Contractual welfare and atypical work in the Italian case

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1. Introduction

Since the beginning of the 90’s demographic changes, growing international pressures and increasing global competition favoured the set-up of a series of reforms aimed at improving the competitiveness of advanced economies. In some cases these reforms entailed a rise in economic uncertainty: this is the case of labour market reforms that promoted labour flexibility, the decline of standard employment, the reduction of employment protection legislation and the increasing role of ‘atypical’ contracts (OECD, 2004; 2006). These reforms triggered economic uncertainty when they were not accompanied by policy changes able to create new forms of security for non-standard workers. This path characterises also the Italian case, that since mid-90s experienced a long-lasting process of reforms that increased the flexibility of the labour market without a concurrent comprehensive reform of the social protection system.

In some specific sector, such as in temporary agency work, the action of social partners partly contributed to reduce the gap between standard and non-standard workers in terms of social protection, creating new forms of security based on collective bargaining and on the role of bilateral organizations. This paper focuses on these processes analysing the Italian case and studying a) the recent process of labour market reforms and the rise and decline of social concertation b) the main features of non-standard employment and c) the emerging of forms of ‘bilateral welfare’ in the TAW sector and the institutional conditions that favoured it.

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2 In this paper I will use the term ‘sector’ to gather together all the activities directly related to temporary agency work, even if the TAW is not properly a sector of activity.
The focus on the role of bilateral welfare in the TAW sector will emphasize the role of the what has been defined as 'second welfare' (Ferrera and Maino, 2011), namely forms of integrative welfare that are not funded directly by the state and that address rights and guarantees only partially covered by public action. We will see how industrial relations at various level can contribute to introduce new forms of security for atypical workers. At the same time, we will focus on the specific institutional conditions that favoured the emerging of forms of integrative welfare for the temporary agency workers and we will emphasise that these institutional conditions are 'sector specific' and very difficult to export to other groups of atypical workers.

2. Industrial relations and labour market reforms in the Italian case

For many years the Italian case was paradigmatic example of the Mediterranean model of welfare, with an high role played by families, high public transfer of money, a low level of services and a high protection from unemployment risk for standard workers in a model of male breadwinner family. Since the beginning of the '90s this system underwent many significant changes that partly modified its main features (Ascoli, 1984, 2011; Natali 2009; Ferrera 1996, Colombo and Regini 2009; Jessoula 2009; Pavolini, 2003). These changes were favoured on the one hand by the growing awareness of the negative consequences of the ageing of population and on the other by the intense macro-economic crisis that affected Italy at the beginning of the 90's. Since then, different parliamentary majorities dedicated a large attention to the reform of pensions with the main aim of promoting the long term financial sustainability of the system and a step-by-step process of reform started\footnote{In 1992 the Amato Reform modified the retirement age for old age pension of five years both for men and women, introduced restrictive method to calculate pension amount and provided new method for benefit adaptation replacing wage indexation with cost of living indexation (Natali 2009); at the same time, the reform promoted the harmonization of public sector seniority pensions with the private sector and introduced of a new legislative framework for the development of supplementary pensions (Ferrera e Jessoula, 2007). The following Centre-Right Government of Berlusconi made a further attempt of reform in 1994: in this case, the Government tried to by-pass social partners consultation on this issue, imposing some new measures without the consensus of trade unions. This strategy triggered a so hard social conflict that the Government had to remove these measures from the Financial Plan and underwent over a major political crisis. On the contrary, in 1995 the Dini's technical Government opened a deep negotiation with social partners (especially with trade unions) that made it possible to launch the bargained law on welfare, providing for a gradual saving of social expenditure for pensions. At the end of 1997, the Prodi Government negotiated other policy-measures on welfare reform to achieve cuts in public spending and introduced a further narrowing of the conditions to access to seniority pension and a further harmonization of rules between public and private sector and the introduction of a one year pay freeze of indexation (Ferrera and Jessoula, 2007). Finally, the Berlusconi reform of 2004 aimed at controlling the spending in old age and seniority pensions, increasing the minimum retirement age, introducing incentives to postpone retirement (Natali, 2009).}. These policy efforts were able to increase the sustainability of the Italian pensions system in the long run, even if Italy continues to be the country in which pensions cover the higher percentage of GDP in Europe.

During the same period a process of reform of the labour market started, aimed at reducing its main rigidities. Since mid-90s unions were involved in this long process of reform via trilateral social negotiation and in particular during the negotiation for the 1996 Labour Pact – implemented by the Law 196/97 - that increased the flexibility of the Italian labour market introducing innovative instruments and forms of regulation such as the temporary agency work, before forbidden in Italy. During the same period another example of joint regulation of labour market
was the Law by Decree 469/1997, which provided a new regulation for job placement that that
allowed private actors to mediate between labour demand and supply, following the Law 196/97
that allows privates' intervention for temporary work placement.

