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THE NEW CHALLENGES OF CORPORATE SOCIAL RESPONSIBILITY: SUSTAINABLE ECONOMIC DEVELOPMENT AND CULTURAL DISTRICTS

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Summary

Starting from the principles of corporate social responsibility and those, including recent ones, of cultural heritage, the purpose of this study is to illustrate the possibilities of intervention in the sector of cultural districts in order to enhance them, improve the environment in which they are established and the quality of life of those who reside there, increase job opportunities and the economic development of the area. The article also contains a reference to the Italian and EU regulatory context, with the recent introduction of the concept of Cultural and Creative Enterprise in 2018.

Introduction

Nowadays, the concept of “Corporate social responsibility” is neither a theoretical nor an abstract elaboration of legal doctrine. It has become part of company regulation.

It has been introduced in the Italian Civil Code, Art 2428(2) on “Management Report” and Legislative Decree 30.12.2016, No. 254, implementing EU Directive 2014/95 of 22.10.2014 on “non-financial reporting” to provide in addition to annual balance sheets, thus dictating a law in the early stages which will be certainly enlarged in the near future.

Public opinion and civil society are more and more sensitive to this concept. Today, the principles of “Corporate social responsibility” are applied to the ecology and environment sector to achieve sustainable economic development.

This brief essay aims to apply these principles to the sector of cultural heritage, which though not directly productive is of high relevance to civil society because of the extensive cultural heritage of Italy.

This purpose can be actualized by using a juridical instrument introduced by the Italian legislator by means of Law 27.12.2017, No. 205, Art.1(57), in force since 01.01.2018 though not yet operational, that is, the “Impresa Culturale e Creativa”, I.C.C. (Cultural Creative Enterprise, CCE). This is a no-profit enterprise which is managed by external “Stakeholders”.

This new type of enterprise could operate within “cultural districts” which are numerous in Italy. A number of operative suggestions are proposed here in view of achieving a better management system alongside applying these principles to areas of small dimensions like Italy’s “small borghi”, which though small villages are rich in cultural, artistic and archaeological sites of art in order to achieve, on the local level, greater economic development and better social conditions through enhancement of the culture of a particular area.

1. Corporate Social Responsibility

Corporate Social Responsibility (CSR) constitutes a new frontier of company law, both public and private. It is a new challenge for greater and better integration between commercial companies, public bodies, institutions and workers, citizens and the whole of society. It aims to guarantee a better quality of life not only for employees in the workplace but for society in its entirety in the environment in which people live and work¹.

For many years, corporate companies have been concerned about the societal impact on the environment in which they operate and intervene to improve it through a series of initiatives and activities, not only in favour of their employees but also benefitting the surrounding community. This is the “corporate social responsibility”, which ultimately aims to ensure a better quality of life in all its implications, economic and social.

Italy has an extensive cultural heritage. In this and in other sectors of paramount social importance, companies and private subjects, though distinct from production companies that apply the principle of social responsibility but not connected to them, can intervene autonomously, to autonomously carry out a series of initiatives and projects contributing to conservation and enhancement of cultural heritage.

The principle finds many applications with reference to commercial companies and businesses, as well as private individuals, who can independently intervene in sectors of great social importance. This is the case in the Italian cultural heritage sector.

¹ AA.VV. Corporate responsibility. For the thirty years of Commercial Law, Milano, Giuffrè, 2006.

2. Legal notion and regulation of corporate social responsibility

From a regulatory point of view, there is no single legal notion and no articulated discipline of corporate social responsibility. However, some general principles are indicated in the Italian Constitution and in two EU Resolutions of 2001 and 2011.

A general principle is set out in Article 41 of the Italian Constitution: “private economic initiative is free”, but “it cannot take place contrary to social utility”. Article 41 also specifies that “The law determines the appropriate programs and controls for public and private economic activity to be directed to social purposes”. These are broad indications, preceptive, and of great relevance today.²

In the Green Book of 18.07.2001, the European Commission defined corporate social responsibility as the “voluntary integration of the social and ecological concerns of companies in their commercial operations and in their relations with interested parties”.³ EU Communication No. 681 of 25.10.2011 modified and restricted it and redefined it as the “responsibility of companies for the impact that they produce on society”.⁴

The EU Treaty, Art. 3(3) sets the achievement of a “sustainable development based on [...] a highly competitive social market economy” as a fundamental objective of the Union.

