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Abstract

The concept of Sustainable Development is a key concept, which suggests a development that considers not only economic aspects, but also social and environmental ones. The idea is to realize a development which is not detrimental to future generations and the least developed countries. Thus, Sustainable Development suggests and implies a sort of solidarity between present and future generations.

More and more national, European and international sources of law as well as institutions are mentioning this principle in hard and soft law documents. It could be considered the key concept to realize a change of paradigm, a tool to exit from this crisis, mostly caused by the pursuit of profit regardless of the way to reach it. As a matter of fact, the crisis can be considered the result of an economic war that involved (and continues to involve) multinationals, governments and institutions, with no consideration for future and distant generations, with no regard for the environment and no care of the consequences of this behaviour for the least-developed countries.

Sustainable development could be the right solution, the principle to guide a new conception of development in many fields: from economics to architecture, from medicine to city planning, from the financial sector to transport and from food to education. This concept, considering its three pillars (economic, social and environmental) could potentially find a real application in every field, including labour law.

What is the link between sustainable development and labour law?

Sustainable Development could help legislators, judges and the doctrine in re-discovering the original functions of labour law that consists in balancing economic interests with social rights. This could help in finding the real labour law function: to protect social rights and workers from the strongest part of the contract relationship, the employer.

Recent trends demonstrate that labour law is considered a limit for economic activities and a cost to be reduced for the enterprise.

Countries with lower social standards (such as LDCs) started a ruthless competition in terms of workforce costs, at the expense of the more protective national systems, with the well-known consequences of social dumping, which leads to a general race to the bottom in working conditions.

This problem is also relevant for developed countries, where national labour law are more and more affected by frequent reforms aimed at making dismissal less expensive or

contracts more flexible, to meet employers expectations and with no regard for employee's precarity.

Sustainable Development could be, if properly applied, the guiding principle to invert this trend and pave the way for a real, inclusive, universal, social and environmental development.

PAPER

Sustainable Development and Labour Law: a Complex Binomial

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1. Sustainable Development:

1.1 A controversial widespread concept...

The concept of Sustainable Development is a key concept, which suggests a conception of development that considers not only the economic dimension, but also the social and the environmental ones.

Its most common definition quoted by the doctrine is the one of the Report "Our Common Future", published by the United Nation World Commission on Environment and Development (WCED), in 1987, also known as the Brundtland Report, in recognition of former Norwegian Prime Minister Gro Harlem Brundtland's role as Chair of the World

Commission on Environment and Development. In this famous report, Sustainable Development is defined as *"the development that meets the needs of the present without compromising the ability of future generations to meet their own needs"*¹. The concept, as it is explained, contains two key concepts: the concept of needs, in particular the essential needs of the world's poor, to which overriding priority should be given; and the idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs.

Thus, in general terms, sustainable development could be defined as the development which does not adversely affect the generations to come and those in the least developed countries. Thus, the adoption of this principle suggests and implies a sort of solidarity between present and future generations but also between present but distant generations: it is a double sort of solidarity, which can be called "inter-generational" and "infra-generational" solidarity. It considers the heritage (social, economic and environmental) which will be given to the generations to come.

As it is easy to understand, we are facing a very controversial concept²: is a fluid concept and various definitions have emerged over the past two decades.

A development, to be considered "sustainable", could imply *"improving the quality of human life while living within the carrying capacity of supporting eco-systems"*³, or, in other words, *"the capacity to endure; a state in which resources (environmental, social, economic) are not used quicker than they can be replenished"*⁴. Again, it has been defined in terms of equity with future generations: *"sustainable development is about being fair to the future. It is about leaving the next generations a similar, or better, resource endowment that that which inherited"*⁵, in the sense of a positive change, which does not undermine the environmental or social systems on which we depend. Or, finally, it could be considered also as *"a new vision of the world: it is a new, plural, complex thought which moves from a re-thinking of our ways of acting on the economic, social and juridical field"*⁶.

¹ World Commission on Environment and Development, WECD, *Our Common Future*, Oxford, Oxford University Press, 1987, p. 43.

