

[159] A. SOMEK, *Engineering Equality: An Essay on European Anti-Discrimination Law*, Oxford University Press, Oxford, 2011, p. 10.

[160] Ivi, p. 81; *cfr*. Y. KAZEPOV, (Ed.), *Rescaling Social Policies: Towards Multilevel Governance in Europe*, Ashgate Publishing, Fernham, 2010.

[161] A. BANERJI, S. SAKSONOVS, H. HUIDAN LIN, R. BLAVY, *Youth Unemployment in Advanced Economies in Europe: Searching for Solutions*, International Monetary Fund and European Department and Research Department; T. BOL, H.G. VAN DE WERFHORST, *Educational Systems and the Trade-Off between Labor Market Allocation and Equality of Educational Opportunity*, in "Comparative Education Review", 57, 2013, pp. 285-308; F.E. CAROLEO, O. DEMIDOVA, E. MARELLI, M. SIGNORELLI,

knowledgeable and overqualified young people who are either unemployed or have jobs that are not commensurate with their qualifications – demand does not match supply; on the other hand, youth with vocational training or from disadvantaged backgrounds face difficulties to enter the labour market; furthermore, the number of NEETs young people has dramatically increased in many countries. Of course, I do not mean to explain the complex issue of youth unemployment only through these three lenses, which would be too reductive. In fact, roots and developments of youth unemployment need to be contextualised in the wider national structural and institutional organisation of work. They also need to be contextualised in the area of the national law and policy, which are aimed at tackling unemployment coupled with different welfare systems, as literature shows[162].

The Council adopted the Youth Guarantee with the related Recommendation of April 22, 2013[163], within this context, and in order to tackle youth unemployment, to support young employees for four months after leaving formal education, or after becoming unemployed. Member States have been supported by the European Commission in the implementation of national action plans.

The 'Youth Guarantee' refers to:

a situation in which young people receive a good-quality offer of employment, continued education, an apprenticeship or a traineeship within a period of four months of becoming unemployed or leaving formal education. An offer of continued education could also encompass quality training programmes leading to a recognised vocational qualification[164].

Young People and the Labour Market. A Comparative Perspective, Routledge, London, 2017; R. CEFALO, R. SCANDURRA, Y. KAZEPOV, *Youth Labor Market Integration in European Regions*, in "Sustainability", 12, 3813, 2020, pp. 1-18; V. ESCUDERO, S. KÜHN, E.L. MOURELO, S. TOBIN, *Youth Labour Market Prospects and Recent Policy Developments*, in M. A., Malo, A. Moreno (Eds.), *European Youth Labour Markets: Problems and Polices*, Springer, Cham, 2018, pp. 7-26. As far as Italy is concerned, see P. REBUGHNI, E. COLOMBO, L. LEONINI (a cura di), *Giovani dentro la crisi*, Guerini e Associati, Milano, 2017; A. SPANÒ (a cura di), *I giovani del Sud di fronte alla crisi. Strategie di sopravvivenza e capacità di innovazione*, Franco Angeli, Milano, 2017; V. SERGI, R. CEFALO, Y. KAZEPOV, *Young People's Disadvantages on the Labour Market in Italy*, cit.

[162] *Ex multis*, A. ANDREOTTI, E. MINGIONE, E. POLIZZI, *Local Welfare Systems: A Challenge for Social Cohesion*, in "Urban Studies", 49, 2012, pp. 1925-1940.

[163] Council Recommendation of April 22, 2013, on establishing a Youth Guarantee (2013/C 120/01).

[164] Ivi, 'Whereas' n. 5.

The broader policy framework, within which this document should be located, is clarified by the "Whereas 6" of this Council Recommendation:

[a] Youth Guarantee would contribute to three of the 'Europe 2020' strategy targets, namely that 75 % of the age range 20-64 should be employed, that early school leaving rates should be below 10 %, and that at least 20 million people should be lifted out of poverty and social exclusion".

The second "Whereas" of the same document takes into consideration that some young people face serious barriers in obtaining employment. Among them are young women, young parents (mainly young mothers), and young people who are "at a particular disadvantage or at risk of discrimination". While considering "appropriate supportive measures" required, it recognises "young people's *individual responsibility* in finding a route into economic activity [my emhasis]". In other words, they have to *activate* and *help themselves*.

If compared with other documents, this one places the responsibility and the capability of self-help more explicitly on young people.

Among the initiatives aimed at enhancing youth skills there are those for "early school-leavers and low-skilled young people"[165], initiatives that foster "skills and competences [that] help to address existing mismatches and service labour-demand needs"[166], including ICT/digital skills[167], as well as those that "provide continued guidance on entrepreneurship and self-employment[168]. Other measures relate directly to the labour market: to reduce non-wage labour costs in order to foster the recruitment of young people[169]; to motivate employers to create "new opportunities for young people, such as an apprenticeship, traineeship or job placement"[170]; to promote intra-European labour mobility[171]; to encourage start-ups (through support services) and self-employment "including through closer cooperation between employment services, business support and (micro)finance providers"[172]; to boost "mechanisms for *reactivating*

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[165] Council Recommendation of April 22, 2013 (2013/C 120/01), cit., par. 11.

[166] Ivi, par. 12.

[167] Ivi, par. 13.

[168] Ivi, par. 14.

[169] Ivi, par. 16.

[170] Ivi, par. 17t.

[171] Ivi, par 18.

[172] Ivi, par. 19.

young people who drop out from *activation* schemes and no longer access benefits [my emphasis]"[173].

Some provisions do stress that young people are a heterogeneous group with different and specific needs to be addressed, as well as the need to hear their "voice". With this regard, the document recommends the Member States begin "to consider […] that young people are not a homogeneous group facing similar social environments"[174]; to grant "the consultation or involvement of young people and/or youth organisations in designing and further developing the Youth Guarantee scheme to tailor services to the needs of beneficiaries and to have them act as multipliers in awareness-raising activities"[175]; to focus "on young vulnerable people facing multiple barriers (such as social exclusion, poverty or discrimination) and NEETs, and taking into consideration their diverse backgrounds (due in particular to poverty, disability, low educational attainment or ethnic minority/ migrant background)"[176].

However, the emphasis placed on start-ups and self-employment shows that young people are expected to have a certain degree of human, social, and economic capital, as well as the ability to take their own risks: a wealth of studies shows that self-employment is less protected compared to other kinds of work in many countries, while undertaking of an enterprise requires a set of competences and attitudes that not all people (either young or adult) possess. Depending on national legislation, self-employed people also have to cope with the globalised dictates of the market, high levels of taxation in many countries, lower or no protection in case of illness, and, as the recent Covid-19 emergency shows[177], high risks of ceasing the activities due to unexpected circumstances.

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[173] Ivi, par. 20.

[174] Ivi, par. 1.

[175] Ivi, par. 7.

[176] ivi, par. 8.

[177] N. AHMED, E. GORE, *Pandemic and Precarity: Rethinking what it Means to be Precarious under COVID 19*, April 30, 2020, <http://speri.dept.shef.ac.uk/2020/04/30/pandemic-and-precarity-rethinking-what-it-means-to-be-precarious-under-covid-19/>; CEPS, *Will Sure Shield EU Workers From the Corona Crisis?*, April 6, 2020, <https://www.ceps.eu/will-sure-shield-eu-workers-from-the-corona-crisis/>; EUROSTAT, *Coronavirus May Drive Change in Precarious Employment*, <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20200511-1> (all accessed on May 20, 2020).

In a gender perspective, it also means lower or no protection for self-employed young mothers in many countries.

Neither of these two lastly analysed documents refer to 'autonomy' and 'empowerment', but they refer to such terms as 'active citizenship', young people's 'activation', and "responsibility in finding a route into economic activity".

Generally, both documents deal with young people's entry and, to a lesser extent, stay into the labour market, but the persisting high rates of youth unemployment, particularly in Southern Europe, seem to make their effectiveness questionable. Young people's expectation for a long-term prospect to stay in the labour market or their aspiration to enter a stable labour situation seems more disregarded if compared with the accent on "entering the market". It seems that precariousness, which increasingly characterises the world of work, is part of the game that young people have to play, not to mention the bad working conditions for less qualified and most disadvantaged ones.

Lastly, pointing to young people's activation in the contemporary unemployment scenario, although in combination with the targeted measures of support, can be read in neoliberal terms.

The question of how these policies have been implemented at the national level goes beyond the scope of this paper[178]. It is important to bear in mind though that these are not binding policies and that they interact with provisions of the national welfare system, taxation system, and labour laws. Regarding the latter, the national legislation on rights and duties of self-employed workers and entrepreneurs as well as of employees do play a role. Taking the Italian case as an example, the Youth Guarantee was implemented in 2013[179] and seeks "to address the gap between education and work experience, which is considered the primary cause of the exclusion of youth from employment. The measures and resources that were introduced aimed to reintegrate the young person into

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[178] J. TOSUN, O. TREIB, F. DE FRANCESCO, *The Impact of the European Youth Guarantee on Active Labour Market Policies: A Convergence Analysis*, in "International Journal of Social Welfare", 28, 2019, pp. 358-368.

[179] For the implementation of the Youth Guarantee in Italy, see Piano di attuazione italiano della Garanzia per i Giovani, available at: < http://www.garanziagiovani.gov.it/Documentazione/Documents/Piano-di-attuazione-italiano-della-Garanzia-per-i-Giovani.pdf> (last accessed on May 20, 2020).

either the education system or the labour market, with a view to minimizing the associated 'social risk'"[180]. In the Italian context, this policy "tends to reach young people under the age of 29 [rather than 25]. This age discrepancy highlights the magnitude of extended precariousness in which young Italians are living"[181]. Moreover, in 2014 and 2015, in parallel with the implementation of this policy, the same Italian Government adopted the so-called Jobs Act. It has been officially presented as a legislative intervention seeking to decrease both unemployment and widespread temporary contracts. In fact, the act has introduced "a single, uniform contract, providing gradually increasing job protection ultimately leading to a permanent contract"[182], while at the same time substantially limiting the applicability of the crucial provision (art. 18) of the Workers' Statute of 1970 to very few cases in relation to new individual labour contracts agreed after 2015 (e.g., discriminatory dismissal). Art. 18 originally protected workers in the private sector (enterprises with more than fifteen employees in each productive unit or more than sixty in the whole Italian territory) from dismissal. The Jobs Act created *de jure* two categories of workers: those who were appointed before March 2015, to whom the previous and more protective legislation applies; those appointed after this date, to whom the new and less protective legislation applies (in substance, employees can be dismissed more easily and with limited or no chances of being reintegrated into the workplace; they receive a small amount of compensation depending on multiple variables). It is therefore clear that the aforementioned legislation has a disparate impact on the younger generation of employees who have been appointed after March 2015, and will be appointed in the future, leaving them in the vicious circle of precariousness.

Not even the Italian Constitutional Court acknowledged that this detrimental treatment amounts to an actual violation of art. 3 of the Italian Constitution (principle of formal and substantive equality) based on the fact that "the framework for the application *ratione temporis* of law provisions that follow one another over time [...] 'do not conflict *per se* with the principle of equality, given that the time flow can constitute a valid

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[180] V. CUZZOCREA, B.G. BELLO, Y. KAZEPOV, *Italian Youth in Context – An Analysis Through Multiple Dimensions*, in V. CUZZOCREA, B.G. BELLO, Y. KAZEPOV (Eds.), *Italian Youth in an International Context*, cit., p. 7.

[181] Ivi.

[182] Ivi, p. 6.

element in order to diversify legal situations'" (my translation)[183]. In another words, these changes in law are the result of normative policy choices.

Similar considerations can be made for the welfare measures supporting unemployed young people in the various States.

The very question to answer is whether the European institutions can indeed play the role in fostering 'autonomy', 'activation', and 'empowerment' of young people in non-neoliberal terms through this non-binding policy, given the fact that the Member States have different structures of their labour markets and welfare systems, as well as minimum wage provisions. For the very same reason, the risk is that the EU advertising "good intentions" to support young people may remain, even unintentionally, a rhetoric device.

This situation brings to mind what Amartya K. Sen stated in relation to the responses to unemployment in the European context already in 1997[184]. The Nobel scholar underlined indeed that joblessness in Europe impacted both the States and the individuals. The former had to deal with "the social level, the fiscal cost of unemployment benefits"[185]; the latter ones were confronted with "the penalties of unemployment [that] can be enormously more serious than income distribution statistics may suggest"[186]. Taken together, these challenges "undermine[d] and subvert[ed] personal and social life"[187]. As far as youth unemployment is concerned, it "[could] take a particularly high toll, leading to longrun loss of self-esteem among young workers and would-be workers (such as school-leavers)" [188]. This scholar also pointed to the fact that "[y]outh unemployment ha[d] become a problem of increasing seriousness in Europe, and the […] pattern of European joblessness [was] quite heavily biased in the direction of the young,

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[183] Constitutional Court, Judgment No. 194 of September 26, 2018 – November 8, 2018 (Official Journal, 1st Special Series, No. 45 of November 14, 2018), p. 28. See also European Committee of Social Rights (ECSR), *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Decision of September 11, 2019 (Publicity: February 11, 2020) (Complaint No. 158/2017).

[184] A.K. SEN, *Inequality, Unemployment and Contemporary Europe*, in "International Labour Review", 136, 2, 1997, pp. 155-172.

[185] Ivi, p. 160.

[186] *Ibidem*.

[187] *Ibidem*.

