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**Italy's labour policy and policymaking in the crisis:
from distributive coalitions to the shadow of hierarchy**

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Introduction

The financial and ensuing employment crisis further added to already well-documented social protection gaps for large segments of the workforce in Italy, giving rise to an increased socio-economic problem load. In a first phase, the main policy response was the exploitation of existing policies, mainly by adapting short-time work schemes to the crisis, rather than creating a system of comprehensive unemployment compensation. This outcome, although detrimental for labour market outsiders and dysfunctional for Italy's productivity and innovation rates, can be explained in terms of the material interests of all of the corporate collective actors involved. Since the financial crisis escalated to a sovereign debt crisis, however, a good deal has changed. Incapacity to make economic policy decisions in the face of a rapidly deteriorating economic situation ultimately led to the resignation of the Berlusconi government in November 2011. Before resigning, however, the Berlusconi government passed a provision meant to allow firm-level collective bargaining to deregulate statutory employment protection for all types of workers. Even more importantly, it committed with EU partners and institutions on Italy introducing a labour market reform to make dismissals easier. The installation of a non-partisan government led by Mario Monti, grudgingly supported by both the centre-left and the centre-right, paved the way to a harsh pension reform that was introduced in a very top-down fashion by the government, with few concessions to the unions. While the Monti government announced that a labour market reform would be negotiated with the social partners, the ground was prepared for a sweeping reform also in this policy field. Negotiations took place in a novel manner for Italy's recent past, with the government determined to have its way, and actually keen on taming the unions so as to acquire reputation on the international financial markets. The necessity of gaining parliamentary support resulted in a bill tamer than announced, but capable of introducing

remarkable changes in Italy's dismissals rules, together with a reform of unemployment benefits that increases eligibility for non-standard workers. In order to pass the law, the Monti government exploited the external constraint provided by the necessity to show progress in structural reforms ahead of key meetings of the European Council, where financial instruments designed to help Italy regain access to international bond markets were to be approved.

In the next section, the situation in both labour market regulation and social protection connected to the risk of unemployment before the Monti reform is described, providing the institutional landscape that framed the actors' interests just before the crisis. Then, the measures attempted or taken as a response to the crisis are discussed, tracing the evolution of recent Italian political economy. Two main phases are singled out. In the first, distributive coalitions are forged to adjust to the economic crisis in a largely incremental way, on the background of the government largely abstaining from intervening in the economy with stimulus measures, but trying to influence industrial relations. In the second phase, featuring the surge of the sovereign debt crisis in the Eurozone, a technocratic government brings about, in the context of informal but tough conditionality exerted by EU institutions, a labour market reform mainly approved with the aim of buying credibility on the international arena and restoring investors' confidence in Italy. The contents and likely effects of this important reform are then reviewed. The final section concludes, revisiting the changes in Italian political economy since the outset of the Great Recession.

Italy before the crisis

Although Italy is usually considered a country with a rigid labour market, this has never been completely true (see also Checchi 2013): already in the early 1990s, its level of protection of open-ended contracts, as measured by the OECD employment protection legislation (EPL) index, was close to the Danish one and, although higher than in the Anglo-Saxon countries, was considerably lower than in France, Germany and the Netherlands (Berton et al. 2012).

Then came the period of labour market reforms, starting in the late 1990s. In the general trend towards labour market flexibilization 'at the margin', Italy is the OECD country that has liberalized fixed-term contracts to the highest degree in the past 20 years. While until 2012 nothing changed with respect to EPL for open-ended contracts and collective dismissals, the index for fixed-term contracts dropped from the highest to the average in the OECD between

the early 1990s and the late 2000s. As a consequence, the use of non-standard work arrangements flourished, and the share of employees with a fixed-term contract has tripled in less than 20 years, reaching the EU average (as well as German and French figures) from being half of that. In the 15–24 age class, in particular, the share has become five times higher, jumping from 11% in 1990 to 53% in 2012 (as contrasted with a move from 28% to 43% in the EU-15, from 38% to 55% in France and from 34% to 53% in Germany) (data from OECD, Labour Force Statistics). The reforms leading to liberalization of fixed-term (and temporary agency work, TAW) contracts spanned between 1997 and 2008. Since these are well documented elsewhere (see Sacchi and Vesan 2011 and Berton et al 2012 for accounts) the following section will only briefly summarize them, to provide a description of the regulatory regime for open-ended workers, which became a hot, contested issue during the 2000s and early 2010s, and the most distinctive element in the 2012 reform.

Labour market institutions before the crisis

Termination of open-ended relationships was regulated in 1966, making it compulsory to provide a justification for the dismissal of workers. Dismissals could occur either with ‘just cause’ – for instance, damage to or theft of materials or equipment, fighting in the workplace, verbal abuse and insubordinate behaviour towards the employer, or violence towards other workers – or with ‘justified reasons’. These can be ‘subjective’ if due to major breaches of the contract obligations by the worker or low performance, or ‘objective’ if concerning the imperatives of production and labour organization. No severance pay or notice period was introduced by the law, although notice periods are generally provided for by collective agreements. Only if a labour court ruled that the dismissal had no just cause or justified reason (and thus declared it illegitimate) was the employer obliged, pursuant to the 1966 law, to choose between re-employing the worker, which implied the initiation of a new work relationship, and providing monetary compensation (between 2.5 and 14 monthly salaries, depending on the size of the company and worker seniority).

A system with additional guarantees to protect workers employed in larger companies (those having on their payroll more than 15 employees within a production unit or municipality) was introduced in 1970 through a law called the Workers’ Statute (still without introducing any severance pay or statutory notice period). According to Article 18 of the Workers’ Statute, in such firms, if declared illegitimate by a labour court the act of dismissal would be deprived

of any legal effect and lead to the compulsory reinstatement of the worker to his/her former position (unless the worker decides otherwise, choosing monetary compensation); moreover, the worker would have the right to receive the entire amount of wages and social contributions not paid since the day in which s/he was dismissed, potentially entailing very high costs for the employer. As mentioned, these provisions were changed in 2012, but large differences between workers covered by enhanced protection in large firms and those working in small firms will however continue to apply.