A more complicated process of negotiation characterized another very important reform, the Law
30/02, and the following implementing decrees (i.e. legislative decree 276/03), that promoted a
further reform of job placement services, introduced new forms of flexible contracts and reformed
the already existing ones such as the job on call, the staff leasing, the freelance work, the
supplementary work, increasing the flexibility of the labour market. This new regulation
emphasized also the role played by bilateral bodies and by collective bargaining as a regulatory
mechanism. In these cases, social negotiation was more problematic: on the one hand,
Confindustria appreciated the contents of the reform and gave an immediate contribution to its
specification and implementation, but on the other, there was a division between unions, with the
CGIL that viewed the reform as a way to promote a further precariousness of the labour force and
on the other with CISL and UIL that welcomed the overall approach of the reform and emphasized
the positive impact of some of the measures implemented.

A confirm of the thesis of the continuous rise and decline of neo-corporatist pact (Schmitter e
Grote, 1997; Carriero 2008) can be found during the centre-left Prodi government, when social
trilateral concertation had a partial revitalization and in 2007 an important social pact on the
regulation of pensions and the labour market was signed by all the major unions (Protocollo su
previdenza, lavoro, competitività per l'equità e la crescita sostenibile). This agreement was based
on six chapters (pensions, social shock absorbers, labour market, competitiveness, young and
women) and in many of them the topic of non-standard work play an important role. But it is
important to underline that also this process of revitalization was not without problems: CISL, UIL
and UGL signed immediately the agreement, while CGIL signed it some days later, following an
intense internal debate with the left of CGIL that was strongly critical about the contents of the
agreement. In the following months, unions organized a referendum on the agreement that had
both a high participation and a high level of consensus on the contents of the agreement (around
5 millions of voters – of which one of pensioners – and a rate of consensus of 80%). Problems
emerged also in parliament, because of the different positions inside the Prodi government
coalition on the topic of labour market regulation: the left of the coalition pushed for some
modifications of the agreement regarding temporary work and arduous work during the path to
convert the pact in state law and these changes led to some criticism of some unions (such as the
CISL) and employers associations (such as Confindustria).

This rise and decline of trilateral negotiation did not facilitated the start of a process of coherent
and structural reform of the social protection system. This difficulty was increased by the following
international crisis of 2008 that exacerbated some of the problematic points addressed by the
above mentioned reforms. In particular, the limits that emerged were related to a lower coverage
of unemployment benefit in comparison with other European countries, a weak relationship
between active and passive labour market policies, a differentiated system of social rights for
different types of worker (CNEL 2010).

This framework and the urgency and intensity of the problems created by the crisis such as the
rise of unemployment especially among atypical workers (Istat, 2009) hindered the possibility to
set up a process of reform based on a complex negotiation among social partners and the
government. For this reason, one of the main strategy followed to face with this situation was the
so-called ‘ammortizzatori in deroga’, namely the extension to new categories of workers of
already existing policy tools, increasing the quantity of funds for social shock absorbers and
enlarging their applicability to workers previously excluded, such as time determined workers,
apprentiships, temporary agency workers. This is the case of the Anti-crisis Decree (Law 2/2009 -
Misure urgenti per il sostegno a famiglie, lavoro, occupazione e impresa e per ridisegnare in
funzione anti-crisi il quadro strategico nazionale); one of the main pillars of these measures was to
finance those policy tools that maintain a relationship between the company in crisis and the
workers, in order to avoid dismissal (Cnel, 2010). Even if division among unions are continuing
during this period, it is possible to note an intense activity of social negotiation between unions
and the regional government – promoted by the law 2/2009. Then, since the beginning of 2010
some signals of a major cooperation among unions re-emerged, as it has been showed by a series
of meeting for the making of a pact on development in October 2010 and by the agreement on the
collective bargaining system in June 2011.

Summing up, since the beginning of the ‘90s reforms of pensions have been able to reinforce the
sustainability of the welfare system and reforms of labour market were able to increase flexibility,
but at the same time a global and coherent reform able to promote new forms of security for non-
standard workers is still lacking, even if the recent reform carried out by the Monti’s technical
government (June 2012) has introduced some measures to face with this issue.

3. Main features of non-standard employment in Italy

Looking at the results of these reforms it is possible to note a twofold effect: on the one hand, it favoured
the participation to labour market, created new employment and reduced unemployment, but on the other
hand it produced an increasing risk for workers – and not only for young workers - of remained trapped in a
non-voluntary situation of atypical contracts especially for less educated workers (Barbieri and Scherer,
2009; Dell’Aringa, 2009; Reyneri, 2007). In other words, the above mentioned reforms created new
employment but also labour force segmentation, emphasising the difficulty that also other European
countries are experiencing in the making of a balanced system between labour market flexibility and
security (Keune and Jepsen, 2007; Burroni and Keune, 2011).

Looking at data and comparing 1998 to 2008 we note that Italy experienced one of the most important
growth in flexible contracts across Europe, ranking 5th in term of growth of part time and 3rd in term of time
determined contracts (table 1).