In Italy, with regard to financial statements, Art. 2428, para. 2 of the Italian Civil Code provides that directors should provide “information relating to the environment” in the “Management Report”.⁵

Legislative Decree No. 81 of 09.04.2008, concerning the protection of health and safety in the workplace, in Art. 3(1, following letters), defines it as the “voluntary integration of the social and ecological concerns of companies [...] in their commercial activities and in their relations with interested parties”.

Finally, in Italy as in the other countries of the EU, Legislative Decree No. 254 of 30.12.2016, implementing Directive 2014/95/EU of 22.10.2014, introduced a “non-financial reporting” starting from the financial year beginning on 01.01.2017, i.e., since 2018. Groups and some companies have been obliged, since 2018, to submit, together with the annual financial statements, a “Non-Financial Report”, which is essentially a Corporate Social Responsibility Report. At present, it is mandatory, according to Art. 3, only for large companies with at least 500 employees and a consolidated balance sheet exceeding 20 million euros, or with

² Hereinafter, all citations from Italian legal documents into English are the author’s translations from Italian into English.
Constitution of the Italian Republic, in the Official Gazette of 27.12.1947, No. 298 (Extraordinary edition).

³ European Commission, Green Paper, “Promoting a European framework for corporate social responsibility”, 18.7.2001, C. E., 2001 / a, lex.europa.eu/com/2001.

⁴ European Union, Communication No. 681 of 25.10.2011, redefines the notion of “corporate social responsibility”.

⁵ Civil Code, promulgated with Royal Decree 16.3.1942, No. 262.

net revenues exceeding 40 million euros. Pursuant to Art. 7, other companies with different and minor features may submit the Report on a voluntary basis. This obligation will extend over time, though some large groups, such as *Unipol s.p.a.* in the insurance sector and *Prada* in the luxury clothing sector, have already conformed to it, and many other groups, large and small ones, are becoming aware of the issue. In particular, in its first Report, the *Prada* group acknowledges that it has taken “an attitude closer to the needs of civil society” and dedicates an entire chapter to its own “Commitment to the world of culture”.

This fairly recent principle has rapidly spread all over the world and today urges companies to adopt a “socially responsible” behaviour that meets the expectations of the “stakeholders”. From this it follows that: 1. There is a balance between internal and external interests, of the two distinct categories of stakeholders, in carrying out business activities; not only the internal stakeholders of the corporate body, but also the external stakeholders, traditionally customers and suppliers, as well as citizens and the entire community living in the surrounding area. 2. In addition to the interests of the Stakeholders of the two different categories, the environmental issues that can be determined by the production activity of the company must also be considered by inserting a moral obligation, a fiduciary commitment to improve the environmental situation of the area, resulting in improvement in the quality of life of the people living in those areas. 3. The social and ecological intervention of the company originally begins as a voluntary intervention, as a decision of the company, however, once assumed, it imposes a legal obligation on the entrepreneur who is required to comply with it.⁶

Today, some rules concerning corporate social responsibility exist, though confusedly, and are mandatory for companies. Failure to comply with them entails the legal responsibility of the entrepreneur or defaulting company directors.

With the concept of Corporate Social Responsibility (C.S.R), ethical limits are placed on the economy. In the last fifteen years, there is an increasing number of companies, especially large ones, which are conforming to the principles and rules of the C.S.R. These self-imposed rules of the C.S.R. have undoubted juridical relevance, but have also relevance in the extra-judicial sphere.⁷

3. Economic development

The economic development of an area, a region, a state no longer depends only on the degree of industrialization and employment, but also on the degree of cohesion and social progress, as well as on the ability to create social development, with spaces for aggregation, including those of artistic and cultural nature, subject to environmental compatibility with the territory. The factory, the office,

⁶ See Alpa, Costi, Conte, Libertini, Di Cataldo, Vella and many other authors, with a vast literature on CSR.

⁷ Conte G. (ed.). Corporate social responsibility. Roma-Bari, 2005, p. 77 et seq.

the workplace, but also and above all the external environment, in which the individual and the social community live and operate outside work, must become liveable, healthy and rewarding. This is the only way to create and develop social cohesion and participation that, in addition to improving the quality of life and interpersonal relationships increases productivity, creates well-being, boosts consumption, and therefore contributes to the development of the economy. Finally, it is necessary for the territory to create a condition of environmental compatibility for a harmonious economic development.

