

The future of the welfare state: paths of social policy innovation between constraints and opportunities

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UNION ORGANISATION OF EMPLOYEES IN ATYPICAL AND PRECARIOUS WORK IN ITALY

Salvo Leonardi¹ – IRES

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¹ PHD and senior researcher at National IRES, the Social and Economic Research Institute, think tank institute of CGIL. Author's address. s.leonardi@ires.it. This paper is largely taken from an article, with the same title, published by the "International Journal of Action Research, Vo. 4, Issue 3, 2008.

Abstract

European trade unions are facing a very serious crisis of identity and strategy. Probably the worst for a long time. Practically all the principal organisations appear to be in serious difficulty in intercepting the new typologies of employment relationships; in interpreting their new identity profiles; the expectations for representation and voice that emerge at both an individual and collective level. In the post-Fordist economy there are more and more SMEs companies, in the service sector, with skilled white collar workers, many of which female, with atypical or subcontract employment relationships, new cultural attitudes and expectation in terms of representations and voice. From a trade union viewpoint, all these elements impose a radical turnaround of attitudes and approaches in order to maintain and possibly reach all those employees who still suffer inequalities, precariousness, exploitation. One of the most interesting and recent experiments is probably represented by the Italian trade union movement, concerning the specific organisation of the atypical workers into the frame of the three historical big confederations (Cgil, Cisl and Uil). A socially and juridical heterogeneous universe, composed by agency temporary workers and semi-dependent workers. Into the international scenario of union density decline the article describes this experience, within the peculiarities of the Italian model of trade unionism and industrial relations.

Key words

trade unionism, atypical workers, Italian industrial relations

1. At present trade unionism is everywhere challenged by the deep transformations that over the past decades have seriously undermined the material and cultural basis of that world of labour on which it had traditionally drawn its social and political force.

In the last thirty years trade unions have been suffering a wide and consistent reduction of their social representativeness. Practically all the principal organisations appear to be in serious difficulty in intercepting the new typologies of employment relationships; in interpreting their new identity profiles; the expectations for representation and voice that emerge at both an individual and collective level.

An important indicator measuring the actual strength of trade unions, even though not the only one, is usually represented by membership, gauged by the level of unionisation within the active labour force. National union density rates, as recorded in the last two decades by international statistics and comparative studies, have spared no model whatsoever, impacting unions with highly diverse backgrounds in terms of history, culture, organisational model and institutional context. After having record highs at the end of the 70s, with peaks of around 40-50%, unionisation rate in Western and most industrialised countries have fallen constantly quite everywhere². Figures about collective bargaining coverage, strike index, wage dynamics and class voting and alignment are not encouraging as well and seem all to converge towards a decline of the organized working movement in the new global world. At least in the present tense.

The only remarkable exception is represented by those few Nordic countries, where trade unions enjoy the institutional prerogative of managing the unemployment insurance funds – the so-called “Ghent system” – in force in Belgium, Sweden, Denmark and Finland. These

² It has fallen to 28% % in the United Kingdom, to around 20% in the Netherlands; to 18 % in Germany, 16% in Spain; to 8% in France (Phelan, 2007; Eiro, 2006; Visser, 2006; Vernon, 2006; Cecchi and Visser, 2005; Frege and Kelly, 2004; Boeri, Calmfors et alii, 2001; Scruggs and Lange, 2002; Ebbinghaus and Visser, 2000; Blascke, 2000; ILO, 1998). The situation is altogether critical in the new member states – with the only positive exceptions of Slovenia and Slovakia (Dimitrova et Vilrocx, 2005; Casale, 2007) – and also of South Korea, the US and of Japan, where union density rates range between 11-18%, or in Australia or New Zealand, where the decline has been very severe during the last twenty-five years. As in the case of Austria or Ireland, where the union density is still relatively higher – in both cases around 35% - but with a serious fall if compared with the early 80s, when it was more than 20 points higher.

four countries have the world's highest union density³ and are the only ones in the world of industrialised democracies to have resisted declining unionisation.

Italy maintains a comparatively medium-high rate of unionisation, estimated at around 33% of the active subordinate workers population (Feltrin, 2005; Baglioni, 2008). Today, Cgil has 5,730,000 members, Cisl 4,507,000 and Uil 2,116,000 (2008). With more than 12 million members, retired included (but excluding autonomous and professional unions), Italy is by far the first in Europe with regard to the overall number of trade union members. CGIL alone is the third largest trade union confederation in Europe, behind the German DGB and the British TUC.