² J. R. EHRENFELD, *Sustainability needs to be attained, not managed, Sustainability: Science, Practice & Policy*, 2008, 1.

³ IUCN/UNEP/WWF. *Caring for the Earth: A Strategy for Sustainable Living*. (Gland, Switzerland: 1991).(IUCN - The World Conservation Union, UNEP - United Nations Environment Programme, WWF - World Wide Fund for Nature).

⁴ ICLEI, International Council for Local Environmental Initiatives, 2011.

⁵ D. PEARCE, *Sustainable Development: an economic perspective, Gatekeeper Series*, n. 89-01, London Environmental Economic Center, 1989.

⁶ R. BIFULCO – A. D'ALOIA, *Le generazioni future come nuovo paradigma del diritto costituzionale*, in R. BIFULCO – A. D'ALOIA (a cura di), *Un diritto per il futuro. Teorie e modelli della responsabilità intergenerazionale*, Jovene Editore, 2008, 10.

Another common way to define the concept of sustainable development is to decline its three dimensions, the so-called “pillars”: the economic, the social and environmental ones. It is generally accepted that sustainable development calls for a convergence between the three pillars consisting in: economic development, social equity, and environmental protection. As a matter of fact, sustainable development implies economic growth together with the protection of environmental quality, each reinforcing the other. The essence of this form of development is a stable relationship between human activities and the natural world, which does not diminish the prospects for future generations to enjoy a quality of life at least as good as our own. The idea is that each dimension of sustainable development should not prevail on the others, but they should be considered and developed in a mutual and reciprocal way, considering the eventual possible effects of each action, decision or policy on the other dimensions of sustainable development, recognizing the interdependent nature of these three pillars.

That being said, it is easy to understand the widespread potential application of this concept: from economics to the architecture, from medicine to city planning, from the financial sector to transport, from food to education, we can decline, adapt and use this concept in several different ways. Even, as we will see, for labour law.

This strong adaptability is not only a source of echo but also of criticisms, as this concept seems to be without a real content and thus with no concrete or legal application. Besides, the lack of a universal definition could lead to consider this concept as “vague”, with no real efficacy⁷ or even contradiction⁸.

Nevertheless, looking at the different definitions of the concept it is possible to sum up some main characteristics to better define and understand it: the interdisciplinarity, the strong solidarity dimension among different generations, a holistic approach to development (a strong inter-relation between social, environmental and economic aspects) and a long-term perspective.

More and more national, European and international sources of law as well as institutions are mentioning this principle in hard and soft law documents. It is identified as a value, or as an objective, or, again, as a reference paradigm for the legislator.

⁷ C. VILLANUEVA, *Community development and the futures of sustainable communities in the Philippines*, in Y. KAORU (Ed.), *Sustainable global community in the information age: Vision from future studies*, Praeger Studies on the 21st Century, Praeger, 1997.

⁸ M. R. REDCLIFT, *Sustainable development: Exploring the contradictions*, John Wiley and Sons, 1987.

At the national level, for example, it has been elected as a constitutional principle in some countries: France, Portugal, Peru, Congo, Brazil, Argentina and Japan. In Italy it could be deduced by reading some Constitutional articles: art. 2, 9, 32, 41 e 42.

At the European level, Sustainable Development is found in several important documents: I am referring not only to the European Constitution Project – which claims the obligation of solidarity between generations and the Union’s commitment to the pursuit of sustainable development – and to several Council, European Parliament and Commission Declarations, but also to many binding documents, such as the Amsterdam Treaty (Art. 1: *The Union shall set itself the following objectives: - to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development*) or the Nice Charter (“*the Union seeks to promote balanced and sustainable development*”, Preface; “*a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development*”, art. 37). According then to the Lisbon Treaty (art. 10a, letter d) the Union shall “*define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to: foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty*”; and (letter f) “*to help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development*” or, again, (article 2), “*shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment*”. Last, but not least, the Treaty on the Functioning of the European Union Article 11 (ex Article 6 TEC) states that “*environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development*”:

At the global level, many important documents are quoting the Sustainable Development principle, starting from the last OECD Guidelines for Multinational Enterprises, with the aim “*to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational*

enterprises”, where multinational enterprises should “*contribute to economic, environmental and social progress with a view to achieving sustainable development*”⁹.

