THE REFERENDUM ON ARTICLE 18 AND LABOR MARKET FLEXIBILITY

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After months of intense debate, the referendum on Article 18 of the Workers' Statute was held on 15–16 June 2003. The aim of the referendum was to extend to all workers, independent of the size of the firm, so-called real protection, that is, the right to reinstatement in case of unjustified dismissal.¹ The result was clear once the polls were closed and even before the votes were counted. Only 25.7 percent of eligible voters took part, a significant amount less than the required 50 percent quorum. It meant that the 10 million votes (87.4 percent of voters) in favor of extending Article 18 had no legislative impact.² The fact that the vote was not validated could lead to the conclusion that the event was insignificant. However, it provides an opportunity to look at the dynamics between trade unions and politics in recent years, especially with respect to the debates over labor market flexibility and legislative proposals of the center-right government. Moreover, the referendum contributed both to the accentuation of divisions between the major trade union confederations (CGIL, CISL, and UIL) during the campaign and then to their attenuation following the vote. Finally, the referendum, perhaps, brought to a conclusion a two-year struggle for the representation of labor. It strengthened the traditional ruling group of the Ulivo and Communist Refoundation while weakening that of Sergio Cofferati, the spiritual leader of the wider left extending from the Margherita to the No Global and *girotondi* movements.

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The chapter is divided as follows. The first section examines conceptual arguments for the link between labor flexibility and employment, as well as the economic effects of Article 18. The next section traces the evolution of the debate on Article 18, concentrating on the referendum campaign in 2003. This will be followed by an analysis of recent interventions to introduce flexibility with “atypical” work contracts. The concluding section explores future developments.

The Theoretical Debate on Labor Flexibility

The Flexibility-Employment Link

In Italian political economy debates, it is common to find strong claims that the high level of protection for labor is responsible for unemployment. The aim of this section is sift through these claims by briefly referring to the economic literature on the subject. There are no conceptual reasons or empirical evidence that can lead to a decisive statement that the rigid protection of employment has a direct impact on unemployment levels. The protection of workers' jobs has an impact on employment flows but not on stocks; it tends to reduce the movement of those out of jobs and into unemployment and to reduce the flow into work.³ Firms become more cautious in hiring as it is more difficult to get rid of workers who are deemed inadequate. It means that whoever is in the unemployment pool will have to wait longer to find a new job. Therefore, long-term unemployment tends to increase while short-term unemployment decreases.⁴ The overall effect on unemployment rates is not clear if the two movements head in opposite directions; in fact, regressions usually do not show any significant results. Nonetheless, the impact on flows can create significant difficulties for those looking to enter the job market for the first time (usually youths and women) and for the long-term unemployed who find it hard to re-enter the workforce.⁵ A recent empirical study by the OECD on the impact of labor protection legislation found that this did not influence unemployment rates. It also found that the effect on the composition of the unemployed was not as clear as might be expected from theoretical models.⁶ Weak statistical significance was found only in the case of unemployment among older males in that labor protection legislation is associated with lower unemployment rates for this group.

Another area in which labor protection and other rigidities might affect unemployment is their interaction with unfavorable macroeconomic shocks. Olivier Blanchard argues that the unemployment

rate is pushed beyond its equilibrium level by exogenous factors such as a reduction in productivity rates, increases in real interest rates, and changes in labor demand.⁷ In some European countries, unlike the United States, the presence of particular labor market institutions reduces competition between the employed and unemployed, therefore hindering the adjustment process that would bring unemployment levels back to their initial level. This is, in synthesis, the well-known, and almost hysterical, argument that describes European unemployment as the result of rigid labor protection. As mentioned above, labor protection regimes increase the duration of unemployment, thereby reducing the employability of those looking for work. All things being equal, employers do not prefer to hire the long-term unemployed; they are seen as riskier than other workers, with the long period of inactivity reducing their professional competency. In addition, many just give up looking for work. For these and other possible reasons, the long-term unemployed are not viable substitutes for those in work. Their capacity to induce the latter to moderate their wage demands is therefore limited.

Blanchard and Wolfers have designed a model in which external shocks interact with institutional variables (fixed in time), and they find that many of these (unemployment insurance rates, duration of benefits, trade union density, fiscal burden, job protection) are closely related to higher unemployment.⁸ An area that needs to be explored is what happens when high levels of job protection are combined with equally high levels of co-ordinated collective bargaining. In other words, we need a model to take into account the interaction between these two variables. Co-ordinated collective bargaining tends to moderate wage demands, and this should attenuate the negative effects of job protection.⁹ It is possible that some institutional rigidities are balanced by others.

