
The limits and unexpected potentials of agency work.

A contribution to the debate from Italy

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Content

- Preliminary observations
- Introduction and regulation of TAW in Italy
 - The process of introduction
 - The regulation by the social partners
- The incidence of TAW
 - The development of private employment agencies
 - The expansion of demand
 - Characteristics of supply
- A non conventional assessment
- A final remark

Preliminary observations

- In the current debate on the flexibilization of work, it has been commonplace to highlight the consequences in terms of the greater risk, uncertainty and unpredictability of employment conditions.
- From this perspective, it is generally pointed out that the exposure to the market has increased even for dependent labour on open-ended contracts.
- Less attention has been paid to the possibility that, in some cases, the ongoing changes may instead lead to an increase in the protection and security of more flexible workers, those traditionally more vulnerable to market forces
- An example of this second tendency, which runs in reverse to the previous one, is provided by temporary agency work (TAW), at least under certain conditions. The Italian case is particularly illuminating in this regard and prompts numerous considerations.

Introduction of TAW 1

- For long in Italy, it **was not permitted** to use labour furnished by a subject (formal employer) other than the subject utilizing that labour (the user firm). A **law** enacted in **1960 imposed an absolute ban on labour subcontracting**.
 - Findings published in 1958 by a parliamentary commission of inquiry into the conditions of workers had disclosed for manpower furnished by third parties unacceptable conditions of exploitation
 - This was at the origin of both
 - prolonged hostility against any form of labour supply by third parties
 - and the close protection for dependent employees provided by the law which in 1997 finally legalized the use of agency workers

Introduction of TAW 2

- **The opportunity to introduce TAW only arose during the period of social pacts between the social partners and the government of the 1990s.**
- **TAW was finally introduced operationally by a centre-left government – which could give guarantees that workers would be adequately protected – following the tripartite pact between government and the social partners of 1996 on reform of the labour market.**
- **The law 196/1997, which implemented that agreement, and with which TAW was introduced, established the characteristics of temporary agency labour and stated the circumstances in which it was permissible .**

Introduction of TAW 3

Four main points are to be emphasised

As regards the actors,

- only agencies formally authorized by the Ministry of Labour, enrolled on a special register, and fulfilling specific stringent requirements could furnish labour

As regards circumstances

- TAW could only be used in temporary circumstances (indicated by the law or to be specified by nation-wide collective agreements)
- It was forbidden to replace workers on strike

As regards terms and conditions

- The contract was to be in written form
- It had to guarantee parity of treatment

In order to ensure suitable training

- A fund for the training of temporary agency workers was established. It was to be financed with obligatory deductions from their gross wages

Introduction of TAW 4

In conclusion,

- the law was distinguished by its strong concern to prevent abuses in the use of labour by both agencies and user firms, as part of a more general endeavour to foster the growth of (regular) employment.
- Also to be emphasised is the close attention paid by the law to bargained agreements

Some of these requirements were removed or attenuated by the provisions of a further law reforming the labour market enacted in 2003 by the centre-right Berlusconi government (**'Biagi' law**)

- It was **abolished the obligation** imposed on the agencies that they must engage solely in labour supply
- **Some of the previous restrictions on the use of the TAW were eliminated.** Firms could use TAW simply for “reasons of a technical, productive, organizational or substitutive nature, even if referable to the ordinary activities of the user firm”.

Regulation by initiative of social partners 1

The introduction of TAW in 1997 - preceded and facilitated by a pact among the trade unions, employers' associations and the government – immediately **stimulated initiatives by the social partners.**

- **Firstly**, new organizations were created to represent agency workers and the agencies themselves.
- **Secondly**, sectoral collective bargaining got under way.
- **Thirdly**, new bilateral bodies were instituted to furnish temporary agency workers with specific forms of protection and welfare

Regulation by initiative of social partners 2

1. new organizations to represent agency workers and the agencies

- creation of **unions specialized** in the crosswise representation of workers on non-standard contracts
 - **NidiL-Cgil, Alai-Cisl, Cpo-Uil**
 - neither industrial or occupational trade unions. But **unions of an entirely new kind**: their memberships were not defined by common affiliation to a particular sector, or to a specific trade or occupation, but by the type of employment contract.
- **The organizations of the agencies**
 - Initially **distinct** organizations
 - Then merger into a single one: **Assolavoro**
 - → promote the development of TAW, and enhance its image among public opinion,
 - establish a code of behaviour for associate agencies,
 - reach agreement with the trade unions on how TAW should be regulated

Regulation by initiative of social partners 3

2. Nation-wide collective agreements

■ 1998

- It fixed maximum permissible duration of contracts with same user firm; defined in detail how the equal pay principle was to be applied and what pay conditions were to apply in case of illness, workplace accident, or dismissal; established the trade-union rights of temporary workers (right of assembly at the user firm, right to elect trade-union representatives)

■ 2002

- It led to the creation of the sector's two bilateral bodies

■ 2008

- It took further steps towards the construction of a specific welfare system for temporary workers
- It introduced a clause on the stabilization of workers completing a specified period of service with same agency

