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Il Jobs Act.
Occasione mancata o base per ripartire?

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RECENSIONI

The “Jobs Act”: the Reform in the Context of the Italian Labour Market◊

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Eliana Viviano [**]

Abstract

This paper describes the main characteristics of the so-called “Jobs Act” (JA), a comprehensive labor market reform implemented in Italy in 2015. We mainly focus on the reform of firing costs and the changes in the unemployment benefit system, the two parts of the reform that were fully implemented and for which it is possible today to argue about their effectiveness. We also briefly mention the other parts of the reform, including those which did not take off or which were not enacted (namely active labour market policies and the minimum wage). We conclude that the reduction of firing costs for firms with at least 15 employees was effective in contrasting labor market duality. At the same time the JA, following the approach of the previous Fornero labour market reform, contributed to create a more equitable and efficient universal unemployment benefits system. Today the failure to implement active labour market policies and the interruption of any debate on the wage bargaining system constitute two significant limits for the well-functioning of the Italian

◊ Bank of Italy, DG Economics, statistics and research. In this paper we summarize the main findings of some empirical and more technical papers we have written, also with other colleagues at the Bank of Italy, and the outcome of insightful discussions we had in the past months with Giulia Bovini, Federico Giorgi, Fabrizio Colonna and Francesco D’Amuri. Nevertheless, the views expressed in this paper are solely ours and do not necessarily reflect those of the Bank of Italy or the Eurosystem. Our previous works contains a larger number of background references for the material presented here, which has been used intensively in all major parts of this article. Eliana Viviano owes in particular Giulia Bovini many heartfelt thanks for her permission to draw extensively on joint work and Federico Giorgi for his permission to use the figures of one of his articles.

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labor market. Added to this are the consequences of recent political developments, which have increased the administrative costs of fixed-term contracts and firing costs for permanent contracts, in contrast with the JA.

Sintesi - *Il Jobs Act: la riforma nel contesto del mercato del lavoro italiano*

Lo studio descrive le principali caratteristiche del cosiddetto Jobs Act, un'articolata riforma del mercato del lavoro introdotta in Italia nel 2015. Il lavoro si concentra in particolare sulla nuova disciplina dei costi di licenziamento (l'incertezza circa gli stessi e il loro valore atteso medio) e sulle modifiche apportate al sistema dei sussidi di disoccupazione, ovvero le due parti della riforma cui si è data piena attuazione e sulla cui efficacia è quindi possibile effettuare una riflessione. Si descrivono brevemente anche le altre parti, comprese quelle non avviate o per le quali non sono stati adottati i decreti di attuazione (ovvero le politiche attive del mercato del lavoro e il salario minimo). Lo studio evidenzia che la riduzione dei costi di licenziamento per le imprese con almeno 15 dipendenti si è dimostrata un efficace strumento di contenimento della dualità del mercato del lavoro. Al tempo stesso il Jobs Act, mutuando l'approccio della precedente riforma Fornero del mercato del lavoro, ha contribuito a creare un sistema di assicurazione universale in materia di sussidi di disoccupazione più equo ed efficiente. Ad oggi la mancata attuazione delle politiche attive del lavoro e il venir meno di qualsiasi forma di dibattito sul sistema della contrattazione salariale rappresentano due vincoli significativi al buon funzionamento del mercato del lavoro in Italia, a cui si aggiungono le conseguenze dei recenti sviluppi giurisprudenziali e politici: all'atto pratico la diffusa prevalenza dei contratti temporanei è stata affrontata incrementando i costi amministrativi di questi e i costi di licenziamento dei contratti permanenti, in controtendenza rispetto al Jobs Act.

JEL Classification: J22; J50; J68.

Keywords: labour market reforms; employment protection legislation; unemployment benefits; active labour market policies; statutory minimum wage; collective wage bargaining.

Parole chiave: *riforma del mercato del lavoro; legislazione per la protezione dell'impiego; indennità di disoccupazione; politiche attive per il mercato del lavoro; salari minimi contrattuali; negoziazione salariale.*

1. Introduction

The aim of this paper is to describe some of the main characteristics and effects of the so-called "Jobs Act", a major labour market reform undertaken in Italy over the past few years. The "Jobs Act" (JA, henceforth), issued between the end of 2014 and the summer of 2015 by the Renzi government, modified many institutions regulating the Italian labour market, with the aim of rationalizing their functioning and making them more consistent with the so-called "flexicurity model" (e.g. European Commission, 2013).

The reform followed a comprehensive approach. It reduced firing costs for permanent employees working in firms with at least 15 employees, rationalized the unemployment subsidy system, intervened also on active labour market policies and the Italian wage supplementation scheme. It also tried to influence the collective bargaining system, by proposing (in an enabling decree) the introduction of the minimum wage, which, however, has never been implemented.

In this paper we focus on the first two aspects, namely firing costs and unemployment benefits, the two parts of the reform that were fully implemented and for which it is possible today to argue about their effectiveness. Nevertheless, we will just mention all the other components, to try to unveil the rationale of the various parts of the reform, including some considerations about the components of the reform either not enacted or not fully implemented.

Using the available empirical evidence we argue that the so-called *contratto a tutele crescenti* somehow contrasted labour market duality as it increased the propensity of 15+ firms to offer permanent positions. At the aggregate level, however, the impact of the JA was not so evident, for two main reasons. First, the *contratto a tutele crescenti* reduced firing costs mainly for firms with at least 15 employees, not for all firms. Second, the Poletti Decree, enacted few months before the JA and aimed at relaxing some constraints in the use of temporary employment, led to a sharp increase in the use of fixed-term contracts especially in small firms. Its effect then counterbalanced the one of the JA.

The JA (and the previous Fornero law) also helped to create a more equitable and efficient universal unemployment benefits system. Unfortunately

two important elements of the original ambitions of the JA have been lost, i.e. the reform of active labour market policies and of the wage bargaining system. Together with recent policy developments, their lack can influence the future resilience of the Italian labour market, especially in the event of a new recession.

The paper is organized as follows. In section 2 we present a general overview of the reform. In section 3 we focus on the reform of firing costs. In section 4 we describe the main characteristics of the new unemployment subsidy; in section 5 we briefly describe the parts of the "Jobs Act" that got lost, i.e. the reform of active labour market policies and the reform of the wage bargaining system. Last, section 6 concludes by discussing the most recent policy developments, that to some extent modify the environment established by the "Jobs Act".

2. The "Jobs Act": an overview

Over the decade preceding the 2008 Global financial crisis Italy experienced a gradual introduction of the so-called *flexibility at the margins*: the existing restrictions on the use of temporary contracts were progressively removed, without affecting the rigidities in the use of open-ended contracts.[1]

Other European countries, like Spain and France followed a similar pattern. Differently from the French and Spanish labour markets, however, in Italy fixed-term workers had limited access to a proper unemployment support. The unemployment benefit system was highly fragmented. An ungenerous and relatively restricted-access ordinary benefit scheme coexisted with a few sectoral schemes available only to large industrial firms, which could sequentially use temporary and permanent layoff schemes (the *Cassa integrazione guadagni* and the so-called Mobility benefits) to provide a rather lengthy support.