As for non-standard contracts, these have been greatly liberalized since the late 1990s. Before then, fixed-term contracts were allowed, but only in cases listed as admissible by a 1962 law, or made admissible through administrative authorization or collective agreements. Part-time contracts had been allowed since 1984, while temporary agency work, which had been ruled out since 1960, was the first to be targeted by labour market reforms at the turn of the millennium. Law 196 of 1997 (known as Treu law) regulated the supply and carrying out of temp agency work. Then Legislative decrees 61 of 2000 and 368 of 2001 implemented the European directives on part-time work and fixed-term work respectively. In particular, the new regulations on fixed-term work broke with the past, since they introduced the possibility of stipulating fixed-term contracts without having to apply for administrative authorizations or conduct collective negotiations. A key turning point in the process of flexibilization of employment relations was law 30 of 2003 (known as Biagi law), which reviewed and extended the range of labour relationships contemplated in the private sector. Slight re-regulation of some non-standard contracts, notably fixed-term contracts, was then promoted by law 247 of 2007, but the basic architecture of the reforms went untouched, and in 2008 more deregulation occurred.

All in all, within the Italian labour market there are at least two main institutional dualisms – to use the terminology of Emmenegger et al (2012) – that is, differences in the protection granted by law to different groups of workers. The first dates back to the early 1970s and despite the recent reform still divides, within the group of individuals working with open-ended contracts, the workers employed by small enterprises from those employed by medium and large enterprises. As shown by Chiesi (2013), employment in small firms is large in Italy. The second originated during the period of labour reforms at the margin initiated in the 1990s and draws a distinction between standard and non-standard workers. Consequences are especially relevant for social protection, notably unemployment compensation, as this was not reformed to take into account changes in labour market regulation, thus leading to

significant gaps in social provision for non-standard workers in particular, that prompted policy action in the wake of the economic crisis.

Social protection before the crisis

Italy's unemployment compensation system, originally introduced in 1919, is exclusively centred on social insurance, accompanied by neither unemployment assistance nor any generalized social assistance scheme. All the employees – with the exception of open-ended public employees – are formally entitled to *unemployment benefits* (UB), while the self-employed are not¹.

No account of income maintenance for the risk of unemployment in Italy would be complete without mentioning *short-time work* (STW) schemes: the conjunctural one (*Cassa integrazione guadagni ordinaria* - CIGO), introduced in 1945, and the structural one (*Cassa integrazione guadagni straordinaria* - CIGS), introduced in 1968². Although originally meant to retain skilled workforce during crises (workers in STW are still employed), these schemes have been used as functional substitutes of rights-based unemployment benefits, particularly for the core industrial workforce (Sacchi et al, 2011). Another important discretionary, non rights-based scheme catering to the core workforce is *mobility allowance*, available only to open-ended workers with at least one-year's firm seniority, made redundant by companies eligible for the CIGS. These schemes do not bestow upon the worker any individual right to a benefit: these are discretionary schemes, dependent upon approval on the part of the public authority after joint examination by trade unions and the firm. Why trade unions are fond of such schemes is easily understood: on the one hand, these schemes protect their core membership, on the other, unions have a say in their functioning. At the same time, costs for employers using such schemes are comparatively low in Italy, as social contributions on the foregone wages are completely taken over by the National Social Security Administration (and thus the state) for the part exceeding a flat-rate contribution paid by workers: contrary to most other European cases, employers pay no social contributions upon usage (ibidem).

As – at least until 2012 – the unemployment benefit system was not adjusted to the changes occurring in the labour market, major inequalities among workers occurred (and still occur)

¹ For a description of the unemployment compensation schemes in Italy before the 2012 reform, basically featuring two main schemes, the *ordinary benefit* and the less demanding *reduced requirement benefit*, see Berton et al (2012) and Jessoula and Vesan (2011).

² Short-time work (also called partial unemployment) provides a wage replacement allowance in order to compensate a temporary reduction in working time set in place in order to ensure the continuity of an existing employment relationship. German *Kurzarbeit* is a short-time work scheme. See Sacchi et al (2011).

in relation to their actual chances of receiving support in case of unemployment. Some categories of non-standard workers suffer the effects of not being entitled to UB, that is formally excluded from the available protection measures, a problem which deeply affects the wage and salary independent contractors (*lavoratori a progetto*) in particular³. But there is another aspect that has an impact on the workers' situation, i.e. the interaction between the rules that regulate the granting of benefits and the dynamics of the labour market, characterized by fragmented careers and low salaries, also as a consequence of the reforms introduced since the 1990s. This caused a large portion of Italian employees to fail to reach the eligibility requirements needed to be granted protection in case of unemployment. By reconstructing the contribution histories of Italian workers, Berton et al (2012) have calculated that, prior to the 2012 reform, 40% of fixed-term workers and 50% of temp agency workers were not eligible to any kind of benefit in case of unemployment, while the figures were even higher for part-time workers outside open-ended arrangements. Conversely, only around 10% of individuals working with full-time open-ended contracts were in the same situation⁴. Because of these coverage gaps in the income maintenance system during unemployment, and the fact that no minimum income scheme is available, it can be estimated that in 2012 if all the employees lost their job, about 2 million of them (out of around 13 million in total, excluding open-ended public employees) would not have been given any kind of support by the social protection system⁵.

Distributive coalitions in the early crisis

Italy was hit by the economic crisis in the second half of 2008, causing a GDP loss of 1.8%, followed by another 5.5% fall in 2009. However, Berlusconi's centre-right government choose to minimize the size of its fiscal intervention so as to limit its immediate impact on the public

³ Wage and salary independent contractors are self-employed workers that must however integrate their activities with those of the employer, being subject to the organizational coordination of the latter (although not to his or her outright direction as is the case for dependent workers). This typically occurs within a regular stream of work relationships between the employer and the independent contractor. As for other categories of self-employment that feature a regular relationship between the independent worker and the employer, there is a risk that substantively dependent work relationships are formally contracted as independent by the employer ('bogus self-employment'), so as to exploit cost advantages or absence of protections granted to dependent workers. Throughout the paper, we will use the term 'dependent workers' as synonymous with 'employees', and 'independent workers' as synonymous with 'self-employed'.

⁴ Moreover, only 40% of fixed-term workers, and as little as a third of TAW managed to qualify for more generous, ordinary benefits when becoming unemployed, as compared to 87% among standard workers.

