The Reform of the Labour Market in Italy: One Step Forward, Two Steps Back

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The decision on the part of lawmakers to draft a bill in lieu of a law decree of a provisional nature – as previously indicated – will certainly give rise to a lively debate in the Parliament and demonstrations on the streets, fanning the flames of an already heated dialogue between social partners and representatives from the government and political parties, and probably leading to more serious consequences. Notwithstanding this situation, the reform of the labour market in Italy is about to be put in place. The proposals put forward by the Minister of Labour, Elsa Fornero, mark a major break with the past, particularly if one considers the last ten years. By way of example, the so-called principle of subsidiarity and decentralization were key points of the Biagi reform. Now, priority seems to have been given to a centralised system that downplays the role of concertation and social actors and, more importantly, that of individuals, employers and employees, with their leeway for manoeuvre that is thus limited by hierarchies and sanctioning mechanisms. In reading the new provision, one might also notice that the planning of labour market policies is likewise increasingly centralized, attracting criticisms on the part of local authorities that were in charge of devising measures in this connection.

The technical government is now closer than ever to modify Art. 18 of the Workers’ Statute – that requires employers to reinstate workers whose dismissal is ruled unjust by the courts – which is the symbol of the conservative nature of labour law in Italy. This move will provide a controversial and rather technical solution to the issue that is expected to increase the levels of conflict between the parties. In all likelihood, it will also limit the discretionary power of the court in the event of dismissals for economic reasons. However, the new provision on the reinstatement of the dismissed workers allows judges to assess the nature of the dismissal (e.g. unlawful termination or dismissals on a discriminatory ground), with the decision of the employers that is now more ambiguous and dependent on the evaluation of courts. Such an attempt to innovate the labour market and to move away from the conservatism attitude typical of Italy has limited the so-called entry flexibility – that is flexibility at the time of entering the labour market – with this point that was one of the strengths of the Biagi Law. The Fornero reform does not make a clear distinction between “good” and “bad” flexibility and, as a result, the innovative character of the regulation on dismissals is made less effective by lower levels of flexibility at the time of accessing the labour market, somehow recalling the Fordism model of production. Indeed, the most critical aspect of the Italian labour reform is certainly the economic and organizational model that has been considered. By way of example, an attempt was made in 2003 to move beyond the industrialized and standardized model that was typical of the old economy. Today, lawmakers still consider the concept of flexibility as associated with precariousness, assuming that this relationship is the reason for the widespread use of atypical employment contracts, and disregarding major changes occurred in the labour market or the strictness of Italian law on dismissals. Arguing in favour of fixed-term and open-ended employment contracts in the
new millennium is tantamount to denying the evolution we have witnessed at the turn of the century, thus giving old answers to new problems. Suffice it to say that the notion of “seasonal work” has acquired other nuances of meaning that should be considered at the time of dealing with labour issues, making it impossible to provide only one answer. In this sense, the proposal of the Parliament seems to be better than that of a single labour contract (contratto unico), initially put forward by the government. The choice of lawmakers to focus on the apprenticeship scheme to help youth access the labour market is likewise convincing. In point of fact, the main problem of the Italian labour market is not the widespread recourse to fixed-term employment contracts but the share of undeclared work and the lack of strategies to boost employability through adequate school-to-work transition. Is really the Italian employment protection legislation the only explanation for sluggish labour market performance and, even, for low levels of competitiveness in our country? In February, experts of the Government were optimistic in estimating a drop in the Italian-BTP/German-Bund spread resulting from this labour market reform (see the article from Francesca Fazio, Emmanuele Massagli, «Is the labour market reform really worth 200 basis points? In Spain it is just 6.», published in the 7th issue of the International Bulletin). Today data confirm that government overlooked the issue: from the day of the presentation of the new labour market reform to date, the notorious spread has not decreased, and it has not increased either. This is another indication of the fact that the cause for Italy encountering difficulty cannot be found in its employment protection legislation, but rather in the increasing unwillingness to hire on the part of employers, the reasons of which have been addressed by the newly-elected President of the Confindustria, the main employers’ association: excessive red tape, high labour cost, lack of facilities, costs of energy. Accordingly, and at least in the short run, the reform will provide a small contribution in terms of job creation, in the hope that a decrease in the job openings is not reported.

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