Taking advantage of the high degree of flexibility at the margins gradually

1 Here we are bundling together temporary contracts having an employee status and other semi-autonomous positions (*parasubordinati*), whose rise was due more to spontaneous trends than to legislative changes, which, if any, attempted to limit their rise. For more details upon the evolution of the different contractual arrangements and other labour market policies over that period see Sestito (2002) and Pirrone and Sestito (2006).

introduced in the labour market, total employment rose substantially before the 2008 crisis. When the double-dip recession of 2008 and 2012 hit the Italian labour market, however, many temporary employees were easily dismissed and their contract was not renewed. Very often no unemployment support was available for them.

Widening income support to dismissed workers (in particular, temporary workers with discontinuous work patterns) and tackling labor market dualism became then the two most pressing policy goals of the labour market reforms of the first half of the 2010s. In particular, the "Jobs Act" (delegation bill no. 183/ 2014 and the seven related legislative decrees) intervened in the following areas:

- A reduction of the expected firing costs for "unfairly" dismissed workers in firms with at least 15 employees (law no. 23/2015)[2]. As a general rule, the JA establishes that unfair dismissals entail a severance payment strictly predetermined by law and proportional to job tenure (from a minimum of 4 times the monthly pay to a maximum of 24 times, i.e. 2-month pay for every year of seniority). This monetary compensation may be halved if the worker agrees to end any pending litigation about the nature of the dismissal. In this case the worker is exempt from paying taxes on the compensation received. The possibility of workers' reinstatement is excluded in most cases. The JA then mainly reduced the uncertainty surrounding firing costs (fully determined by the court in the previous regime)[3];
- A streamlining of the unemployment benefits scheme (law 22/2015), al-

2 Behind such a move, possibly there were also political reasons. The Renzi government was rather keen and proud to deliver changes in traditionally controversial areas, as the dismissal of permanent workers, dictating its own solution to social partners. The political boldness of the reform has to be compared to the less confrontational approach followed by the Monti government in 2012 - whose reform (the Law no. 92/2012, known as the Fornero reform) had already introduced some changes to the dismissal rules, more specifically trying to provide some guidelines to judges and introducing alternative resolution mechanisms in order to cut down rather lengthy trials for individual dismissals. Such a boldness was coupled with a grandfathering approach as the reform applied only to the newly hired people and did not touch the stock of existing permanent contracts. This eased the political economy of the reform and avoided any short term detrimental macroeconomic effect of the reform related to the rise in firings.

3 Notice that the worker aiming at a compensation has to make opposition against the dismissal in order to start a trial verifying whether the dismissal is unfair (so having to be compensated) or not (in which case no compensation at all has to be provided to the worker). This is the reason why the effective functioning of the judiciary and the possibly wide variation in the amount of the compensation were the relevant components of firing costs in Italy.

ready substantially reformed by the Fornero law in 2012. The potential duration of the benefit is now parameterized to the length of accrued social security contributions over the previous 4 years with a progressive reduction of the amount actually paid during the unemployment spell. It also tries to reinforce the principle of "conditionality", according to which unemployment benefit recipients must search for a job. Last, it eliminates the most extreme and prolonged uses of the *Cassa integrazione guadagni* (i.e. the use of wage supplementation schemes for layoffs that cannot be deemed as temporary; law no. 148/2015);

- The rearrangement of passive labor market policies and the launch of a national agency (ANPAL) to strengthen a policy area traditionally under-developed and previously left in the hands of the Regional governments (law no. 150/2015);
- The reorganization of the types of job contracts (law no. 81/2015), especially self-employed, and the easing of firms' internal flexibility, obtained by enlarging the chances to demote workers, in case of an organizational rearrangement, whenever this is the only feasible alternative to a layoff.

On top of all these measures, actually enacted, it has to be said that the enabling law had also delegated the government to strengthen the support of female participation in the labor market (law no. 80/2015) and to introduce a statutory minimum wage regime. The first, being relatively unfunded, consisted of minor interventions. The second provision was left unused, as the government declared from the very beginning that it would have preferred social partners to reach an agreement in order to rearrange and modernize the wage bargaining system. We will come back on wage bargaining in Section 5, as this is the most important area left unchanged by the reforms.

Here we would like just to stress that another extremely important labour law was passed by the Renzi government few month before the JA, i.e. the so-called Poletti decree (law no. 20/2014), issued in March 2014 and aimed at substantially relaxing the constraints in the use of temporary job contracts still present in the Italian labour law. Following the 2014 Poletti decree, Italy has lifted the requisite of causality for all fixed-term contracts (i.e. the need for firm to specify the motivation of the temporary nature of a job contract) and has increased the maximum number of contract extensions from 1 to 5. The overall duration of a temporary job contract was increased to 36 months,

further extendable by collective agreements.

There is wide consensus that the Poletti decree increased the flexibility in the use of fixed term contracts. What is striking is that, differently from the Fornero reform, that lowered firing costs and restrained the use of fixed-term job contracts, the JA and the Poletti decree contemporaneously eased the use of both fixed-term and open-ended contracts. We will discuss the consequences of this strategy in the next section.

3. The reform of firing costs

3.1 The characteristics of the reform

As mentioned in the previous sections, the JA is a comprehensive reform, involving many different aspects of the Italian labour market. The most famous part of the JA, however, is certainly the reform of firing costs in case of unfair dismissal of a permanent worker.

In Italy no firing cost is paid by firms in case of a fair dismissal for disciplinary or economic grounds. Firing costs are not due also for temporary workers not renewed at the contract expiring date. Firing costs, instead, arise if a worker decides to appeal against a dismissal and win the case in a court. Before the JA, judges had a lot of leeway in determining both the unfairness of a dismissal and its consequences, the consequences being tougher for firms with at least 15 employees (see Ichino 1996, for a discussion). In particular, whenever a worker had objected to the dismissal and the courts had deemed the dismissal to be unfair, firms with at least 15 employees had to reinstate the worker and pay the foregone compensation (often very high due to the long delays in the Italian civil justice system). The JA introduced a new type of permanent job contract, named *contratto a tutele crescenti (CTC,* hereafter*)*, valid for all new permanent job positions created after 7th March 2015. With the new contract the possibility of reinstatement was limited to discriminatory dismissals and a few specific cases of unfair disciplinary dismissals. Instead, as a general rule, unfair dismissals were compensated by a strictly predetermined amount that was proportional to workers' tenure. In firms with at least 15 employees they amounted to 2-monthly pay for every year of seniority, but no

lower than 4 monthly pay and higher than 24. For firms below this threshold they amounted from 2.5 to 6 monthly pay, i.e. more or less the same amount as in the previous regime.