The Economic Effects of Article 18

The central element of job protection in Italy is Article 18 of the Workers' Statute. It applies, as do many other regulations, only to those firms with more than 15 workers. In these cases, the employer must rehire any worker let go without just cause or, if the worker chooses, pay 15 months of salary in addition to those lost since being fired. In firms with less than 15 workers, the employer is required to pay only between 2.5 and 6 months' wages. Research has tried to establish if, and by how much, the 15-worker threshold has reduced the propensity for growth among Italian firms. The subject was addressed in ISTAT's 2001 Annual Report.¹⁰ The average size of Italian firms was

half of that in the rest of Europe. On the one hand, this favors flexibility and innovation but, on the other, reduces productivity gains linked to the size of firms. There was an explicit reference in the 2002 *Patto per l'Italia* to the disincentives to growth in the size of firms beyond the 15-employee threshold. These were seen as reason enough to suspend, on a trial basis, the application of Article 18 for those firms who would push past the threshold by hiring more workers. Nevertheless, the ISTAT study did not find any relevant irregularities in the propensity of firms to increase employment and concluded (on page 75) that “the 15-worker threshold does not seem to represent—on the basis of employment dynamics within individual firms—a clearly noticeable discontinuity.” A study conducted by the *Centro Studi Confindustria* contested these findings, but it did not demonstrate how they are unfounded. The study noted that it was only in 1998–1999 and 1999–2000 that there was no decrease in the number of firms with 14 or 15 workers, while in the period prior to 1998 there was a “relevant” decrease.¹¹ It might be concluded that the introduction in 1998 of flexible forms of work (with the legislation known as the *Pacchetto Treu*), which do not apply to the threshold calculations and do not provide any real protection against firing, strongly attenuated the effect of the 15-worker threshold.

Andrea Borgarello et al. and Fabiano Schivardi and Roberto Torrini have estimated the probability of the persistence of firm size for those having 15 employees.¹² In the first study, the probability increases (significantly) between 1.2 and 2 percent, depending on conditions, with respect to a base model in which size is decreasingly functional (non-linearly) to firm size. In the Schivardi and Torrini study, the probability of growth was found to be (significantly) inferior by 1.5 percent for firms with 15 employees and by 0.35 for those with 14. The research also estimated the long-term consequences of removing the 15-employee threshold. The average size of firms would increase by a minimum of 0.5 percent and a maximum of 2 percent, depending on assumptions used in the calculation. The authors concluded that the rigidity associated with the threshold has an effect that is significantly more than zero on the probability of inertia for firm size; it would have been strange if it would have been otherwise, given the heavy associated costs. However, the effect is too small to explain the predominance of small firms in the Italian industrial system. The impression that emerges from this debate, then, is that the events around Article 18 took on proportions that were not justified by the real changes that would be brought into play if it were changed. With respect to the relationship between hiring flexibility and employment rates, the causal links are far from being indisputable. As for Article 18

itself, its effects on the size of firms and employment growth seem highly circumscribed. Neither its abolition nor its extension would seem to make much of a difference.

Why, then, was Article 18 the object of one of the most drawn-out political and trade union battles in recent Italian history? The reply can be found in its symbolic role. It was seen by trade unions, especially CGIL, as a trench to be defended at all costs to avoid an overall retreat in their positions of power. Conversely, employers saw Article 18 as a bridgehead to be conquered for its strategic importance, given that it would have led presumably to other “conquests.” The government, for its part, “chose this terrain to demonstrate that it could act on labor issues without the consent of the trade unions.”¹³ In the space of two years, inter- and intra-union relations have changed considerably. Sergio Cofferati, a new political leader who promised to bring together the radical and moderate left, saw his star rise and fall. The rest of this chapter is dedicated to these developments.

Article 18: A Recent History and the Referendum Campaign

Previous Attempts at Reform

The debate over Article 18 certainly did not begin with the 2003 referendum. Indeed, the referendum was a continuation of—and, in a certain sense, a reaction to—a long and complex process, aptly described in a previous volume of *Italian Politics*.¹⁴ The seed of the process was a request in the mid-1990s by Confindustria, the employers’ association, to reduce the constraints on firing workers. The demand generated a heated debate in which the symbolic importance of Article 18 became abundantly clear.¹⁵ At stake seemed to be the “freedom” of employers and the “dignity” of workers. For the trade unions, and the CGIL in particular, the reinstatement of workers fired without just cause was the linchpin upon which rested the concrete realization of all other labor protection, as it shielded workers from employers’ threats. Even the president of the Republic, who in the Italian system has no political responsibility, felt the need to intervene in the debate.¹⁶

A first referendum, promoted by the Radical Party with the clear intent to challenge the capacity to intervene in social policy, was held in 2000. Its referendum question asked to eliminate Article 18 and, therefore, the obligation to reinstate workers. Despite the fact that 10 million voters (representing 66.4 percent of ballots cast) voted in

favor of the question, the referendum failed as the quorum was not reached. It was during this referendum campaign that parts of the radical left (Communist Refoundation, the Greens, and FIOM, the mechanical workers union within the CGIL) initiated a signature-gathering effort for a referendum that would, contrary to the Radical question, abolish the size threshold and extend Article 18's protection to all workers.

