

“Austerity without end? European employment in the crisis”

34th meeting of **International Working Party on Labour Market
Segmentation**

Dublin, 11 - 14 September 2013

Preliminary draft – Versione provvisoria

*Is the employment's decline
the outcome or the cause
of crisis in Italy?*

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IS THE EMPLOYMENT'S DECLINE THE OUTCOME OR THE CAUSE OF CRISIS IN ITALY?*

***Abstract** This paper contributes to shed light on phenomena such as contractual flexibility, disguised employment relationship, and precarious arrangements and gives an interpretation of these issues simultaneously through a legal and economic approach: the first one gives an overview since the '90s on reforms of national employment protection legislation focused on easing existing regulation to facilitate more contractual diversity; the latter approach shows the structure of labour force considering (through the design of the survey: p.e. proxy free) different levels of contractual flexibility and precarious employment. In this paper we use the terms flexible and precarious work. It is necessary to clarify that we consider as flexible workers the following groups of individuals: 1) workers with temporary contracts, 2) independent self-employees who are comparable to subordinate employees (e.g. consultant or free-lance who are reporting to a supervisor, have a fixed work schedule, use the employer's premises, etc.) 3) involuntary part-timers workers. Moreover, it is crucial to analyse these phenomena in a longitudinal framework to assess whether flexibility determines precariousness; we define precariousness when a flexible worker remains in the same occupational status after a period of 12 months (or other benchmark). Data analysis, through ISFOL PLUS survey (wave 2011 and panel 2010-2011) confirms the enduring Italian labour market segmentation: young people, women and citizens of southern part of the country are more involved contractual flexibility compare to other groups; moreover, longitudinal analysis shows that these flexible workers suffer for an high probability to be become precarious and this dysfunction has been even more stressed by economic crisis. Analysing this phenomena by a juridical point of view, it seems that Labour law legislation suffers of strabismus: it is born for protecting the weakest part of employment contract, but it is now losing its challenge with these new features. At this point of the analysis we suggest that contractual flexibility and precarious employment experimented in these last twenty years reduced quality of work and labour productivity, affecting the manufacturing growth and performance in Italy. It's time to exchange policies attention from labour supply to demand.*

1.1 Introduction

The most important reforms of the Italian labour market in recent years are Law 196 of 1996 – so called “Treu Package” – and Law 30 of 2003 – so called “Biagi Reform”. They were aimed

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to realise a vast regulation of new employment relationships, different from the standard employment contract, which is a subordinate relationship on permanent and full time basis. Most recently a third set of rules come into force, the so called Fornero Reform (Law 92 of 2012)¹, clearly inspired by the Flexicurity strategy²; the new legal framework wished-for fighting against the “bad flexibility”, as was declared by the former Minister of Labour, Elsa Fornero³. The Law 92 restricts the use of certain employment contract and work experiences and his explicit goal is to transform the employment contract on permanent basis in the “leading contract”⁴.

Start from the '90, labour market legal framework has been subject to changes which realize, *inter alia*, an enlargement of contractual arrangements next to traditional employment relationships, the latter ones still the main route to gain full protection from labour law and social security. The Italian labour market, characterized by permanent and full time employment, has been considered “too rigid for a long time” [Contini, Trivellato, 2005]. In going through the various reform phases the final objective was intended to be the increase of flexibility in the employment, thanks to the introduction of new forms of work relationships, such as fixed term contracts, “lavoro parasubordinato” (“quasi-subordinate employment”, which refer to a grey area between dependent employment and self-employment), Temporary agency work (TAW), part-time, job on call, ect.. These multiple setting up phases have created new employment opportunities and conditions, that have resulted in a higher or lower success either in function of the benefits matching the introduction of the provisions already mentioned (labour cost dropping down) or in function of their usefulness (labour factor optimization)⁵. In broad terms, the final result is the type of labour market to which is dedicated the first of the flexicurity pathways indicated by the European Commission⁶ as “countries where the key challenge is segmented labour markets, with insiders and outsiders”. It must be said, from the outset, that an historical prospective gives another picture regarding these kind of interventions on contractual flexibility. Through ISTAT labour Force Survey Series (fig. 1), it is possible to observe the evolution of employment and unemployment in the population from 1977 to 2012 in Italy. This figure, which consider a very extended time period, shows a point of departure (1977) and arrival one (2012) where the labour market indicators are very close. The fluctuation and dynamics of employment and unemployment are connected to relevant changes in population, culture (such as increasing female participation and foreign immigration) and technology, while the effects of the reforms, adopted in the same period on labour’s supply, appear to be marginal.

¹ For a more detailed analysis see Tiraboschi 2012.

² Cfr. COM(2007) 359 final; for an analysis see Madsen, 2006.

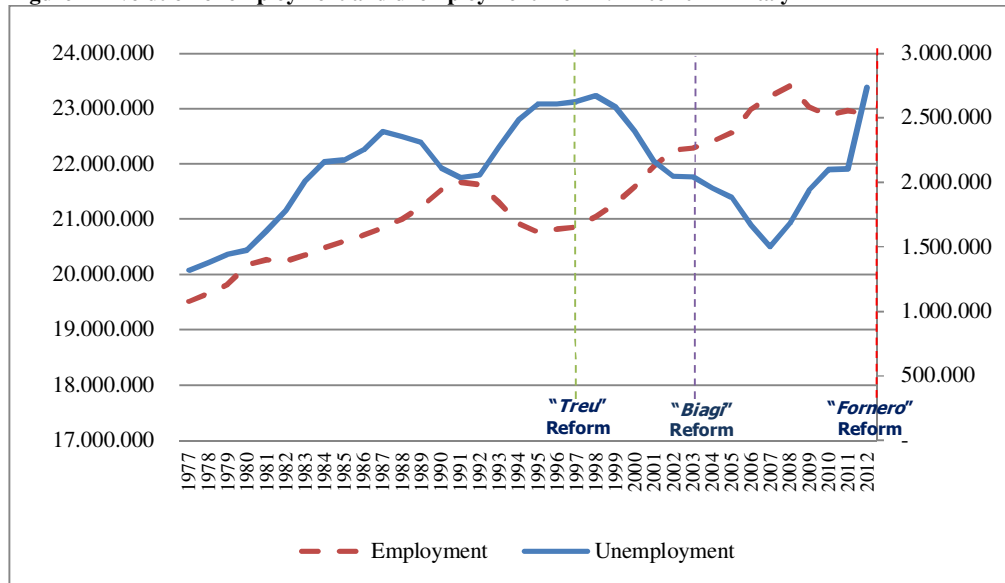
³ For a more detailed analysis see Tiraboschi 2012.

⁴ It must be said that, in these days, is under discussion a new act (law decree n. 76 of 2013). In few words this intervention is intended to weaken some of the rules introduces by Fornero Reform regarding flexible forms of employment, in particular concerning fixed-term contract.