For larger firms the new rules curbed the most extreme possible costs of dismissals and implied a substantial reduction in the uncertainty related to dismissals as they remarkably reduced the discretionary power of courts.

Probably because of political considerations, firing costs for workers hired before March 7^{thD} 2015 were not affected. This *grandfathering rule*, however, by protecting already employed workers, avoided the increase in turnover that typically is observed when firing costs are lowered during a contractionary phase (e.g. Duval et al. 2016).

Furthermore, to foster the adoption of the new contract and stimulate job creation, with the Financial Stability Law for 2015 (law no. 1990/2014), the government introduced a very generous hiring subsidy for firms hiring permanent workers or converting the contract from a fixed-term to an open-ended position (labelled as PHS, i.e. permanent hire subsidy). The subsidy covered all new permanent workers hired by any firm from January to December 2015, provided the worker did not have a permanent contract in the previous 6 months. The subsidy consisted of a three-year exemption from social security contributions up to a threshold, which was quite high compared with the average contributions typically paid by firms, as it fully covered social security contributions of almost 80 percent of new hires.

3.2 Firing costs and job creation

Even if the ultimate goal of the JA was to reduce labour market dualism, the debate in the aftermath of the reform focused on job creation, i.e. whether the reduction of expected firing costs implemented by the JA could stimulate permanent employment growth.

From a theoretical point of view, firing costs are a labour cost component whose amount depends on many factors. Before the JA they were: the probability that a job ends with a dismissal; that the worker appeals against the dismissal; that the dismissal is ruled to be unfair; and in the last case, by the consequences established by the court (monetary costs and reinstatement). The reduction of firing costs can then stimulate labour demand, but its impact depends on the elasticity of labour demand to labour costs, the

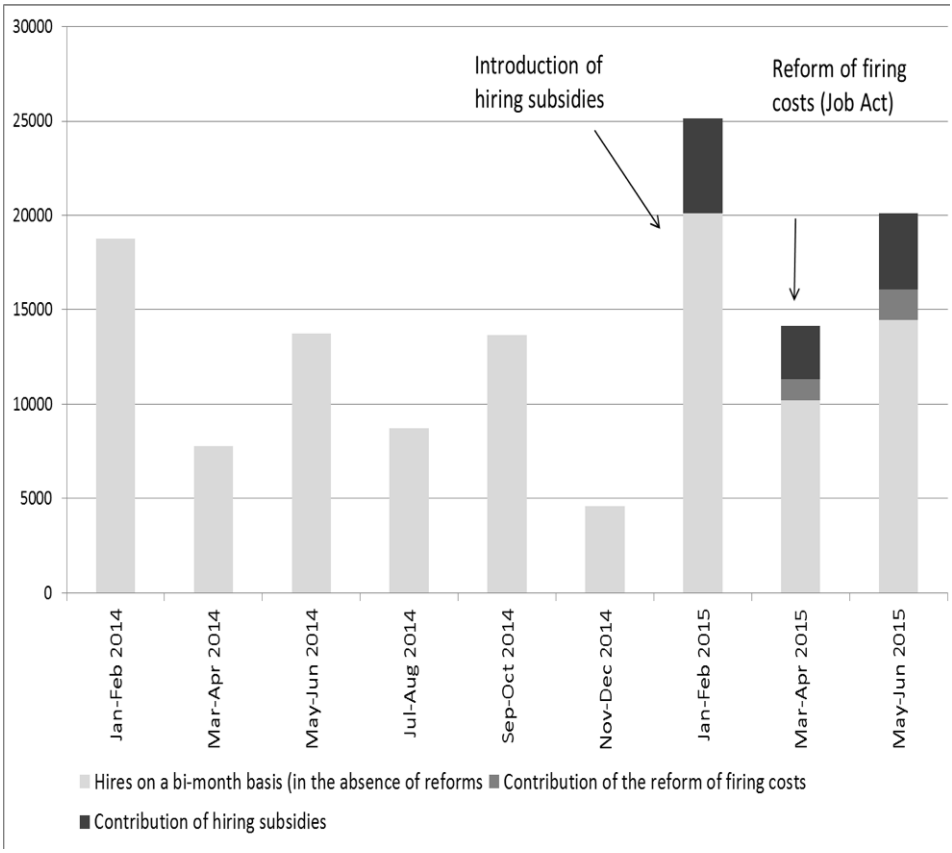
size of the firing cost reduction and firms’ discount factor for future events. Schivardi and Torrini (2008) look at the effect of the 15+ threshold on firms’ employment growth and find that the threshold affects firm size, but its effect is rather small.

From an empirical point of view it is extremely complex to estimate the effects of the JA especially because of the contemporaneous inception of the PHS, also targeting permanent contracts.

Sestito and Viviano (2018) exploit some differences in the design of the two policies, in particular as regards the time of their introduction (January 1 for the PHS vs. March 7, 2015, for the CTC), PHS eligibility criteria (being not employed with a permanent job contract in the previous 6 months) and firm size, relevant for firing costs (firm size above or below the 15 employee threshold). They then compare the evolution over the time of gross hires, net hires and conversions of different types of workers (eligible/non-eligible for PHS) in different types of firms (above/below the 15+ threshold). They use monthly administrative microdata on hires, firing and contract conversions in one Italian region, Veneto, before the reform and until the first semester of 2015.

Their main results are reported in Figure 1. Each bar represents the flow (in absolute values) of new permanent job positions created every two months before and after the reform. The first part of the bars, from 2015 on, identifies the estimated contribution of the business cycle and other factors; the second part hiring subsidies; the third part firing costs.

Figure 1 **Flows of new permanent job contracts.** Veneto, number of hires, bi-monthly basis.



Source: Sestito and Viviano (2018). Veneto. Number of workers hired with a permanent job contract every bi-month from January 2014 to the first semester of 2015.

Aside from cyclical factors, 8 per cent of new hires with a permanent job contracts are the consequence of the introduction of the CTC. Estimates by Boeri and Garibaldi (2018), which deal with large firms only, and cover the whole country, confirm the positive impact of the CTC on net job creation.

According to Sestito and Viviano (2018) the contribution of the PHS was larger (roughly 20 per cent of new permanent hires occurred from January 2015 to June 2015). This is a rather obvious result as the PHS entails a certain, generous and immediate reduction of labour costs for newly hired per-

manent workers.[4] Moreover the PHS was paid to firms of any size, whereas the JA applied only to firms with at least 15 employees, whose weight in total employment is around 50 per cent in Italy.