The Ulivo period in government ended without any change to Article 18. Nevertheless, important changes were introduced in the area of labor market flexibility. The "Treu package" implemented in 1998 introduced new forms of "flexible" contracts with reduced protection compared to "standard" or typical employment. The new forms included temporary work and work training contracts; in addition, existing forms of flexible arrangements were offered strong incentives (especially part-time and fixed-term contracts). This "new regulation" of the labor market was pursued actively by all of the social partners, especially the trade unions.¹⁷ The Berlusconi victory in May 2001 led to the expectation of more radical change ahead. An alliance between the center-right and Confindustria, which made explicit reference to the substance and agenda of the governments of Margaret Thatcher, was launched at a conference in Parma a few months prior to the election.¹⁸ The white paper on labor markets, published by the government shortly after the election, brought together three important elements of the employers' demands: flexibility as an antidote to unemployment, a criticism of tripartite concertation, and the conviction that it was necessary to pass from a "guarantee of a job for life to the assurance of full employability for life."¹⁹ Even though the white paper touched Article 18 indirectly, the latter was the target of a decree legislation that proposed to suspend on a trial basis its application to certain categories of workers. The trade unions were in agreement on opposing the measure, but they differed on some key points. The CISL protested the use of decree legislation, which excluded the possibility for negotiation, while the CGIL went much deeper in its criticism, attacking the entire political project of the center-right government.²⁰

Not surprisingly, then, once the season of unified protest was over, the government ended up negotiating with the CISL and the UIL, and without the CGIL, a tripartite agreement in July 2002 known as the *Patto per l'Italia*. The trade unions signing the agreement accepted a trial period of three years in which Article 18 would not be applied to firms in southern Italy that grew beyond the 15-employee threshold. In exchange, they received the promise of tax relief for low incomes, allocation of resources (deemed insufficient by CGIL) for

unemployment benefits, and a commitment to involve the trade unions in the management of the yet-to-be-designed new workers' protection that would characterize the future flexible labor markets.²¹ The CGIL was ferocious in its criticism of the Patto and continued to mobilize opposition on its own, often allying itself with the so-called movements (*girotondi*, peace, No Global, etc.) and was successful in generating a great deal of support.

The 2003 Referendum

In January 2003, the Constitutional Court deemed admissible the referendum question on Article 18. The new referendum was seen immediately as a torpedo aimed by Fausto Bertinotti, leader of Communist Refoundation, at Sergio Cofferati, who, having left the leadership of the CGIL in the autumn, was projected (although he denied it) into a political role that could seemingly hold together the radical and moderate wings of the left. "The ex-leader of the CGIL," wrote Eugenio Scalfari in the wake of the Constitutional Court decision, "risked catalyzing a good part of Communist Refoundation's sympathizers, pulling them out of a ghetto in which Bertinotti had locked them and bringing them into a participatory space that would serve both the left and the country." As a result, the referendum had to be considered a "stick in the wheel of Cofferati's cart that had the complicity of the FIOM leadership."²²

The moderate left—namely, the Margherita and the majority of the DS—held that the reinstatement of workers fired without just cause in small firms should not be considered, given the tight "interpersonal and psychological relationships" that characterized them.²³ They argued that the appropriate instrument to extend protection to those excluded was a workers' statute aimed not only at those in small firms but primarily at the growing ranks of new types of work, even if this meant a redistribution of protection among workers.²⁴ On the specific point of Article 18, the Ulivo had drafted a proposal (known as "Ichino-Treu") based on the German model that left to judges the choice between compensation and reintegration.