⁵ These two trends mixed together with an unsuitable use of the employment opportunities have given a deep disorder in the employment world and a multilevel segmentation of the employment, making the traditional categories not capable to understand the actual composition of labour market [Bertola, 2002].

⁶ See again COM(2007) 359 final, Annex I.

Figure 1- Evolution of employment and unemployment from 1977 to 2012 in Italy



Source: Istat -Labour Force Survey Series (1977-2012) reconstructed

This paper gives an interpretation of the “labour market segmentation” simultaneously from the point of view “formal and substantive”, both through “legal and economic framework” in order to achieve, as much as possible, a comprehensive and shared estimation of composition of employment in our country.

The areas of greatest opacity can be traced to three aspects of the contractual flexibility: the growth of temporary employment relationships; development of a vast grey area of labour relations that can be positioned at the middle between employee and self-employment and, finally, the spread of voluntary (and not) part-time work.

In essence, having the flexibility characteristics multidimensional, to be properly identified, needs a joint reading with respect to the aspects atypical delivery of the work done. The analysis is focus on the identification of the components of "non-standard arrangements" and then on the outcomes of the "various aggregates of non-standard contract" for the intensity of the gap about the "standard work".

First of all, we have developed a contractual flexibility’s definition. Our proposal is to consider as flexible worker the following groups of individuals: 1) Workers with temporary contracts, 2) quasi-subordinate workers who are comparable to employees (e.g. who are reporting to a supervisor, have a fixed work schedule, use the employer’s premises, etc.) 3) involuntary part-timers workers. Moreover, it is crucial to analyse flexibility in a longitudinal framework to assess whether flexibility determines precariousness. We define precariousness when a flexible worker remains in the same occupational status after a period of 12 months.

There are many differences between statistic equivalent employments because the form of contract is not good proxy of nature of employment [Dickens, Lanf, 1992, Mandrone 2008].

This review of the labour world, obtained by analysing the ISFOL PLUS data⁷, both the 2011 v/s 2006 cross section and 2010-2011 panel v/s 2005-2006 panel, prompts some reflections or warnings.

1.2 New forms of employment relationship: legal framework and impact in Italian labour market

To understand last development in labour market legal framework is convenient to start from the Biagi Reform. This act can be divided in two different parts: the first one devoted to the new labour market organization, the second one to new forms of labour contracts.

According to the past, in the first part it has been fully implemented the liberalization of employment services, giving the opportunities to new operators (such municipalities, universities, trades unions, employers organizations) to act in the labour market and simplifying administrative procedures for the entrance in a such market.

The second part prompts to an legislation of non-standard employment contracts, giving room to employer's choices using labour force. This aim is been pursued not only by amplifying typological flexibility, with a new set of rules on fixed-term contract (Legislative decree 368/2001⁸), part-time contract, job on call, job sharing, apprenticeship, but also by easing labour's outsourcing.

In the latter case, a new legal framework has been established regarding measures for decentralization of firms activities, like TAW, staff leasing, contract for services, transfer of undertakings. The employer's choice concerning buying production factors has been widen and he can use new instruments beyond the employment contract. In the same way we can consider the so call *project work*: thanks to this contract employer decides to outsource part of his activities, not to another corporation, but to a "natural person", who performs his activity as a self-employment.

The ISFOL PLUS survey, prompted by the Ministry of Labour and financed by ESF, shows the incidence of the main existing contractual forms, enabling both an estimate of the composition of employment and an evaluation of the ability of the reforms to achieve the

⁷ PLUS (Participation Labour Unemployment Survey) is a sample survey on the Italian labour market supply. The Survey annually samples, on average, 40,000 individuals, contacted through a dynamic CATI system without proxy interviews. Since the second wave of the survey (2006), it is characterized by an extensive number of panel observations (about 65%). The survey sample design is stratified over the Italian population aged 18-64. Strata are defined by regions, type of city (metropolitan/not metropolitan), age (5 classes), sex, and employment status (employed, unemployed, student, job retired, other inactive/housewife). The distribution of the sample is obtained through a multi-domain allocation procedure, developed specifically for the project PLUS. The extraction of the sample provides a process for quota. The reference population is derived from the annual averages of the Istat Labour Force Survey. The sixth edition of this annual survey came out in the second half of 2013. Contract type means the main employment contract in terms of yearly wage.

⁸ The reform of 2001, prefigures the contents and methods of the Biagi Law. Rather than stating that fixed-term employment is forbidden, except in the cases explicitly laid down by the law and/or by collective agreements, as it was previously stated, it has been decided to adopt an "open clause": the employer may hire employees on fixed-term contracts, on condition that at the same time written motivation is provided of a technical, productive, or organizational nature, or for the substitution of personnel. The same kind of "open clause" has been later introduce for temporary agency work.

targets fixed. The development of the *flexibilization* of employment is such that we need new indicators to understand the trends and discover whether the quality of the labour market is improving.

1.2.1 Contracts

Albeit with relatively little weight overall, some contracts are an important opportunity for young people, women and residents in the South of Italy (the so called “Mezzogiorno”), to enter – or to re-enter – in the labour market (Table 1). This is why the relative disaggregated figure is given. See details:

- 64.4% are employed with a permanent employment contract however in this composition, the young have almost 20% less than the average, those living in the “Mezzogiorno” have slightly less, whereas women are more or less the same;
- fixed-term work has an average incidence of little under 6%, but for young people, University graduates, “Mezzogiorno” residents and women make much greater use of it.

Apprenticeship⁹ has an incidence of not much more than 1% on average and 6% of young people are involved out of total employed. However, at least legally, this is an open-ended dependent work contract, for which protection against dismissal is applied only during the training period¹⁰, we will consider, *de facto*, this type of contract a fixed-term contract. In fact, at the end of training period, the employer is free to continue or not the employment relationship (i.e. the employer is free to fire the apprentice and, by law, no justification of the layoff is needed, contrary to the ordinary regime applicable).

The work-entry contract has a less than 1% average, but with 1.3% for young people. These contracts are designed to enable certain categories¹¹ to enter or to return to the labour market by means of an individual plan for acquiring the skills required for a particular working environment. It is important to underline that this contract, thanks to the Fornero Reform, is now not anymore in use¹².

⁹ In apprenticeship contracts the employee receives training at the employer’s expense in addition to remuneration. The Biagi Reform provides for three types of apprenticeship contract: i) educational training apprenticeships, providing training and access to the labour market for school leavers; ii) vocational training apprenticeships, combining on-the-job training with a technical or vocational qualification; iii) higher-level apprenticeships, with advanced technical training leading to a high-school diploma or university-level qualification. For survey requirements, the three specific apprenticeship forms are combined.

¹⁰ With regard to duration, apprenticeship i) may last for up to 3 years, depending on the qualification to be obtained, whereas apprenticeship ii) may last up to six years, depending on the provisions of collective bargaining. The duration of higher-level apprenticeships iii) is established at regional level, in agreement with the social partners and the educational bodies involved.