Indeed, it is quite surprising that empirical studies have found some effect of the JA on job creation, albeit this impact is quite small compared to other policies. This result is rather new in the literature, as existing papers typically find that a reduction in firing costs leads more frequently to an increase in firms' firing and relatively few papers show that job creation increases after a policy that lowers firing costs (see Kugler and Pica, 2008).

Sestito and Viviano (2018) show also that the JA increased the probability of a contract conversion from temporary to permanent employment and propose evidence that the new rules slightly increased also the propensity of firms to offer a permanent position to unknown workers, i.e. workers who had no previous working episode with the firm. Ultimately their results show that the new rules on firing affected firms' decisions in the desired way.

3.3 Firing costs and dualism

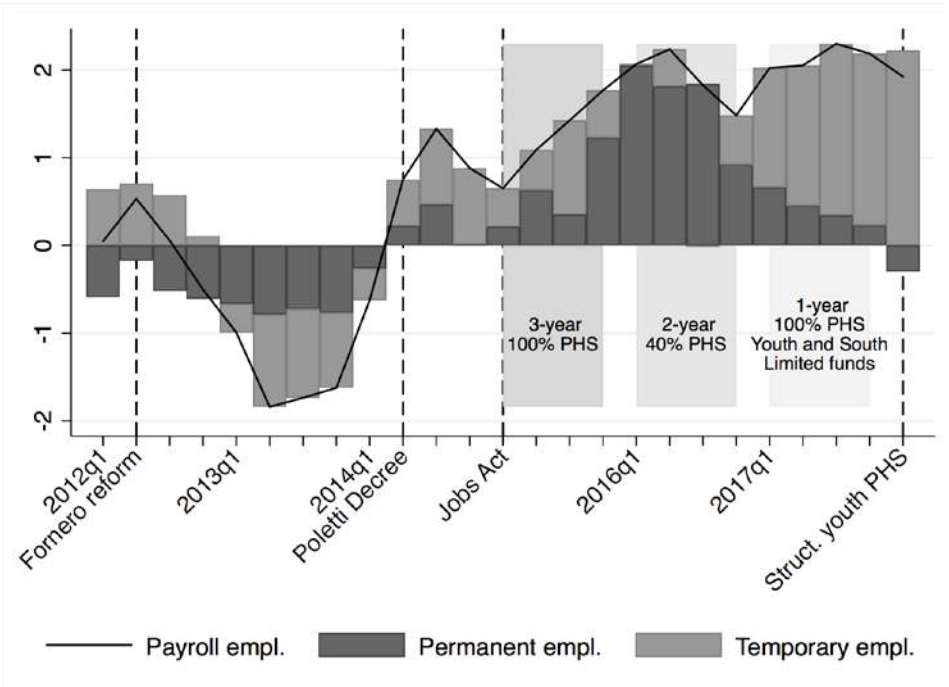
In the debate another relevant question was to what extent the JA helps to reduce dualism. This is the core question for an evaluation of the reform and to answer to it we look to aggregate data on employment from 2012 onwards. Figure 2, drawn from Bovini and Viviano (2018), provides a summary of the legislative changes occurred since 2012 and summarized in the previous sections. It also reports the contribution of permanent and temporary employment to the growth rate of payroll employment.

The time coincidence between changes in employment composition and the policy measures progressively adopted during the period is impressive. Immediately after the Poletti Decree, job creation increased and was mainly driven by temporary job positions, at least until the Spring of 2015, when the hiring subsidies and the new firing rules were fully implemented. The contribution of permanent employment to job creation peaked in the Spring of

4 For technical reasons in their paper Sestito and Viviano (2018) exclude from their sample all newly born firms, i.e. firms that decide to hire their first employee because of the inception of the PHS and/or the JA. In a previous version, published as working paper with the title "Hiring subsidy and/or firing costs reduction", Sestito and Viviano (2017) include newly born firms and estimate that the total contribution of subsidies to net job creation is remarkably larger and around 40 per cent.

2016 and then declined, especially since 2016, when the PHS was substituted by a less generous subsidy (40 per cent of social security contributions paid for two years), which was discontinued in 2017. In 2017 job creation was again entirely driven by temporary job contracts.

Figure 2 **Contribution of permanent and temporary employment to payroll employment growth in Italy and timeline of the main policies undertaken during the period 2012:Q1-2018:Q1**



Source: Bovini and Viviano (2018). The figure plots the contribution of permanent and temporary positions to the y-o-y change of payroll employment. The vertical dashed lines flag the implementation of the main structural labour market policies during the period 2012:Q1-2018:Q1. The shaded areas indicate the period during which temporary subsidies to permanent hiring (PHS) were in place.

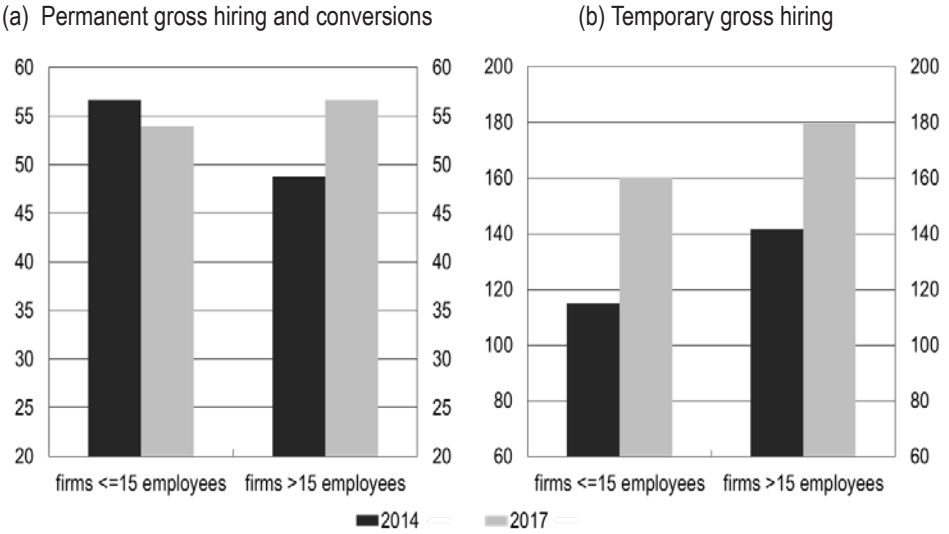
To interpret these developments, however, it is important to bear in mind that temporary job contracts from March 2014 to July 2018 (i.e. until the so-called Decreto Dignità, law no. 96/2018) were regulated by the Poletti decree, aimed at removing some obstacles to temporary contracts and boosting employment after a period of prolonged recession. Since firms hire temporary workers to face the uncertainty about both their external conditions and to test the goodness of a job match, the use of temporary contracts is always preferable to them, unless the worker's skills and the local labour market conditions are such that they need to retain the worker in order to prevent a costly quit. Even the PHS does not change this picture, as the firm can hire on a temporary basis with no restriction and then convert the contract, cashing in the PHS, in case of a good match.