A large part of the referendum campaign revolved around the question of what Cofferati would do. He was consistent with his past as a trade union reformer, declaring in the days following the Court decision that he was not in agreement with the referendum.²⁵ However, later, facing an impasse, his position softened, and he chose silence even in the face of strong pressure from militants.²⁶ The campaign that he had previously mounted against Article 18, and which had propelled him into the spotlight as a national political leader, had

been fought in defense of the fundamental rights of workers. For once, the left had been able to defeat the center-right on its own ground of simplifying the message and political communication. Posed in these terms, the referendum to extend Article 18 was the continuation, by other means, of the previous political and trade union battle. It became difficult to understand why what previously had been described as a fundamental right should be granted only to workers in firms of a certain size. For this reason, many commentators were convinced that Cofferati would have sided with the “yes” forces; it would have been a reluctant yes but one nonetheless.²⁷ Doing so would have been risky because, as often in the past, a quorum might not be reached; however, if it were to happen, he would “steal” victory away from Bertinotti and “march” past Piero Fassino into the leadership of the DS.²⁸

Cofferati revealed his position only at the end of April, declaring that he would abstain. His decision provoked much disappointment in some sectors of the left, especially what came to be known as the “*correntone*” (large faction) within the DS.²⁹ The militants in Aprile, the association linked to the *correntone*, bombarded its Web site with messages comparing Cofferati’s position with that of former Socialist Party leader Bettino Craxi, who in a 1991 referendum on the presidency urged voters not to take part and “go to the beach.”

While Cofferati chose abstention, the CGIL sided with the yes campaign. Guglielmo Epifani, who had recently replaced Cofferati as CGIL leader, reported to the union’s executives that although the referendum was not an ideal solution, it was nonetheless consistent with the CGIL’s commitment to defend Article 18.³⁰ He noted that there was a strong push in favor of yes throughout the country, especially by the most important organizational group, the FIOM. It was said that Epifani was convinced that a quorum would not be reached, but that it was necessary to generate as many votes as possible in favor of the referendum to avoid a negative result being used to bring into question Article 18 even in large firms.³¹ The press commented that Epifani’s “tactical” yes was based on the need to have the CGIL break free from Cofferati’s burdensome legacy.³² There also was a consideration to return the movement back to its trade union roots through bargaining and closer links with the CISL and UIL, rather than a political path. Nonetheless, the decision was a painful one. The CGIL was divided, with 5 of 12 members of the National Secretariat, close to the previous leader, in favor of a free choice in the referendum. The internal balance of the CGIL was changed as two members of the Secretariat close to the radical left were decisive for the majority that supported Epifani. The “Cofferatiani” wanted the

CGIL not to take a position, or, more precisely, to come out in favor of abstention.³³

In the end, the forces in favor of the referendum could count on Communist Refoundation, the CGIL, the Greens, Antonio Di Pietro's Italy of Values, Italian Communists (who were probably opposed to the question but were forced to go along, not to be outdone by Bertinotti's forces), and the large DS faction of Giovanni Berlinguer, Cesare Salvi, and Fabio Mussi. All of the other political and trade union forces, including the Margherita and the majority of the DS, were in favor of abstaining from the vote, as was the Christian Association of Italian Workers. The participation rate of 25.7 percent was the lowest in the history of the Republic, even though there were more than 10 million votes in favor of the question. Epifani told reporters the day after the referendum that he was not at all surprised: "I never spoke of what percentage would be reached. I only asked for many million yes votes and I received them."³⁴ In the days prior to the vote, the CGIL pursued a "two track" strategy. While it campaigned for the yes vote, it sought to re-establish ties with the trade union confederations and with Confindustria.

A few days after the vote, CGIL, CISL, UIL, and Confindustria signed a bilateral agreement on development and competitiveness in which they called upon the government to increase investment in research. The pact demonstrated the willingness on the part of the CGIL leadership to pursue the return to its trade union mission. However, the events of 2003 might have created conditions that were not necessarily conducive to this strategy. The referendum forced Epifani to rely on the left (his roots are with the Socialist wing of the union) to maintain his majority. At the same time, there seems to have developed an axis between the reformers close to Fassino and Cofferati's sympathizers; previously they had been at odds, but now they were now united in their criticism of Epifani's decisions. There have been recent criticisms of the functioning of the Secretariat, and it remains to be seen if this will lead to changes in leadership and political line.

The Flexible Reregulation of the Italian Labor Market

The political-economic agenda, having closed with a no-decision on the issue of extending rights to workers in small firms, was immediately taken with measures that went in the opposite direction. These sought to facilitate as much as possible atypical work and to liberalize services that responded to labor demand and supply. In October 2003, two years after the white paper, Law No. 30 of 2003 went into effect. It was the first substantial intervention in the labor market by

the center-right government. The method was similar to that of the previous government with the Treu package, that is, a long articulated measure in which different types of flexible work contracts were introduced or modified. The legislative initiative came at a time when the Italian labor market was experiencing a period of growth. Despite segmentation and persisting weaknesses, the labor market has recently demonstrated significant dynamism. This phase began in 1996, about a year later than in other European countries. Between 1995 and 2002, employment increased in Italy at an average annual rate of 1.2 percent as compared to an average annual increase of 1.7 percent for GDP. This is a point worth noting as, with respect to previous growth cycles, it demonstrates a notable increase in the elasticity of employment in relation to income, or, put differently, an increase in the employment component of economic growth.³⁵