⁵ This figure goes up to 2.5 million if independent contractors are included in the calculation.

balance. This resulted in an extremely small stimulus package, the smallest among large advanced economies (Cameron 2012)⁶.

The overall effect of the Italian stimulus package on fiscal balance was actually nil, as even extremely timid discretionary expenditure (amounting to 0.3 of 2008 GDP over the three-year period between 2008 and 2010) was sterilized by an increase in revenues (ibidem). In the short term this strategy seemed to pay off, at least as regards budgetary balance: while in deficit for the first time in 19 years, in 2009 Italy's primary balance was only -0.7% of the GDP despite a deep GDP fall, only to be virtually nil the following year (-0.1%).

Between 2008 and 2010 employment shrank by 500,000 units. To fill in the gaps existing in the coverage of the income maintenance system, rather than reforming the regulations for accessing unemployment benefit, the government decided to use the discretionary schemes (STW and mobility allowance), extending their reach but making sure that no subjective rights would be introduced, in order to keep the spending under control.

The main intervention lay in strengthening and expanding STW schemes by extending their duration virtually indefinitely, as firms were allowed to extend and cumulate the length of CIGO and CIGS beyond their normal limits, allowing for the possibility to freely convert the former into the latter without any new assessment, to which aim the bulk of the monies was geared. Moreover, so-called 'emergency social shock absorbers' (*ammortizzatori in deroga*, AD) were introduced, i.e. new measures created by relaxing eligibility rules to STW and mobility allowance to include firms previously not covered for reasons of size or economic sector, and non-standard (dependent) workers when previously excluded (Sacchi et al 2011). A further, minor intervention was the introduction of specific measures for certain categories of non-standard workers (such as the wage and salary independent contractors in the private sector), characterized by very limited monetary amounts and subject to exceedingly strict eligibility conditions as a set of necessary conditions must be jointly fulfilled. All these measures were initially introduced for the 2009–11 period, and then extended into 2012.

The measures adopted to counteract the crisis reduced the number of those completely uncovered if they lost their job, but – lacking a minimum income guarantee – did not nullify it. It can be estimated that such a number was halved by anti-crisis interventions (Banca d'Italia, 2009; Berton et al 2012).

All in all, in the first phase of the crisis (circa 2009-2010), the main policy response to the employment consequences of the slump was the changes in the function of STW schemes.

⁶ According to Cameron (2012), discretionary interventions were actually contractionary in Greece, and Hungary and Ireland in particular.

While STW was important in other countries as well, notably Germany (Sacchi et al 2011), the Italian policy response to the crisis displayed some peculiar features, lacking a well-functioning generalized unemployment compensation system. Changes to STW performed a double function. First, they became sort of a blanket social protection scheme, but under the tight reins of the Treasury Ministry, which provided the resources (in particular, resources for AD were given to the regions – which administered the schemes according to regional tripartite agreements – only after rounds of negotiations with the Treasury over the amount needed). At the same time, they were used as an instrument of industrial policy, or – rather – they made up for missing industrial policy choices by supporting firms all across the board while at the same time upholding employment levels so as to sustain the level of aggregate demand.

To be fair, it should be recognized that in 'regular' (i.e. pre-crisis) STW two underlying logics coexisted – two natures, as it were –: one leaning towards the specific function of STW qua active labour market policy (with the conjunctural CIGO being more in this vein); the other leaning towards its exploitation as an exclusive income maintenance scheme reserved to the core workforce, detached from general schemes and substituting for them among such core workforce (with the structural CIGS nicely fitting the bill). Now, while changes to regular STW updated the existing schemes to face the crisis in the footsteps of this double logic, emergency STW were mainly meant to take over those income maintenance functions typically performed by an unemployment compensation system.

The anti-crisis strategy pursued by the Berlusconi government in 2009-10 also provided for direct benefit provision on the part of bipartite agencies, called *enti bilaterali*, set up by the trade unions and the employers. More and more functions were being delegated to such organizations by the government, in an attempt to de-statalize the welfare state and favour corporatist social provision. In the context of *ammortizzatori in deroga*, bipartite organizations could top up benefits, while some of the interventions envisaged in the anti-crisis strategy could be activated only after a top up on their part had been secured: public intervention was thus made conditional on intervention from corporate actors.

Despite the opportunity window provided by the financial crisis to reform Italy's income maintenance system in case of non employment, social protection interventions introduced in response to it arguably raised the cost of changing the status quo, by raising the stakes each actor in a very powerful constellation had in preserving the current equilibrium. The Berlusconi government kept unemployment figures lower than they would otherwise have been and could play symbolic politics as policy tools formally were in place, irrespective of

their effectiveness; employers retained workforce at extremely low cost, while new entrants (firms previously excluded, those in crafts and small trade in particular) actually free-rode on contribution-based schemes at the expense of the general revenue; trade unions saw their role as institutional brokers multiplied, and even got to provide social protection directly, through bipartite agencies; regions acquired a considerable amount of resources in a highly legitimizing way vis-à-vis their political communities, and de-facto expanded their competencies into passive labour market policies, through emergency social shock absorbers. Departing from this equilibrium of well-entrenched vested interests would seem difficult, in the absence of an exogenous shock, that came with Italy's sovereign debt crisis in mid 2011. The embeddedness of such equilibrium contributed however to preventing the highly powerful and legitimized emergency government led by Mario Monti from having its way in reforming short-time work schemes, at the same time as it was passing a reform of individual dismissals that the Berlusconi governments of the 2000s had repeatedly tried to push through, to no avail. Before considering 2012 Monti's labour market reform, however, it is convenient to look at industrial relations and governmental action in the last months of the Berlusconi government, before it was forced to resign in an attempt to restore Italy's credibility towards EU partners and the international financial markets.