¹¹ The following categories are eligible for these contracts:

- 18-29 year old;
- long-term unemployed 29-32 year old;
- workers over the age of 50 who are no longer in employment;
- workers who wish to return after a break of two years or more;
- women of any age resident in areas where the employment rate for women is more than 20% less than for men (or the unemployment rate is 10% higher);
- individuals with a recognized physical or mental disability.

¹² By the first of January 2013 is not possible anymore to sign this type of contract.

Temporary agency work (TAW)¹³ has a weight of less than 1% on average, however its extensive use for short periods means it is difficult to calculate (since the probability of inclusion in the sample is affected by the discontinuity of the missions).

Job on-call¹⁴ has an incidence of 1%, which practically doubles among young. Employer coordinated freelance work accounts for 2.2% of employment. The young and “Mezzogiorno” workers have higher than average rates. The new set of rules concerning “Project work” (see forward) do not apply to this type of contract; the previous legal framework survives in particular for the public sector, for pensioners and professionals entered in specific registers.

Project workers are estimated at 3.2% of the employed, a level which rises to 10.1 among the young, to 4.5% in the South and to 3.8 between women. These are quasi-subordinate employment contracts relating to one or more specific projects or project phases, managed autonomously by the worker with reference to the end result, regardless of the time required for completion. The attempt was to combat the fraudulent use of free-lance work, by requiring the parties of the contract to specify in advance how the work is to be organized (the contract must be in writing, provides an indication of the duration and offers a higher level of protection with regard to sickness, injury and maternity), in order to avoid that the contract is used to mask a dependent employment contract. Employer coordinated freelance work, in private sector, has mostly been transformed into project work.

Entrepreneurs and business owners amount to over 6% of the employed, but this figure is about halved for the young and women (4%); however in South Italy the incidence is over the average (8.2%). The world of the self-employed with VAT codes, the professionals, accounts for 10.5% of employment, but this figures drops among the young and women to 6.7% and 5.4% respectively, while rise over 14.5% among university graduated.

Job sharing¹⁵ is not sufficiently present in the population to be estimated by us and also family carers, internists, trainees, those on work experience and partnerships are not very reliable and it is not considered appropriate to comment on them as such.

Individuals who have not been able or wanted to obtain a specific contract are classified among misc. employees and misc. self-employed, on the basis of the subordinate work module; their overall weight is not much more than 3%, and they are more frequent among young people (6%), in the “Mezzogiorno” (5.8%) and between women (3.7%).

¹³ When first allowed in 1997, TAW was admitted only on a fixed-term basis and, *de facto*, in the circumstances indicated by national collective agreements. With the Biagi reform, supply of temporary labour is now also admissible on an open-term basis. Enterprises can now stipulate an open-term contracts with a Temporary Work Agency (TWA) in certain circumstances specifically identified by the law (e.g. porter duties and cleaning work, transportation and warehouse services, managerial consultancy services, call-centre management, etc.).

¹⁴ The worker agrees to work intermittently (for activities laid down by national or territorial collective bargaining) or at certain times of the week, month or year. Never regulate before Biagi reform, this contract may take two different forms: with or without a stand-by allowance, depending on whether the worker agrees to be bound to accept the offer of work. The use of this contract has been restricted by Fornero Reform. See forward.

¹⁵ In this contract two workers jointly take on the rights and responsibilities arising from an individual employment contract, and are free to divide up the hours as they choose. In relation to previous legal framework, the innovation consists of limiting this type of contract to two workers at a time. The job-sharing contract must be in writing, and specify the hours to be worked by each of the employees.

Table 1 - Employment by individual contract form and main groupings (details)

A) Individual contracts	Total	South	Women	University	Young
a) Permanent work	64,4	54,9	67,5	56,6	44,7
b) Fixed-term contract	5,9	6,5	8,0	7,8	10,6
c) Work/training	0,3	0,3	0,3	0,4	1,1
d) Apprenticeship	1,0	0,9	1,1	0,7	5,9
e) Work-entry	0,5	0,5	0,5	0,6	1,3
f) Temporary agency work	0,6	0,4	0,5	0,4	1,0
g) Job sharing	<i>Insignificant estimate, extremely rare</i>				
h) Intermittent or on-call work	1,0	1,1	1,3	0,7	2,4
i) Employer coordinated freelance work	2,2	2,9	1,9	3,2	3,1
l) Occasional consultants	0,4	0,5	0,4	1,1	0,7
m) Project work	3,2	4,5	3,8	4,3	10,1
n) Business owner-entrepreneur	6,1	8,2	4,0	6,8	4,0
o) Partnerships	<i>Insignificant estimate, extremely rare</i>				
p) Self-employed (VAT code)	10,5	12,1	5,4	14,5	6,7
q) Family work	0,4	0,5	0,6	0,2	0,5
r) Work practice, intership, traineeship*	0,3	0,4	0,5	0,8	1,7
s) Misc. Dependent work	2,0	4,2	2,6	0,9	4,2
t) Misc. Self -employmnet	0,9	1,6	1,1	0,8	1,9
Total	100,0	100,0	100,0	100,0	100,0

* Only paid traineeships, internships and work experience are considered.

Source: ISFOL PLUS 2011

1.2.2 Temporary work

The legal framework on the use of temporary work was relaxed in the recent years¹⁶ and this change erases the link between temporary nature of the working relationship and real productivity needs.

20% of respondents (Figure 2) consider that their present temporary contract is the prelude to a permanent one and 23% do not consider there are particular reasons for it. That is, over half those interviewed consider that the temporary nature of their contract is not dictated by real production needs. There seems a high perception that the type of contract is inappropriate to the job performed and the company's real needs. The remaining half of the sample considers the main reason to be the *seasonal nature of the work or production peaks* (14%), the link with *a specific project* (14%), *replacement of personnel* (9%) and the need for *work experience and vocational specialization* (6%).

¹⁶ Fixed-term contracts are now always permitted in presence of technical, production-related, organizational and replacement needs, and therefore for needs related to the company's normal production cycle. The national collective agreement now states only the proportion of temporary workers that it may utilize.

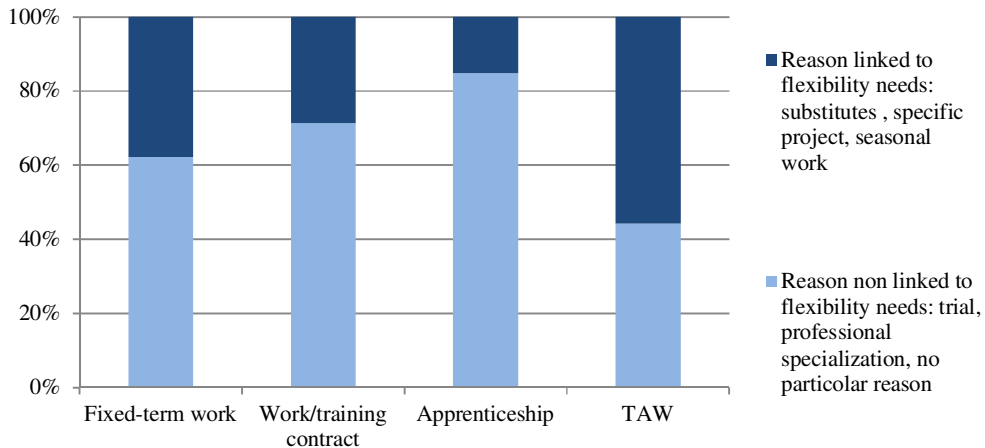
Figure 2 - Reason for the temporary nature of the contract, % incidence



Source: ISFOL PLUS 2011

It is interesting to note in Figure 3 that, in the various contracts, needs linked to flexibility are viewed differently to other needs.