Year	CGIL	CISL	UIL	Total
1980	4.599.050	3.059.845	1.346.900	9.005.795
1990	5.150.376	3.508.391	1.148.758	10.144.525
1998	5.231.360	3.847.388	1.603.940	10.682.688
2008	5.734.855	4.507.349	2.116.299	12.358.503

Yet notwithstanding these figures, it should be nevertheless observed that while trade unions confederations have increased overall membership:

- ⇒ they have lost, since 1980, 30% of their members among the active workers,
- ⇒ that the 33% rate of unionisation is the lowest in the past 35 years,
- ⇒ that nearly 50% of the overall membership are retired workers⁴.

The decline has been probably slower and more gradual than elsewhere, showing in the last five years an encouraging counter tendency also among the active working population. A significant contribution has come from migrant workers. Their number is increasing year after year. Nowadays, unionised migrant workers amount to nearly 700,000, more or less 10% of the overall active work force affiliated to trade unions.

2. The reasons for such an erosion, or decline, are global and of different kinds. In this venue, I will mention just a few:

1) the gradual shift from industrial to post-industrial employment, and the demise of those sectors union settlements had been traditionally much stronger (mines, steel, shipyards, automotives). The crisis of the most unionised sectors/branches has not been sufficiently compensated by the weak unionisation of some new expanding branches and wage-earners: private services, ICT, distribution, knowledge workers (Silver, 2003). Also the public sector – which in the last decades had partially compensated the loss in the traditional blue collars and manufacturing branches⁵ – is now under strain due to the ongoing privatisation and

³ See Western, 1997; Scruggs, 2002; Boeri, Calmfors et alii 2001; Kjellberg, Jokivuori, Vandaele, 2006; Leonardi, 2006; Coulet, 2008.

⁴ They are almost 3 million in CGIL alone. In Italy they are organised separately, but still within their confederation, from the sector unions where they were members before they retired. One of the reasons of such a peculiar capability in representing and recruiting the retired workers depends on the good performances in supplying services and stipulating social agreements with the local authorities. More than 1000 agreements have been signed at the local level only in the last year. See Carrieri M. and Leonardi S., *Il sindacalismo dei pensionati: il valore di una "anomalia"*, in CGIL-SPI, "Fare benessere", Edizioni LiberEtà, 2007.

⁵ Union density, in the public sector, is generally esteemed to be quite higher than in the private sectors: around 10% in the average of most of the European countries. See EIRO, *Industrial relations in the public sector*, Dublin, 2007. This is for example the case of Sweden, where "Municipal" is bigger than the metal union of LO, and of in Italy. In CGIL, the unions federation of the civil servants (*FP - Funzione Pubblica*) overstepped in the last years the number of members of the metal workers federation (*FIOM*), the first federation since 1969.

outsourcing of many public services, the reduction of the welfare state, a broader reliance on precarious workers.

2) Furthermore, through subcontracting and externalisation, companies have reduced the average size of the establishments and plants, with an expansion of SMEs, where it has been traditionally more difficult for unions to assert themselves (Bouquin, Leonardi et alii, 2007). In all the national systems, laws and/or collective agreements define a special threshold, linked to the average number of employees, below which certain workers rights or unions prerogatives are not equally applied and protected as when that threshold is crossed. The absence of a works council at the workplace implies a lack or a weakness of all these tools, with ensuing worst pay, longer working hours, dangerous health and safety conditions, less opportunities for vocational training and career.

3) The traditional juridical partition – between self-employed and dependent workers – is now being eroded by the new forms of work organisation and by the legal qualification of the jurisprudence. In this regard, the trends are of two kinds: a) the growth of atypical and substandard jobs (fixed-term, agency temporary workers, job on call, etc.), characterised by a weaker regime of rights and protections both at an individual and collective levels; b) the growth of new forms of self-employment, that which we call “semi-dependent work”, *arbeitnehmerähnliche Person*, “legally autonomous but economically dependent” (Supiot, 1999). These new self-employed workers fall outside the rights and protections granted by labour law. Today almost 50% of the EU workforce is made by this broad “grey zone” of substandard and atypical workers. New ambiguous borders now separate the “insiders” from the “outsiders” of the labour law and welfare state that have been constructed during the last century.