[188] Ivi, p. 162.

including young women"[189]. In such a scenario, Sen already observed that "Europe [was] increasingly being persuaded to put more emphasis on people's ability to help themselves, rather than on the State doing things for them"[190].

With regard to unemployed young people, he stressed:

[i]n addition, a situation in which a person, especially a young person, has a high probability of being jobless is not the best preparation for a psychology of independence. A school-leaver who cannot find a job and falls immediately into the necessity of being supported by the State is not being particularly encouraged to think of being self-reliant. There is, I would even argue, a basic political schizophrenia in wanting people to rely more on themselves and, at the same time, finding the present levels of European unemployment to be "regrettable but tolerable". When jobs are nearly impossible to get for particular groups of workers, to advise "self-help" can be both unhelpful and cruel. To be able to help oneself, anyone needs the hands of others in economic and social relationships […]. The opportunity of paid employment is among the simplest ways of escaping dependency[191].

4.3. Initiatives Based on Non-formal Education and/or Learning

As described in paragraph 4.1., the WPY and the European Youth Strategies underline the need to encourage youth work and to better integrate 'non-formal learning' into the area of education as part of a lifelong learning concept[192]. A number of EU programmes have been developed ever since to encourage and support initiatives based on non-formal education and/or learning also in connection to the aim, among others, of pursuing youth 'autonomy', 'activation', and 'empowerment'. As explained previosuly (paragraph 4.1.), the problem concerning this kind of learning is that it has been "typically undervalued as not being 'real' learning"[193]. This constitutes the difficulties of its recognition. Conversely, based on consultations with young people, it has been often praised as "the most positive, efficient and attractive counterpart to a largely inefficient

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[189] *Ibidem.*

[190] Ivi, p. 167.

[191] Ivi, p. 168.

[192] Communication from the Commission (SEC(2009) 545), cit.; Communication from the Commission (COM[2018] 269 final), cit.; Resolution of the Council of the European Union and the Representatives of the Governments of the Member States Meeting within the Council (ST/14944/2018/INIT), cit.; Council Resolution of November 27, 2009 (2009/C 311/01), cit.

[193] WPY, cit., p. 34.

and unattractive system of formal education"[194]. Its appeal for youth lies mainly in its learner-centred approach and voluntary nature, as well as in the "right to make mistakes"[195].

In the EU context, the "Youth" Programme (2000-2006)[196] – which replaced the previous "Youth for Europe I" and "Youth for Europe II" Programmes – and the "Youth in Action" Programme[197] are good examples of how the EU has started to promote initiatives based on this kind of learning[198]. As far as the former is concerned, the WPY states that one of the aims of the programme was to support non-formal learning for young people, but it needed to be intended as having "a pilot function, and requires complementary action at national, regional and local level"[199] in order to meet the high demand of the greatest possible number of young people across EU member countries. Out-of-school activities have been increased in comparison with the previous "Youth for Europe" Programmes [200]. This Programme sought to improve the participation of "disadvantaged young people" [201] and aimed at including grassroots projects and youngsters that belong to minorities, with a view to tackling various forms of racism[202]. Among the objectives of the "Youth" Programme was to support young people to "promote the *active* contribution of young people to the building of Europe, encourage

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[194] *Ibidem.*

[195] *Ibidem.*

[196] See <https://www.cedefop.europa.eu/en/news-and-press/news/final-evaluation-youth-programme-2000-2006-commission> (last accessed on May 20, 2020).

[197] See < https://ec.europa.eu/youth/success-stories/youth-in-action_en> (last accessed on May 20, 2020).

[198] The Salto Resource Centres and the National Youth Agencies were set up to support EU programmes and undertake initiatives concerning them. The former ones make up a network of seven Resource centres within the European Commission's Training Strategy: 'Salto' stands for 'Support, Advanced Learning and Training Opportunities for Youth': more information on these centres are available at: <https://www.salto-youth.net/rc/>. The latter ones are the national bodies that manage European youth programs. The website of the Italian Agenzia Nazionale Giovani (ANG) can be consulted at: <https://agenziagiovani.it/> (all websites last accessed May 20, 2020).

[199] WPY, cit., p. 35.

[200] Ivi, p. 64.

[201] Ivi, p. 37.

[202] Ivi, p. 53.

their spirit of *initiative* and *enterprise* and their creativity [my emphasis]"[203,] which was coupled with the will to "strengthen their sense of solidarity"[204], to "develop intercultural understanding, and to strengthen fundamental values such as human rights and combating racism and xenophobia"[205]. As in the case of youth policies analysed above, the "Youth" Programme shows its twofold character in combining a more neoliberal and market-oriented goal with the improvement of human rights.

Additionally, in the same way as some documents analysed in the previous paragraphs, the narrative of including "disadvantaged young people" is controversial because it places emphasis on the personal characteristics of youth identity. This brings the risk to contribute, even unintentionally, to the reproduction of the stigma attached to certain groups of young people or an essentialist perception of them (e.g., poor Roma youth, young people with a migration background)[206]. All the more, it can exert the paradoxical effect attributed to positive actions, i.e., feed the perception that it is their condition of being "disadvantaged" that allows them to access the programme. Anti-discrimination scholars have recalled attention on these effects in relation to positive actions suggesting different kinds of solutions[207]. Among the insightful hints coming from this research field, Susanne Baer suggests to revise anti-discrimination in a "post-categorical" perspective[208], which refers not so much to the ground of identity or to the

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[203] Commission Report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Final Evaluation of the "Youth" Community Action Programme (2000-2006) and of the Community Action Programme to Promote Bodies Active at European Level in the Field of Youth (2004-2006)*, (COM[2008] 398 final) 26.6.2008, p. 3; *cfr*. WPY, cit., p. 21.

[204] *Ibidem*.

[205] WPY, cit., p. 21.

[206] I. SOLANKE, *Stigma: An Alternative Limiting Principle in Anti-Discrimination Law?*, in D. SCHIEK, V. CHEGE (Eds.), *European Union Non-Discrimination Law. Comparative Perspectives on Multidimensional Equality Law*, Routledge-Cavendish, Abingdon, Oxon and New York, 2009, pp. 115-136; I. SOLANKE, *Discrimination as Stigma. A Theory of Anti-Discrimination Law*, Hart, Oxford and Portland, 2017.

[207] C. MCCRUDDEN, *The New Concept of Equality*, in "ERA Forum", 4, 3, 2003, pp. 23-24; S. FREDMAN, *Equality: A New Generation?*, in "Industrial Law Journal", 30, 2001, 145-168.

[208] S. BAER, *Chancen und Risiken Positiver Maßnahmen: Grundprobleme des Antidiskriminierungsrechts und drei Orientierungen für die Zukunft*, 2010, see <https://heimatkunde.boell.de/2010/07/01/chancen-und-risiken-positiver-massnahmen-grundprobleme-des-antidiskriminierungsrechts-und (last accessed on May 15, 2020); S. BAER, *Der problematische Hang*

individual condition (for example, gender or "being disadvantaged") but to the related social phenomenon (e.g., sexism or "situation of disadvantage"). Following her elaboration, I argue that it would have been preferred for policies and programmes to refer to "young people in a disadvantaged situation" rather than to "disadvantaged young people".

This terminological shift happened in the following "Youth in Action" programme (YiA), which ran from 2007 to 2013. Its overall objective was to enhance "young people's *active* citizenship in general and their European citizenship in particular [my emphasis]" that was articulated in several goals. In the same way as with the "Youth" programme, it is possible to identify a twofold character within it: on the one hand, it aimed at, *inter alia*, encouraging initiative, enterprise and creativity, developing young people's sense of belonging to the EU, encouraging their participation in the democratic life of Europe (read "through its activation", in order to realise the overall objective "active citizenship"). On the other hand, it fostered "intercultural learning within the youth field", "the promoti[on] [of] the fundamental values of the EU among young people, in particular respect for human dignity, equality, respect for human rights, tolerance and non-discrimination"[209].

The discourse concerning facilitating the participation of "young people with fewer opportunities"[210] seems in the direction to place more emphasis on the constrained situation than on personal characteristics. In the same way, instead of mentioning "disabled young people", the expression "including young people with disabilities"[211] appears, together with the aim of "ensuring that the principle of equality between men and women is respected in participation in the Programme and that gender equality is fostered in the actions"[212]. In the last case, 'women' and 'men' refer to personal characteristics, but it is complemented by recalling the principle of gender equality. At

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zum Kollektiv und ein Versuch, postkategorial zu denken, in G. JÄHNERT, K. ALEKSANDER, M. KRISZIO (Hrsg.), *Kollektivität nach der Subjektkritik: Geschlechtertheoretische Positionierungen, GenderCodes – Transkriptionen zwischen Wissen und Geschlecht*, Transcript, Bielefeld, 2014, pp. 47-69.

[209] All quotations refer to the Decision No 1719/2006/EC of the European Parliament and of The Council of November 15, 2006, establishing the 'Youth in Action' programme for the period 2007 to 2013, art. 3.

[210] Decision No 1719/2006/EC of the European Parliament and of The Council, cit.

[211] *Ibidem.*

[212] *Ibidem.*

first sight, this phrasing seems to include just a binary vision of gender, and it would have been preferable if the document had made explicit the embracing of gender identity as well. However, the preamble of the document adopting the Youth Strategy reminds that it is needed "to promote active citizenship and, when implementing the action lines, to step up the fight against exclusion and discrimination in all their forms, including those based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, in accordance with Article 13(1) of the Treaty [now art. 19 of the TFEU]". Additionally, the Court of Justice of the EU has interpreted the concept of gender broadly and states that discrimination based on gender "cannot be confined to the prohibition of discrimination based on the fact that a person is of one or other sex"[213]: this principle has been acknowledged also by the anti-discrimination Directive concerning the protection from gender-based discrimination at workplace[214] that encompasses discrimination on "the gender reassignment of a person"[215] too.

As the previous Youth programme, also the new one underlines the importance to provide non-formal and informal learning opportunities for young people, which should be linked to the European dimension and active citizenship.

Since 2014, the programmes specifically aimed at youth have been integrated in the Erasmus+ Programme (Erasmus for all) – the new EU programme for education, training, youth, and sport, which continues to offer similar opportunities in the areas of youth and non-formal learning.

This transition has been surrounded by numerous discussions among youth organisations and the EU institution: from a socio-legal perspective, it is interesting to analyse the process by which young people tried to advocate for a standing-alone programme dedicated to youth and to make pressure on the EU Commission to follow their request. In line with this process of policy-production [216], the then EU

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[213] 'Whereas' n. 3 of the Directive 2006/54/EC of the European Parliament and of the Council of July 5, 2006, on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (recast) (OJ L 204, July 26, 2006, pp. 23-36).

[214] *Ibidem*.

[215] 'Whereas' n. 3 of the Directive 2006/54/EC, cit.

[216] F. PRINA, *Il processo legislativo e la produzione del diritto*, in A. COTTINO (a cura di), *Lineamenti di sociologia del diritto*, Zanichelli, Bologna, 2016, pp. 239-297.

Commissioner for Education, Culture, Multilingualism and Youth, Androulla Vassiliou, during the EU Youth Conference 2012 in Soro, Denmark, pronounced the memorable sentence: "[i]f you give me 10 reasons why you need a separate [youth] Programme and these reasons are not in the present Programme [Erasmus+] I will accept"[217].

As a consequence, there was a massive mobilisation among youth organisations in support of their stances, and those 10 reasons were easily found [218], nonetheless the perception among youth organisations at the time, as I could witness, was that they felt as they were not listened to.

Among the main claims for a separate youth-related programme from youth organisations' perspective, there was that a minor role was left to non-formal education and the acknowledgment of its relevance, which was considered inconsistent with the goals set by the EU Youth policy (*supra*, paragraph 4.1.).

For the purpose of this article, the last reason raised by young people remains relevant ("10. Active citizenship, youth participation and social inclusion should constitute the values on which the programme is based"). The explanation of this point reads "[i]f it [the Erasmus+ Programme] won't be based on the notions mentioned above and *will only serve economic aims, such as the better employability of young people* (unfortunately not those excluded from formal education system), we will not be able to build a fair, open and cohesive Europe for All [my emphasis]"[219].

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[217] See <http://www.yeu-international.org/en/publications/newsmail/europe/europe-for-all-10-reasons-why-we-need-a-separate-programme-for-youth> (last accessed on May 20, 2020).

[218] They are the following: "1. The EU Youth Strategy structure is not represented in Erasmus for All; 2. Local and International initiatives and Youth in Democracy actions are missing; 3. No guarantee that the projects will be implemented by youth organisations or be youth-led; 4. Lack of a strong financial support for international organisations; 5. Youth is not involved in the programme management; 7. There is no clear mentioning of the concept of Non – Formal ducation; 8. Youthpass is not included – thus there is no recognition of non-formal outcomes and volunteering; 9. "Erasmus for All" gives the feeling that the focus is on Higher Education and loses the Youth in Action Branding; 10. Active citizenship, youth participation and social inclusion should be the values serving as basis for the programme".

[219] See <http://www.yeu-international.org/en/publications/newsmail/europe/europe-for-all-10-reasons-why-we-need-a-separate-programme-for-youth> (last accessed on May 20, 2020).

The dynamics involved in the dialogue between the EU Commission and young people on this occasion raises questions about how much the voice of youth is actually listened to and shaping actions.