■ 2009

- Measures were introduced to cope with the sector's crisis caused by the current international recession

Regulation by initiative of social partners 4

3. The bilateral bodies

- **Formatemp** devoted to the training of temporary workers
 - agencies set aside 4% of the gross wages paid to temporary workers for the purposes of training
 - “in Italy concessions to the flexibility needs of firms have been ‘offset’ by measures to promote the skills and employability of temporary agency workers, and to support their incomes in periods of inactivity, or between one assignment and the next, through training”
- **Ebitemp** delivers welfare services
 - furnishes services to workers not fully eligible for the protections and benefits available to workers on permanent contracts.
 - As its director, a former trade-unionist, said, Ebi.temp arose “from the need to reduce the hardships due to the discontinuity of service in temporary work”

Diffusion of TAW – the agencies1

Table 1. Temporary work in Europe, USA and Japan (2006 data)

Country	Agencies	Branches	Branches per agency	Employees per agency	Employees per branch	Turnover (millions of euros)	Turnover per agency (millions of euros)	Turnover per employee (000 euros)
Austria	410	1,442	3.5	-	-	-	-	-
Belgium	131	1,184	9.0	45	5.0	3,753	28.6	640.225
Denmark	1,144	1,315	1.1	-	-	1,038	0.9	-
France	1,200	6,500	5.4	18	3.4	20,350	17.0	925.000
Germany	7,885	12,867	1.6	4	2.7	11,800	1.5	337.143
Ireland	450	550	1.2	-	-	1,450	3.2	-
Italy	83	2,600	31.3	114	3.6	5,600	67.5	589.473
Netherlands	2,100	5,100	2.4	11	4.5	9,400	4.5	408.696
Spain	345	1,700	4.9	24	4.9	3,416	9.9	409.887
UK	10,642	15,970	1.5	9	6.1	36,413	3.5	372.805
Japan	30,600	38,827	1.3	20	15.8	25,219	0.8	41.167
Usa	6,000	20,000	3.3	20	6.0	87,000	14.5	725.000

Diffusion of TAW – the agencies 2

- Because of strong barriers to entry (high financial guarantees, operation in several regions) and complex procedure to gain authorization
 - marked **concentration** of agencies
 - favoured the **establishment** in this new market of **solid** and reliable **operators**, able to undertake investments and commitments from a **longer-term perspective**
- 10 years after its inception the sector seems to have achieved organizational, economic and financial maturity
- and can be described as a relative success, given an expanding market, increasing productivity, and positive profitability

Diffusion of TAW 3

Temporary **workers constantly increased** from around 25,000 in 1998 to around 580,000 in 2008. And also

- increase in the **volume of work** performed
- increase in the **average duration of assignments**
- increase in the **number of equivalent full-time temporary jobs** (rising from 63,500 in 2000 to 221,600 in 2008)
- an increase in the **incidence of TAW on total dependent labour** (rising from 0.2% in 1999 to above 1% in 2007 and 2008)
- increase in the **incidence of TAW on total temporary employment** (comprising, besides TAW, fixed-term contracts, seasonal work, apprenticeships) which rose from 2% in 1998 to more than 12% in 2007
- In other words, in ten years, the **demand for TAW grew constantly in absolute terms** and relatively more than dependent employment as a whole and, in particular, more than temporary employment as a whole

Diffusion of TAW 4

On the supply side:

- Although workers in this form of employment continue to be predominantly
 - Italian, male, young, and with above-average education levels in recent years a substantial increase in the incidence
 - of foreign workers (who represented almost one-quarter in 2008), and of female labour (rising to 44.2% in 2008, a percentage higher than that of females in dependent employment),
 - a decrease in the incidence of younger workers aged under 30 years (falling to 48.3% in 2008) and a growing incidence of over forty-year-olds (more than 20% in 2008).
- thus a progressive transformation and pluralization of the ways in which temporary contracts are used by workers
 - Initially, opportunities to enter the labour market – and especially the manufacturing sector – for young people, and males in particular.
 - Now , also opportunities for less young workers, women, and foreign workers to re-enter the labour-market or to retrain for transition to different service sectors

Diffusion of TAW 5

- However since the second half of 2008, the demand for TAW has rapidly decreased, and the sector is in crisis.
- Data for the first six months of 2009 show that the **market has shrunk by around one quarter (-24%)** because of a strong decrease in demand from the manufacturing sectors most affected by the economic crisis. **And the contraction has worsened** in autumn
- At the same time, there has **instead** been an **expansion of demand in services to businesses** and, in general, for **technical and high-skilled labour**

A (non conventional) assessment 1

- Probably the ongoing crisis is conjunctural and may even help expand demand by redirecting it. While waiting to see what will happen in the near future, **what can be said about developments to date?**
- Generally the majority of observers stress the effects in terms of uncertainty and future risks for workers due to the temporary nature and often brief duration of work episodes. Thus, TAW is likened to other forms of non-standard employment and considered another variant of precarious work
- However, **in light of the normative frame of reference and initiatives by the social partners,**
 - TAW is **not simply a new form of employment** introduced by legislators **with a view to greater flexibilization** of the labour market.
 - It is instead an **opportunity** – albeit limited in quantitative terms – which may contribute to improving the fluidity and the adaptability of the labour market, as well as the job security of temporary workers