The promotion of individual and collective well-being, the removal of the causes of inequalities is a specific task of the state, must be one of the fundamental objectives of public policies, also in implementation of Article 3 of the Italian Constitution, which states, in para. 1, that “All citizens have equal social dignity”, and in para. 2: “It is the duty of the Republic to remove the obstacles of an economic and social nature which, by limiting the freedom and equality of citizens, prevent the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country”.

The State must intervene in benefitting and protecting the entire community and the national territory, for the implementation of the constitutional provision. The private intervention is, likewise, increasingly required and desirable with regard to individual areas and the activities carried out therein. The “private subject can contribute their interventions not only through voluntary work, which supports the State in some sectors of social activity, but also by means of entrepreneurs who operate in the area in which they carry out their economic activity, simultaneously working to benefit meeting the social needs outside the company, compared to internal ones, which mainly concern labour policies. This is the principle that inspires “corporate social responsibility”, which is applied to the most disparate sectors, including those relating to the management of cultural districts.

4. Sustainable development

Economic development must also be “sustainable”, that is, respectful not only of society and culture, but also of the environment. Economic growth must go hand in hand with the growth of society and individuals, in order not to generate social and individual imbalances and tensions, and always respecting and protecting the environment.

The notion of “sustainable development” comes from afar, that is, from the 1972 United Nations Conference on human environment, which elaborates the Stockholm Declaration. In 1987, the UN for the Environment and Development elaborates the “Brundtland Report”, which defines it as “the development that allows the present generation to meet their needs without compromising the ability of future generations to satisfy their own”. In 1992, the UN draws up and approves the “Rio Declaration on Development and Environment”, which paved the way to the Convention on Biological Diversity in 1993 and the Convention on Climate

Change in 1994. In 1994, in Aalborg (Denmark) and in 1996 in Lisbon (Portugal) the I and II European Conference on sustainable cities take place. These approve the “Report on sustainable cities”. In 1997, the “Kyoto Protocol” on climate change, which promotes, among other things, incentives for forms of sustainable economy, was signed. In 2012, the “UN Doha Conference” extends it until 2020 and sees its ratification by as many as 193 states. Italy joined it and has mapped out the objectives for the conservation of biodiversity since 2009.

In 1993, Art. 2 of the Convention on Biological Diversity defines “sustainable ... the use of biological resources in ways and at a pace that do not lead to a long-term reduction of resources and that preserve the ability to meet the needs of present and future generations”.

In 1995 the Charter of Lanzarote (Canary Islands) on sustainable tourism was worked out. The UN Johannesburg Conference in 2002 and the EU Conference at Gothenburg (Sweden) in 2011, with the approval of the “Strategy for sustainable development” broaden the original notion and identify three forms of sustainability: environmental, economic and social, with the task of ensuring that the conditions of human well-being are equally distributed. The EU decides that “In the long term, economic growth, social cohesion and environmental protection must go hand in hand”.

In Italy, Legislative Decree 09.04.2008, No. 81, concerning the protection of health and safety in the workplace, in Art. 3(1, following letters), defines it as “voluntary integration of the social and ecological concerns of companies in their commercial activities and in their relations with interested parties”. Here, too, the social and ecological intervention of the company originates as a voluntary intervention by the company, but then becomes a legal obligation to comply with.

As already mentioned above, administrators are required to provide “information relating to the environment”, pursuant to Art. 2428, para. 2, of the Italian Civil Code, and Legislative Decree 30.12.2016, No. 254 which, in implementation of Directive 2014/95/EU of 22.10.2014, introduced, in 2018, the “non-financial reporting” for groups and some companies.

5. Environmental, social, economic sustainability

Starting from the seventies, the need to recognize the institutional responsibility of single states for an environmentally-friendly economic growth, divided into economic, environmental and social Public Responsibility, began to be felt. The three dimensions of sustainable development have also become the inspiring principles and objectives to be achieved that are included in the Green Book on corporate social responsibility of the EC in 2001.

The Charter of Goteborg (Sweden), as mentioned above, in 2011 defined the three forms of sustainability: environmental, economic and social, to promote and guarantee the uniform growth, in all EU countries, of well-being for people, the environment and the society in which they live. The 2015 UN Resolution,

“Transforming the World, the 2030 Agenda for Sustainable Development”, based on these well-established principles, has identified 17 objectives to achieve, which are divided into 169 Targets.⁸

The sustainability of economic development has also become a principle of international environmental law, which is now included in numerous treaties.