Table 1. Rise of part-time and time-determined contracts in the period 1998-2008

<table>
<thead>
<tr>
<th></th>
<th>Difference in the percentage of part time workers on total employment in the period</th>
<th>Difference in the percentage of time determined workers on total employment in the period</th>
</tr>
</thead>
</table>
Despite this notable growth, the share of temporary employment in Italy is still lower in comparison to many other European countries and the strictness of regulation of temporary forms of employment is still high. However, it should be noted other forms of hidden flexibility should be considered. On the one hand there are the so-called autonomous quasi-subordinate workers (lavoratori autonomi parasubordinati): Istat (Italian National Statistical Institute) estimates that in 2008 more than 800,000 autonomous workers had a single client and that many of them worked in the same productive unit of the client (ISTAT 2009, 2010). On the other, irregular forms of labour flexibility related to the shadow economy continue to play a very important role, especially in some regions and sectors (Burroni and Crouch, 2008).

Table 2. Regulation and weight of temporary employment

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Spain</td>
<td>3.83</td>
<td>Spain</td>
</tr>
<tr>
<td>France</td>
<td>3.75</td>
<td>Portugal</td>
</tr>
<tr>
<td>Greece</td>
<td>3.54</td>
<td>Greece</td>
</tr>
<tr>
<td>Belgium</td>
<td>2.67</td>
<td>Sweden</td>
</tr>
<tr>
<td>Italy</td>
<td>2.54</td>
<td>Finland</td>
</tr>
<tr>
<td>Portugal</td>
<td>2.54</td>
<td>France</td>
</tr>
<tr>
<td>Austria</td>
<td>2.29</td>
<td>Germany</td>
</tr>
<tr>
<td>Finland</td>
<td>2.17</td>
<td>Italy</td>
</tr>
</tbody>
</table>
Another relevant result of the reforms mentioned in the previous chapter is that they increased the heterogeneity in Italian labour market: flexibly workers are not an homogenous group neither in term of labour conditions nor in terms of social protection provisions (Berton et al. 2009). The Italian National Statistical Institute (ISTAT) distinguishes between standard (Full time permanent employment and full time autonomous workers), quasi-standard (part time permanent employment and part time autonomous workers) and atypical workers (temporary dependent employment and freelance workers): in 2009 standard employment is around 78% of total employment, while atypical workers are around 11% (2 millions of workers) and the same figure of workers has quasi-standard contracts; among the atypical, the largest group is given by temporary dependent employment (85%) (tab. 3).

Table 3. Employment per type of contract – (2009 – thousands workers)

<table>
<thead>
<tr>
<th>Workers (in thousands)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard</strong></td>
<td>17,887</td>
</tr>
<tr>
<td>Full time permanent employment</td>
<td>13,053</td>
</tr>
<tr>
<td>full time autonomous workers</td>
<td>4,833</td>
</tr>
<tr>
<td><strong>Quasi-standard</strong></td>
<td>2,590</td>
</tr>
<tr>
<td>Part time permanent employment</td>
<td>2,071</td>
</tr>
<tr>
<td>Part time autonomous workers</td>
<td>520</td>
</tr>
<tr>
<td><strong>Atypical workers</strong></td>
<td>2,548</td>
</tr>
<tr>
<td>Temporary dependent employment</td>
<td>2,153</td>
</tr>
<tr>
<td>Freelance workers</td>
<td>396</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>23,025</td>
</tr>
</tbody>
</table>

Source: processed data from Istat database

Focusing on atypical employment it is possible to note that the use of this kind of contracts is not limited to young people: the group aged 15-29 is 40% of total atypical employment, while 47% is given by people aged 30-49 and 12% by people aged more than 50. Temporary employment has a
similar age distribution while the quote of people aged >50 is higher among freelancers, who have also a lower quote of aged 15-29 (31%). Among atypical workers there is a high percentage of people with high education (20%) that is even higher among freelancers (33%). The larger amount of employment is in the service sector (70%) followed by industrial activities (20%) and agriculture (9%); the specialisation in service activities is higher among freelancers (84%).

Table 4 Main features of non-standard employment 2008-2009 (thousands workers and percentage)

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Temporary dependent employment</td>
<td>Freelance workers</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15-29</td>
<td>1.035</td>
<td>911</td>
<td>125</td>
</tr>
<tr>
<td>30-49</td>
<td>1.207</td>
<td>1.014</td>
<td>194</td>
</tr>
<tr>
<td>&gt; 50</td>
<td>305</td>
<td>228</td>
<td>77</td>
</tr>
<tr>
<td>Education</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary education (up to “licenza media”)</td>
<td>860</td>
<td>787</td>
<td>73</td>
</tr>
<tr>
<td>Secondary education (Diploma)</td>
<td>1.174</td>
<td>984</td>
<td>190</td>
</tr>
<tr>
<td>Higher education (Laurea)</td>
<td>514</td>
<td>382</td>
<td>132</td>
</tr>
<tr>
<td>Sectors</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agriculture</td>
<td>223</td>
<td>214</td>
<td>9</td>
</tr>
<tr>
<td>Industry</td>
<td>529</td>
<td>474</td>
<td>55</td>
</tr>
<tr>
<td>Services</td>
<td>1.796</td>
<td>1.464</td>
<td>332</td>
</tr>
<tr>
<td>Total</td>
<td>2.548</td>
<td>2.153</td>
<td>396</td>
</tr>
</tbody>
</table>

Source: processed data from Istat database

This shows that the wide concept of ‘atypical’ employment gathers together many different kinds of workers.