The ILO is also a promoter of sustainable development: according to the ILO Declaration on Fundamental rights and principles at work, “*the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development*”¹⁰. More recently, the ILO Declaration on social justice for a fair globalisation should “*contribute to policy coherence for sustainable development in national policies, among international organizations and in development cooperation, bringing together social, economic and environmental objectives*”¹¹.

Sustainable development has then been integrated into the operations and governing mandate of many other prominent international organizations. These include the World Bank (2010), which has affirmed a commitment to “*sustainable globalization*” that “*enhances growth with care for the environment*”; the International Monetary Fund (IMF, 2010), with a commitment to “*sustainable economic growth*”; as well as the World Trade Organization (WTO, 2010) which endeavours to contribute to sustainable development through the pursuit of open borders and the removal of barriers to trade.

1.2 ... for a new, sustainable, paradigm.

As we saw, more and more documents, more or less binding, are quoting Sustainable Development. Most of them elected it as a value, as an objective to reach, as a guideline for future development.

This is why Sustainable Development could be considered as the key concept to realize a change of paradigm. Or, it is better to say, it could be the paradigm to realize a change.

What is a paradigm?

⁹ OECD Guidelines for Multinational Enterprises, 2011, available at <http://www.oecd.org/daf/inv/mne/48004323.pdf>, pp. 13, 19.

¹⁰ ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, Adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998

¹¹ ILO Declaration on Social Justice for a Fair Globalization adopted by the International Labour Conference at its Ninety-seventh Session, Geneva, 10 June 2008

A “paradigm”, in the most basic sense of the word, is a framework containing all of the commonly accepted views about a subject, a structure for the direction that research should take and how it should be performed. Thomas Kuhn suggested that the paradigm concept could be explained as “*the practices that define a scientific discipline at certain point in time*¹²”.

In this sense, sustainable development can be considered the key to change the cultural matrix of a discipline, in a way to find an answer or new answers to some questions, for example an answer on how to exit from this crisis or on the future of labour law.

Undoubtedly, this financial, economic and real crisis can be considered the result of an economic war for the pursuit of profit, regardless of the way to reach it, which involved (and still does) multinationals, governments and institutions, without considering future and distant generations, with no regard for the environment and no care of the consequences of this behaviour for the least-developed countries.

This difficult situation, added to the declining trust in the liberalization and globalization model, could mean some renewed receptivity for a new sustainable development paradigm. A new model could chart a development path that truly is concerned with equity, poverty alleviation, reducing the use of resources, and integrating economic, environmental, and social issues in decision making. The opportunity is ripe to move beyond incrementalism to real systemic change¹³.

If we assume that crises are a necessary precondition for the emergence of a new paradigm, sustainable development could be the right solution, the principle to guide the next approach to development in many fields, towards a society that recognizes the limits of growth and looks for alternative, more sustainable, ways of growing.

In this sense, sustainable development could be considered the principle to follow to change the direction of this current phase development based on an economic competition which is deaf to social progress, as it is considered allowable only if it does not disturb the development of trade relationship and the free competition of goods and services, which represents one of the basic vectors of the globalisation¹⁴. And this would be possible thanks to a new labour law system, to a new labor law re-legitimation, which

¹² Thomas S. Kuhn, *The Structure of Scientific Revolutions*, International Encyclopedia Of Unified Science, The University of Chicago Press, Chicago, 1962.

¹³ United Nation, *Sustainable Development: From Brundtland to Rio 2012 Background Paper* prepared for consideration by the High Level Panel on Global Sustainability at its first meeting, 19 September 2010.

¹⁴ Perulli A., *Clausola Sociale*, in *Enciclopedia del Diritto*, Giuffrè, p. 188.

will stop the race to economic gain, with no concern for workers' social rights. Let's understand how.