Figure 3 - Reason for the temporary nature of the contract, details of fixed-term contracts



Source: ISFOL PLUS 2011

All this leads us to believe that temporary workers do not consider their work conditions linked to real flexibility needs prompted by the economic cycle or the type of production, but instead involves other employers decisions – such as cutting the cost of labour and the opportunity cost linked to the possibility of giving notice. The need to give flexibility to the corporate organisation seems to have less weight than other needs, such as *assessing the worker for a stable job or specialisation period or no particular reason*. Around a quarter of

those interviewed unconditionally indicate the absence of specific reasons, further confirming the hypothesis of a weak relationship between the (production) flexibility needs of the demand and the use of flexible contracts.

1.2.3 ...from contract to substance: the case of disguised employment relationships in Italy

As in others countries¹⁷, Italian labour law grants the employee a status, whose application depends on the existence of a contract of employment. The importance of the protective rules contained in the status makes the qualification of contract employment a central issue for labour law and generates important litigation. Contract employment continues to be, the main vehicle through which workers gain access to the rights and benefits associated with employment in the areas of labour law and social security.

In this paragraph we deal with the concept of *false positive*, that is of a worker who performs a job that, according with the realities of working relationships, does not conform to the contract under which he or she was hired. There are many such cases in the labour world and defining them helps us to improve employment composition estimates.

Let us take the case of *false consultants*: albeit formally self-employed, they basically perform the same tasks as they would be dependent worker. There is also the reverse case of *true consultants*, that is those who perform a work that is entirely freelance and thus standard although using a type of contract considered non-standard.

At international level (EUROSTAT), workers with fixed-term contracts are considered non-standard; however in Italy this category is not exhaustive because of the anomalous dimension of self-employment, which contains a significant share of people whose working conditions and prospects equate them with dependent fixed-term employees. Moreover, the reforms have acted more by addition than subtraction, creating numerous exceptions which in turn introduce special social-security or tax arrangements. In particular the widespread of self-employment enables relaxing or restricting the scope of labour law, changing the set of rules apply to the worker and his position and status into the labour market.

When consultants, who are formally independent, are dependent employee according with the realities of working relationships (that is they are used inappropriately and irregularly¹⁸) then these work relationships have to be seen as a “disguised employment relationship”, according to the ILO and European Commission definition¹⁹. Table 2 shows how some characteristic of

¹⁷ See Sciarra S., 2005.

¹⁸ The Italian High Court of Appeal has repeatedly asserted that any kind of work could be performed by an employee, or by a self-employer and the judge, deciding the real nature of the work relationship qualified as self-employment, should consider carefully the characteristics with which this is performed, or if it has ceased, has been performed. The same Court had fixed a list of pertinent criteria concerning the existence of a subordinate relationship, relying on the facts relating to the performance of work, notwithstanding how the relationship is characterized in any contrary arrangement that may have been agreed between the parties.

¹⁹ See Employment Relationship Recommendation, 2006 (“Disguised employment relationship occurs when the employer treats an individual as other than an employee in a manner that hides his or her true legal status as an employee, and that situations can arise where contractual arrangements have the effect of depriving workers of the protection they are due”). At European level see COM(2006) 708 final, *Green paper. Modernising labour law to meet the challenges of the 21st century* (“Disguised employment occurs when a person who is an employee is classified as other than an employee so as to hide his or her true legal status and to avoid costs

working relationships can be used as parameters to indicate subordination.

The first concerns the individual's choice of contract type, whereas the others are taken from case law – that is the criteria generally used by labour courts to assess if the employment relationship is subordinate or independent – and from those scholars²⁰ that consider the traditional notion of subordination, as a power relationship, not any more an exhaustive criterion to identify people in needing labour law protection, and prefer to identify, as a new protective criterion, the “economic dependence”. Criteria for identifying in ISFOL PLUS survey the false consultants are therefore inspired by socio-economic motives, legal principles and statistical constraints.

An independent contract has been imposed on 65% of employer-coordinated freelancers, on 59.5% of occasional consultants, 76% Project work and 7.4% of VAT-code holders. Almost 79% and 83% of employer coordinated consultants and project work and over half of VAT-holders mainly work for a single company. Presence is a strict requirement for 6.6 out of 10 employer-coordinated freelancers, and is requested for 7 occasional workers or professional freelancers out of 10; 20 VAT-holder workers every 100 have to keep to daily working hours. 80% of consultants and almost half VAT-holders use the tools of the company where they work. Over 60% of employer-coordinated and professional freelancers have already worked once before for their current employer, over 50% of occasional workers and over a third of VAT-holders. How many would like to become permanent workers? Almost 76% of employer-coordinated, 78% of project consultants, 70% of occasional workers and 20% VAT-holders do not want to remain with their current contract but consider a permanent job more suitable. This is judged to be likely by a third of employer-coordinated and professional freelancers, by a quarter of occasional workers and by a sixth of VAT-holders.

²⁰ that may include taxes and social security contributions”).
See *ex multis* A. Supiot, 1999.