The figures in table 8.1 provide a brief, comparative look at some of the principal weaknesses and segmentation of the Italian labor

TABLE 8.1 *Polarization of the Italian Labor Market*

Employment rate (2001)	
Total	54.8%
EU average	63.9%
Male	68.5%
EU average	73.0%
Female	41.1%
EU average	54.9%
Unemployment rate (2002)	
Total	9.0%
EU average	7.4%
Northeast	3.3%
South	18.3%
Youth (15–24)	27.2%
Adult (35–54)	5.1%
Unemployed for 12 months or longer as % of total unemployed, 2002	
Italy	59.1%
EU 15	40.2%

Source: ISTAT, *Rapporto Annuale 2002* (Rome: ISTAT, 2002); Commission of European Communities Directorate-General for Employment, *Employment in Europe* (Brussels: Commission of European Communities, 2002).

market. In comparison to the European Union average, Italy has a low employment rate and imbalances in a number of areas: gender, age, and territory (North-South). The particularly high levels of youth and long-term unemployment appear to be indicators of barriers to entry into the world of work.

The expansionary phase that started in 1996 saw an important growth in workers with atypical work contracts alongside a consistent number of those in standard forms of work. According to the definition by ISTAT, the state statistical agency, the former are defined as those who are in any type of work other than that which is full-time and permanent. It is, then, a very vague definition that takes into consideration a wide range, from part-time to temporary work, that is described as flexible labor.

The figures in table 8.2 reveal that almost 23 percent of the total of private sector employment is comprised of atypical employees. These figures do not include workers with a “continuous collaborative collaboration” (co.co.co.) contract, a gray area in which it is not clear if they are self-employed or salaried workers. The calculation of the

TABLE 8.2 *Flexibility of the Italian Labor Market*

Salaried workers in industry and services (2001)			
	Total	%	Average annual change 1996–2001
Standard	7,388,609	77.1	0.9%
Atypical	2,198,887	22.9	6.8%
Atypical forms as percentage of employed (2001)			
Part-time	8.4%		
(EU average)	17.9%		
Fixed term contract	9.8%		
(EU average)	13.4%		
Atypical forms as percentage of females employed (2001)			
Part-time	16.6%		
(EU average)	33.4%		
Fixed-term contract	14.6%		
(EU average)	11.9%		

Source: ISTAT, *Rapporto Annuale 2002* (Rome: ISTAT, 2002); Commission of European Communities Directorate-General for Employment, *Employment in Europe* (Brussels: Commission of European Communities, 2002).

co.co.co. may be derived by looking at pension contributions for which there is a special category set at a lower rate (12–15 percent). It is partly for this reason that this type of contract, originally designed to regulate professional consultancy of various types, has been used to avoid the costs and constraints of salaried workers at a time when there were limited types of flexible contracts available. Beginning in 1995, the co.co.co. numbers have increased steadily to 2.3 million in 2002.³⁶ The calculation of flexible labor may be concluded by considering the most flexible of all: underground workers. ISTAT estimates that in 2000, 15 percent of the total for employment was work in the underground economy, outside of any legal scheme.³⁷

It was with this background that the center-right government's reform, the so-called Maroni law and the Biagi law, proposed to give priority to increasing regularized forms of employment rather than that in the underground economy.³⁸ However, unlike the ambitions in the white paper, which also sought to trace out a new organization and regulation for salaried workers, including new forms of protection and services, the legislative proposals limited themselves to drastically liberalizing all forms of flexible labor. It did not intervene in standard forms of work (with the exception of the suspension of Article 18 introduced in the *Patto per l'Italia* but which had yet to become law at the end of 2003) and did not introduce protection or services for flexible workers.

The new law further liberalized existing atypical forms of work, such as part-time. It also introduced a wide range of new contractual frameworks (from on-call jobs to new forms of apprenticeship) with the aim of bringing together the various productive needs that might emerge in the Italian economy. With a wider range of contracts that had less protection, the co.oo.co. was replaced by a stricter regulation according to which there must be a specific project, designed by the purchaser and managed autonomously by the worker. In other words, while new forms of contracts were introduced for every necessity, co.co.co. was returned to its roots of work for a specific end. Moreover, the law provided for a labor market voluntarily managed by the social partners, a far cry from the Italian tradition based on the role of the state and public authorities. For instance, employment agency functions can be turned over to universities and new "bilateral" agencies that the social partners can create on a local basis. These are defined by the law as "privileged sites for the regulation of labor markets through ... intermediation to meet supply and demand for work; planning of training activities;... shared management of training and income maintenance funds; certification of labor contracts and the regularization of pension contributions."³⁹

At the end of 2003, the only one of these measures (apart from some employment agency functions) that had been put in place by the law was the certification of work contracts. The new law, after listing the different types of flexible contracts, states that these can receive a sort of optional “authentication” from the bilateral agencies. The aim is to reduce to a minimum legal challenges, or, more precisely, to resolve eventual controversies even before the work begins.