This brings to mind, *mutatis mutandis*, what the Youth Strategies emphasised: the need for improvement of a structured dialogue. It also questions the extent to which young people are allowed to be "active citizens", and to participate in democratic society: in fact, on one hand, youth policies and programmes overstress the rhetoric of young people's activism, and their becoming active citizens; on the other hand, the very EU institutions have proved to disregard the ten valuable reasons brought up by young people in support of a separate programme targeting youth. The last reason, referring in particular to "*serving economic aims such as the better employability of young people*" is meaningful to grasp youth will to go beyond the "market only" (or "market mainly") purposes, as well as for their perception of what the new Erasmus may have become.

However, with regard to the process concerning the Erasmus+ Programme, it is important to stress that I am depicting the perspective of many youth organisations and the situation "behind the scene" from this point of view in this debate. On the contrary, I am providing just the institutional "declared intentions" (my translation)[220] as they emerge from the documents, while I had no access to the debates "behind the scene" at the institutional level. As it is well-known, declared intentions may be real or not and often they serve the purpose of "making the rules themselves more acceptable to the recipients"[221]. For the sake of objectivity, though, it shall be stressed that in the Erasmus+ Programme non-formal education still has a crucial role and the funding of youth programmes has even increased.

Conversely, the Erasmus+ Programme Guide (2014-2020)[222] declares in its opening pages that the programme helps to "tackle socio-economic changes, the key challenges that Europe will be facing until the end of the decade and to support the

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[220] V. FERRARI, *Funzioni del diritto,* cit., p. 134.

[221] *Ibidem*.

[222] Regulation (EU) No 1288/2013 of the European Parliament and of the Council of December 11, 2013, establishing *'Erasmus+': The Union Programme for Education, Training, Youth and Sport*, see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0050:0073:EN:PDF (last accessed May 20, 2020).

implementation of the European policy agenda for growth, jobs, equity and social inclusion"[223]: from the very beginning, it appears not to uphold young people's aforesaid reason to have a separate programme on youth. As far as this target group is concerned, the guide goes on explaining that "[f]ighting high levels of unemployment - particularly among young people - is one of the most urgent tasks for European governments. Too many young people leave school prematurely running a high risk of being unemployed and socially marginalised"[224].

Europe needs more cohesive and inclusive societies which allow citizens to play an active role in democratic life. Among other objectives, the programme fosters "common European values, […] social integration, enhance intercultural understanding and a sense of belonging to a community, and […] prevent violent radicalisation"[225].

This last aim has been explicitly specified by the programme: although the adjective 'violent' makes clear that it is not radical thinking to be an issue *per se*, its real impact depends on how it is implemented in practice, e.g., how the concept is framed, whether and how the very (structural and societal) reasons leading to radicalisation[226] and violent radicalisation are explored, and how a "radical violent young person" is constructed within this framework. One risk lies in the hidden aim to prevent some specific forms of radicalisation, i.e., Muslim radicalisation or movements that pursue informal political participation, such as the *Indignados* or, *mutatis mutandis*, the Fridays for Future movement.

Another risk is that the adjective 'violent' gets lost in the implementation process, and the programme targets *de facto* radical or critical thinking[227] by channeling it into the

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[223] Erasmus+ Programme Guide, p. 5, see <https://ec.europa.eu/programmes/erasmus-plus/resources/documents/erasmus-programme-guide-2020_en> (last accessed May 20, 2020).

[224] *Ibidem.*

[225] *Ibidem.*

[226] *Ex multis*, see H. WILLIAMSON, *Radicalisation to Retreat: Responses of the Young to Austerity Europe*, in "International Journal of Adolescence and Youth", 19, 2013, pp. 5-18.

[227] Essentially, I refer to "critical" to mean a way of thinking that challenges "taken-for-granted ways of knowing; to ask not only what is, but why it is, who benefits, and what are the alternatives", while by "radical" I intend the "belief in the necessity of fundamental or revolutionary changes in practices, conditions, institutions, or ideologies", both quotations are from Z. O'LEARY, *Critical/Radical*, in "The Social Science Jargon Buster", Sage, Los Angeles, 2007.

mainstream patterns. On the contrary, non-formal education and/or learning have often served the purpose to stimulate young people's radical and critical thinking based on such values as human rights and equal opportunities, through tools based on the Theater of the Oppressed[228], Paulo Freire's pedagogy of the oppressed[229], Danilo Dolci's maieutic approach[230], and intersectionality[231], just to mention some of them. As Miraftab notes with regard to women's movements and empowerment, the neoliberal agenda schmooses grassroots civic engagement[232].

With regard to this, the Introduction to the Erasmus+ Programme Guide does not provide any explanation, even though it underlines the role of non-formal learning in fostering active participation of young people in democratic life. The document features both 'activation' and 'empowerment', which underlines that the challenge "relates to the development of social capital among young people, the empowerment of young people and their ability to participate actively in society, in line with the provisions of the Lisbon Treaty to 'encourage the participation in Europe'"[233]. By reading it, however, the "market-oriented" goals seem to prevail. Indeed, it returns on the role of "well-performing education and training systems and youth policies" to equip young people "with the skills required by the labour market and the economy, while allowing them to play an *active* role in society and achieve personal fulfilment [my emphasis]"[234]. It reinforces such statement by underlying that "[t]his investment in knowledge, skills and competences will benefit individuals, institutions, organisations and society as a whole by contributing to growth and ensuring equity, prosperity and social inclusion in Europe and beyond"[235]. However, some scholars praise the non-formal education and/or learning role within the

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[228] A. BOAL, *Theatre of the Oppressed*, Pluto Press, Londo, 1974.

[229] P. FREIRE, *Pedagogy of the Oppressed*, Seabury Press, New York, 1968.

[230] D. DOLCI, *La struttura maieutica e l'evolverci*, La nuova Italia, Scandicci, 1996.

[231] K. A. CASE (Ed.), *Intersectional Pedagogy: Complicating Identity and Social Justice*, Taylor & Francis, Abingdon-on-Thames, 2017

[232] F. MIRAFTAB, *Making Neoliberal Governance*, cit.; F. MIRAFTAB, *Flirting with the Enemy*, cit.; F. MIRAFTAB, *Public-Private Partnerships*, cit.

[233] Erasmus+ Programme Guide, cit., p. 5.

[234] *Ibidem*.

[235] *Ibidem*.

Erasmus+ Programme in the direction of linking education, work and young people's agency[236].

Conversely, with regard to the inclusion of "all" young people, the Erasmus+ Programme Guide – in the same way as the EU Commission Communication on the last Youth Strategy[237] (*supra*, paragraph 4.1.) – has reaffirmed the language that refers to the situation of young people rather than to their personal identity: the former document considers the programme as "an effective instrument to promote the inclusion of people *with disadvantaged backgrounds*, including newly arrived migrants"[238], while the latter affirms that it "is equipped to reach out to those *with fewer opportunities*, who make up over 36% of its beneficiaries [my emphasis]"[239].

In conclusion, the promotion of volunteering initiatives dedicated to young people should be discussed in reference to the EU programmes. The WPY has already mentioned the relevance of promoting youth voluntary service, of its recognition "as an educational experience and a period of non-formal learning"[240], and of enhancing "its status as a non-formal educational experience"[241].

The 2009 EU Commission Communication on the Youth strategy also supports youth volunteering and suggests to improve the voluntary opportunities for young people by "making it easier to volunteer by removing obstacles, raising awareness on the value of volunteering, recognising volunteering as an important form of non-formal education and reinforcing cross-border mobility of young volunteers"[242].

The aforesaid 2018 Communication of the Commission (*supra*, paragraph 4.1.), which includes volunteering in the "connect" field of action, is in line with the 2009 Communication. It supports the "recognition of volunteering experiences and validation of learning outcomes: the skills that volunteers develop deserve to be recognised in the

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[236] H.-U. OTTO (Ed.), *Facing Trajectories from Schol to Work*, cit..

[237] Communication from the Commission (COM[2018] 269 final), cit.

[238] Erasmus+ Programme Guide, cit., p. 5.

[239] Communication from the Commission, (COM[2018] 269 final), cit., p. 3.

[240] WPY, cit., p. 21; *cfr*. p. 27.

[241] Ivi, p. 62.

[242] Communication from the Commission (SEC(2009) 545), cit., p. 10.

labour market, besides the intrinsic value volunteering brings to society"[243]. A concrete measure to support youth voluntarily-based activities goes under the name of European Solidarity Corps[244].

The extent to which all these programmes effectively benefit "all" young people – "privileged" ones with respect to those in vocational education and training, 'NEETs', and young people from precarious backgrounds, such as migrants, refugees, beyond tokenism – depends very much on how they are implemented at national/local level. The pitfall of these activities is that they seem to better reach those young people, whether EU citizens or not, already equipped with a certain amount of social capital, able to get the information, engaged in youth organisations, youth leaders within their own community and who are not burdened by the need to survive economically. The EU institutions are aware of this situation since they stressed the need to reach out also "unorganised" young people at the local level[245] and to get "better knowledge about youth"[246]. To deepen the long-lasting and multifaceted debates surrounding the recognition of non-formal education and/or learning goes beyond the scope of this article. Still, it does not go unnoticed that since WPY 2001 this is an issue, and after approximately 20 years this goal has still to be accomplished[247].

5. The Council of Europe: Supporting Youth since 1972.

The situation portrayed in the previous paragraphs partially differs from the one concerning youth policies and programmes within the CoE. The tradition in this field is much longer within this international organisation than in the EU, and the youth policies of the latter have originally drawn inspiration from those of the former. For the purpose of this article, a diachronic review of some relevant policy acts among the numerous ones

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[243] Communication from the Commission (COM[2018] 269 final), cit., p. 6.

[244] Previously, youth volunteering was supported under the scheme of European Voluntary Service, available at: <https://europa.eu/youth/EU/voluntary-activities/european-voluntary-service_en > (last accessed May 20, 2020).

[245] Communication from the Commission (SEC(2009) 545), cit.

[246] See the WPY, paragraph 4.1. of the present article.

[247] I gained many insights on these debates from Hanjo Schild and Howard Williamson, to whom I am grateful.

adopted by this international organisation in the youth field can be useful to capture developments as they occurred over time. In order to grasp how 'autonomy', 'activation', 'empowerment' have been integrated in the CoE's youth policies and programmes, I will limit my analysis to documents focusing mainly on participation, information, access to rights and non-formal education and/or learning, in which the former three concepts appear most frequently.

Among the very first documents, I shall recall the European Charter on the Participation of Young People in Municipal and Regional Life of 1992, in which the CoE stressed the need to improve youth participation in decisions and actions at regional and local level, without discrimination. The Charter was then substantially revised in 2003[248], with the support of many youth NGOs and INGOs (acronym for 'international non governmental organisations'), such as the European Youth Forum.

This revised Charter places a particular emphasis on 'activation' via the concept of youth 'active participation' at regional and local level. The Annex attached to this Recommendation stresses the need to increase both youth "*active* participation" and "*active* citizenship" "without discrimination. In order to achieve this, special attention should be paid to promoting the participation in local and regional life of young people from disadvantaged sectors of society and from ethnic, national, social, sexual, cultural, religious and linguistic minorities"[249].

The concern with youth unemployment does show in the document, and is apparent in its remarks that:

[w]hen young people are unemployed or living in poverty, they are less likely to have the desire, resources and social support to be *active* citizens in local and regional life. Young people who are unemployed are likely to be among the most excluded in society and, therefore, local and regional authorities should develop policies and promote initiatives to reduce youth unemployment [my emphasis][250].

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[248] Committee of Ministers to Member States, *Recommendation on the Participation of Young People in Local and Regional Life* (Rec(2004)13), November 17, 2004.

[249] Principle 3 of the Annex to the Committee of Ministers of the Council of Europe, *Recommendation Rec(2004)13*, cit.

[250] Ivi, par. 7.

Therefore, the Annex to the Recommendation encourages Member States to (1) take measures to promote employment opportunities for young people; (2) "support the establishment of businesses, enterprises and cooperatives by young people or groups of young people by providing funding and other support such as premises, equipment, training and professional advice"[251] and (3) "encourage experimentation by young people with the social economy, community self-help initiatives or cooperatives"[252]. The document also suggests embracing a gender equality approach[253], including affirmative action among its recommendations with the aim to promote young women's and women's participation, whereby I identify the CoE's will to enhance substantive equality. A special attention is also paid to youth in rural regions[254]. For the aim of this paper, the anti-discrimination policy foreseen by this document is particularly relevant, since it promotes

measures to counter discrimination against minorities (including their young members) or against young people with disabilities and other population groups that may suffer discrimination, and should promote the development of multicultural communities through the integration of minorities, taking account of their diverse needs and customs, cultures and lifestyles[255].

The awareness of the specific needs arising from an increasingly diverse society underlines the value of differences among "situated subjects"[256] rather than channeling them in the direction of a neutral and abstract subject of human rights. What makes this document quite advanced is also the call on governments to raise awareness on issues related to youth sexuality, by underlining that "there is a persistent ignorance surrounding issues of sexual health and mistrust towards official attitudes concerning the risks of certain sexual behaviours"[257].

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[251] Ivi, par. 8.

[252] *Ibidem*.

[253] Ivi, parr. 22-25.

[254] Ivi, par. 26.

[255] Ivi, par. 34.

[256] D. HARAWAY, *Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective*, in "Feminist Studies", 14, 1988, pp. 575-599; S. RODOTÀ, *Il diritto di avere diritti*, Editori Laterza, Roma-Bari, 2013.

[257] Annex to the Committee of Ministers of the Council of Europe, *Recommendation Rec(2004)13*, cit., par. 36.