Table 2 - Subordination constraints for consultants and VAT-holders, % incidence

	Employer coordinate d freelance work	Occasional work (withholdi ng tax)	Project work	Self employment (VAT code)	Total
1 - You are a freelance because ...					
My choice	34.6	40.5	24.2	92.6	67.9
At employer's request	65.4	59.5	75.8	7.4	32.1
Total	100.0	100.0	100.0	100.0	100.0
2- Do you work for a single company\person or several companies\persons?					
Several companies	20.6	47.2	16.8	48.2	35.6
Single company	79.4	52.8	83.2	51.8	64.4
Total	100.0	100.0	100.0	100.0	100.0
3- Do you have to guarantee a regular presence in your workplace?					
Yes	69.9	41.6	74.2	39.1	52.5
No	30.1	58.4	25.8	60.9	47.5
Total	100.0	100.0	100.0	100.0	100.0
4- Have you agreed on daily working hours with your employer?					
Yes	66.6	42.9	74.6	24.2	42.8
No	33.4	57.1	25.4	75.8	57.2
Total	100.0	100.0	100.0	100.0	100.0
5- Do you use means or tools or structures belonging to the company or employer when performing your work?					
Yes	74.7	39.9	77.5	40.4	52.8
No	25.3	60.1	22.5	59.6	47.2
Total	100.0	100.0	100.0	100.0	100.0
6- Has your contract or job with your current employer already been renewed at least once?					
Yes	70.3	52.4	54.7	28.8	40.0
No	29.7	47.6	45.3	71.2	60.0
Total	100.0	100.0	100.0	100.0	100.0
Would you be interested in converting your current work relationship into a permanent one?					
Yes	75.9	70.6	78.1	20.3	42.8
No	24.1	29.4	21.9	79.7	57.2
Total	100.0	100.0	100.0	100.0	100.0
How do you assess the possibility of converting your work relationship into a permanent one?					
High	17.8	5.3	9.8	5.9	8.5
Quite high	19.9	14.1	17.6	3.2	8.3
Low	19.0	28.4	35.9	12.0	19.1
Impossible	27.6	42.5	28.4	41.7	37.5
Total	100.0	100.0	100.0	100.0	100.0

Source: ISFOL PLUS 2011

To identify statistically the false consultants, a *threshold level* of three subordination constraints has been fixed. This level, already surveyed in PLUS 2005, is the divide between sectors, incomes and expectations of *fixed-term employees* compared to the *self-employed*.

That is, if there are from 4.5 to 6 constraints, it is more likely to be false self-employment which should really come under an employment contract. Instead, if there are less than three constraints, it could be a “weak subordination” – perhaps dictated by organizational needs but anyway not ruling out the freelance nature of the work – and thus the worker can be considered as self-employed. Utilizing these constrains one can discover the incidence of disguised employment relationships in the context of self-employment: employer-coordinated freelancers have an average of 4.16 subordination constraints, occasional workers (withholding tax) 4.06, “project” workers 4.44 and the self-employed (VAT-holders) have an average of 2.03 constraints²¹.

1.2.4 Voluntary or involuntary part-timers

The part-time contract is often an instrument for balancing work-family needs, often presented as a flexibility introduced to facilitate, improve and widen working participation, in particular for women. In Table 3 we can see how gender affects the choice of part-time work: for men it results often an imposition and 72% of them have not chosen it voluntarily, whereas for women the choice is more positive and over 60% have requested it; obviously this also influences the average incidence since the female component mainly works part-time. The wide spread of non-voluntary part-time between male workers has a negative effect in the quality of employment, because the contract slide-off from an instrument for work-family balance to an *indicator of underemployment*. In the employment classification the two sides of the aggregate of part-time permanent workers will thus be considered separately to distinguish two extreme employment conditions: positive if voluntary and negative if involuntary.

Table 3 - Voluntary nature of part-time work

You work part-time:	Choice	Male	Female	Total
By choice or for convenience	Voluntary	27.8	60.2	54.4
At request of client/employer	Involuntary	72.2	39.8	45.6
Total	Total	100.0	100.0	100.0

Source: ISFOL PLUS 2011

1.2.5 How are non-standard workers?

The route that began with the identification of non-standard components, net of possible false positives, should lead to one or more concise indicators for evaluating the incidence of non-standard employment. In technical terms, each share (part of an item) of the single contract items, identified as belonging to a type of flexibility, can be grouped into specific non-standard categories. All this specific flexibility can help to identify an overall flexibility and thus they can be aggregated according to where they belong or to the presence of characterizing factors²². The classification follows a simple algebra, in which the single addends can obtained

²¹ A subordination level systematically much lower for VAT-holder workers than for consultants is an – implicit – countercheck of the congruity between form and nature of self-employment relationships.

²² The last specific flexibility to be defined, before going on to the reorganization of employment,

from the single items (or shares) of non-standard work rather than from specific atypicalities. The decomposition stage is followed by the recomposition one, in which the parts are recomposed into overall flexibilities identified by the lowest common denominator.

The ISFOL PLUS classification scheme for employment is shown in Table 4: the lines indicate the shares (symbols are provided for several shares) of the single contracts, whereas the columns give the incidence and percentage of specific flexibilities. The simultaneous reading of the form and nature of employment already enables an analysis that to some extent takes into account the different social security and tax schemes.

However it is possible to construct overall flexibilities for the purpose of identifying those referred to the contribution or tax profile of a certain type of job (e.g. telework) or working times and methods which – as we hope we have managed to explain – constitute potential indicators of the quality of employment.

The incidence of non-standard forms is not evenly distributed in the labour world; it varies according to both the socio-demographic features of the labour supply –because the reform has had a greater effect on some groups and generations than others – and in relation to the labour demand, since the business size, sector and ownership offer different occupational possibilities. This has helped to create a considerable division between standard and non-standard workers. SAE is the acronym of Standard and Non-standard Employment

1. *The minimum non-standard rate* (SAE123) has a considerably greater incidence than average in the Mezzogiorno among women, graduates and young people (1 out of 3!); in firms with 4 to 50 employees; in the sectors of agriculture, hotels, restaurants and tourism, communications, education, research and miscellaneous services; and in the intellectual and scientific, unqualified, IT and teaching professions.
2. *The maximum non-standard rate* (SAE12346) has a proportionally greater incidence, but in line with that of the minimum flexibility: these non-standard forms are thus particularly evident in the “Mezzogiorno”, for women, for young people, graduates and among those working for firms with between 4 to 50 employees.

The effect of flexible work on the younger generations is evident and is not justified by the entry in the labour market stage. The position of graduates is paradoxical, since non-standard work affects them much more than those with lower educational qualifications. The *young female graduate from southern Italy* combination seems to be the profile most affected by this kind of work.

concerns people who do not answer or who do not know their work contract. These individuals can be divided into four typologies. Some individuals perform improvised jobs (and therefore are more interested in the pay than in the type of contract), or have just started a job (and are waiting to learn about the contract) or do not know the contract conditions or, finally, there are those who do not intend to declare the contract type (reticent individuals). The Italian Civil Code states, as a general rule, that contract should be in writing only when is as such provide by law. The law establish that some of the so call “atypical” contracts of employment (like fix term contract, temporary agency work, apprenticeship, work-entry contract, etc.) should be in writing. On another hand, there is a general employer's obligation to inform employees of the conditions applicable to the contract or employment relationship and so the law states that employer must give a writing declaration concerning these conditions.