In the absence of further provisions that will strengthen protection for atypical workers in the “market” (as originally called for by the white paper)—with a potential central role for multi-functional “bilateral agencies”—the new legislation strongly accentuates the polarization of worker protection between those in typical and atypical work. Moreover, as it is possible that the reform will contribute to an increasing number of atypical jobs, the polarization may also rise significantly with time.

Conclusion

The 2003 referendum on Article 18 did not result, as did those that preceded it, in change. Nevertheless, its consequences were considerable. In terms of relations between trade unions, the referendum represented a low point that was the result of a growing number of disagreements, determined partly by the political ambitions of union leaders and partly by increasingly different strategic visions.⁴⁰ After the referendum, the space between the three central trade union confederations narrowed, thanks to some extent to a return to trade unionism by the CGIL and also because the expected realization of closer links between the CISL and the center-right government did not materialize. The CGIL strategy of returning to trade unionism could potentially be in contrast to internal dynamics that were created by the referendum itself.

The referendum also had important consequences for political relations within the left. It first risked creating a serious rift between—and in the case of the DS, within—the moderate elements of the center-left. In the end, they emerged strengthened. It seems that the battle for the leadership of the center-left in anticipation of the next elections was won by the “traditional” ruling group within the Ulivo, more precisely, the group that was involved in governing the country from 1996 to 2001. It was no coincidence that Romano Prodi continued to be cited as the natural leader of the coalition. From this perspective, the most important and strictly political consequence of the referendum was the loss of centrality for the ex-leader of the CGIL,

Cofferati. As we saw earlier, he was painted into a corner, having to take a position that was in conflict with that of his supporters. Cofferati's (perhaps momentary) defeat does not offer a solution to the spiny problem that plagues the center-left and that might have been resolved by his leadership. Relations with Communist Refoundation and radical fringes of the electorate, essential for the left to gain a majority, had been a weak point with the Ulivo governments. Cofferati seemed to be able to mobilize a radical electorate with a moderate platform. By virtue of his reputation as an "intransigent" trade unionist, albeit always on the basis of reformist positions, he was able to gain significant backing from the radical left electorate, whose support was difficult to channel in favor of a moderate center-left government. It is for this reason that discussion still rages on creating a center-left alliance that has the capacity to compete electorally and to present itself as a unified guiding force for the country.

With the failed attempts to relieve some of the constraints of Article 18 and the contemporary liberalization and increased flexibility of non-standard work as a result of the Treu and Maroni laws, the Italian labor market shares a trend found in many advanced industrialized countries.⁴¹ The increase in flexibility involves only a part of the employed, the most marginal. On the other hand, it is difficult to reduce protection for full-time, permanent workers in medium or large firms or in the public sector. The political-economic explanation for why little has changed for them is simple: standard workers are the majority and are opposed to reform, while the increased flexibility of precarious work is politically less complicated and can, in some cases, even be carried out with the support of trade unions (as in the case of the Treu package).⁴² The result is the risk of an economy ever more characterized by a dualism.

It is highly doubtful that this type of flexibility will result in the direct benefits of increases in employment rates or decreases in unemployment. The increasing flexibility of labor, as it has been carried out in Italy in recent years, will probably encourage the substitution of atypical workers for typical employees, with negligible positive results and negative consequences, including economic instability.⁴³ In Spain, for instance, the liberalization of fixed-term contracts in the 1980s contributed to macro-economic instability as employers fired these workers during the recession of the early 1990s.⁴⁴ As a large part of the left is aware, the problem of the reform of workers' protection is not so much one of efficiency but of equity. The strong protection for full-time permanent workers favors some but penalizes others, in particular, new entrants into the job market (women and youths) and those who lose their job. This distribution of benefits and costs might

have been acceptable in a social context centered on the male breadwinner, with a wife at home and children as dependents until a late age, but it is less understandable in a social structure very different from that of the past.⁴⁵ A less punitive solution for increasing mobility for entry into work (which is, inevitably, mobility in exit) is to design a system of real protection for workers in the market. This could be done by reforming social benefits horizontally (in a universal sense) as well as vertically (by protecting income rather than jobs) and by introducing permanent labor market training and orientation services. In these conditions, the trade unions, and CGIL in particular, might be able to abandon their positions on Article 18.