Second, as mentioned in section 2.2 the lower aggregate impact of the JA with respect to the PHS is also due to the larger coverage of the PHS (all firms) compared to the JA (15+ firms). Thus, it is rather obvious that when the PHS was discontinued smaller firms preferred to hire again on a temporary basis.

Bovini and Viviano (2018) look at microdata on Veneto until the end of 2017, divided by firm size. They focus on the number of new hires in small firms (less than 15 employees) – affected by the Poletti decree only - and medium-large firms – affected by both the JA and the Poletti decree. For each group of firms they compare the first six months of 2014 and the first six months 2017, i.e. the last pre-reform period (2014), when neither the JA nor the Poletti decree were in place, with the first post-reform period with both present and no PHS confounding policy in place.

The results are reported in Figure 3. The left panel focuses on permanent contracts: in 2017, differently from 2014, 15+ firms contributed the most to the creation of permanent positions (including contract conversions). This result confirms the findings of Sestito and Viviano (2018), i.e. that the JA increased the convenience for larger firms to offer permanent positions, even in the absence of subsidies. The right panel reports the same statistics for temporary job contracts, which grew considerably in firms of both size classes, but more intensively, in percentage terms, in firms with no more than 15 employees, as they were mostly untouched by the JA.

Figure 3 **The evolution of gross hires and contract conversions in small (<=15 employees) and medium-large firms (15+ employees)**



Source: Bovini and Viviano (2018). Based on the authors' calculations using data from Veneto Lavoro (Comunicazioni Obbligatorie). The figure plots the cumulative number (thousands of people) of gross permanent hires and conversions (panel a) and gross temporary hires (panel b) in the private non-agricultural sector of the northern region of Veneto.

4. The reform of the unemployment benefit system

4.1 The main characteristics of the reform

Until 2012, in Italy the unemployment insurance system for private sector workers consisted of different instruments, designed from time to time to meet specific needs. They were differentiated according to the stability of the previous employment relationship, age of the worker (longer duration for 55+ workers) by sector, type of dismissal (individual or collective), firm size, and previous use of other schemes, like the wage supplementation scheme (the *Cassa Integrazione Guadagni*).

During the Global financial crisis, some additional provisions "by way of derogation" were progressively added, to increase the coverage of the system to workers not previously insured against income shocks. The crisis highlighted the limits of the system and its high degree of fragmentation, leading the government to reform it in 2012 (Law. 92/2012, the so-called Fornero reform).

The reform was aimed at increasing the workers access to the basic treatment, its degree of universalism and its generosity. It also reshaped the duration of the benefits to reduce possible disincentives to labour supply. The 2012 reform introduced a benefit, named Social Insurance for employability (ASpI) which replaced all the instruments previously in force and covered private sector employees; the duration of the grant was extended, according to social security contributions paid in the previous two years and age (up to 16 months for workers older than 55). With the explicit aim of further widening the pool of the supported unemployed, a new measure, called mini-ASpI, was provided for people with particularly short work histories.

In the spring of 2015, with the "Jobs Act", the Government further rationalized the unemployment benefit system, introducing the New Social Insurance for Employment, called NASpI, aimed at further increasing the number of potential beneficiaries, simplifying the rules for determining the amount of the subsidy and reshaping the time structure of the payments to avoid people remaining too long in unemployment. In particular, the reform removed the requirement regarding the number of years of contribution (at least 2 with ASpI). Eligible workers are now those who have contributed for 13 weeks in the previous four years, with at least 30 working days in the last year. The reform eliminated also age differences and established that the subsidy is received for a number of weeks equal to half of those for which contributions have been paid, up to the maximum limit of 24 months.

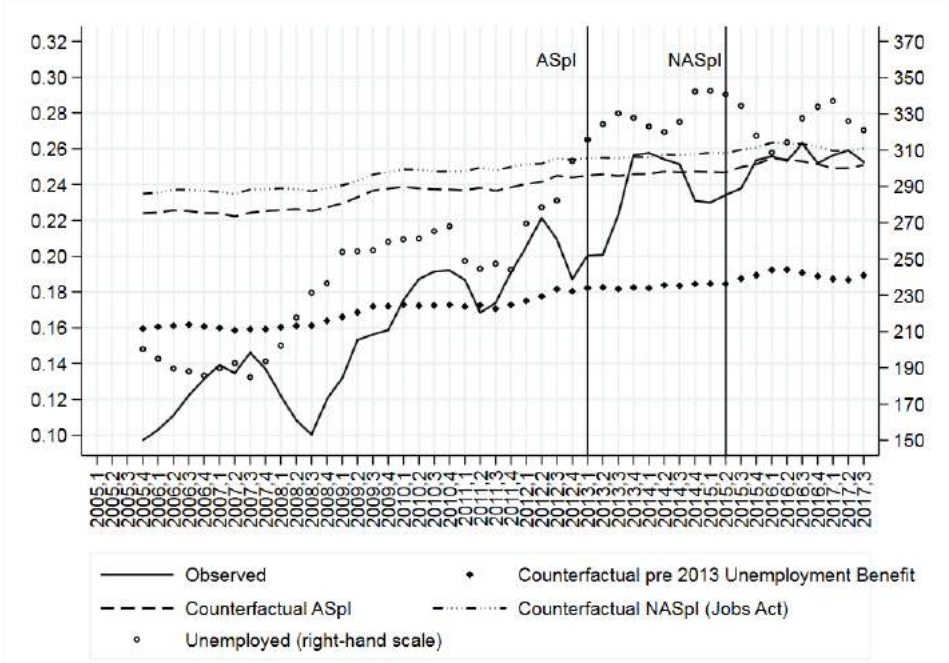
The amount of the benefit is a function of the average monthly salary in the 4 years preceding the dismissal (2 years for the ASpI). The replacement rate is 75 percent until a threshold equal to € 1,208 euro per month (with some adjustment for higher salaries). Last, in order to remove disincentives to job search, the subsidy is reduced by 3 percent per month, starting from the fourth. Moreover, a great emphasis is given to "conditionality" to active search, i,e. the participation in professional retraining courses and the acceptance of a suitable job offer.