The document touches upon the legal entropy of legal systems [258], too, highlighting the way it prevents many individuals (especially young people) from "respect[ing] and apply[ing] them, thus creating disparities between citizens. Young people are the most naturally concerned by this phenomenon"[259].

Among the measures that support youth participation in this document are listed "keeping them informed, providing them with means of communication, supporting their projects, and recognising and giving a higher profile to young people's dedication to community causes and voluntary work"[260]. A number of paragraphs[261] are additionally dedicated to the need of informing young people by several means. In a socio-legal perspective, this aspect gains a certain significance because, if law and policy are understood as "messages"[262], then a number of "intermediaries" contribute to their transmission from the "sender" to the recipients: since communication does not happen in a *vacuum,* a number of social actors necessarily intervene in it. Sometimes this can be misleading, with the result that either the message does not reach them or is completely transformed by the numerous "intermediaries" who partake in the comunication process: mass media (and nowadays social media, too) play a major role in it, and therefore direct youth participation in these channels of communication can help youth make their voice heard[263]. As seen in the paragraphs concerning the EU documents, the importance to inform and reach out also "unorganised" young people is a crucial aspect of the effectiveness of policies and programmes, as well as to improve democratic participation by those from disadvantaged backgrounds, in order to achieve substantive equality for all young people[264]. The need to inform young people is considered so important within this

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[258] G. LAZZARO, *Entropia della legge*, Giappichelli, Torino.

[259] Annex to the Committee of Ministers of the Council of Europe, *Recommendation Rec(2004)13*, cit., par. 40.

[260] Ivi, par. 42.

[261] Ivi, parr. 44-48.

[262] V. FERRARI, *Lineamenti di sociologia del diritto. I. Azione giuridica e sistema normativo*, Editori Laterza, Roma-Bari, 2018, pp. 229-235.

[263] Annex to the Committee of Ministers of the Council of Europe, *Recommendation Rec(2004)13*, cit., parr. 49-50.

[264] S.M. DEĞIRMENCIOĞLU (Ed.), *Some Still More Equal than Others? Or Equal Opportunities for All?*, Council of Europe Publishing, Strasbourg, 2011.

institution that another document was entirely dedicated to this issue in 2010[265], in order to foster their "*active* participation [my emphasis]"[266].

The involvement of young people in political life foreseen in the Recommendation of 2004 resonates with Fraser's strong belief in the importance of realising political participation on equal foot rather than being merely represented by others[267]. This position is also supported by the creation of youth councils, youth parliaments, and youth forums by young people themselves[268].

Even though in this document 'activation' doesn't seem to have a neoliberal trait, yet, when it comes to young people's 'autonomy' the Recommendation states that supporting young people's initiatives and projects, "their successes as well as their failures, can also help young people to develop their *sense of responsibility* and their *autonomy*, thus becoming social actors [my emphasis]"[269].

As in the EU youth policies and programmes analysed above, young people's voluntary activities are highly encouraged too. The concept of non-formal learning in this Recommendation is more limited than in following documents, since it refers to its integration in school settings rather than in other places.

At the 5th Conference of the Council of Europe in Bucharest in April 1998, the Youth Ministers of Member States acknowledged the role played by non-formal education in equipping young people with the skills and qualifications that were necessary for them to be integrated into the labour market. As a consequence, in 2000 a Recommendation on Non-Formal Education was adopted[270], in which the CoE recognised that formal educational systems alone "cannot respond to rapid and constant technological, social and *economic change* and for this reason should be reinforced by

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[265] Committee of Ministers to Member States, *Recommendation on Youth Information* (CM/Rec(2010)8), adopted on June 16, 2010.

[266] Ivi.

[267] N. FRASER, *Injustice at Intersecting Scales: On 'Social Exclusion' and the 'Global Poor'*, in "European Journal of Social Theory", 13, 3, 2010, pp. 363-371.

[268] Annex to the Committee of Ministers of the Council of Europe, *Recommendation Rec(2004)13*, cit., parr. 59-66.

[269] Ivi, par. 52.

[270] Parliamentary Assembly, *Recommendation on Non-Formal Education* (1437 (2000)), cit.

non-formal educational practices [my emphasis]" [271]. It added that "investment in education and welfare is an effective measure for the promotion of *active* citizenship and the prevention of social exclusion [my emphasis]"[272]. Within this document, the problem of the certification of non-formal educational activities is raised, as it is considered relevant for mentioning related activities "in curricula vitae as professional experience and cited as internationally recognised skills and qualifications"[273]. As far as inclusion is concerned, Member States are recommended to "make non-formal education accessible for all, through measures such as flexible working conditions […], measures for people in remote areas […], measures for socially disadvantaged persons (poor people, marginalised youngsters, the disabled, minorities)"[274]. In particular, young people should be "educated in a non-formal way ("peer education")"[275]. In this document, which takes into consideration also the needs of the market, non-formal learning is somehow conceived as a way to equip and 'activate' young people for this purpose.

In the area of youth participation in public life[276], a Recommendation of 2006 stresses that supporting young people's participation "include *empowering* them to be *actively* involved in a creative and *productive* manner; that youth participation is not limited to areas and issues which only concern youth [my emphasis][277]". Therefore, it calls upon Member States, *inter alia*, to "help[…] young people to be *active citizens* as a priority in public youth policies, and, in that respect, provide them with learning

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[271] Ivi, par. 2.

[272] Ivi, par.1.

[273] Ivi, par. 7.1. On the recognition of non-formal education see also *Committee of Ministers, Recommendation on the Promotion and Recognition of Non-Formal Education/Learning of Young People* (Rec(2003)8), 30 April 2003. In its Preamble, this document acknowledges that "lifelong learning has an important role to play in reducing social inequality and social exclusion, and in promoting active participation in democratic life; and that non-formal education/learning can contribute to secure all the knowledge and capacities which young people need to succeed in contemporary societies [my emphasis]". Among other recommendations to the States, it calls on them to "introduce support measures for non-formal education/learning initiatives aiming to encourage young people's commitment and contribution to the promotion of values such as active citizenship, human rights, tolerance, social justice, inter-generational dialogue, peace and intercultural understanding [my emphasis]" (par. 1(e)).

[274] Parliamentary Assembly, *Recommendation on Non-Formal Education* (1437 (2000)), cit, par. 7.2.

[275] Ivi, par. 7.5.

[276] Committee of Ministers to Member States, *Recommendation on Citizenship and Participation of Young People in Public Life* (Rec(2006)14), October 25, 2006.

[277] Ivi, Preamble.

opportunities, including in their native language as appropriate, and experience that will increase their participation in public life"[278]; to foster effective youth participation, by improving "living conditions of the many young people in Europe facing precariousness, as a prerequisite for their participation in society and in democratic structures and processes"[279] and by "paying special attention to enabling disadvantaged and vulnerable young people, as well as minority youth, to participate at local, regional and national levels"[280].

The document also asks Member States to "further acknowledge the important role of non-formal learning"[281].

In this document 'empowerment' and being 'active' seem more oriented to give voice to young people and it takes into consideration the challenges that they face at national level. The language though still sticks to the subjective characteristics ("disadvantaged and vulnerable young people") rather than to the situation in which young people live.

Another relevant and more recent document is the 2015 Recommendation on the access of Young People from Disadvantaged Neighbourhoods to Social Rights[282], which aims at achieving substantive equality for young people from such backgrounds. As I will try to explain, this document is definitely human rights-based[283], although some neoliberal trends coexist within it.

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[278] Ivi, par 1(a).

[279] Ivi, 1(g)(i).

[280] Ivi, 1(g)(ii).

[281] Ivi, par. 1(c).

[282] Committee of Ministers to Member States, *Recommendation on the Access of Young People from Disadvantaged Neighbourhoods to Social Rights* (CM/Rec(2015)3), January 21, 2015.

[283] As already mentioned, the human rights-based approach has characterised the activities of the CoE in the youth field since the beginning of its commitment in this area. One example is the fight against racism, xenophobia and intolerance that has a long tradition within the CoE: in fact, in the period 1994-1996, this international organisation ran the first European-wide Youth Campaign against Racism, Anti-Semitism, Xenophobia and Intolerance, in cooperation with European youth organisations with the aim to build a tolerant society. Given the success of this initiative, the Campaign "All Different – All Equal" was ran between mid-2006 and mid-2008, to which the European Commission also contributed; see the Joint Council on Youth, 2009. *All Different – All Equal*, cit., p. 3. The No Hate Speech Movement is another example in this field: < https://www.coe.int/en/web/no-hate-campaign> (last accessed May 20, 2020).

In comparison with previous CoE documents, a linguistic turn is detectable right from the title of the 2015 Recommendation, in that it refers to the *situation* young people live in (i.e., 'young people from disadvantaged neighbourhoods') rather than to their personal identity ('disadvantaged young people'; *cfr.* paragraph 4.3. of the present article and the related considerations made there). This shift is not complete though, because the Glossary annexed to this document also defines "disadvantaged young people". Additionally, in defining youth policies it refers to "vulnerable youth":

youth policy is a strategy implemented by public authorities with a view to providing young people with opportunities and experiences that support their successful integration into society and enable them to be *active* and *responsible* members of their societies, as well as *agents* of change. It involves four dimensions referring to all aspects of young people's lives: a. being in a good shape (physically and mentally); b. learning (informal, non-formal and formal); c. participation; and d. inclusion. Youth policy may combine different means of intervention (legislation, specific programmes, etc.) and integrates a long-term educational perspective. Youth policy targets all young people but should pay special attention to those who are socially, economically or culturally *vulnerable* [my emphasis][284].

As it emerges from this excerpt, both 'activation' and 'responsibility' are mentioned. On the other hand, it underlines the need to take into consideration "those who are socially, economically or culturally vulnerable"[285]. For the sake of thoroughness, it shall be noted that "vulnerability" is a quite familiar concept within the CoE system,

[284] See the Glossary annexed to the Committee of Ministers to Member States (CM/Rec(2015)3), cit.

[285] Among the initiatives promoted with the CoE on this topic, see MARKOVIC, M. GARCIA LOPEZ, S. DZIGURSKI, *Finding a Place in Modern Europe: Mapping of Barriers to Social Inclusion of Young People in Vulnerable Situations*, Partnership between the European Commission and the Council of Europe in the Field of Youth, Strasbourg, 2015.

including the long tradition of the European Court of Human Rights (ECHR)'s jurisprudence[286], which has often dealt with cases of people "in vulnerable situations"[287].

The Preamble of the Recommendation, in particular, opens with the CoE's concern with "the continued deterioration of the social situation and life chances of young people in the context *of the European economic crisis* [my emphasis]". Then, the document advises that Member States to:

develop and implement sustainable, evidence-based public policies that take into consideration *the specific situations and needs* of young people *from disadvantaged neighbourhoods*. These policies should aim at preventing and eradicating the poverty, discrimination, violence and exclusion faced by such young people through efforts to set up a number of measures to allow young people to exert their social rights on equal foot with peers [my emphasis][288].

Member States are also requested to "implement concrete measures to enable all young people to exercise their *active role* in society without discrimination [my emphasis]"[289].

This document, too, stresses the need to recognise "the role of non-formal education and youth work, and those who deliver them, notably youth workers and youth organisations, for the prevention of discrimination, violence and exclusion and the promotion of *active* citizenship in disadvantaged neighbourhoods and provide support for their development [my emphasis]"[290].

The Appendix to this Recommendation details the measures that States should undertake to improve the social rights of young people from disadvantaged neighbourhoods. To this purpose, it recalls the goals reached by the CoE through the

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[286] M. ARNARDÓTTIR, *Vulnerability under Article 14 of the European Convention on Human Rights*, in "Oslo Law Review", 4, 3, 2017, pp. 150-171; R. CHENAL, *La definizione della nozione di vulnerabilità e la tutela dei diritti fondamentali*, in "Ars interpretandi", 2, 2018, pp. 35-56. See also C. RANCI, *Social Vulnerability in Europe. The New Configuration of Social Risks*, Palgrave Macmillan, New York, NY, 2010.

[287] European Court of Human Rights [Section III], *B.S v. Spain*, Judgment of July 24, 2012 (Application no. 47159/08), in which the Court refers to the "particular vulnerability inherent in [the victim]'s position as an African woman working as a prostitute" (par. 62).

[288] Ivi, par. 1.

[289] Ivi, par. 1(d).

[290] Par. 1(e) of the *Recommendation on the Access of Young People from Disadvantaged Neighbourhoods to Social Rights* (CM/Rec(2015)3), cit.

"Enter!" Project[291], which has been directed by the Youth Department of the CoE (*infra*, in this paragraph) with inter-sectoral partners since 2009. One of the main characteristics of this project is that it encompasses measures "*grounded in the realities of the lives of the young people* from disadvantaged neighbourhoods [my emphasis]" [292] and experiences reported by a number of social actors, such as "youth workers, policy makers, researchers and all stakeholders of the youth sector of the Council of Europe"[293].

Bringing young people's "specific needs" and concrete "realities of life" to the core of youth policies is among the elements that mark a difference between the CoE's approach to youth-related issues and that of many EU documents.

The Appendix is structured around seven main areas of action: 1) improving the living conditions of young people in disadvantaged neighbourhoods (through education and training; employment and occupation; housing; health; information and counselling; and sport, leisure as well as culture); 2) breaking down segregation and the promotion of social inclusion; 3) promoting meaningful participation opportunities in the planning and management of their living environment; 4) ensuring that all young people are fully able to exercise their role as active citizens without discrimination; 5) recognising and supporting non-formal education, youth work, youth organisation and youth workers in disadvantaged neighbourhoods; 6) improving gender equality of young people living in disadvantaged neighbourhoods; 7) and, lastly, preventing all forms of violence in disadvantaged neighbourhoods[294].