Environmental sustainability must ensure the availability and quality of natural resources.

Social sustainability must ensure the quality of life, safety and services for citizens.

Economic sustainability must ensure economic efficiency and income for companies.

To achieve the sustainability of economic development, the State can be supported by a private subject. Thus, nothing prevents the Institutional, public, state responsibility from being added the responsibility of private subjects, who work alongside the State to achieve these goals. It is in this way that the notion of corporate social responsibility originates, as it comes out of (goes, acts outside) the company, and in the last fifteen years evolves and directs towards a social and cultural dimension.

Even private subjects place themselves at the service of the public, the community, society and culture.

6. Cultural district

The theme of “cultural districts” fits well in the context of a harmonious sustainable development of society with the intervention of the private subject alongside that of the state.

The cultural district is a territory in which there are numerous cultural and environmental assets, services and productive activities in synergy. They are identified and studied by the State, in its territorial articulations, in order to enhance them, improve the environment in which they are embedded and the quality of life of the people living there, increase job opportunities and the economic development of the territory.

To identify, promote, study, formulate and implement projects, the State, the Regions and other local Bodies must intervene, but private subjects having development and social well-being at heart can also actively intervene. These private subjects can be individuals, volunteers, patrons, and also private individuals who work professionally in other sectors of productive activity, that is, individual entrepreneurs and collective enterprises, and commercial companies. But we will return to this.⁹

⁸ Resolution of the UN General Assembly 25.9.2015 No. 70/1, Transforming our world: the 2030 Agenda for Sustainable Development, A / Res / 70/1 of 21.10.2015.

⁹ Valentino P. The cultural districts, new opportunities for territorial development. Milan, 2009.

Italy has an enormous cultural heritage, within which cultural districts must be identified. In their management and for their enhancement, alongside the State, the Regions and local Bodies, private individuals, entrepreneurs and commercial companies can also intervene, as mentioned above. These are subjects with respective and specific skills, that also operate outside the company.

7. Social responsibility, culture and cultural enterprise

The sectors in which the principle of corporate social responsibility is implemented concern above all environmental protection, respect for fundamental rights and social development, including cultural values. It is also possible to experiment on new forms of social responsibility of the company.

Corporate companies have been concerned for many years about the social impact on the environment in which they operate and have intervened to improve it not only in favour of their employees but also in favour of the surrounding community. Corporate social responsibility projects itself towards a new dimension, more specifically in the cultural sector, in which it can intervene today through the new juridical figure of the cultural enterprise, an institution introduced by Law 27.12.2017, No. 205, Art.1 (57), in force since 01.01. 2018, but not yet operational due to failure to issue the M.D. of implementation.¹⁰ (10)

The EU foresees, for social and cultural development, investments allocated for financing in a specific sector of social and cultural relevance. However, regardless of the tool that can be used by the “socially responsible” company, even a private subject, unrelated to the company, can independently decide to invest in the sector for the same social or, more specifically, cultural purposes.

Traditionally, for a cultural purpose, a company or an enterprise can make a donation in a sector or in a cultural activity. However, those who are willing to invest and not donate, may want at least to recover what they have invested, though with no profits, in order to commit themselves to social or cultural issues. These investors are subjects external to the company, subjects other than traditional internal “Stakeholders” but can be equated to these as showing social interests, though more general but also useful for the corporate company that pursues them. These private subjects have no relationship with businesses and commercial companies, but are concerned with raising and enhancing the social and cultural level of the territories in which they live and operate, and of the places where the businesses are located.

Private subjects, as mentioned above, can operate in the cultural sector with traditional or innovative forms:

¹⁰ Law 27.12.2017, No. 205, Budget Law 2018, Art. 1, paras 57, 58, 59, 60. Official Gazette, General Series, No. 302 of 29.12.2017, Ordinary Supplement No. 62.

- a) through the sponsorship of events, recovery or restoration of cultural heritage; with the Art-bonus, established by the Code of Cultural Heritage, Legislative Decree 22.1.2004 (traditional forms of financing);
- b) through the “cultural enterprise”, which is an autonomous enterprise, a new innovative form, even if not yet operational, of intervention in the sector of culture and cultural district.