Table 4 - Decomposition and re-composition by specific and total atypicalities

	Fixed-term employees	Apprenticeships	“False” freelancers	Involuntary part-time	Voluntary part-time	Don’t Know	“True” self-employed	Standard	Employees by contract
<i>Non-standard</i>	1	2	3	4	5	6	7	Standard	
a) Permanent work				846505	1313790			12363904	14524199
b) Fixed-term work	1334076								1334076
c) Work-entry contract	175960								175960
d) Apprenticeship		221269							221269
f) Tempor. agency work	127685								127685
h) Intermittent/on-call work	234214								234214
i) Freelance work			357894				142099		499993
j) Occasional employment			37434				51802		89235
k) Project work			550242				180578		730820
l) Entrepreneur								1382035	1382035
n) Self-employed VAT code			402287					1966552	2368840
o) Family worker								87086	87086
p) Work pract., traineeship	74626								74626
q) Misc. dependent work						456694			456694
r) Misc. self-employed						203065			203065
<i>Specific</i>	1946561	221269	1347857	846505	1313790	659758	374478	15799578	22567517
<i>Flexibility</i>	8.6	1.0	6.0	3.8	5.8	2.9	1.7	70.0	100.0

Note: Unreliable estimate g) Job sharing and m) Partnerships

Source: ISFOL PLUS 2011

1.2.6 *When does non-standard work become precariousness?*

Job precariousness is understood here as the share of workers with non-standard contracts that does not evolve towards a standard work, or, at least in a working relationship that share the same rights as standard work²³. This excludes both those with an uncertain job future and those who are not unemployed precisely because of the precariousness of the job they held. We should beware of those who claim that precariousness is endemic in modern economies: precariousness is the result of bad management and is not a necessary evil. We will always have to deal with flexibility and occupational discontinuity but they do not have to turn into precariousness. To ask for part-time work for three months to help a family member; to move from firm A to firm B; to lose your job and spend six months looking for a new one; to leave school and do odd jobs to gain experience are events that can occur during a working life but which must not affect consumption, prejudice reproductive choices or insurance coverage. Each stage must be managed, minimizing the drawbacks and compensating individual losses. We refer to what the “Transitional Labour Markets” (TLM) approach calls “transitions”, that it is to say “any departure from the reference situation of a full time long-term job” (Gazier, Gautié, 2009). As this approach suggest is necessary to protect not “states” that individuals can obtain at a given moment of their career, but to secure their life-long “trajectories”.

This means that the entire legal framework of workers protection should be redesigned, integrating it with modern social buffers that cover all workers without any exceptions depending from the form of the employment contract apply, with wages adjust against the greater risk of losing the job, standardizing social security rates so that each social security contribution, even for only one hour of work, can be totalized. It must be clear that new forms of work cannot constitute a “cheap option” with respect to standard work, but should be based on a concrete need for flexibility (temporary work, fixed-term work, sporadic work) or for work entry (work/training, apprenticeship, work experience, traineeships).

So what is the ideal amount of non-standard work for a labour market? Flexibility is like a fever: a high temperature indicates illness, but neither is a low temperature a sign of health. So, remaining with the metaphor, *which are the pathologies that turn flexibility into precariousness?*

There are basically two pathologies that make new forms of work a forerunner of precariousness:

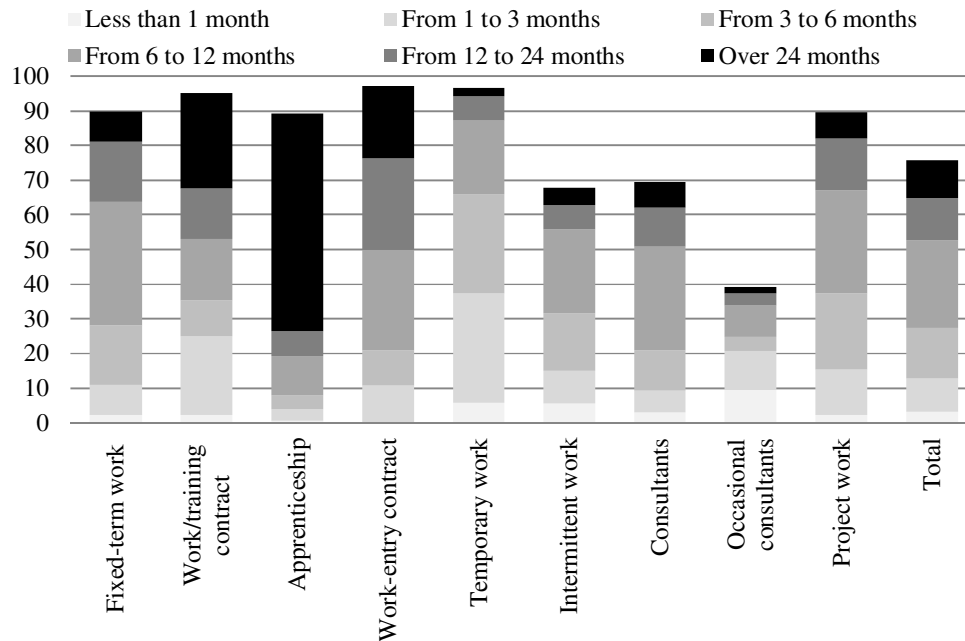
- The duration of non-standard contracts, too short, unplanned and discontinuous; not enough to permit significant increases in human capital and work experience and reflecting the capacity of the market to be a rapid and efficient allocator of the labour factor, very important for a market with a growing tendency to flexibilization of work.
- The prospect for nonstandard contracts to become standard work, or at least the prospect to move to a working relationship with the same floor of rights as the latter, that is the average duration of the transitional period preparatory to obtaining standard work, especially when the user institute’s aim was job placement and increase in participation.

²³ On the contrary, it can be consider that in other country, whereas workers share the same protection without any exceptions depending from the form of the employment contract apply, scholars underline that the term “precarious work”, neither in the public nor in the academic debate, has any equivalent.

1.2.7 The duration of non-standard contracts

The first pathology can be evaluated with figure 4. The distribution of the duration of the contract seems pseudo-normal around an average-general duration of 6-12 months. The figure shows that one third of non-standard workers has a horizon of less than 6 months and another third of over 12 months. Over 80% of temporary workers have a contract of less than 12 months, dropping to around 70% for employer-coordinated freelance work, project and fixed-term work. Apprentices are the most stable workers because the majority (64%) has two years of work prospects.

Figure 4 - Average duration of fixed-term and consultant contracts



Source: ISFOL PLUS 2011

Table 5 instead shows some characteristic problems of a flexible labour market that should not be underestimated. The first is that being employed could anyway hide a certain discontinuity. 33% of fixed-term employees didn't always employed in last 12 months; this share rises to 45.5% for the other "temporary work" and is 34% for consultants. In short, the 6% occupational discontinuity for standard work, considered as a frictional or structural discontinuity, rises to 31% for the non-standard forms. When there is occupational discontinuity, how many months have been effectively worked in the last year? Around six for fixed-term employees and a little more than 5.5% for consultants, that is "the glass is more half empty than half full".

Although this is the result of retroactive questions and thus of a lower quality than a given panel, the current conditions last from five to six years on average for non-standard workers. Hence the precariousness "trap" is anything but a short interval or a rapid route to a permanent job. The main consequence is a negative impact in human capital evolution on such groups of workers, with the tendency towards a two tier labour market.