These trends heavily impact union membership. The thesis is simple: the spread of employment relationships that are too flexible produces conditions of legal instability and psychological subjection/fear that are totally unfavourable for the individual choice of becoming union members. Without members there are no workers’ representatives and, consequently, no workplace collective bargaining. It is a vicious circle that destabilise trade union authority in our contemporary societies

4) Last but not least, we notice a deep and broad cultural change, depending on a trend towards a “de-traditionalization of the social links”, the individualisation of the styles of life (Giddens, 1990; Beck & Beck–Gernsheim, 2002; Bauman, 2001; 2006), the death of the old ideologies and the crisis of the traditional cultures of solidarity, typical of the history of international unionism.

The experience of risk and injustice at work is increasingly individualised in the common perception (Beck, 1986; Dubet, 2006) and, cause of this, de-politicized.

The younger and highly skilled workers, many women, and knowledge workers all seem to be little attracted to the traditional forms of trade union representation, showing expectations, approaches and individual strategies that differ significantly from the typical social prototype of the old union members and militants.

We refer to these changes as the passage “from Fordism to post-Fordism” (Linhart et Moutet; 2005; Harrison, 1997; Kumar, 1995; Gorz, 1992; Coriat, 1991; Harvey, 1990; Dore, 1990; Murray, 1989; Lash and Urry, 1987).

Unions have to cope with this new kind of scenario: more and more SMEs companies, in the service sector, with skilled white collar workers, many of which female, with atypical or subcontract employment relationships, new cultural attitudes and expectation in terms of representations and voice.

From a trade union viewpoint, all these elements impose a radical turnaround of attitudes and approaches in order to maintain and possibly reach all those employees who still suffer inequalities, precariousness, exploitation. Unions suffer because a growing number of

workers have a bit lesser need for them, whereas another portion need them greatly but fail in the attempt to access them (Accornero, 1997).

3. European trade unions are facing a very serious crisis of identity and strategy. Probably the worst for a long time. They need to re-orientate their approaches and policies in order to increase membership; to extend representativeness to the new work typologies; to give voice to all those employees who still suffer inequalities, precariousness, exploitation, alienation. There's a future for trade unions, indeed. But a deep restyling and organisational change is definitively required (Klosterboer, 2007; Hyman, 2007; Phelan, 2007; Veron, 2006; Carrieri, 2003; Waddington and Hoffman, 2001).

In these years, Italian trade unions have shown deep commitment in searching new ways to respond to the global challenges faced by the new labour world.

But before we proceed any further, it is useful to recall some of the distinguishing traits of Italian trade unionism: a pluralism of organisations that goes back to the beginning of the cold war period (1948-1950), but with a substantial unity of action among CGIL, CISL and UIL, the three largest confederations; confederate primacy over a network of 14-15 medium-sized industry-wide federations; a strong membership of retired workers; the significant role played by «horizontal» and territorial/local structures; a single-channel system of workplace representations (RSU - *Rappresentanze Sindacali Unitarie*), elected by all the employees, regardless of membership; a strong capacity for mobilisation during industrial action and general strikes; an equally strong propensity for social negotiations, in terms tripartite talks and social pacts; one of the highest levels of abstention of law in the area of industrial relations (representation, strikes, collective bargaining), all regulated by tripartite agreements and not by the law (except that in the public sector).

Collective bargaining coverage in Italy is, on an average, rather high, estimated at around 80% of the entire employed workforce, without any administrative procedure of extension *erga omnes* to the national sector/branch agreements. Such a good result is guaranteed by more than 400 national sectoral/branch contracts, formally covering the entire workforce. It is a two-levels system, with a primacy of the national sector. The second level can be developed at company or, alternatively, at territorial level (constructions; hotels and tourism; artisans; agriculture). It is mostly focused on the additional pay and working hours. Most of the SMEs, which in Italy represent more than 90% of the enterprises, are excluded – *de facto* – by this second level of bargaining. It covers around 35% of the whole workforce; no more than 4% in the micro firms. That's why, unlike the other biggest confederations (CISL and UIL), the CGIL is rather sceptic about a shift in the focus of the collective bargaining system from the national to the company level; in fact two-thirds of the overall workforce – lacking representation at the workplace level – would remain excluded by better protection and treatment.