The recent flexibility initiatives provide trade unions with both challenges and opportunities. Trade unions have difficulty in organizing the new types of work and are tempted to close themselves within their fortress of typical work, which is eroding through attrition and the processes described above. In these conditions, they would be less able to represent the wide range of identities and interests of workers. Their political and social relevance would decrease and finally disappear as workers represented by trade unions (directly or indirectly) would cease to be a majority in the world of work. At that point, deregulation would become politically viable and could even be carried out in the name of equity and the elimination of privilege.

A different outcome might be based on a growing capacity of trade unions to represent the new forms of work. If and when the proposals in the white paper—aimed at new protection to guarantee employability and at providing for an intense role for trade unions in the regulation of labor markets—are implemented, then trade unions might find an institutional hook (a sort of Ghent system) for a new role. It could allow for a significant increase of trade unionism among flexible workers (especially if linked to training services or economic protection based on models found in northern Europe). In this case, the trade unions themselves would call for reforms to labor protection. In a democratic organization, collective choices correspond to the preferences of the median voter; if those preferences change, so do the collective choices. The three confederations are, for the moment, divided on the desirability of development in this direction. In particular, the CGIL is decidedly opposed to assuming a semi-public role in managing labor markets, which it considers corporatist in the pejorative sense of the word. Without a change of direction and an agreement among the confederations on this issue, it is difficult to imagine that this opportunity to relaunch trade unionism will be grasped.

Notes

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1. Technically, the referendum asked for the removal of reference to the threshold of 15 employees in Article 18 of Law No. 300, 1970 (Workers' Statute), as modified by Articles 1.2 and 4 of Law No. 108, 1990, which regulated individual redundancies.
2. See <http://www.mininterno.it>.
3. See T. Boeri and P. Garibaldi, "Regimi di protezione dell'impiego implicazioni teoriche e indicazioni delle riforme in atto in Italia" (manuscript, Università Bocconi e Fondazione Rodolfo Debenedetti, n.d.).
4. See O. Blanchard and P. Portugal, "What Hides Behind an Unemployment Rate: Comparing Portuguese and US Unemployment" (Cambridge, MA: NBER Working Paper No. 6636, 1998).
5. G. Esping-Andersen, "Who Is Harmed by Labour Market Regulation? Quantitative Evidence," in *Why Deregulate Labour Markets?* ed. G. Esping-Andersen and M. Regini (Oxford: Oxford University Press, 2000), 66–93; S. de Nardis and G. Galli, "La disoccupazione italiana fra rigidità e cambiamenti globali," in *La disoccupazione italiana*, ed. S. de Nardis and G. Galli (Bologna: Il Mulino, 1997), 9–30.
6. OECD, "Employment Protection and Labour Market Performance," in *Employment Outlook 1999* (Paris: OECD, 1999), 49–132.
7. O. Blanchard, "European Unemployment: The Role of Shocks and Institutions" (manuscript, MIT, 1999).
8. O. Blanchard and J. Wolfers, "The Role of Shocks and Institutions in the Rise of European Unemployment: The Aggregate Evidence" (Cambridge, MA: NBER Working Paper No. 7282, 1999).
9. See T. Aidt and Z. Tzannatos, *Unions and Collective Bargaining: Economic Effects in a Global Environment* (Washington, DC: The World Bank, 2002).
10. ISTAT, *Rapporto Annuale 2001* (Rome: ISTAT, 2001), 72–75. Similar conclusions are reached in R. Basile, S. de Nardis, M. Mancini, C. Pappalardo, and G. Principe, "Regole del mercato del lavoro e dimensione d'impresa," in *Rapporto Isae. Priorità nazionali: dimensioni aziendali, competitività, regolamentazione* (Rome, June 2003), 87ff. The first empirical study on firm size with a similar conclusion on the direct effect of the 15-worker threshold is A. Accornero, "'Poter' crescere e 'voler' crescere: i piccoli imprenditori ex dipendenti," in *La "questione dimensionale" nell'industria italiana*, ed. F. Traù (Bologna: Il Mulino, 1999).
11. F. Sica, "Le transizioni dimensionali nelle piccole imprese italiane nel periodo 1995–2000: un'analisi sui dati AIDA e Mediocredito Centrale," CSC Working Paper no. 38, 2003.
12. A. Borgarello, P. Garibaldi, and L. Pacelli, "Employment Legislation and the Size of Firms: A Close Look at the Italian Case" (manuscript, 2002); F. Schivardi and R. Torrini, "Firm Size Distribution and EPL in Italy" (manuscript, Banca d'Italia, 2003).
13. P. Ichino, "Ferri vecchi e strategie nuove," in Piero Ichino et al., *Non basta dire no* (Milan: Mondadori, 2002), 70.