The "Jobs Act" has also changed the regulation of the wage supplementation schemes. In Italy there are two main instruments of wage supplementation schemes for workers temporarily laid off. The first is the ordinary scheme (CIGO), whose aim is to sustain wages in case of a temporary lay-off or a reduction of working time. The second is the extra-ordinary scheme paid in case of firm restructuring or crisis (CIGS). Before the Fornero reform, the possibility to cumulate CIGO and CIGS with the mobility benefits, allowed workers to get a very lengthy support and discouraged workers to re-enter the labour market. The Fornero reform first, and then the "Jobs Act", intervened to rationalize the system and eliminate the extra-ordinary scheme (often used for firms very close to shut down), in order to substitute it with the standard unemployment benefit (NASpI). The JA reassess the ultimate goal of the two instruments and allows for their sequential use under the constraint that the total length of the support is no longer than 24 months. Workers in the CIG, with time reductions higher than 50 percent, have to stipulate a "personalized service agreement" at an employment center, as it is the case for unemployment benefit recipients. As in the previous regime CIGO and CIGS are financed by ordinary fees paid by both firms and employees (varying according to the sector of activity and the worker's qualification). In order to avoid opportunistic behavior, the JA requires companies that use these instruments to pay an additional contribution based on their actual use.

4.2 The impact of the new rules

As for the new rules on firing costs, a convincing evaluation of the new unemployment benefit system should be based on detailed microdata on unemployed workers receiving the benefits. Unfortunately, such data are not available. Giorgi (2018) uses microdata from the Labour Force Survey and proposes two exercises that shed some lights on two specific aspects of the reform: whether the coverage increased after its implementation and whether individuals search a job more actively.

Figure 4 **Unemployment benefits recipients: observed and counterfactual series, calculated by applying the requisites of the pre-Fornero System, the ASpI (Fornero reform) and the NASpI ("Jobs Act")**

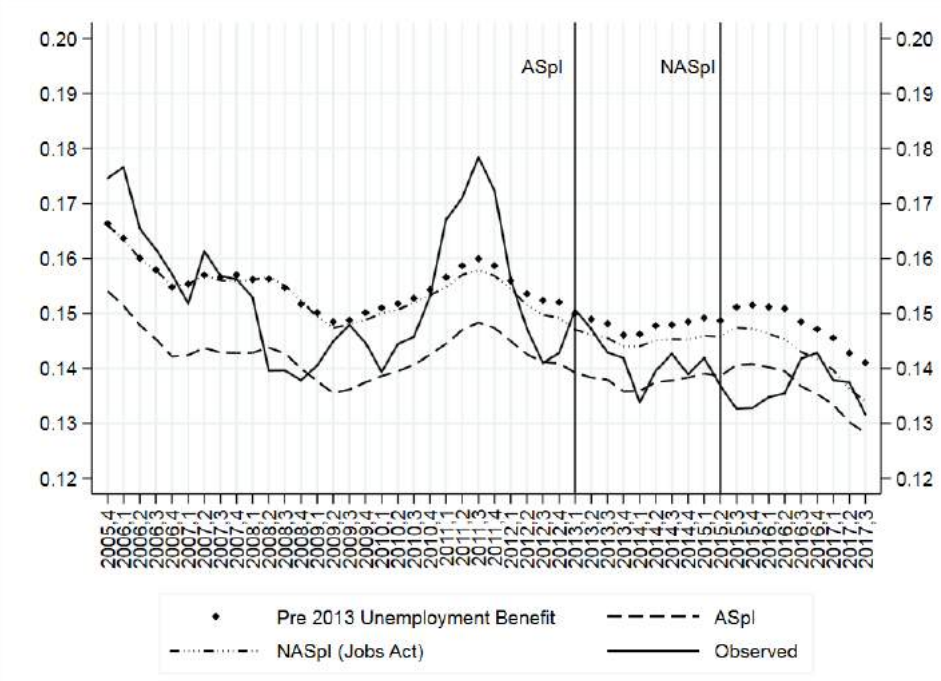


Source: Giorgi (2018). Author' calculations using Labour Force Survey microdata. OLS regressions, based on workers' observed characteristics.

The results of the first exercise are reported in Figure 4. The black line reports the number of unemployed that each quarter from 2005 to 2017 state that they receive an unemployment subsidy. The dots are the unemployed. The solid line represents the number of those who would receive the subsidy in application of the rules in force before 2012 reform (i.e. the counterfactual series of recipients, see Giorgi, 2018, for technical details). The long-dashed line represents the number of potential recipients according to the ASpI rules, whereas the short-dashed line is the number of potential beneficiaries under the NASpI. These simple calculations, carried out by controlling for changes in the socio-demographic characteristics of the unemployed and by projecting

the estimated shares even in periods when each instrument was not in force, allow to conclude that both the ASpI and the NAspI did increase the degree of "universalism" of the previous system. Compared with the AspI, however, the additional effect of the NASpI is small.

Figure 5 **Inactive recipients: observed and counterfactual series, calculated by applying the requisites of the pre-Fornero System, the ASpI (Fornero reform) and the NASpI ("Jobs Act")**



Source: Giorgi (2018). Author' calculations using Labour Force Survey microdata. OLS regressions, based on workers' observed characteristics.

One of the striking features of the Italian labour market is that a large share of those who receive the unemployment benefit do not actively search for a job. According to the LFS in 2017 they amounted to around 15 per cent during the period 2005-2017. To check whether the JA succeeded in reducing the disincentives to work, Giorgi (2018) estimates some counterfactual series

to check whether, net of composition effects, the share of inactive recipients declined after the new rules (exactly as in Figure 4). The results are reported in Figure 5. The probability of inactivity for benefits' recipients has remained fairly constant over the years and without major changes due to the new laws (indeed, it slightly increased with the transition from ASPI to NASpI). We then conclude that the reform of the unemployment benefit system did not succeed in reducing incentives to inactivity.

5. The lost pieces of the reform: activation policies and wage bargaining

5.1 The Public Employment Services saga

Figure 5 has already shown that the ability of the Italian system to activate unemployment benefit recipients remained mostly unchanged after the JA. This shows that the stated goal of strengthening the "conditionality" principle was to a large extent not achieved.

The reform envisaged the introduction of a new national Agency (Agenzia Nazionale per le Politiche Attive del Lavoro, ANPAL) strengthening the role of the central State – vis-à-vis the Regions and the Provinces who were in charge of the local public offices (Centri per l'Impiego, CPI) according to the Constitution provisions introduced in 2001[5] – and with a mission of introducing activation measures so as to implement the conditionality principle. The law 22/2015 introduced also a specific package, the "contratto di ricollocazione", providing the recipients of NASpI for at least four months a voucher that they could spend for intermediation services and training. Job seekers however were not obliged to participate to training programs in order to get the NASpi, indirectly demonstrating how difficult is to apply the prin-

5 The institutional set-up is actually a bit more complex, as the 2001 Constitutional rules dictated that active labour market policies were in the hands of the Regions, while a previous ordinary law had transformed the PES branches directly run by the Ministry of Labour into a network of CPI under the control of Provinces. After 2001 Regions started to legislate in this area and in many cases provided at least broad guidelines to the Provincial CPI, who were broadly speaking lacking ordinary resources and so were mostly funded through ad hoc programs set at either regional or national levels (see Pirrone and Sestito, 2006).

ciple of conditionality in Italy. As a result, the take-up rate of the experimental introduction of the *contratto di ricollogazione* was just around 10 per cent.