It is a private subject that invests in society and in the specific sector of culture, through the establishment of an autonomous cultural enterprise. It is an external dimension, compared to the traditional concept of corporate social responsibility, that extends its field of action beyond the boundaries of the specific activity carried out by the company, integrates into the local community, dialogues with and involves public authorities.

A private subject constitutes a cultural enterprise that invests in the specific sector of culture. Culture is a tool for the evolution of civil society; companies can carry out cultural activities for social purposes directly or indirectly, by financing them. Today, with a further step forward, culture itself has become an enterprise; no longer an instrument of corporate social responsibility, but a direct purpose to be pursued for social improvement and evolution, culture becomes the social object if the company is organized in a corporate form. The cultural and creative enterprise was based on this concept.

8. Cultural and creative enterprise

It is possible that, upon input from the directors of a Company, some subjects external to it come to set up an autonomous company acting in the cultural sector, in the general social interest, with a direct connection not with the activity carried out by the Company but with the interest it has in improving the social and cultural life of the area in which it operates.

The first difference with respect to the ordinary exercise of corporate social responsibility is that they are two distinct legal subjects acting for the same social purpose. The second difference is in the disbursement of funds, which in the first case is direct, in the second takes place through a loan.

I will limit myself to briefly illustrating the notion of a cultural and creative enterprise, without an analysis of the content of the law, not yet operational, due to the lack of the two D.M. of implementation.

The “Cultural and creative enterprise” originally starts with purposes other than those typical of the figure of private law entrepreneur, governed by Art. 2082 of the Civil Code.¹¹

It is not the company that exploits cultural assets and uses them in the consumer market to make a profit; it is instead the company that arises from a social need, “it is

¹¹ In Italy, pursuant to Art. 2082 of the Civil Code, “An entrepreneur is someone who professionally carries out an organized economic activity to produce or exchange goods and services”.

the natural evolution of a community whose needs in the field of culture are growing, which [...] demands that the collective assets constituting the cultural heritage be made usable".¹²

A cultural and creative enterprise carries out a stable and continuous activity, has its registered office in Italy or in one of the Member States of the European Union, is a taxable subject in Italy, and has as its corporate purpose, exclusively or predominantly.¹³

The corporate purpose is extremely broad, but the particular qualification, necessary to operate, is subject to registration in a special ministerial register, to be established with the Ministerial Decree, which has not yet issued to date. The law has been in force since 1 January 2018 but is not yet operational due to failure to issue such Ministerial Decree.

The qualification of cultural enterprise gives the right only to tax relief, to a tax credit of 30% on the costs incurred. This is an example of a zero-cost reform, typical of Italian legislation.

The cultural enterprise originally starts with a public purpose: it uses public goods, has institutional purposes of conservation of public goods, "organizes" them not for profit, but to offer the public the use of cultural and artistic heritage. Since it does not produce profit, "subjective profits", it needs to obtain public funding to be supported.

The Italian cultural heritage is very broad and is also susceptible of economic use. All this constitutes the "system of cultural heritage", though it is devoid of financial autonomy

In cultural enterprises, a legal institution of private law, the "purpose of profit" is theoretically possible and achievable, as objective profit, though it is difficult to predict the amount of "profit". Conversely, the criterion of "economy", understood as a balance between costs and revenues, is well applicable to the use of public goods by a private entrepreneur.¹⁴ It is sufficient that the activity is carried out with an "economic method", in order to cover the costs with the revenues.¹⁵

For some time now, cultural heritage has had its own public legislation, with the Code of Cultural Heritage and Landscape, introduced with Legislative Decree

¹² Meo G., Nuzzo A. (eds.). The cultural enterprise. A possible contradiction. Editorial, in *Legal Analysis of the Economy*, il Mulino, 2007, No. 1, p. 4.

¹³ Art. 1, para. 57, Law 27.12.2017, No. 205.

¹⁴ Ascarelli, Bonfante, Cottino Graziani, Ferrara and many others.

¹⁵ For all of them, see Campobasso G. F. *Commercial law*. Vol. I, Business Law, 7th ed., UTET, Turin, pp. 31–32. See also Angelici, Buonocore, Galgano, Libonati, Oppo, Rivolta, and others.

24.03.2006, No. 156 and with Legislative Decree 24.03.2006, No. 157, amended several times since 2006¹⁶ and a complex and articulated discipline.¹⁷

9. Continued – the current legislation

Let us now briefly examine Law No. 205 of 27.12.2017, which entered into force on 1.1.2018 though not yet operational, in particular Art. 1(S7–60), which established the Cultural and Creative Enterprise.