Industrial relations in the twilight of Berlusconi's rule

The favour accorded by the Berlusconi government to *enti bilaterali* testifies of its conservative corporatist leaning (emphasis on the family as the main welfare provider, on *corps intermédiaires* and so on with the tools of traditional Catholic organicism), but also of its attitude towards the trade unions. Actually, the various Berlusconi governments in the 2000s never tried to carry out outright union bashing; instead, they repeatedly tried to split unions, dividing left-leaning CGIL from centrist CISL and UIL (called 'the reformist unions' by the government). The emphasis on *enti bilaterali* was instrumental to this purpose, as CISL invested a lot of energies in their development as a way to secure financial and membership resources for the future, becoming their major supporter, while CGIL has generally been warier towards them. Emblematic of the government's approach is the stance it took in the issue of plant-level agreements signed by CISL and UIL at FIAT plants in Pomigliano (Naples) and then Mirafiori (Turin) in 2010-11 after very heated confrontations with FIOM (the federation of metalworkers within CGIL). The Labour Minister and the government in general

heavily intervened in the bipartite negotiations and again on the occasion of the workers' referenda called to approve of the agreements, backing CISL and UIL so as to emphasize the rift within the unions.

What the three main unions generally agreed upon was the defense of existing dismissal regulations for medium and large firms. Attempts at changing such regulations by the Berlusconi governments in the 2000s cut no ice, to the point that the strategy of the centre-right governments then changed, aiming at providing the employers with legal possibilities to introduce contractual derogations from labour law⁷.

In 2010, the fourth Berlusconi government tried to introduce a provision concerning dispute resolution on the termination of labour contracts, but this attempt was again unsuccessful. The proposal envisaged the possibility that, when establishing a new labour relationship, the employer and the worker might include a provision in the labour contract that subtracts the settlement of disputes about termination from the ruling of the labour judge, granting instead exclusive decisional power on the matter to an arbitration board, which decides on the basis of a fairness principle and not necessarily according to the law. This provision would have allowed employers to bypass article 18 of the Workers' Statute, at least insofar as new labour contracts are concerned, but it was withdrawn by the government when the President of the Republic objected that it might be unconstitutional.

In September 2011, then, the Berlusconi government was forced by the escalation of the sovereign debt crisis to introduce yet another package of emergency measures (law 148 of 2011). The government exploited the opportunity to pass a provision (article 8 of the law) that allows for collective agreements at the plant or local level ('proximity agreements') to derogate from national collective agreements and also from the law (including the Workers' Statute) in various matters regarding the organization of work and production. Collective agreements of this sort must be signed by the most representative trade unions at the national or local level, *or by their plant-level representatives*. The exact scope and import of 'article 8' (as it is now known in the national press) are still to be ascertained, but in principle they might be momentous, as the legal provision allows for local- or plant-level collective agreements to derogate from the national law without recognizing any floor of statutory rights and provisions. As regards dismissals, it actually opened the possibility for plant-level trade-union representatives – even if acting against the guidelines issued by peak-level unions – to sign plant-level agreements that envisage compensation in lieu of reinstatement in case of

⁷ For former attempts by the Berlusconi governments at deregulating dismissal, see Accornero and Como (2003) and Baccaro and Simoni (2004).

unlawful dismissal in larger firms, thereby circumventing the effects of article 18 of the Workers' Statute. While the relevance of the provision in this regard has now been reduced by the 2012 labour market reform introduced by the Monti government, article 8 of the 2011 law is still in place and its potential consequences up for grabs.

Actually, in introducing this provision the government was pursuing a double aim. The first was that of meeting the requests of the European Central Bank (ECB), whose then current and future governors (Jean-Claude Trichet and Mario Draghi, respectively) had sent in August 2011 a detailed letter to Prime Minister Berlusconi, calling for 'a thorough review of the rules regulating the hiring and dismissal of employees (...) in conjunction with the establishment of an unemployment insurance system and a set of active labour market policies capable of easing the reallocation of resources towards the more competitive firms and sectors'⁸. Reminiscent of the opposition to its former attempts at addressing the matter, the government chose this time to introduce changes by stealth. The second aim was to upset the joint agreement reached in June 2011 between CGIL, CISL, UIL and the employers' association Confindustria on the establishment of plant-level agreements. The important feature of this agreement was that CGIL promoted and signed it, despite its opposition to the Pomigliano and in particular Mirafiori agreements. Not having signed such contracts, under the Italian law on union representation in the workplace, CGIL's metalworking branch FIOM has no right of consultation in those plants, an issue against which it filed complaints in courts. A concession to CGIL, faced with internal cohesion problems ensuing the radical stance taken by its powerful federation of metalworkers, the June joint agreement recognized full validity of *future* plant-level agreements, thus not automatically granting retrospective validity to the FIAT agreements. Moreover, the June joint agreement required the agreement of the trade unions at their provincial level for the plant-level agreements to be valid. As a reaction to this, the government issued the provision in Article 8, recognizing validity of agreements signed by trade unionists at the plant level. Furthermore, it granted ex-post validity to plant-level agreements, thus securing Pomigliano and Mirafiori agreements. After the government introduced its provision, however, CGIL, CISL, UIL and Confindustria met again in October 2011 to restate their commitment to joint agreements, thus ruling out at least in declarations the possibility to lower labour standards by means of article 8. While the government's attempt at making the different positions of CGIL and CISL and UIL had apparent failed, the signature of Confindustria under the June and October agreements made FIAT leave the

⁸ J.C. Trichet and M. Draghi, Letter to PM Silvio Berlusconi, dated 5 August 2011.

employers' association, an event of powerful symbolic import, if one thinks that FIAT chairpersons have been presidents of Confindustria several times.

From distributive coalitions to the shadow of hierarchy: the 2012 labour market reform

In the Summer of 2011 Italy's sovereign debt went under attack, as a consequence of the global financial crisis, the Greek sovereign debt crisis and its mismanagement within the Eurozone (alongside, of course, Italy being a high-debt, low-growth economy)⁹. Yield differentials between Italian and German long-term government bonds (the 'spread', a word Italians have been well acquainted with since 1992, when the *lira* was forced out of the European Monetary System) went over 400 basis points, while they had never been higher than 200 basis points since the introduction of the Economic and Monetary Union.

The incapacity of Berlusconi's government to make tough decisions in the face of the crisis led to his resignation in November 2012, at the nadir of international investors' confidence in Italy. A new, non-partisan government was formed, led by former European Commissioner Mario Monti and backed by a large coalition mainly comprised of Berlusconi's party (People of Freedom, *Popolo della libertà*), a centrist party (Centrist Union, *Unione di centro*) and the left-of-centre Democratic Party (*Partito Democratico*). It featured no MPs among its ministers. Monti's government immediately introduced a most severe budget law for 2012, worth 30 billion € in new taxes and spending cuts, 2% of the GDP. A pension reform was passed in a top-down manner, with very few opportunities for trade unions to influence decisions about which they were merely consulted.