In the field of education (first area of action), Member States are recommended to "promot[e] the development of non-formal educational partnerships between schools, youth workers and independent youth organisations as part of a *holistic lifelong learning strategy* at the centre of which is placed *the learners' needs* and their *active* participation [my emphasis]"[295].

In the first area of action is also recalled the need to inform recipients of the Recommendation, in a similar way to the aforesaid revised Charter of 2003. The document stresses that "[y]oung people living in disadvantaged neighbourhoods have

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[291] See: <https://www.coe.int/en/web/enter/home?desktop=true> (last accessed on May 20, 2020).

[292] Appendix to *Recommendation on the Access of Young People from Disadvantaged Neighbourhoods to Social Rights* (CM/Rec(2015)3), cit., p. 9.

[293] *Ibidem*.

[294] Ivi, pp. 10-22.

[295] Ivi, p. 11.

limited access to information and counselling because of their location and lack of resources. However, *they are among those who need such services the most* [my emphasis]"[296]. As a consequence it suggests various activities that State Parties shall undertake to effectively reach this target group.

The difference between this document and the EU youth policies is quite evident, especially if one considers the latest EU documents. In fact, both the holistic approach and the relevance of *"learners' needs"* seem to drive the goals of this document away from market-only (or market-mainly) demands, although 'responsibility' recalls one of the implications of a neoliberal understanding of agency analysed above (see paragraph 2).

In the Glossary attached to the Recommendation 'active citizenship' is defined as:

[t]he capacity for thoughtful and *responsible participation* in political, economic, social and cultural life. Young people learn about active citizenship through introduction to the concepts and values underpinning citizenship in a democracy (usually through some form of education, formal or non-formal), by *being active and responsible* members of their community (through the activities of civil society) and, once they have reached the relevant age, by practicing the rights and r*esponsibilities* of citizens in a democracy (voting, standing for elected office, etc.). *It is at one and the same time a human right and a responsibility*. Active citizenship requires both opportunity and *competence*. Young people experiencing barriers to accessing social rights are also more likely to experience barriers to exercising active citizenship and participating *responsibly* in society[297].

Though to a lesser extent than the EU's latest youth policies, 'activation' is here highly linked to the capacity of youth to take their own responsibilities, a meaning that is close to one of the three meanings that 'agency' holds in neoliberal terms (*supra*, paragraph 2). In this context, 'activation' is not merely conceived for market's purposes - yet the Recommendation over-stresses the expectation that young people are or must become "responsible" of their own life. The presumption of this document hence lies perhaps in the effective impact that the measures it foresees can have on young people's life. The resulting issue is that the implementation of these measures in support of these subjects and their "being responsible" come to depend on Member States, while in many

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[296] Ivi, p. 16.

[297] Glossary of the *Recommendation on the Access of Young People from Disadvantaged Neighbourhoods to Social Rights* (CM/Rec(2015)3), cit., pp. 22-23.

countries young people in constrained situations do not receive this support and must count on self-help.

When it comes to 'autonomy', the Preamble of the Recommendation acknowledges that "in their transition to *full autonomy* and adulthood, young people from disadvantaged neighbourhoods, especially those living in poverty, are more vulnerable to all kinds of risks, including poor physical and mental health, substance abuse, self-harm, violence, discrimination and exclusion [my emphasis]"[298].

Again in the Glossary, 'social disadvantage' generates "a lack of access to the instruments required by every person for self-sufficiency and sustainable *autonomy* [my emhasis]"[299].

'Empowerment' here concerns more youth organisations than individuals. In fact, national governements are requested to take measures "to ensure that the environment is *empowering* youth organisations that are active in youth work and non-formal education/learning in disadvantaged neighbourhoods, including through the provision of sustainable funding and other forms of structural support [my emphasis]"[300].

Lastly, this Recommendaton adopts a gender perspective that is indeed valuable, even though gender seems to be limited to the dichotomy women/men, while it does not mention other gender identities. This is also an institutional ambiguity, considering the establishment of the Sexual Orientation And Gender Identity Unit (SOGI Unit)[301] by the CoE and the cross-sectoral cooperation between this Unit and the Youth Department on many occasions. In my perspective, it would have been advisable to directly include a broader concept of gender.

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[298] *Recommendation on the Access of Young People from Disadvantaged Neighbourhoods to Social Rights* (CM/Rec(2015)3), cit., p. 7.

[299] Glossary of the *Recommendation on the Access of Young People from Disadvantaged Neighbourhoods to Social Rights* (CM/Rec(2015)3), cit., p. 23.

[300] Glossary of the *Recommendation on the Access of Young People from Disadvantaged Neighbourhoods to Social Rights* (CM/Rec(2015)3), cit., p. 23.

[301] The website of the SOGI Unit is avaliable at: < https://www.coe.int/en/web/sogi> (last accessed on May 20, 2020).

Another relevant document within the field of the access to rights, is the Recommendation on Young People's Access to Rights of 2016[302], concerning young people in general.

Among the reasons leading to the adoption of this document are increased challenges faced by many young people across Europe in accessing their rights due to "economic, social and environmental problems, and other difficulties faced by many European societies"[303]; to structural obstacles potentially leading to the "risks of youth disengagement"[304]; and to the:

> [d]emographic changes and the current economic situation [that] have put young Europeans in a difficult position in which they are increasingly experiencing challenges to the full enjoyment of human rights and to a smooth transition to an *autonomous* life. Unemployment, precariousness, discrimination and social exclusion are a reality for many young people in Europe. Even those with good qualifications experience a difficult transition from education to the labour market. Young people are among the most vulnerable groups in society and the dire socio-economic situation in many Council of Europe member States presents huge barriers to their *autonomy*, to their personal development and to their full participation in society [my emphasis][305].

The Memorandum also explains that:

> [i]n order for young people to understand their rights, accept the *accompanying responsibilities* and be given opportunities to express themselves, their *active and effective participation* in the life of society and in decision making must be encouraged from an early age. They must be listened to and provided with the means to *actively participate* in decision making affecting their lives. Helping young people to become *active citizens* is a central element of youth policy and youth work [my emphasis][306].

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[302] Committee of Ministers, *Recommendation on Young People's Access to Rights and Explanatory Memorandum* (CM/Rec(2016)7), September 28, 2016.

[303] Explanatory Memorandum to the Committee of Ministers (CM/Rec(2016)7), cit., p. 16.

[304] *Ibidem*.

[305] *Ibidem*.

[306] Ivi, p. 17.

The role of "[e]ducation and learning, both formal and non-formal" is emphasised, as a way to equip young people with "the necessary knowledge, skills and attitudes for accessing and exercising their rights"[307].

Member States are called upon to "develop and apply youth policies which support young people's access to rights"[308], to "adopt a human rights-based approach to ensuring young people's access to rights", since it "*empowers* people to know and claim their rights [my emphasis]"[309].

The need that this Recommendation seeks to address is explained as follows:

young people continue to be adversely and disproportionately affected by the economic and social difficulties facing many member States. As a consequence, the *transition to autonomy* for young people is increasingly precarious. Youth policies are particularly vulnerable to *austerity programmes* as they move down the list of priorities *for State intervention and resource allocation*. This Recommendation responds to the impact of these changing circumstances and the resultant threats to young people's free access to rights. It emphasises the importance of safeguarding rights for all young people, particularly those *with fewer opportunities* to have their *voices heard* and reminds us that sustaining the sort of society we want to live in relies on the competences of young people, and their understanding and commitment to human rights, democracy and the rule of law"[310].

This excerpt raises several relevant issues relating to the importance of young people's "voice"; it uses a language that shifts the focus from the individual characteristics to the situations in which young people live ("with fewer opportunities", *supra*, paragraph 4.3.); it acknowledges that "something went wrong" in the economic crisis management, to use the words of the European Youth Forum[311]; it calls for State's initiatives to support young people and tries to socially orient their actions in the direction of enhancing their rights. The concern for the lack of opportunities in many Member

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[307] Ivi, p. 16

[308] Ivi, p.18.

[309] *Ibidem*, both quotations.

[310] Ivi, p. 21.

[311] European Youth Forum, *Youth in the Crisis: What Went Wrong?*, 2014, <https://www.youthforum.org/youth-crisis-what-went-wrong> (last accessed on May 20, 2020).

States – the very place where policies have to be implemented – features in other parts of the Memorandum too.

The text of the Recommendation calls upon the States to undertake initiatives improving young people's access to rights and enforcing the principle of substantive equality, such as addressing discrimination against young people; removing obstacles to youth associations; improving the access to education, to employment, to health services; tackling precariousness[312].

It also suggests States undertaking "a critical and profound knowledge-based analysis"[313] of challenges faced by young people, and to:

establishing strategies to improve young people's access to rights that reflect the principles of the universality and indivisibility of human rights, non-discrimination and equal opportunities, gender equality, accountability, democracy, participation and intergenerational solidarity[314].

'Activation' is recalled several times with regard to "active participation" and "active citizenship", but it does not seem to be understood according to neoliberal terms in this text, although it couples with young people's responsibility linked with the access to rights. If compared with other texts analysed so far, this Recommendation belongs to those more strongly expressing the "human rights-based approach" within youth policies.

Among the latest Recommendations worth mentioning is the one concerning the support of young refugees in transition to adulthood[315], which is crucial in times of strentghened "Fortress EU": all the more, being a document of the CoE, it reaches many countries beyond EU Member States, where the conditions of young refugees is even less protected.

This document is particularly relevant because the attention is frequently focused on unaccompanied minors[316] only (at different levels of governance) – who need of course to be most supported. The problem raises when they turn 18 years old, and many

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[312] Committee of Ministers (CM/Rec(2016)7), cit., pp. 7-8.

[313] Ivi, p. 8.

[314] *Ibidem*.

[315] Committee of Ministers, *Recommendation on Supporting Young Refugees in Transition to Adulthood* (CM/Rec(2019)4), April 24, 2019.

[316] See footnote n. 57.

measures targeting them cease: consequently, their integration process in the local communities risks to be jeopardised and interrupted[317].

Since 1997, Member States' national youth policies have undergone a process of review (under the coordination of scholar-activists of the likes of Howard Williamson)[318]. Currently, the key areas of intervention are: participation, information, inclusion, access to rights, youth work, and mobility.

A major role in supporting youth policies has been played by the Youth Department since its inception in 1972[319]: today, this is part of the Directorate of Democratic Participation within the Directorate General of Democracy ('DGII'). Among the tasks of this Department figure "the elaborations of guidelines, programmes and legal instruments for the development of coherent and effective youth policies at local, national and European levels"[320]. Since its establishment, the Youth Department has supported international youth activities promoting such values as youth citizenship, human rights, democracy and cultural pluralism, while also providing training opportunities for young people based primarily on non-formal learning[321]. In 1972, besides, the CoE established the European Youth Foundation (EYF)[322] in order to provide financial and educational

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[317] In Italy, a good practice at the local level is the "WelcHome" project that shows to positively impact also on the transition to adulthood of former unaccompanied minors <http://www.welchomemodena.it/il-progetto-welchome/cos-e-welchome/cos-e-welchome/> (last accessed on May 20, 2020). This project is undergoing the assessment process at the moment, led by Prof. Thomas Casadei and his research team within the Centro di Ricerca Interdipartimentale su Discriminazioni e Vulnerabilità (CRID) at the Università di Modena e Reggio Emilia, coordinated by Prof. Gianfrancesco Zanetti, <http://www.crid.unimore.it/site/home.html> (last accessed on May 20, 2020).

[318] For an in-depth analysis of the CoE international reviews of national youth policies, see H. WILLIAMSON, *Supporting Young People in Europe. Principles, Policy and Practice*, Council of Europe Publishing, Strasbourg, Vol. I, 2002; H. WILLIAMSON, *Supporting Young People in Europe. Principles, Policy and Practice*, Vol. II, Council of Europe Publishing, Strasbourg, 2008; H. WILLIAMSON, *Supporting Young People in Europe. Looking to the Future*, cit.

[319] In 1972, this office started as a Youth Directorate and then became a Department in the re-structuring process occurred within the CoE.

[320] For further information see: <https://www.coe.int/en/web/youth/about-us> (last accessed on May 20, 2020).

[321] Within the CoE a major role in implementing activities based on non-formal education and/or learning has been played by the Pool of Trainers of the Youth Department of the Council of Europe <https://trainers-youthapplications.coe.int/> (last accessed on May 20, 2020).

[322] See: <https://www.coe.int/en/web/european-youth-foundation> (last accessed on May 20, 2020).

support for European youth activities to youth NGOs based in the Member States that had signed the European Cultural Convention[323]. In 1972, all the more, the first European Youth Centre (EYC) was set up in Strasbourg[324] as a meeting place to implement the Council of Europe youth programme. With the same aims and the additional purpose of bridging between the then Western European and Eastern European countries, in 1995 another European Youth Centre was established in Budapest[325]. The Programmes launched by the Youth Department address both youth in general and young people belonging to different minorities: the initiatives concerning young Roma people is worth mentioning, as it includes cross-sectoral cooperation with other bodies of the CoE, aiming at tackling multiple discriminations as well[326]. Even in this case, programmes are mainly addressed to "organised" young people within these communities, while the multiplying effects at local level remains difficult to assess. Most recently, initiatives for young refugees have been also supported.