A specific type of temporary employment is given by temporary agency work that was introduced in Italy by Law 196 of 1997 and then reorganized with a series of normative interventions (mainly the legislative decrees 276/2003 and 24/2012). According to Ebitemp, in 2011 temporary agency work represents 1.2% of total dependent employment and 12% of temporary employment. Recently the use of temporary agency work has gradually increased: during the period 2003-2010 missions increased of 47%, average monthly employment of 62%, workers with a least one day of mission per year of 24% and the average number of mission increased from 1.9 to 2.3 (tab. 5).
Table 5. Indicators of temporary agency work in Italy in the period 2003-2010

<table>
<thead>
<tr>
<th></th>
<th>Average monthly employment</th>
<th>Missions</th>
<th>Workers with at least one day of mission per year</th>
<th>Missions per workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>157533</td>
<td>700968</td>
<td>361305</td>
<td>1.9</td>
</tr>
<tr>
<td>2010</td>
<td>255987</td>
<td>1028555</td>
<td>449411</td>
<td>2.3</td>
</tr>
<tr>
<td>% increase</td>
<td>62.5</td>
<td>46.7</td>
<td>24.4</td>
<td>21.1</td>
</tr>
</tbody>
</table>

Source: Ebitemp

The sectors where temporary work is most commonly used are industry (with 53% of workers), the banking sector (17%) and trade (10%), while the use of TAW is less developed in agriculture, tourism and catering, transport and energy industry.

Table 6. Full time equivalent temporary agency workers per sector, 2011

<table>
<thead>
<tr>
<th>Sector</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, fishing activities</td>
<td>0.5</td>
</tr>
<tr>
<td>Hotels and restaurants</td>
<td>3.1</td>
</tr>
<tr>
<td>Commerce</td>
<td>10.0</td>
</tr>
<tr>
<td>Building industry</td>
<td>3.1</td>
</tr>
<tr>
<td>Services to firms, credit</td>
<td>17.6</td>
</tr>
<tr>
<td>Electricity, gas, water supply</td>
<td>0.7</td>
</tr>
<tr>
<td>Manufacturing activities</td>
<td>53.1</td>
</tr>
<tr>
<td>Public administration</td>
<td>8.8</td>
</tr>
<tr>
<td>Transports</td>
<td>2.9</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Fonte: Ebitemp

4. Bilateral regulation and contractual welfare in the TAW sector

The TAW sector is a good case study for the analysis of form of ‘second welfare’. During recent years, social partners have introduced new forms of security through bilateral action: we will see that collective bargaining on the one hand and the role of bilateral bodies on the other contributed to reinforce flexibility and guarantees for workers in absence of a structural reform of social protection.

The introduction of new forms of security for workers in the TAW represents an important innovation which relies on already existing mechanism of regulation – collective bargaining and bilateral bodies – similar to what Campbell defines as ‘bricolage’, namely “a repertoire of existing institutional already principles and practices that actors can use to innovate” or to what Crouch
defines as ‘the recombination of existing elements in new combinations’ (Campbell, 2004, Crouch, 2005). Before of making some hypothesis on the reasons why these practices emerged in this sector and not in others and on the possibility to ‘export’ this model to other groups of non-standard workers, it is important to specify the main features of this model of contractual welfare.

The regulatory role of industrial relations in this sector has been played by three main tools: a) general industry wide collective bargaining; b) collective bargaining for TAW firms and workers; c) bilateral bodies. I will focus on these three mechanisms – that characterize also some other EU countries (Arrowsmith, 2008) - showing that two of them – TAW sector collective bargaining and the role of bilateral bodies – have been important tools adopted by social partners to introduce additional guarantees and welfare provisions.

Figure 1. The regulation of temporary agency work

4.1 Industry wide bargaining

Regarding the first mechanism, the important role of industry-wide bargaining has been promoted by Legislative Decree 276 of 2003, that implemented the Law 30 of 2003 in which it was stated that the TAW is allowed only for technical reasons, production, organization, or replacement, even if related to the ordinary activities of the user firm and that the identification of quantitative limits for the use of fixed-term administration is regulated by the national sectoral collective agreements. In this case, unions and employers associations regulate the relationship and the use
of TAW in each sector and the relationship between the client firm and the agency, establishing the use of temporary workers in terms of quantity, information rights, health and safety, remuneration.

As we can see in the following table - where there are some examples of the contents of industry wide agreements - unions and employers associations identify limits and practices of the use of temporary agency work and these features differ from one sector to the other; this is due to the specificity of each sector (tab. 7)