2. The link between sustainable development and labour law

As I said, Sustainable Development, thanks to its wide application, could also affect the field of labour law and represent the key for a new trend of reforms.

Why labour law should need a change of paradigm?

According to prof. Adrian Goldin's thought, "*Labour law is under fire*". Recent trends demonstrate that labour law is more and more often considered a limit for economic activities and for their efficiency, as a cost to be reduced for the enterprise because labour protections create rigidities in the labour market, preventing full employment.

In the past, labour law was also thought to interfere with the efficient mechanisms of a contract labour relationship¹⁵. The solution to the rigidities created by labour law was the "de-regulation", that is the removal of all the legislation, or part of it, of welfare state and the encouragement to the flexibility of work¹⁶, as it happened by the 80's and the 90's.

In line with this theory, labour law has been constantly reformed, in a constant de-regulation process, which interested most European Countries, and Italy in particular: let's think about the multiplication of atypical and precarious work contracts, or about the extreme power given to company level collective bargaining, called to derogate from the same rules of law¹⁷, or, again, about the several reforms of the dismissal discipline, with a progressive limitation of the reinstatement hypothesis, while strongly favouring a monetization of dismissal and simplification process¹⁸.

The effects of the economic interests on labour law are relevant non only for developed countries but also for countries with lower social standards (as LDCs), where a ruthless competition on workforce costs has started, at the expense of the more protective

¹⁵ Epstein, R. A., In Defense of the Contract at Will, The University of Chicago Law Review, 1984, 51, 947–982.

¹⁶ Deakin S., Wrilkinson F., Il diritto del lavoro e la teoria economica: una rivisitazione, in *Giornale di Diritto del Lavoro e di relazioni industriali*, n. 84, 1999, 4, p. 588.

¹⁷ See A. PERULLI, V. SPEZIALE, *L'articolo 8 della legge 14 settembre 2011, n. 148 e la "rivoluzione di Agosto" del Diritto del lavoro*, in *WP C.S.D.L.E. "Massimo D'Antona"*, n. 132, 2011.

¹⁸ See F. CARINCI, "*Provaci ancora, Sam*": *ripartendo dall'art. 18 dello Statuto*, *WP C.S.D.L.E. "Massimo D'Antona"*, n. 138, 2012 e a U. ROMAGNOLI, *La transazione infinita verso la flessibilità "buona"*, *LD*, 2013, 155 and more recently, about the Jobs Act Reform, L. Fiorillo, A. Perulli (ed. by), *Contratto a tutele crescenti e Naspi*, Giappichelli, 2015.

national systems, with the well-known consequences of social dumping, which leads to a general race to the bottom in working conditions.

Sustainable Development, as I was saying, could help to invert this trend. How?

The adoption of this principle and the promotion of its values, especially the balancing among economic, environmental and social values, could help legislators, judges and the doctrine to re-discover the original labour law functions of balancing between economic interests and social rights.

This could help in finding the real and original function of labour law: to protect social rights and workers from the strongest part of the contract relationship, the employer. Nowadays the employment relationship is no longer considered as a system of powers to be balanced, within the more general framework of the relations of production, but rather as a market relationship, because labour, although the Philadelphia Declaration stated the contrary, is considered more and more often as a commodity.

In this sense, sustainable Development could be a new values' base from which labour law could draw to find a new legitimacy.

If we look at the roots of labour law, the function of labour law has always been that of imposing some minimum labour standards for workers, which cannot be derogated, in order to avoid a competition between those who are looking for a job, and that could lead to a race to the bottom in standards to get the job, because this is fundamental for their life and their family. Thus, labour law is founded on uniform and strict rules which give a minimum protection to workers, which have to be granted to all workers, in each labour contract, to avoid a competition to the bottom among workers¹⁹.

And Sustainable Development could be, if properly applied, the guiding principle to re-discover this primary labour law function, in order to invert this trend of de-regulation and to pave the way for a real, inclusive, universal, social and environmental development. For a development which is also based on its social pillar and not only on the economic one.