Table 5 - Occupational discontinuity: incidence, relative duration and duration of current employment condition

Employment typology by:	Share of individuals not always employed in last 12 months	Average months employed in last year	Average duration of current contract typology in years
Permanent employee	4.0	5.6	15.5
Fixed-term employee	33.0	5.8	5.6
Other forms of dependent work	45.4	4.9	3.5
Self-employed	7.8	6.7	7.5
Consultants	33.7	5.5	5.6
Standard work	6.2	5.5	
Non-standard work	30.9	5.8	6.0

Source: ISFOL PLUS 2011

1.3 Transitions between occupational status: outcomes of non-standard contracts

ISFOL PLUS Panel, albeit with its sample limits, can contribute to widen information on Italian labour market. The evaluation of legislative interventions, the interpretation of new forms of contract for creating employment or activating individuals and, more in general, labour market trends, have too often been read in a merely ideological or political key (Sestito, 2007). This can eclipse quantitative findings, indubitably more suitable and reliable for a correct evaluation of the reforms.

The limited and slow outcomes towards standard work is the second affliction of non-standard contractual forms and can only be evaluated as a whole with a longitudinal analysis of the occupational status and outcomes obtained over a certain length of time. The ISFOL PLUS panel on outcomes for those in the workforce, with 14 month average (first wave February-March, second wave April-May) and considerable sample size (over 24,000 individuals), shows (Table 6) how long people hold the status of employed and retired with stable or definitive conditions. These figures are also significant for housewives, with an interesting flow from inactive to active, and for students, with some 15% finding work. For those seeking jobs, 46% remain in this condition, 37% find work and around 15% pass to inactivity.

Table 6 - Transitions between occupational status, ISFOL PLUS Panel 2010-2011 v/s Panel 2005-2006

2010 Status	2011 Status						2005 Status	2006 Status					
	Employed	Seeking	Pensioner	Housewife	Student	Total		Employed	Seeking	Pensioner	Housewife	Student	Total
Employed	86.5	9.0	3.1	0.9	0.5	100.0	Employed	90.8	4.3	2.9	0.7	1.3	100.0
Jobseeker	28.8	58.4	1.5	6.9	4.4	100.0	Jobseeker	37.1	46.4	1.9	6.6	8.1	100.0
Pensioner	3.3	2.0	94.7	0.0	0.0	100.0	Pensioner	2.0	0.1	97.9	0.0	0.0	100.0
Housewife	13.6	33.0	0.0	47.9	5.6	100.0	Housewife	16.0	23.5	0.0	59.2	1.3	100.0
Student	15.3	17.4	0.0	2.5	64.8	100.0	Student	10.6	5.7	0.0	0.4	83.2	100.0
Total	65.1	16.0	8.8	4.0	6.1	100.0	Total	64.3	8.7	10	4.4	12.7	100.0

Source: ISFOL PLUS Panel 2010-2011 v/s Panel 2005-2006

Table 7 - Transitions between status: from non-standard to standard employment, ISFOL PLUS Panel 2010-2011 v/s Panel 2005-2006

2010 Condition	2011 Condition			2005 Condition	2006 Condition		
	Standard work	Non-standard	Total		Standard work	Non-standard	Total
Standard	94.5	5.5	100.0	Standard	95.2	4.8	100.0
Non-standard (SAE) 123	43.7	56.3	100.0	Non-standard (SAE) 123	39.3	60.7	100.0
Total	88.5	11.5	100.0	Total	88.4	11.6	100.0

Source: ISFOL PLUS Panel 2010-2011 v/s Panel 2005-2006

Table 8 - Outcomes of non-standard work by main contract types

2010 Condition	2011 Condition					
	Permanent dependent	Fixed-term dependent	Temporary work	Self-employed	Consultants	Total
Permanent dependent	94.1	2.7	0.2	1.5	1.5	100.0
Fixed-term dependent	35.5	46.0	4.0	2.6	11.9	100.0
Temporary work	8.1	32.2	21.5	12.8	25.4	100.0
Self-employed	10.8	0.7	0.8	82.7	5.0	100.0
Consultants	22.3	21.8	3.4	7.2	45.3	100.0
Total	69.9	6.5	0.9	17.5	5.2	100.0

Source: ISFOL PLUS Panel 2010-2011

The outcomes of new forms of work seen through a longitudinal²⁴ reading are probably the best evaluation of the ability of non-standard contracts to lead, in a reasonably short time, towards stable employment. Referring to the SAE123 definition of atypicality, that is all the fixed-term employment contracts and the disguised self-employees. Table 7 shows a very high stability of standard employment, with 94.5% (v/s 95.2% in the panel 2005-2006) remaining in this condition. Instead, 44% (v/s 39.3% in the panel 2005-2006) of the employed move from non-standard towards standard work over a 14-month period.

The outcomes of the main contract types, Table 8 aggregated by problems of statistical reliability give the following transition picture: standard work, both dependent and freelance, has very high levels of staying effect, above 94% overall. Fixed-term dependent work remains as such for 46%, whereas it evolves towards permanent work for 35.5% compared to a modest 2.6% towards self-employment. The remaining flows are transitions between various non-standard forms, both dependent and freelance. Consultants have a 45% staying power, with outcomes towards standard dependent work (22%) and self-employment (7%). Also here, there are many horizontal transitions between different non-standard contracts. Better performances, in terms of outcomes towards standard work, are provided by the aggregate of miscellaneous forms of dependent work (apprenticeships, work/training, temporary, on-call work, work-entry) which, taken together, lead 35.% of those involved to a permanent job in 14 months.

Summing up, albeit limited to a formal reading of type of contracts, new forms of work outcomes can be divided into three main flows: the transition to standard employment involves a little less than 40% of fixed-term employees, a little less than 30% of miscellanea dependent contracts and a little more than 25% of consultants.

1.4 The Fornero Reform

Law n. 92 of 2012 attempts to react to some of these Italian labour market features, following the recommendations by the EU Commission. In the Green paper on “Modernising labour law to meet the challenges of the 21st century”²⁵ it is stated that reform of national employment protection legislation focused on easing existing regulation to facilitate more contractual diversity “(...) has given rise to increasingly segmented labour markets”. The flexicurity approach was – and still is – the answer suggest against a labour market affected by this segmentation and the Italian Reform of 2012 is organized – as this European strategy – in four components: contractual flexibility, unemployment benefits, employments service and vocational training.

However, as suggested by some scholars (see Treu, 2012), the debate, before and after the reform, was concentrated only around the first component – the flexibility – and very few steps have been actually undertaken referring to the others ones. In fact, as we already underlined, the primary goal of the reform is to transform the employment contract on permanent basis in the “leading contract” and to establish a sort of a new quantitative equilibrium of labour market in the entrance.

The new legal framework attempts to achieve this goal in two steps.