Art. 1(S7), second sentence, provides a definition of the Cultural and Creative Enterprise and establishes its subjective conditions and the object, which it improperly defines “social”, thus allowing us to infer that it can also have a corporate form. The “subjects” can also be pre-existing companies, which carry out a “stable and continuous activity” and are based in Italy, in a member state of the EU or in one of the states adhering to the Agreement on the European Economic Area, as long as they are taxable subjects in Italy.

The “social object”, which must be “exclusive or prevalent”, is wide and includes all the categories that are included in the concept of cultural property:

the conception, creation, production, development, diffusion, the conservation, research and enhancement or management of cultural products, understood as goods, services and intellectual works inherent in literature, music, figurative arts, applied arts, live entertainment, cinematography and audiovisual, archives, libraries and museums as well as cultural heritage and related innovation processes.

It even includes a new category, the “applied arts”, not foreseen in the various schematizations previously elaborated. One has the impression of being faced with a new “type” of business.

CCEs can be Associations, foundations, single or collective companies operating in the cultural sector, a strategic system for our country, which produces 6% of the wealth produced in Italy. They have their own specificity, which consists in the “ability to reconcile economic, cultural and social value”. An example of this is the cooperative of S. Gennaro Catacombs in Napoli (Campania, Italy).

For the CCE to become operational, para. 58 prescribes that acknowledgment of its qualification by the Ministry of Cultural Heritage and Activities should be made with a specific Decree that must be adopted by the Ministry within ninety days from the entry into force of the law but has not yet been adopted to date.

The issuing Ministerial Decree (MD) will define the “cultural and creative products”, thus placing a fixed point on the categories that have so far been

¹⁶ In implementation of Delegation Law 6.7.2002, No. 137, with Legislative Decree 22.1.2004, No. 42, the T.U. introduced with Legislative Decree 29.10.1999, No. 490 was repealed and replaced by the Code of Cultural Heritage and Landscape, introduced with Legislative Decree 24.3.2006, No. 156 and Legislative Decree 24.3.2006, No. 157, with subsequent amendments.

¹⁷ For a detailed exposition, cf. De Cocci M. The discipline of cultural heritage. In: The cultural enterprise, a possible contradiction in Legal analysis of the economy, Il Mulino, 2007, No. 1, pp. 41–57.

elaborated in various ways by scholars and technicians. “Adequate forms of advertising” will also be envisaged, and probably its registration in a specific Section of the Business Register. The MD must provide for the coordination of the new discipline with that contained in the so-called “Third Sector Code”, recently repealed with Legislative Decree of 03.07.2017, No. 117. At present, it is difficult to distinguish between the new I.C.C. and the social enterprise with a cultural object as governed by the Third Sector Code.

Before the definition of the CCE., para. 57, first sentence, the legislator allocates a fund of € 500 000.00 for 2018 and € 1 000 000.00 for each of the two years, 2019 and 2020, for recognition to CCEs. of a tax credit of 30% of the costs incurred for the development, production and promotion of cultural and creative products and services. We can see in this an odd and unusual legislative technique that allocates funds to a subject that does not yet legally exist, being introduced and defined only in the following period.

Para. 59 then establishes that the tax credit, to use within the limits of the EU *de minimis* aid Regulation No. 1407/2013, does not contribute to the formation of taxable income and, above all, can be used “exclusively in compensation”. In fact, the allocation of 2 500 000.00 euros over three years, provided for by para. 57, is only virtual, as it results in a lower income for the State, but nothing goes into the coffers of the CCE, and it is therefore only an indirect financing.

Finally, para. 60 provides that the Minister of Cultural Heritage and Activities adopts, again within ninety days from the entry into force of the law, an additional MD, for the monitoring and verification of compliance with the spending limits, the types of eligible expenses. and of the respective admissible limits, as well as for the verification and inspection of the effectiveness of the expenses incurred, to the eventual accumulation with other concessions. It will then have to provide for the causes of forfeiture and revocation of the benefits granted and establish the procedure for the recovery of the tax credit allocated, in the event of its illegitimate use. A series of timely checks by the Ministry are therefore envisaged on the performance of the activity and on the use of the benefit, as well as an adequate sanctioning procedure. Unfortunately, not even has this MD been enacted yet.