The task assigned to ANPAL was rather complex indeed, as Italy traditionally lacked active Public Employment Services (PES) and the previous two decades, while having witnessed the entrance into the market of private intermediaries (totally forbidden until 1997, when the Treu reform allowed the first temporary work agencies to operate in the country), had not delivered any agreed national strategy about the role of central and local governments as well as the relationship of the PES with private intermediaries (see Pirrone and Sestito, 2006). Moreover, it was not even clear whether ANPAL and the PES, largely underfunded and vastly understaffed in comparison to the similar structures operating in other EU countries, had to focus on NASpI recipients or other groups, for instance youths targeted by the Youth Guarantee Program just launched (in 2013) and partly funded by the EU.

In such a complex and unsettled environment, ANPAL initially benefited from the fact that the law instituting it had actually "anticipated" a new constitutional set up in which active labour market policies would have been transferred back to the central State. Unfortunately for ANPAL, such a new constitutional set-up – which more broadly reduced the power of Regions[6] - was rebutted by the electorate in the December 2016 referendum. On both purely legal and political terms, ANPAL's action has become much more difficult after that date. Actually, the new government established after the 2018 general elections, while stressing a lot of the need to strengthen the CPI in order to apply conditionality principle to social benefits – but the benefits referred to are not the unemployment benefits so far discussed but a new massive social assistance scheme covering a much larger population of individuals even less attached to the labour market – did not clarify how CPI should be governed and the role of ANPAL[7].

6 Besides other changes, including a rather controversial and hotly debated change in the task, composition and formation of the Senate, overcoming the "perfect bicameralism" of the Italian legislative power.

7 Actually, neither there is much clarity about the central versus local governments and public versus private service providers issues before mentioned.

5.2 The wage bargaining system: the lack of a broad overhaul and the tax incentives to firm level wage premia

While the active labour market policies area was lost also because of political and institutional difficulties emerged after the JA enactment, the lack of action in the wage bargaining set up was a policy choice directly made by the government. Many commentators agree that the insertion in the enabling law of a delegation to introduce a statutory minimum wage system was not the first step of a very specific program, but just a threat to social partners in order to have them agreeing upon a reform of the bargaining system. Italy has not been the only country where unions fear the introduction of a statutory minimum wage system which might weaken the role of national union contracts[8].

As a matter of fact this has maintained the centrality of national industry level union contracts (CCNL, i.e. contratti collettivi nazionali di lavoro), which act as de facto minimum wages, differentiated across industries and occupational categories. The resulting minima may be considered as too high – as a percentage of the median actual wage they are higher than the same ratio in most countries having a statutory minimum wage system - and too weakly enforced, as they are applied only insofar as the worker refers to the courts (furthermore, no administrative surveillance system is specifically aiming at verifying their actual implementation)[9].

The centrality of national contracts clearly reduces the flexibility of wages along firm and regional lines. As a matter of fact firm-level contracts have a limited power to reshape the wage and working conditions dictated by national agreements, particularly when the different unions who signed the national contract disagree about what has to be done[10]. This means that firms' agreements broadly speaking only add to the costs of national contracts, which are

8 Germany has also experienced a similar opposition. In the Italian context a relevant aspect is that the capability of unions of being able to bargain at the firm level is weakened by the very small size of many Italian firms

9 The role of de facto minimum wages of the unions national contracts derives from the fact that judges, in case of a controversy, tend to refer to them in appliance of the "fair compensation" principle stated in the Constitution. By themselves unions' contracts have to be applied only by those firms belonging to the employers association who signed them, a "no discrimination" principle obliging them to apply those agreements to all their workers.

10 So for instance FIAT had to exit from FederMeccanica in order to sign a new contract without the legal impediments related to the fact that, while a majority of workers had supported the new agreement (clearly also because of the bargaining power of the employer), one of the unions who had signed the metal and mechanics national contract (FIOM) opposed the firm level agreement. In such a way FIAT was not anymore subject to the FederMeccanica rules and adopted its own national contract (applied however only to one firm).

a source of downward nominal wage rigidity[11] .

It has to be noticed that over the last few years Italy lived in a curious dilemma, in which downward nominal wage rigidity at the same time was helping vis-à-vis the risks of falling into a deflationary spiral and contributed to prolong the competitiveness gap which had been accumulated since the start of the euro (as a result of a slightly but persistent higher inflation than in Germany and most of the core euro countries)[12]. However, the lack of an overhaul reform of the wage bargaining system has not helped in navigating such a dilemma, as the workers' bargaining weakness (resulting from the double dip recession and the rise in unemployment) has resulted in postponement in the signature of many new contracts (i.e. in temporary freezes of nominal wages, also in those firms which would have been capable to sustain a more buoyant wage dynamics) and an overall lengthening of the national contracts and the reintroduction of quasi price indexation mechanism, a solution which may contribute to lengthen the persistence of both inflationary and deflationary shocks.

While renouncing to push for an overhaul of the wage bargaining system, all governments – pressed into such a direction by a quest for fiscal rebates by social partners – have progressively enlarged the scope for special tax treatment of wage components agreed at the firm level. Such a fiscal regime of favour may in the long run contribute to shift the center of gravity of unions' bargaining toward the firm level. This may however be a very lengthy process and, in any case, it is still true that the resulting firm's agreements may only add to, and not reshape, what fixed at the national level. Furthermore, such a strategy is costly, in public finance terms, and may weaken the progressivity of the fiscal system: it seems very similar to other episodes of escape from the ordinary personal income taxation[13].

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11 A sizable role, in allowing firms to adjust their labour costs over the crisis period, came from the pervasive presence of temporary workers (see Adamopolou et al, 2016); similar evidence had already hinted at by De Vicienti and Sestito (2007).

12 On the gap see Amici, Bobbio, Torrini (2017); on the dilemma see Sestito (2017).

13 The escape from the ordinary personal income taxation, IRPEF, has already interested interest incomes, housing rents and small firms revenues. Taking into account that self-employed incomes tend to be largely under declared in official tax statements, currently IRPEF system is largely a work and pension income taxation scheme, whose sharp, and erratic, progressivity (with jumps of the marginal effective tax rate due to the compounded effect of several rules) would suggest an overhaul of the system, more than additional exemptions of specific income items.

6. Where do we stand?

We have discussed the massive reform effort undertaken in the recent past to "modernize" the Italian labour market[14], using the available evidence to assess to what extent the stated goals have been achieved. Our conclusion is that the JA was effective in boosting employment reactiveness to GDP. In such a direction also acted the Poletti decree, which substantially further eased the use of temporary contracts. So, while the JA – and more specifically the *contratto a tutele crescenti* - somehow contrasted labour market duality – with firms becoming slightly less adverse to hire on a permanent basis, even in the case of untested for workers - the overall effect of the policies enacted was to boost both temporary and permanent contracts. Among the other achievements of the JA (and of the previous Fornero interventions) is the creation of a more equitable and efficient universal unemployment benefits system.