The adoption of this principle by legislators, institutions and employers, could lead them to elaborate a new labour law, which not only protects the employee, granting him an adequate salary and some social, health and safety standards, but also which gives and guarantees "the right to work", according to the Universal Declaration of Human Rights: *"Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment"*.

¹⁹ Maresca A., Concorrenza tra ordinamenti e diritto del lavoro, in Plaia A., (a cura di), La competizione tra ordinamenti giuridici, Giuffr  editore, Milano, 2007, p. 115.

3. Sustainable Development as a tool of social rights protection in the labour law field

3.1 The WTO Preamble

Sustainable Development could be a new reference paradigm for labour law as these two spheres are really connected.

The first example I intend to propose to catch this real link, is the WTO Preamble.

If we consider the Preamble of the Agreement which creates the WTO, written in 1947, we can read: *“Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development...²⁰”*.

The insertion of this principle in an international agreement on trade liberalisation leads to a necessary interpretation of it in the light of an objective which links economic, environmental and social values, stating an obligation, for parties, to integrate the extra-economic issues in their trade relationships.

It is true that apart from language in the preamble affirming “full employment” and “raising standards of living”, this Agreement does not contain obligations to uphold labour standards but this strong reference to Sustainable Development creates *“room for states on their own to take measures that restrict trade in order to implement social regulations²¹”* and should help some *“evolutive lectures”* of the agreement and of the exceptions to free trade²².

In the same sense, art XX of the GATT, General Agreement on Tariffs and Trade, allows *“measures (among others...) that are necessary to protect public morals”*, even if

²⁰ Fonte: *WTO Agreement, Preamble*.

²¹ T. Chantal, *The Wto and labour rights: strategies of linkage*, in *The World Trade Organization and Human Rights, Interdisciplinary Perspective*, Joseph S., Kinley D., Waincymer J., (edited by), Edward Elgar, USA, 2009. p. 261.

²² RADIGHIERI E., *I diritti fondamentali dei lavoratori nel commercio internazionale*, in Rossi L.S., (a cura di), *Commercio internazionale sostenibile? WTO e Unione europea*, Bologna, Il Mulino, 2003, pp. 110-111.

such measures could restrict trade. If we consider the Sustainable Development principle as an objective of this agreement, it is easier to assume that *“the content of public morals extends to include disapprobation of labour practices that violate universal human rights”*²³.

In general terms, we know that according to the current vision of the WTO, which is totally different from the one of the International Labour Organization (ILO), differential labour costs should be viewed as an advantage rather than a social problem: *“we reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question”*²⁴. If, according to the WTO, States with comparative advantages due to the low cost of work, with no health and safety standards or with no proper wage, cannot be penalised, the ILO claims, however, that *“the violation of fundamental principles and rights at work cannot be invoked or otherwise used as legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes”*²⁵

That being said, the awareness of the promotion of sustainable development could change, the WTO vision drastically as it could recognize, as stated in the Preamble, the importance to guarantee social rights, in each countries, regardless of the protectionist purposes or the differential costs. In this sense, the WTO could also cooperate with the ILO to promote the Core Labour Standards, going beyond its economic purpose.

This is only an example of a possible consequence of the adoption of sustainable development as a key paradigm to follow.

3.2 The TTIP, Transatlantic Trade and Investments Partnership.

Another concrete and updated example of the application on the labour law field is the adoption of the Sustainable Development in the recent agreement, which is still under negotiations: the TTIP, *Transatlantic Trade and Investments Partnership*.

The TTIP, which should be probably signed by the end of 2015 between the USA and the EU, will not be a simple trade agreement. It will include not only the abolition of tariffs but also regulatory “non-tariff barriers” (NTBs). NTBs cover bureaucratic procedures for regulating trade, social, environmental, privacy, and food safety issues. TTIP also aims to encourage a strong trans-Atlantic general collaboration by promoting mutual recognition,

²³ R. Howse, *The World Trade Organization and the Protection of Workers’ Rights* (1999), 3 *Journal of Small and Emerging Business Law*, 131, 192.