Table 7. Sectoral bargaining and temporary agency work

<table>
<thead>
<tr>
<th>Contract and signatory unions</th>
<th>Regulation of open-ended staff leasing contract</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Textiles and Leather</strong></td>
<td>The maximum percentage of workers that can be utilised with open-ended staff leasing contract cannot exceed, in the space of 12 months, an average of 8% of permanent workers employed in the same firm and, alternatively, it’s allowed the stipulation of fixed-term contract up to 5 employees as long as don’t exceed the total number of permanent job contracts in place in the firm.</td>
</tr>
<tr>
<td>Signed by Filtea CGIL (Federazione Italiana Lavoratori tessile e abbigliamento / Italian Federation of Workers in Textiles and Clothing); Femca-Cisl (Federazione energia, moda, chimica e affini / Energy, Fashion Chemicals and Allied Industries Federation); UILta UIL (Unione Italiana Lavoratori tessile e abbigliamento / Italian Textiles and Clothing Workers’ Union)</td>
<td>When the firm will need staff with open-ended leasing contract, it shall be subject to inform the Unitary Union representative body about the number of contracts, reasons, processes and/or department concerned and its duration. A similar procedure will cover the possibility of extending the periods of assignment initially established.</td>
</tr>
<tr>
<td><strong>Airports and air transport</strong></td>
<td>It has been agreed that the assumption with open-ended staff leasing contract, only for the cases identified below, can’t exceed, averaged on annual basis, the 8% of staff with permanent contract as at 31st December of the previous year calculated on a regional basis, with reference to the individual firm: extraordinary maintenance of facilities or equipment; hedge positions arising from any temporary work and not final administrative authorities, or for jobs not yet stabilized as a result of organizational changes, non-programmable and cannot be within activities in the ordinary enterprise; fulfillment of administrative or technical procedural activities with intermittent and/or extraordinary nature. At airports with less than 2 million of annual passengers the percentage admitted is set at 10%. These limits may be exceeded, subject to local agreements with the relevant structures of stipulating trade unions, for technical, organizational or productive reasons. The duration of this period may be increased subject to local agreements with the relevant structures of trade unions policy holders, in case it fulfills specific technical, organizational or productive reasons.</td>
</tr>
<tr>
<td>Signed by FILT-CGIL (Federazione Italiana Lavoratori dei Trasporti, Italian Federation of Transport Workers); FIT-CISL (Federazione Italiana Trasporti, Italian Transport Federation); Ultrasporti-UIL (Italian Union of Transport Workers); UGL Trasporto aereo (General Union of work - Air Transport)</td>
<td></td>
</tr>
<tr>
<td><strong>Construction and Woodworking (industry)</strong></td>
<td>The fixed term contracts are permitted for the workers in the following cases: increase of activities related to market needs arising from the acquisition of new jobs; execution of undertaking works that cannot be completed in time frame without resorting to a bigger number of human resources than existing; use of various professional skills, or which are of exceptional character than those usually employed, in relation to the specialization of the company; use of professional skills lacking in the local labour market, replacement of absent workers, including the hypothesis of absence for unplanned periods of</td>
</tr>
</tbody>
</table>
### Workers:

- Feneal UIL (Federazione Nazionale Edili Affini e Legno, National Federation for Building Allied Industry and Woodworkers).

Vacation, for workers on unpaid leave, or temporarily incapable of performing assigned duties or participate in training courses, so to combat the most intense peaks of activity for services or offices, induced by specific events and defined. For the construction employees, the open-end staff leasing contract is allowed for technical, production, organization or replacement reasons. The use of open-end staff leasing contracts should be prohibited: to replace workers who exercise their right to strike, with production units in which have been carried out, within six months prior, collective dismissals under articles 4 and 24, Law of July 23, 1991, n. 223 for workers used in the same tasks quoted in the contract administration or at productive units in which it is operating a suspension or reduction of time, with the right of treatment of wage, affecting workers who are used for the same tasks quoted in the contract administration; by companies who have not conducted a risk assessment pursuant to art. 4 of legislative Decree 19 September 1994, n.626 and subsequent amendments, for the execution of works involving exposure to carcinogen agents in title VII of legislative decree 626/94 and subsequent amendments, for works with ionizing radiations requiring the designation of controlled or supervised areas as defined by current legislation to protect workers from ionizing radiation; for the construction of wells deeper than 10 meters, for underwater works with breathing apparatus, for works in compressed air caissons, for works involving the use of explosives. The use of fixed-term contract in the cases referred to paragraphs 1,2,3 and 4 for the workers may not exceed, on average per year, cumulatively with forward contracts in article 94, 25% of employment contract of indefinite duration with the firm. In any case still remains the possibility of using at least seven open-ended staff leasing contract and/or fixed term contracts, but not exceeding the rate of one third of the number of permanent employees of the company.

### Chemical

Signed by FILTEM (Federazione Italiana Lavoratori Chimica, Tessile, Energia, Manifatture, Italian Federation of Chemical, Textiles, Energy and Manufacturing Workers); Femca-Cisl (Federazione energia, moda, chimica e affini, Federation of Employees in Energy, Fashion, Chemicals and Allied Products); UILCEM-UIL (Unione Italiana Lavoratori della Chimica, Energia e Manifatturiero, Italian Union of Workers in Energy and Chemical Manufacturing)

The stipulation of open-ended staff leasing contracts (is permitted) for technical, production, organization or replacement reasons even though relating to ordinary activities. The parties … consider that open-ended staff leasing contracts, stipulated for reasons unrelated to seasonal needs or specific orders, which relate to the same worker, should not exceed the total duration of 60 months in a period of 78 months; they agree, with exclusive reference to the specific case indicated below, that the number of employees with open ended staff leasing contract can not exceed 18% on an annual average of employed workers in the firm at the date of December 31st of the previous year in the following cases limited to: execution of multiple orders in the same production unit, ordinary and extraordinary repairs of facilities; coverage of jobs not yet stabilized as a result of changes in corporate organization.