While two important items of the original ambitions of the JA got lost – as the active labour market policies did not take off and many benefits' recipients remain inactive, while no major overhaul of the wage bargaining rules, towards a more flexible and decentralized system, was obtained - the most recent policy developments have generated quite strong blows to the achievements before described and ascribed to the JA. Three points are worth mentioning.

The first relates to the more legal technical aspects of the *contratto a tutele crescenti*. As we said in Section 3, such a contract curbed the most extreme possible costs of dismissals (the possibility of a reinstatement) and more broadly implied a substantial reduction in the uncertainty related to dismissals by reducing the discretionary power of courts. The latter element has been now challenged by a Constitutional Court pronouncement issued in September 2018, stating that the compensation may not be strictly predetermined according to seniority alone. The effective implications of such

14 We focused upon structural labour market policies, neglecting other measures also possibly having sizable structural effects in the labour market, as for instance the 80 euros bonus, whose possible labour supply effects have remained rather understudied. The 80 euros bonus has been discussed mostly along two other dimensions: the officially stated goal of sustaining consumption (see Neri et al. 2016) and the political visibility of the gift provided to workers which has influenced the frame of the bonus (the fact that it is a bonus and not a change in the often unseen interaction between gross tax rates and tax deductions). From a labour supply perspective, the bonus has strengthened the incentive to participate in the labour market, but at the cost of creating a sudden jump in the marginal effective tax rate in a subsequent income bracket.

a pronouncement are yet unclear, as ordinary courts might somehow follow the guidelines which will be implicitly provided by the Constitutional Court in its pronouncement[15], and the reacquired room of manouvre for the judges might remain relatively limited. The direction of the change is however rather clear, as it is weakening the philosophy behind the JA. Yet another element of uncertainty for the future evolution of dismissal costs is that deriving from the tax free alternative of an agreement between the worker and the firm, also inserted by the JA and left unchallenged by the Constitutional Court. Not much is known about the actual use of this possibility, which might become a widely used alternative to the costly and uncertain, for both the worker and the firm, reliance upon the court's judgment, which by itself produces either a zero cost dismissal (if it is deemed to be fair) or a costly dismissal (when it is deemed to be unfair).

The second and third blows more directly come from the policy initiatives of the new coalition government emerged from the 2018 general elections. The government has announced the intention to re-extend the possibility to resort to the CIG (also in case of a closed down firm), which may put at risk the idea behind the (ASPI and the) NASPI of a properly universal unemployment benefits system. Moreover, the so called *Decreto Dignità* has remarkably increased the brackets within which the *contratto a tutele crescenti* provides for a compensation to the worker unfairly dismissed[16] and also eliminated many of the flexibilities in the use of temporary contracts provided by the Poletti decree[17]. While the number of temporary contracts directly affected (and prospectively made unlawful) by the new rules is relatively small, the new approach increases the costs of both temporary and permanent contracts. The likelihood that such a change contributes to a reduction in the duality of the labour market is actually rather small. The limitations to the renewal to temporary contracts may push towards a conversion toward permanent contracts - besides favoring lawyers and legal consultants as the use of temporary contracts requires the specification of "convincing" clauses at risk of being

15 The motivations of the pronouncement have not been published yet.

16 The 2-monthly pay for every year of seniority, with a min of 4 and a max of 24, was shifted up to 3 monthly pay within a 6 to 36 bracket. The predetermination of firing costs was later on removed as an effect of the already discussed Constitutional Court pronouncement.

17 More precisely, temporary contracts cannot last more than 24 months; the number of contract prorogations is lowered from 5 to 4 and contracts lasting more than 12 months must be explicitly motivated. A written motivation is also needed for prorogations or renewals that exceed the 12 month limit.

challenged in the courts – for workers who, either because highly skilled or because operating in a tight labour market, are valuable for the firm; in all other cases, a cheaper alternative for the firm is just to replace a temporary worker with another temporary one.

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ECONOMIA ITALIANA 2018/2-3

Il Jobs Act. Occasione mancata o base per ripartire?

Pur con limiti e incompiutezze, il **JOBS ACT** rappresenta un esempio raro di traduzione in un corpus legislativo e regolamentare di una visione del mercato del lavoro emersa da due decenni di acceso dibattito teorico ed empirico. Si può non condividere questa visione, ma è impossibile negare l'iniquità del mercato del lavoro duale ereditato dalle precedenti riforme, a cui la legge risponde. Le riflessioni e i risultati dei lavori di questo numero di ECONOMIA ITALIANA, coordinato da **Fabiano Schivardi**, sono quindi particolarmente attuali, data la fase di ripensamento dell'intero progetto di riforma del mercato del lavoro italiano. L'auspicio è che il dibattito si svolga sulla base di evidenze teoriche ed empiriche solide, e non solo di principi ideologici.

Il **JOBS ACT** è stato giudicato dalla sua capacità o meno di creare lavoro. Quel dibattito si è incentrato sulla domanda sbagliata. L'obiettivo era di costruire un sistema adeguato a un mondo del lavoro con carriere lavorative inevitabilmente meno stabili che in passato e più bisognose di un continuo aggiornamento delle competenze. Ed è sul raggiungimento di questo obiettivo che i contributi di questo numero si focalizzano.

Sestito e Viviano offrono una valutazione complessiva degli effetti del JOBS ACT rispetto all'obiettivo dichiarato di ridurre il grado di dualità del mercato del lavoro. **Boeri e Garibaldi** si concentrano sull'effetto del contratto a tutele crescenti. **Anastasia e Santoro** analizzano le politiche attive del lavoro. **Lucifora e Naticchioni** analizzano l'inadeguatezza del nostro sistema di contrattazione collettiva, suggerita anche dai confronti internazionali. **Leonardi e Nannicini**, fra i principali protagonisti dell'elaborazione del JOBS ACT, illustrano le motivazioni sottostanti la riforma, offrono una valutazione di cosa ha funzionato e cosa no, valutano i recenti sviluppi legislativi alla luce della filosofia generale del JOBS ACT.

ECONOMIA ITALIANA nasce nel 1979 per approfondire e allargare il dibattito sui nodi strutturali e i problemi dell'economia italiana, anche al fine di elaborare adeguate proposte strategiche e di *policy*. L'Editrice Minerva Bancaria si impegna a riprendere questa sfida e a fare di Economia Italiana il più vivace e aperto strumento di dialogo e riflessione tra accademici, *policy makers* ed esponenti di rilievo dei diversi settori produttivi del Paese.

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