²⁴ Singapore Ministerial Declaration, 1996, WTO.

²⁵ ILO Declaration on Social Justice for a fair globalisation – 2008.

harmonisation and cooperation between regulators on important global regulation issues, such as energy, environment, agriculture, privacy, health and safety, sustainable development, food and financial security, social standards and privacy standards.

EU citizens and workers are worried about this agreement, because it would be very difficult to reach an harmonization in terms of labour law, view that the USA labour law system is one of the less protective systems among the industrialized countries²⁶. And the mutual recognition of standards of different quality and other strategies can have the same negative effects for European workers, even without formally changing EU regulation. The risk linked to a liberalization process is a race to the bottom in workers' standards, due to the competition from the other side of the Atlantic.

The only safety, the only guarantee, at the moment, given that the agreement's text has not been public yet, is the adherence, stated by both parties of negotiations, to sustainable development.

The preamble and general principles governing the negotiations from the EU's side reiterate the bloc's commitment to sustainable development: "*the commitment of the Parties to sustainable development and the contribution of international trade to sustainable development in its economic, social and environmental dimensions, including economic development, full and productive employment and decent work (...)*"²⁷.

Further, in addition to the recognition of a commitment to sustainable development the preamble also refers to labour conditions when it says: "*(it is)...an overarching objective of the Parties that they will aim at ensuring and facilitating respect of international (...) labour agreements and standards while promoting high levels of protection for (...) labour*"²⁸. Moreover, it is stated that the social (as well as the economic and environmental) impact will be examined by means of an independent Sustainability Impact Assessment (SIA), involving the civil society, which will aim to propose measures to maximise the benefits of the Agreement and to prevent or minimise potential negative impacts²⁹.

²⁶ Cfr. Fichter, D. Stevis, *Global Framework Agreement in a Union-Hostile Environment: The Case of the USA*, Friedrich Ebert Stiftung Study, November 2013, p. 7.

²⁷ Council of the European Union, *Directives for the negotiation on the Transatlantic Trade and Investment Partnership between the European Union and the United States of America*, "The Mandate", Brussels, 9 October 2014, p. 3, available at: <http://data.consilium.europa.eu/doc/document/ST-11103-2013-DCL-1/en/pdf>.

²⁸ The Mandate, p. 4.

²⁹ The Mandate, p. 15.

Thus the inclusion of the principle of sustainable development in the TTIP presents both a real opportunity and a challenge. This could reduce any potentially negative effects of the TTIP on the European labour market.

Why?

The aim of including the objective of sustainable development is to ensure that increased trade is accompanied by a commitment to environmental protection and social development. That is to say, increased trade must not be at the expense of, or detrimental to, the environment or labour rights. Consequently, the EU and the USA must not weaken domestic labour standards as an encouragement for trade and investment. That is to say, domestic labour standards must not be lowered as a way to compete for trade or investment. The only way to achieve such a result is by adhering to the principle of sustainability. Sustainable development must therefore be used as a reference paradigm during negotiations, as a guarantee for social rights protections.

3.3 The GSP System

As we saw, both in the case of the WTO preamble and the TTIP, the benefit of adopting sustainable development is still potential.

A concrete application of this principle has instead taken place in the EU's "Generalised Scheme of Preferences" (GSP), which allows developing country exporters to pay less or no duties on their exports to the EU, giving them vital access to EU markets and contributes to their economic growth.

According to the new Regulation 978/2012 about GSP preferences, applied since January 2014, there are three main variants (arrangements) of the scheme:

- the general GSP arrangement, which offers generous tariff reductions to developing countries. Practically, this means partial or entire removal of tariffs on two thirds of all product categories.
- the "Everything but Arms" (EBA) arrangement, for least developed countries (LDCs), which grants duty-free quota-free access to all products, except for arms and ammunitions.
- and the Special Incentive Arrangement for Sustainable Development and Good Governance, also called "GSP+". This agreement's enhanced preferences mean full removal of tariffs on essentially the same product categories as those covered by the general arrangement.

