

# Young workers and trade union rights in Italy

The rights contained in the Workers' Statute perfectly mirrored the situation of the Italian labour market in the past. Work available to young people increasingly does not resemble this pattern

In Italy, trade union rights are enshrined not only in the Constitution (Article 39 protects trade union freedom while Article 40 protects the right to strike) but also in Law No. 300/1970, commonly referred to as the Workers' Statute ('Statuto dei Lavoratori'). The latter provides for rules on the protection of the freedom and dignity of workers and of trade union freedom and union activity at the workplace, thereby making effective and enforceable the principle stated in Article 39 of the Constitution. In particular Section II of the Workers' Statute (Articles 14 to 18), under the heading 'freedom of association', covers the right to organise and to join trade unions, prevents discrimination and dismissal for trade union reasons and prohibits employers and associations of employers to create or support, through financial means or otherwise, trade unions of workers (so called 'sindacato di comodo'). Section III (Articles 19 to 27), under the heading 'trade union activity', contains rules aimed to boost the presence of trade unions at the workplace. It provides for the obligation of the employer to allow ballots, to permit employees' meetings during and after working hours, and to set a specific space, accessible to all workers, where unions can post documents related to trade union matters. Furthermore, it allows the appointment of workers' representatives, who are entitled to paid and unpaid time-off, until certain limits, for the exercise trade union activity.

The rights contained in the Workers' Statute are subject to a double set of limitations. On the one hand, they apply only to individuals employed by the company in the framework of a subordinated employment relationship, a choice that perfectly mirrored the situation of the Italian labour market in the past, mainly composed of subordinated employees. On the other hand, the rights contained in Section III pertain to companies with more than fifteen employees.

## Young workers as atypical workers

Globalisation, a more intense competition between enterprises, a massive recourse to outsourcing and delocalisation, together with structural and technological changes in the production, posed unprecedented challenges to industries in the last decades, with negative repercussions on the Italian labour market. Moreover, it is widely known that the recent economic crisis has seriously affected the Italian economy creating a situation of permanent unemployment and precariousness, in particular among young workers. The unemployment rate of young people between fifteen and twenty-nine years old was equal to 20.5 percent in 2011 and to 25.2 percent in 2012 (in the South of Italy it was equal to 31.4

and 37.3 percent respectively). In June 2013, the unemployment rate among workers between fifteen and twenty-four years old was equal to 39.1 percent (figures from the Italian National Institute of Statistics, 'ISTAT', June 2013). The age composition of the unemployed shows, however, that uncertainty and occupational risks are increasing significantly even for older workers.

Claiming to provide an answer to the said challenges and meet the need of competitiveness, the Italian legislator intervened with a number of measures aimed to enable more flexible ways to obtain, use and organise the workforce. The most recent is Law No. 92/2012, known as 'Fornero Reform', that is presently subject to further amendments under discussion before the Italian Parliament. As a consequence, a wide range of contract types have been introduced. Broadly speaking, these contracts - normally defined as atypical, flexible or non-standard - are characterised by the fact that they do not establish working relationships for a full and indefinite period of time.

Increasingly, young people are now finding that the only work available to them is atypical work, including freelancing of various kinds, temporary agency work, fixed-term or part-time work, and seasonal work. These are the most common types of contracts for workers in younger age groups. The opportunities for young people to find employment for an indefinite period of time are few and decreased consistently in the last year. In 2012, only 25.6 percent of people between fifteen and twenty-nine years old found a subordinated employment for an indefinite period of time. In 2008, this figure was 33.3 percent. At the same time, there is an increase in the number of young workers employed under fixed-term contracts or working as freelancers (from 56.9 percent in 2008 to 63.6 percent in 2012). The economic downturn determined a reduction of these forms of contract in the last months equal to fifty thousand units in the fourth quarter of 2012 and to a further one hundred eighteen thousand units in the first quarter of 2013 - respectively minus 5.2 percent and minus 12.5 percent), associated with a decrease also in the number of workers employed for an indefinite period of time - respectively minus 3.6 percent and minus 20.8 percent (ISTAT, June 2013).

## The marginalisation of atypical workers

Atypical work triggered a process of marginalisation of young workers that operates in two directions: on the one hand, the precariousness of their situation frustrates the possibilities to develop interests in common with standard workers; on the other hand, their condition of flexible



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workers is not enough to give them a homogeneous identity as a group.

The substantial disregard of the legislator toward the sphere of trade union rights for young non-standard workers reinforces this marginalisation. It is not enough, and is even hypocritical, to grant the generality of workers the right of freedom of association and the right to strike if the recognition of said rights is not followed by concrete efforts to ensure their effectiveness. Indeed, support measures for their effective exercise are tuned around the prototype of standard workers (employed for an indefinite period of time) operating in the framework of big enterprises (with more than fifteen employees, quite unusual in Italy). Freelancers are often engaged in activities similar or identical to those of standard employees and, frequently, they share the same working environment with regular workers. Nevertheless, they do not enjoy measures supporting their right to organise because they are not institutionally entitled to trade union activity (due to the fact that, formally, they are not subordinated employees of the company).