In his programmatic speech in the Senate in mid-November 2011, and again three weeks later during the press conference illustrating the emergency reform decree intended to rescue Italy from an extremely serious market confidence crisis, PM Monti said that a reform of the labour market would be introduced, aimed at de-segmenting it, but that – as opposed to the pension reform that was being presented – this would take place in a negotiated way. However, he made clear that decisions must be made. Exhortations in this regard had come to the former government from all the European institutions. As mentioned, in August 2011 the current and future Governors of the European Central Bank (ECB) had sent PM Berlusconi a letter urging

⁹ On Italy's sovereign debt crisis and the Berlusconi government see Jones (2012).

him to intervene in this regard, at the same time as the ECB announced that it would start buying Italy's government bonds on the secondary market in order to alleviate market pressures on the Italian sovereign debt (at the end of 2012 the ECB held Italian government bonds worth 102.8 billion €, out of a total of 218 billion € of bonds purchased between 2010 and 2012 through the so-called Securities markets programme)¹⁰. In October 2011, in a letter to the Presidents of the European Council and of the European Commission PM Berlusconi had committed on introducing a labour market reform by May 2012, a deadline that PM Monti intended to stick to.

It appeared immediately clear that the thorny issue would be the revision of individual dismissal procedures. However, the government proved determined to tackle this issue, mainly – if not only – for signalling purposes towards the international investors and international and supranational organizations (Sacchi 2013). This notwithstanding the fact that – according to the OECD employment protection legislation (EPL) index – the overall rigidity of the Italian labour market comes from collective, rather than individual dismissals. Actually the Italian individual dismissal procedures are gauged within the OECD EPL index much less rigid (or costly for the employer) than the German ones, because no severance pay is envisaged in Italy: the possibility of going to court, winning and being reinstated is weighted less, in the index, than severance payment determined by law. Moreover, in the vast majority of cases individual dismissals in large firms are negotiated by the employer and the employee, whereby the former offers a sum of money in exchange for the latter's renunciation of his/her statutory rights. Still, dismissal protection as written in Article 18 of the Workers' statute had been the red line for unions for the entire 2000s¹¹.

The negotiations with the social partners began in January 2012, revolving around three main themes: dismissal protection, the regulation of various types of fixed-term contracts and 'bogus' self-employment (that is, self-employment that disguises what should be covered by dependent work contracts, better regulated and more expensive for the employer), and a

¹⁰ The Securities markets programme, launched by the ECB in 2010, required no explicit conditionality to be imposed on the beneficiary Eurozone member. This has now changed and since Fall 2012 ECB purchases of a member's bonds on the secondary market (a line of intervention called Outright Monetary Transactions) can only take place after the Member State has been admitted to the European Stability Mechanism. This is an EU financial assistance fund that requires that the beneficiary Eurozone member adheres to a conditionality scheme, committing on structural reforms or a fiscal consolidation programme embodied in a Memorandum of Understanding signed by the Member State, the European Commission, the ECB and – whenever possible – the International Monetary Fund.

¹¹ As a matter of fact, the unions' position on employment regulation became more rigid during the 2000s. In 1985 the social partners (including CGIL) had jointly recognized the necessity to revise Article 18 of the Workers Statute so that reinstatement would only apply to discriminatory dismissals, while in the late 1990s they had tried to agree on an arbitration procedure to resolve lawsuits regarding individual dismissals, but failed (Accornero and Como 2002).

reform of CIGS, mobility allowance and unemployment benefits. The reform process was complex and articulated, and cannot be analyzed here¹². Basically, three phases can be identified: in a first phase, between January and March 2012, negotiations between the government and the social partners occurred. Generally speaking, the government blamed the social partners for being accessory to the crime of pushing Italy onto the verge of financial catastrophe, through rent-seeking behavior in concertative policymaking that, according to the government, hampered policy innovation and economic performance. Thus, its decision making style was rather top-down, basically managing negotiations in the shadow of hierarchy: tripartite negotiations could develop, but the government made it clear that the status quo was not an option, and that it would revert to unilateral action if no agreement – or, more importantly, an agreement it deemed unsatisfactory – was reached. While the government had its way on non-standard contracts and bogus self-employment, both re-regulating the field and introducing more flexibility for some contracts at the same time, in the field of income maintenance schemes it had to recede from its original intention to get rid of CIGS, given the fierce opposition of the social partners – Confindustria in particular. As concerns employment regulation, by mid-March 2012 the trade unions seemed to be ready to accept changes to economic dismissals, leaving to the labour courts the decision whether to reinstate the worker if economic dismissal was ruled unfair or to provide him or her with monetary compensation, making the dismissal operational. However, PM Monti decided to play tough in order to acquire reputation on the international markets, and switched to unilateral action, asking all the parties involved to agree (or disagree) on a proposal for economic dismissal that, once a court had ruled in favor of the worker, provided for monetary compensation only, ruling out reinstatement. All unions except CGIL agreed, but the following weeks witnessed mounting protest among the rank and file of signatory unions, with convergence between CGIL, CISL and UIL at the grass-roots level. This put pressure on the leadership of CISL and UIL. At the same time, CGIL called a general strike, although without indicating a date, so as to allow some leeway to further negotiations. This situation entailed high risks for the internal cohesion of the Democratic Party (PD), torn between its support to the Monti government and close ties with CGIL. As the deputy secretary of the PD told the Financial Times, this reverberated on the viability of the government itself (“if the PD collapses it will also be the collapse of the Monti government”)¹³. It was thus on the initiative

¹² For a reconstruction of the policymaking process of the reform and its interpretation, looking at the government’s policy ideas and the pressures exerted by European institutions, see Sacchi (2013).

¹³ G. Dinmore and R. Sanderson, Monti faces tough test with labour reforms, 21 March 2012, Financial Times.

of the Democratic Party itself that a compromise between the government and the parties supporting it was reached, providing for the possibility that the judge may still command reinstatement of a worker unlawfully dismissed for economic reasons, if there should be a manifest lack of motive. This amendment was enough for the leadership of CGIL to claim credit vis-à-vis its grass-roots and approve of the reform (notwithstanding the opposition of FIOM and other radical left components).