A (non conventional) assessment 2

- From both points of view, **given the way in which TAW is regulated** in Italy, it offers advantages potentially better than those of other forms of temporary employment.
- What **makes the difference** is **the role performed by the labour agencies** (at least the larger and better organized ones), which, **within the described institutional context, in pursuit of their goals**, are induced to invest in the enhancement and development of their principal form of capital, namely the human resources that they can make available to clients

A (non conventional) assessment 3

- **For firms,**
 - the use of TAW enables them to cope with contingent necessities connected to production peaks or with temporary needs
 - According to surveys by the Bank of Italy, use of TAW also derives from the need to adapt jobs to the evolution in the quality, besides the quantity, of demand.
 - But all this is rather predictable

A (non conventional) assessment 4

- **less predictable** is the way in which this form of employment is perceived by the agency workers involved
 - Agency work offers for this diversified, and relatively adaptable, pool of workers opportunities,
 - to enter or re-enter the labour market,
 - to receive support in labour-market transitions within a framework of rights and specific forms of protection,
 - to increase their employability and therefore access more stable positions in firms,
 - or to find forms of stability within the system of temporary work.
 - According to a survey conducted by the research institute of the largest Italian labour union, Cgil, on atypical work patterns in a large sample of workers with experience of at least one temporary work contract via an agency,
 - whilst only 28 percent of the interviewees had had a job six months before being hired by a TWA, over 55 percent declared that they had a job after the temporary work episode.

A (non conventional) assessment 5

- Thus the authors state, “leased labour represents, in the absence of efficient public services for employment, a useful mechanism of labour-market intermediation which increases mobility in the market and work opportunities, which, for at least a quarter of the workers involved, turn into stable employment.”
- However, the **most unexpected finding** is the **positive opinion** expressed by the workers interviewed:
 - “Despite the temporariness of the contract, 84% declared themselves very or quite satisfied with the experience”.
 - Moreover, only around 5% of the interviewees indicated the lack of protection and rights as causes for concern, while this is an aspect that workers with other atypical forms of employment regarded as crucial

A (non conventional) assessment 6

- But why then TAW has **not developed** to a **greater** extent?
- To answer, data from an adequate recent empirical survey on the flexibilization strategies pursued by firms would be needed
- Although outdated, existing studies suggested that
 - the use by firms of one of the various forms of non-standard employment does not correspond to a well-defined strategy.
 - Instead, firms make rather eclectic use of them as quite interchangeable solutions
- Which means that **recourse to TAW is one possibility** on a larger menu of options comprising fixed-term contracts, but also freelance contracts, the more or less regular labour furnished by cooperatives, and irregular or unlawful labour
- It is likely that **the continuing possibility** for firms to rely on **these other regular and irregular forms of employment** – especially disguised freelance contracts, moonlighting, irregular labour furnished by cooperatives, underground labour – **hampers the more incisive development of TAW.**

A final remark 1

- In fact, recourse to TAW as a **virtuous alternative to irregular work** has sometimes been a **goal expressly pursued by the trade unions**
 - a study on the ways in which non-standard forms of employment are regulated in Lombardy has shown that in the past the metalworkers' trade unions have requested and obtained that workers furnished by agencies replaced those furnished irregularly by cooperatives
 - More generally, other cases demonstrate that the trade unions may negotiate the use of TAW as part of strategies to establish joint procedures for the stabilization of workers
- But, at least in principle, it is **also possible** to imagine a different virtuous model, in many respects the reverse of the previous one. This model is **based on the internalization of work**, at least for a certain period, **not within a firm, but within an organized perimeter** which extends **beyond the individual firm** – but an organized perimeter able to furnish workers stability, rights, protection against uncertainty about the future

A final remark 2

- The collective agreement for the TAW sector reached by the social partners in Italy in 2008 goes, at least potentially, in this direction
 - The **stabilization of workers** not by the user firm but **by the agency** – after a period of ‘apprenticeship’ served by the temporary worker – in effect **reverses the traditional conception of job security**, but **also the role performed by agencies** in the economic system.
 - Not surprisingly, it has provoked objections from and resistance by the smaller agencies, which have countered it with the more reassuring idea of the agency as an organization instead designed to incentivate the stabilization of labour at client firms.
- **The model envisaged** by the 2008 agreement, in fact, **presupposes organizations endowed with considerable solidity and the ability to pursue medium-term strategies**. It is a **gamble** (made at a time of development rather than crisis) beset by unknown factors and **strongly exposed to the risk of failure**.
- Nevertheless, **it might prove to be a truly innovative response** to the need for flexibility in the use of resources on the part of firms, and for stability and job security on the part of workers.