This last special program is particularly interesting because these benefits are granted to countries which ratify and implement international ILO and UN conventions relating to human and labour rights, environment and good governance.

For this reason, this scheme is surely a good way to achieve a sustainable development, and also to disseminate the ILO Core Labour Standards in a trade context, because the respect of these conventions is an essential condition to obtain and keep those preferential tariffs to export in Europe over the years. Moreover, it underlines a strong cooperation between the EU and the ILO in the process of balancing between competition needs and social and environmental issues and thus it can be considered an application of the Sustainable Development principle.

3.4 The CSR

Another real application of sustainable development at European level, which finds a strong echo even at national level, could be found in the CSR Corporate Social Responsibility phenomenon that is the “voluntary integration of social and environmental concerns in commercial company dealings and in their relationship with the parties concerned³⁰”.

The enterprise should thus integrate social, environmental, ethical human rights and consumer concerns into its business operations and core strategy in close cooperation with the stakeholders. The aim is to maximise the creation of shared value, which means to create returns on investment for the company's shareholders at the same time as ensuring benefits for the other company's stakeholders and to identify, prevent and mitigate possible adverse impacts the enterprises may have on the society.

More recently, CSR has been defined by the European Commission as “the responsibility of enterprises for their impacts on society³¹”.

This definition is more related to the concept of sustainable development: to adopt a CSR politics or some “social responsible” tools, means, thus, to follow the sustainable development objective, that is, to adopt its values.

As a matter of fact, CSR could be defined as the application, at the enterprise level, of the Sustainable Development paradigm.

³⁰ European Commission Green Book, July 2001.

³¹ Brussels, 25.10.2011, COM(2011) 681 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A renewed EU strategy 2011-14 for Corporate Social Responsibility.

The strong interdependence between the paradigm we are facing in this paper and CSR emerges from several official institutional documents: the European Parliament Resolution of 8 June 2011³², for example, where the Parliament points out that “*CSR should address new areas such as the organisation of work, equal opportunities and social inclusion, anti-discrimination measures, the development of lifelong education and training; emphasises that CSR should cover, for example, quality of work, equal pay and career prospects and the promotion of innovative projects so as to assist the shift towards a sustainable economy*” (p. 34) and where it calls on the Commission “*to systematically include a chapter on sustainable development, containing a legally binding CSR clause, in the free trade and investment agreements it negotiates with third countries*” (p. 40). This is what is happening in the case of TTIP negotiations, as we have seen. In the same document, the Parliament proposes that this CSR clause cover compliance with the ILO's eight core conventions and four priority conventions” and also provide incentives for enterprises to enter into CSR commitments as well as an obligation of diligence for enterprises and groups of enterprises, i.e. an obligation to take proactive measures to identify and prevent any violation of human or environmental rights, corruption or tax evasion, including in their subsidiaries and supply chains (i.e. their sphere of influence)(p. 41).

The link between the two concepts of CSR and Sustainable Development is clear also by reading the European Commission Communication, of 25 October 2011, “*Through CSR, enterprises can significantly contribute to the European Union’s treaty objectives of sustainable development*”³³.

4. Some concluding remarks

As we saw in this paper, sustainable development has a widespread scope of application. And there are many real or potential ways to apply this paradigm to labour law. This is why it can be considered a new framework of reference, for a new legitimization of labour law discipline, thanks to the inclusion of social values in a trade agreement in the shape of social rights promotion (WTO Preamble, TTIP, GSP+) or again, thanks to the evaluation of the social and environmental impact of the economic activity (CSR).

³² European Parliament resolution of 8 June 2011 on the external dimension of social policy, promoting labour and social standards and European corporate social responsibility ([2010/2205\(INI\)](#)).

³³ Brussels, 25.10.2011, COM(2011) 681 final, cited, p. 3.

The choice to adopt this principle as a guiding principle is at the moment a possible tool to find a new guideline, a new star pointing the way to labour law transformation process, which will permit a combination of economic and social values, in order to pave the way for a real, inclusive, universal, social and environmental development.