This percentage has increased to 30% on annual average for companies operating in the territories of the South of Italy … … … If the percent ratio of the preceding cases give a number less than 10, the companies will stipulate a open end staff leasing contract up to 10 … The percentage limits here quoted, referring to the same case, will be able to be changed at the enterprise level. The agency worker should be informed about the risks to safety, health and the environment associated with the activities carried out and trained in the use of work equipment required to carry out the work for which it is taken in accordance with provisions given in the decree of 19th September 1994 N.626 and subsequent amendments and additions.
The above mentioned examples show the regulatory role of general industry wide bargaining: it establishes the quantitative limits and the specific conditions of the recruitment of Taw workers, but deals also with information rights or health and safety procedures. The introduction of new social guarantees has been carried out by collective bargaining in the TAW sector.

3.2 Collective bargaining in the TAW sector

The second set of activities of collective bargaining is carried out by non-standard workers' organizations. The best example of this practice is given by the 2008 TAW contract, signed by sectoral unions representing atypical workers ALAI-CISL (later Felsa), Nidi-CGIL, CPO-UIL (later UILTemp @) for the unions side and by Assolavoro – the organisation that gathers together TAW agencies - for the employer side. This was an innovative and important agreement that established a set of rules that regulate the use of labour flexibility and set up a system of contractual welfare, with the making of new rights and welfare measures and with the support to the gradual stabilization of atypical workers.

The 2008 contract reinforced the industrial relations systems in the TAW sector: the contract introduces the “Rappresentante Nazionale di Agenzia”, given by a variable numbers of members that varies from 3 (in agencies with a number of full time equivalent between 2,000 and 6,999) to 9 (in agencies with more than 28,000 full time equivalent). There is a plant level union structure, composed by unionists that are elected or nominated by temporary agency workers of the user firm. Unions may organize election to identify one representative every twenty temporary agency workers in user firms that employ at least 20 temporary agency workers for more than three months. The company level unions participate to company bargaining and agencies are obliged to give information and to guarantee consultation on a) changes of the firm and its economic situation and b) data related to employment and particularly to transformation to permanent employment c) decisions related to labour organization. This system is completed by the territorial representatives, directly appointed by unions that signed the national collective agreement, that control at local or regional level the application of the contents of contract. The 2008 contract established that agencies have to inform territorial level of trade unions if more than 20 contracts are stipulated with the same user firm.

As for welfare provision, the contracts promote the set-up of a fund for supplementary pension scheme to be financed by single workers, firms and bilateral bodies. Workers who will participate to the supplementary pension scheme will benefit of an integrative contribution around 4% of the salary.

An innovative content of this agreement is related to the promotion of stabilization of temporary agency workers, a measure that meets the interest of atypical workers (see Carrieri 2011). In particular, bilateral bodies give financial incentives to agencies that decide to employ full time workers ab initio or in the first 21 months of work. At the same time, each temporary worker has the right to have the transformation from temporary to permanent contract if he worked for at least 42 months with the same agencies, even if for different user firms. The calculation of the number of months includes maternity leave (with a maximum of five months) and the training
period to prepare the worker to the job for the user firms. If the worker is employed by the same user firm, the period of 42 months is shortened to 36 months.

Workers employed with an open ended contract have an ‘availability allowance’ of 700 euro during the period in which they are not working in user firms. When the agency can no more employ the worker because of a lack of work it is possible to agree with unions a process of re-training of the worker for a period of six months (seven for workers aged over 50); during this period the worker will receive the above mentioned availability allowance, of which 50% is paid by the agency and the remaining 50% by the Bilateral body for the income support and training (Formatemp).

The agreement also increases EBITEMP benefits for the case of accidents, up to a daily allowance of €35 and for healthcare, from 60% to 100% reimbursement of healthcare fees (see below).

For maternity rights, female leased workers who do not fulfill the legal requirements for the maternity allowance paid by the INPS receive a lump-sum payment of 1400 euro from the National Bilateral Temporary Labour Body (Ente Bilaterale Nazionale per il Lavoro Temporaneo, EBITEMP).

Finally, the contract reinforced the already existing measures related to health and safety procedures and regulates also the trial period, salary, end-of-service allowance.

Summing up, the 2008 contract introduced many innovations for a large series of topics, such as income support, healthcare, workers’ stabilization, maternity allowances, information rights, representativeness, health and safety. It set up also the regulatory framework for an incisive action of bilateral bodies.

3.3 The role of bilateral bodies.

The 2008 contract for TAW is also interesting because it strongly supported the system of welfare based on bilateral bodies, that was already set up with the 1998 contract, when employers’ and unions signed the first industry-wide agreement for the temporary agency work and created Ebitemp (Ente Bilaterale per il Lavoro Temporaneo – Bilateral Body for Temporary Agency Work). The original idea was to create innovative security measures for TAW workers. These activities started in 2002 – with the first renewal of the industry-wide agreement that covered accident and established a guarantee fund aimed at offering personal loan to workers.