Italian trade unions have traditionally shown a considerable ability in mobilising general strikes or other forms of industrial action, which are weakly regulated by legislation⁶. This does not imply that Italian trade unions continue to maintain a stance that is merely ideological and confrontational as far as industrial relations are concerned. Italy is in fact among those countries where there has been, starting from the 1990s, the “revival of neo-corporatism” amply described in related international literature⁷. Tripartite social agreements

⁶ Remarkable, in this light, was the mobilisation in 2002 to protest against the measures promoted by the centre-right government, for making easier the collective dismissals, when CGIL alone brought nearly three million people in the streets of Rome.

⁷ See, among the others, Schmitter P. and Grote J., *Sisifo corporatista: passato, presente e futuro*, in "Stato e Mercato", n. 50/1997; Crouch C., *Non amato ma inevitabile il ritorno al neo-corporativismo*, in "Giornale di diritto del lavoro e delle relazioni industriali", n. 77/98; Fajertag G. and Pochet P. (Eds), *The role of tripartite*

have been signed on practically all principal social issues (income policies; collective bargaining; workers representation at the workplace; pension systems; labour market; economic development and competitiveness), proving that they receive a high degree of recognition on the part of the political and institutional system (top-down) and among workers and pensioners (bottom-up).

Among the reasons that contribute to explaining the relative success of the Italian trade union, there is probably the ability to tackle efficaciously the central issues of labour and social citizenship and to create a democratic relationship with the base it represents at both a bargaining and political levels (Baccaro, 2003). In response to internal and external challenges, the Italian confederal unions have been engaged in organizational reforms aimed at increasing internal democracy and transparency. For instance collective bargaining and tripartite agreements are subject to approval on the part of all workers; each peak role into the organisation (members of secretary or directory board) are subjected to rotation, lasting no more than two continuous mandates in the same position: eight years in all. This was instrumental in re-legitimising the confederal unions' role as bargaining agents in the eyes of both the employers and the rank-and-file workers (Locke and Baccaro; 1999). The last good instance concerned the welfare protocol the government signed with social partners associations, in July 2007. A referendum was organised all over the country that saw the participation of some 5 million citizens, including workers, pensioners and unemployed; the favourable to the agreement were 82%.

The reinvigoration of the confederation is strictly correlated to the value of citizenship and bargaining at a territorial level, which also constitute a central node in the management of corporate conflict and the more complex model of life in society. Inspired by the old leader Bruno Trentin, since 1991 the programme of CGIL is focused on the key words of new *rights, solidarity and citizenship*. Since then, the programme focused on some fundamental politico-organisational principles: the concept of “a trade union of rights as opposed to corporatism” based on the confederative approach, defined as “general, united and voluntary” and based on democracy, pluralism and autonomy; the centrality of the work; the assumption of individual rights of social citizenship as a priority in CGIL's action. Highlighted to this end is the universal value of knowledge, information and training at an individual level.

At an organisational level, the strategic guideline of the confederation targets “the renewal of the trade union” where holding central stage is “the construction of a new solidarity between the parties that make up the working world”. The objective is to open more and more the confederation and its policies to the new generations, defined as “the biggest challenge of our future”, to the migrants, to the women, through an higher attention paid to the work balance conciliation⁸. Last but not least, at the Conference of organisation of May 2008, a crucial role has been recognised to the territorial level of organisation.

4. One of the most important and recent achievements of the Italian trade union movement concerns the specific organisation of the atypical workers (*lavoratori atipici*): a socially and juridical heterogeneous universe, composed by agency temporary workers and « semi-

concertation in the reform of the welfare state, in “Transfer”, 1/2: 64–81; 2000; Trexler F., Blanscke S., Kittel B., *National Labor Relations and International Markets. A Comparative Study of Institutions, Change and Performance*, Oxford University Press, 2001; Regini M., *Tripartite Concertation and Varieties of Capitalism*, in “European Journal of Industrial Relations”, Vol. 9, No. 3, 251-263; 2003; EIRO, *Social partners and Social Security systems*, European Foundation for the Improvement of Living and Working Conditions, Dublin, 2007.

⁸ According to the CGIL's Statute, each gender must be equally represented into the peak positions of the Confederation, in all the sectors and at all the levels. Because of this rule, women are the 50% in all the secretaries of this trade union.

subordinate » workers. Fixed-term workers and part-time workers are instead affiliated to the traditional industry-wide federations.