Following the agreement between the government and the parties supporting it the bill was introduced in Parliament. Interests that had been fenced off or were defeated in the negotiating phase could see some changes introduced, but the basic structure of the reform was maintained, and no amendments were made to the dismissal regulation. The bill was passed under a vote of confidence in both houses of Parliament, with the final approval coming the day before the momentous European Council of 28-29 June 2012, when the Outright Monetary Transaction programme was approved. The programme was considered by the Italian government a big ammunition against the rally of the yield differentials, introducing a safety net on which Italy might have to jump later on (Italian media vividly called the programme *scudo anti-spread*, anti-spread shield), but its introduction was not at all uncontroversial among the Eurozone members. PM Monti was badly in need of the labour market reform to convince Germany and other reluctant Eurozone partners that Italy was doing its homework, and deserved their trust.

The contents of the reform: what will it change?

The reform is wide-ranging and very complex. Three aspects are relevant here: the regulation of employment protection, unemployment benefits, and short-time work. No mention will be made of active labour market policies, for which the reform provides a framework for further interventions.

The law tries to make it more difficult to use bogus self-employment and introduces changes in the regulation of fixed-term contracts. As for the former, it will now be much harder for employers to hire independent contractors, frequently used in lieu of much costlier dependent workers (Berton et al 2012). Regarding the latter, on the one hand, it discourages repeatability, increasing the period that has to elapse between two consecutive fixed-term contracts; on the other hand it gets rid of the necessity of providing a reason for establishing a first contract of up to one year.

As for dismissal protection in firms below 15 employees, nothing changes. For firms over the threshold of Article 18, it leaves protection against discriminatory dismissals untouched, while it changes the rules for disciplinary and economic dismissals found by the judge to be unfair, introducing the possibility that reinstatement is substituted by monetary compensation. However, in contrast to Germany for instance, no severance pay is introduced by the reform, so in order to get monetary compensation the worker must go to court and challenge the justification of the dismissal.

For economic dismissals, a conciliation procedure becomes mandatory, whereby an agreement (most likely, an economic agreement in exchange for consensual dissolution of the labour relationship) can be reached between the two parties, assisted by lawyers, consultants and union representatives, meeting before a dispute resolution committee¹⁴. If the conciliation procedure does not help, when a lawsuit is filed by the worker and the dismissal is judged to be unfair, the worker cannot be reinstated, but receives monetary compensation ranging between 12 and 24 months of wage, as determined by the judge. This obtains unless there is a manifest lack of motive in economic dismissal, in which case the judge may decide to reinstate the worker (with foregone wages capped at 12 months). Also, the judge will apply the rules pertaining to discriminatory or disciplinary dismissals if during the court hearings it turns out that those are the real motives for dismissal¹⁵. Generally speaking, thus, a worker dismissed on economic grounds will not be reinstated. S/he will get no money unless a monetary deal is struck in the dispute resolution stage, or unless s/he challenges the dismissal and the judge finds it to be unfair.

What will be the effects of the reform? Clearly, this depends upon the behaviour of the employers, taking into account that of the courts. The mandatory attempt at striking a deal might lead to an equilibrium whereby a price for economic dismissals emerge, based on the likelihood that courts rule against the fairness of economic motives indicated by the employer. However, the possibility for the judge to sanction blatant lack of economic motive with reinstatement makes the calculation of the cost of the worst-case scenario for the employer relatively uncertain, as this will mainly depend by the stance taken by courts. On the other hand, an important measure of predictability in the worst-case scenario is brought to the new

¹⁴ The fact that this conciliation procedure is made mandatory by the reform may well be a reason for the overall acquiescence of the trade unions to the reform of the rules regulating economic dismissal, as they would acquire a role in the management of dismissals.

¹⁵ Discriminatory dismissal is null and void. As for dismissal on disciplinary grounds, the worker can be reinstated (with foregone wages due up to 12 months) if the judge rules that the event leading to dismissal did not take place, or it took place but it should have been punished otherwise, according to the collective agreements. In all other cases, when disciplinary dismissal is judged to be unfair the worker cannot be reinstated, but receives monetary compensation as in economic dismissal.

system by the provision that limits at 12 months of foregone wages the liability of the employer in case of reinstatement (although due social security contributions are not capped). The reform was justified by the government on the grounds that it would reduce segmentation. Overall, this does not seem to be the case as regards employment protection legislation; in particular, institutional dualisms between workers employed in large and those employed in small firms continue to exist, since no severance pay was introduced. The same occurs with respect to fixed-term workers, who do not get any compensation for non-renewal of their contract (as it is the case in France and now Spain)¹⁶.

Different in this regard may be the effects of the reform with respect to unemployment compensation.

First of all, although no proper experience-rating mechanism is introduced, employers who hire workers on fixed-term contracts (including temporary agency workers, but excluding seasonal workers and apprentices) will have to pay an increased contribution to the unemployment insurance fund (1.4 percentage points more). If the employer then hires the worker with an open-ended contract the last 6 months of extra contributions are reimbursed. Moreover, when an employer dismisses an open-ended worker (or does not hire an apprentice at the end of apprenticeship) s/he has to pay to the Social Security Administration a lump sum of about 500 € for each year of the worker's employment seniority, with a maximum of three years. Contrary to severance or termination payments, sums here are not paid to the workers but to the Social Security Administration, since these provisions are geared to financing the extension of the pool of beneficiaries of unemployment benefits. As such, they do not directly benefit the workers. However, they could also work as disincentives for employers to hire under fixed-term contracts only as a way of saving labour costs, or to dismiss with no strong economic rationale.

As for direct benefits to the worker, the reform substituted the ordinary unemployment benefit, introduced in its basic form in 1919, with a new scheme, the ASPI (*Assicurazione Sociale per l'Impiego*, Social Insurance for Employment) as of 2013. In terms of entitlement, the ASPI makes a difference for apprentices, as they are now fully enrolled in the scheme. In terms of eligibility, however, the requirements for accessing ASPI remain the same as for the old ordinary benefit (a minimum vesting period of two years and at least 52 weeks of

¹⁶ A proposal for a generalized "termination payment" payable to all open-ended workers who get dismissed and all fixed-term workers whose contract is not renewed, calculated as a function of the overall past wages received from a given employer under any type of contracts, was introduced in the Italian debate by Berton et al (2009).

contribution in the past two years), thus for workers other than apprentices the shares of those eligible to the more generous UB scheme remain the same.