In terms of the decision-making process within the Youth Department of the CoE, relevant bodies are the European Steering Committee for Youth ('CDEJ'[327]) and the Advisory Council on Youth ('AC'). The former is made up of representatives of governments or institutional entities that are responsible for youth matters in the States that are parties to the European Cultural Convention; it enhances cooperation among countries in the youth sector and the exchange of good practices related to national youth policies, while also drafting standard-setting documents. The latter, in turn, brings together thirty representatives of non-governmental youth organisations and networks, with some individual appointments in order to ensure that also "unorganised" young people are represented[328].

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[323] European Cultural Convention, adopted on December 19, 1954, and entered into force on May 5, 1955 (Council of Europe Treaty Series no. 018).

[324] See: <https://www.coe.int/en/web/youth/eyc-strasbourg> (last accessed on May 20, 2020).

[325] See: <https://www.coe.int/en/web/youth/eyc-budapest> (last accessed on May 20, 2020).

[326] The Roma Youth Action Plan, < https://www.coe.int/en/web/youth-roma/home?desktop=true> (last accessed on May 20, 2020).

[327] CDEJ is the acronym for 'Comité directeur européen pour la jeunesse', the French translation of the 'European Steering Committee for Youth'.

[328] I thank Howard Williamson for drawing my attention to this point.

Together, the CDEJ and the AC co-manage decisions within the Joint Council on Youth and the Programming Committee on Youth, i.e. the context where youth NGOs have the opportunity to contribute to the production of youth policies, legislations and programmes, and make their voice heard. If compared with participatory processes and the agenda setting in the EU, Members States do play a key role in the Joint Council, but youth NGOs literally seat at the "table" where decisions are taken.

A closer look at the NGOs represented in the AC though reveals that these organisations, similarly to what happens in the EU institutional dialogue with youth NGOs, tends to bring forth the voice of those more "organised" and better equipped with social capital[329] – such as students or youth leaders engaged in the youth field – despite some individual nominations aimed at balancing this situation.

Moreover, the diversity and rights of young people who belong to minority groups or come from disadvantaged backgrounds are represented in just about ten organisations, namely comprised of Muslim, LGBTQI+, or Roma individuals; youth belonging to other autochthonous minorities; young refugees in transition to adulthood; and young people in rural areas. In this context, three members of the AC act as Joint Council on Youth's rapporteurs to ensure that gender equality, Roma and disability issues are given attention. Euro-Arab dialogue is also encouraged. However, the question is whether and to which extent these representatives reflect the needs and view, in a participatory and bottom-up perspective, of unorganised youth at the local level and/or in conditions of marginalisation; and act as multipliers of information towards them. The analysis of the documents issued by the AC (e.g. statements)[330] in the past five years show a commitment to improving the rights of these "categories" of youth, while issues like extreme youth poverty seem less addressed.

Another relevant space for young people's voice is the Conference of INGOs[331] – among which many youth INGOs – that usually meets twice a year in Strasbourg during the ordinary sessions of the Parliamentary Assembly of the CoE.

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[329] See <https://www.coe.int/en/web/youth/meet-the-ac> (last accessed on May 20, 2020).

[330] See <https://www.coe.int/en/web/youth/advisory-council-on-youth#{%2224899729%22:[4]}> (last accessed on May 20, 2020).

[331] See <https://www.coe.int/en/web/ingo/the-conference-of-ingos-in-a-nutshell> (last accessed on May 20, 2020).

While the fact that instances concerning youth who are unorganised, excluded or at risk of exclusion are brought by youth NGOs and INGOs to the "tables" where decisions are taken is definitely to be praised, it might be useful to reflect on the effective role played within these bodies by these social actors, especially if compared with the commitment expressed in the CoE's document analysed above in support of the participation of "all" young people.

In his insightful and critical article of 1998[332] concerning the United Nations (UN) human rights system, Upendra Baxi raised the question of the role played within it by NGOs. The scholar interrogated for instance the way in which NGOs are accredited by the UN – that is in itself an exercise of power –, and their increased "specialisation" in terms of becoming "quasi-international civil servants and quasi-diplomats for human rights"[333]. This situation entails the risk of

co-optation and alienation [of some NGOs] from the community of the violated, especially when the NGO activity becomes the mirror-image of intergovernmental politics. However, this sort of intervention does offer, when invested with integrity, substantial gains for the progressive creation of human rights norms[334].

As already argued on previous occasions[335], based on my own experience and on a wealth of literature[336], I am persuaded that NGOs (including youth ones within the AC)

INGOs have enjoyed a participatory *status* since 2003 (compared to the previous consultative *status* since 1952). At the moment, more than three hundreds INGOs hold this *status* and represent civil society's instances in the dialogue involving the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities of the CoE. INGOs contribute to "decide[…] on policy lines and define[…] and adopt[…] action programmes" (quotation from the CoE's afore mentioned website). This Conference is comparable to the CoNGO, i.e. the Conference of Non-Governmental Organisations in Consultative Relationship with the United Nations (CoNGO). The main difference among the CoE and UN systems is the participatory role of INGOs within the former one and the consultative role in the latter one.

[332] U. BAXI, *Voices of suffering and the future of human rights*, in "Transnational Law & Contemporary Problems", 8, 2, 1998, pp. 125-170.

[333] Ivi, p. 161.

[334] *Ibidem*.

[335] B.G. BELLO, *Intersezionalità*, cit.; B.G. BELLO, *Un anniversario da festeggiare? Riflessioni sulla norma antidiscriminatoria dell'Unione europea a vent'anni dalla sua emanazione*, in "Diritto pubblico comparato ed europeo", forthcoming 2020.

[336] *Ex multis*, A. AFSHARIPOUR, *Empowering Ourselves: The Role of Women's NGOs in the Enforcement of the Women's Convention*, in "Columbia Law Review", 99, 1999, pp. 129-172; M.R.

do play a fundamental role in advancing human rights and are (or can be) watchdogs of governments' violations.

All in all, while CoE's youth policies are definitely more human rights- than market-oriented, also this international organisation is characterised by a certain degree of institutional ambiguity. On the one hand, it promotes young people's substantive equality, participation, and non-discrimination both through general youth policies and with targeted measures for specific groups of young people. On the other hand, in certain documents, the emphasis is put on young people's responsibility, as well as on their need to be equipped enough for the needs of the market. Lastly, though embracing the overall goal of participation of "all" young people in decision-making processes – which is much more than a symbolic mantra –, even the CoE does not seem to reach this goal despite its co-management in the agenda setting.

6. The Partnership between the European Commission and the CoE in the Field of Youth: A Bridge between the EU and the CoE

In 1998, when the EU initiated its commitment in the field of youth policies (*supra*, paragraph 4.1.), the European Commission and the Council of Europe established a Partnership in the field of youth[337] – the already mentioned Youth Partnership –, in order to develop a training programme for youth trainers, aimed at the promotion of common values, such as human rights, pluralist democracy, the rule of law, active citizenship and European cooperation. Since 2005 its initiatives have extended to the Euro-Mediterranean cooperation[338], with the intention to enhance cooperation among institutions responsible for youth policy, as well as among other stakeholders and young people.

FERRARESE, *Le istituzioni della globalizzazione. Diritto e diritti nella società transnazionale*, Bologna, Il Mulino, 2000, pp. 109-110; M.R. FERRARESE, *Diritto sconfinato. Inventiva giuridica e spazi nel mondo globale*, Laterza, Roma-Bari, 2006, p. 33.

[337] For further information see: <https://www.coe.int/en/web/youth/about-us> (last accessed on May 20, 2020).

[338] <https://pjp-eu.coe.int/en/web/youth-partnership/youth-policy-co-operation> (last accessed on May 20, 2020).

This body bridges between the EU and the CoE. The dialogue that the Youth Partnership seeks to promote is based on the so-called "triangulation" among policy-makers, youth researchers and young organisations and/or people. In doing so, it fosters an ongoing nurturing among institutions, "experts"[339] and young people's instances, seeking to support the production of informed and evidence-based youth policies (from the "bottom", through young people's voice, and based on youth research). It does not issue policy documents in a narrow sense, differently from both the EU and the CoE that adopt youth policy documents, which remain non-binding for Member States.

Once again, though, even within this "trialogue", one issue remains of concern around the access by unorganised youth. Although the Youth Partnership regularly undertakes initiatives aimed at and involving youth from disadvantaged backgrounds or belonging to minorities – including young refugees in more recent times – my own perception is that young people belonging to NGOs are better represented in the events it gathers.

An exception (among others) was the Conference "Beyond Barriers – Conference on the Role of Youth Work in Supporting Young People in Vulnerable Situations"[340], that took place in Malta in 2014 and during which the first data of the mapping exercise "Barriers to Social Inclusion for Young People in Vulnerable Situations" were presented. The report of this event is no longer available online, but as General Rapporteur I can witness that individual young people were participating and presented their needs. During the event, Lieve Bradt (one of the keynote speakers) suggested that "the needs should be those perceived and expressed by young people themselves. This would require elder generations to step back and admit that they don't know 100% young people's needs"[341]. Many formal and informal debates concerned also the increased neoliberal governance of youth-related issues that has led to the individualisation and privatisation of young

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[339] Many researchers belong to the Pool of European Youth Researchers (PEYR) of the Youth Partnership, <https://pjp-eu.coe.int/en/web/youth-partnership/peyr> (last accessed on May 20, 2020), who are selected on the basis of open calls. Concerning the role of experts in decision-making processes, see F. PRINA, *Il processo legislativo e la produzione del diritto*, cit., pp. 271-272.

[340] MARKOVIC, M. GARCIA LOPEZ, S. DZIGURSKI, *Finding a Place in Modern Europe: Mapping of Barriers to Social Inclusion of Young People in Vulnerable Situations*, cit.

[341] B.G. BELLO, *Unpublished Report on the Conference ""Beyond Barriers – Conference on the Role of Youth Work in Supporting Young People in Vulnerable Situations"*, Malta, November 26-27, 2014.

people's challenges, and to offloading the solutions on young people's activation and empowerment. According to some participants, also European policies seem to rely increasingly on young people's resilience. The consequence is that by considering vulnerable situations faced by many young people as a 'private concern' rather than a public issue, many of them "have to bear the burden of their own exclusion, which often has structural causes, while at the same time they are asked to activate their resources"[342]. Fred Powell, another keynote speaker underlined that ""*[t]he austerity city must be replaced by the caring city*"[343].

This event was relevant for the language used, since it refers to young people "in vulnerable situations", rather than to "vulnerable youth": the need for a linguistic turn in this direction was very much discussed within the PEYR (footnote n. 338) and was then put in practice.

The Youth Partnership is a crucial social actor in fostering youth-related research and in collecting and disseminating knowledge about youth policies as well as youth work among young people through a number of initiatives: friendly publications (such as the Coyote Magazine)[344], and online courses as the Massive Open Online Course "Essentials of youth policy"[345], just to provide a few examples. Therefore, it can be considered a valuable "intermediary" in spreading the normative messages of youth policies and in raising awareness around them across Europe. Many initiatives are aimed at youth workers and trainers, who can benefit from both publications – such as the T-Kits (training kits) [346], the Youth Knowledge books (collecting outcomes of research seminars)[347] and the mentioned Glossary on youth.

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[342] Ivi, p. 7.

[343] *Ibidem*. F. POWELL, Presentation "Youth Work and the Austerity City", at the Conference "Beyond Barriers", Malta, November 26-27, 2014.

[344] <https://pjp-eu.coe.int/en/web/coyote-magazine/home> (last accessed on May 20, 2020).

[345] <https://pjp-eu.coe.int/en/web/youth-partnership/online-course-on-youth-policy> (last accessed on May 20, 2020).

[346] <https://pjp-eu.coe.int/en/web/youth-partnership/t-kits> (last accessed on May 20, 2020).

[347] <https://pjp-eu.coe.int/en/web/youth-partnership/knowledge-books> (last accessed on May 20, 2020).

As far as 'autonomy', 'activation', 'empowerment' and non-formal education and/or learning are concerned, the meaning of most of them is covered by the Glossary and I already touched upon them in the previous paragraphs.

7. Revising the EU and CoE Policies and Programmes by Integrating Amartya Sen's Capability Approach

In the previous paragraphs, I questioned the increasing neoliberal shift in EU policies and programmes, and their challenges in reconciling their market-oriented soul with the one based on human rights. At the same time, I raised a number of critical issues concerning the CoE's trends in this direction, though to a much lesser extent. The inquiry into this set of policies posits that certain articulated key issues can't be disregarded.

Firstly, there is the question of whether and how such policies and programmes are implemented at the national level and of adapting them at the local level. On the one hand, these policy strategies do not really bind Member States to implement them and, when they are indeed enforced, they interact with other national legislations and policies that are not necessarily consistent with them (e.g., national welfare policies, labour market organisation and legislation), above all for unorganised young people or those from disadvantaged backgrounds.

Secondly, despite the long-lasting EU's and CoE's commitment to praise non-formal learning, its recognition is still in the making. As a consequence, this runs the risk of weakening its role in raising the radical and critical thinking of young people – specially those in vocational training, and those living in different kinds of disadvantaged situations – and in offering them alternative and complementary settings for experimenting life. Lastly on this issue, the Erasmus+ Programme appears more market-oriented than human rights-oriented, which also raises a concern about the instrumentalisation of non-formal education and/or learning for the former purpose rather than for the latter one.