During the 1990's, many European countries reformed labour market regulations to contrast the high levels of unemployment with greater labour market flexibility. In Italy, from the second half of the 1990's new forms of labour flexibility have been developed. After the last important and controversial reform of the labour market, realised by the centre-right government in 2003 (Act 30/2003), in Italy have been counted more than 40 different types of employment relationships.

In various cases, these have led to different forms of precariousness tied to the limited time-length of jobs, to absent or very limited social protections, and to the lack of basic standard workers' rights (sick-leave, maternity leave, vacation, etc.). But also to an increase of the rate of employment and a fall of the rate of unemployment.

Italy is more or less in line with the EU average for what concerns some atypical kinds of work (part-time, fixed-term and temporary agency work). Instead, it is remarkably above the averages for what concerns self-employment and undeclared jobs (Altieri, 2009). Beside, Italy has been in these year one of the EU countries where temporary contracts increased more and where the employment labor strictness was more undermined.

The use of fixed-terms work (between 12 and 13 percent) is not very different from the EU15 average. Women with temporary employment represent 15.4 of the total of employed women, against 9.4 percent of the men. The incidence of temporary employment is greater among young adults and women, especially in the South of Italy.

The temporary agency work, introduced into the Italian legislation in 1997 (Act 196/1997) and amended in 2003, involves 574,000 workers (2007) and represents 1.2 percent of the overall workforce. Even less if we account them as full time equivalent (0.7%)⁹. The law limits the use of temporary work to: a) types of work which are not normally done in the firm; b) the substitution of absent workers; c) cases defined by collective bargaining. Temporary work is forbidden: a) for unskilled workers; b) for replacing workers on strike; c) by firms which have resorted to collective dismissal in the last 12 months; d) in dangerous jobs and by firms not complying with health and safety legislation. Temporary workers have the same rights as employees of the firm-user; in particular, the pay treatment must not be inferior to that of employees of the firm-user. All the national sectoral collective agreements, in each sector/branch, fix limits and maximum percentage to the use of these kind of contracts in the user-companies. Usually between 8% and 15% of the total workforce. The largest majority of the agency temporary workers have a fixed-term employment relationship with their agencies.

70% work in the northern regions of the country and 52% in the industrial manufacturing sectors. Most of them are quite young (the average age is 31). The women are 45%; they are a bit older than the average, employed in the service sectors, more highly qualified than their male colleagues, who are largely employed in the manufacturing factories. An increasing number is covered by migrant workers: 23% of the all temporary workers¹⁰.

In average, each "mission" in the company-user lasts for no more than 44 paid days. The monthly average pay is between 1000 and 1,500 euros, but with a relevant wage gender gap (70% of the women earn 1,000 euro per month). All the agency workers have weak income security for the periods of unemployment, when they're not working, whereas they have many good opportunities for continuous vocational training. The 4% of their global wage must be allocated by the agency to finance a national training fund, jointly managed by the most representative social partners organisations.

⁹ IRES, *Dal lavoro interinale alla somministrazione: primo monitoraggio*, Ebitemp, Roma, 2006

¹⁰ Ebitemp, *Il lavoro interinale nel 2007*, Osservatorio Nazionale, Collana dell'Osservatorio Centro Studi Ebitemp, Roma, maggio 2008; Altieri G., Dota F., Piersanti M., *Percorsi nel lavoro atipico: il caso dei lavoratori interinali*, IRES-FrancoAngeli, 2008.

Self-employed workers represent 17% of the national employment rate (24%, if we also include the employers). A sub-specie of them is composed by the so called “coordinated and continuous assistants”, a sort of “semi-subordinated workers”, legally autonomous but economically dependent (Supiot, 1999). They are 1,500,000 and represent one of the real peculiarities of the Italian way to flexibility and precariousness (the other is represented by the huge share of unrecorded/undeclared employees), since – unlike all the other atypical jobs – this one is all but excluded by labour law protections¹¹. Not all these new self-employees really need the traditional collective forms of representation. Most of them are in fact very high professionals and really self-employed in the traditional sense. Therefore, those who are really in need of collective forms of representation are estimated to be around 700,000. Around 80% have just only one single employer; contracts of 6-7 months per year; similar working time of their stable colleagues but with worst incomes (they earn 40-50% less than their stable subordinated colleagues with equal or similar skill profile), rights and professional opportunities (career, training, pensions perspectives).