Ebitemp contributes to the welfare system TAW through a wide range of functions. For example, it delivers additional benefits (beyond those conferred by legislation) for workers in the case of an accident at work that have effects beyond the expiration of the contract (only for fixed-term

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4 Some author underlined that the measures for stabilisation have been promoted also by agency and not only by unions (these measures were not included in the preliminary document of unions signed by Nidilg-CGIL, ALAI-CISL and Cpo-UIL) and this could be seen as a concession made by agencies in exchange of a major flexibility in the case of permitted assigned extension, that increases to a maximum of six times in a period of 36 months (from four months of previous regime). The preliminary position of unions was to reduce from 4 to two months the possibility of prorogation and to promote longer missions (see Tozza, 2008).
TAW), in case of permanent disability and in case of death in the workplace. It also covers, dental expenses and refunding for health care, especially those incurred during hospitalization for major surgery. These health protections are addressed not only to TAW workers and to the employees of agencies but also to the members of their family who are fiscally dependent by the TAW workers.

At the same time, Ebitemp offers personal loans at competitive interest rates through a guarantee fund created and activated by an agreement with Banca Monte dei Paschi di Siena. Another important function managed by Ebitemp is the support for motherhood, according to the procedures that have been mentioned above. Furthermore, Ebitemp offers direct contributions for childcare for working mothers with a mission of at least 7 days and who have at least 3 months worked in the past 12, up to a maximum of 80 euros per month until the third year of the child. Finally it is important to emphasize the income support for TAW workers, unemployed for at least 45 days, who have worked at least 6 months in the last 12, with a one-shot payment of 700 € gross (539 € net) to workers who have carried out missions with agencies that are partners of Ebitemp. Finally, Ebitemp favour territorial mobility of workers, giving a one-time payment of 700 euros (1,000 euro, for workers hired with open-ended contracts).

Another important bilateral body for the TAW is Formatemp, which is funded by compulsory contributions of agencies of 4% of gross earnings of workers. The main objectives of this Fund are the professional growth of temporary workers and the training of workers in order to meet the need of firms. All training courses are funded by Formatemp and are free of charge for the participants. In particular Formatemp finances four types of training (Formatemp, 2011):

1. **Basic training.** It consists of short programs, in particular offering soft and mainstreaming skills for any work environment. It aims also to set up the basis for further and more specific training.

2. **Vocational training.** It aims at offering skills for entering in a new job, whose courses may last more than 200 hours and are divided mainly in different training modules targeted to learn of technical and professional skills.

3. **Training on the job,** to "accompany" temporary workers in the first phase of a new insertion in a new occupational environment through educational activities with alongside a tutor inside the user firm and with the monitoring of an external tutor

4. **Long term learning,** targeted to the professional skills needed by workers in mission and to strengthen the opportunity of finding a new job for temporary workers waiting for the mission.

The training activities carried out by Formatemp cover a wide range of workers, like those that are on a mission with at least two months of mission over the last year, workers on mission who want to participate in a training course outside working hours for the amount specified in the collective agreement, workers waiting for the mission who have worked at least 30 days in the last year and are unemployed for at least 45 days; workers waiting for mission who have worked at least 6 months in the last year and who are unemployed for at least 45 days; workers who have reduced capacity for work because of injury during the mission and that, therefore, require training for reintegration; working mothers with no mission at the end of the period of compulsory leave, with at least 30 working days in the last year.
Finally, the third important bilateral body is Fontemp, which is a pension fund for temporary agency workers set up with the national collective agreement of 2008: it is a complementary pension fund whose purpose is to provide supplementary pension benefits of the retirement system required.

Summing up, different bilateral bodies contribute to forms of second welfare in the field of training, supplementary pension, social protection provisions, health insurance, income support. This confirms that the model of contractual welfare represents an interesting social innovation that has introduced new and relevant forms of guarantees for TAW workers, increasing their security and rights.

3.4 The institutional conditions that favoured the emerging of contractual welfare in the TAW sector

If we want to understand why the above mentioned forms of contractual welfare emerged in the TAW sector but not in others sectors of atypical employment it is important to focus on some specific institutional conditions that created some windows of opportunities. The concept of windows of opportunities has been adopted widely in the literature on institutional change and is related to the emerging of specific contextual conditions that offer room of manouvre for actors and organisations to implement change. In our case study, it is important to take into account three main conditions.

The first condition that favoured the emerging of contractual welfare in the TAW sector is given by its peculiar organizational features of interest representation. As noted by Ida Regalia, Italian trade unions have pursued a dual path of organizational innovation. On the one hand, as happened in many other European countries, they moved towards a simplification of the structure of confederations, with many mergers between different sectoral federations that have reduced the complexity of the system of representation of workers' interests. On the other, they set up new organizations/federations that are part of the confederal structures and that are not organized according to the sectorial principle (Regalia, 2009). This is the case of atypical work, where one of the main strategies of the Italian trade unions has been the creation of specific organizations aimed at representing the interests of atypical workers, following an innovative model that is peculiar to the Italian case in comparison with many other European countries5. The three organisations that play an important role for non-standard employment (and in the TAW sector) are Nidil for CGIL, Felsa for CISL or UILTemp@ for UIL. At the same time, employers associations in the TAW sector are characterized by a very low level of fragmentation in interest representation: the biggest association - Assolavoro - gathers together 60 firms that represent around 95% of revenues of the sector. Finally, agencies have a large scale in comparison with the average size of firms of Italian capitalism. Large firms, few and encompassing and sectoral unions and one big employers organization contribute to create a system of interests representation in the TAW sector that is more similar to standard employment; for this reason, the specific organizational structure of interest representation in this sector favoured the consolidation of collective bargaining and the action of bilateral bodies.