However, the amount of the ASPI is higher than the amount given by the previous benefit. Also, the law envisages a path of gradual increases in the duration of the benefit, culminating with a maximum duration of 12 months in 2016, as compared to eight months for the previous ordinary benefit. For those aged 55 and over maximum duration can extend to 18 months, if they have contributed more than the basic contribution requirement for eligibility (52 weeks in the past two years).

ASPI is flanked by another new scheme, called mini-ASPI, to cater to workers with reduced contribution records and those who have been on the labour market since recently. As compared to the scheme it replaces, the reduced requirement benefit introduced in 1988, mini-ASPI gets rid of a two-year minimum vesting period requirement, thus enlarging the pool of potential beneficiaries to include those who have only recently entered the labour market. To be eligible for the mini-ASPI the only requirement is to have accrued at least 13 weekly contributions in the past year. Maximum benefit duration is set at half the number of weekly contributions in the past year, thus with a minimum benefit duration of roughly one-and-a-half months, and a maximum of six months¹⁷. The amount of the mini-ASPI is the same as for the ASPI.

Thanks to the extension of entitlement to the main scheme (the ASPI) to apprentices and in particular to the minimum vesting period being lifted for eligibility for the mini-ASPI, overall eligibility for the rights-based unemployment benefit schemes greatly increases. The number of employees who do not get a benefit if they lose their job is reduced by more than two thirds, from 2 million to 600,000 approx¹⁸. In particular, ineligibility among direct-hire temps drops from 40% to 17%, and among temp agency workers (TAWs) from 50% to 20%. As mentioned, this is mainly due to mini-ASPI, which however lasts for a very short period of time: only 10% of eligible direct-hire temps and TAWs can draw the benefit for the maximum six-month duration. At the same time, over 40% of eligible direct-hire temps and almost 50% of eligible TAWs are only able to draw the benefit for less than 3 months.

Finally, the government intended to reform other income maintenance schemes, and notably the structural short-time work scheme CIGS, but this immediately appeared to be a non starter: all social partners, Confindustria in particular, opposed such a plan. Still, it is

¹⁷ Benefit duration, both for ASPI and mini-ASPI, is reduced if the beneficiary has already drawn a benefit in the past year.

¹⁸ From 2,5 million to about 1 million if independent contractors are included. Own estimates carried out with the help of Roberto Quaranta of the Fondazione Collegio Carlo Alberto, Turin.

remarkable that mobility allowance (including the *mobilità lunga*, a functional equivalent to early retirement) will be phased out as of 2017, unless of course a new government scratches that part of the reform. Once it realized that abolishing CIGS would be impossible, the government actually tried to extend it to sectors and firms currently uncovered, also as a means to de-potentiate *ammortizzatori in deroga*, whose extension to formally uncovered sectors and firms is still in place and being paid by the general revenue¹⁹. However, opposition to this plan came in particular from large firms in the banking and insurance sectors, which already have collectively bargained funds that mimick short-time work funds, and did not want to pay for what they already have in place. In the end, therefore, CIGS was left untouched for firms already covered, and new funds, administered by bipartite agencies, were made mandatory in all sectors for firms employing more than 15 workers. Such funds provide workers with benefits similar to CIGO and CIGS, but – contrary to these – must fully take charge of social security contributions on foregone wages, thus reducing the burden on the public finances. Also, contrary to CIGO and CIGS, a limit on hours of short-time work is set (a peculiar feature of CIGO and CIGS, in fact, is that employers can integrally replace their employee's work hours with them, with no ceiling). If employers and unions do not set up bipartite funds in a given sector, firms employing more than 15 employees in that sector are automatically enrolled in a residual, state-administered fund. Special concessions are made for some sectors, such as crafts. Firms employing less than 15 workers may join existing sectoral bipartite funds (or the residual fund), but this is not mandatory.

While extension of short-time work schemes to all sectors carries an equalizing import, conveniences across sectors are different, insofar as for sectors covered by old CIGS the use of STW schemes is less expensive than for firms joining newly-set bipartite funds. Also, institutional dualisms between workers employed in large and those employed in small firms are maintained.

Conclusions

Over the past twenty years, Italy has undergone many structural reforms in labour policy. Between 1997 and 2003, seminal reforms were introduced, that greatly liberalized non-standard work. Little, however, was done in the field of unemployment compensation, as least

¹⁹ Out of a unanimous request from the social partners, motivated by the enduring employment crisis (the unemployment rate exceeded 11% in the course of 2012) the possibility of maintaining *ammortizzatori in deroga* is still envisaged by the law until 2016, depending on case-by-case decisions on the part of Treasury and Labour Ministers.

as regards eligibility rules (while generosity and duration of the benefits was increased). This left many workers uncovered by income maintenance schemes if they lost their job: as many as 2 out of 13 million dependent workers (excluding tenured workers in the public sector). This hypothetical situation partly materialized with the Great Recession, as Italy plunged into recession in the third quarter of 2008. The fourth Berlusconi government virtually abstained from introducing any fiscal stimulus response to the crisis, in order to consolidate its fiscal balance in the face of a shrinking GDP, given the structural weakness of Italy's position due to its high public debt/GDP ratio. Thus, the government chose to respond to the employment consequences of the crisis by exploiting a well-known institutional technology: short-time work, that has the advantage of supporting both firms and workers, keeping the latter in employment. Doing so, the government pursued a strategy aimed at both sustaining effective demand through social benefits and keeping firms in business.

While short-time work has been extensively used as the main employment policy response to the Great Recession in other European countries, notably Germany, only in Italy has it played such a multi-purpose role, making for the gaps in the rights-based unemployment benefit system and for the silent demise of industrial policy since the 1990s. Existing schemes have been extended in both material (sectors allowed) and personal (size of firms allowed and type of workers made eligible) scope. At the same time, the government retained its prerogatives as the gatekeeper of the process, thus keeping a tight rein on the expenditure.