One of the biggest problems faced by Italian atypical workers is the very poor income protection for the periods between one job and another. The shortage of a fair and inclusive system of social protections in case of unemployment increases the sense of precariousness felt by Italian atypical workers with respect to most of their colleagues in other European countries (Accornero, 2006).

Since the end of the 90s, the temporary agency workers and the semi-dependent assistants are organised and represented by their own unions, affiliated to the three main confederation. As far as we know it's a quite unique experience in the scenario of international unionism¹². Their names are NIdiL (*Nuove Identità del Lavoro*) for CGIL, ALAI (*Associazione Lavoratori Atipici e Interinali*) for CISL and CPO (*Comitati per l'Occupazione*) for UIL. These three organisation have different statutes within their confederations. In fact, whereas NIdiL is recognised as a proper *Federation*, in charge of representing agency workers and semi-subordinated self-employed, ALAI has a weaker status of *Association* within CISL, representing the agency workers only and not even the semi-dependent self-employed. Similarly to the CPO, which instead – as NIdiL-CGIL – is considered a federation of UIL. In CGIL the plan is to include also the unemployed members under the domain of NIdiL.

Unlike the workers of the other unions, the atypical workers share a juridical condition and not the employment in a specific productive sector or branch.

The number of members has been increasing gradually and constantly during the whole decade, remaining – nevertheless – below the potential area of recruitment.

In the case of NIDIL-CGIL, the number of members doubled in ten years, from 15,000 in 1998 to 32,800 in 2007. ALAI-CISL, in the same period, declared 29.361 members (2008). Out the 32.799 members of NIdiL, nearly 8.000 are temporary workers, whereas the largest majority is composed by 25.000 autonomous assistants (semi-dependent workers). Most of these workers are young and highly educated; so they do represent the future of trade unionism of the 21st century. The average level of education, among these members, is quite

¹¹ At present, in the Italian legal system, the "co-ordinated and continuous assistants" are entitled only to the special labour litigation procedure applied to employees, but in all other aspects they fall outside labour law provisions.

¹² About self-employed, atypical workers and trade unions studies and surveys are available also in other countries, as in the case of Susanne Pernicka (2006) for the Austrian experience, Andrew Nibby for the UK (2005), Francois Michon for France (2008), Heiner Dribbush (2008) or Karin Schulze Buschoff (2008) or Bernd Reissert (2008) for Germany. Some of their articles are available in English, some others in German, edited by the WZB discussion papers in 2005 or WSI Mittelilungen (2006). The EIRO Observer Bulletin has been focusing some of its *comparative supplement* to the non-permanent employment, unionism and industrial relations.

high; 45% have in fact a high school diploma and almost 40% an academic degree. Only 15% have an inferior secondary school diploma.

NidIL is present in 80 territories. The most relevant activities of the atypical workers unions are collective bargaining, advice on legislation and contracts (also on-line); trade union education; research and studies.

For the trade unions, collective bargaining is traditionally the most typical tool of the workers collective representation and voice. But just in the case of the atypical workers unions there are in Italy a number of distinguishing traits. In fact, whereas the national industry-wide level represents the core of the Italian collective bargaining system, in the case of the atypical workers the core becomes the single company or unit level. With one remarkable exception: the national collective agreements negotiated and subscribed by the atypical workers unions with the most representative association of the temporary work agencies (*Assolavoro*). In July 2008, the second agreement was signed (the previous one was in 2002), covering 90% of Italian agency temporary employees; nearly 500,000. According to the new collective agreement, temporary workers have the right to elect their own delegates at three different levels: national (for agencies with offices spread around the country), territorial (nominated in this case by the external unions), workplace. At this level, agency workers have the right to elect one delegate when the company-user hires more than 30 agency workers for more than 3 months. These delegates normally act beside the standard workers union representation (RSU) of the company-user.

It is worth mentioning the model of what in Italy we call “*bilateralità*” (Leonardi, 2005), the joint management – by the main social partners associations – of parts of the welfare schemes and vocational training. This is the case of the agency temporary workers, where the law and the collective agreements oblige the agencies to finance the jointly managed funds with a sum amounting to 4% of total salary expenditure; 3.8% for the vocational training fund (it’s only 0.30% for the standard workers) and 0.2% for the micro-credit assistance to the workers who will require an aid for paying the house rent or personal ICT.