From this brief analysis of the meagre legislation issued, it emerges that, apart from the private definition of the new institution, all other provisions are of a public nature.¹⁸

10. Cultural districts and social responsibility

Thus, what is the link among sustainable economic development, corporate social responsibility and cultural district?

¹⁸ Zampella E. The cultural and creative enterprise, a new reality. In: Di Nanni C. (in honor of). Writings of minor commercial law, Vol II, pp. 1151–1163, ESI, Napoli, 2018.

We have already given a definition of a cultural district as a territory in which there are numerous cultural and environmental assets, services and productive activities in synergy. These are identified and studied to enhance them, in order to improve the environment in which the District is located and the quality of life of the people who reside in its territory.¹⁹

There is no overt reference legislation on the subject, both as regards the notion and the types of intervention and financing that are necessary for the survival, enhancement and management of our immense cultural heritage.

The Faro Convention, dated 22.10.2005, entered into force on 01.06.2011 and ratified by Italy on 27.02.2013 as “Framework Convention on the value of cultural heritage”, commits itself to “formulate integrated strategies” and promote “an approach integrated with policies concerning cultural, biological, geological and landscape diversity”, involving “public institutions in all sectors and at all levels”. Two further 2014 EU Documents identified a policy of cooperation at different levels between the institutions for a new governance of cultural heritage.

Italy has a huge cultural heritage, often pulverized in small entities that are difficult to manage; thus, cultural districts have very heterogeneous types and are widespread in the area, with features often different from area to area. The legislation is mainly constituted by Regional Laws, from Abruzzo, which is the first (RL No. 22/2009) to Friuli Venezia Giulia (RL No. 16/2014), to Lombardia (RL No. 25/2916), with seven Regions altogether (Campania has only one RDG No. 4459/2002).²⁰ Almost all the Regions have identified one or more cultural districts, a planning document, and tenders.

Private subjects have been more active, in particular some large companies, insurance companies and banks, through their banking foundations. Firstly, the CARIPLO Foundation, beginning in 2004, developed two interesting projects: “Sviluppo Sud” and “Cultural districts”; then, in 2018 it signed a collaboration agreement for PICs (Integrated Plans for Culture) with Lombardia Region and Unioncamere Lombardia (Integrated Plans of Culture)²¹, followed by UNIPOL, Benetton and others. Each of them adopts its own strategy and its own project, which does not always contribute to enhancing the cultural heritage.

The Regions, instead, have followed different institutional paths and procedures and are progressively orienting themselves more and more towards cultural and creative activities, as an active tool for local development. Lombardia

¹⁹ There is ample literature on Cultural Districts. Among outstanding scholars: Valentino Pietro Antonio, *The plots of the territory. Development policies of territorial systems and cultural districts*, Milan, 2003; Sacco P. and Pedrini S. *The cultural district: myth or opportunity?* In: *Il Risparmio*, 2003; Sinatra A. *Why cultural districts do not exist*, 2004.

²⁰ L. R. Abruzzo No. 22/2009; D.G.R. Campania No. 4459/2002; L. R. Friuli-Venezia Giulia No. 16/2014. L. R. Lombardia 7/10/2016 No. 25, in *Off. Bull. Lombardy Region*, Supplement No. 41 of 11.10.2016.

²¹ The CARIPLO Foundation has carried out a study: *The Cultural Districts. General pre-feasibility study*, Milan 2006. It also elaborated two Projects, “Southern Development” and “Cultural Districts”, see Cerquetti M. and Ferrara C. *Cultural districts and policy actions in comparison Il Capitale cultura*, Suppl. No. 3, 2015, pp. 137–163.

Region has dedicated the Regional Law cited entirely to the tangible and intangible cultural heritage (Art. 1) which has identified and regulated, also assigning and distributing functions respectively among the Region, Provinces, Municipalities, Bodies, Institutions and “Places of culture” (Articles 3–5), has planned interventions and provided for financial coverage. It has not limited its action to the regulatory provision, but disciplined its implementation through an operational program, approved with P.G.R. 4.3.2019, No. X / 1332.²²

11. Proposals *de jure condendo*

The Cultural District aims to make the production of “culture” more efficient and effective in order to achieve, on a local level, greater economic development and improvement in social conditions. “Culture” should be understood in its broadest sense; it aims, through manifestations and events, to enhance the specific culture of the territory, the typical products and other resources. It is therefore also a driving force for relaunching local economy.