A second important condition is given by the specific architecture of the regulatory framework that characterizes the TAW sector: a) specific measures introduced by Law (such as L.D. 276/03)

5 The role of industrial relations practices and actors in the representation of the interests of atypical workers and the set-up of local experiments has been analyzed by various recent contributions (see Ballarino, 2005; Ballarino and Pedersini, 2005; Regalia 2009a and 2009b; Carrieri, 2011)
promoted directly the action of bilateral bodies in the TAW sector setting up compulsory rules for firms to contribute with funds to the set-up of bilateral activities; b) the role played by prerequisite requested the law (196/97 and 276/03) influenced the emerging of large-scale firms and - indirectly - the above mentioned structure of interest representation; c) the Law and Legislative decrees (196/97, 30/02 and 276/03) gave an important support to the regulatory role of collective bargaining for the TAW sector; d) different laws and decrees set up a precise definition of mechanisms and rules for the sector - more defined than in other 'grey area' of non-standard employment - that eased the emerging of collective bargaining and bilateral relationships.

A third condition is given by the role of ‘institutional entrepreneurs’ played by unions and employers associations in this sector (Crouch, 2005; Alacevich, 2011; Regalia, 2011; Cerase, 2011): the above mentioned organisations perceived the renewal of previous agreement – the first one was signed in 1998 – as a chance to introduce important institutional innovations that favour labour flexibility and social security, combining the interest of firms and workers. This path has been possible on the one hand for the pre-existing cooperative relationship between Assolavoro and trade unions and on the other for the longstanding tradition of innovative collective bargaining and of the role of bilateral bodies that characterizes the Italian system of industrial relations.

Summing up, it is possible to say that the case of TAW is different from other forms of non-standard workers, with workers that are covered by a higher degree of security via forms of contractual and bilateral welfare. This form of 'second welfare' has been possible for the specific features of this sector, that is clearly regulated by the law and in which bilateral relationships regarding non-standard workers can be set up. In this case, collective bargaining and the actions of various bilateral bodies play the most important role. This is essentially a form of 'meso' welfare, linked to the specific sector and governed by the social partners, which in part has been able to mitigate the lack of a structural reform of social security. However considering that the specific characteristics of the governance structure of the TAW sector it is possible to note that these practices can hardly be fully exported to other segments of precarious work; at the same time, looking at these practices and rights it should be noted that this form of 'second welfare' can hardly replace the development of an appropriate and more comprehensive system of security based on the outcomes of the 'first welfare'. By this point of view, the reduction of uncertainty based on the second welfare is integrative and not substitutive to those produced by the first welfare.

IV. Conclusions

Since mid-nineties the flexibility of the Italian labour market notably increased via policy measures that were addressed to improve the labour market participation for specific groups like young people or women, traditionally disadvantaged in the Italian labour market. This path of reform was not accompanied by the set-up of a complete and coherent reform of the social protection system. This twofold process of reform, that can be defined as flexibilisation without securisation increased the situation of disadvantage and economic uncertainty of non-standard employment.
However, looking at a specific kind of temporary employment, temporary agency work, it is possible to identify an important role played by collective bargaining and bilateral organisation in the increasing of security and welfare provisions for this kind of workers. In absence of a coherent reform of social shock absorber and social security, social partners cooperated to create a ‘contractual welfare’ financed exclusively by social partners. These practices reinforced the system of industrial relations at territorial and company level, increased health and safety practices, introduced new guarantees for temporary agency workers, promoted forms of stabilisation, delivers additional benefit and welfare measures, set up training activities, etc.

The analysis of contractual welfare for the TAW sector emphasizes four issues. First, private actors, and in particular of unions and employers associations, can be of a major importance in the set-up of new forms of security for flexible workers through already existing instruments and practices such as collective bargaining and bilateral bodies. Second, it is possible to identify specific institutional conditions that can promote this model: the TAW sector has a completely different structure from the other forms of atypical work, in which bilateral relationship between employers’ associations and unions can be fully carried out; there is a regulatory framework that favors the rise of collective bargaining; there was a legislative effort to reinforce bilateral relationships; there are well organized unions and employers associations. Third, the measures introduced by collective bargaining and by the role of bilateral bodies are interesting and innovative, but they are integrative and not substitutive of the so-called ‘first welfare’. Fourth, contractual welfare requires specific institutional conditions and for this reason it is difficult to ‘export’ it to other segments of non-standard employment where these institutional conditions do not exist. This has important implications in term of policy recommendations: public policies need to take into account the institutional specificities of various segments of non-standard employment in order to promote appropriate forms of ‘first welfare’, to create institutional conditions that favour the emerging of innovative forms of ‘second welfare’ and to promote virtuous relationships between the first and the second welfare.

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