The continuous vocational training for the agency workers can be considered a good practice. It is managed by a joint fund called *Formatemp*. Nearly 100,000 workers have been involved in some project of training, with initiatives especially focused on single target groups, as the migrant workers, or important issues, as the health & safety policies at the workplace level.

One of the biggest problems faced by Italian atypical workers is the very poor income protection for the periods between one job and another. The shortage of a fair and inclusive system of social protections in case of unemployment increases the sense of precariousness felt by Italian atypical workers with respect to most of their colleagues in other European countries (Accornero, 2006). Though unemployment insurance is foreseen by the legislation, for agency temporary workers it is related only to the number of the days worked during the previous year. It is the equivalent of 35% of the last income whereas the “ordinary treatment of unemployment” is 60% for standard workers.

Following a request by trade unions, social partners are considering a different share of the 4% allocated from the wages, giving a bit less to training and a bit more to income security. According to the tripartite social agreement of July 2007, new economic resources and benefits will be directed to improve either active labour policies or income protections for the unemployment periods.

The new national agreement has introduced several new important norms regarding the stabilisation of the agency workers hired with a fixed-term contracts by their agencies. In case they have been working in user-companies for 42 months, summing-up all the single missions for the same agency, they will be hired by the agency with an open-end contract. This change implies that, for the periods in which the worker is not hired by any user-company, he/she will

receive an indemnity of availability of € 700 per month. In case such a situation should protract for too long, the worker can be fired by the agency, receiving € 700 euro per month for a duration of six months (seven if the worker is over 50). 60% of this indemnity will be paid by the agency and 40% by the bilateral fund (called *Ebitemp*), which is managed by the social parties' organisations. With such a measure of social protection, the social partners of this branch have interestingly surrogated the weakness of other forms of unemployment insurance for this kind of atypical workers.

Welfare and territorial collective bargaining constitute, for CGIL, the best way to cope with the challenges of the post-Fordist de-centralisation and fragmentation out of the old big factories of the previous era; a "golden age" also for the international trade unions movement.

At the company or single unit level, negotiations mostly concern the self-employed assistants. Until now the atypical workers unions have signed nearly 130 company-level collective agreements, covering around 120,000 assistants in the public sector (especially local administrations), in the no profit sector and in the private service sector (in particular: call centres; polls institutes).

It is important to note that none of the agreements were reached through strikes or other workplace actions, indeed not even collective mobilizations (Choi and Mattoni, 2009). The Italian atypical workers unions never carried out remarkable workplace actions or strikes. All activities appear as staff driven, whereas decisions are made on a central level and the organizational structure is quite vertical. This top-down approach has been object of some criticisms. Like that according to which: "all essential decision are made by NIDIL leadership, who consists of representatives of other CGIL categories and NIDIL representatives" (Choi and Mattoni, 2009).

The aim is to strengthen the territorial level of collective bargaining and local welfare, in order to cover the micro- and small-sized companies, otherwise excluded by any form of collective representation and negotiation.

In some cases (public sector; call centres), atypical workers unions share the negotiating recognition with the unions of the stable employees of those branches. We call it "bargaining co-promotion". It is ruled by bilateral agreements between the trade unions federations. The objective is to pay the collaborators no less than their equivalent stable colleagues (according to the principle "equal pay for equal work").

Which are the contents of these collective agreements? They normally aim to give a minimum platform of rights, either individual or collective. In the former case the items concern the work tasks and organisation; the pay (amount/criteria); duration of the contract; the absence/leave for sickness or maternity; training. The collective rights concern the possibility to gain a basic number of unions freedoms and rights, such as the right to organise assemblies or elect own employee reps.

NidiL has been very active in asking, and obtaining, the stabilisation of 20,000 precarious workers, especially in call centres.

As for the other individual forms of representation and services, they belong to a well known and successful experience of legal assistance provided to employees, out of the workplace, at the local level, with specialised offices and more and more qualified experts and unions advisers (website; mailing list; magazine/news).

Notwithstanding these interesting and useful activities, the role – as well as the very future – of unions like NIDIL are questioned by other influential sectors of the trade union organisation. Especially those who act in situations where there is a big and increasing number of atypical jobs. The metal/engineering sector for what concerns agency temporary workers, and the public and the knowledge workers sector for what concerns the coordinated and continuous assistants.