However, still many workers fell through the nets, and went uncovered by either unemployment benefits or short-time work schemes. Why did the crisis not trigger a comprehensive reform of the unemployment benefit systems? The main reason has just been mentioned: while unemployment benefits are entitlements, that the government must serve when claimed by eligible individuals, short-time work is discretionary in kind, and *ammortizzatori in deroga* in particular, funded as they are by earmarked appropriations by the government. Moreover, a coalition emerged (that following Rhodes 2012 we have called distributive) made of actors – firms, unions, the national and regional governments – that all had a stake in the stability of the distributional equilibrium.

As a matter of fact, this state of affairs could only break down as a consequence of an exogenous shock, the Eurozone sovereign debt crisis that hit Italy in the summer of 2011. Initially, Berlusconi sought for support from the EU as an external constraint to introduce reforms, also in labour market, where his governments had tried – to no avail – to ease the rules for individual dismissals since the early 2000s. However, splits within the majority over seniority pension reforms in particular (with a rift between Berlusconi's party and the

Northern League, *Lega Nord*) and within the government itself over responses to crisis (between PM Berlusconi and the powerful Treasury Minister Giulio Tremonti) led to the government's paralysis and complete inability to act, which in turn led to Berlusconi's resignation.

Monti's government had a clear mandate: regain reputation within the international political and economic arenas, and restore international investors' confidence in Italy. The 2012 labour market reform, and the way it was introduced, can be read through these interpretive lenses. Decision-making in the shadow of hierarchy occurred, with the government hardly concealing its impatience for having to deal with social partners. The government even chose to pursue unilateral action on the most visible issue, that of individual dismissal, to build reputation as tough and capable of imposing its policy solution in the face of opposition from the unions. While it later had to make the rules for economic dismissal more palatable to parts of its parliamentary majority, the effects of the reform can potentially be of much consequence.

Where the government had to step back from its original intentions was the reform of short-time work. While it managed to phase out the mobility allowance (although much can happen before it is completely abolished), it could not do the same with CIGS. The effects of the distributive coalition set in place in the first stage of the crisis prevented the demise of *ammortizzatori in deroga*, that will be in place until 2016, exposing the government to pressures from the social partners to fund them, as the economic recovery is still far to be seen.

A thorough reform of rights-based unemployment benefits has been constrained by cost considerations. While the main scheme (now ASPI) has become more generous, eligibility has remained the same as before. Mini-ASPI makes a big difference in terms of eligibility, but its duration is very low indeed for most of the beneficiaries. Active labour market policies were only reframed by the reform, leaving their overhaul to provisions to be enacted later on, under the constraint of no further financial resources. The missing block of Italy's social safety net – a minimum income scheme – was not even considered in the reform process.

In conclusion, with regard to the building blocks of European-style flexicurity - active labour market policies, income maintenance in case of non employment – the reform introduced by the Monti government is still lacking, and it is hard to imagine that sweeping reforms in these areas may occur as a consequence of austerity policies advocated by international organizations and pressures from financial markets, not to mention conditionality attached to rescue packages that Italy should be forced to ask for in the future. In other words, the

impetus for completion of the labour reform can only come from the Italian political arena. The new conditions of Italian politics following the February 2013 elections, with the appearance on the Italian political stage of a party (*Movimento 5 Stelle*) that capitalizes on widespread discontent among young educated voters, non-standard workers, and deep losers from the economic crisis in general, might create the space for social policy innovation in this regard, after twenty years of (de-)regulatory reforms.

References

A. Accornero and E. Como (2003) *The (failed) reform of article 18*, in Blondel, J. and Segatti, P. (eds.), *Italian Politics. The Second Berlusconi Government*, New York, Berghahn Books, pp. 199-200.

L. Baccaro and M. Simoni (2004) *The referendum on Article 18 and labour market flexibility*, in Della Sala, V. and Fabbrini, S. (eds.), *Italian Politics. Italy between Europeanization and domestic politics*, New York, Berghahn Books, pp. 166-183.

Banca d'Italia (2009) *Relazione annuale del governatore*, Rome, Banca d'Italia.

F. Berton, M. Richiardi and S. Sacchi (2009) *Flex-insecurity. Perché in Italia la flessibilità diventa precarietà*, Bologna, il Mulino.

– (2012) *The Political Economy of Work Security and Flexibility. Italy in comparative perspective*, Bristol, Policy Press.

D. Cameron (2012) *European fiscal responses in the Great recession*, in Bermeo, N. and Pontusson, J. (eds.), *Coping with Crisis. Government Reactions to the Great Recession*, New York, Russel Sage Foundation, pp. 91-129.

D. Checchi (2013), *Labour market and inequality trends in Italy*, in M. Magara and S. Sacchi (eds.), *The Politics of Social and Industrial Reform*, Cheltenham, Edward Elgar.

A. Chiesi (2013), *Corporate governance and firm ownership in Italy*, in M. Magara and S. Sacchi (eds.), *The Politics of Social and Industrial Reform*, Cheltenham, Edward Elgar.

P. Emmenegger, S. Häusermann, B. Palier and M. Seeleib-Kaiser (2011) *The Age of Dualization. The Changing Face of Inequality in Deindustrializing Societies*, Oxford, Oxford University Press.

M. Jessoula and P. Vesan (2011) *Italy: limited adaptation of an atypical system*, in Clasen, J. and Clegg, D. (eds.), *Regulating the risk of unemployment. National adaptations to post-industrial labour markets in Europe*, Oxford, Oxford University Press, pp. 142-163.

E. Jones (2012) *Italy's Sovereign Debt Crisis*, in 'Survival: Global Politics and Strategy', 54, 1, pp. 83-110.

M. Rhodes (2012) *Coordination, Cooperation and Conflict in Labor Market Reform: Spain and Italy in the Crisis*, paper presented at the Politics and Society Seminar Series, Collegio Carlo Alberto, Turin, 22 November 2012.

S. Sacchi, F. Pancaldi and C. Arisi (2011) *The Economic Crisis as a Trigger of Convergence? Short-time work in Italy, Germany and Austria*, in 'Social Policy and Administration', 45, 4, pp. 465-487.

S. Sacchi and P. Vesan (2011) *Interpreting employment policy change in Italy since the 1990s: nature and dynamics*, Carlo Alberto Notebooks 228/2011.

S. Sacchi (2013) *Welfare reform in the Italian debt crisis: pensions, labor, unemployment benefits*, in Di Virgilio, A. and Radaelli, C. (eds.), *Italian Politics*, New York, Berghahn Books.