1. First, channels different from the leading one have been restricted, thanks to normative and economic disincentives. From the normative point of view, the law 92, *inter alia*²⁶, established a

²⁴ The Isfol Plus 2010-2011 panel consists of 88.4 standard and 11.6 non-standard workers (SAE123), against an ISFOL Plus 2011 sample of 84.8 standard and 15.2 non-standard (SAE123). The panel has thus a slightly lower level of atypicality, due also to some reclassification in questions between 2010 and 2011. It has been attempted to make the reference aggregates as uniform as possible and these differences should not have significant effects on the composition of the transitions.

²⁵ See COM/2006/0708 final.

²⁶ As already underlined, the insertion contract has been abolished and new restrictions concerns job on call (it is now admissible only for those under 24 years and over 55 and a specific communication to the

set of requirements using which the judges could convert different types of work contracts used for hiring consultants in the already mentioned “leading contract”, i.e. the employment contract on permanent basis. Briefly, these criteria tend to identify the consultants as workers with high skills competence, relative high salary and not manual tasks and so, if these specific features do not occur in the work practice, the judges can *impose the penalty*, i.e. convert the contractual agreements signed by the parties in an employment contract. Moreover, three economic disincentives have been introduced:

- social security contribution for consultants have been raised (in the 2013 there will be almost no difference in costs between subordinate employees and quasi-subordinate workers)
- an additional contribution has been enacted for any kind of not permanent employment contract (1,4 % of the taxable income)
- a sort of supplement contribution in the event of dismissal has been established (41% of the maximum monthly unemployment benefit for every twelve months of the worker’s seniority in the company in the past three years).

However, two channels of entrance in the labour market still gain some normative incentive, in other words these contracts are “good flexibility”. Apprenticeships²⁷, because it explicitly considers “the preferred way for young people to enter the workforce” and fixed term contract, which now may be established with no reason given for the contract not exceeding 12 months.

2. The second step was an easing of the regulation regarding the consequences for unfair dismissal²⁸: the goal still remains the promotion in the use of the “leading contract”.

It is clearly too early to evaluate the impact of these new provisions, but still the regulations, and the enforcement, of the other components of the flexicurity strategy – in particular the security part – are far to be accomplished.

Although, with ISFOL PLUS data it is possible to attempt at least an assessment regarding the possible *ex post* outcomes of the “good” flexibility (having in mind possible distortive effects caused by the economic crisis).

Looking at table 9, the “good flexibility” includes the “fixed-term contracts” and “apprenticeship”, instead we consider “bad flexibility” “false self-employment” and some other contracts (intermittent contracts, internships). Data show that good flexibility gives better outcomes in terms of work protection: the 70% of the persons that in 2010 were involved in good flexibility contracts, in 2011 are still employed in good jobs (the 34% gets a standard contract – in other words a permanent employment contract or they are “real” self-employees – and the 35,6% keeps a good flexible contract. As we can see from the same table, this trend is confirmed also in gender and age perspective. On the other side, bad flexibility regresses in almost the 30% of the cases in unemployment or inactivity, in particular in the Mezzogiorno.

labour authorities shall be required for each “call to work”).

²⁷ Very briefly, law 92 of 2012 provides: a minimum term of six months; a new ratio of apprentices to skilled employees (3 to 2 for companies with more than 10 employees and one to one for companies with fewer than 10 employees); a quantitative limit for hiring new apprentices for companies with more than 10 employees (new apprentices may be hired only if 50% of the apprentices already employed by the company have been taken on (30% for the first three years of a company’s operations)).

²⁸ The previous regulation contemplated a drastic remedy in case of unlawful or unfair dismissal of an employee working in a business unit employing more than 15 employees: the employer had to reinstate the employee and pay the amount of salary accrued from the date of dismissal to the date of the effective reinstatement. Basically, the new provisions provide different regulations for different types of dismissal, i.e. in the case of dismissal for economic reasons, if the labour court ascertains that no “justified objective reason” supports the dismissal, the employee can no longer claim his job back and may be awarded only an indemnity between 12 and 24 months.

Table 9 - Outcomes of “Good” and “Bad” flexibility

2010		2011					
		Standard	Good - Flexibility	Bad - Flexibility	Jobseeker	Inactive	Total
Total	Standard (a)	83.5	2.1	2.7	7.3	4.4	100.0
	Good-Flexibility	33.9	35.6	10.7	15.8	3.9	100.0
	Bad-Flexibility	31.7	15.7	22.7	23.9	6.0	100.0
Youth (18-29)	Standard	72.7	5.6	5.0	12.6	4.2	100.0
	Good-Flexibility	29.6	35.9	12.2	17.0	5.3	100.0
	Bad-Flexibility	24.8	20.8	25.9	17.9	10.6	100.0
Women	Standard	83.7	2.0	2.2	7.1	5.0	100.0
	Good-Flexibility	31.1	39.6	9.5	14.2	5.6	100.0
	Bad-Flexibility	22.1	16.6	30.4	21.5	9.4	100.0
South	Standard	78.5	2.1	1.8	12.2	5.3	100.0
	Good-Flexibility	30.1	23.1	13.6	26.6	6.5	100.0
	Bad-Flexibility	31.2	8.1	19.0	35.6	6.1	100.0

(a) Standard are permanent contract and "true" self-employment, Good flexibility include the "fixed-term contracts" and "apprenticeship", while Bad flexibility means "false self-employment" and other contract (intermittent contracts, part-time and internships).

Source: ISFOL PLUS Panel 2010-2011

1.5 Conclusion

If we look at contractual flexibility in its three dimensions analysed in the present paper (temporary work, quasi subordinate employment and part-time) we could say that it is a typical and strengthened feature of Italian labour market. This is not necessarily a negative conclusion (what was called “bad flexibility”), but it must be underlined that data analysis confirms the enduring Italian labour market segmentation: temporary work seems not anymore connected to temporary needs of production; very often quasi-subordinate workers are dependent employee, according with the realities of working relationships, and the phenomenon of involuntary part-time is quite widespread. Furthermore young people, women and citizens of southern part of the country are more involved contractual flexibility compare to other groups; moreover, longitudinal analysis show that these flexible workers suffer for an high probability to become precarious and the crisis, as we have seen, has slowed down the process of natural transformation of "atypical" in standard occupations. In other words, the labour market has become less permeable, because the entry and the transition in standard work become even more difficult.

Analysing this phenomena by a juridical point of view, it seems that Labour law legislation suffers of *strabismus*: it is born for protecting the weakest part of employment contract, but it is now losing its challenge with these new features. As already said, the *strabismus* comes from an old perspective where only status are protected instead of transitions during all long life cycle.

From another point of view we suggest that, after a twenty years experiment of labour market flexibility it is the time to exchange policies attention from labour supply to demand.

The current strategy, the flexicurity approach, is like an allopathic medicine: it tries to cure the negative effects of the flexibility at the margin and treat just the symptoms of diseases, but failed to address the disharmony produced by the underlying disease. But, after the cure, when the patient will be more in shape, it will be time for a different strategy, a new industrial policy, direct to foster a high skilled labour demand and to elevate the available human capital.

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