Thirdly, supra- or intra-national bodies might be perceived to be far removed from young people's needs and real life at the local and regional level, above all from the standpoint of unorganised young people and of those "with fewer opportunities". Despite the strong emphasis on youth 'autonomy', 'activation' – including being 'active citizens'

who contribute to democratic life and to the dialogue with an architecture of multi-level governance – and 'empowerment', it would appear that the EU and even the CoE are rather dealing with organised young people who already hold a certain amount of social capital and awareness, such as those belonging to the European Youth Forum and represented in the Advisory Council for Youth or those involved in youth organisations at different levels. Of course, this does not necessarily mean that the challenges that confront young people facing specific kinds of hardships are not represented, but, as argued by Nancy Fraser, it makes a difference to directly part-take in the decision-making process and bring one's standpoint to the discussion[348] rather than "being represented by others". Some documents highlight the need to reach "unorganised young people", to truly involve them and to spread information about policies and youth rights, variables that could contribute to improve law, policies and programmes effectiveness that are meaningful for young people. In this context, researchers often play the role of spokespersons for the concerns of excluded groups (see, e.g., within the work of the Youth Partnership). The risk is that EU's and CoE's mechanisms, intentionally or unintentionally, may enhance 'Matthew effects'[349], i.e. benefit young people that were already well-off and therefore widen the gap between these and less privileged ones. Although numerous documents stress the importance of young people's contribution in setting the institutional agenda and making their "voice" heard by institutions at different levels of governance – also by mainstreaming youth in various policies -, this is another unfulfilled (or not completely fulfilled, at least) critical area, too. Besides, often not even the stances of organised young people are completely followed through (*supra*, paragraph 4.3.).

Lastly, 'autonomy', 'activation' and 'empowerment' are more and more linked to young people's own responsibility and self-help, as well as to a concept of individualised agency, although with some institutional support (*supra*, paragraph 4.1. and paragraph 4.2.).

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[348] A. WALTHER, *Participation or Non Participation?*, cit.

[349] R.K. MERTON, *The Matthew Effect in Science*, in "Science", 159 (3810), 1968, pp. 56-63. For the case of Italian young people, see V. CUZZOCREA, B.G. BELLO, Y. KAZEPOV, *Italian Youth in Context*, cit., p. 6.

In the light of this analysis, I suggest that both the EU and CoE youth policies and programmes could gain ground by embracing the concept of agency as conceived by Amartya K. Sen within his capability approach. I also argue that the scholar's approach would shed new light on the concepts of 'autonomy', 'activation' and 'empowerment', though the same could be said with regard to other key words of these youth policies that are not examined in the present article (e.g., 'participation')[350]. I see in this approach the *tertium datur* beyond current dichotomies existing in many European documents: market/ human rights; "autonomous/dependent", "active/passive", and "empowered/disempowered".

Sen's main field of commitment is the fight against poverty and his approach has been applied, for example, in the Human Development Reports related to the United Nations Development Programme since the 1990s[351], but he is also interested in the consequences of unemployment on individuals in Europe, including young people. In this context, his aforementioned article of 1997 (*supra*, paragraph 4.2.) does not merely focus on the economic pitfalls of unemployment (e.g. "loss of current output and fiscal burden"[352]), but on many other dimensions as well, namely: "loss of freedom and social

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[350] A. WALTHER, *Participation or Non Participation?*, cit.

[351] A.K. SEN, *From Income Inequality to Economic Inequality*, in "Southern Economic Journal", 64, 2, 1997, p. 390, note 10; *cfr.* S. DENEULIN, L. SHAHANI (Eds.), *An Introduction to the Human Development*; S. FUKUDA-PARR, *The Human Development Paradigm: Operationalizing Sen's Ideas on Capabilities*, in "Feminist Economics", 9, 2-3, 2003, pp. 301-317; S. FUKUDA-PARR, A.K., SHIVA KUMAR, *Readings in Human Development*, Oxford University Press, Delhi, 2003. The latest annual reports published by the United Nations are accessible on: <http://www.hdr.undp.org/en/2019-report> (last accessed on May 15, 2020); *cfr.* P. ALON-SHENKER, *Capabilities and Age Discrimination*, in B. LANGILLE (edited by), *The Capability Approach to Labour Law*, Oxford University Press, Oxford, 2019, pp. 268289, which analyses in particular age-based discrimination based concerning older workers through Sen's capability approach; B. HARREVELD, M. SINGH, *Amartya Sen's Capability Approach and the Brokering of Learning Provision for Young Adults*, in "Vocations and Learning", 1, 3, 2008, pp. 211-226; A. LOPEZ-FOGUES, F. MELIS CIN (Eds.), *Youth, Gender and the Capabilities Approach to Development: Rethinking Opportunities and Agency from Human Development Perspective,* Routledge, Abingdon, 2018.

[352] A.K. SEN, *Inequality, Unemployment and Contemporary Europe*, cit., p. 161.

exclusion"[353], "skill loss and long-run damage"[354]; "psychological harm"[355]; "ill health and mortality"[356]; "motivational loss and future work"[357]; "loss of human relations and family life" [358]; "racial and gender inequality" [359]; "loss of social values and responsibility"[360]; and "organisational inflexibility and technical conservatism"[361].

Two main characteristics persuade me to support the integration of the scholar's concept of agency into the EU and CoE policies and programmes: within his work, agency is a contextualised and relational notion; furthermore, his approach considers the real possibilities and sphere of action of each individual[362]. In other words, in Sen's approach agency can be summarised as "a person's ability to pursue and realise goals she values and has reason to value"[363] as well as "the ability to pursue objectives to which a subject gives value or has reason to attribute value"[364]. The core issue of agency in his view consists hence in things that persons can do in line with what they consider "good for

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[353] *Ibidem.*

[354] *Ibidem.*

[355] *Ibidem.*

[356] Ivi, p. 162.

[357] *Ibidem.*

[358] Ivi, p. 163.

[359] *Ibidem.*

[360] Ivi, p. 164.

[361] *Ibidem.* According to this article of 1997, for the most part the worst effects of youth unemployment concerned young girls, "whose re-entry into the labour market after a substantial bout of unemployment may be seriously impeded by early experiences of joblessness", *ibidem.* Another issue that Sen reported as a plague of unemployed young people was the "observed association of crimes with youth unemployment [that] is, of course, substantially influenced by the material deprivation of the jobless, but a part is played in that connection also by psychological influences, including a sense of exclusion and a feeling of grievance against a world that does not give the jobless an opportunity to earn an honest living", *ibidem.*

[362] On the same line, see A. APPADURAI, *The Capacity to Aspire*, cit.; A. APPADURAI, *Il futuro come fatto culturale*, cit. See footnote n. 29.

[363] S. ALKIRE, S. DENEULIN, *The Human Development*, cit., p. 22.

[364] Ivi, p. 31.

themselves"[365] and based on their real opportunities. Subjects exert their agency by being capable of "making changes"[366] that are meaningful for them and for their life.

According to Fulvio Longato, this notion of agency relies on two "normative assumptions [...]: the consideration of each person as an end in itself and the pluralism of values" (my translation)[367]. As a consequence, subjects become the very centre of policies, programmes and legislations. By applying these assumptions to the youth field, young people's variety of complex and different biographies, aspirations, values, are taken into consideration in the broader context of tantamount complex relations of power (economic, social and everyday life) that do have an impact on their socio-economic, cultural and personal sphere of action. In this perspective, agency is not a synonym of subjects' 'well-being'[368]: they are rather related but distinct concepts, as well-being represents individuals' "expected and/or achieved advantage"[369]. Most importantly, it does not amount to the mere acquisition of material goods, that are of course relevant for making a living, but also to the effective exercise of a set of human capabilities. With this in mind, I see an approach (*tertium datur*) that might help reconcile the EU "market-oriented soul" pervading many youth policies with the "human rights soul". Sen's concept of agency fits well into the European youth policy emphasis on solidarity: in fact, it entails a deep interest in solidarity with those who live in conditions of poverty or in other situations of social exclusion[370]. In other words, it implies a sympathetic feeling with peers and a commitment to do things that are valuable.

To fully grasp this notion of agency, it is necessary to contextualise it within Sen's "capability approach", which he presented for the first time in 1979[371]. The foundational idea is that the attention should be focused on the "relationship between goods and

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[365] A.K. SEN, *Well-Being, Agency and Freedom*, in "The Journal of Philosophy", 82, 4, 1985, p. 206; *cfr*. S. ALKIRE, S. DENEULIN, *The Human Development*, cit., p. 37.

[366] A.K. SEN, *Development as Freedom*, cit., p. 19; *cfr*. A.K. SEN, *Inequality, Unemployment and Contemporary Europe*, cit., p. 203.

[367] F. LONGATO, *Agency e relazionalità nel* capability approach *di Amartya Sen*, in "Esercizi Filosofici", 12, 1, 2017, p. 174.

[368] A.K. SEN, *Well-Being, Agency and Freedom*, cit., p. 204.

[369] F. LONGATO, *Agency e relazionalità*, cit., p. 174.

[370] S. ALKIRE, S. DENEULIN, *The Human Development*, cit., p. 37.

[371] A.K. SEN, *Equality of What?*, in "The Tanner Lecture on Human Values Delivered at Stanford University", May 22, 1979, pp. 197-220.

subjects"[372] (Sen 1979: 216) rather than on material goods *per se*. In fact, even though two individuals hold the same basket of goods, they differ from each other from many points of view and have different capabilities.

The concept of "capabilities" is crucial in Sen's approach, together with that of "functionings"[373].

"Functionings" encompass various things that subjects "manage to be or do in the conduct of their lives"[374], that have value in terms of doing or being[375] and to which they have "reason to confer value"[376]. They consist in *states* acquired by subjects and *actions* with regard to such areas as nutrition, age, health, education, as well as existential matters (e.g. self-respect), participation in social and political life, and other matters considered "of value" for individuals.

To avoid misunderstandings, it is necessary to specify that these functionings mustn't be "cruel or harmful"[377]: since each individual follows a different set of values, it might happen that one person praises or is accustomed to harmful practices or to what another person may identify as harmful practices; it might also happen that he or she doesn't even consider them as such. Should this happen, other subjects, who "have reason to confer value" to different stances and disagree, shall express their dissent: this is one reason why Sen attributes so much importance to "public reasoning" (see below in this paragraph) as a mean of contestation and participatory decisions in a given context. Of course, this process bears its challenges, as it depends on the extent to which confrontations are possible in a given reality. Nonetheless, this participatory process is one of the underpinning principles of Sen's approach.

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[372] A.K. SEN, *Equality of What?*, cit., p. 216.

[373] A.K. SEN, *Capability and Well-Being*, in M. NUSSBAUM, A.K. SEN (Eds.), *The Quality of Life*, Clarendon Press, Oxford, 1993, p. 31.

[374] A.K. SEN, *Capability and Well-Being*, cit., p. 31.

[375] A.K. SEN, *Development as Freedom*, cit., p. 75.

[376] S. ALKIRE, S. DENEULIN, *The Human Development*, cit., p. 32.

[377] S. ALKIRE, *Why the Capability Approach?*, in "Journal of Human Development", 6, 1, 2005, pp. 119-121.

On their part, "capabilities" reflect "the alternative combinations of functionings [of being and doing] that a person can achieve"[378] to which he or she assigns value and to whom he or she "has reason to attribute value"[379]. These focus on people's "opportunity to achieve certain combinations of functionings [...]"[380]: in this sense, they mark the perimeter within which individuals can make concrete choices. Examples of capabilities are keeping healthy and feeling self-respect, and participation in the community life.

Far from being abstract constructs, capabilities need to be contextualised in the social and cultural environment where individuals live[381]. What is highly significant with regard to European youth policies is that, in order to identify these capabilities, the individual's visual angle is placed at the centre of these very policies and programmes: the materiality of their daily life and the realm of their concrete possibilities play a highly prominent role.

All in all, capabilities "reflect[…] the alternative combination of functionings over which the person has freedom of effective choice"[382]: they are "potential functioning"[383], real and effective opportunities[384]. These aspects highlight the relationality of individual agency, i.e. the relation between the subject and his or her context. Capabilities allow to distinguish what a given "person values *doing* or *being*, and […] the *means* she has to achieve what she values"[385]: Sen's approach focuses on the former rather than on the latter (such as incomes or goods).

Another crucial aspect of this perspective in relation to the EU youth policies and programmes is that it promotes the expansion of the subject's capabilities, as well as their transformation into further functionings that they consider important. It can be agreed that

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[378] A.K. SEN, *Elements of a Theory of Human Rights*, cit., p. 332.

[379] A.K. SEN, *Inequality Reexamined*, Clarendon Press, Oxford, 1992, p. 5.

[380] A.K. SEN, *Elements of a Theory of Human Rights*, cit., p. 334.

[381] A.K. SEN, *Equality of What?*, cit., p. 219.

[382] A.K. SEN, *Elements of a Theory of Human Rights*, cit., p. 334.

[383] I. ROBEYNS, *Is Nancy Fraser's Critique of Theories of Distributive Justice Justified?*, in "Constellations", 10, 4, 2003, p. 544.

[384] Ivi, pp. 544-545; *cfr*. A.K. SEN, *The Human Development*, cit., p. 32.

[385] A.K. SEN, *Elements of a Theory*, cit., p. 332.

non-formal education and/or learning have proved to have great potential to serve this exact purpose.