There are numerous examples of cultural districts set up throughout Europe. One of the best known is in Spain, the 1989 “Strategic Plan for the Revitalization of Bilbao”.²³

In Italy, promoting and implementing projects is the responsibility of the State, Regions and local Bodies, though private subjects, Entrepreneurs, Companies operating professionally in other sectors of activity can also intervene. The Cultural District also contributes to economic development, which expands and becomes greater if corporate social responsibility is used.

The problem with the Districts is that the cultural assets are almost always owned by the public, the State and the local authorities. Thus, the power of protection, veto or authorization belongs to a government body. In Italy, cultural heritage is protected by the Code of cultural heritage and all powers belong to the Ministry of Cultural Heritage. Consequently, its management is up to the owner of the assets or their delegates, almost always the State, with the consequence that management is often not dynamic and efficient.

Conversely, to achieve the purposes for which the District was established, the management could be made more essential and effective, distinguishing a Political Power, entrusted to one or more representatives of the State, the owner of public assets, from a Technical Power, also of private subjects, to whom to entrust the effective management of the District. A Power of Collaboration with

²² P.G.R. 4.3.2019, No. X / 1332, Official Bulletin. Lombardy Region, Ordinary Series No. 11, 12.3.2019.

²³ In 1989 the Basque Government (Spain) launched a “Strategic Plan for the revitalization of Bilbao”, centered on the “cultural centrality” of the numerous critical areas in crisis. The project has been successful and, over time, cultural infrastructures have been created: Palazzo dei Congressi and the Concerts, Museum of Fine Arts, Historical, Archaeological, Ethnographic Museum, Maritime Museum; 2 600 new jobs were created, the GDP of the whole Basque Country increased by 0.47%.

the two leaders could be entrusted to Universities, Research Centers, single Scholars, for the sectors of their competence, who would offer their consultancy for the realization of the project.

The Technical Management Power could also be entrusted to a cultural and creative company, that is, to a legal subject capable of doing business professionally, though not for profit. Italy, with its immense cultural heritage, could create highly targeted cultural districts, entrust their management to Cultural and Creative Enterprises, with the result of obtaining great advantages both for the conservation and enhancement of cultural heritage and for local economic development and social security of the District's territory.

12. The Small Villages

There is a very recent call for the enhancement of small inhabited centers, partly in a situation of neglect, embedded in the territory of a cultural district, today rediscovered and enhanced due to the COVID-19 pandemic. They are part of the cultural districts of their respective Regions.

Two examples are the "Guarcino 2025" project, currently at an advanced stage of implementation, for the economic and social revitalization of a small medieval town of 1 500 inhabitants in the province of Frosinone, in Lazio Region, embedded in a District for the production of paper mills only, but developed and carried out by private subjects, with the direct participation of the municipality²⁴, and the project for Cairano Irpino, a very small town of 300 inhabitants in Irpinia, started in 2017.

The "Guarcino 2025" project, an example of collaboration between public institutions (Municipality) and private associations, is divided into five thematic areas, Business, Health, Culture, Sport-Environment-Landscape, Accommodation.

Conclusion

Corporate social responsibility is now projecting itself into a new dimension.

In conclusion, the principle of corporate social responsibility can also be extended and applied to cultural districts, with the creation of cultural and creative companies, distinct from private commercial companies and the public body that

²⁴ Lazio Region introduced the Districts with Regional Law No. 36 of 2001 and identified three types of industrial districts, defined as "territorial areas characterized by a high concentration of small and medium-sized enterprises, specialized in a specific production sector".

The Municipality of Guarcino is part of the local paper production system, which includes 16 municipalities in the province of Frosinone, with 86 companies and 801 employees, with an average of less than (Communication No. 681 of 25.10.2011) ten employees per company. The Region has set up a Lazio Development Agency s.p.a. for the study of the territory and businesses, with the collaboration of the Universities, Chambers of Commerce and ISTAT. It also provided for a special fund to finance educational projects.

owns the assets, which operate with specific skills within the cultural district, in a well-identified territory which they intend to enhance.

It is thus possible to achieve a better management, neither improvised nor politicized, which favours the economic and social development of the District's territory, which shows respect for the environment and which, combined with similar actions of other Districts, contributes to a harmonious sustainable economic development, reducing inequalities - social, cultural, economic – from area to area.

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