14. See Aris Accornero and Eliana Como, "La (mancata) riforma dell'articolo 18," in *Politica in Italia. I fatti dell'anno e le interpretazioni*, ed. Jean Blondel and Paolo Segatti (Bologna: Il Mulino, 2003), 239–262.
15. It was in the center-left and not the center-right that the most organic changes to Article 18 were elaborated. See P. Ichino, *Il lavoro e il mercato. Per un diritto del lavoro maggiore* (Milan: Mondadori, 1996).
16. "Scafaro: sui licenziamenti Fossa sbaglia," *La Stampa*, 11 July 1997.
17. See M. S. Lodovici, "Italy: The Long Times of Consensual Re-regulation," in *Why Deregulate Labour Markets?* ed. G.Esping Andersen and M. Regini (Oxford: Oxford University Press, 2000), 271–306.
18. Confindustria, *Azioni per la competitività* (Parma, 2001).
19. Ministero del Lavoro, *Libro bianco sul mercato del lavoro* (Rome: Ministero del Lavoro, 2001), x.
20. "Pezzotta: in piazza poi si apra il tavolo," *Il Sole 24 Ore*, 21 March 2002.
21. The legislative delegation relative to Article 18 and social protection had yet to be translated into law in 2003, which meant that these parts of the Patto per l'Italia remained non-implemented.
22. Eugenio Scalfari, "Bertinotti e Berlusconi uniti nella lotta," *La Repubblica Online*, 19 January 2003.
23. For example, see Pierre Carniti et al., "Appello per l'astensione," <http://www.eguaglianzaeliberata.it> (accessed 2 May 2003).
24. T. Treu, *Politiche del Lavoro* (Bologna: Il Mulino, 2001), 173–219.
25. "Art. 18, 'Il referendum è battuto in partenza,'" *La Repubblica Online*, 16 January 2003.
26. Riccardo de Gennaro and Ferruccio Sansa, "Articolo 18, i Ds si dividono sul sì della Cgil al referendum," *La Repubblica Online*, 25 April 2003.
27. Stefano Cappellini, "Cronaca (allucinata) di un brutto 16 giugno," *Il Riformista*, 1 May 2003.
28. Massimo Giannini, "Quella bomba intelligente che può far saltare l'Ulivo," *La Repubblica Online*, 29 April 2003.
29. Enrico Marro, "Salvi: ora temo che milioni di persone si sentano tradite da Sergio," *Corriere della Sera*, 13 May 2003.
30. In the course of its mobilization against the Patto per l'Italia in 2002, the CGIL collected 5 million signatures for three proposals for popular initiative legislation. The first wanted to extend the notion of subordinated jobs to those deemed para-subordinate so as to grant them some form of protection. The second aimed to reinforce protection against dismissal in small firms by considerably increasing compensation (between 15 and 24 months' salary) without forcing employers to reinstate workers. The third proposal sought to shorten the time it took to process work. See P. G. Alleva, "Per la dignità del lavoro," *Rassegna Sindacale online*, no. 9, 6–12 March 2003.
31. "La relazione di Epifani," *Rassegna Sindacale online*, 6 May 2003.
32. "Epifani apre al sì per smarcarsi dal Cinese," *Corriere della Sera*, 30 April 2003.
33. See Carlo Ghezzi, "Nè un uomo nè un soldo," *Rassegna Sindacale online*, 27 April 2003.
34. "Epifani sul fronte della sconfitta annunciata," *Corriere della Sera*, 17 June 2003.
35. GDP grew at an annual rate of 2.7 percent between 1985 and 1991, which translated into a modest employment growth of 1.0 percent annually. It is worth noting that this sort of increase in elasticity is common throughout the European Union. See ISTAT, *Rapporto Annuale 2002* (Rome: ISTAT, 2002).

36. Various Italian newspapers, 18 December 2002.
37. ISTAT, *Rapporto Annuale* 2002.
38. Ministry of Labor and Social Policy, *La "Legge Biagi" per il lavoro. Capire la Riforma* (Rome, 2003).
39. Article 2.1.h of Decree Legislation no. 276, 10 September 2003.
40. It is worth noting that prior to Cofferati, another labor leader, Sergio D'Antoni of the CISL, tried his hand at politics in 2001, attempting to use the CISL as an organizational base for the reconstruction of a Christian Democratic Party.
41. OECD, *Employment Outlook* 1999.
42. Boeri and Garibaldi, "Regimi di protezione dell'impiego."
43. It must be noted that the rate of growth of atypical workers decreased in 2002.
44. OECD, *The OECD Jobs Study*, part 2 (Paris: OECD, 1994), 78.
45. G. Esping Andersen, *Social Foundations of Postindustrial Economies* (Oxford: Oxford University Press, 1999).