The metal workers and the public sectors unions – the two biggest sector federations – do not sympathize much with this new entity of the employees representation. Not only because, understandably, they feel threatened in their monopolistic representation in sectors and workplaces, but also because they postulate that the workers representation must achieve the unity of the workers of a single site/company, against the fragmentation according to the legal nature of the employment relationship. According to these unions, the workers have to be organised and represented where they work and not where they are formally employed. We have not to forget that the Italian unionism is firmly rooted into the organisational and political principle of confederal representation of workers within a single umbrella federation; no matter what distinguish the workers for educational level or employment contract.

Furthermore, for what concerns the semi-dependent assistants, a number of unions (as well as some scholars) believe that their collective representations risk to imply a recognition also from the unions of what instead they consider an abuse of the labour law legislation; a tricky manner to elude and escape from it. The debate is open and the outcomes not predictable.

5. European trade unions are facing a very serious crisis of identity and strategy. Probably the worst for a long time. They need to re-orientate their approaches and policies in order to increase membership; to extend representativeness to the new work typologies; to give voice to all those employees who still suffer inequalities, precariousness, exploitation, alienation. There's a future for trade unions, indeed. But a deep restyling and organisational change is definitively required. In these years, Italian trade unions have shown deep commitment in searching new ways to respond to the global challenges faced by the new labour world.

What is it that atypical workers demand from unions? Which policies? According a survey of 2005, realised by IRES¹³, atypical workers demand more job security and more income security. This fact requires new policies. It is absolutely vital for unions to renew and update their ability to broaden their social representativeness to include the new realities of the labour market. The unity within the labour world can be achieved today by recognising either what is similar and what is different from a condition to another. The era of the standardisation of the union representation is behind us and so is the era of the standardisation of the production system.

At a more general political level, new laws have to halt and turnaround the trend leading to precariousness of these years. It is no easy task in a Europe dominated by centre-right governments, but we cannot renounce this objective. A whole generation risks compromising their right to a decent present as workers and a decent future as pensioners.

These reforms must aim to two purposes, currently much debated among Italian labour lawyers and within the unions and political forces. An approach emphasizes more on the need for a new model of welfare system. It is a huge issue. But we would like to recall the proposal of Alain Supiot and his European high level group in 1999, according to which we should build up a gradual system of legal protections. The model of the concentric circles: basic social rights for all citizens (anti-discrimination rights; health and safety; basic unemployment insurance; good job services), regardless of their legal status, further rights and protections for the workers of SMEs, high employment legal strictness for the workers of the larger companies. In this approach, a “grey zone” between autonomy and subordination is still admitted but better protected than today. This is the position of the Democratic Party.

Another approach insists more on the need for a new concept of subordination, updated to the new models of productions, where the socio-economical conditions of the employees are

¹³ Altieri, Dota, Piersanti (2008).

taken in consideration, as well their functional participation within the employers' project¹⁴. The traditional dualism autonomy / subordination of the civil codes must be reinstated and the grey zone in the middle (semi-dependent workers; autonomous assistants; etc.) has to be removed, eliminating all abuse (a typical example of abuse: the workers of the call centres or tele-workers, erroneously considered self-employees in several countries only because they are formally not subjected to some of the old traditional forms of subjection at the employer's workplace). In other words, the ongoing "escape from labour law" must be stopped. This is the position held by CGIL and of the radical left.

To this end, parts of the recent EU Green Paper about flexicurity "*Modernising labour law to meet the challenges of the 21st century*"¹⁵ – which was rejected by the Italian unions – could be received. But not when it recommends to make dismissals easier, but where it recommends to improve the active labour market policies, life-long learning, better income security and a better social dialogue among the social partners.

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¹⁴ In Germany, for example, an autonomous assistant (*arbeitnehmerähnliche Person*) is partially treated as a dependent colleague of him/her when more than 50% of his/her income is depending just on one single employer. No matter how he/she is legally defined.

¹⁵ European Commission, *Green Paper: Modernising labour law to meet the challenges of the 21st century*; Brussels, 22.11.2006, COM (2006) 708 final http://ec.europa.eu/employment_social/labour_law/docs/2006/green_paper_en.pdf; European Council, *Towards Common Principles of Flexicurity. Draft Council Conclusions*, Brussels, 23 November 2007.

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