As far as capabilities are concerned, they correspond to individuals' freedom to "be and do" what is valuable for them. Sen understands freedom as "freedom of", meaning "positive power or capability to do and enjoy something that has value" rather than as mere "*freedom from* limitations or constraints [my emphasis]"[386]. He maintains that "capability, as a kind of freedom, refers to the extent to which the person is *able to choose* particular combinations of functionings"[387].

As this is a contextualised approach that is rooted in real people's everyday life, the number of possible capabilities is not an aprioristic and abstract *numerus clausus:* they are meant to emerge from individuals' realities, contexts and experiences - which in turn are, too, socially and culturally characterised - as well as from the "public reasoning" between different subjects[388]. This aspect might be very relevant for the improvement of structured dialogue (within the EU), of co-management (within the CoE) and of both institutions' participatory agenda settings in the field of European youth policies. In fact, establishing which capabilities are relevant within a wide range of options does not result from a top-down process: it should be generated by a truly participatory process at the local level, with a bottom-up approach[389].

With a view to integrating Sen's approach into European youth policies and programmes, a further meaningful aspect that shall be taken into consideration is the scholar's aim to improve individuals' quality of life, not only in terms of income[390], though relevant, but also and most importantly in terms of freedom and possibility of choice. As a result, individual instances should not be grounded primarily on material resources; they rather should be related to "their effective freedom to choose different

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[386] T.H. GREEN, *Lecture on Liberal Legislation and Freedom of Contract*, in R.L. NETTLESHIP (Ed.), *Works of Thomas Hill Green*, Longmans, Green and Co, London, 1906, pp. 370-371.

[387] A.K. SEN, *Elements of a Theory of Human Rights*, cit., p. 334.

[388] Ivi, p. 333, note 31.

[389] A.K. SEN, *The Human Development*, cit., p. 32; *cfr*. S. ALKIRE, *Needs and Capabilities*, in S. READER (Ed.), *The Philosophy of Need, Royal Institute of Philosophy Supplement*, 80, Cambridge University Press, Cambridge, 2006, pp. 229-252 and S. ALKIRE, *Why the Capability Approach?*, cit., pp. 115-135.

[390] A.K. SEN, *From Income Inequality to Economic Inequality*, cit., p. 392.

ways of living to which they have reason to confer value. This effective freedom is represented by [their] 'capability' to achieve various combinations of functions, to do and to be"[391].

To draw some conclusions, I maintain that integrating Sen's approach into the European youth policy and programmes could contribute to their development in a threefold way. Firstly, the choices that young people can actually make in their real, material, contextualised lives are brought from the margin to the centre of the policies and programmes: Sen's view embraces multiple affiliations of subjects as well[392]. Considered together, these two elements place an emphasis on the different, multiple capabilities of "situated subjects"[393], in relation to the contingency and to the constraints that many young people face in specific national social contexts. This should hopefully lead to European policies that are responsive to the needs of young people in addition to those of the market, beyond dichotomies like 'autonomous/dependent', 'active/passive' or 'empowered/disempowered'. In other terms, adopting such an approach should hopefully adapt youth policies to "all" young people rather than making "young people" adapt to them or, more evidently in the case of EU youth policies, to the market.

Secondly, Sen's approach aims to increase and expand capabilities, which goes beyond material resources or employability only. Although the access and stay in the labour market is important for young people, material goods are only part of a more transformative vision that embraces their freedom to choose, act and develop further functionings. Non-formal education and/or learning have played a meaningful role in raising radical and critical thinking in young people for long time and in offering them safe spaces to gain experiences, but the Erasmus+ Programme seems to have reduced this kind of learning's "alternative" – though structured and organised – nature in pursuit of growth and employability. This kind of learning has many more insights to offer to young people in terms of expanding their capabilities and spheres of action. In this sense, what

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[391] A.K. SEN, *Justice: Means versus Freedoms*, in "Philosophy & Public Affairs", 19, 2, 1990, pp. 115-116.

[392] A.K. SEN, *Identity and Violence. The Illusion of Destiny*, Penguin Books, London, [2006]2007, pp. 24-25.

[393] D. HARAWAY, *Situated Knowledges*, cit.; S. RODOTÀ, *Il diritto di avere diritti*, cit.

is probably an overly optimistic hope is for the market to fit people, rather than the other way round, in order to humanise the labour sector and go beyond its neoliberal *Diktat*.

Thirdly and lastly, public reasoning and participatory processes imply that *all* individuals part-take in the decision-making - not just organised individuals, or individuals with a higher social capital. The 2018 Commission Communication points to the fact that "now is the time to listen to young people and empower them to turn their dreams into reality"[394]; and it is indeed quintessential to reach unorganised youth at the local level[395], just like Sen's approach encourages bottom-up and participatory decision-making, space for contestation and negotiation. With the end goal of making of making all young people participate in political life and not merely be represented by those who are more well-off or more organised, Sen's capability approach can offer precious insights on dialogue and confrontation.

8. European Policy and Programmes for Youth: Far or Close?

In the previous paragraphs, I delved into some of the main issues concerning the scopes of the EU's and CoE's youth policies and programmes, paying specific attention to some of their underpinning and intertwined concepts, namely 'autonomy', 'activation', and 'empowerment'. I also explored the role played by 'non-formal education and learning' within these frameworks. This analysis was complemented with a brief overview of the activities undertaken by the Youth Partnership.

In order to draw some conclusions on the current situation, I try to answer to the question whether European policies, programmes and youth related issues are far of close, i.e. whether, based on the analysis conducted in this article, existing European instruments result taking "all" young people's needs into consideration, as well as to which extent such needs are taken into account as part of the European decision-making processes.

Firstly, it clearly emerges from the article, that the EU youth policies and programmes face the increased challenge to reconcile the EU "double soul", which I consider to be a major EU institutional ambiguity reflected by the youth policies. The

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[394] Communication from the Commission (COM(2018) 269 final), p. 4.

[395] Communication from the Commission (SEC(2009) 545), cit., p. 3.

EU's market-oriented soul tends to conceive youth policies as an instrument to serve market needs, while at the same time not holding sufficient authority to gain state's commitment to implement measures effectively increasing youth employment. As explained in paragraphs 4.1. and 4.2., this depends on a set of variables which interact with youth policies at the national level (when implemented), as the Italian case shows. On the other hand, the EU's human rights-based soul is embedded in youth policies and programmes (e.g., see the WPY – *supra*, paragraph 4.1. – and variously titled Youth programmes – paragraph 4.3), as well as in the mainstreaming of youth within other relevant policies, such as the anti-discrimination ones. These youth policies and programmes, however, while originally allowing more space to non-formal education, as a safe space for youth to complement the skills acquired in formal settings, and to progress radical and critical thinking, tend to reach more widely those who already have a certain amount of social capital and are already "organised". As already described, the Youth Strategy of 2009 acknowledged this failure and consequently pointed at involving more unorganised youth at local level [396] (paragraph 4.1). Furthermore, even these youth policies and programmes tend to be increasingly oriented in a market and neoliberal sense. For instance, the last Youth Strategy (paragraph 4.1) resulted in an increased its reliance on young people's 'autonomy', 'activation', and 'empowerment', and placed more responsibility on youth – including those from disadvantaged backgrounds, NEETs – who are expected to find their way through their national contexts, scarce resources, and decreased perspectives of long-term employment. Even the Erasmus+ Programme (paragraph 4.3) – which builds upon some principles of various previously established youth programmes, appears to be increasingly concerned with the education of a better qualified workforce, higher work performances and skills, strong competition, employability, and growth. Fundamental rights seem to have lost ground, although the non-discrimination principle and human rights do still appear in most recent documents. Moreover, the EU policies and programmes do not seem to consider the actual "sphere of action" in which young people can operate. Within the CoE the "double soul" ambiguity is less present, and the approach is different. Due to its origin and involvement with the promotion of human rights, the neoliberal shift is softer than in the EU. Still, a trend exists

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[396] *Ibidem*.

that places the responsibility on young people for taking action and self-empowerment in some documents (paragraph 5).

Secondly, both institutions declare the intention to widely engage "unorganised youth", to enhance the access to opportunities by young people with "a disadvantaged background", and "with fewer opportunities". In this context, a change in the rhetoric of the youth-related documents concerning these target groups can be traced: in fact, the texts of policy and programmes increasingly refer to the "objective" social conditions (e.g., 'youth from disadvantaged backgrounds' *et similia*) rather than on the subjects ('disadvantaged youth', *supra*, paragraph 4.3.). Despite the institutional commitment to include "all" young people, though, the additional ambiguity that I see relates to the actual access by "all" young people to the decision-making process and for the setting of European institutions' agendas. The issue of participation is clearly shown by some policy documents analysed in the article (*supra*, paragraph 4.1., paragraph 4.3., and paragraph 5). It is also officially engendered by the structural dialogue in the EU and by the co-management system in the CoE. As explained the nature and functioning of EU's and CoE's decision-making process differ greatly from one other[397]. In fact, if compared with the CoE's participatory system (despite all criticisms it gives rise to), in the EU, as opposed to the CoE, there is no co-management between youth and institutions: the latter ones clearly lead on policy-making, together with Member States that need to agree on youth policies in their meetings within the Council of the European Union's Youth Working Party. In any case, young people's "voice" is not a fundamental part of the process, despite the advertised involvement and dialogue with social actors, such as the European Youth Forum. Online consultations fail reaching many young people who don't belong to any organisation (e.g., due to lack of information or to digital divide). Furthermore, the "ten good reasons" debate for having a separate programme specifically devoted to youth (*supra*, paragraph 4.3.) provides a good example of how often even the stances of organised young people are not completely implemented. As far as the CoE is concerned the Joint Council on Youth and the Programming Committee on Youth are places where young people have the opportunity to contribute to the production of youth

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[397] A. FAVELL, V. GUIRAUDON (Eds.), *Sociology of the European Union*, cit.; J. LOVECY, *Framing Decisions in the Council of Europe. An Instituional Analysis*, in B. REINALDA, B. VERBEEK (Eds.), *Decision Making Within International Organisations*, Taylor & Francis, Abingdon-on-Thames, 2006, pp. 59-73.

policies and programmes, and to make their voice heard. Even within this international organisation, however, the co-management is unbalanced in favor of States and youths who are already organised tend to better manage to make themselves heard in public debates: they often act as spokespersons of the instances by "unorganised" young people or those with a disadvantaged background.

The last ambiguity I identified is the intention to strengthen European identity, to build a democratic society, to enhance youth human rights, and even employability, through European youth policies and programmes: none of them is a binding instrument that can be implemented at national level, in contexts often characterised by the rise of nationalisms, xenophobic attitudes, anti-European (*rectius*, anti-EU) stances, dysfunctional labour markets, and weak welfare measures. Both institutions equally lack recognition of non-formal education and/or learning at national level, revealing their weaknesses in influencing the social orientation of Member States when it comes to the implementation of European normative messages on this topic and other ones[398]. Even the good intentions embedded in the European policies and programmes supporting education and/or learning remain a source of frustration for many young people at local level.

These and similar situations create political conundrums that bring up the question on whether today's Europe (both EU and CoE) is still able to capture the imagination of young people, including those generally left behind, or who perceive to be so.

In this sense, I suggest that the CoE youth policy is closer to the actual sphere of action that young people operate in, and to the consideration for "what they value" or "have reason to value": in this perspective, I argue that they can capture more young people's imagination and need to "aspire" to fully participate in society.

However, in my view, what EU and CoE policies (although the latter ones to a lesser extent) still miss is the transformative take that allows "all" young people to truly access opportunities and to really part-take in decision-making processes. This transformative view needs also insititutions to detach from the "either/or" dichotomies: "market/human rights"; "autonomous/dependent"; "active/passive"; "empowered/disempowered"; "vulnerable victim" in need for support and emptied of any

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[398] V. FERRARI, *Funzioni del diritto*, cit., pp. 117-152.

political force/*homo faber fortunae suae*. In conclusion, all these rigid dichotomies should be channeled differently in order to provide increased access to opportunities for virtually "all" young people, by taking into account the *nuances* in a *continuum* of possibilities and a concept of agency that addresses young people's values and their concrete sphere of action.

Beyond the "either/or" logic, *tertium datur*: in this paper I suggest integrating Sen's concept of agency that, in my view, represents a way to overcome all mentioned ambiguities and dichotomies (*supra*, paragraph 7). By starting from young people's capabilities and from "the extent to which [they are] *able to choose* particular combinations of functionings"[399], youth policies may increase their chances to effectively respond to young people's requests and needs. All the more, the "public reasoning" theorised by Sen shall inspire the dialogue (or trilogue within the Youth Partnership) between institutions and young people, in order to provide space for even unorganised ones' "voice" and values.

As already mentioned in the introduction, my critical stance towards the European policies and programmes is constructive and aims at contributing to make them work at the local level for as much as possible "all" young people. It is well known that we usually criticise what we love the most, because we believe in it and feel frustrated to see a potential that is not fully expressed and does not become reality.

Therefore, while I do believe that European policies and programmes were and can still be meaningful instruments to stimulate Member States (both within the EU and the CoE) to improve young people's condition in contemporary European societies and support youth in gaining 'autonomy', in being 'active' citizens and in being empowered, I also think that young people would better benefit from policies and programmes that are truly centered on them, on their needs, aspirations within their concrete realities and spheres of actions. For this reason, I suggest integrating Sen's capability approach not only in the evaluation and analysis of policies and programmes' implementation, but in these latter instruments themselves: in doing so, the hope is that policy and youth will become closer and closer.

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[399] A.K. SEN, *Elements of a Theory of Human Rights*, cit., p. 334.