The Italian legislation on fixed-term work also affects in negative terms the enjoyment of trade union rights of both standard and non-standard workers. As said, Section III of the Workers' Statute regulating trade union activity applies only to companies with more than fifteen employees. Article 8 of Law No. 368/2001 (governing fixed-term contracts) provides that, for the purposes of Section III of the Workers' Statute, fixed-term workers can be calculated among the 'employees' of the company only in the event they are employed for more than nine months. This criterion is not only in breach of the principle of non-discrimination but also of Article 7 of Directive 1999/70/EC concerning the framework agreement on fixed-term work. According to the European rules 'fixed-term workers shall be taken into consideration in calculating the threshold above which workers' representative bodies provided for in national and Community law may be constituted in the undertaking as required by national provision'. Failure to comply with EU law determined the Commission to start an infringement proceeding against Italy (2010/2045/EMPL) currently at the stage of reasoned opinion on the matter pursuant to Article 258 TFEU.

The rules on agency work constitute an attempt to offer an effective protection of trade union rights of atypical workers. Article 24 of Law No. 276/2003 confirms the full applicability of the provisions of Workers' Statute toward agency workers. Article 24(1) provides that agency workers have the right to freely exercise their trade union rights at the user's premises and to participate in trade union meetings of the employees of the user undertaking. Article 24(2) allows agency workers employed by the same agency and working for different users to exercise their right to organise and participate in trade union meetings according to the provisions of law and of collective agreements. The support to trade union activity led to the negotiation of a specific collective agreement for agency workers. However, under Article 22(5), Law No. 276/2003, agency workers can not be calculated among the 'employees' of the user undertaking 'for the application of rules of law or of collective agreements, except for those relating to the matter of health and safety at work', a situation that might adversely affect the exercise of trade union rights by standard workers.

Albeit in some plants representatives of agency workers are not able to fully develop their activities, and representatives of standard employees find complications in involving non-standard employees in their dynamics, said legislative intervention represents a fair effort to reduce the marginalisation of atypical workers. Similar rules might be reproduced for other types of contracts, possibly accompanied by a synergy in the bargaining process between unions of standard and non-standard employees. On top, it will be necessary to eradicate the Italian idea that non-standard employment must be a transient situation, a 'bridge' to become a permanent worker. Giving atypical workers a group identity will be the most puzzling issue in the process against marginalisation.

### The response of Italian trade unions

Trade unions began to concern themselves with workers employed on atypical contracts, and the largest confederations established dedicated structures. New Employment Identities (Nuove Identità di Lavoro, 'NidiL'), affiliated to CGIL, the biggest trade union in Italy, was founded in 1989 to represent agency and atypical workers. In 2009 CISL decided to merge the Association of Atypical and Temporary Workers ('Alai') and the Coordination of People Employed in the Third Sector ('Clacs') and set up the Federation of Agency, Autonomous and Atypical Workers (Federazione Lavoratori Somministrati Autonomi e Atipici, 'FeLSA'). In 1998 UIL founded the Coordination for Employment ('Coordinamento per l'occupazione', Cpo) now UIL-Tem.p (for temporary, autonomous, atypical and freelance workers). The activity of said trade unions led to collective bargaining dedicated to atypical jobs and to various initiatives to improve working conditions and promote the full equality of rights and duties for the whole workforce.

For instance, in July 2013 an agreement was signed between ANAD, the association of companies operating in the field of leafleting, and NidiL-CGIL, FeLSA-CISL and UIL-Tem.p to regulate the employment conditions of about twelve thousand people, mainly young workers with atypical contracts. On 24 April 2013, after six months of negotiations with AOI, the association of Italian NGOs, trade unions were able to conclude an agreement for the regulation of freelance activities in the international aid field. These activities are mainly exercised by young consultants. The agreement is binding for NGOs associated with AOI. The capacity to negotiate more agreements covering various sectors will have a positive impact on the unionisation among the young. Normally they do not consider joining unions as a corollary of entering the labour market because they are dissatisfied with the inability of unions to give a voice to their need of work and stability.

Nevertheless, a lot more needs to be done to give young workers the opportunity to make their voices heard. Trade union rights of flexible workers should be not only be effectively recognised but also articulated in a form apt to stimulate the aggregation between standard and non-standard workers and to respect the peculiarity of atypical work, characterised by pre-determined duration of contracts, possible periods of unemployment and frequent changes of the workplace and of the working environment.

**The situation of young workers is too precarious to develop common interests with permanent employees, yet neither do they have a homogenous identity as flexible workers, and so they are doubly marginalised**